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**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Jon Leibowitz, Chairman**  
                                 **Pamela Jones Harbour**  
                                 **Willia**



2. Final Decision and Order issued by the Commission following the issuance and service of a final Decision and Order by the Commission in this matter.
- F. “Interim Monitor” means any monitor appointed pursuant to Paragraph III of this Order to Maintain Assets or Paragraph IV of the Decision and Order.
- G. “Orders” means the Decision and Order and this Order to Maintain Assets.

## II.

**IT IS FURTHER ORDERED** that from the date this Order to Maintain Assets becomes final:

- A. Until the Closing Date, Respondents shall take such actions as are necessary to maintain the full economic viability, marketability and competitiveness of the Arcturus Life Sciences Business, to minimize any risk of loss of competitive potential for the Arcturus Life Sciences Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Arcturus Life Sciences Business except for ordinary wear and tear. Respondents shall not sell, transfer, encumber or otherwise impair the Arcturus Life Sciences Business Assets (other than in the manner prescribed in the Decision and Order) nor take any action that lessens the full economic viability, marketability or competitiveness of the Arcturus Life Sciences Business.
- B. Until the Closing Date, Respondents shall maintain the operations of the Arcturus Life Sciences Business in the regular and ordinary course of business and in accordance with past practice (including regular repair and maintenance of the assets of such business) and/or as may be necessary to preserve the marketability, viability, and competitiveness of such Arcturus Life Sciences Business and shall use their best efforts to preserve the existing relationships with the following: suppliers; vendors and distributors; customers; Agencies; employees; and others having business relations with the Arcturus Life Sciences Business. Respondents’ responsibilities shall include, but are not limited to, the following:
1. providing the Arcturus Life Sciences Business with sufficient working capital to operate at least at current rates of operation, to meet all capital calls with respect to such business and to carry on, at least at their scheduled pace, all capital projects, business plans and promotional activities for the Arcturus Life Sciences Business;
  2. continuing, at least at their scheduled pace, any additional expenditures for the Arcturus Life Sciences Business authorized prior to the date the Consent Agreement was signed by Respondents including, but not limited to, all Research and Development, manufacturing, distribution, marketing and sales expenditures;
  3. providing such resources as may be necessary to respond to competition against each of the Laser Microdissection Products and/or to prevent any diminution in sales of each of



Core Employees. Each of these periods is hereinafter referred to as the “Laser Microdissection Product Core Employee Access Period(s)”;

2. not later than the earlier of the following dates: (1) ten (10) days after notice by staff of the Commission to Respondents to provide the Employee Information; or (2) ten (10) days after written request by an Acquirer, provide such Acquirer or Proposed Acquirer(s) with the Employee Information related to the Laser Microdissection Product Core Employees. Failure by Respondents to provide the Employee Information for any Laser Microdissection Product Core Employee within the time committed to the Laser Microdissection Product Core Employees.

3. not provide, disclose or otherwise make available, directly or indirectly, any such Confidential Business Information related to the marketing or sales of the Laser Microdissection Products to the employees associated with business related to those Retained Products that are used or suitable for use in commerce for the same or similar purposes as the Laser Microdissection Products; and
  4. institute procedures and requirements to ensure that the above-described employees:
    - a. do not provide, disclose or otherwise make available, directly or indirectly, any Confidential Business Information in contravention of the Orders; and
    - b. do not solicit, access or use any Confidential Business Information that they are prohibited under the Orders from receiving for any reason or purpose.
- G. Not later than thirty (30) days following the Closing Date, Respondents shall provide to all of Respondents' employees and other personnel who may have access to Confidential Business Information related to the Arcturus Life Sciences Business written or electronic notification of the restrictions on the use of such information by Respondents' personnel. At the same time, if not provided earlier, Respondents shall provide a copy of such notification by e-mail with return receipt requested or similar transmission, and keep an electronic file of such receipts for one (1) year after the Closing Date. Respondents shall provide a copy of the form of such notification to the Acquirer, the Interim Monitor, and the Commission. Respondents shall also obtain from each employee covered by this Paragraph II.G. an agreement to abide by the applicable restrictions. Respondents shall maintain complete records of all such agreements at Respondents' registered office within the United States and shall provide an officer's certification to the Commission stating that such acknowledgment program has been implemented and is being complied with. Respondents shall monitor the implementation by its employees and other personnel of all applicable restrictions, and take corrective actions for the failure of such employees and personnel to comply with such restrictions or to furnish the written agreements and acknowledgments required by the Orders. Respondents shall provide the relevant Acquirer with copies of all certifications, notifications and reminders sent to Respondents' employees and other personnel.
- H. Respondents shall adhere to and abide by the Remedial Agreements (which agreements shall not limit or contradict, or be construed to limit or contradict, the terms of the Orders, it being understood that nothing in the Orders shall be construed to reduce any obligations of Respondents under such agreement(s)), which are incorporated by reference into this Order to Maintain Assets and made a part hereof.
- I. The purpose of this Order to Maintain Assets is to maintain the full economic viability, marketability and competitiveness of the Arcturus Life Sciences Business through its full transfer and delivery to an Acquirer, to minimize any risk of loss of competitive potential for the Arcturus Life Sciences Business and to prevent the destruction, removal, wasting,



- b. with respect to each Laser Microdissection Product, the date the Acquirer (or the Designee(s) of such Acquirer) has obtained all Product Approvals necessary to manufacture, market, import, export, and sell such Laser Microdissection Product and is able to manufacture such Laser Microdissection Product independently of Respondents;

*provided, however,* that the Interim Monitor's service shall not exceed five (5) years from the date on which the Decision and Order becomes final;

*provided further,* that the Commission may shorten or extend this period as may be necessary or appropriate to accomplish the purposes of the Orders.

- E. Subject to any demonstrated legally recognized privilege, the Interim Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the normal course of business, facilities and technical information, and such other relevant information as the Interim Monitor may reasonably request, related to Respondents' compliance with their obligations under the Orders, including, but not limited to, their obligations related to the relevant assets. Respondents shall cooperate with any reasonable request of the Interim Monitor and shall take no action to interfere with or impede the Interim Monitor's ability to monitor Respondents' compliance with the Orders.

- F. The I



and Order, and every one hundred twenty (120) days thereafter, the Interim Monitor shall report in writing to the Commission concerning progress by the Acquirer toward:

1. obtaining all of the relevant Product Approvals necessary to manufacture and sell, the Laser Microdissection Products independently of Respondents and;
  2. securing sources of supply of the inputs and components for the Laser Microdissection Products from entities other than Respondents.
- I. Respondents may require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, that such agreement shall not restrict the Interim Monitor from providing any information to the Commission.
  - J. The Commission may, among other things, require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Interim Monitor's duties.
  - K. If the Commission determines that the Interim Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Interim Monitor in the same manner as provided in this Paragraph.
  - L. The Commission may on its own initiative, or at the request of the Interim Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the require

reports required to be submitted by Respondents pursuant to Paragraph VII of the De

B. The later of:

the day after the divestiture of all of the Arcturus Life Sciences Business Assets, as required by and described in the Decision and Order, has been completed and each Interim Monitor (if appointed), in consultation with Commission staff and the Acquirer(s), notifies the Commission that all assignments, conveyances, deliveries, grants, licenses, transactions, transfers and other transitions related to such divestitures are complete, or the Commission otherwise directs that this Order to Maintain A