

02-05-2001

FORM PTO-1618A  
Expires 06/30/99  
OMB 0651-0027

U.S. Department of Commerce  
Patent and Trademark Office  
TRADEMARK



101582991

*MRP*  
*11/8/00*

### RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

#### Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID #
- Correction of PTO Error  
Reel #  Frame #
- Corrective Document  
Reel #  Frame #

#### Conveyance Type

- Assignment
- License
- Security Agreement
- Nunc Pro Tunc Assignment  
Effective Date  
Month Day Year
- Merger
- Change of Name
- Other

#### Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date  
Month Day Year

Formerly

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization

#### Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)   
City

State/Country

Zip Code

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

FOR OFFICE USE ONLY

*See OK*

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK  
REEL: 002186 FRAME: 0403

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages  Enter the total number of pages of the attached conveyance document including any attachments. #

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1832689"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="1852321"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties  Enter the total number of properties involved. #

Fee Amount  Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed  Deposit Account

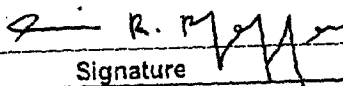
Deposit Account (Enter for payment by deposit account or if additional fees can be charged to the account.) Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Eric R. Pfeffer, Esq.  
Name of Person Signing

  
Signature

11/8/00  
Date Signed

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (with all documents and instruments delivered hereunder, collectively referred to herein as this "Agreement") is made and entered into this 15<sup>th</sup> day of July, 1999 (the "Effective Date") by and between MEDITEX/ADLER JV, a Delaware general partnership ("SELLER") and MEDTEXX PARTNERS, INC., a Florida corporation ("BUYER").

### WITNESSETH:

WHEREAS, BUYER desires to acquire from SELLER, and SELLER desires to sell to BUYER, certain of the assets of SELLER, all upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the parties hereby agree as follows:

#### 1. PURCHASE AND SALE OF ASSETS

##### 1.1. General.

1.1.1. Upon the terms and subject to the conditions hereinafter set forth, at the closing of the transactions contemplated hereby (the "Closing"), SELLER will sell, assign, transfer, convey and deliver to BUYER all of the right, title and interest of Seller in, to and under any and all "Transferred Assets."

1.1.2. "Transferred Assets" means all of SELLER's right, title and interest of any kind or nature whatsoever in: (a) the customer list served by the Connecticut office of SELLER, (b) the computer data base for the Connecticut office of SELLER, and (c) SELLER's interest in the names "Ambiderm," "Ambiderm The Original Rainbow Pastel Latex Exam Gloves," "Ambiderm USA," and "Ambiderm Arctic White."

1.2. Purchase Price. In consideration of the sale, conveyance, transfer and delivery of the Transferred Assets, and upon the terms and subject to the conditions of this Agreement, BUYER will pay and deliver to SELLER (a) at the Closing, the sum of TWO HUNDRED AND FIFTY THOUSAND and NO/100 DOLLARS (\$250,000.00) (the "Purchase Price"); and (b) an earnout described in Section 1.4.1 (the "Earnout").

##### 1.3. Deposit.

1.3.1. *Amount; Escrow.* It is acknowledged that, prior to the Closing, BUYER has deposited with Trenam, Kemker, Scharf, Barkin, Frye, O'Neill and Mullis, Professional Association, as escrow agent (the "Escrow Agent"), and pursuant to escrow terms agreed upon by the parties, one or amounts in the aggregate of not less than FIFTY THOUSAND and NO/100 DOLLARS (\$50,000) (the "Deposit"), which has been held by the Escrow Agent in an interest bearing account.

## EXHIBIT "A"

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1.3.2. *Disposition of Deposit.*

(a) If the Closing occurs, then, at the Closing the parties shall cause the Escrow Agent to pay and deliver the Deposit (and all interest having then been earned on the Deposit while held by the Escrow Agent) to SELLER, and the Deposit (and all interest having then been earned on the Deposit while held by the Escrow Agent) shall thereupon be applied toward the Purchase Price.

(b) If this Agreement terminates without completion of the Closing, then, if BUYER is not then in breach of any representation, warranty or covenant of BUYER under this Agreement and if BUYER has not failed to proceed with Closing for any reason other than breach by SELLER or the failure of any condition referred to in Section 5 of this Agreement, the parties shall cause the Escrow Agent to promptly pay, deliver and return the Deposit (and all interest having then been earned on the Deposit while held by the Escrow Agent) to BUYER, whereupon no party shall have any further liability or obligation under this Agreement whatsoever.

(c) If this Agreement terminates without completion of the Closing, then, if BUYER is then in breach of any representation, warranty or covenant of BUYER under this Agreement or if BUYER has failed to proceed with Closing for any reason other than breach by SELLER or the failure of any condition referred to in Section 5 of this Agreement, the parties shall cause the Escrow Agent to promptly pay and deliver the Deposit (and all interest having then been earned on the Deposit while held by the Escrow Agent) to SELLER as liquidated damages and not as a penalty, whereupon no party shall have any further liability or obligation under this Agreement whatsoever.

1.4. Payment. At the Closing, the Deposit shall be applied to the Purchase Price and BUYER shall pay the remainder of the Purchase Price as follows: (a) SEVENTH-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000) by wire transfer of immediately available funds to an account and pursuant to instructions provided in writing by SELLER to BUYER prior to the Closing and (b) ONE HUNDRED AND TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$125,000) by delivery of a Promissory Note in the principal amount of ONE HUNDRED AND TWENTY FIVE THOUSAND AND NO/100 DOLLARS with a term of two years, payable in twenty four (24) equal monthly installments of principal and interest and bearing interest at the Prime Rate as published in *The Wall Street Journal* as of the Effective Date as defined in the Third Amended Plan of Reorganization for Meditex-Adler JV, Case No. 99-02197-8B1, and secured by a stand-by letter of credit in form reasonably satisfactory to SELLER and its counsel issued by a domestic federally insured financial institution on the Closing Date.

1.4.1 Earnout. In addition to the Purchase Price BUYER shall pay additional sums to SELLER equal to 2% of the gross sales of BUYER for each of the next three years. Payments shall be made on a quarterly basis. Annually, SELLER shall be entitled to examine BUYER's books and

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records to ascertain whether the appropriate payments were made under this section. BUYER shall cooperate by providing all necessary information to SELLER.

1.5. No Assumption of Liabilities. BUYER shall not assume or otherwise become obligated for any liability or obligation of SELLER whatsoever pursuant to this Agreement.

## 2. PROCEDURE FOR CLOSING

2.1. General. The Closing shall be on such date and time and at such place as the parties to this Agreement may reasonably agree (such date to be referred to in this Agreement as the "Closing Date"), but in any event no later than twenty (20) business days after the satisfaction of all conditions to the obligations of BUYER as set forth in Section 5 of this Agreement and no later than sixty (60) days after the date of this Agreement.

2.2. Deliveries by SELLER. At the Closing, SELLER shall deliver to BUYER the following:

2.2.1. assignments and bills of sale and all other documents or instruments of conveyance necessary or appropriate to vest title to all the Transferred Assets in BUYER on and as of the Closing Date, free and clear of all liens and encumbrances whatsoever, and such other documents and instruments as BUYER may reasonably request in order to accomplish the transactions contemplated by this Agreement, all in form and substance reasonably satisfactory to BUYER; and

2.2.2. all the Transferred Assets.

2.3. Deliveries by BUYER. At the Closing, BUYER shall deliver to SELLER the following:

2.3.1. the Purchase Price, in immediately available funds, a Promissory Note and a standby letter of credit as provided for in Section 1.4 above; and

2.3.2. such other documents and instruments as SELLER may reasonably request in order to accomplish the transactions contemplated by this Agreement, all in form and substance reasonably satisfactory to SELLER.

2.4. Further Assurances. At the Closing and from time to time thereafter, SELLER shall execute such additional instruments and take such other actions as BUYER may request in order more effectively to sell, transfer and assign the Transferred Assets to BUYER and confirm BUYER's title thereto.

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3. REPRESENTATIONS AND WARRANTIES OF SELLER

SELLER does hereby represent and warrant to BUYER the following:

3.1. Organization and Standing. SELLER is a general partnership duly organized, validly existing and in good standing under the laws of the State of Delaware. SELLER has the full power and authority to carry on its business as it is now being conducted.

3.2. Authority Relative to this Agreement.

3.2.1. The execution of this Agreement and the delivery of this Agreement to BUYER by SELLER has been duly authorized by all necessary action, this Agreement has been duly and validly executed by SELLER, and no further action is necessary on its part to make this Agreement valid and binding upon SELLER and enforceable against SELLER in accordance with the terms hereof or to carry out the transactions contemplated hereby.

3.2.2. The execution, delivery and performance of this Agreement by SELLER will not (1) constitute a breach or a violation of the organizational document of SELLER or of any law, rule or regulation, agreement, indenture, deed of trust, mortgage loan agreement or other instrument to which SELLER is a party or by which it is bound; (2) constitute a violation of any order, judgment or decree to which SELLER is a party or by which any of the assets or properties of SELLER are bound or affected; or (3) result in the creation of any lien, charge or encumbrance upon any of the assets or properties of SELLER.

3.3. Title to Transferred Assets. SELLER has good title to all of the Transferred Assets, and such properties and assets will at the Closing be subject to no mortgage, guaranty, judgment, execution, pledge, lien, conditional sales agreement, security agreement, encumbrance or charge.

3.4. Approvals and Consents. No consent, approval or authorization is required to be obtained by SELLER in connection with the execution or delivery by SELLER of this Agreement or the consummation by SELLER of the transactions contemplated hereby except as has been or will have been timely obtained prior to Closing.

4. REPRESENTATIONS AND WARRANTIES OF BUYER

BUYER does hereby represent and warrant to SELLER the following:

4.1. Organization and Standing. BUYER is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and has the full power and authority to carry on its business as it is now being conducted.

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4.2. Authority Relative to this Agreement.

4.2.1. The execution of this Agreement and the delivery of this Agreement to SELLER by BUYER have been duly authorized by BUYER, this Agreement has been duly and validly executed by BUYER, and no further action is necessary on its part to make this Agreement valid and binding upon and enforceable against BUYER in accordance with the terms hereof or to carry out the transactions contemplated hereby.

4.2.2. The execution, delivery and performance of this Agreement by BUYER will not (1) constitute a breach or a violation of the Articles of Incorporation or by-laws (or other applicable organizational document(s)) of BUYER or of any law, rule or regulation, agreement, indenture, deed of trust, mortgage loan agreement or other instrument to which BUYER is a party or by which it is bound; (2) constitute a violation of any order, judgment or decree to which BUYER is a party or by which any of the assets or properties of BUYER are bound or affected; or (3) result in the creation of any lien, charge or encumbrance upon any of the assets or properties of BUYER.

4.2.3. No consent, approval or authorization is required to be obtained by BUYER in connection with the execution or delivery of this Agreement by BUYER or the consummation by BUYER of the transactions contemplated hereby except as has been or will have been timely obtained prior to Closing.

5. CONDITIONS PRECEDENT TO THE OBLIGATIONS OF BUYER

The obligations of BUYER under this Agreement are subject to the satisfaction, at or prior to the Closing, of each of the following conditions (the fulfillment of any of which may be waived in writing by BUYER):

5.1. Accuracy of Representations and Warranties. The representations and warranties and statements of SELLER contained in this Agreement shall not only have been true and complete in all material respects as of the date of this Agreement and when made but shall also be true and complete in all material respects as though again made on the Closing Date, except to the extent that they are incorrect as of the Closing Date by reason of events occurring after the date of this Agreement in compliance with the terms hereof.

5.2. Compliance. SELLER shall have performed and complied with all agreements, covenants and conditions required by this Agreement to be performed and complied with by it at or prior to the Closing.

5.3. Actions, Proceedings, Etc. All actions, proceedings, instruments, agreements and documents required to carry out the transactions contemplated by this Agreement or incidental thereto, including confirmation by the Bankruptcy Court for the Middle District of Florida pursuant to SELLER's Plan of Reorganization, as it may be amended, under Case No. 99-02197-8B1, and all

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other related legal matters shall have been reasonably satisfactory to BUYER; and, BUYER shall have been furnished with copies (certified if requested) of all such actions, proceedings, instruments, agreements and documents as it shall have reasonably requested. Further, the Court in such case shall have ordered the sale of the Transferred Assets pursuant to this Agreement, and such order shall provide that all Transferred Assets shall be transferred to BUYER free and clear of all liens, claims and encumbrances whatsoever. Further, such order shall provide that BUYER shall be deemed in this transaction a good faith purchaser under Section 363 of Bankruptcy Code, 11 U.S.C. § 363. Additionally, such Order shall provide for an injunction and third party release barring any claims against BUYER or its parent, subsidiaries, agents, employees, officers or directors by SELLER or SELLER's creditors.

#### 6. CONDITIONS PRECEDENT TO THE OBLIGATIONS OF SELLER

The obligations of SELLER under this Agreement are subject to the satisfaction, at or prior to the Closing, of each of the following conditions (the fulfillment of any one of which may be waived in writing by SELLER):

6.1. Accuracy of Representations and Warranties. The representations and warranties and statements of BUYER contained in this Agreement shall not only have been true and complete in all material respects on the date of this Agreement and when made but shall also be true and complete in all material respects as though again made on the Closing Date, except to the extent that they are incorrect as of the Closing Date by reason of events occurring after the date of this Agreement in compliance with the terms hereof.

6.2. Compliance. BUYER shall have performed and complied with all agreements, covenants and conditions required by this Agreement to be performed and complied with by it at or prior to the Closing.

6.3. Good Standing Certificate. SELLER shall have received a certificate executed by the Secretary of State of the State of Florida dated as of a recent date certifying that BUYER is a corporation in good standing under the laws of the State of Florida.

6.4. Actions, Proceedings, Etc. All actions, proceedings, instruments, agreements and documents required to carry out the transactions contemplated by this Agreement or incidental thereto, including the confirmation by the Bankruptcy Court for the Middle District of Florida pursuant to SELLER's Plan of Reorganization, as it may be amended, under Case No. 99-02197-8B1, and all other related legal matters shall have been reasonably satisfactory to and approved by counsel to SELLER; and, such counsel shall have been furnished with such copies (certified if requested) of all such actions, proceedings, instruments, agreements and documents as they shall have reasonably requested. Further, the Court in such case shall have ordered the sale of the Transferred Assets pursuant to this Agreement, and such order shall provide that all Transferred Assets shall be transferred to BUYER free and clear of all liens, claims and encumbrances



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whatsoever. Further, such order shall provide that BUYER shall be deemed in this transaction a good faith purchaser under Section 363 of Bankruptcy Code, 11 U.S.C. § 363.

6.5. Injunction and Third Party Releases. To help ensure that SELLER's employees, customers, consultants and others are not adversely affected by litigation, which in turn may affect BUYER's on-going business, there shall have been entered by the Bankruptcy Court an injunction and third party release in favor of the employees and partners (and their respective partners, officers, directors, employees and agents) of SELLER and against any party who may have a claim as a result of any matter related to SELLER or its business.

6.6. Timely Completion of Closing. The Closing shall have been completed within the time periods contemplated by Section 2.1 of this Agreement.

## 7. GENERAL

7.1. Representations and Warranties Survive Closing. The representations and warranties of the parties under this Agreement shall survive for a period of 18 months following Closing.

7.2. Expenses. Each of the parties to this Agreement shall pay its own expenses in connection with this Agreement and the transactions contemplated hereby, including the fees and expenses of its counsel and its certified public accountants and other experts.

7.3. Press Releases. Except as required by law, no statement or public disclosure concerning the transactions contemplated by this Agreement shall be made or released to any medium of public communication except with the prior approval of both BUYER and SELLER.

7.4. Confidentiality. Whether or not the transactions contemplated by this Agreement are consummated, then each of the parties to this Agreement agrees to keep confidential and shall not use for its own or anyone's benefit any of the information obtained from any other party in connection with this Agreement. If the transactions contemplated by this Agreement are not consummated, then each party shall promptly return to the other parties all schedules, documents or other written information (without retaining copies thereof) previously obtained from such other parties. This Section 7.4 shall survive the termination of this Agreement.

7.5. Notices. Any written notice, request, demand or other communication which is required or may be given under this Agreement shall be deemed to have been duly given (1) if transmitted by telecopy or similar electronic transmission method, when transmitted, provided that timely receipt of such transmission is confirmed, or (2) if sent by a nationally recognized overnight delivery service, one day after it is sent:

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If to SELLER: Dr. Terrance Berman  
 Meditex/Adler Joint Venture  
 16057 Tampa Palms Boulevard West, No. 278  
 Tampa, FL 33647

With a Copy To: John D. Goldsmith  
 Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis, P.A.  
 101 East Kennedy Boulevard, Suite 2700  
 Tampa, FL 33602  
 Fax 813-229-6553

If to BUYER: Mark Rustad  
 Medtexc Partners, Inc.  
 51 Locust Avenue, Suite 303  
 New Canaan, CT 06840  
 Fax (203) 966-8737

or, as to any party, to such other address as such party shall have specified by notice in writing to the other parties.

7.6. Entire Agreement; Amendment. This Agreement constitutes the entire agreement, and supersedes all prior agreements, letters of intent, letter agreements, and understandings, oral and written, among the parties to this Agreement with respect to the subject matter hereof. This Agreement may be amended only by written agreement executed by all of the parties hereto.

7.7. Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. In any such case, such determination shall not affect any other provision of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect. If any provision or term of this Agreement is susceptible to two or more constructions or interpretations, one or more of which would render the provision or term void or unenforceable, the parties agree that a construction or interpretation which renders the term or provision valid shall be favored. However, this provision shall not apply to Sections 5.3 or 6.4 of this Agreement.

7.8. Assignability. This Agreement shall not be assignable by any of the parties to this Agreement without the prior written consent of all other parties to this Agreement; provided, however, that, if BUYER remains liable with respect to any and all financial obligations of BUYER

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under this Agreement, BUYER may assign its rights, title and interest in, to and under this Agreement to a wholly-owned subsidiary of BUYER.

7.9. Further Assurances. Each party to this Agreement will execute and deliver, or cause to be executed and delivered, such additional or further transfers, assignments, endorsements or other instruments as any other party or its counsel may reasonably requests for the purpose of carrying out the transactions contemplated by this Agreement.

7.10. Counterparts. This Agreement may be executed in two, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.11. Section and Other Headings. The section and other headings contained in this Agreement are for purposes of reference only and shall not affect the meaning or interpretation of this Agreement.

7.12. Governing Law; Venue; Process. The parties to this Agreement agree that this Agreement shall be governed by and its terms and provisions interpreted and construed in accordance with the substantive laws of the State of Florida. Jurisdiction and venue of any action brought by BUYER pursuant to this Agreement, to enforce the terms hereof or otherwise with respect to the relationships between the parties created or extended pursuant hereto, shall lie exclusively in the Courts of the State of Florida.

IN WITNESS WHEREOF, this Agreement has been executed and delivered by each of the parties hereto, as to each party by a representative thereunto duly authorized, all as of the date first above written, with full knowledge and understanding of the contents of this Agreement and intending to be fully bound by all of its terms.

MEDITEX/ADLER JV

By: 

MEDTEXX PARTNERS, INC.

By: 

Exhibit \_\_\_\_\_

- ▶ 5 telemarketing stations
- ▶ 6 lateral file cabinets
- ▶ 5 wood-tipped metal desks
- ▶ 10 chairs
- ▶ 9 compact computers
- ▶ 9 compact monitors
- ▶ 1 compact file server
- ▶ 1 Toshiba phone system
- ▶ 14 Toshiba phone stations/units
- ▶ 1 desk lamp
- ▶ 2 HP Laser Printers
- ▶ 1 Cannon copier
- ▶ 1 dot matrix printer
- ▶ 1 multi-part modem
- ▶ Ambiderm
- ▶ Ambiderm he original Rainbow Pastels
- ▶ Ambiderm AC

*All presently located  
in the  
e-Hold in case*

*(b)  
(17)*

*MDZ*

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

IN RE:

MEDITEX-ADLER JV,

CASE NO. 99-02197-881

Debtor.

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AMENDED ORDER CONFIRMING THIRD AMENDED PLAN OF REORGANIZATION  
OF DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE

On July 16, 1999 and August 2, 1999 hearings were held in the above-entitled case before the undersigned United States Bankruptcy Judge ("confirmation Hearing") in connection with confirmation of the Third Amended Plan of Reorganization, as modified ("Plan"). All terms not specifically defined in this Order shall have the meaning attributed to them in the Plan or if not defined in the Plan as such term is defined in 11 U.S.C. § 101.

Appearing at the hearing, John D. Goldsmith of Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis attorneys for the Debtor, Donald Stichter, attorney for USCO Logistics, Glenn Moses appearing for J Way Sterile, Robert Adler and Marshall Rainey, both appearing for Supertex and Ambiderm Grupo, Elizabeth Benedict for Heller Financial, Lisa Castellano for Southern Commerce Bank, Pat Tinker, for the Assistant U.S. Trustee, Richard Malchon representing Relda LLC, Michael Markham representing Dental Health Services and Walter Burnside representing Terrance Berman and Daryl Berman.

Having reviewed and considered the Plan; the Disclosure Statement to the Third Amended Plan of Reorganization (the "Disclosure Statement"), the various offers of proof, stipulations and agreements incorporated into the Plan and/or read into the

record at the hearing on Confirmation of the Plan; the proposed asset purchase agreements; oral modifications to the Plan and such motions considered by the Court in connection with the confirmation of the Plan; the Ballots cast accepting and rejecting the Plan; ballot summaries filed in conjunction with confirmation of the Plan; the proffers of evidence made by the Debtor which were not objected to or contested; having considered the arguments of counsel and the entire record in the Case; the Court makes the following findings of fact and conclusions of law regarding confirmation of the Plan;

#### FINDINGS OF FACT

1. Debtor's Plan complies with all of the requirements of Chapter 11 of Title 11 of the United States Code for plan confirmation.
2. The Debtor has complied with the applicable provisions of Title 11 of the United States Code.
3. The Plan has been proposed in good faith and not by any means forbidden by law.
4. Debtor has complied with all of the provisions of 11 U.S.C. § 1129(a).
5. All of the impaired classes of claims and interests have accepted the Plan by more than a majority in number and more than two-thirds in dollar amount.
6. The Plan is in the best interests of the creditors of Debtor. Creditors, including unsecured creditors, will receive more under the Plan than they would under Chapter 7 of Title 11.
7. The Plan is feasible. There will be sufficient monies to pay on the Effective Date all administrative expenses, \$100,000 to unsecured creditors,

approximately \$100,000 to be either paid or held in escrow for warehouse claims, \$100,000 to Supertex Industrial in payment of its allowed secured claim, and the remaining funds (estimated to be \$1,000,000) to Southern Commerce Bank as partial payment of its allowed secured claim in the principal amount of \$2,544,527.21 (as of August 3, 1999), plus (if applicable) interest, costs and attorneys' fees. The estimated \$1,000,000 shall be paid to Southern Commerce Bank at the time of closing. The projections for payment of an Earnout under the Asset Purchase Agreements are reasonable.

8. The sale of Debtor's assets to Medtexx Partners, Inc. and Reida, LLC (collectively, "Purchasers" but when referring to either Medtexx Partners, Inc. or Reida, LLC, "Purchaser") pursuant to the asset purchase agreements filed with this Court (collectively, "Asset Purchase Agreements") were negotiated at arms length and in good faith.

9. Under the Plan, and based on the evidence presented at the confirmation hearing, the Court finds that the contributions of Terrance Berman, Daryl Berman, Mark Rustad and Cassia Rustad (collectively, the "Principals") as set forth in the Plan and announced in open court are a substantial contribution to the Debtor and the Estate.

10. The Principals will not provide the concessions, covenants not to compete, payments and other benefits set forth in the Plan and announced in open court without the benefit of third party releases.

11. The Purchaser will not enter into the Asset Purchase Agreement with the Debtor if the covenants not to compete by Terrance Berman and Daryl Berman and

releases and injunction provided in this Order are not granted, because potential litigation against the employees and officers negatively impact the Debtor's sales force thereby depleting the value of the assets to be sold. Based on the proffer of testimony of Kenneth Mann, the court-approved broker for Debtor's Assets, no prospective purchaser was interested in purchasing Debtor's Assets without the covenants not to compete and without releases and injunction called for in this Order. The releases and injunction provided in this Order are essential to the reorganization. Without the releases and injunction, no plan of reorganization can be confirmed in this Case.

12. Based on the testimony presented at the Confirmation hearing, the Court finds that the releases and injunction set forth in this Order are essential to the reorganization of the Debtors, to the maximization of the value of the Debtor's Assets, and to the sale of Debtor's assets to the Purchasers.

13. There is an identity of interests between the Debtor and the parties to be released under this order.

14. Accordingly, pursuant to the Plan, the evidence presented to this Court at the hearing on confirmation of the Plan, and the withdrawal of the objections to Confirmation, the elements the Court requires to be satisfied to be released have been established. Munford and the Master Mortgage guidelines have been met, and, therefore, the release and injunction provision of the Plan as expressly set forth herein are approved.

15. All known holders of Claims against and Interests in the Debtor, and all other Persons entitled to notice, were provided timely and proper notice in accordance with the Bankruptcy Code, the Bankruptcy Rules, and all scheduling orders regarding



the hearing to consider Confirmation of the Plan pursuant to Section 1128 of the Bankruptcy Code and the Disclosure Statement and the approval of the transfers, compromises, and requests by the Debtors to reject unexpired leases and executory contracts as contemplated by the Plan.

16. The Plan and Disclosure Statement were transmitted to all parties in interest entitled to vote on the Plan.

17. The Claims in each of the classes are substantially similar to the other Claims in each of such classes and no credible evidence to the contrary was presented.

18. The classification of claims was not done to control or gerrymander the vote in those classes. No evidence was presented that the classification of Claims in the Plan was done to gerrymander or control the vote of claim holders in any way.

19. The classification of claims complies with all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules.

20. The Debtor has complied with all applicable provisions of the Bankruptcy Code.

21. The Debtor and the officers, directors, partners, members or agents, and each professional, attorney, accountant, or other professional employed by any of them have acted in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including, without limitation, 11 U.S.C. § 1125.

22. No evidence was presented that the Plan was not proposed in good faith under 11 U.S.C. § 1129(a)(3). The Plan has been proposed for a legitimate and honest purpose, in good faith and not by any means forbidden by law in compliance with 11

**U.S.C. Section 1129(a)(3).**

23. The identity and affiliations of any individual proposed to serve, after Confirmation of the Plan, as trustee under the Plan, have been fully disclosed; and the appointment to, or continuance in, such office of each such individual is consistent with interests of holders of Claims against and Interests in each of the Debtors and with public policy.

24. No rates of the Debtors are subject to the approval of any governmental regulatory commission.

25. The Plan provides for the treatment of the Administrative and Priority Claims in the manner required by 11 U.S.C. § 1129(a)(9).

26. At least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider.

27. The Purchasers have the ability to make the payments required under the Plan.

28. There are no retiree benefits, as that term is defined in 11 U.S.C. § 1129(a)(13), maintained or established by the Debtor, and the Debtor has no obligation with respect to any such benefits.

29. The Plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the Plan.

30. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933 (15 U.S.C. § 77(e). There has been no objection by any governmental unit asserting such a claim

with respect to the Plan.

31. The Plan satisfies all the mandatory requirements of 11 U.S.C. § 1123(a). Additional provisions contained in the Plan are consistent with permissive plan provisions authorized by 11 U.S.C. § 1123(b).

32. Each of the conditions to Confirmation contained in the Plan have been met or waived.

33. Entry into the Asset Purchase Agreements are in the best interests of the Debtor, its Estate, and the holders of claims against or interests in the Debtor and represent a reasonable exercise of the Debtor's business judgment.

34. The Purchasers have acted in good faith in all matters in connection with the Asset Purchase Agreements.

35. No executory contracts will be assumed pursuant to the Plan, unless a Purchaser files a notice of assumption with this Court within ten (10) days of the date of this Order with notice to the Debtor and the other party to the contract. If a contract is assumed the Purchaser shall cure all arrearages within 30 days of this Order.

36. Rejection of the unexpired leases and executory contracts of the Debtor is in the best interests of the Debtor, its Estates, and the holders of claims against or interests in the Debtor and represents a reasonable exercise of the Debtor's business judgment.

37. Such of the subsequent Conclusions of Law as are deemed to be Findings of Fact are hereby adopted as Findings of Fact.

**CONCLUSIONS OF LAW**

38. Such of the foregoing Findings of Fact as are deemed to be Conclusions

of Law are hereby adopted as Conclusions of Law.

39. This Court has jurisdiction over all matters, including the releases and injunction provided in the Plan, pursuant to 28 U.S.C. §§ 1334 and 157(a). All matters in connection with the Plan and Confirmation are core proceedings under 28 U.S.C. § 157(b)(2).

40. The Court may issue the releases and injunction provided in the Plan under 11 U.S.C. § 105 where it is warranted under the facts of the case. Matter of Munford, 97 F.3d 449 (11th Cir. 1998); In re Specialty Equip. Co., 3 F.3d 1043, 1047 (7th Cir. 1993); In re A.H. Robins Co., 880 F.2d 694, 702 (4th Cir.) cert. denied 493 U.S. 959, 110 S.Ct. 376 (1989); McArthur v. Johns Manville Corp., 837 F.2d 89, 93 (2nd Cir. 1988); In re Drexel Burnham Lambert Group, Inc., 960 F.2d 285, 293 (2nd Cir. 1993) and 138 B.R. 723, 772-773 (Bankr. S.D.N.Y. 1992). The releases and injunction under Section 105 provided in the Plan are necessary and appropriate to carry out the provisions of Chapter 11, particularly Sections 1123 and 1129. "Section 105 permits the approval of the release and issuance of the injunction . . . especially where, as here, the Release and Injunction provisions are an essential means of implementing the Plan as provided in § 1123(a)(5) . . ." In re Drexel, 138 B.R. at 772.

41. The Court may issue a third party release and an injunction where the facts and circumstances of the case warrant such issuance. In re Specialty Equip. Co.; In re Master Mortgage Investment Fund, Inc., 168 B.R. 930, 934 (Bankr. W.D.Mo. 1984); In re Robins, supra, In re Drexel, supra. In re Davis, 730 F.2d 176 (5th Cir. 1984); In re 48th Street Steakhouse, Inc., 835 F.2d 427 (2nd Cir. 1987). The Court must consider the facts, circumstances and equities of each case in determining

whether to grant the release and issue the injunction to third parties. The five factors in making the determination are (1) whether creditors overwhelmingly have voted to accept the plan, (2) whether the party receiving the release has made a substantial contribution to the estates and the reorganization, (3) whether the release and injunction are essential to the plan, and (4) whether there is an identity of interest between the party receiving the release and injunction and the Debtor and (5) whether the plan provides a mechanism for payment of all or substantially all of the claims affected by the injunction. Master Mortgage, supra.

42. 11 U.S.C. § 524(e) does not prohibit the issuance of third party releases and injunctions.

43. Based on the evidence offered and presented at the confirmation hearing, the foregoing findings, the Asset Purchase Agreements, the covenants not to compete, and the withdrawal of all but two objections to confirmation by those who timely filed and served an objection and/or were present at the hearing on July 16 and August 2, 1999, the issuance of the injunction and release of third parties in this Order under the specific facts of this case is appropriate and is hereby authorized and approved.

44. Based on the evidence presented, the absence of any persuasive countervailing evidence, and the Findings of Fact set forth above, all of the provisions of 11 U.S.C. §§ 1129 (a) and (b) have been satisfied.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED AS FOLLOWS:

1. The Plan as modified as set forth herein is in all respects hereby

confirmed and approved in accordance with Section 1129 of the Bankruptcy Code.

2. All objections to confirmation, including without limitation, the objections filed by Heller Financial Leasing, Inc., Harris County-State of Texas, City of Houston and Houston Independent School District, J Way Sterile Services, Inc., Ambidern Grupo Industrial, S.A. de C.V. and Supertex Industrial, S.A. de C.V. and by the United States Trustee are overruled or were waived either in open court or by failure of the objecting party to appear at the confirmation hearing.

3. The Asset Purchase Agreements, and all other agreements, instruments and documents relating thereto and any amendments or modifications which are required or reasonably necessary to consummate the transactions contemplated thereby (collectively, the "Sale Documents") in connection with the sale of assets to the Purchasers are hereby authorized and approved.

4. Subject to the performance of Purchasers of the terms and conditions of the Asset Purchase Agreements, the Debtor is authorized and directed to close the sale of the Debtor's assets to the Purchasers ("Sale"). In conjunction therewith and with Section 1142 of the Bankruptcy Code, the Debtor is authorized and directed to execute any and all documents substantially consistent with the Sale Documents which are necessary or appropriate to consummate and effectuate the Sale. The Sale and the terms and conditions set forth in the Sale Documents are hereby authorized and approved pursuant to Section 1129 of the Bankruptcy Code.

5. All approvals and consents of the Debtor and its partners as may be necessary to carry out the Plan and the actions authorized by this Order be, and they hereby are, deemed made or done. No further approval of the stockholders, partners

or directors will be required to render legally effective the execution and delivery of the Sale or the consummation of either the Sale or the other transactions contemplated thereby.

6. To the extent any inconsistencies exist among this Order, the Plan, and the asset purchase agreements, the terms of this Order and the findings herein shall control over the Plan, and the Asset Purchase Agreement.

7. Except as otherwise provided in any provision of the Plan, agreements entered into in connection therewith, or the Confirmation Order, on the Effective Date of all property of the Debtor's Estate, shall revert in the Reorganized Debtor, free and clear of all claims, liens, encumbrances, and other interests of any entities. The Reorganized Debtor may thereafter use, acquire, and dispose of property without the supervision or approval by the Bankruptcy Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules and the guidelines and requirements of the Office of the United States Trustee for the Middle District of Florida, other than those restrictions expressly imposed by the Plan or the Confirmation Order. The lien of Southern Commerce Bank shall, however, attach to the proceeds derived from the sale, liquidation, or collection of any property of the Debtor's Estate, including without limitation, the following items after the payment of the expenses and fees of the Distribution Trustee: sale proceeds from the assets sold pursuant to the Asset Purchase Agreements, collection of the over 90 day receivables and all cash of the Debtor until Southern Commerce Bank is paid in full.

8. The establishment of the Distribution Trust is hereby approved. The Distribution Trustee's duties shall be as provided in a Distribution Trust Agreements,

which shall not be inconsistent with the Plan. In the event the Distribution Trustee wants to take an action that is not provided for in the Distribution Trust Agreement or the Plan, the Distribution Trustee shall seek approval of such action from the Court. As long as the Distribution Trustee makes the payments set forth in the Plan and this Order no one shall be deemed to be in default as the result of any obligation, note or agreement entered into with the Debtor as an obligor. In addition to any rights of inspection granted under applicable state law, the Distribution Trustee shall receive financial statements as may be agreed between the parties and shall have reasonable access to Purchasers' books and records to ensure that Purchasers are in compliance with the provisions of the Asset Purchase Agreements regarding the distribution of Earnout revenues. The Distribution Trustee is authorized to retain and compensate counsel in his discretion to pursue objections to claims and preference and fraudulent transfer actions not released by the Plan and this Order. The selection of Terrance Berman as Distribution Trustee is hereby authorized and approved.



9. Except for those assets transferred pursuant to the Asset Purchase Agreements on the Effective Date, title to all Assets of the Debtor, including, without limitation, causes of action and the other "Excluded Assets" (as defined in the two asset purchase agreements), shall be transferred to the Distribution Trust, free and clear of all liens, claims and encumbrances in accordance with Section 1129 of the Bankruptcy Code. The lien of Southern Commerce Bank shall, however, attach to the proceeds derived from the sale, liquidation, or collection of any property of the Debtor's Estate, including, without limitation, including without limitation, the following items after the payment of the Distribution Trustee's fees and expenses: any inventory, collection of



the over 90 day receivables and all cash of the Debtor until Southern Commerce Bank is paid in full.

10. With regard to those assets transferred pursuant to the Asset Purchase Agreements, said assets shall be transferred to the Purchasers free and clear of all liens, claims and encumbrances of every kind and nature whatsoever pursuant to 11 U.S.C. §§ 363 and 1129, and the Purchasers pursuant to the Asset Purchase Agreements are deemed to be good faith purchasers under 11 U.S.C. § 363.

11. The provisions of the Plan are and, on the Effective Date, the provisions of each of the Asset Purchase Agreements, shall be enforceable in accordance with their respective terms against, and shall bind, the Debtor, any Holder of a Claim against or interest in the Debtor, including, in each case, all successors and assigns of any of the foregoing persons, whether or not the Claim or interest is impaired under the Plan and whether or not such Holder has accepted the Plan.

12. Except as otherwise provided in any provision of the Plan or this Order, on the Effective Date, the Distribution Trustee is authorized to perform all of the functions provided for it in the Plan in this Order.

13. Effective on the Effective Date, all persons, including but not limited to, all individuals or entities that had notice of the Reorganization Case, the Debtor, the Estate, and each Creditor shall be deemed to unconditionally remise, release, and forever discharge Terrance Berman, Daryl Berman, Mark Rustad, Cassia Rustad and each of the individuals identified in Exhibit 1 attached hereto (the individuals listed on Exhibit 1 are collectively the "Employees") and the heirs, executors, trustees, administrators, successors and assigns of any such Persons and Entities (hereinafter

collectively, the "Released Parties"), of and from any and all manner of actions, causes of action, suits, claims, counterclaims, liabilities, obligations, defenses and demands whatsoever, at law or in equity, if any, which any of them ever had, now has, or hereafter can, shall, or may claim to have against any of the Released Parties for or by reason of any cause, matter or thing whatsoever, arising from the beginning of the world to the Effective Date, relating to the business or operations of the Debtor and its partners. Notwithstanding anything else contained herein the Employees shall still be bound by the terms of any non-competition and anti-solicitation agreement entered into with Debtor. The provisions of this release shall not apply to anyone listed on Exhibit 1 who is not employed by one of the Purchasers for at least the next 12 consecutive months. The provisions of this paragraph shall not act to release Terrance Berman, Daryl Berman, Mark Rustad or Cassia Rustad from their obligations, if any, under any guaranty to Southern Commerce Bank.

14. Except for the obligations of the Purchasers under the Plan, this Confirmation Order and the Asset Purchase Agreements, effective on the Effective Date, the Debtor and the Estate shall be deemed to unconditionally remise, release and forever discharge Purchasers and Maxxim Medical, Inc. and the heirs, executors, trustees, successors and assigns (hereafter collectively the "Released Purchasers") of and from any and all actions, causes of action, suits, claims, counterclaims, liabilities, obligations, defenses and demands whatsoever, at law and in equity, if any, which any of them ever had, now has or hereinafter can, shall, or may claim to have against any of the Released Purchasers for or by reason of any cause, matter or thing whatsoever, arising from the beginning of the world to the Effective Date, relating to the business or

operations of the Debtors, provided that the release by the Debtor and the Estate shall be effective only upon payment of the monies by the Purchasers required by the Asset Purchase Agreement.

15. Without limiting the generality of the foregoing releases, all Persons, including but not limited to, the Creditors, expressly release any and all claims and defenses in connection with the matters released about which the parties do not know or suspect to exist in their favor, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into these releases, and to this end each of them, therefore, waives any and all rights under Section 1542 of the Civil Code of California (or any similar law, provision or statute of any state) which states in full as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

All persons including but not limited to the Estate and the Creditors shall be deemed to have knowingly and willingly waived the provisions of Section 1542 (or any similar law, provision or statute of any state) and acknowledges and agrees that this waiver is an essential and material term of the releases contained in the Plan. Each party has been afforded the opportunity to review these releases with such parties' legal counsel, and such party understands and acknowledges the significance and consequence of these releases and of the specific waiver of Section 1542 of the Civil Code of California (or any similar law, provision or statute of any state). Notwithstanding anything else to the

contrary, no claims of the Debtor, the Estate or of any person shall be released as against Enrique Salgado, Ambidern Grupo Industrial, S.A. de C.V. and Supertex Industrial, S.A. de C.V. The Released Estate Parties and the Released Purchasers Parties are collectively referred to herein as the "Released Parties".

a. On the Effective Date, each Debtor shall be deemed discharged and released to the fullest extent permitted by section 1141 of the Bankruptcy Code from all claims that arose prior to the Effective Date, including without limitation all Secured Claims and Unsecured Claims, and any interest accrued on such Claims from and after the Petition Date, against each Debtor and Debtor in Possession, or any of their assets or properties, and all debts of the kind specified in sections 502(g), 502(h) or 502(l) of the Bankruptcy Code. The discharge and release shall be effective in each case whether or not: (a) a proof of such Claim or Administrative Claim is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) the Claim or Administrative Claim is allowed pursuant to the Bankruptcy Code, or (c) the Holder of the Claim or Administrative Claim has accepted the Plan;

b. All Persons shall be permanently enjoined by Section 524 of the Bankruptcy Code from asserting against the Reorganized Debtor, its successors, or its assets or properties any other and further Claims or Administrative Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date. The discharge shall void any judgment against a Debtor or Reorganized Debtor at any time obtained to the extent that it relates to a Claim or Administrative Claim discharged;

c. On or after the Effective Date, all Persons who have held,

currently hold or may hold a Claim discharged or terminated pursuant to the terms of the Plan shall be permanently enjoined by Section 524 of the Bankruptcy Code from taking any of the following actions on account of any such discharged Claim, except to the extent necessary to enforce the terms of the Plan: (a) commencing or continuing in any manner any action or other proceeding against a Debtor, Reorganized Debtor, its successors, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against a Debtor, Reorganized Debtor, its successors, assets or properties; (c) creating, perfecting or enforcing any lien or encumbrance against a Debtor, Reorganized Debtor, its successors, assets or properties; (d) asserting any setoff, right of subrogation or recoupment of any kind against any obligation due to a Debtor, Reorganized Debtor, its successors, assets or properties; or (e) commencing or continuing any action in any manner in any place that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. Any Person violating such injunction may be liable for actual damages, including costs and attorneys' fees and, in appropriate circumstances, punitive damages;

d. On or after the Effective Date, all Persons who have held, currently hold or may hold a Claim discharged pursuant to the terms of the Plan shall be permanently enjoined by Section 524 of the Bankruptcy Code from commencing or continuing in any manner any action or other proceeding against any party on account of a Claim or cause of action that was property of the Estate, and all such Claims and causes of action shall remain exclusively vested in the Distribution Trustee to the extent such Claims and causes of action were vested in respective Debtor in Possession; and

e. The discharge, releases and injunction provided for herein shall not affect the right of any Person to enforce the terms of the Plan or to commence any action or proceeding to collect the distributions required under the Plan.

f. As of the Effective Date, all Persons, including but not limited to, creditors and all individuals or entities that had notice of this case are permanently enjoined from asserting against the Released Parties and their successors, or their assets or properties any other or further claims or causes of action based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date which is released pursuant to the terms of this Order. On and after the Effective Date, all Persons who have held, currently hold or may hold a claim or cause of action released pursuant to the terms of this Order are permanently enjoined from taking any of the following actions on account of any such released claim or cause of action, (a) commencing or continuing in any manner any action or other proceeding against a Distribution Trust, Distribution Trustee, Released Parties, their successors, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against a Distribution Trust, Distribution Trustee, Released Parties, their successors, assets or properties; (c) creating, perfecting or enforcing any lien or encumbrance against a Distribution Trust, Distribution Trustee, Released Parties, their successors, assets or properties; (d) asserting any setoff, right of subrogation or recoupment of any kind against any obligation due to a Distribution Trust, Distribution Trustee, Released Parties, their successors, assets or properties, or (e) commencing or continuing any action in any manner in any place that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order.

Any Person violating such injunction may be in contempt of court and may be liable for actual damages, including costs and attorneys' fees and where such action is determined to be an intentional violation of this injunction, punitive damages.

16. The foregoing releases and injunction shall be effective, in each case whether or not (a) a Proof of Claim or Proof of Interest based on such claim, administrative claim or interest is filed or deemed filed pursuant to Section 501 of the Bankruptcy Code, (b) a claim, administrative claim or interest is allowed pursuant to the Bankruptcy Code, or (c) the holder of a claim, administrative claim or interest has accepted the Plan.

17. The requirements of the Plan and the agreements entered into in connection therewith, including without limitation the Asset Purchase Agreements and the Distribution Trust Agreement, are binding upon and govern the acts of, and are enforceable against all Persons including, without limitation, Creditors, all holders of Claims, Administrative Claims and Interests, all filing agents or officers, title agents or companies, recorders, registrars, administrative agencies, governmental unites and departments, agencies or officials thereof, secretaries of state, and all other Persons who may be required by law, the duties of their office, or contract to accept, file, register, record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the assets of the Debtor.

18. In consideration for the classifications, releases, distributions and other benefits provided under the Plan, the provisions of the Plan and the agreements read into the record at the Confirmation Hearing constitute a good faith resolution of all claims or controversies pursuant to the Plan.

19. Neither the Debtor, the Purchasers nor any of their respective officers, directors, partners, employees, members or agents, nor any Professional Persons, attorneys, accountants, or other professionals employed by any of them, shall have or incur any liability to any Person for any act taken or omission made in good faith in connection with or related to formulating, implementing, issuing, executing, confirming, or consummating the Plan (including soliciting acceptances or rejections thereof), the Disclosure Statement or any contract, instrument, security, release or other agreement or document entered into in connection with the Plan, including without limitation of the Asset Purchase Agreements or in connection with or related to any distributions made pursuant to the Plan, except as expressly provided in such Asset Purchase Agreements, instrument, release or other agreement or document entered into in connection with the Plan, including without limitation each of the Asset Purchase Agreements and each of the Post-Confirmation Financing Documents. This paragraph shall not, however, excuse or release any other Person with respect to any such activity (including, but limited to, activities relating to solicitations of acceptances or rejections of the Plan).

20. Except as otherwise provided in the Plan, in this or any prior order of this Bankruptcy Court, or in any contract, instrument, release, or other agreement or document entered into in connection with the Plan or the Reorganization Case, each executory contract or unexpired lease of the Debtor that is not or has not previously been assumed by order of this Bankruptcy Court or is not assumed pursuant to this Order is hereby rejected as of the Effective Date, unless a Purchaser shall provide written notice of assumption to the other party and the Debtor's counsel and file that



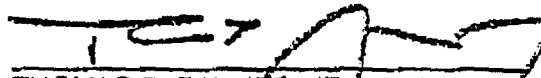
notice with the Court within 10 days of the date of this Order. If a Purchaser assumes any such contracts all arrearages in these contracts must be cured by the Purchaser within thirty (30) days of the date of this Order. If a Purchaser assumes an executory contract then the Estate shall have no further liability under such contract and the Purchaser shall have complete responsibility.

21. Any individual or entity wishing to seek an administrative expense claim against the Estate, including any administrative claim relating to breach of an executory contract, must file the claim with the clerk of the court within thirty (30) days of the date of this Order or the claim shall be forever barred.

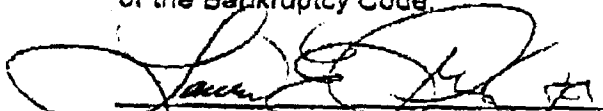
22. This Court hereby retains jurisdiction to hear such other matters as are necessary to enforce this Order or the Plan, and to consider any objections to claims, preference actions, fraudulent conveyance actions or any other claims or causes of action of the Estate or Distribution Trustee.

DONE AND ORDERED in Tampa, Florida on August 12

1999.

  
THOMAS E. BAYNES, JR.  
BANKRUPTCY COURT JUDGE

The following parties hereby agree and consent to the foregoing Amended Order Confirming Third Amended Plan of Reorganization of Debtors under Chapter 11 of the Bankruptcy Code:

  
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### EMPLOYEE LIST

Elizabeth Barrett  
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Star Cookus  
Debra Davis  
Mark Flanders  
Laura Fountain  
Melissa Gross  
Gina Guardarrama  
Michael Hamada  
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Meg Harris  
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Michael Hodges  
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Erin Levine  
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Michael Sostaric  
Anthony Staten  
Richard Szmyt  
Linda Taylor  
Chasity Valentine  
Bobby Jo Warwick  
Crystal Wright

TOTAL P.24