

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Order Authorizing and Approving Sale of the Intellectual Property Owned by Konarka Technologies, Inc. Free and Clear of Liens, Claims, Interests and Encumbrances		
CONVEYING PARTY DATA			
	Name	Formerly	Execution Date
	Total Gas & Power USA (SAS)		11/02/2012
			Entity Type
			CORPORATION: FRANCE
RECEIVING PARTY DATA			
Name:	KonarkaTechnologies, Inc.		
Street Address:	100 Foot of John Street		
Internal Address:	Boot Mill-South, 3rd Fl.		
City:	Lowell		
State/Country:	MASSACHUSETTS		
Postal Code:	01852		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 1			
	Property Type	Number	Word Mark
	Registration Number:	3140683	POWER PLASTIC
CORRESPONDENCE DATA			
Fax Number:	2122925391		
	<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	212-292-5390		
Email:	mail@ipcounselors.com		
Correspondent Name:	William C. Wright		
Address Line 1:	60 E. 42nd Street; Suite 2410		
Address Line 4:	New York, NEW YORK 10165		
ATTORNEY DOCKET NUMBER:	2239-1109		
NAME OF SUBMITTER:	William C. Wright		

OP \$40.00 3140683

Signature:	/william c. wright/
Date:	03/14/2013
<p>Total Attachments: 24</p> <p>source=Konarka Technologies, Inc. & Total Gas#page1.tif source=Konarka Technologies, Inc. & Total Gas#page2.tif source=Konarka Technologies, Inc. & Total Gas#page3.tif source=Konarka Technologies, Inc. & Total Gas#page4.tif source=Konarka Technologies, Inc. & Total Gas#page5.tif source=Konarka Technologies, Inc. & Total Gas#page6.tif source=Konarka Technologies, Inc. & Total Gas#page7.tif source=Konarka Technologies, Inc. & Total Gas#page8.tif source=Konarka Technologies, Inc. & Total Gas#page9.tif source=Konarka Technologies, Inc. & Total Gas#page10.tif source=Konarka Technologies, Inc. & Total Gas#page11.tif source=Konarka Technologies, Inc. & Total Gas#page12.tif source=Konarka Technologies, Inc. & Total Gas#page13.tif source=Konarka Technologies, Inc. & Total Gas#page14.tif source=Konarka Technologies, Inc. & Total Gas#page15.tif source=Konarka Technologies, Inc. & Total Gas#page16.tif source=Konarka Technologies, Inc. & Total Gas#page17.tif source=Konarka Technologies, Inc. & Total Gas#page18.tif source=Konarka Technologies, Inc. & Total Gas#page19.tif source=Konarka Technologies, Inc. & Total Gas#page20.tif source=Konarka Technologies, Inc. & Total Gas#page21.tif source=Konarka Technologies, Inc. & Total Gas#page22.tif source=Konarka Technologies, Inc. & Total Gas#page23.tif source=Konarka Technologies, Inc. & Total Gas#page24.tif</p>	

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In re
KONARKA TECHNOLOGIES, INC.
KONARKA NB HOLDINGS, LLC
Debtors.

Chapter 7
No. 12-42095-HJB
12-42096-HJB
Jointly Administered

**ORDER AUTHORIZING AND APPROVING SALE OF THE INTELLECTUAL
PROPERTY OWNED BY KONARKA TECHNOLOGIES, INC.
FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES**

At Springfield in said district, this 2nd day of November, 2012

This matter having come before me on the motion (the "Motion") of David M. Nickless, the duly appointed chapter 7 trustee (the "Trustee") of Konarka Technologies, Inc ("Technologies") and Konarka NB Holdings, LLC, for entry of an order authorizing, among other things, a sale (the "Sale") pursuant to that certain asset purchase agreement dated as of September 14, 2012 (collectively with all exhibits and ancillary documents thereunder, the "APA"), between the Trustee and Merck KGaA, Darmstadt, Germany (the "Purchaser") of the intellectual property owned by Technologies (the "Assets"), as such Assets are more fully defined and described in the APA, and based upon the evidence presented at the hearing held on November 2, 2012 (the "Sale Hearing"), and all parties in interest having been heard or having had the opportunity to be heard regarding the sale of the Assets, and the Court having reviewed and considered the Motion, and the arguments of counsel made and the evidence adduced at the Sale Hearing; and upon the record of the Sale Hearing and this chapter 7 case, and after due deliberation thereon, and good cause appearing therefor, it is hereby



Certified to be a true and correct copy of the original
James M. Lynch, Clerk.
U.S. Bankruptcy Court
District of Massachusetts

By: W. Lynch
Deputy Clerk

Date: 12/7/2012

FOUND AND DETERMINED THAT:¹

A. Jurisdiction. The Court has jurisdiction to hear and determine the Motion and to grant the relief requested in the Motion pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(b).

B. Venue. Venue of this case and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

C. Statutory Predicates. The statutory and legal predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363, 365 and 554, Bankruptcy Rules 2002, 6004, 6006, 6007, 9014 and 9019, and Local Rule 6004-1.

D. Notice. Notice of the Motion and the Sale Hearing has been provided to: (i) United States Trustee, 446 Main Street, Worcester, MA 01608, ATTN: Richard D. King, Esq. (richard.t.king@usdoj.gov); (ii) William R. Moorman, Jr., Esq. counsel to the M&E and RE purchaser (moorman@craigmacauley.com), Craig and Macauley Professional Corporation, 600 Atlantic Avenue, Federal Reserve Plaza, Boston, Massachusetts, 02210; (iii) Allen & Overy LLP, 1221 Avenue of the Americas, New York, NY 10020; Attention: John Kibler, Esq. (John.Kibler@AllenOvery.com), Joseph Badtke-Berkow, Esq. (Joseph.Badtke-Berkow@AllenOvery.com) counsel to the Purchaser; (iv) Total Gas & Power USA (SAS) Robert A. Trodella, Esq., Jones Day, 555 California Street, 26th Floor, San Francisco, CA 94104, (rtrodella@jonesday.com); and (v) Meyer H. Potashman, Sherin and Lodgen LLP, 101 Federal Street, Boston, MA 02110, Counsel to Mass Development Finance Agency (mhpotashman@sherin.com); and (vi) those parties who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

E. Publication Notice. As evidenced by the affidavits of publication filed with the Court D.I. 212, notice of the Notice of Election Deadline (as defined in the Motion) was published in the Wall Street Journal (Global Edition) on September 25, 2012.

¹ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact to the fullest extent of the law. See Fed. R. Bankr. P. 7052.

F. Notice. Based upon the affidavits of service filed with the Court and the evidence presented at the Sale Hearing, (a) notice of the Motion, the Notice of Election Deadline, and the Sale Hearing was adequate and sufficient under the circumstances of this chapter 7 case and these proceedings and complied with the various applicable requirements of the Bankruptcy Code and the Bankruptcy Rules, (b) a reasonable opportunity to object and be heard with respect to the Motion and the relief requested therein was afforded to all interested persons and entities, and (c) a reasonable opportunity to make an election under section 365(n)(1)(B) of the Bankruptcy Code was afforded to counterparties to agreements to which Technologies is also a party and pursuant to which Technologies granted a license under its intellectual property.

G. Notice Sufficient. The foregoing notice was good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Sale, or the Sale Hearing is required.

H. Objections. To the extent not withdrawn, resolved, or otherwise addressed by the terms of this Order, all objections to the Motion as they relate to the sale of the Assets are overruled.

I. Assets Property of the Estate. Other than with respect to the competing ownership claims to the German Assets (as discussed in paragraph N, below), the Assets are assets of Technologies' estate.

J. Sufficiency of Marketing. The Trustee marketed the Assets. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective Purchasers have been afforded a reasonable and fair opportunity to bid for the Assets.

K. The Purchaser's Offer. The Purchaser submitted an offer for the Assets and the Trustee has determined in a valid and sound exercise of its business judgment that entering into the APA with the Purchaser is in the best interests of Technologies, its estate and creditors, and all parties in interest.

L. Asset Purchase Agreement. On September 14, 2012, the Trustee and the Purchaser entered into the APA and such agreement was subject to higher and better offers.

M. Bid Procedures. The Bid Procedures (as defined in the Bid Procedures Order) were substantively and procedurally fair to all parties and to potential bidders. The Trustee undertook substantial efforts, and conducted the sale process without collusion and in accordance with the Bid Procedures. The Trustee (a) afforded interested potential purchasers a full, fair, and reasonable opportunity to qualify as bidders and submit their highest or otherwise best offer to purchase the Assets, and (b) provided potential purchasers, upon request, sufficient information to enable them to make an informed judgment on whether to bid on the Assets. Pursuant to the Bid Procedures, Total Gas & Power USA (SAS) ("Total") was deemed a Qualified Bidder. No other Qualified Bids were received before the Bid Deadline.

N. Side-Agreements Regarding Trustee's Ownership Rights. As of the Execution Date of the APA, some of the Assets (the "German Assets") were subject to competing ownership claims by Alexander Kubusch (the "German Administrator"), as the insolvency administrator for Konarka Technologies GmbH, Technologies' wholly owned foreign subsidiary ("Konarka Germany"). In addition, Total, as a creditor of Konarka Germany, asserted ownership and control over Konarka Germany's claims to ownership over the German Assets, as a result of a security assignment granted by Konarka Germany to Total of the German Assets. To resolve those competing ownership claims and to facilitate the Trustee's sale of the Assets free and clear of Liens, Claims, and Interests, (i) the Trustee, the Purchaser, the German Administrator, and the purchaser of assets from Konarka Germany entered into an agreement (the "Side Agreement") whereby, upon closing under the APA, (x) the Purchaser will pay US \$370,000 to the German Administrator, (y) the German Administrator, on behalf of Konarka Germany, will waive Konarka Germany's claims to ownership over the German Assets, and (z) the Purchaser will grant a license to use the German Assets to the purchaser of assets from Konarka Germany; (ii) Total entered into a settlement agreement with the German Administrator (the "Total Settlement") which provides, among other things, for the assignment by the German Administrator to Total of his right to receive the US \$370,000 from the Purchaser and for Total's waiver of any rights to ownership and control over the German Assets, and (iii) the Trustee

executed an Acknowledgement (the "Acknowledgement," and, collectively with the Total Settlement and the Side Agreement, the "Facilitating Agreements") of the Total Settlement, whereby the Trustee acknowledged the Total Settlement and agreed, subject to Court approval as necessary, to waive any arguments that Total's entry into the Total Settlement will influence or effect the merits of any potential claims to equitably subordinate or otherwise impact Total's claims against Technologies or Holdings.

O. Acceptance of Total's Back-Up Bid. Total has submitted, and the Trustee has accepted, a credit bid in the amount of \$2,630,000 to purchase the Assets as a back-up bid (the "Back-Up Bid"). The Trustee's acceptance of the Back-Up Bid was and is a proper exercise of his business judgment and appropriate under the circumstances of these cases, the APA, the Bid Procedures Order, and the Bid Procedures (as defined below). The Back-Up Bid constitutes the next highest and best offer for the Assets. To the extent that the Trustee ultimately sells the Assets to Total under the Back-Up Bid: (x) with the exception of (i) the finding of fact in paragraphs R and X, below, regarding the common identity of directors or controlling shareholders, (ii) the finding of fact in paragraph L, above, (iii) the finding of fact in paragraph P, below, and (iv) the provisions of paragraph 32, below, all references to the "Purchaser" in this Order shall include Total in its capacity as back-up bidder, provided, however, that by submitting and/or consummating the Back-Up Bid, Total shall not be required to pay cash consideration for any of the Assets and shall not be required to enter into a purchase agreement; (y) with the exception of (i) the finding of fact in paragraphs K and L, above, (ii) paragraph 5, below, (iii) the provisions of paragraph 32, below, and (iv) the provisions of paragraph 33, below, all references to the "APA" in this Order shall refer to the Back-Up Bid; and (z) the amount of Total's secured claim(s) against Technologies shall be reduced by the amount of the Back-Up Bid, and the remaining balance of Total's claim(s) in these cases shall be preserved and unimpaired.

P. No Other Qualified Bids. Having received no Qualified Bids (as defined in the Order of this Court dated September 19, 2012) (the "Bid Procedures Order")) other than the Back-Up Bid by the Bid Deadline (as defined in the Bid Procedures Order), pursuant to the

Bid Procedures Order the Trustee determined in a valid and sound exercise of the Trustee's business judgment (i) to dispense with the Auction, and (ii) that the highest and best Qualified Bid was that of the Purchaser, with the Back-Up Bid as the next highest and best Bid.

Q. Corporate Authority. Subject to the entry of this Order, the Trustee has full power and authority to consummate the transaction contemplated by the Motion and/or the Back-Up Bid, as applicable and appropriate, as well as the Facilitating Agreements.

R. Arm's-Length Sale and Purchaser Entity's Good Faith. The APA was negotiated and undertaken by the Trustee and the Purchaser at arm's length without collusion or fraud, and in good faith within the meaning of section 363(m) of the Bankruptcy Code. The Purchaser is not an "insider" of Technologies as that term is defined by section 101(31) of the Bankruptcy Code. The Purchaser recognized that the Trustee was free to deal with any other party interested in acquiring the Assets, all payments to be made by the Purchaser in connection with the Sale have been disclosed, the Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction, and no common identity of directors or controlling stockholders exists between the Purchaser and Technologies. As a result of the foregoing, the Purchaser is entitled to the protections of section 363(m) of the Bankruptcy Code, including in the event this Order or any portion thereof is reversed or modified on appeal, and otherwise has proceeded in good faith in all respects in connection with this proceeding.

S. No Fraudulent Transfer. The total consideration provided by the Purchaser for the Assets is the highest and best offer received by the Trustee, constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and any other applicable laws, and may not be avoided under section 363(n) of the Bankruptcy Code. The APA was not entered into, and the Sale is not being consummated, for the purpose of hindering, delaying, or defrauding creditors of Technologies under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. Neither Technologies nor the Purchaser have entered into the APA or any

agreement contemplated thereby or is consummating the Sale with any fraudulent or otherwise improper purpose. No other person or entity or group of persons or entities has offered to purchase the Assets for an amount that would provide greater value to the Trustee and the Bankruptcy Estate than the Purchaser. The Court's approval of the Motion and the APA are in the best interests of the Trustee, the bankruptcy estate of Technologies, its creditors and all other parties in interest.

T. Free and Clear Findings Required by Purchaser Entity. The Purchaser would not have entered into the APA and would not consummate the Sale if the sale of the Assets to the Purchaser were not, pursuant to section 363(f) of the Bankruptcy Code, free and clear of (i) all liens (statutory or otherwise), mortgages, pledges, security interests, charges, rights of first refusal, hypothecations, encumbrances, restrictive covenants, rights of offset or recoupment, leases or conditional sale arrangements (collectively the "Liens"), (ii) all claims as defined in section 101(5) of the Bankruptcy Code, including all rights or causes of action (whether in law or in equity), obligations, demands, restrictions, indemnities, consent rights, options, contract rights, covenants and interests of any kind or nature whatsoever, whether arising prior to or subsequent to the commencement of the above-captioned cases, and whether imposed by agreement, understanding, law, equity or otherwise (collectively the "Claims"), and (iii) all debts, liabilities, obligations, contractual rights and claims and labor, employment and pension claims, in each case, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or un-matured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these chapter 7 cases, and whether imposed by agreement, understanding, law, equity or otherwise (collectively the "Interests").

Notwithstanding the foregoing, the Purchaser is prepared to consummate the Sale on the basis that the Sale shall not limit or otherwise impair in any fashion whatsoever the rights that may be afforded Leonhard Kurz Stiftung & Co. KG ("LKG") and G24 Innovations Limited ("G24" and

together with LKG the "Electing Parties") as electing parties under section 365(n)(1)(B) of the Bankruptcy Code pursuant to the *Notice of Election by Leonhard Kurz Stiftung & Co. KG to Retain Section 365(n)(1)(B) Rights with Respect to Intellectual Property License Agreement* [Dkt. No. 193; Sep. 19, 2012] and the *Notice of Election to Retain Rights Under Certain License Agreement (Amended and Restated), Between Konarka Technologies, Inc. and G24 Innovations Limited, Dated as of June 20, 2006 Pursuant to 11 U.S.C. Section 365(n)(1)(B) et seq.* [Dkt. No. 176; Sep. 7, 2012] (collectively the "365(n) Notices"). The Purchaser shall not be responsible for any Liens, Claims or Interests, including in respect of the following: (i) any labor or employment agreements; (ii) mortgages, deeds of trust and security interests; (iii) intercompany loans and receivables between Technologies and any non-debtor subsidiary; (iv) any pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of ERISA), health or welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of Technologies or any multiemployer plan to which Technologies had at any time contributed to or had any liability or potential liability; (v) any other employee, worker's compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Code and of any similar state law (collectively, "COBRA"), (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, or (k) any other state or federal benefits or claims relating to any employment with Technologies or any of its predecessors; (vi) any bulk sales or similar law; (vii) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of

1986, as amended; and (viii) any excluded liabilities as provided in the APA. A sale of the Assets other than one free and clear of all Liens, Claims, and Interests would yield substantially less value for Technologies' estate, with less certainty, than the Sale as contemplated. Therefore, the Sale contemplated APA free and clear of all Liens, Claims and Interests is in the best interests of Technologies, its estate and creditors, and all other parties in interest.

U. Valid Transfer. The transfer of Technologies' right, title, and interest in the Assets to the Purchaser will be a legal, valid and effective transfer of the Assets, and will vest the Purchaser with all of Technologies' right, title and interest of, in and to the Assets, free and clear of all Liens, Claims, and Interests and any liabilities of Technologies, except as may be expressly provided in the APA, Facilitating Agreements, and/or this Order.

V. Satisfaction of Section 363(f) Standards. The Trustee may sell the Assets free and clear of all Liens, Claims and Interests because, with respect to each creditor asserting a Lien, Claim or Interest, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Liens, Claims and Interests who did not object or who withdrew their objections to the Sale or the Motion are deemed to have consented to the Motion and the Sale pursuant to section 363(f)(2). Those holders of Liens, Claims and Interests who did object fall within one or more of the other subsections of section 363(f).

W. No Liability under Section 363(n). Neither the Trustee nor the Purchaser engaged in any conduct that would cause or permit the consummation of the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

X. No Successor Liability. The Purchaser is not holding itself out to the public as a continuation of Technologies and is not an "insider" or "affiliate" of Technologies, as those terms are defined in the Bankruptcy Code, and no common identity of incorporators, directors or stockholders exists between the Purchaser and Technologies. The conveyance of Assets do not amount to a consolidation, merger or *de facto* merger of the Purchaser and Technologies and/or Technologies' estate, there is not substantial continuity between the Purchaser and Technologies, there is no continuity of enterprise between Technologies and the

Purchaser, the Purchaser is not a mere continuation of Technologies or Technologies' estate, and the Purchaser does not constitute a successor to Technologies or Technologies' estate.

Y. Sale as Exercise of Business Judgment. Entry into the APA constitutes the exercise by the Trustee of sound business judgment, and such acts are in the best interests of Technologies, its estate and creditors, and all parties in interest. The Court finds that the Trustee has articulated good and sufficient business reasons justifying the sale of the Assets to the Purchaser. Additionally: (i) the APA constitutes the highest and best offer for the Assets; (ii) the APA and the closing thereon will present the best opportunity to realize the value of the Assets and avoid further decline and devaluation of the Assets; (iii) there is risk of deterioration of the value of the Assets if the Sale is not consummated promptly; and (iv) the APA and the closing thereon will provide a greater recovery for Technologies' creditors than would be provided by any other presently available alternative.

Z. U.S. Government Interests. The United States Department of Energy (the "DOE") asserts title to certain assets listed on Exhibit A to the APA (the "Scheduled IP Portfolio"), which assets are listed on Exhibit A hereto (the "DOE Assets"). Other than the DOE Assets, the United States Department of Justice (the "DOJ") has informed the Purchaser that no department or agency of the United States of America asserts title to any other asset listed on the Scheduled IP Portfolio other than the DOE Assets, and has agreed that no department or agency of the United States asserts or will assert any challenge to the transfer of title to any of the Assets, other than the DOE Assets, to the Purchaser. Certain departments and/or agencies of the United States of America may have interests in the Assets arising from federal government research and development funding programs (the "U.S. Government Interests"), however, to the best of the DOJ's knowledge, with respect to the assets listed on the Scheduled IP Portfolio the U.S. Government Interests are limited to those assets listed on Exhibit A to the *United States' Notice of Election to Retain Rights in Intellectual Property* [Dkt. No. 231; Oct. 15, 2012].

AA. Privacy Issues. The Trustee has, to the extent necessary, satisfied the requirements of Bankruptcy Code section 363(b)(1). Accordingly, appointment of a consumer

privacy ombudsman pursuant to Bankruptcy Code sections 363(b)(1) or 332 is not required with respect to the relief requested in the Motion.

BB. Compelling Reasons for an Immediate Sale. Good and sufficient reasons for approval of the APA have been articulated by the Trustee. To maximize the value of the Assets, it is essential that the Sale occurs within the time constraints set forth in the APA and the Bid Procedures Order. Time is of the essence in consummating the Sale. As discussed in the Motion, the failure to close the Sale under the time constraints will result in significant additional costs to Technologies' estate.

ORDERED, ADJUDGED AND DECREED THAT:

1. Motion Granted. The relief requested in the Motion is GRANTED.
2. Objections Overruled. All objections with regard to the relief sought in the Motion as they relate to the Assets that have not been withdrawn, waived, settled or otherwise dealt with as expressly provided herein or on the record at the Sale Hearing, hereby are overruled on the merits, with prejudice.
3. Approval. Pursuant to Bankruptcy Code sections 105 and 363 and the APA, the sale of the Assets are hereby approved and the Trustee is authorized and directed to comply with the APA. Pursuant to sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rule 9019, the Trustee and the Purchaser are each hereby authorized and directed to take any and all actions necessary or appropriate to: (i) consummate the Sale of the Assets to the Purchaser and the Closing (as defined in the APA) of the Sale in accordance with the Motion, the APA, the Facilitating Agreements, and this Order; (ii) and perform, consummate, implement and close fully the APA together with all additional instruments and documents that may be reasonably necessary or desirable to implement the APA. The Trustee is hereby authorized and directed to perform each of its covenants and undertakings as provided in the APA prior to or after Closing without further order of the Court. The Purchaser and the Trustee shall have no

obligation to close the Sale except as is contemplated and provided for in the APA and/or the Back-Up Bid, as applicable.

4. Excluded Assets. Notwithstanding anything in this Order or in the APA to the contrary, Technologies shall retain all of its right, title and interest in and to, and the Purchaser shall have no right, title or interest in and to, the DOE Assets. Other than the DOE Assets, the United States of America and its agencies and departments has agreed that they are not asserting and will not assert any challenge to the transfer of title to any of the Assets.

5. Amendment to the APA. Each of the "closing conditions" set forth in section 13 of the APA are hereby deemed and adjudged satisfied, and the Purchaser is hereby deemed to waive any breaches that may have occurred under the APA prior to the entry of this Order, such that as of the date of this Order there shall be no reason or cause for the Purchaser to elect not to go forward with closing under the APA.

6. Transfer Free and Clear. Upon the Closing the Trustee is hereby authorized and directed to consummate, and shall be deemed for all purposes to have consummated, the sale, transfer and assignment of all of Technologies' right, title and interest in the Assets to the Purchaser free and clear of any Liens, Claims, and Interests (as defined herein). The Purchaser shall not be responsible for any Liens, Claims or Interests, including in respect of the following: (a) any labor or employment agreements; (b) all mortgages, deeds of trust and security interests; (c) intercompany loans and receivables between Technologies and any non-debtor subsidiary of Technologies; (d) any pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of ERISA), health or welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of Technologies or any multiemployer plan to which Technologies has at any time contributed to or had any liability or potential liability; (e) any other employee, worker's compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended, (ii) the Fair Labor Standards

Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (vii) the Americans with Disabilities Act of 1990, (viii) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Code and of any similar state law (collectively, "COBRA"), (A) state discrimination laws, (B) state unemployment compensation laws or any other similar state laws, or (C) any other state or federal benefits or claims relating to any employment with Technologies or any of its predecessors; (D) claims or liens arising under any Environmental Laws with respect to any assets owned or operated by Technologies or any corporate predecessor of Technologies at any time prior to the Closing Date and Technologies liabilities; (E) any bulk sales or similar law; and (F) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; provided that, except as otherwise provided herein, the Assets shall not be sold free and clear of restrictions and rights arising from federal government research and development funding programs or contracts, including, without limitation, restrictions established by: (1) the Bayh-Dole Act, 35 U.S.C. sections 200-212, Pub. L. 96-517, as amended; (2) Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, codified at 15 U.S.C. section 278n, as amended; and (3) regulations and agreements with government agencies implementing those statutes.

7. Assets of Non-Debtor. Notwithstanding anything herein to the contrary, this Order applies only to Assets owned by Technologies (whether as a result of section 541 of the Bankruptcy Code or the Facilitating Transactions). Consequently, notwithstanding any other provision of this Order or the APA to the contrary, the portions of this Order that approve the transfer of the Assets to the Purchaser free and clear of all Liens, Claims and Interests, or that modify, enjoin, release or otherwise limit the rights of, apply only to Assets owned by Technologies and the bankruptcy estates and do not apply to any Assets owned by any non-debtor entities. For the avoidance of doubt, nothing in this Order is intended, or shall be

construed, to limit, extinguish, or otherwise affect in any fashion whatsoever the rights of LKG with respect to certain intellectual property assets that LKG jointly owns with Technologies (the "Jointly-Owned Assets"), including, without limitation, LKG's interest in the assets identified in Exhibit B hereto. Accordingly, notwithstanding any other provision of this Order or the APA to the contrary, LKG shall retain all of its right, title, and interest in and to the Jointly-Owned Assets and the Jointly-Owned Assets shall not be sold to the Purchaser free and clear of LKG's interest in the Jointly-Owned Assets, which shall continue in the Jointly-Owned Assets.

8. Approval of Facilitating Agreements, as Necessary. To the extent necessary, the Facilitating Agreements are each approved in their entirety. The Trustee is authorized to execute any documents or take any other action necessary to facilitate the terms of any of the Facilitating Agreements.

9. Intellectual Property License Agreements. Effective as of the Closing, counterparties to Pre-Petition Licenses (as defined in the Motion) have no rights against the Purchaser or the Assets under section 365(n)(1)(B) of the Bankruptcy Code with respect to such Pre-Petition Licenses except to the extent that such counterparty filed a Notice of Election (as defined in the Motion) on or before October 15, 2012, in accordance with this Court's Bid Procedures Order. Any counterparty to a Pre-Petition License who has not timely filed a Notice of Election in this case on or before October 15, 2012, shall have the right to file a rejection damages claim against Technologies pursuant to section 365(n)(1)(A) of the Bankruptcy Code, subject to all applicable deadlines and the allowance of such claim under applicable law, and no other rights, remedies or claims. For the avoidance of doubt, nothing in this Order shall limit or otherwise impair in any fashion whatsoever the rights that may be afforded to the Electing Parties under section 365(n)(1)(B) of the Bankruptcy Code pursuant to the 365(n) Notices.

10. Valid Transfer; Attachment to Sale Proceeds. The transfer to the Purchaser of the Assets pursuant to the APA shall be, and hereby is deemed to be, a legal, valid and effective transfer of Technologies' right, title and interest in the Assets, and vests with or will vest in the Purchaser all right, title, and interest of Technologies in the Assets, free and clear

of all Liens, Claims and Interests of any kind or nature whatsoever, with such Liens, Claims and Interests attaching to the proceeds of the Sale in the same validity, extent and priority as immediately prior to the Sale, subject to any rights, claims and defenses of Technologies and other parties in interest.

11. Sale is Self-Executing. The Sale is self-executing, and neither the Trustee nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Order.

12. Post-Closing Actions and Transactions. The Trustee and the Purchaser, and each of their respective officers, employees, and agents, will be authorized and empowered to take all actions and execute and deliver any and all documents and instruments that either the Trustee or the Purchaser deem necessary or appropriate to implement and effectuate the terms of the APA and this Order. Further, effective as of the Closing Date (as defined in the APA or as applicable to the Back-Up Bid) the Purchaser, its successors and assigns, shall be designated and appointed the Trustee's and Technologies' true and lawful attorney and attorneys, with full power of substitution, in Technologies' name and stead, on behalf and for the benefit of the Trustee, its successors and assigns, to demand and receive any and all of the Assets, and from time to time institute and prosecute in the name of the Purchaser, for the benefit of the Purchaser, its successors and assigns, any and all proceedings at law, in equity, or otherwise, that the Purchaser, its successors or assigns, may deem proper for the collection or reduction to possession of any of the Assets, and to do all acts and things with respect to the Assets that the Purchaser, its successors and assigns, shall deem desirable. All of the foregoing powers granted to the Purchaser are coupled with an interest and are irrevocable by the Trustee.

13. Exculpation and Release. Neither the Purchaser nor any of its affiliates, successors, and assigns, shall have, or incur any liability to, or be subject to any action by, Technologies or any of its predecessors, successors, or assigns, arising out of the negotiation,

investigation, preparation, execution, or delivery of the APA and the entry into and consummation of the Sale, except as expressly provided in the APA and this Order.

14. Injunction. Except as expressly provided in the APA or by this Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and regulatory authorities, lenders, vendors, suppliers, employees, trade creditors, litigation claimants and other persons, holding Liens, Claims or Interests of any kind or nature whatsoever against or in Technologies', or Technologies' estate's, interests in the Assets (whether known or unknown, legal or equitable, matured or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether arising prior to or subsequent to the commencement of this bankruptcy proceeding, whether imposed by agreement, understanding, law, equity or otherwise) shall be and hereby are forever barred, estopped and permanently enjoined from asserting, prosecuting, or otherwise pursuing Liens, Claims and Interests against the Purchaser or their affiliates, successors, and assigns, the Assets, or the interests of Technologies and the Trustee in such Assets. Following the Closing, no holder of a Lien, Claim or Interest against Technologies shall interfere with the Purchaser's title to or use and enjoyment of the Assets based on or related to such Liens, Claims and Interests, and all such Liens, Claims and Interests, if any, shall be, and hereby are transferred and attached to the proceeds from the Sale in the order of their priority, with the same validity, force and effect which they have against such Assets as of the Closing, subject to any rights, claims and defenses that Technologies' estate and the Trustee, as applicable, may possess with respect thereto. All persons are hereby enjoined from taking action that would interfere with or adversely affect the ability of the Trustee to transfer the Assets to the Purchaser in accordance with the terms of the APA and this Order. For the avoidance of doubt, nothing in this paragraph 14 shall limit or otherwise impair in any fashion whatsoever the rights that may be afforded to the Electing Parties under section 365(n)(1)(B) of the Bankruptcy Code pursuant to the 365(n) Notices.

15. Good Faith Purchaser. The APA has been entered into by the Purchaser in good faith and the Purchaser is a good faith purchaser of the Assets under section 363(m) of the

Bankruptcy Code. The APA and the Purchaser are entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

16. No Bulk Sales. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the Sale. No brokers were involved in consummation of the Sale, and no brokers' commissions are due to any person in connection with the Sale.

17. Fair and Equivalent Value. The consideration provided by the Purchaser for the Assets shall be deemed for all purposes to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law, and the Sale may not be avoided, or costs or damages imposed or awarded under section 363(n) or any other provision of the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act or any other similar federal, state or other laws.

18. Transfer of Marketable Title. On the Closing Date, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of all of the Trustee's and the bankruptcy estates' right, title and interest in the Assets or a bill of sale transferring good and marketable title in such Assets to the Purchaser on the Closing Date pursuant to the terms of the APA, free and clear of all Liens, Claims and Interests. The Purchaser shall be responsible for all attorney's fees and filing fees incurred by or on behalf of the Trustee from and after the date of this Order to maintain and preserve the Assets and shall immediately reimburse the Trustee or shall pay directly to the provider all fees and expenses incurred.

19. No Successor Liability. The consummation of the Sale does not amount to a consolidation, merger or *de facto* merger of the Purchaser and Technologies and/or Technologies' estate, there is not substantial continuity between the Purchaser and Technologies, there is no continuity of enterprise between Technologies and the Purchaser, the APA is not a mere continuation of Technologies or Technologies' estate, and the Purchaser does not constitute a successor to Technologies or Technologies' estate. The Purchaser' acquisition of the Assets shall be free and clear of any "successor liability" claims of any nature whatsoever, whether

known or unknown and whether asserted or unasserted as of the time of Closing. The Purchaser's operations shall not be deemed a continuation of Technologies' business as a result of the acquisition of the Assets.

20. Release of Liens, Claims and Interests. This Order: (a) is and shall be effective as a determination that all Liens, Claims and Interests of any kind or nature whatsoever existing as to the Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected; and (b) is and shall be binding upon and shall authorize all entities, including, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Assets conveyed to the Purchaser. All recorded Liens, Claims and Interests against the Assets, official and otherwise, shall be deemed stricken from the records of the entities described in this paragraph 20. For the avoidance of doubt, nothing in this paragraph 20 shall limit or otherwise impair in any fashion whatsoever the rights that may be afforded to the Electing Parties under section 365(n)(1)(B) of the Bankruptcy Code pursuant to the 365(n) Notices.

21. Approval to Release Liens, Claims and Interests. If any person or entity which has filed statements or other documents or agreements evidencing Liens on, or Claims or Interests in, the Assets shall not have delivered to the Trustee before the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all Liens which the person or entity has or may assert with respect to the Assets, the Trustee and the Purchaser are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with

respect to the Assets, except as to the 365(n) Notices. Without limiting the effect of the foregoing, the Trustee and the Purchaser are hereby authorized, but not directed, to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Liens on, Claims against, and Interests in the Assets. In any event, the provisions of this Order authorizing the Sale free and clear of all Liens, Claims and Interests shall be self-executing and all such Liens, Claims and Interests shall be deemed unconditionally released, discharged, terminated, divested, void and unenforceable upon the occurrence of the Closing.

22. Governmental Authorization to Effectuate Sale and Assignments. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby authorized and directed to accept any and all documents and instruments in connection with or necessary to consummate the transactions contemplated by the APA.

23. No Suspension by Governmental Units. No governmental unit may revoke or suspend any right, license, trademark or other permission relating to the use of the Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of this chapter 7 case or the consummation of the Sale.

24. Inconsistencies with Prior Orders, Pleadings or Agreements. To the extent this Order is inconsistent with any prior order or pleading with respect to the Motion in this chapter 7 case, the terms of this Order shall govern and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Sale. To the extent there is any inconsistency between the terms of this Order and the terms of the APA (including all ancillary documents executed in connection therewith), the terms of this Order shall govern.

25. Effect upon Property of the Estate other than the Assets. Except as expressly provided in the APA, nothing in this Order shall be deemed to waive, release, extinguish or estop the Trustee from asserting or otherwise impair or diminish any right

(including without limitation any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any asset that is not included in the Assets.

26. Binding Effect of Order. This Order, and the APA, shall be binding in all respects upon all creditors of the bankruptcy estate of Technologies.

27. Failure to Specify Provisions. The failure specifically to include or make reference to any particular provisions of the APA or any ancillary agreement to the APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the APA and all such ancillary agreements are authorized and approved in their entirety.

28. Retention of Jurisdiction. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order, including, without limitation, the authority to: (i) interpret, implement and enforce the terms and provisions of this Order and the terms of the APA, all amendments thereto and any waivers and consents thereunder; (ii) protect the Purchaser from and against any Liens, Claims or Interests; (iii) compel delivery of all Assets to the Purchaser; (iv) compel the Trustee, and the Purchaser to perform all of their obligations under the APA to the extent provided for therein; and (v) resolve any disputes arising under or related to the APA or the Sale.

29. No Material Modifications. The APA and any related agreements may be modified, amended, or supplemented in a non-material manner through a written document signed by the parties thereto in accordance with the terms thereof without further order of the Court. Any material modification, amendment or supplement that materially changes the economic substance of the transactions contemplated hereby must be approved by this Court.

30. Immediate Effect. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding any provision in the Bankruptcy Rules to the contrary, the Court expressly finds there is no reason for delay in the implementation of this Order and, accordingly: (i) the terms of this Order shall be immediately effective and enforceable upon its entry; (ii) Technologies is not subject to any stay in the implementation, enforcement or

realization of the relief granted in this Order; and (iii) the Trustee may, in its discretion and without further delay, take any action and perform any act authorized under this Order.

31. Consummation of the Back-Up Bid. If Purchaser fails to consummate the sale transaction under the APA, the Trustee shall sell the Assets free and clear of Liens, Claims and Interests to Total pursuant to the Back-Up Bid. Such Back-Up bid shall be in the form of a bill of sale and assignment agreement, without assumption of liabilities, which the Trustee is authorized to enter into and deliver, and with such agreement and sale to be approved without need for any further order of the Court.

32. Immediate Distribution of Sale Proceeds. Total holds a perfected lien on the Assets. Accordingly, within two (2) business days of the Closing Date (as defined in the APA), the Trustee shall distribute all but \$115,000 of the proceeds from the Sale to Total, pursuant to payment instructions to be provided by Total, subject to claw-back by the Trustee to the extent the Court enters a final, non-appealable order or judgment determining that some or all of Total's liens on the Sale proceeds are invalid, avoidable, or subject to recharacterization or equitable subordination. The \$115,000 reserved pursuant to this paragraph shall be held by the Trustee for payment of fees and expenses of intellectual property counsel, upon entry of a final order by the Court allowing such amounts. Following payment of intellectual property counsel's fees under this paragraph, the balance of the \$115,000 reserve, if any, shall be distributed to Total.

33. Provisions Non-Severable. The provisions of this order are nonseverable and mutually dependent.

DATED November 2, 2012


Henry J. Koroff
United States Bankruptcy Judge

Exhibit A

The DOE Assets

AGENCY	FUNDING AWARD NO.	PATENT/APPLICATION NO.
The United States Department of Energy ("DOE")	DE-FC36-07GO17046	App. #PCT/US11/27722
DOE	DE-FC36-07GO17046	App. #PCT/US11/40884
DOE	DE-FC36-07GO17046	App. #61/355,751
DOE	DE-FC36-07GO17046	App. #61/312,015

Exhibit B

Intellectual Property Jointly-Owned with LKG

PR Docket No.	Konarka Ref. No.	Appl. No.
15626-0077001	KON-037	11/473,467 (USP 7,749,794)
15626-0077CN1	KON-037CN	200680022606.90
15626-0077EP1	KON-037EP	6785419.0
15626-0077IN1	KON-037IN	4786/KOLNP/2007
15626-0077JP1	KON-037JP	2008-518423 (abandoned)
15626-0077KR1	KON-037KR	10-2008-7000851
15626-0078001	KON-038	11/483,501 (abandoned)
15626-0078CN1	KON-038CN	200680025517.X (issued as ZL200680025517.X)
15626-0078EP1	KON-038EP	6786847.1
15626-0078IN1	KON-038IN	4785/KOLNP/2007
15626-0078JP1	KON-038JP	2008-521510
15626-0078KR1	KON-038KR	10-2008-7000912
15626-0109001	KON-044	11/487,107 (abandoned)
15626-0109CN1	KON-044CN	200680025805.50
15626-0109EP1	KON-044EP	6787191.3
15626-0109IN1	KON-044IN	4896/KOLNP/2007
15626-0109JP1	KON-044JP	2008-521618 (abandoned)
15626-0109KR1	KON-044KR	10-2008-7000913
15626-0117001	KON-049	11/508,035 (USP 7,522,329)
15626-0117CN1	KON-049CN	200680030582.10 (issued as CN 101375205 B)
15626-0117EP1	KON-049EP	6802123.7
15626-0117IN1	KON-049IN	4844/KOLNP/2007
15626-0117JP1	KON-049JP	2008-528084
15626-0117KR1	KON-049KR	10-2008-7001493
N/A	N/A (KURZ: 47828US)	12/227,964 (US national phase of PCT/EP2007/005017)
N/A	N/A (KURZ: 47828CN)	CN101473461 (CN national phase of PCT/EP2007/005017; abandoned)
N/A	N/A (KURZ: 47828DE)	102006026981.0 (DE priority filing of PCT/EP2007/005017)
N/A	N/A (KURZ: 47828EP)	07725869.7 (EP national phase of PCT/EP2007/005017; abandoned)
N/A	N/A (KURZ: 47828JP)	2009-514678 (JP national phase of PCT/EP2007/005017)
N/A	N/A (KURZ: 47829US)	12/227,099 (US national phase of PCT/EP2007/004072)
N/A	N/A (KURZ: 47828CN)	CN101501879 (CN national phase of PCT/EP2007/004072) (issued as CN

		101501879 B)
N/A	N/A (KURZ: 47828DE)	102006021410.2 (DE priority filing for PCT/EP2007/004072; issued)
N/A	N/A (KURZ: 47828EP)	07724995.1 (EP national phase of PCT/EP2007/004072; issued as EP 2018676 B1; issued national phases in AT (AT467913T), DE (DE502007003744), DK, ES (ES2346095T), FR, GB, IT)
N/A	N/A (KURZ: 47828JP)	2009-508244 (JP national phase of PCT/EP2007/004072)