Court File No. CV-11-9514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF HARTFORD COMPUTER HARDWARE, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION WITH RESPECT TO HARTFORD COMPUTER HARDWARE, INC., NEXICORE SERVICES, LLC, HARTFORD COMPUTER GROUP, INC. AND HARTFORD COMPUTER GOVERNMENT, INC. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

MOTION RECORD
(returnable on March 9, 2012)

March 2, 2012

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Lawyers for the Chapter 11 Debtors

Court File No. CV-11-9514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

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MOTION RECORD
(returnable on March 9, 2012)

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TAB 1

Court File No. CV-11-9514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

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AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION WITH RESPECT TO HARTFORD COMPUTER HARDWARE, INC., NEXICORE SERVICES, LLC, HARTFORD COMPUTER GROUP, INC. AND HARTFORD COMPUTER GOVERNMENT, INC. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

NOTICE OF MOTION
(Returnable on March 2, 2012)

Hartford Computer Hardware, Inc. ("**Hartford**"), on its own behalf and in its capacity as foreign representative of Chapter 11 Debtors (the "**Foreign Representative**"), will make a motion before the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on March 2, 2012 at 10:00 o'clock in the morning or as soon after that time as the motion can be heard at 330 University Avenue, in the City of Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order substantially in the form included in the Motion Record, *inter alia*:

(a) confirming that service of the notice of motion dated March 2, 2012, the affidavit of Brian Mittman sworn on February 28, 2012, the affidavit of Alana Shepherd sworn on March 2, 2012 and the second report of FTI Consulting Canada Inc., ("**FTI**"), in its capacity as Information Officer dated March 2, 2012 (the "**Information Officer's Second Report**") was appropriate and directing that no further service is required such that this motion is properly returnable on March 9, 2012;

(b) Recognizing and implementing in Canada the Order authorizing the sale of property of the estates under U.S. Bankruptcy Code § 363 and the assumption and assignment of executory contracts and leases under U.S. Bankruptcy Code § 365 (the "**Sale Order**") of the United States Bankruptcy Court for the Northern District of Illinois Eastern Division (the "**U.S. Court**") made in the proceedings commenced by the Chapter 11 Debtors under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Chapter 11 Proceeding**") on February 28, 2012;

(c) Approving the asset purchase agreement between the Chapter 11 Debtors, Hartford Computer Group, Inc. and Nexicore Services, LLC, and Avnet, Inc. and Avnet International (Canada) Ltd. (the "**Canadian Purchaser**" and collectively with Avnet, Inc., the "**Purchaser**") dated December 12, 2011 (the "**Agreement**") and the transactions contemplated therein pursuant to which the Purchaser has agreed to purchase all of the Chapter 11 Debtors' right, title and interest in and to the Acquired Assets (as defined in the Agreement) (the "**Transaction**");

(d) Vesting the right, title and interest of the Chapter 11 Debtors in and to the Canadian Assets in the Canadian Purchaser free and clear of all encumbrances, estates, rights, title, liens, interest and claims upon the Closing (as defined in the Agreement);

(e) Approving the Information Officer's Second Report and the Information Officer's activities and conduct reported therein; and

2. Such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On December 12, 2011, the Chapter 11 Debtors, Hartford Computer Group, Inc. and Nexicore Services, LLC, entered into the Agreement with the Purchaser for the sale of the Acquired Assets;

2. On the same date, the Chapter 11 Debtors commenced the Chapter 11 Proceeding by each filing a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the U.S. Court;

3. On December 13, 2011, Justice Morawetz made an Order granting certain interim relief to the Chapter 11 Debtors including a stay of proceedings;

4. On December 15, 2011, the U.S. Court in the Chapter 11 Proceeding made an Order authorizing Hartford to act as the Foreign Representative of the Chapter 11 Debtors;

5. On December 21, 2011, Justice Morawetz made two Orders, an Initial

Recognition Order and a Supplemental Order, that, among other things: (i) declared the Chapter 11 Proceeding to be a foreign main proceeding pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"); (ii) recognized Hartford as the Foreign Representative of the Chapter 11 Debtors; (iii) appointed FTI as the Information Officer in these proceedings; (iv) granted a stay of proceedings; and (v) recognized and made effective in Canada certain "first day" orders of the U.S. Court;

6. On January 26, 2012, the U.S. Court in the Chapter 11 Proceeding made, *inter alia*: an Order: (i) approving bidding procedures; (ii) granting certain bid protections; (iii) approving form and manner of sale notices; (iv) setting sale hearing date in connection with sale of substantially all of the Chapter 11 Debtors' assets (collectively, the "**Bidding Procedures Order**");

7. The Bidding Procedures Order was recognized by this Honourable Court on February 1, 2012;

8. The Bidding Procedures Order recognized the Agreement as a stalking horse and established bidding procedures and a bid deadline for competing bids (the "**Sale Process**");

9. The Sale Process was undertaken in accordance with the Bidding Procedures Order and no competing bids were received by the bid deadline;

10. On February 28, 2012, the U.S. Court in the Chapter 11 Proceeding made the Sale Order;

11. The Foreign Representative requests that this Honourable Court recognize and give effect in Canada to the Sale Order pursuant to paragraph 49 of the CCAA;

12. The Foreign Representative and the Information Officer are of the view that recognition of the Sale Order by this Honourable Court is fair and appropriate in the circumstances;

13. Section 49 of the CCAA;

14. Rules 2.03, 3.02, 14.05 and 17 of the *Rules of Civil Procedure*; and

15. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Brian Mittman sworn on February 28, 2012;

2. The Affidavit of Alana Shepherd sworn on March 2, 2012;

3. The Information Officer's Second Report; and

4. Such further and other material as counsel may advise and this Honourable Court may permit.

March 2, 2012

Thornton Grout Finnigan LLP
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Lawyers for the Chapter 11 Debtors

TO: **THIS HONOURABLE COURT**

AND TO: **THE ATTACHED SERVICE LIST**

SCHEDULE "A"

EMAIL SERVICE LIST
AS AT MARCH 2, 2012

TO: **THORNTON GROUT FINNIGAN LLP**
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AND TO: **ONTARIO MINISTRY OF FINANCE**
Bankruptcy and Insolvency Unit
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33 King Street West, 6th Floor
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AS AT MARCH 2, 2012

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Winnipeg, MB R3T 0Y4

AND TO: **MINISTRY OF FINANCE (CANADA)**
1050 Notre Dame Avenue
Sudbury, ON P3A 5C1

AND TO: **QUEBEC MINISTRY OF REVENUE**
3800 de Marley Rue
Quebec, QC G1X 4A5

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF HARTFORD COMPUTER HARDWARE, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

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Court File No. CV-11-9514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

NOTICE OF MOTION
(returnable on March 9, 2012)

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Lawyers for the Chapter 11 Debtors

TAB 2

Court File No. CV-11-9514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

APPLICATION OF HARTFORD COMPUTER HARDWARE, INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C 36, AS AMENDED

AND IN THE MATTER OF CERTAIN PROCEEDINGS TAKEN IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION WITH RESPECT TO HARTFORD COMPUTER HARDWARE, INC., NEXICORE SERVICES, LLC, HARTFORD COMPUTER GROUP, INC. AND HARTFORD COMPUTER GOVERNMENT, INC. (COLLECTIVELY, THE "CHAPTER 11 DEBTORS")

AFFIDAVIT OF BRIAN MITTMAN
(Sworn on February 28, 2012)

I, Brian Mittman, of the City of Simi Valley, in the State of California, **MAKE OATH AND SAY:**

1. I am the President and Chief Executive Officer of Hartford Computer Group, Inc. ("**HCG**"), Hartford Computer Hardware, Inc. ("**HCH**" and the "**Foreign Representative**"), Hartford Computer Government, Inc. ("**HCGovernment**"), and Nexicore Services, LLC ("**Nexicore**" and, together with HCG, HCH, and HCGovernment, the "**Chapter 11 Debtors**") and as such I have personal knowledge of the matters to which I herein depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and believe it to be true.

2. This Affidavit is filed in support of a Motion brought by the Foreign Representative for the relief set out in the Notice of Motion (the "**Notice of Motion**"). In particular, this Affidavit is sworn in support of the Foreign Representative's request for an order recognizing the Sale Order (as defined below) made by the United States Bankruptcy Court for the Northern District of Illinois Eastern Division (the "**U.S. Court**") in the proceeding commenced by the Chapter 11 Debtors under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Chapter 11 Proceeding**") pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") and granting an approval and vesting order with respect to transactions contemplated by the Asset Purchase Agreement with Avnet, Inc. and Avnet International (Canada) Ltd. (collectively, the "**Purchaser**") dated December 12, 2011 (the "**Agreement**").

3. On December 12, 2011, the Chapter 11 Debtors commenced the Chapter 11 Proceeding by each filing a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the U.S. Court.

4. On December 12 and 13, 2011, the Chapter 11 Debtors filed a number of motions seeking relief from the U.S. Court (the "**First Day Motions**"). I submitted a declaration (the "**First Day Declaration**") in the U.S. Court in support of the "first day" relief being sought. A copy of the First Day Declaration is attached hereto as Exhibit "A".

5. On December 13, 2011, Justice Morawetz made an Order granting certain interim relief to the Chapter 11 Debtors including a stay of proceedings.

6. On December 15, 2011, the U.S. Court in the Chapter 11 Proceeding made an a number of "first day" Orders including an Order authorizing HCH to act as the Foreign Representative of the Chapter 11 Debtors.

7. On December 21, 2011, Justice Morawetz made two Orders, an Initial Recognition Order and a Supplemental Order that, among other things: (i) declared the Chapter 11 Proceeding to be a foreign main proceeding pursuant to Part IV of the CCAA; (ii) recognized Hartford as the Foreign Representative of the Chapter 11 Debtors; (iii) appointed FTI as the Information Officer in these proceedings; (iv) granted a stay of proceedings; and (iv) recognized and made effective in Canada certain "first day" orders of the U.S. Court.

8. One of the First Day Motions (the "**Sale Motion**") filed with the U.S. Court sought: (I) an Order: (i) approving bidding procedures; (ii) granting certain bid protections; (iii) approving form and manner of sale notices; (iv) setting sale hearing date in connection with sale of substantially all of the Chapter 11 Debtors' assets (collectively, the "**Bidding Procedures Order**") and (II) an Order: (i) approving the sale of the Chapter 11 Debtors assets free and clear of all liens, claims, encumbrances and interests; (ii) authorizing the assumption and assignment of certain executory contracts and unexpired leases; (iii) the assumption of certain liabilities; and (iv) granting certain related relief (collectively, the "**Sale Order**"). A copy of the Sale Motion is attached hereto as Exhibit "B".

9. On January 26, 2012, the U.S. Court in the Chapter 11 Proceeding made the Bidding Procedures Order. The Bidding Procedures Order was recognized by the Canadian Court on February 1, 2012. A copy of the Bidding Procedures Order is attached hereto as Exhibit "C".

10. In support of the motion seeking the Sale Order from the U.S. Court, Michael Levy of Paragon Capital Partners, LLC, the Chapter 11 Debtors' investment banker, and I each submitted a declaration dated February 24, 2012 in the U.S. Court (the "**Levy Declaration**" and the "**Mittman Declaration**"). A copy of the Levy Declaration and the Mittman Declaration are attached hereto as Exhibits "D" and "E", respectively.

11. On February 28, 2012, the U.S. Court in the Chapter 11 Proceeding made the Sale Order. The Sale Order is currently in the process of being issued by the U.S. Court. A copy of the Sale Order will be annexed to another Affidavit provided in support of the Applicants' Notice of Motion when it is available. In addition, I understand that a certified copy of the Sale Order will be filed separately with the Court.

12. I swear this Affidavit in support of the relief requested in the Applicants' Notice of Motion and for no other or improper purpose.

SWORN before me at the City of Chicago, in the State of Illinois, this 28th day of February, 2012.

Debbie Marana

Commissioner or Notary for Taking Affidavits

"OFFICIAL SEAL"
Debbie Marana
Notary Public, State of Illinois
My Commission Expires April 13, 2014

BRIAN MITTMAN

EXHIBIT "A"

Docket #0009 Date Filed: 12/12/2011

EXHIBIT "A"

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Chapter 11
	)	
HARTFORD COMPUTER HARDWARE, INC., *et al.*,[1]	)	Case No. 11-49744 (PSH)
	)	(Joint Administration Pending)
	)	
Debtors.	)	Hon. Pamela S. Hollis

DECLARATION OF BRIAN MITTMAN IN SUPPORT OF DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS

I, Brian Mittman, hereby declare under penalty of perjury,

1. I am the President and Chief Executive Officer of Hartford Computer Group, Inc. ("HCG"), Hartford Computer Hardware, Inc. ("HCH"), Hartford Computer Government, Inc. (HCGovernment"), and Nexicore Services, LLC ("Nexicore" and, together with HCG, HCH, and HCGovernment, the "Debtors").[2] I am generally familiar with the Debtors' day-to-day operations, business affairs, and books and records.

2. On the date hereof (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") (collectively, these "Chapter 11 Cases").

3. The Debtors are operating their business and managing their property as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no official committee has yet been appointed by the Office of the United States Trustee.

[1] The Debtors are Hartford Computer Hardware, Inc. (FEIN 27-4297525), Nexicore Services, LLC (FEIN 03-0489686), Hartford Computer Group, Inc. (FEIN 36-2973523), and Hartford Computer Government, Inc (FEIN 20-0845960).

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the relevant First Day Motion (as hereinafter defined).

1149744111212000000000007

4. In order to enable the Debtors to minimize the adverse effects of the commencement of the Chapter 11 Cases on their business operations, the Debtors have requested various types of relief in certain "first day" motions (each, a "First Day Motion" and collectively, the "First Day Motions"). The First Day Motions seek relief aimed at, among other things: (a) preserving customer relationships; (b) maintaining vendor confidence and employee morale; (c) ensuring the continuation of the Debtors' cash management system and other business operations without interruption; (d) securing post-petition financing necessary to continue the Debtors' operations; (e) establishing certain administrative procedures to facilitate a smooth transition into, and uninterrupted operations throughout, the chapter 11 process; and (f) enabling the Debtors to move smoothly towards a sale of their assets. Gaining and maintaining the support of the Debtors' customers, employees, vendors and suppliers, and certain other key constituencies, as well as maintaining the Debtors' day-to-day business operations with minimal disruption, will be critical to the success of these Chapter 11 Cases and the Debtors' reorganization efforts.

5. I submit this declaration (the "Declaration") in support of the First Day Motions. I am familiar with the contents of each First Day Motion (including the exhibits thereto), and I believe that the relief sought in each First Day Motion (i) is necessary to enable the Debtors to operate in chapter 11 with minimum disruption or loss of productivity or value; (ii) constitutes a critical element in achieving a successful bankruptcy process; and (iii) is in the best interests of the Debtors, their estates and creditors.

6. Except as otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge, on information supplied to me by other members of the Debtors' management teams and/or professionals retained by the Debtors, on information learned from my review of relevant documents, or on my opinion based upon my experience and knowledge of the Debtors' operations, financial condition, and present liquidity needs. If I were called upon

to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this Declaration on behalf of each Debtor.

7. Part I of this Affidavit provides an overview of the Debtors' business operations and describes the Debtors' corporate history and prepetition capital and debt structure and the circumstances surrounding the commencement of this Chapter 11 Cases. Part II sets forth the relevant facts in support of each of the First Day Motions.

PART I

A. Current Business Operations and Capital Structure

8. The Debtors are one of the leading providers of repair and installation services in North America for consumer electronics and computers. The Debtors operate in three complementary business lines: parts distribution and repair, depot repair, and onsite repair and installation. Products serviced include laptop and desktop computers, commercial computer systems, flat-screen television, consumer gaming units, printers, interactive whiteboards, peripherals, servers, POS devices, and other electronic devices. The Debtors also engage in hardware sales.

9. The Debtors operate out of five locations: Schaumberg, Illinois, Simi Valley, California, Tampa, Florida, Columbia, Maryland, and Markham, Ontario, Canada. The Debtors employ approximately 486 employees, including approximately 250 employees in California and 113 employees in Canada. The Debtors' senior management has almost 70 years of experience with the Debtors and includes me, as their president and chief executive officer, as well as Ron Brinckerhoff, as vice president of sales, Randy Hodgson as vice president of onsite operations, Rich Levin, as vice president of procurement, Jo Lamoreaux, as chief financial officer, John Nelson, as general manager in Canada, and Greg McDonald, as vice president of depot operations.

10. Over the past five years, the Debtors have implemented key turnaround initiatives that focused on creating an efficient operation capable of delivering high-quality service. With the operational turnaround largely complete, the Debtors are achieving significant momentum in each of their business lines. During that period, the companies' total revenues have grown from $55.1 million in 2006 to $95.1 million and earnings have increased at an even larger degree.

11. In addition to operational initiatives, the Debtors also engaged in out-of-court restructuring efforts. Effective as of May 9, 2005, the Debtors entered into that certain Master Restructuring Agreement (the "Restructuring Agreement") with Delaware Street Capital Master Fund, L.P.(the "Prepetition Senior Lender"), MRR Venture LLC ("MRR"), ARG Investments ("ARG"), SKM Equity Fund II, L.P. ("SKM I"), and SKM Investment Fund II ("SKM II" and together with MRR, ARG and SKM I, the "Subordinated Lenders"), HCG Financial Services, Inc. (the "Financial PO Lender"), and Enable Systems, Inc. Pursuant to the Restructuring Agreements, the Debtors amended and restructured their agreements with their various stakeholders. Specifically, after the execution and effectiveness of the Restructuring Agreement, the Debtors' long-term, secured debt was as follows: (a) pursuant to that certain Amended and Restated Loan and Security Agreement dated as of December 17, 2004 among the Debtors and the Prepetition Senior Lender and various promissory notes and other documents (collectively, as may have been amended, supplemented, and modified, the "Senior Credit Agreement"), the Debtors are indebted to the Prepetition Senior Lender, as of the Petition Date, the aggregate amount of $72,157,959; (b) pursuant to that certain Substituted and Amended Subordinated Promissory Note dated May 9, 2005, made by Hartford Computer Group, Inc. in favor of MRR Venture LLC (the "Prepetition Subordinated Lender"), Hartford Computer Group, Inc. was indebted to Prepetition Subordinated Lender in the approximate amount of $1,519,868; and (c) pursuant to that certain Revolving Credit Agreement by and between IBM Credit LLC ("IBM"),

HCH and HCGovernment, dated as of May 5, 2005 (the "IBM Credit Agreement"), HCH and HCGovernment were indebted to IBM in the amount of $1,030,545. On December 9, 2011, the IBM Credit Agreement was paid off in fully through the proceeds of a letter of credit that secured that facility.

12. As a result of that Restructuring Agreement, the Subordinated Lenders became holders of certain classes of preferred and common equity interests in HCG, which is the sole shareholder and member of Hardware and Nexicore. The remaining equity interest holders of HCG include the Prepetition Senior Lender and myself. Hardware is the sole shareholder of HCGovernment.

13. Pursuant to the Senior Credit Agreement, the Prepetition Senior Lender made certain loans and other financial accommodations to or for the benefit of the Debtors. In connection with the Senior Credit Agreement, the Debtors entered into certain collateral and ancillary documentation with the Prepetition Senior Lender (such collateral and ancillary documentation collectively with the Prepetition Credit Agreement, the "Prepetition Credit Documents"). All obligations of the Debtors arising under the Prepetition Credit Documents, including all loans, advances, debts, liabilities, principal, interest, fees, swap exposure, charges, expenses, indemnities, and obligations for the performance of covenants, tasks or duties, or for the payment of monetary amounts owing to the Prepetition Senior Lender by the Debtors, of any kind or nature, whether or not evidenced by any note, agreement or other instrument, shall hereinafter be referred to as the "Prepetition Obligations."

14. As of December 1, 2011, the Prepetition Obligations, not including fees or interest, included:

Revolver: $9,076,302 (the "Prepetition Revolving Debt")

Term Loan A: $27,482,409;

Term Loan B: $12,660,490;

Term Loan C: $5,748,432;

Term Loan D: $6,965,575; and

Term Loan E: $8,640,407 (collectively, the "Prepetition Term Debt").

15. Given the Debtors' recent performance, as well as its capital structure, the Debtors commenced an aggressive marketing and sales effort so as to take advantage of their improvements for the benefit of all their creditors.

B. The Debtors' Marketing and Sales Efforts

16. The Debtors, with the assistance of their advisors, actively marketed the company since late January 2011, focusing on a sale of substantially all of their assets as a going concern. Even before the Petition Date, the Debtors conducted a well-orchestrated sale process targeting the company's universe of potential strategic and financial buyers in an effort to maximize the value of the Debtors' assets.

17. Prior to the commencement of these Chapter 11 Cases, the Debtors retained Paragon Capital Partners, LLC ("Paragon") to act in an advisory capacity to explore strategic alternatives. As part of this evaluation, the Debtors and Paragon have aggressively pursued a potential sale of the Debtors' assets. The Debtors and Paragon undertook exhaustive efforts to solicit interest in the Debtors from third parties with the potential to acquire all or a substantial portion of the assets.

18. At the outset of this process, the Debtors determined, in consultation with their advisors and the Prepetition Senior Lender, to focus its sale efforts on locating a stalking horse bidder for substantially all of their assets. The Debtors believe that their businesses and assets have little value if liquidated separately (with the exception of HCH and HCGovernment, which together constitute a discrete business unrelated to the other Debtors), and that a sale process that

includes a sale of substantially all of the assets of HCG and Nexicore (the "Acquired Assets") as a going concern will maximize value to the estates.

19. During the marketing process, the Debtors and Paragon identified and contacted approximately ninety-one potential strategic and financial counterparties. Approximately thirty-two of these parties executed confidentiality agreements and received a confidential information memorandum providing extensive information relating to the Debtors' businesses, financial performance and projections, customers, programs, technology, information systems, operations, facilities, management and employees. Approximately eleven companies received a detailed management presentation, either in-person or by phone, and were given the opportunity to speak extensively with the Debtors and its advisors. Of these, eight companies were strategic buyers (including five public companies with a median market capitalization in excess of $4 billion), and three counterparties were major private equity firms with relevant portfolio companies and significant funds under management. Six of these parties submitted written indications of interest to acquire all of the Acquired Assets of the Debtors as a going concern (the Acquired Assets exclude the Debtors' hardware business). Five of these parties attended in-person management presentations conducted by the Debtors' senior management team, and conducted site visits with respect to the Acquired Assets. All of these parties were granted access to supplemental due diligence materials made available on an electronic data site (the "Data Site"). One of these parties, Avnet, Inc. ("Avnet"), submitted a preliminary proposal, and subsequently submitted a definitive agreement. As of November 3, 2011, Avnet had a market capitalization of approximately $4.6 billion. For its most recent fiscal year ending July 2, 2011, Avnet reported total sales of $26.5 billion and had cash on its balance sheet of $675 million.

20. Avnet's offer has been the basis for extensive discussions and negotiations with the Debtors, ongoing diligence and discussions with management, and visits to the Debtors'

facilities. As a result, on December 12, 2011, Avnet and Avnet International (Canada) Ltd. (together, the "Purchaser") executed an Asset Purchase Agreement (the "Agreement"), pursuant to which, among other things, the Purchaser will purchase, subject to higher and better bids and an order from this Court, substantially all of the assets of HCG and Nexicore. The purchase price under the Agreement consists of an initial cash payment of $35,500,000, subject to a working capital adjustment, plus a potential earn out, subject to certain adjustments described more fully below, plus the assumption of certain liabilities, including certain cure costs and certain post-petition administrative expenses. Avnet is a New York Stock Exchange-listed, Fortune 500 company engaged in, among other things, consumer electronic manufacture, repair, and distribution.

21. At this juncture, the Purchaser's bid is the highest and best that the Debtors have received. Now that the Debtors have concluded negotiations with the Purchaser as the stalking horse bidder (subject to approval by this Court), the Debtors have begun to (and plan to continue to) focus their attention, time, and energy on bidders with continuing interest in the Debtors' assets in order to pursue the possibility that value may be maximized at an Auction.

22. Because of various factors, including the requirements for the Debtors' maintenance of its debtor-in-possession financing, and the Purchaser's desire not to unnecessarily tie up capital or risk of losing other business opportunities, the Debtors have proposed to move forward with the sale process on an expedited basis and within a specified time frame. Consequently, the Debtors have determined that it is in the best interest of their estates, creditors, and other parties in interest to move forward with an expeditious sale process. The Debtors believe that a prompt auction and sale will generate the highest return to their creditors and other stakeholders.

23. The Purchaser was not interested in acquiring the assets related to the Debtors' hardware business, which is the business of HCH and HCGovernment. The hardware business has two main customer groups: the public school universities in Maryland and Sears Brands, LLC. The former business is the sole operation of HCGovernment (the "Maryland Business"), and the later is that of HCH, though HCH owned certain assets useful to the Maryland Business.

24. On November 22, 2011, HCH and HCGovernment entered into that Asset Purchase Agreement with HCGI-Hartford, Inc., pursuant to which HCH and HCGovernment sold all assets used in connection with the Maryland Business. The purchase price was $325,000, and $225,000 was paid upon closing; the remaining $100,000 purchase price will be paid 180 days after closing, which will be May 20, 2012. All of the proceeds have been transferred to the Prepetition Senior Lender in partial satisfaction of the obligations owing to them.

PART II

25. Concurrently with the filing of this Chapter 11 Cases, the Debtors have filed a number of First Day Motions, consisting of procedural motions and motions relating to the Debtors' business operations. The Debtors submit that approval of each First Day Motion is an important element of its reorganization efforts and is necessary to ensure a smooth transition into chapter 11 with minimal disruption to their operations. I have reviewed each of the First Day Motions, including the exhibits thereto, and believe that the relief requested therein is critical to the Debtors' ability to achieve a successful reorganization. Factual information with respect to each First Day Motion is provided below and in each First Day Motion.[3]

[3] All defined terms used in this Part II of this Declaration, but not otherwise defined, shall have the same meaning as set forth in the applicable first day motion referred to unless otherwise so stated.

A. Procedural Motions

(1) Debtors' Motion For an Order Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure Directing the Joint Administration of Their Chapter 11 Cases

26. The Debtors in these Chapter 11 Cases are affiliated entities. The Debtors request that, in light of the fact that Hartford Computer Hardware, Inc. and its affiliates have each filed petitions in this Court, the Court can and should jointly administer the chapter 11 cases.

27. The joint administration of these Chapter 11 Cases will promote economical and efficient administration of the Debtors' estates. The Debtors anticipate that numerous motions, applications, notices, and orders will relate to several of the Debtors' cases. Joint administration of these Chapter 11 Cases will permit use of a single general docket for all of the Debtors' cases and avoid duplicative filings by the Court, the Debtors, and parties in interest. Thus, the Debtors believe joint administration of the Debtors' estates will reduce costs and minimize the potential for confusion, which is in the best interests of the Debtors' estates, their creditors and all other parties in interest.

(2) Debtors' Motion Pursuant to Section 1505 of the Bankruptcy Code For Authorization of Hartford Computer Hardware, Inc. to Act as the Debtors' Foreign Representative

28. Following the filing of the Chapter 11 Cases, HCG intends to commence Ancillary Proceeding under Part IV of the Companies' Creditors Arrangement Act ("CCAA") in the Ontario Court. HCH, as the proposed foreign representative for the Debtors in the Ancillary Proceeding, intends to seek recognition of these Chapter 11 Cases and certain orders entered in the Chapter 11 Cases.

29. In connection with the Ancillary Proceeding, the appointment of an information officer ("Information Officer") is standard practice. The Information Officer serves as an

independent party to the Ancillary Proceeding by relaying information between HCH and the court. By way of example, the Information Officer:

(a) reports to the court at least once every three months with respect to the status of the CCAA proceedings and the status of the Chapter 11 Cases, which reports may include information relating to Debtors' property, the business, or such other matters as may be relevant to the proceedings;

(b) obtains full and complete access to Debtors' property, including the premises, books, records, data, including data in electronic form, and other financial documents of Debtors, to the extent that is necessary to perform its duties; and

(c) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations.

30. HCH intends to seek the appointment of FTI Consulting Canada Inc. as Information Officer.

31. Under the Ancillary Proceeding, HCH is responsible for paying the fees of the Information Officer and its independent counsel. Debtors' debtor-in-possession lender, Delaware Street Capital Master Fund, L.P. has agreed to fund the payment to the Information Officer pursuant to the budget submitted with the Debtors' Motion requesting authority for Debtors to enter into a senior secured post-petition loan agreement, pursuant to section 364 of the Bankruptcy Code, which is being filed contemporaneously herewith.

32. The Debtors believe that if the Ontario Court decides to recognize the Chapter 11 Cases as foreign main proceedings, the Debtors will benefit from the protection of an automatic stay against commencement or continuation of actions or proceedings concerning the Debtors' assets, rights, obligations, and liabilities in Canada.

(3) **Debtors' Motion for An Order Extending The Time Within Which the Debtors Must File Their (i) Schedules of Assets and Liabilities, (ii) Schedule of Executory Contracts and Unexpired Leases, and (iii) Statement of Financial Affairs**

33. The Debtors require additional time to bring their books and records up to date and to collect the data needed for the preparation and filing of the Schedules and Statements. Due to the complexity of the Debtors' business, the diversity of their operations and assets, and the limited staffing available to gather, process and complete the required Schedules and Statements in the limited time available prior to the commencement of this case, the Debtors do not believe the 14 day automatic extension of time provided for by Rule 1007(c) of the Bankruptcy Rules will be sufficient to permit completion of the Schedules and Statements.

34. The Debtors further believe that the vast amount of information that must be assembled and compiled, the multiple locations of such information, and the large amount of employee and professional hours required for the completion of the Schedules and Statements all constitute good and sufficient cause for granting the extension of time requested herein.

35. The Debtors believe an additional 28-day extension, for a total of 42 days, from the Petition Date would be a sufficient the date by which the Schedules and Statements must be filed.

(4) **Debtors' Motion for an Order Appointing Kurtzman Carson Consultants LLC as the Official Claims and Noticing Agent and to Provide Other Essential Services to the Estates**

36. The Debtors believe that the Debtors' retention of KCC as the Claims Agent is in the best interests of the Debtors, their estates and creditors.

37. The Debtors estimate that there are more than 1,120 potential creditors and other parties in interest who require notice of various matters. Given this estimate, it would be highly burdensome on the Court and the Clerk's Office to perform the services that KCC will perform.

To relieve the Clerk's Office of these burdens, the Debtors propose to appoint KCC as their notice and claims agent in these Chapter 11 Cases.

38. The Debtors believe that the retention of KCC is necessary for the Debtors to effectively: (a) maintain the list of creditors; (b) effect the noticing that may be required in these Chapter 11 Cases; (c) process the receipt, docketing, maintenance, recordation, and transmittal of proofs of claim in these Chapter 11 Cases; and (d) facilitate the Debtors' compliance with their reporting duties.

39. To the best of the Debtors' knowledge, information and belief, other than in connection with these Chapter 11 Cases, KCC has no material connection with the Debtors, the United States Trustee or the other parties in interest, or their respective attorneys or accountants, except as set forth therein.

40. To the best of the Debtors' knowledge, information and belief, KCC represents no interest materially adverse to the Debtors or their estates in the matters for which KCC is proposed to be retained. The Debtors believe that KCC is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code. I believe that employment of KCC is in the best interest of the Debtors and their estates and creditors. The Debtors' knowledge, information and belief regarding the matters set forth in this subsection are based on the Kass Declaration.

41. The Debtors believe that compensation proposed to be paid to KCC and the proposed indemnification provisions are fair, reasonable, and customary for these types of engagements.

B. **Motions Relating to Business Operations**

(1) **Debtors' Motion for Interim and Final Order (i) Authorizing the Debtors to Obtain Post-Petition Financing Pursuant to 11 U.S.C. § 364, (ii) Authorizing the Use of Cash Collateral Pursuant to 11 U.S.C. § 363, (iii) Granting Adequate Protection to the Prepetition Senior Lender Pursuant to 11 U.S.C. §§ 361 and 363 and (iv) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001**

42. Pursuant to the Prepetition Credit Documents (discussed above), the Prepetition Senior Lender was granted security interests in and continuing liens on substantially all Prepetition Collateral.

43. All of the Debtors' cash, including, without limitation, all cash and other amounts on deposit or maintained in the Debtors' primary deposit account and any amounts generated by collection of the Debtors' accounts receivable, the sale of the Debtors' inventory, or any other disposition of the Prepetition Collateral constitutes proceeds of the Prepetition Collateral and Cash Collateral

44. Beginning in June 2010, the Debtors, along with the assistance of their investment banker, Paragon, assessed their financing needs. Since that time, and, more specifically, over the past 4 weeks, the Debtors contacted various financial institutions to request financing.

45. The working capital facility of the type and magnitude needed in these cases could not have been obtained on an unsecured basis. Potential sources of debtor-in-possession financing for the Debtors, obtainable on an expedited basis and on reasonable terms, were practically nonexistent.

46. Because substantially all of the Debtors' assets are pledged to the Prepetition Secured Lender, and because the Prepetition Secured Lender appears to be undersecured, the Debtors' attempts to obtain unsecured credit or credit secured by a junior lien on their assets, were unavailing. Because of the Debtors' need for the liquidity, the Debtors have concluded that, in their business judgment, the Prepetition Secured Lender, who was already intimately

familiar with the Debtors' business operations, corporate structure, financing arrangements and collateral base, is the only lender able to offer a post-petition credit facility to meet the Debtors' working capital needs on the terms, and within the time frame, that the Debtors require.

47. The Prepetition Senior Lender has indicated a willingness to provide the Debtors with certain financing commitments but solely on the terms and conditions set forth in the Interim Order and the DIP Credit Documents. After considering all of their alternatives, the Debtors have concluded, in an exercise of their sound business judgment, that the financing to be provided by the Prepetition Senior Lender pursuant to the terms of the Interim Order and the DIP Credit Documents represents the best post-petition financing presently available to the Debtors.

48. The delays, cost and expense of placing this loan with a new lender, assuming one could be found, would be detrimental to the estates and ultimately diminish creditor recoveries.

49. In connection with the Debtors' determination that their best financing was through the DIP Facility, the Debtors negotiated, at arms'-length and in good faith, the DIP Credit Agreement and the DIP Credit Documents.

50. Without the liquidity provided by the DIP Facility, the Debtors would be unable to pay landlords, employees and other constituencies that are essential to the orderly operation of the business and the retention of the value of their assets through either a sale or an orderly liquidation of such assets.

51. Access to substantial credit is necessary to meet the substantial day-to-day costs associated with winding down the Debtors' affairs, distributing goods to customers, and marshalling and selling their assets. Access to sufficient cash is therefore critical to the Debtors. In the absence of immediate access to cash and credit, the Debtors' suppliers will refuse to sell critical supplies and services to the Debtors, and the Debtors will be unable to operate their business or maximize recoveries on their assets.

52. For these reasons, access to credit under the DIP Facility and the financial accommodations as provided thereby are critical to promote: (a) an orderly sale or liquidation of the Debtors' business assets as a going concern; (b) the maintenance of the value of the Debtors' assets; and (c) the Debtors' ability to effectively to maximize the value of their assets.

53. The Debtors submit that the proposed terms of the DIP Financing are fair, reasonable and adequate in that these terms neither tilt the conduct of these cases and prejudice the powers and rights that the Bankruptcy Code confers for the benefit of all creditors, nor prevent motions by parties in interest from being decided on their merits.

54. The Debtors believe the Interim Order represents a fair and reasonable interim arrangement for debtor-in-possession financing pending the Final Hearing. The Interim Order does not purport to make any findings with regard to the amount of the Pre-Petition Obligations owed by the Debtors to the Prepetition Senior Lender or the validity, extent and priority of the Prepetition Senior Lender's liens and security interests that bind any entity other than the Debtors. Accordingly, the rights of all parties in respect of such matters are fully reserved. Thus, unsecured creditors will not be prejudiced by entry of the Interim Order.

55. While the Interim Order binds the Debtors' with respect to the validity, perfection or amount of the Prepetition Senior Lender's prepetition lien and debt and waives Debtors' claims related thereto, the Debtors' believe these provisions are justified because they do not bind other interested parties and other interested parties are given the requisite investigation time to analyze and, if necessary, bring an action challenging the validity, priority, and extent of the liens.

56. The Debtors and the DIP Lender, who also was the Prepetition Senior Lender, have negotiated a Budget expected to be sufficient to ensure that all administrative expenses will be covered by the DIP Lender through the closing of the sale of substantially all of the Debtors'

assets, as well as a burial budget if unexpected events transpire that lead to a default and termination under the DIP Credit Documents. Given the Prepetition Senior Lender and the DIP Lender's willingness to "pay to play" in these Chapter 11 Cases, the Debtors' believe their waiving of section 506(c) rights is justified.

57. The Interim Order provides that any committee may only $20,000 of its fee carveout to investigate claims against the Prepetition Senior Lender; the Debtors believe this amount is appropriate given the relatively straightforward nature of the Prepetition Credit Agreement and the related liens.

58. While the Interim Order provides that the liens securing the DIP Facility and the Prepetition Senior Lender's adequate protection claims are senior to existing liens that were junior to the Prepetition Senior Lender's liens prior to the Petition Date, the Debtors believe that the claims of the Prepetition Senior Lender are undersecured, and thus any claims secured by junior liens on the Prepetition Collateral are effectively unsecured. Consequently, the Debtors believe the lien rights related to such claims are not entitled to adequate protection.

59. The Interim Order states that, in providing the DIP Facility, the DIP Lender shall not be deemed to be a party in control, responsible person or owner/operator.

60. The Interim Order provides that the DIP Lender and the Prepetition Senior Lender may take action necessary to permit the DIP Lender or the Prepetition Senior Lender to exercise, upon the occurrence and during the continuation of any Event of Default (under the DIP Credit Documents or the Interim Order), all rights and remedies provided in the DIP Credit Documents and to take any or all of the following actions without further order of or application to this Court: (a) immediately terminate the Debtors' use of Cash Collateral; (b) immediately declare all DIP Obligations to be due and payable; (c) immediately terminate the lending commitments under the DIP Credit Agreement; and (d) take any other actions or exercise any other rights or

remedies permitted under the Interim Order, the DIP Credit Documents or applicable law to effect the repayment of the DIP Obligations. However, the DIP Lender or the Prepetition Senior Lender, as applicable, are required to provide three (3) business days' written notice to counsel to the Debtors, counsel to the official committee of unsecured creditors (if one is appointed in these Chapter 11 Cases), and counsel to the U.S. Trustee prior to exercising any lien enforcement rights or remedies with respect to the DIP Collateral, which will provide the Debtors with sufficient time to challenge any such action if consistent with its fiduciary duties.

61. As set forth more fully in the proposed Interim Order, the proposed DIP Facility contemplates a modification of the automatic stay established pursuant to section 362 of the Bankruptcy Code to permit the Lender to execute upon their security interests or exercise other remedies under the DIP Credit Documents in the event of an Event of Default and take such other actions required or permitted by the DIP Loan Documents. The Debtors believe that stay modification provisions of this sort are ordinary and usual features of post-petition debtor-in-possession financing facilities and, in the Debtors' business judgment, are reasonable under the present circumstances. Moreover, the DIP Lender or the Prepetition Senior Lender, as applicable, are required to provide three (3) business days' written notice to counsel to the Debtors, counsel to the official committee of unsecured creditors (if one is appointed in these chapter 11 cases), and counsel to the U.S. Trustee prior to exercising any lien enforcement rights or remedies with respect to the DIP Collateral, which will provide the Debtors with sufficient time to challenge any such action if consistent with its fiduciary duties.

62. Attached to the Debtors' motion as **Exhibit B** is a six-month Budget. The Budget reflects on a line-item basis the Debtors' anticipated cumulative cash receipts and expenditures on a weekly basis and all necessary and required cumulative expenses which the Debtors expect to incur during each week of the Budget.

63. The Debtors require the use of Cash Collateral to fund their day-to-day operations. The use of Cash Collateral will enable the Debtors to continue to satisfy their vendors, service their customers, pay their employees and operate their businesses in the ordinary course and in an orderly and reasonable manner to preserve and enhance the value of their estates for the benefit of all stakeholders. Indeed, absent such relief, the Debtors' businesses will be brought to an immediate halt, with damaging consequences for the Debtors and their estates and creditors.

64. Pending the Final Hearing, the Debtors require immediate financing for, among other things, maintenance of their facilities and other working capital needs. It is essential that the Debtors immediately stabilize their operations and continue paying for ordinary, post-petition operating expenses, as well as the pre-petition expenses approved in the "first day" orders, to minimize the damage occasioned by its cash flow problems and maximize the potential value of their assets.

65. Absent immediate use of financing, the Debtors will be unable to pay operating expenses and move toward the sale of their business assets as a going concern pending the Final Hearing. Consequently, if interim relief is not obtained, the Debtors' assets will be immediately and irreparably jeopardized, to the detriment of the estates, their creditors and other parties in interest.

66. Accordingly, the Debtors request that, pending the Final Hearing, the Court schedule the Interim Hearing as soon as practicable to consider the Debtors' request to obtain emergency interim credit under the DIP Facility in accordance with and pursuant to the terms and conditions contained in the DIP Credit Agreement and the Interim Order.

(2) **Debtors' Motion for An Order (i) Approving Continued Use of Existing Bank Accounts, Business Forms, and Cash Management System, and (ii) To Obtain Limited Waiver of the Requirements of 11 U.S.C. § 345(b)**

67. The Debtors utilize the Cash Management System in the day-to-day operations of their business. In connection with the Cash Management System, prior to the Petition Date, the Debtors maintained thirteen bank accounts in the ordinary course of their business, including five blocked depository accounts, three payroll accounts, one savings account, and four certificates of deposit (collectively, and as they may be modified, the "Bank Accounts"). The Bank Accounts are maintained at Wells Fargo Bank, National Association ("Wells Fargo"), The Royal Bank of Scotland N.V. ("RBS"), and the Bank of Montreal ("BMO"; collectively with Wells Fargo and RBS, the "Banks").

68. The Bank Accounts and the Cash Management System are listed and demonstratively described on **Exhibit A** to the Debtors' motion for continued use of their Cash Management System.

69. The Debtors fund their operations through four blocked depositary accounts, two accounts are held at Wells Fargo, one account is held at RBS, and one account is held at BMO. The Debtors also maintain a lock box at each of the banks to receive checks and cash directly from the Debtors' customers. Funds are swept daily from the lock box accounts into the respective depositary accounts, which the Debtors utilize to fund their operations.

70. In addition to the checks and cash collected from the lock box accounts, each of the Wells Fargo depository accounts receive electronic transfers and credit card payments in U.S. dollars from the Debtors' customers. The Debtors maintain a separate account with BMO that receives credit card payments in Canadian dollars.

71. Payroll for the Debtors' U.S. employees is funded through a zero balance payroll account at Wells Fargo, which is funded by one of the Wells Fargo depositary accounts.

Similarly, the payroll of the Debtors' Canadian employees is funded by a zero balance payroll account at RBS, which is funded by the RBS depository account.

72. At the time the Debtors commenced these Chapter 11 Cases, they were in the process of changing their Canadian payroll and operating bank accounts from RBS to BMO. As of the Petition Date, the Debtors have opened the new BMO accounts, but have not begun using them in their businesses. Although the Debtors will begin utilizing the BMO accounts in the near future, the RBS operating account will remain active to collect customer payments.

73. Periodically, funds from the Wells Fargo depositary accounts are used to supplement the cash in the RBS depositary account if necessary to make payroll for the Debtors' Canadian operations.

74. The Debtors' restricted accounts are comprised of a savings account and three certificates of deposit, all held with Wells Fargo, which secure certain letters of credit issued to IBM Credit LLC and Sony Electronics, Inc. ("Sony"). The IBM letter of credit was issued in connection with IBM's revolving loan to HCH, and it is secured a certificate of deposit of approximately $1.5 Million. The letter of credit to Sony secures the vendor's accounts payable, and it is collateralized by two certificates of deposit in the approximate aggregate amount of $741,000. The $40,000 savings account also acts as collateral for the Sony letter of credit. On December 9, 2011, IBM Credit LLC drew on the letter of credit and repaid in full the IBM revolving loan obligations of HCH.

75. The Cash Management System constitutes a customary and essential business practice. It is similar to those commonly employed by corporate enterprises comparable to the Debtors in size and complexity. The widespread use of such systems, moreover, is attributable to the numerous benefits they provide, including the ability to (a) control and monitor corporate

funds, (b) ensure cash availability, and (c) reduce administrative expenses by facilitating the movement of funds.

76. In light of the substantial size and complexity of the Debtors' operations, the Debtors' efforts to preserve and enhance the value of their estates will be hampered if their cash management procedures are disrupted.

77. For much the same reasons, the Debtors further seek the authority to implement ordinary course changes to their Cash Management System, without further order of the Court, in the event that the Debtors conclude that changes in the Cash Management System are beneficial to their estates. In addition, the Debtors request authority to open and close bank accounts. The Debtors request that the Banks be authorized to honor the Debtors' requests to open or close any bank accounts.

78. As set forth above, within their Cash Management System, the Debtors maintain thirteen Bank Accounts. To avoid substantial disruption to the normal operation of their business and to preserve a "business as usual" atmosphere with respect to cash management function, as part of their request to maintain their Cash Management System, the Debtors also request permission to continue to use their Bank Accounts.

79. The Debtors request further that the Banks be authorized to continue to follow the instructions of all parties authorized to issue instructions with respect to the Bank Accounts. Allowing these accounts to be maintained with the same account numbers will assist the Debtors in accomplishing a smooth transition to operating as debtors in possession.

80. As part of the requested relief, the Debtors seek a waiver of the requirement to establish specific bank accounts for tax payments. The Debtors believe that tax obligations can be paid most efficiently out of the existing Bank Accounts, that the U.S. Trustee can adequately monitor the flow of funds into, among and out of the Bank Accounts, and that the creation of

new debtor in possession accounts designated solely for tax obligations would be unnecessary and inefficient.

81. To protect against the possible inadvertent payment of prepetition claims, the Debtors will immediately advise their Banks not to honor checks issued prior to the Petition Date, except as otherwise expressly permitted by an order of the Court and directed by the Debtors.

82. In the ordinary course of their business, the Debtors use a variety of Business Forms. By virtue of the nature and scope of the Debtors' business operations and the large number of suppliers of goods and services with whom the Debtors deal on a regular basis, it is important that the Debtors be permitted to continue to use their Business Forms without alteration or change. To avoid disruption to the Cash Management System and unnecessary expense, the Debtors request authorization to continue to use their Business Forms substantially as such forms exist immediately before the Petition Date, without reference to their status as debtors in possession and the bankruptcy cases number.

83. The Debtors also request authorization to use their existing check stock, provided, however, that upon depletion of the Debtors' check stock, the Debtors will obtain new check stock reflecting their status as debtors in possession.

84. In the absence of such relief, the Debtors' estates will be required to bear a potentially significant expense, which the Debtors respectfully submit is unwarranted.

85. Concurrently herewith, the Debtors have filed motions requesting authority to pay, in their sole discretion and in the ordinary course of their business, certain prepetition obligations to customers, taxing authorities, employees, essential shippers, and other entities. With respect to some of that debt, prior to the Petition Date, the Debtors may have issued checks that have yet to clear the banking system. In other cases, the Debtors would issue the relevant

checks postpetition on account of such prepetition debt once the Court entered an order permitting the Debtors to do so. The Debtors intend to inform their Banks which prepetition checks should be honored pursuant to orders of the Court authorizing such payment.

86. The Debtors submit that the Banks should not be liable to any party on account of (a) following the Debtors' instructions or representations as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures. The Debtors believe such relief is reasonable and appropriate because the Banks are not in a position to independently verify or audit whether a particular item may be paid in accordance with the Court's order or otherwise.

87. In light of the amount of funds that will flow through the estates, the regular deposits and sweeps, and the minimal or zero balances of certain of the Bank Accounts, the Debtors believe it would be unnecessary and wasteful for the Debtors to be forced to incur the expense of obtaining a bond given the safeguards embedded in the Debtors' Cash Management System for the preservation of the funds therein. The Debtors submit that their current practices provide sufficient protection for their cash and that it would be in the estates' best interests for the Debtors to continue to follow these practices. Moreover, Wells Fargo and RBS (where the Debtors maintain their operating Accounts) are well-known and fiscally strong institutions, which provide services critical to the Debtors' operations. For these reasons, the Debtors request that this Court's order provide a waiver of the provisions of section 345 of the Bankruptcy Code.

(3) Debtors' Motion for Entry of An Order Authorizing the Debtors to Pay Prepetition Sales, Use and Other Tax Obligations

88. The Debtors, in the ordinary course of business, are required to collect certain Taxes in connection with the operation of their business and must remit these Taxes and to the Taxing Authorities of the jurisdictions in which the Debtors conduct business. Prior to the

Petition Date, the Debtors incurred obligations to federal, state, and local governments and other governmental agencies. As of the Petition Date, certain Taxes were outstanding and/or had accrued but were not yet due. For example, Taxes attributable to the prepetition portion of the 2011 and 2012 tax years will not be due until the applicable monthly, quarterly, or annual payment dates.

89. The process by which the Debtors remit such Taxes varies depending on the nature of the tax at issue and the Taxing Authority to which the relevant tax is paid. For instance, the Taxes accrue daily in the ordinary course of the Debtors' business, and are calculated based upon statutorily mandated percentages of the Debtors' sales. In some cases, Taxes are paid in arrears, once they are collected by the Debtors. Many jurisdictions, however, require the Debtors to remit estimated Taxes on a periodic basis. The Debtors then generally file a sales and use tax return with the relevant taxing authority reporting the actual sales and use tax due, and paying any further amounts owed for the period.

90. As an initial matter, the Debtors submit that most, if not all, of the Taxes likely constitute so-called "trust fund" taxes which are required to be collected from third parties and held in trust for payment to the Taxing Authorities. By far, most of the Taxes to be paid pursuant this motion constitute "trust fund" taxes, including certain provincial sales taxes due in Canada. Certain of those Canadian provincial sales taxes are subject to dispute or compromise, so the Debtors are seeking authority to pay up to the amount of the Taxes, though the actual amount paid may be less.

91. Payment of the Taxes when they become due will, however, relieve the Debtors and their estates from significant administrative burdens. The Debtors' estimate that, if granted, they may pay up to approximately $1,430,000 in Taxes pursuant to the motion, though that figure includes claims that are subject to compromise.

92. Payment of the Taxes to the Taxing Authorities in full and on time is undeniably justified under the circumstances of these cases. If the Debtors fail to timely pay the Taxes, or withhold payment of the Taxes as a precaution, the Taxing Authorities would likely take precipitous actions, such as seeking to impose liens on the Debtors' assets. The Debtors may also experience a marked increase in audits from the Taxing Authorities. Such actions would unnecessarily divert the Debtors' attention from the bankruptcy process and waste valuable estate resources. An improper lien or the failure to pay certain taxes might also affect the Debtors' good standing in certain states, which may hinder the Debtors' ability to engage in certain transactions.

93. Personal liability actions against the Debtors' officers or directors for the payment of "trust fund" taxes would be extremely distracting for the Debtors' directors and officers, whose full time focus must be to formulate and implement a value maximizing plan for the Debtors. The Debtors submit that it is in their best interests, as well as the best interests of their creditors, to eliminate the possibility of such time consuming and potentially damaging distractions. Prompt and regular payment of the Taxes would avoid any such unwarranted governmental action and the associated administrative burden on the Debtors' estates.

94. As a result, payment of the Taxes to the Taxing Authorities in full and on time is justified under the circumstances of these cases.

(4) Debtors' Motion for Entry of an Order (i) Authorizing the Payment of Certain Prepetition Shipping Charges and (ii) Granting Certain Related Relief

95. In the ordinary course of their business, the Debtors rely on the United Parcel Service of America, Inc., as its Shipper, to transport products from the Debtors' customers to the Debtors' repair facilities and from the Debtors' repair facilities to the Debtors' customers. The services of the Shipper are critical to the Debtors' operations.

96. As of the Petition Date, the Debtors estimate that the total unpaid prepetition amount owed to the Shipper is approximately $60,000. The Shipper has advised the Debtors that it will not provide any services to the Debtors unless it receives payment on account of the Debtors' prepetition obligation.

97. The Shipper's employees are well-trained and experienced in the business of delivering products to consumers. The Debtors also have intricate IT links with the Shippers that are critical for the Debtors' shipment processing that could not be immediately replaced. The Debtors do not believe that they could replace the Shipper on an expedited basis so as to avoid disruption of the flow of products to their customers, nor do they believe it would be prudent to hire another shipping company and risk that goods will be damaged during the transporting and delivery process.

98. Unless the Debtors are able to continue processing and delivering goods, their business operations will be severely disrupted, the Debtors' customers will be harmed, the Debtors' ability to generate revenue will be impaired, and the Debtors' sale or reorganization efforts may be hampered.

99. Paying the Shipper will benefit the Debtors' estates and their creditors by allowing the Debtors' business operations to continue without interruption.

100. If the Shipper exercises "self-help" remedies to secure payment of its claims, failure to satisfy the Shipper's claims will have a material adverse effect that will devastate the operations of the Debtors' business to the detriment of the Debtors' creditors.

101. The value of the goods in the possession of the Shipper will far exceed the value of their respective claims and satisfaction of prepetition claims of such parties will help preserve the going-concern value of the Debtors' business.

102. The Debtors have determined that (i) payment of the Shipper's Claims is critical to their efforts to sell their business assets as a going concern; (ii) payment of the Shipper's Claims is necessary to facilitate the sale; and (iii) following payment of the Shipper's Claims, non-Shippers will be at least as well off as they would otherwise be if the Shipper's Claims are not paid.

(5) Debtors' Motion for Entry of an Order Authorizing Debtors to (A) Honor Certain Prepetition Obligations to Customers and (B) Continue Their Customer Programs and Practices in the Ordinary Course of Business

103. The Debtors' customers include leading national retailers and hardware distributors, OEMs, IT service companies, third-party administrators of extended warranty programs, and commercial companies.

104. Prior to the Petition Date, and in the ordinary course of their businesses, the Debtors engaged in certain practices to develop and sustain positive reputations in the marketplace for their products and services, including the provision of warranties and rebates pursuant to contracts with each of its customers.

105. The Debtors provide warranties to all of their Customers for parts they provide to their Customers and/or the labor required to perform services for their Customers. The labor and parts warranties vary in length, type and agreement. However, the Debtors' parts warranties typically last anywhere from 30 to 365 days after the provision of the parts. The Debtors' labor warranties typically last up until a year after the labor was initially performed for the Customer.

106. The Debtors provide a rebate program to Best Buy, one of their Customers. The Debtors provide services and products to Best Buy. In some cases the Debtors are the exclusive provider of services and products to Best Buy and in other cases the Debtors are a Non-Exclusive Provider to Best Buy. The Debtors' provide Best Buy a rebate of two percent of the overall

revenue the Debtors receive from Best Buy (after any returns of the products provided) as a Non-Exclusive Provider.

107. The Debtors desire to continue, during the postpetition period, those cost-effective Customer Programs that were beneficial to their businesses during the prepetition period. The Customer Programs have proven to be successful business strategies in the past and responsible for generating valuable goodwill, repeat business, and net revenue increases.

108. Permitting the Debtors to continue to honor their Customer Programs will enable a successful sale of their business assets as a going concern. The Debtors have determined that (i) continuation of their Customer Programs is critical to their efforts to sell their business assets as a going concern; (ii) payment of any claims related to their Customer Programs is necessary to facilitate the sale; and (iii) permitting the Debtors to honor their Customer Programs will leave the Debtors at least as well off as they would otherwise be if the Customer Programs were not honored.

109. The Debtors seek to continue their Customer Programs as they have proven to be successful business strategies in the past and responsible for generating valuable goodwill, repeat business, and net revenue increases. The Debtors believe that continuing these benefits throughout these Chapter 11 Cases is essential to maintaining the value of the Debtors' estates as they attempt to sell the assets as a going concern.

110. Moreover, any creditors not receiving the benefit of the continued Customer Programs will be at least as well off as they would have been had the Customer Programs not been continued. Maintaining the Customer Programs is vital to the Debtors' continuing business operations and the success of these Chapter 11 Cases. In addition, the Debtors have conducted an extensive analysis and review of the Debtors' immediate trade needs and supplier base and has concluded that there is a significant risk that the Customers will cease doing business with

the Debtors unless the Customer Programs are honored. Should any Customer with the benefit of a Customer Program stop purchasing services and/or goods from the Debtors, their businesses would be adversely affected as a result of, among other things, an adverse impact on the Debtors' ability to continue operating toward a sale. Any interruption of the Debtors' operations could cost the Debtors' estates millions of dollars in lost revenues and furthermore, could cause the Debtors to lose a significant amount of Customers and value of their sale. Accordingly, the harm that would stem from the failure to uphold any Customer Programs is disproportionate to the cost of continuing such programs.

111. As such, the Debtors submit that the cost of continuing the Customer Programs pales in comparison to the likely damage to the Debtors' businesses and estates should the relief requested herein not be granted. In light of the foregoing, the Debtors submit that continuing to honor the Customer Programs is plainly in the best interests of its estate and creditors.

112. The Debtors further believe that their Customers participating in the Customer Programs will not continue doing business with the Debtors without the benefit of the Customer Programs.

(6) Debtors' Motion for Order: Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (I) Authorizing the Debtor to Honor Prepetition Insurance Policies and Renew Such Policies in the Ordinary Course of Business; and (II) Granted Related Relief

113. In the ordinary course of the Debtors' businesses, the Debtors retain and maintain the Insurance Policies providing coverage for, inter alia, property and casualty liability, pension bond insurance, customs bond, worker's compensation, and directors' and officers' liability. A detailed listing of the Insurance Policies that are currently held by the Debtors is attached to the motion as **Exhibit A**.

114. The Insurance Policies are essential to the preservation of the Debtors' businesses, property, and assets, and, in many cases, such coverages are required by various regulations, laws, and contracts that govern the Debtors' commercial activity.

115. The annual premiums for the Insurance Policies, which the Debtors maintain through a handful of different insurance carriers, total approximately $202,000.

116. It is the Debtors' business practice to pay Insurance Premiums in a timely fashion and they do not believe that they have any unpaid Insurance Premiums as of the Petition Date. However, given the timing of the bankruptcy filing, it is possible that some of the Insurance Premiums may not have been paid as of the Petition Date. Failure to make these ongoing premium payments when due will cause harm to the Debtors' estates in several ways. First, if the Debtors fail to make their payments, the insurers may seek to terminate the Insurance Policies to recoup their losses. The Debtors would then be required to obtain replacement insurance on an expedited basis. This replacement insurance likely would require not only that the Debtors pay a lump-sum premium for the insurance policy in advance, but would involve a higher overall cost than the premium the Debtors currently pay.

117. Even if the insurers were not permitted to terminate the Insurance Policies, any interruption of payment would have a severe and adverse impact on the Debtors' ability, in the ordinary course of their businesses, to renew any Insurance Policies that expire postpetition.

118. In light of the importance of maintaining the Insurance Policies with respect to their business activities, the Debtors need to honor their obligations under the existing Insurance Policies. As described above, any other alternative would likely require considerable additional cash expenditures. Granting the relief requested in this motion will enhance the likelihood of the Debtors' successful rehabilitation, maximize the value of the estates' assets, and thus benefit the estates' creditors.

(7) **Debtors' Motion for Interim and Final Orders (i) Prohibiting Utilities From Altering, Refusing or Discontinuing Services to, or Discriminating Against, the Debtors, (ii) Determining That the Utilities Are Adequately Assured of Future Payment; (iii) Establishing Procedures for Determining Requests for Additional Assurance; and (iv) Permitting Utility Companies to Opt Out of the Procedures Established Herein**

119. The Debtors currently use electric, natural gas, heat, water, telecommunications, and other services of the same general type or nature provided by approximately 29 Utility Companies (including agents, divisions, affiliates and subsidiaries). A list of the Debtors' Utility Companies is set forth on **Exhibit A** to their motion. It is possible that, despite the Debtors' efforts, certain Utility Companies have not yet been identified by the Debtors or included on the Utility Service List. The Debtors estimate that their average monthly obligations to the Utility Companies on account of services rendered total approximately $60,000.00.

120. Because the Utility Companies provide services essential to the Debtors' operations, any interruption in utility services could prove damaging. The Debtors could not maintain and operate their business in the absence of continuous utility service. Should any Utility Company refuse or discontinue service, even for a brief period, the Debtors would be forced to cease the operation of the affected location, resulting in a substantial loss of revenue. The temporary or permanent discontinuation of utility services at any of the Debtors' facilities therefore could irreparably harm the Debtors' estates.

121. The Debtors intend to pay in a timely manner their post-petition obligations to the Utility Companies. Furthermore, the Debtors have previously provided security deposits to three of the Utility Companies in an aggregate amount of approximately $19,700.00.

122. The Debtors further submit that the Proposed Adequate Assurance constitutes sufficient adequate assurance of future payment to the Utility Companies to satisfy the requirements of section 366 of the Bankruptcy Code.

(8) **Debtors' Motion for the Entry of an Order (i) Authorizing Payment of Prepetition Employee Obligations and Related Withholding Taxes; (ii) Authorizing the Prepetition Employee Benefits and Continuation of the Employee Benefit Plans; and (iii) Directing all Banks to Honor Prepetition Checks for Payment of Prepetition Employee Obligations**

123. As of October 31, 2011, the Debtors employed approximately 486 persons in the aggregate (the "Employees"), of which approximately 401 are salaried Employees and approximately 85 are paid on an hourly basis. All Employees are paid bi-weekly every other Friday. In addition, certain Employees, mainly sales representatives and customer service representatives associated with sales, are entitled to bonuses and/or commissions based on the level of sales generated throughout the year. These commissions are generally paid during the last payroll cycle of each quarter.

124. As of the Petition Date, the Debtors estimate that the aggregate amount owed in the form of accrued but unpaid salary, wages, paid time off, bonuses and commissions is approximately $1,300,000 (collectively, the "Unpaid Compensation"). Of the Unpaid Compensation, the Debtors seek to pay approximately $500,000 in accrued salary and wages. The Debtors do not intend to pay Unpaid Compensation to any one Employee in excess of the $11,725 cap imposed by section 507(a)(4) of the Bankruptcy Code.

125. Items of Unpaid Compensation were due and owing on the Petition Date because, among other things, the Debtors' bankruptcy cases were filed in the midst of the Debtors' regular and customary salary and hourly wage payroll periods, and some payroll checks issued to employees prior to the Petition Date may not have been presented for payment or cleared the banking system and therefore not honored and paid as of Petition Date.

126. The Debtors offer incentive bonuses in their discretion, and pursuant to a limited number of compensation agreements, to certain Employees based on the achievement of established goals, objectives or quotas (collectively, the "Bonus Plans"). The Bonus Plans are

designed to provide market-competitive cash bonus payments based on several measurements, including position-specific goals, customer service ratings, and production and sales growth.

127. Specifically, awards are made based on the quality and efficiency of service provided by the Employee. Bonus awards are payable throughout the year, but are generally paid to Employees monthly in arrears.

128. Approximately 104 Employees (who are not "insiders" under the Bankruptcy Code) are entitled to bonuses, in the aggregate, of approximately $30,000 under the Bonus Plans as of the Petition Date. The average bonus for eligible Employees is approximately $315; thus, payment of the bonuses will not cause any Employee to receive Unpaid Compensation in excess of the 507(a)(4) cap. The Debtors seek authority to continue to honor and perform all Bonus Plans in the ordinary course of business, including payment of any prepetition claims to non-insider Employees on account of such plans.

129. In addition to their ordinary and customary wages, the Debtors provide regular, full-time Employees with paid time off to cover, among other things, vacation, sick days and holidays (collectively, "Paid Time Off"), which accrues for each Employee based on his or her length of service with the Debtors. For example, Employees that have been employed by the Debtors from zero to four years receive 4.92 hours of Paid Time Off per pay period, while Employees who have worked for the Debtors for ten years or more receive 8 hours of Paid Time Off per pay period. Accordingly, Employees could earn 16 to 26 days of Paid Time Off per year. If Employees do not use their Paid Time Off, it continues to accrue up to an established maximum amount based on years of service, which ranges between 24 to 39 days. As of the Petition Date, the Debtors estimate that a total of approximately $771,251 in earned but unpaid Paid Time Off has accrued for eligible Employees.

130. Prior to the Petition Date and in the ordinary course of business, the Debtors reimbursed Employees for certain expenses incurred in the scope of their employment, including business-related travel expenses, vendor purchases, business meals, phone costs, and miscellaneous business expenses (collectively, the "Reimbursable Expenses"). The Debtors also provide travel stipends of $50 to $200 for up to twenty-five Employees who use their personal vehicles to travel to the Debtors' customers to install and repair products.

131. In addition, certain Employees pay for the Reimbursable Expenses with their personal or corporate credit cards. The credit card companies then invoice the Debtors directly for these charges and, following the Debtors' review of the invoices, such charges are paid directly by the Debtors to the credit card companies. Although the Debtors pay the invoices directly for the corporate credit cards of certain Employees, the accounts are held in the names of the Employees. Therefore, to the extent the Debtors fail to remit payment to the credit card companies for valid and legitimate Reimbursable Expenses, the credit card companies may seek to collect such unpaid amounts directly from the Employees, which may negatively impact the Employees' credit.

132. All Reimbursable Expenses were incurred as business expenses on the Debtors' behalf and with the understanding that the Employees would be reimbursed in the normal course. The Debtors estimate that, as of the Petition Date, less than $15,000 was owed on account of outstanding Reimbursable Expenses to Employees. Accordingly, to avoid harm to individual Employees, the Debtors seek authorization, in their sole discretion, to pay the Reimbursable Expenses to the Employees in the ordinary course of business.

133. The Debtors offer all of their full-time Employees certain benefits, including health insurance, dental insurance, vision care, flexible spending accounts, a 401(k)/profit sharing plan, term life insurance, accidental death and disability insurance, short-term disability,

long-term disability, and COBRA (collectively the "Employee Benefits"). The Debtors seek to continue to provide the Employee Benefits on a postpetition basis, and to honor all prepetition obligations relating thereto.

134. The Debtors offer health care coverage, including prescription drug coverage and dental and vision care, to approximately 401 full-time Employees and their dependents. The Debtors pay for all health care benefits of their Canadian Employees and share the cost of providing these benefits with their U.S. Employees. In addition, the Debtor fund a portion of the health care benefits offered to their U.S. Employees, the rest of which are funded by the U.S. Employees through funds withheld from their paychecks. In 2010, the Debtors paid approximately $1.6 million for Employee health care benefits.

135. The Debtors offer their full-time Employees a medical plan, dental plan, and flexible spending reimbursement accounts (the "Medical and Dental Benefits") through Anthem Blue Cross and United Concordia Dental. The Medical and Dental Benefits represent an integral component of each Employee's employment, and without these benefits the Debtors believe they would be unable to retain all of their personnel. Additionally, discontinuance of these benefits would impose a severe hardship on the Employees and their families.

136. The Debtors believe that they have paid all administrative costs that have come due prior to the Petition Date. However, to the extent that any premiums due for the Medical and Dental Benefits or any claims in connection therewith, insofar as such premiums and claims relate to the prepetition period, remain unpaid on the Petition Date, the Debtors are seeking authorization to pay those amounts.

137. The Debtors provide workers' compensation insurance for their Employees at the statutorily-required level for each state in which the Debtors have business operations. As of the Petition Date, the Debtors do not believe they owe any prepetition amounts on account of

workers' compensation insurance. However, out of an abundance of caution, the Debtors request authority to pay any petition amounts that may be outstanding.

138. The Debtors also provide basic life insurance through a premium based insurance policy through Lincoln National Life Insurance Company. Voluntary supplemental life insurance and voluntary long-term and short-term disability are also offered by the Debtors as premium based and fully paid by the employee through payroll deductions. As of the Petition Date, the Debtors do not believe they owe any prepetition amounts on account of life insurance. However, out of an abundance of caution, the Debtors request authority to pay any petition amounts that may be outstanding.

139. The Debtors maintain a qualified defined contribution savings plan for the benefit of all eligible Employees meeting the requirements of section 401(k) of the Internal Revenue Code. The Debtors provide a 401(k) plan for Employees that have worked for the Debtors for at least three consecutive months. Employees may elect to contribute between 1% and 15% of their pay, or up to federally regulated dollar maximum per calendar year. The Debtors have the discretion to make matching contributions under the 401(k) plan. As of the Petition Date, the Debtors do not believe they owe any prepetition amounts in connection with the 401(k) plan. However, out of an abundance of caution, the Debtors are requesting authority to pay any pre-petition amounts that may be outstanding.

140. In the ordinary course, the Debtors deduct from their Employees' paychecks (a) payroll taxes and the Employees' portion of FICA and unemployment taxes, (b) Employee contributions to 401(k) plans and 401(k) loan repayments (the "401(k) Deductions"); (c) Employee voluntary insurance premiums, (d) Employee health benefit premiums and reimbursement/savings accounts; and (e) legally ordered deductions such as wage garnishments, child support and tax levies (collectively, the "Employee Deductions").

141. Due to the commencement of these cases, funds may have been deducted from Employee paychecks but may not have been forwarded to appropriate third-party recipients. Failure to forward the 401(k) Deductions to the 401(k) plan administrator may be a violation of the Employee Retirement Income Security Act of 1974, potentially resulting in the Debtors' officers and directors being held personally liable for such amounts. The Debtors are seeking authority to forward the Employee Deductions to the appropriate parties.

142. If the Debtors fail to pay or honor the Employees' prepetition compensation, reimbursement procedures and Employee benefits, the Employees will suffer extreme personal hardship and in many cases will be unable to pay their basic living expenses. This clearly would destroy Employee morale and result in unmanageable Employee turnover during the critical early stages of these Chapter 11 Cases. The Debtors submit that any significant deterioration in morale at this time will substantially and adversely impact the Debtors and their ability to maximize the value of the their estates, thereby resulting in immediate and irreparable harm to the Debtors and their estates.

143. The Debtors do not believe that any of their current Employees are owed amounts for services rendered prior to the Petition Date in excess of the $11,725 amount to which such employee would be entitled to priority under section 507 of the Bankruptcy Code.

144. The Debtors further submit that the amounts to be paid the Employees pursuant to their motion are reasonable compared with the importance and necessity of preserving Employee loyalty and morale, and with the difficulties and losses the Debtors likely will suffer if those amounts are not paid. Failure to pay the current employees for their prepetition services in full would likely hinder the Debtors' ability to maximize the value of their assets and to administer these Chapter 11 Cases in an orderly fashion.

C. **Sale Related Motion**

Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a), 363, 365 and Fed. R. Bankr. P. 2002, 6004, 6006 For (I) Entry of an Order (A) Approving Bidding Procedures; (B) Granting Certain Bid Protections; (C) Approving Form and Manner of Sale Notices; (D) Setting Sale Hearing Date in Connection with Sale of Substantially all of Debtors' Assets; and (II) Entry of an Order (A) Approving the Sale of Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (C) the Assumption of Certain Liabilities; and (D) Granting Certain Related Relief

145. As set forth in detail above, the Debtors, with the assistance of their advisers, actively marketed the company since late January 2011, focusing on a sale of substantially all of their assets as a going concern. Even before the Petition Date, the Debtors conducted a well-orchestrated sales process targeting the company's universe of potential strategic and financial buyers in an effort to maximize the value of the Acquired Assets.

146. As a result of their efforts, the Debtors have identified a Purchaser of the Acquired Assets and executed the Agreement with the Purchaser for the purchase of the Acquired Assets for the aggregate price of $35.5 million, subject to a working capital adjustment, plus an earn out and assumption of certain liabilities.

147. The Debtors have determined that a prompt Sale of the Acquired Assets is the best way to maximize the value of the Acquired Assets for their respective estates and creditors.

148. The Debtors have sound business justifications for selling the Acquired Assets at this time. While the Debtors currently have limited access to capital, they are endowed with a strong customer base, well-respected brands, and solid operations. Accordingly, the Debtors have determined that the best option for maximizing the value of their estates for the benefit of their creditors is through the Sale of all or a portion of the Acquired Assets.

149. The Sale of any of the Debtors' Acquired Assets will be subject to competing bids, enhancing the Debtors' ability to receive the highest or otherwise best value for the Acquired Assets. Consequently, the fairness and reasonableness of the consideration to be

received by the Debtors will ultimately be demonstrated by a "market check" through the auction process, which is the best means for establishing whether a fair and reasonable price is being paid.

150. To provide the Purchaser with an incentive and compensation for entering into the Agreement and for the extensive fees and costs it will incur by serving as the stalking horse purchaser, the Debtors have agreed to a Break-Up Fee. The Debtors believe that offering the Break-Up Fee to the Purchaser will benefit the Debtors' estates by establishing a floor and promoting more competitive bidding. Without such a fee, bidding on the Debtors' Acquired Assets would likely be reduced. The availability of the Bid Protections is necessary in order to provide the Purchaser with some assurance that it will be compensated for the time and expense it has spent in putting together its offer for the Acquired Assets and for the risk that arises from participating in the Sale and subsequent bidding process as the stalking horse bidder.

151. The Debtors believe that the Bidding Procedures are appropriate to ensure that the bidding process is fair and reasonable and will yield the maximum value for their estates and creditors. The Bidding Procedures proposed are designed to maximize the value received for the Acquired Assets by facilitating a competitive bidding process in which all potential bidders are encouraged to participate and submit competing bids. The Bidding Procedures provide potential bidders with sufficient notice and an opportunity to acquire information necessary to submit a timely and informed bid. At the same time, the Bidding Procedures provide the Debtors with the opportunity to consider all competing offers and to select the highest and best offer for portions of the Acquired Assets or the Acquired Assets as a whole as determined by the Debtors.

I believe that the commencement of this Chapter 11 Cases is in the best interests of the Debtors' stakeholders and other parties-in-interest. As it did during the prepetition period, the

Debtor, with the assistance of its professionals, will continue to maintain and enhance the going concern value of the companies while pursuing its reorganization strategy.

I declare under penalty of perjury that the forgoing is true and correct.

Dated: December 12, 2011

Brian N. Mittman
President of CEO of the Debtors

EXHIBIT "B"

EXHIBIT "B"

Docket #0023 Date Filed: 12/12/2011

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Chapter 11
	)	
HARTFORD COMPUTER HARDWARE, INC., *et al.*,[1]	)	Case No. 11-49744 (PSH)
	)	(Joint Administration Pending)
	)	
Debtors.	)	Hon. Pamela S. Hollis

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(A), 363, 365 AND FED. R. BANKR. P. 2002, 6004, 6006 FOR (I) ENTRY OF AN ORDER (A) APPROVING BIDDING PROCEDURES; (B) GRANTING CERTAIN BID PROTECTIONS; (C) APPROVING FORM AND MANNER OF SALE NOTICES; (D) SETTING SALE HEARING DATE IN CONNECTION WITH SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS; AND (II) ENTRY OF AN ORDER (A) APPROVING THE SALE OF DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS; (B) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) THE ASSUMPTION OF CERTAIN LIABILITIES; AND (D) GRANTING CERTAIN RELATED RELIEF

The above-captioned debtors and debtors-in-possession (the "Debtors") submit this motion (this "Motion") for entry of orders (i) (a) approving the bidding procedures attached to the Bidding Procedures Order (as defined herein) as **Exhibit 1** (the "Bidding Procedures"), (b) granting certain bid protections, (c) approving the form and manner of sale notices (the "Notice Procedures"), and (d) setting a date for the sale hearing (the "Sale Hearing") and (ii) authorizing and approving (a) the sale (the "Sale") of substantially all of the Debtors' assets (the "Acquired Assets") to Avnet, Inc. and Avnet International (Canada) Ltd. (together, the "Purchaser") in accordance with that certain Asset Purchase Agreement dated December 12, 2011, by and among the Debtors and the Purchaser (the "Agreement"), or the Successful Bidder (as defined below) submitting a higher or otherwise better bid, as the case may be, (b) the assumption and

[1] The Debtors are Hartford Computer Hardware, Inc. (FEIN 27-4297525) ("HCH"), Nexicore Services, LLC (FEIN 03-0489686) ("Nexicore"), Hartford Computer Group, Inc. (FEIN 36-2973523) ("HCG"), and Hartford Computer Government, Inc (FEIN 20-0845960)("HCGovernment").

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assignment of certain prepetition executory contracts and unexpired leases (the "Assumed Contracts") to the Purchaser or the Successful Bidder (as defined below), as the case may be, (c) the assumption of certain liabilities (the "Assumed Liabilities") by the Purchaser or the Successful Bidder (as defined below), as the case may be, and (d) granting certain related relief. In support of this motion, the Debtors submit the Declaration of Brian Mittman in Support of Chapter 11 Petitions and First Day Motions and Applications, sworn to on the date hereof (the "Declaration in Support of First Day Relief"), and respectfully represent as follows:

BACKGROUND

1. On the date hereof (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), together with various motions and applications seeking certain typical "first day" orders.

2. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. No request has been made for the appointment of a trustee or examiner, and no official committee(s) has been appointed in these cases.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Debtors' chapter 11 cases and this motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2).

5. The statutory bases for the relief requested herein are sections 105(a), 363, 365 of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 2002, 6004, and 6006.

A. Background and Current Business Operations.

6. The Debtors are one of the leading providers of repair and installation services in North America for consumer electronics and computers. The Debtors operate in three

complementary business lines: parts distribution and repair, depot repair, and onsite repair and installation. Products serviced include laptop and desktop computers, commercial computer systems, flat-screen television, consumer gaming units, printers, interactive whiteboards, peripherals, servers, POS devices, and other electronic devices.

7. Effective as of May 9, 2005, the Debtors entered into that certain Master Restructuring Agreement (the "Restructuring Agreement") with Delaware Street Capital Master Fund, L.P. (the "Prepetition Senior Lender"), MRR Venture LLC ("MRR"), ARG Investments ("ARG"), SKM Equity Fund II, L.P. ("SKM I"), and SKM Investment Fund II ("SKM II" and together with MRR, ARG and SKM I, the "Subordinated Lenders"), HCG Financial Services, Inc. (the "Financial PO Lender"), and Enable Systems, Inc. Pursuant to the Restructuring Agreement, the Debtors amended and restructured their agreements with their various stakeholders. Specifically, after the execution and effectiveness of the Restructuring Agreement, the Debtors' long-term, secured debt was as follows: (a) pursuant to that certain Amended and Restated Loan and Security Agreement dated as of December 17, 2004 among the Debtors and the Prepetition Senior Lender and various promissory notes and other documents (collectively, as may have been amended, supplemented, and modified, the "Senior Credit Agreement"), the Debtors are indebted to the Prepetition Senior Lender, as of the Petition Date, the aggregate amount of $67,755,718; (b) pursuant to that certain Substituted and Amended Subordinated Promissory Note dated May 9, 2005, made by Hartford Computer Group, Inc. in favor of MRR Venture LLC (the "Prepetition Subordinated Lender"), Hartford Computer Group, Inc. was indebted to Prepetition Subordinated Lender in the amount of $1,519,868; and (c) pursuant to that certain Revolving Credit Agreement by and between IBM Credit LLC ("IBM"), HCH and

HCGovernment, dated as of May 5, 2005 (the "IBM Credit Agreement"), HCH and HCGovernment were indebted to IBM in the amount of $1,030,545.

8. Over the past 5 years, the Debtors implemented key turnaround initiatives under the Debtors' CEO, Brian Mittman, focused on creating an efficient operation capable of delivering high-quality service. During that period, the companies total revenues have grown from $55.1 million in 2006 to $95.1 million and earnings have increased at an even larger degree. Given the Debtors' recent performance, as well as its capital structure, the Debtors commenced an aggressive marketing and sales effort so as to take advantage of their improvements for the benefit of all their creditors.

B. The Debtors' Marketing and Sales Efforts.

9. The Debtors, with the assistance of their advisors, actively marketed the company since late January 2011, focusing on a sale of substantially all of their assets as a going concern. Even before the Petition Date, the Debtors conducted a well-orchestrated sale process targeting the company's universe of potential strategic and financial buyers in an effort to maximize the value of the Acquired Assets.

10. Prior to the commencement of the Chapter 11 Cases, the Debtors retained Paragon Capital Partners, LLC ("Paragon") to act in an advisory capacity to explore strategic alternatives. As part of this evaluation, the Debtors and Paragon have aggressively pursued a potential sale of the Acquired Assets. The Debtors and Paragon undertook exhaustive efforts to solicit interest in the Debtors from third parties with the potential to acquire all or a substantial portion of the Acquired Assets.

11. At the outset of this process, the Debtors determined, in consultation with their advisors and the Prepetition Senior Lender, to focus its sale efforts on locating a stalking horse bidder for substantially all of their assets. The Debtors believe that their businesses and assets

have little value if liquidated separately, and that a sale process that includes a sale of substantially all of the Acquired Assets as a going concern will maximize value to the estates.

12. During the marketing process, the Debtors and Paragon identified and contacted approximately ninety-one potential strategic and financial counterparties. Approximately thirty-two of these parties executed confidentiality agreements and received a confidential information memorandum providing extensive information relating to the Debtors' businesses, financial performance and projections, customers, programs, technology, information systems, operations, facilities, management and employees. Approximately eleven companies received a detailed management presentation, either in-person or by phone, and were given the opportunity to speak extensively with the Debtors and its advisors. Of these, eight companies were strategic buyers (including five public companies with a median market capitalization in excess of $4 billion), and three counterparties were major private equity firms with relevant portfolio companies and significant funds under management. Six of these parties submitted written indications of interest to acquire all of the Acquired Assets of the Debtors as a going concern (the Acquired Assets exclude the Debtors' hardware business). Five of these parties attended in-person management presentations conducted by the Debtors senior management team, and conducted site visits with respect to the Acquired Assets. All of these parties were granted access to supplemental due diligence materials made available on an electronic data site (the "Data Site"). One of these parties, the Purchaser, submitted a preliminary proposal and subsequently submitted a definitive agreement. As of November 3, 2011, the Purchaser had a market capitalization of approximately $4.6 billion. For its most recent fiscal year ending July 2, 2011, the Purchaser reported total sales of $26.5 billion and had cash on its balance sheet of $675 million.

13. The Purchaser's offer has been the basis for extensive discussions and negotiations with the Debtors, ongoing diligence and discussions with management, and visits to the Debtors' facilities. As a result, on December 12, 2011, the Debtors executed the Agreement with the Purchaser for the purchase of the Acquired Assets for the aggregate price of $35,500,000 million, subject to certain adjustments described more fully below, plus the assumption of certain liabilities, including certain cure costs and post-petition administrative expenses.

14. At this juncture, the Purchaser's bid is the highest and best that the Debtors have received. Now that the Debtors have concluded negotiations with the Purchaser as the stalking horse bidder (subject to approval by this Court), the Debtors have begun to (and plan to continue to) focus their attention, time, and energy on bidders with continuing interest in the Debtors' assets in order to pursue the possibility that value may be maximized at an Auction (as defined below).

15. The Debtors expect that the purchase price for the Acquired Assets will be insufficient to satisfy in full all of the Debtors' obligations under the Senior Credit Agreement owing to the Senior Prepetition Lender. As a result, the Debtors anticipate that they will remit all such proceeds directly to the Senior Prepetition Lender in partial satisfaction of its secured claim against the Debtors. The Debtors also understand and have been made aware that the Senior Prepetition Lender has made certain agreements with certain officers of the Debtors, pursuant to which the Senior Prepetition Lender will pay incentive awards to such officers from the Senior Prepetition Lender's collateral proceeds upon the closing of the Sale. The Debtors understand and believe that between 12% and 21% of the Sale proceeds that constitute the Senior Prepetition Lender's collateral will be paid to the Debtors' officers as incentive awards. The

Debtors have not agreed to fund any incentive awards to their management, and only Prepetition Lender's collateral proceeds will be used in connection therewith.

16. Because of various factors, including the requirements for the Debtors' maintenance of its debtor-in-possession financing, and the Purchaser's desire not to unnecessarily tie up capital or risk of losing other business opportunities, the Debtors have proposed to move forward with the Sale process on an expedited basis and within a specified time frame. Consequently, the Debtors have determined that it is in the best interest of their estates, creditors, and other parties in interest to move forward with the Sale process set forth herein.

17. Accordingly, the Debtors have proposed the following timeline for the Sale of the Acquired Assets:[2]

- January 3, 2012 – Bidding Procedures Hearing
- February 13, 2012 – Submission Deadline for Qualified Bids (as defined below)
- February 16, 2012 – Auction (as defined below)
- February 17, 2012 – Proposed Sale Hearing

C. The Agreement.

18. A summary of the principal terms of the Agreement, set forth in full in the Agreement,[3] is as follows:[4]

[2] The Debtors, in the exercise of their business judgment, reserve their right to change these sale-related dates in order to achieve the maximum value for the Acquired Assets, while cognizant of the deadlines set forth in the Agreement.

[3] All defined terms used herein but not otherwise defined shall have the meaning set forth in the Agreement.

[4] The following summary is qualified in its entirety by reference to the provisions of the Agreement. In the event of any inconsistencies between the provisions of the Agreement and the terms herein, the terms of the Agreement shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms shall have the meanings assigned to such terms in the Agreement.

- Consideration. The purchase price due and payable at closing is $35.5 million in cash (the "Initial Cash Payment"). HCG and Nexicore may also be entitled to certain earnout consideration based on the Operating Income of the Business in calendar years 2012 and 2013 calculated as follows:

  - For calendar year 2012, HCG and Nexicore shall be entitled to an amount equal to 6 multiplied by the Operating Income for 2012 less (i) the Initial Cash Payment (ii) the US Working Capital Offset, if any, (iii) the Canadian Working Capital Offset, if any, (iv) minus the Indemnification Offset, if any, and (v) any incremental amount above $150,000, but not to exceed $350,000 in the aggregate, for calendar year 2012 for allocations for services provided by the Buyers or their Affiliates to the Business or finance, legal, compliance, accounting or tax services provided by the Buyers or their Affiliates to the Business in order for the Business to comply with Applicable Law or policies of the Buyers (the "2012 Earnout Amount"); and

  - For calendar year 2013, HCG and Nexicore shall be entitled to an amount equal to 5 multiplied by the Operating Income for calendar year 2013 less (i) the Initial Cash Payment, (ii) the 2012 Earnout Amount; (iii) the US Working Capital Offset (to the extent not already deducted from the 2012 Earnout Amount), if any, (iv) the Canadian Working Capital Offset (to the extent not already deducted from the 2012 Earnout Amount), if any; (v) the Indemnification Offset (to the extent not already deducted from the 2012 Earnout Amount), if any; and (vi) any incremental amount above $150,000, but not to exceed $350,000 in the aggregate, for calendar year 2013 for allocations for services provided by the Buyers or their Affiliates to the Business or finance, legal, compliance, accounting or tax services provided by the Buyers or their Affiliates to the Business in order for the Business to comply with Applicable Law or policies of the Buyers.(the "2013 Earnout Amount").

The 2012 Earnout Amount shall not exceed an amount equal to (i) $49 million less (ii) the Initial Cash Payment as adjusted by (a) the Final Closing US Working Capital Adjustment and (b) the Final Closing Canadian Working Capital Adjustment.

The 2013 Earnout Amount shall not exceed an amount equal to (i) $55 million less (ii) the Initial Cash Payment as adjusted by (a) the Final Closing US Working Capital Adjustment and (b) the Final Closing Canadian working Capital Adjustment.

The "Purchase Price" is an amount equal to the Initial Cash Payment (a) plus or minus, as applicable, (i) the Final Closing US Working Capital Adjustment and (ii) Final Closing Canadian Working Capital Adjustment, and (b) plus (i) the 2012 Earnout Amount, if any, (ii) the 2013 Earnout Amount, if any, and (ii) the value attributed to the Assumed Liabilities.

- Adjustments to Consideration. The Agreement contemplates a working capital adjustment for both the US and Canadian components of the business.

  If the Closing US Working Capital is greater than the Estimated Closing US Working Capital, then the US Buyer shall pay HCG and Nexicore the amount of such difference. If the Closing US Working Capital is less than the Estimated Closing US Working Capital, then HCG and Nexicore shall pay the US Buyer the amount of such difference, either in immediately available cash or as a setoff to the 2012 Earnout Amount or 2013 Earnout Amount. Any amounts paid pursuant to this paragraph are referred to as the "Final Closing US Working Capital Adjustment".

  If the Closing Canadian Working Capital is greater than the Estimated Closing Canadian Working Capital, then the Canadian Buyer shall pay HCG the amount of such difference. If the Closing Canadian Working Capital is less than the Estimated Closing Canadian Working Capital, then HCG shall pay the Canadian Buyer the amount of such difference, either in immediately available cash or as a setoff to the 2012 Earnout Amount or 2013 Earnout Amount. Any amounts paid pursuant to this paragraph are referred to as the "Final Closing Canadian Working Capital Adjustment".

- Payment of cure costs and certain Administrative Expenses. The Purchaser agrees to assume certain liabilities of the Debtors, including, among other things, amounts required to pay all cure costs and certain other administrative expense claims.

- Acquired Assets. Substantially all of the assets of HCG and Nexicore.

- Representations and Warranties. Representations and warranties survive until the 2013 Earnout Amount, if any, has been calculated and paid to HCG.

- Operations Pending Closing. Until the closing, the Debtors are subject to covenants limiting their operating flexibility in certain respects and are generally required to carry on their business in the ordinary course, taking into account their status as debtors-in-possession.

- Termination to Pursue Higher or Better Offer. The Debtors may, upon paying the Purchaser a $1,775,000 break-up fee, which will have administrative expense status, terminate the Agreement to consummate a competing sale transaction.

RELIEF REQUESTED

19. The Debtors have determined that a prompt Sale of the Acquired Assets is the best way to maximize the value of the Acquired Assets for their respective estates and creditors.

20. Accordingly, by this Motion, the Debtors seek approval for the sale of the Acquired Assets to the Purchaser, subject to additional competitive bidding pursuant to the proposed Bidding Procedures. To effect the Sale, the Debtors seek two types of relief. First, at a hearing to be held on January 3, 2012, the Debtors will seek entry of an order substantially in the form attached hereto as **Exhibit A** (the "Bidding Procedures Order") approving the Bidding Procedures, Notice Procedures, and certain bid protections to be provided to the Purchaser pursuant to the Agreement, which is attached hereto as **Exhibit B**, and as described more fully herein. Second, subject to the terms of the Bidding Procedures Order, at a proposed hearing to be held on February 17, 2012, the Debtors will seek entry of an order substantially in the form attached hereto (the "Sale Approval Order") authorizing and approving the transactions contemplated by the Agreement and the sale of the Acquired Assets to the Purchaser or the Successful Bidder (as defined below), as the case may be, including, without limitation, the assumption and assignment of the Assumed Contracts to the Purchaser. The Debtors intend to file a notice to reject their pre-petition contracts and unexpired leases not assumed by the Purchaser (the "Rejected Contacts") following the closing of the Sale.

BASIS FOR RELIEF

21. In furtherance of the Debtors' duty to maximize the value of their estates, the Debtors have filed this Motion seeking approval of a sale process, including the Bidding Procedures.

22. As set forth above, the Debtors have taken great strides to improve their businesses and make themselves attractive for sale. The Debtors have run a full and exhaustive marketing process prepetition and believe that a sale to the Purchaser or the Successful Bidder (as defined below), and the approval of the Bidding Procedures, are in the best interests of the estates.

A. The Bidding Procedures.[5]

23. In order to maximize the value of the Acquired Assets for the benefit of the Debtors' estates and their respective creditors, the Debtors seek to implement a competitive bidding process that is designed to generate maximum recovery, as described more fully in the Bidding Procedures.

24. The following summarizes the Bidding Procedures:[6]

- **Solicitation of Competing Bids.** The Debtors, through their officers, agents, and professionals, may solicit, negotiate, and otherwise discuss with any entity the submission of a competing bid for the Acquired Assets (a "Competing Bid" by a "Competing Bidder") or any similar transaction involving the assets to be sold and the contracts to be assumed and assigned to the Purchaser hereunder, but:

  (i) The Debtors must provide to the Purchaser a complete copy of any Qualified Bid (defined below) received (redacting only any confidential information contained in it) within two business days of receiving it; and

  (ii) Any Competing Bid must conform to the requirements for a Qualified Bid set forth below.

- **Submission of Competing Bids.** All Competing Bids must be submitted on or before 5:00 p.m. prevailing Chicago time on or before February 13, 2012, to: (i) Hartford Computer Group, Inc., c/o Paragon Capital Partners, LLC, 450 Park Avenue, Suite 2500, New York, New York 10022 (Attn: Michael Levy), mlevy@paragoncp.com, (ii) counsel to the Debtors, Katten Muchin Rosenman LLP, 525 W. Monroe Street, Suite 1900, Chicago, Illinois 60662 (Attn: John P. Sieger) john.sieger@kattenlaw.com, (iii) counsel for Delaware Street Capital Master Fund, L.P., Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654 (Attn: Michael S. Terrien) mterrien@jenner.com, (iv) counsel for the official committee of unsecured creditors, if any, (v) counsel for the Purchaser, Squire Sanders & Dempsey (US) LLP, 1 E. Washington St., Suite 2700, Phoenix, Arizona 85004 (Attn: Jordan A. Kroop) jordan.kroop@ssd.com, and (vi) the Office of the United States Trustee for the Northern District of Illinois, 219 South Dearborn, Room 873, Chicago, Illinois 60604 (Attn: Denise DeLaurent).

[5] Terms used but not otherwise defined in this section of this Motion shall have the meanings ascribed to them in the Bidding Procedures attached to the Bidding Procedures Order.

[6] The following description of the Bidding Procedures is a summary only. To the extent that this summary differs in any way from terms set forth in the Bidding Procedures, the terms of the Bidding Procedures shall control.

- **Qualification of Competing Bids.** Only Competing Bids that meet all the following requirements are "Qualified Bids" eligible to be considered at the Auction (defined below):

  (i) The Competing Bid must be in writing and include a markup of the Agreement showing the changes to the Agreement the Competing Bidder requires;

  (ii) The Competing Bid must provide consideration in an amount no less than the total of the Cash Payment set forth in the Agreement plus the Break-Up Fee (defined below) of $1,775,000, plus a minimum overbid increment of $100,000 (collectively, a "Minimum Overbid");

  (iii) The Competing Bid must be accompanied by a good faith, refundable deposit of no less than 10% of the Purchase Price, plus additional indicia of ability to immediately close the transactions contemplated by the Competing Bid, including adequate assurance of future performance of any executory contract or unexpired lease that would be assumed and assigned to the Competing Bidder under the Competing Bid, with the Debtors reserving the right, in their sole reasonable discretion as informed by their professionals, to determine the sufficiency of such indicia;

  (iv) The Competing Bid must be on terms more favorable and not more burdensome or conditional in any material respect than that contemplated by the Agreement in respect of, among other things, price, conditions on closing, third-party consents, and regulatory approvals, as determined by Debtors in their sole, reasonable discretion as informed by their professionals; and

  (v) The Competing Bidder must submit to the Debtors, by the close of the Auction (defined below), an instrument of irrevocable commitment to the terms of the Competing Bid.

- **Auction**. One business day prior to the Sale Hearing, the Debtors will conduct a session of bidding (the "Auction") among the Buyer and all Competing Bidders submitting a Qualified Bid (each a "Qualified Bidder") to determine the highest and best bid for the Acquired Assets. The Buyer and all Qualified Bidders may increase their bids as many times as they wish during the Auction, with the Buyer receiving cash credit for the Break-Up Fee (as defined below) on all subsequent bids. All bids must exceed the previous bid by no less than $100,000 in total compensation. At the close of all bidding, the Debtors will announce the highest and best bid and will retain a record of each Qualified Bidders' final bid for purposes of the Court's solicitation of and approval of any "backup bid" at the Sale Hearing, the holder of which would be entitled to close a purchase of the

Acquired Assets if the highest and best bid determined at the Auction does not close in accordance with the Sale Order.

B. Purchasers' Agreement And Bid Protection.

25. In order to provide an incentive and to compensate the Purchaser for entering into the Agreement and the extensive fees and costs incurred as serving as the stalking horse purchaser, the Debtors have agreed to a break-up fee in the amount of $1,775,000 (the "Break-Up Fee"), which shall be used to reimburse the Purchaser for expenses incurred in connection with the Purchaser's attempted purchase of the Acquired Assets and for its willingness to serve as stalking horse bidder.

26. By this Motion, the Debtors are seeking approval to provide certain bid protections to the Purchaser in accordance with the Agreement. The Debtors believe that offering the Break-Up Fee to the Purchaser (the "Bid Protections") will benefit the Debtors' estates by establishing a floor and promoting more competitive bidding. Without such a fee, bidding on the Debtors' Acquired Assets would likely be reduced. The availability of the Bid Protections is necessary in order to provide the Purchaser with some assurance that it will be compensated for the time and expense it has spent in putting together its offer for the Acquired Assets and the risk that arises from participating in the Sale and subsequent bidding process as the stalking horse bidder.

C. Notice of the Bidding Procedures and the Sale.

27. Within five days after the entry of the Bidding Procedures Order (the "Mailing Date") or as soon thereafter as practicable, the Debtors (or their agents) shall serve the notice substantially in the form attached to the Bidding Procedures Order as **Exhibit 2** (the "Sale Notice") along with the Motion, the Agreement, the proposed Sale Approval Order, the Bidding Procedures, and a copy of the Bidding Procedures Order by first-class mail, postage prepaid,

upon (i) all parties to the Assumed Contracts; (ii) all parties that have requested special notice in the Chapter 11 Cases; (iii) the Office of the United States Trustee for the Northern District of Illinois; (iv) counsel for any official committee of unsecured creditors appointed in the Chapter 11 Cases; (v) the Purchaser and its counsel; (vi) all entities known to have expressed an interest in a transaction with respect to any of the Acquired Assets as determined by Paragon, in consultation with the Debtors; (vii) those persons filing notices of appearance or requests for notice under Bankruptcy Rule 2002 in the Chapter 11 Cases; (viii) all taxing authorities having or asserting jurisdiction over the Debtors or any of the Acquired Assets; (ix) the counterparties to the Rejected Contracts; and (xiii) all parties asserting any liens on any of the Acquired Assets (the "Sale Notice Parties"). In addition, by the Mailing Date, the Debtors (or their agent) shall serve the Sale Notice only upon all parties identified as creditors set forth on Schedules D through H of each of the Debtors' Schedules of Statements and Liabilities filed with this Court.

28. The Debtors also propose, pursuant to Bankruptcy Rule 2002(l), that the publication of the Sale Notice, modified for publication, in the national edition of the *Wall Street Journal*, on the Mailing Date or as soon as practicable thereafter, be deemed proper notice to any other interested parties whose identities are unknown to the Debtors.

D. Notice Procedures.

29. The Debtors propose the following procedures for notifying counterparties to executory contracts and unexpired leases of potential cure amounts in the event the Debtors decide to assume such contracts or leases.

30. No later than February 1, 2012, the Debtors shall file with the Court and serve on all non-Debtor parties to the Assumed Contracts a notice (the "Assumption and Cure Notice"), substantially in the form of the notice attached to the Bidding Procedures Order as **Exhibit 3**, identifying the Purchaser as the party which will be assigned all of the Debtors' right, title, and

interest in the Assumed Contracts, subject to completion of the bidding process provided under the Bidding Procedures. The non-Debtor party to an Assumed Contract shall have seven days from the service of the Assumption and Cure Notice to object to the proposed assumption and assignment to the Purchaser and shall state in its objection, with specificity, the legal and factual basis of its objection. If no objection is timely received, the Debtors propose that the non-Debtor party to the Assumed Contract be barred from asserting any objection with regard to the assumption and assignment of the Assumed Contract to the Purchaser. In addition, the Assumption and Cure Notice shall state the cure amount that the Debtors believe is necessary to assume such contract or lease pursuant to section 365 of the Bankruptcy Code (the "Cure Amount") and notify each party that such party's contract or lease will be assumed and assigned to the Purchaser or a Successful Bidder to be identified at the conclusion of the Auction. Each non-Debtor party to the Assumed Contracts shall have seven days from the date of the Assumption and Cure Notice to object to the Cure Amount and must state in its objection with specificity what Cure Amount is required (with appropriate documentation in support thereof). If no objection is timely received, the Cure Amount set forth in the Assumption and Cure Notice shall be controlling, notwithstanding anything to the contrary in any Assumed Contract, or any other document, and the non-Debtor party to the Assumed Contract shall be deemed to have consented to the Cure Amount and shall be forever barred from asserting any other claims as to such Assumed Contract against the Debtors, the Purchaser, or the Successful Bidder, or the property of any of them. If an objection to the Cure Amount is timely filed and received and the parties are unable to consensually resolve the dispute, the amount to be paid under section 365 of the Bankruptcy Code, if any, with respect to such objection will be determined at a hearing to be requested by the Debtors or by the objecting counterparty. At the Purchaser's or the Successful

Bidder's discretion, and provided the Purchaser or the Successful Bidder escrow the disputed portion of the Cure Amount, the hearing regarding the Cure Amount may be continued until after the closing date of the Sale and the Assumed Contract(s) subject to such Cure Amount shall be assumed and assigned to the Purchaser or the Successful Bidder at closing of the Sale.

31. At the Sale Hearing, the Debtors shall (i) present evidence necessary to demonstrate adequate assurance of future performance by any Successful Bidder and (ii) request entry of an order requesting approval of the assumption and assignment of any Assumed Contracts to any Successful Bidder.

32. As contemplated in the Agreement, the Debtors seek authority from this Court to terminate or reject the Rejected Contracts pursuant to section 365 of the Bankruptcy Code so that no rights of the licensees under such Rejected Contracts will be retained if the Purchaser is the Successful Bidder at the Auction. However, to the extent that the Purchaser is not the Successful Bidder for the Acquired Assets, the Debtors reserve the right to withdraw their request for such relief.

APPLICABLE AUTHORITY

33. "[T]he business judgment rule operates as a presumption 'that directors making a business decision, not involving self-interest, act on an informed basis, in good faith and in the honest belief that their actions are in the corporation's best interest.'" *Continuing Creditors' Comm. of Star Telecomms., Inc. v. Edgecomb*, 385 F.Supp.2d 449, 462 (D. Del. 2004) (quoting *Grobow v. Perot*, 539 A.2d 180, 187 (Del. 1988)); *see also Ad Hoc Committee of Equity Holders of Tectonic Network, Inc. v. Wolford*, 554 F.Supp.2d 538, 555 n.111 (D. Del. 2008). Thus, this Court should grant the relief requested in this Motion if the Debtors demonstrate a sound business justification therefore. *See In re Delaware Hudson Ry. Co.*, 124 B.R. 169, 179 (D. Del. 1991).

34. The Debtors have sound business justifications for selling the Acquired Assets at this time. While the Debtors currently have limited access to capital, they are endowed with a strong customer base, well-respected brands, and solid operations. Accordingly, the Debtors have determined that the best option for maximizing the value of their estates for the benefit of their creditors is through a Sale of all or a portion of the Acquired Assets.

A. The Bidding Procedures are Fair and Are Designed to Maximize the Value Received for the Acquired Assets.

35. Bankruptcy Code section 363(b)(1) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). The Debtors believe that the Bidding Procedures are appropriate under Bankruptcy Code sections 105 and 363 to ensure that the bidding process is fair and reasonable and will yield the maximum value for their estates and creditors. The Bidding Procedures proposed herein are designed to maximize the value received for the Acquired Assets by facilitating a competitive bidding process in which all potential bidders are encouraged to participate and submit competing bids. The Bidding Procedures provide potential bidders with sufficient notice and an opportunity to acquire information necessary to submit a timely and informed bid. At the same time, the Bidding Procedures provide the Debtors with the opportunity to consider all competing offers and to select the highest and best offer for portions of the Acquired Assets or the Acquired Assets as a whole as determined by the Debtors.

36. The Debtors request this Court's approval of the Bidding Procedures, including the dates established thereby for an Auction and a Sale Hearing. Accordingly, the Debtors and all parties in interest can be assured that the consideration for the Acquired Assets will be fair and reasonable, and there are sound business reasons to approve the Bidding Procedures.

B. The Break-up Fee and Expense Reimbursement Are Necessary To Preserve the Value of the Debtors' Estates.

37. Pursuant to Bankruptcy Rule 6004(f)(1), a sale of property outside the ordinary course of business may be by private sale or by public auction. The Debtors believe that having the ability to offer the Bid Protections to the Purchaser and thereby facilitating an Auction will maximize the realizable value of the Acquired Assets for the benefit of the Debtors' estates, creditors and other parties-in-interest.

38. The Third Circuit, for example, identified at least two instances in which bidding incentives may benefit the estate. First, a break-up fee or expense reimbursement may be necessary to preserve the value of the estate if assurance of the fee "promote[s] more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 537 (3d Cir. 1999). Second, if the availability of break-up fees and expenses were to induce a bidder to research the value of the debtor and convert that value to a dollar figure on which other bidders can rely, the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth. *Id.*

39. In *O'Brien*, the Third Circuit reviewed the nine factors set forth by the lower court as relevant in deciding whether to award a break-up fee. Such factors are as follows:

(i) the presence of self-dealing or manipulation in negotiating the breakup fee;

(ii) whether the fee harms, rather than encourages, bidding;

(iii) the reasonableness of the break-up fee relative to the purchase price;

(iv) whether the unsuccessful bidder placed the estate property in a "sales configuration mode" to attract other bidders to the auction;

(v) the ability of the request for a break-up fee "to attract or retain a potentially successful bid, establish a bid standard or minimum for other bidders, or attract additional bidders;"

(vi) the correlation of the fee to a maximization of value of the debtor's estate;

(vii) the support of the principal secured creditors and creditors committees of a break-up fee;

(viii) the benefits of the safeguards to the debtor's estate; and

(ix) the substantial adverse impact of the break-up fee on unsecured creditors, where such creditors are in opposition to the break-up fee.

O'Brien, 181 F.3d at 536.

40. The Bid Protections set forth in the Bidding Procedures will enable the Debtors to secure an adequate floor for the Acquired Assets and, thus, insist that competing bids be materially higher or otherwise better than the Agreement, a clear benefit to the Debtors' estates. Moreover, the Purchaser would not agree to act as a stalking horse bidder without the Bid Protections. Without the benefit of the Purchaser, the bids received at Auction for the Acquired Assets could be substantially lower than that offered by the Purchaser.

41. Moreover, payment of the Bid Protections will not diminish the Debtors' estate. The Debtors do not intend to terminate the Agreement, if to do so would incur an obligation to pay the Bid Protections, unless to accept an alternative bid.

C. Approval of the Sale is Warranted Under Bankruptcy Code 363(b).

42. Bankruptcy Code section 363(b)(1) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. §363(b)(1). A debtor's sale or use of assets outside the ordinary course of business should be approved by the Bankruptcy Court if the debtor can demonstrate a sound business justification for the proposed transaction. *See, e.g., In re Martin*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Abbott's Dairies of Pennsylvania, Inc.*, 788 F.2d 143 (3d Cir. 1986); *In re*

Delaware & Hudson Ry. Co., 124 B.R. 169 (D. Del. 1991). Once the Debtors articulate a valid business justification, "[t]he business judgment rule 'is a presumption that in making the business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company.'" *In re S.N.A. Nut Co.*, 186 B.R. 98 (Bankr. N.D. Ill. 1995); *see also In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992); *In re Johns-Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("a presumption of reasonableness attaches to a Debtor's management decisions").

43. The Debtors have a sound business justification for selling the Acquired Assets at this time and in the manner proposed. Based on the results of their analysis of the Debtors' ongoing and future business prospects, the Debtors' management and team of financial advisors have concluded that a Sale of all or some of their Acquired Assets in accordance with the procedures set forth in the Bidding Procedures may be the best method to maximize recoveries to the estates. Maximization of the Acquired Assets' value is a sound business purpose warranting authorization of any proposed Sale.

44. The Sale of any of the Debtors' Acquired Assets will be subject to competing bids, enhancing the Debtors' ability to receive the highest or otherwise best value for the Acquired Assets. Consequently, the fairness and reasonableness of the consideration to be received by the Debtors will ultimately be demonstrated by a "market check" through the auction process, which is the best means for establishing whether a fair and reasonable price is being paid.[7]

45. In addition, all creditors and parties in interest will receive adequate notice of the Bidding Procedures and Sale Hearing as set forth above. Such notice is reasonably calculated to

[7] The Debtors reserve all rights not to submit any bid which is not acceptable to the Debtors for approval to the Bankruptcy Court.

provide timely and adequate notice to the Debtors' major creditor constituencies, those parties most interested in the Chapter 11 Cases, those parties potentially interested in bidding on the Acquired Assets and others whose interests are potentially implicated by a proposed Sale. Accordingly, consummating the Sale(s) as soon as possible is in the best interests of the Debtors and their creditors and parties in interest.

D. The Proposed Sale(s) Satisfy(ies) the Requirements of Section 363(f) for a Sale Free and Clear of Interests.

46. Section 363(f) of the Bankruptcy Code permits the Debtors to sell assets free and clear of all liens, claims, interests, charges and encumbrances (with any such liens, claims, interests, charges, and encumbrances attaching to the net proceeds of the sale with the same rights and priorities therein as in the sold assets). As Bankruptcy Code section 363(f) is stated in the disjunctive, when proceeding pursuant to section 363(b), it is only necessary to meet one of the five conditions of section 363(f). The Debtors believe that they will be able to demonstrate that at the Sale Hearing that they have satisfied one or more of these conditions.

47. The Debtors believe that at least certain of the secured lenders will consent to the sale free and clear under section 363(f)(2). Where that may not be the case, a sale free and clear can proceed pursuant to section 363(f)(5) of the Bankruptcy Code because the secured lenders' liens will attach to the proceeds of the sale and the Debtors will establish at the Sale Hearing that the secured lenders can be compelled to accept a monetary satisfaction of their claims.

48. The Debtors propose that any bona fide and allowed liens shall attach to the sale proceeds with the same force, validity, effect, priority and enforceability as such liens had in the Acquired Assets prior to such Sale.

E. A Successful Bidder Should be Entitled to the Protections of Section 363(m).

49. Pursuant to section 363(m) of the Bankruptcy Code, a good faith purchaser is one who purchases assets for value, in good faith, and without notice of adverse claims. *In re Mark Bell Furniture Warehouse, Inc.*, 992 F.2d 7, 9 (1st Cir. 1993); *In re Willemain v. Kivitz*, 764 F.2d 1019, 1023 (4th Cir. 1985); *In re Congoleum Corp.*, Case No. 03-51524, 2007 WL 1428477, *2 (Bankr. D.N.J. May 11, 2007); *Abbotts Dairies of Penn.*, 788 F.2d at 147.

50. The Agreement was negotiated at arm's-length, with both parties represented by their own counsel through extensive negotiations. Although the Debtors engaged in discussions with other parties interested in acquiring certain of their Acquired Assets, the Debtors submit that the Purchaser's proposal as contained in the Agreement represents the Purchaser's highest and best offer for the Acquired Assets. Additionally, the Debtors will adduce facts at the Sale Hearing on any objection demonstrating that any bidder who is deemed a Successful Bidder for all or any portion of the Acquired Assets has negotiated at arm's-length, with all parties represented by their own counsel.

51. Accordingly, the Sale Approval Order will include a provision that the Successful Bidder for the Acquired Assets, is a "good faith" purchaser within the meaning of section 363(m) of the Bankruptcy Code. The Debtors believe that providing any Successful Bidder with such protection will ensure that the maximum price will be received by the Debtors for the Acquired Assets and closing of the same will occur promptly.

F. The Assumption and Assignment of Executory Contracts and Unexpired Leases.

52. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession "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). The standard governing bankruptcy court approval of a debtor's decision to assume or reject an executory contract or unexpired lease is

whether the debtor's reasonable business judgment supports assumption or rejection. *See, e.g., In re Stable Mews Assoc., Inc.*, 41 B.R. 594, 596 (Bankr. S.D.N.Y. 1984). If the debtor's business judgment has been reasonably exercised, a court should approve the assumption or rejection of an unexpired lease or executory contract. *See Group of Institutional Investors v. Chicago M. St. P. & P.R.R. Co.*, 318 U.S. 523 (1943); *Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F. 2d 36, 39-40 (3d Cir. 1989). The business judgment test "requires only that the trustee [or debtor in possession] demonstrate that [assumption or] rejection of the contract will benefit the estate." *Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co., (In re Wheeling-Pittsburgh Steel Corp.)*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987) (quoting *In re Stable Mews Assoc.*, 41 B.R. 594, 596 (Bankr. S.D.N.Y 1984)). Any more exacting scrutiny would slow the administration of a debtor's estate and increase costs, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially. *See Richmond Leasing Co. v. Capital Bank, NA.*, 762 F.2d 1303, 1311 (5th Cir. 1985). Moreover, pursuant to section 365(b)(1) of the Bankruptcy Code, for a debtor to assume an executory contract, it must "cure, or provide adequate assurance that the debtor will promptly cure," any default, including compensation for any "actual pecuniary loss" relating to such default. 11 U.S.C. § 365(b)(1).

53. Once an executory contract is assumed, the trustee or debtor in possession may elect to assign such contract. *See In re Rickel Home Center, Inc.*, 209 F.3d 291, 299 (3d Cir. 2000) ("[t]he Code generally favors free assignability as a means to maximize the value of the debtor's estate"); *see also In re Headquarters Doge, Inc.*, 13 F.3d 674, 682 (3d Cir. 1994) (noting purpose of section 365(f) is to assist trustee in realizing the full value of the debtor's assets).

54. Section 365(f) of the Bankruptcy Code provides that the "trustee may assign an executory contract...only if the trustee assumes such contract...and adequate assurance of future performance is provided." 11 U.S.C. § 365(f)(2). The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." *See Carlisle Homes, Inc. v. Arrari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1989); *see also In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean absolute assurance that debtor will thrive and pay rent). Among other things, adequate assurance may be given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *Accord In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease from debtors has financial resources and has expressed willingness to devote sufficient funding to business in order to give it strong likelihood of succeeding).

55. The Purchaser is a Fortune 500, publically-traded company specializing in marketing and distributing a wide variety of electronics components, enterprise computer products, and embedded subsystems with substantial breadth and depth across the entire field of electronic parts distribution. Among other things, the Purchaser's profitability and success have related to its strategic investments in and acquisitions of companies and assets that provide synergistic growth opportunities, and has closed many transactions to further its aims. Upon closing, the Purchaser will have financial resources that are sufficient to perform under any of the Assumed Contracts. Moreover, if necessary, the Debtors will adduce facts at the hearing on any objection demonstrating the financial wherewithal of the Purchaser or any Successful Bidder, and their willingness and ability to perform under the contracts to be assumed and

assigned to them. The Sale Hearing therefore will provide the Court and other interested parties ample opportunity to evaluate and, if necessary, challenge the ability of any Successful Bidder to provide adequate assurance of future performance under the Assumed Contracts.

56. The Debtors respectfully submit that the proposed Notice Procedures are appropriate and reasonably tailored to provide interested parties with adequate notice in the form of the Assumption and Cure Notice of the proposed assumption and assignment of their applicable contract, as well as proposed Cure Amounts, if applicable. Such interested parties will then be given an opportunity to object to such notice. If an objection is filed, such objection will be heard at the Sale Hearing or at a later hearing, as determined by the Debtors.

57. Furthermore, to the extent that any defaults exist under any executory contract or unexpired lease that is to be assumed and assigned in connection with the Sale of any of the Acquired Assets, the Purchaser will cure any such default prior to such assumption and assignment. Moreover, the Debtors will adduce facts at the Sale Hearing demonstrating the financial wherewithal of the Successful Bidder(s), its experience in the industry, and its willingness and ability to perform under the contracts to be assumed and assigned to it.

58. Accordingly, the Debtors submit that implementation of the proposed Notice Procedures is appropriate in these cases. The Court therefore should have a sufficient basis to authorize the Debtors to reject or assume and assign contracts as will be set forth in a Successful Bidder's asset purchase agreement.

G. Rejection of the Rejected Contracts.

59. Following the closing of the Sale, the Debtors will file a motion to reject the Rejected Contracts. Section 365(a) of the Bankruptcy Code allows the Debtors to reject any executory contract or unexpired lease if such rejection represents a reasonable exercise of their business judgment. *See In re Orion Pictures Corp.*, 4 F.3d 1095, 1099 (2d Cir. 1993); *In re*

Bullet Jet Charter, Inc., 177 B.R. 593, 601 (Bankr. N.D. Ill. 1995); *In re Del Grosso*, 115 B.R. 136, 138 (Bankr. N.D. Ill. 1990); *Johnson v. Fairco Corp.*, 61 B.R. 317, 319-20 (N.D. Ill. 1986). Additionally, Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor in possession, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). If a debtor's proposed use of property pursuant to section 363(b) of the Bankruptcy Code represents a reasonable business judgment on the part of the debtor, such use should be approved. *See, e.g., Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003). The business judgment test requires only that the Debtors demonstrate that the rejection will benefit the estate. *See e.g. In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994). The Debtors clearly satisfy the business judgment standard in this case. In order to effectuate the Agreement with the Purchaser, the Debtors have agreed, in the sound exercise of their business judgment, to reject or terminate the Rejected Contracts. Such rejection or termination will benefit the Debtors' estates in such a manner as to maximize the potential recoveries for the Debtors' creditors.

H. Relief Under Bankruptcy Rules 6004(h) and 6006(d) is Appropriate.

60. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property…is stayed until the expiration of ten days after entry of the order, unless the court orders otherwise." Additionally, Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease … is stayed until the expiration of ten days after the entry of the order, unless the court orders otherwise." The Debtors believe that the Purchaser or any Successful Bidder will have an interest in closing the sale of the Acquired Assets as quickly as possible after entry of the Sale Approval Order and that such timing will positively affect the ultimate value offered for the Acquired Assets.

Accordingly, the Debtors request that any Sale Approval Order be effective immediately by providing that the ten-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

NOTICE

61. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the Northern District of Illinois; (b) all known taxing authorities of the Debtors; (c) counsel to Delaware Street Master Fund, L.P.; (d) counsel to any official committee of unsecured creditors; (e) all entities known to have expressed an interest in a transaction with respect to any of the Acquired Assets during the past year from the Effective Date of the Agreement; (f) counsel to the Purchaser; and (g) those persons filing notices of appearance or requests for notice under Bankruptcy Rule 2002 in the Chapter 11 Cases. Further, after entry of the Bidding Procedures Order, notice with respect to the Motion and the Sale will be provided in accordance with the Notice Procedures described herein. The Debtors submit that, under the circumstances, no other or further notice is required.

NO PRIOR REQUEST

62. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that this Court enter the Bidding Procedures Order substantially in the form attached hereto (i) approving the Bidding Procedures; (ii) approving the Bid Protections; (iii) scheduling an Auction and a Sale Hearing to approve such sale or sales, and approving the form and manner of notice thereof; and (iv) granting such other and further relief as may be just and proper. Additionally, the Debtors request that at the Sale Hearing the Court enter one or more Sale Approval Orders subject to the result of the Auction and to the Bidding Procedures (i) approving and authorizing the Sale; (ii) authorizing

the assumption and assignment of certain executory contracts and unexpired leases; (iii) authorizing the termination or rejection of the Rejected Contracts such that no rights are retained thereunder after such termination or rejection; and (iv) granting such other and further relief as may be just and proper.

Dated: December 12, 2011

Respectfully submitted,

By: /s/ John P. Sieger

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