

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Agreement and Bill of Sale		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Nexterna, Inc		12/15/2004	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Union Pacific Railroad Company		
Street Address:	1400 Douglas Street		
City:	Omaha		
State/Country:	NEBRASKA		
Postal Code:	68179		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 6			
Property Type	Number	Word Mark	
Registration Number:	2565323	X	
Registration Number:	2594295	X	
Registration Number:	2579487	OPTIPATH	
Registration Number:	2559621	OPTITRAC	
Registration Number:	2541265	OPTISOFT	
Registration Number:	2753730	FLEETGO	
CORRESPONDENCE DATA			
Fax Number:	(402)392-0734		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	(402)392-2280		
Email:	mazour@thomtelaw.com		
Correspondent Name:	Denise C. Mazour		
Address Line 1:	2120 So. 72nd Street		
Address Line 2:	Suite 1111		
Address Line 4:	Omaha, NEBRASKA 68124		

CH \$165.00 2565323

NAME OF SUBMITTER:	Denise C. Mazour
Signature:	/Denise C. Mazour/
Date:	01/13/2005
Total Attachments: 7 source=UP Agreement.1.13.05_Page_1#page1.tif source=UP Agreement.1.13.05_Page_2#page1.tif source=UP Agreement.1.13.05_Page_3#page1.tif source=UP Agreement.1.13.05_Page_4#page1.tif source=UP Agreement.1.13.05_Page_5#page1.tif source=UP Agreement.1.13.05_Page_6#page1.tif source=UP Agreement.1.13.05_Page_7#page1.tif	

AGREEMENT AND PLAN OF REORGANIZATION

This AGREEMENT AND PLAN OF REORGANIZATION (this "Agreement"), dated as of December 29, 2004, is between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UPRR"), and NEXTERNA, INC., a Delaware corporation ("Nexterna").

WHEREAS, UPRR desires to purchase and acquire from Nexterna, and Nexterna desires to sell, transfer and assign to UPRR, all of the assets, properties and rights of Nexterna in exchange for one share of the common stock, par value \$10, of UPRR (the "Share") and the assumption by UPRR of all of Nexterna's liabilities, upon the terms and subject to the conditions contained herein, in a transaction that will qualify as a reorganization under Section 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, Nexterna desires, as an integral part of the transaction, to distribute the Share to its stockholder and the holder of its outstanding securities in exchange for their shares of Nexterna stock and securities in complete liquidation of Nexterna and to dissolve.

ACCORDINGLY, the parties hereto agree as follows:

1. Transfer of Assets. On the terms and subject to the conditions of this Agreement, at and effective as of the Closing, Nexterna will sell, assign, transfer and deliver ("Transfer") to UPRR, and UPRR will purchase and acquire from Nexterna, all of the assets, properties, rights and interests owned, used, occupied or held by or for the benefit of Nexterna, wherever situated, existing as of the Closing (all of such assets, properties, rights and interests being hereinafter collectively referred to as the "Assets"), subject to all liens and encumbrances thereon, including without limitation the following:

- (a) all cash, cash equivalents and marketable securities;
- (b) all accounts receivable;
- (c) all plant, machinery, equipment, tools, spare parts, supplies, furniture, furnishings, vehicles and other fixed assets;
- (d) all inventories, including inventories of finished products, work-in-process, raw materials, packaging materials, labels, supplies and parts;
- (e) all commitments, leases, purchase orders, contracts to purchase raw materials, contracts for services and supplies, contracts to supply or sell products and all other contracts and agreements (whether written or oral) of Nexterna;

(f) all trademarks, service marks, trade names, inventions, patents, trade secrets, copyrights, know-how, production formulae, procedures or processes and any other similar types of proprietary intellectual property rights of Nexterna;

(g) all licenses, authorizations, permits, consents, approvals and registrations held by Nexterna;

(h) the books and records of Nexterna, including Nexterna's minute books, stock books, stock ledger and corporate seal, all customer and supplier files and lists, equipment maintenance and warranty information, all correspondence with any customers, suppliers, employees or governmental or regulatory authorities, all personnel records related to the employees of Nexterna, and any other reports, marketing studies, plans and documents prepared by or on behalf of Nexterna, including data stored electronically;

(i) the goodwill of Nexterna; and,

(j) all other assets, properties and rights of every kind and nature owned by Nexterna or in which Nexterna has an interest as of the Closing, known or unknown, fixed or unfixed, accrued, absolute, contingent or otherwise, whether or not specifically referred to in this Agreement.

In confirmation of the foregoing Transfer, Nexterna will execute and deliver to UPRR at the Closing a bill of sale in the form of *Exhibit A*, attached hereto (the "Bill of Sale").

2. Consideration. In consideration for the Transfer by Nexterna of the Assets to UPRR pursuant to this Agreement, at and effective as of the Closing, UPRR will:

(a) on the terms and subject to the conditions of this Agreement, assume pursuant to an Assumption of Liabilities in the form of *Exhibit B*, attached hereto (the "Assumption"), all of the liabilities and obligations of Nexterna existing as of the Closing, other than (i) any liabilities or obligations of Nexterna for federal, state or other taxes arising out of, resulting from or incident to the Transfer of the Assets hereunder or (ii) any liabilities or obligations incurred by Nexterna in connection with the execution, delivery or performance of this Agreement (such liabilities to be assumed by UPRR at the Closing, the "Assumed Liabilities") and,

(b) issue the Share to Nexterna. When issued, the Share shall be duly authorized, validly issued, fully paid and non-assessable.

3. Closing.

(a) The closing of the transactions contemplated by Sections 1 and 2 hereof (the "Closing") will take place at the offices of UPRR, at 10:00 a.m., Central time, on December 31, 2004. All transactions consummated at the Closing will be deemed to have been made simultaneously and will be effective as of 11:59 p.m., Central time, on the Closing Date.

(b) At the Closing, Nexterna will deliver to UPRR duly executed copies of such general warranty deeds and other instruments of conveyance, assignment and Transfer, including the Bill of Sale, as UPRR may deem necessary or desirable to Transfer any of the Purchased Assets to UPRR.

(c) At the Closing, UPRR will deliver or cause to be delivered to Nexterna (i) a certificate or certificates, registered in the name of Nexterna, representing the Shares and (ii) a duly executed copy of the Assumption.

4. Condition to Obligations of UPRR and Nexterna. The obligations of UPRR and Nexterna to consummate the Closing are subject to the approval by the stockholders of Nexterna.

5. Liquidation of Nexterna. From and after the Closing, Nexterna will not engage in any business and shall, as soon as practicable after the Closing, distribute to its stockholders and security holders, pro rata, the Shares and shall dissolve.

6. Miscellaneous.

(a) Notices. All notices, requests and other communications to any party hereunder will be in writing and, unless otherwise provided in this Agreement, will be deemed to have been duly given upon receipt when delivered in person or when dispatched by electronic facsimile transmission (confirmed by mail or nationally recognized overnight courier service simultaneously dispatched) or dispatched by a nationally recognized overnight courier service to the appropriate party at its address set forth below:

(i) If to UPRR, to:

Union Pacific Center
1400 Douglas Street
Omaha, Nebraska 68179

(ii) If to Nexterna, to:

Union Pacific Center
1400 Douglas Street
Omaha, Nebraska 68179

(b) Governing Law. This Agreement will be governed by, and construed in accordance with, the law of the State of Delaware, without regard to the conflict of laws rules of such state.

(c) Bulk Sales Compliance. UPRR hereby waives compliance by Nexterna with the provisions of any bulk sales laws applicable to the Transfer of the Assets hereunder.

(d) Expenses. Except as otherwise expressly provided for herein, the parties will pay or cause to be paid all of their own fees and expenses incident to this Agreement and in preparing to consummate and consummating the transactions contemplated hereby.

(e) Further Assurances. From time to time, as and when requested by a party hereto, the other party will execute and deliver, or cause to be executed and delivered, all such documents and instruments and will take, or cause to be taken, all such further or other actions, as the requesting party may reasonably deem necessary or desirable to consummate the transactions contemplated by this Agreement.

(f) Termination; Amendments and Waivers.

(i) This Agreement may be terminated prior to the Closing at any time by the mutual written consent of UPRR and Nexterna.

(ii) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective.

(iii) No failure or delay by any party in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(g) Entire Agreement. This Agreement (including the Exhibits hereto) constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement (including the Exhibits hereto) supersedes all prior or contemporaneous agreements and understandings, representations and

warranties, both oral and written, between the parties with respect to the subject matter hereof.

(h) No Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereunder may be assigned to or assumed by any other person or entity.


(i) No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and nothing herein expressed or implied will give or be construed to give to any person or entity, other than the parties hereto, any legal or equitable rights hereunder.

(j) Counterparts. This Agreement may be signed in any number of counterparts, each of which will be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

(k) Headings. The headings in this Agreement are for convenience of reference only and will not control or affect the meaning or construction of any provisions hereof.

The parties hereto have executed this Agreement as of the day and year first above written.

UNION PACIFIC RAILROAD COMPANY

By: 

Name: R. M. Knight, Jr.

^{Exec.}
Title: ~~Vice President - Finance & Chief Financial Officer~~

NEXTERNA, INC.

By: 

Name: Lynda Tennison

Title: President

BILL OF SALE

This Bill of Sale is made as of the 31st day of December, 2004 by NEXTERNA, INC., a Delaware corporation ("Nexterna"), pursuant to an Agreement and Plan of Reorganization, dated December 1st 2004 (the "Agreement"), between Nexterna and UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UPRR").

1. Defined Terms. All terms used herein with initial capital letters that are not defined herein have the meanings ascribed to them in the Agreement.

2. Transfer. Nexterna hereby Transfers to UPRR all of Nexterna's right, title and interest in and to the Assets.

3. Terms Subject to the Agreement. This Bill of Sale and the obligations of Nexterna hereunder are subject in all respects to the terms and conditions of the Agreement. This Bill of Sale is intended only to effect the transfer of certain property to be transferred pursuant to the Agreement. Notwithstanding any other provisions of this Bill of Sale to the contrary, nothing contained herein shall in any way supersede, modify, replace, rescind, waive, expand, enlarge or in any way affect the provisions set forth in the Agreement.


4. Power of Attorney. Nexterna hereby appoints UPRR and its successors and assigns as Nexterna's true and lawful attorney-in-fact, with full power of substitution and resubstitution, to institute and prosecute all proceedings that UPRR may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to the Assets, to defend or compromise all actions, suits and proceedings in respect of the Assets and to do all such things in relation thereto as UPRR may deem advisable, including but not limited to all right and authority to endorse without recourse the name of Nexterna on any check or other evidence of indebtedness received by UPRR in respect of any accounts receivable or other monetary items constituting a part of the Assets Transferred to UPRR pursuant to this Bill of Sale and the Agreement, and to retain the proceeds thereof for UPRR's account, on its behalf, in the name of Nexterna.

5. Further Assurances. Nexterna will, from time to time, as and when requested by UPRR, execute and deliver, or cause to be executed and delivered, all such documents and instruments, and will take, or cause to be taken, all such further or other actions, as UPRR may reasonably deem necessary or desirable to effect the Transfer of the Assets contemplated by this Bill of Sale and the Agreement.

6. Governing Law. This Bill of Sale will be governed by, and construed in accordance with, the law of the State of Delaware, without regard to the conflict of laws rules of such state.

IN WITNESS WHEREOF, Nexterna has duly executed this Bill of Sale as of the day and year first above written.

NEXTERNA, INC.

By: 

Name: Lynden Tennison

Title: President