

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT4360843

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	COURT ORDER

CONVEYING PARTY DATA

Name	Execution Date
CAMBRIDGE ENDOSCOPIC DEVICES INC.	12/24/2015

RECEIVING PARTY DATA

Name:	WHITE SAND BEACH, LLC
Street Address:	3 COLUMBUS CIRCLE, 15TH FLOOR
Internal Address:	C/O VOLCANO CAPITAL
City:	NEW YORK
State/Country:	NEW YORK
Postal Code:	10019

PROPERTY NUMBERS Total: 24

Property Type	Number
Application Number:	15469813
Patent Number:	7147650
Patent Number:	7364582
Patent Number:	7686826
Patent Number:	7842028
Patent Number:	8926597
Patent Number:	9427256
Application Number:	15240449
Patent Number:	7338513
Patent Number:	8221450
Patent Number:	8105350
Patent Number:	7615067
Patent Number:	7708758
Patent Number:	8709037
Patent Number:	8029531
Patent Number:	7648519
Patent Number:	8083765
Patent Number:	8409245
Patent Number:	8257386

PATENT

Property Type	Number
Patent Number:	D583051
Patent Number:	8409175
Patent Number:	D631155
Patent Number:	D640789
Patent Number:	9168050

CORRESPONDENCE DATA

Fax Number: (401)861-1953

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 6179210140

Email: pblackwell@saltermichaelson.com

Correspondent Name: DAVID M. DRISCOLL, ESQ.

Address Line 1: P. O. BOX 25

Address Line 4: NORTH WOODSTOCK, NEW HAMPSHIRE 03262

NAME OF SUBMITTER: DAVID M. DRISCOLL

SIGNATURE: /David M. Driscoll/

DATE SIGNED: 04/10/2017

Total Attachments: 14

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(CENTRAL DIVISION)

_____)	
In re)	
)	Chapter 11
CAMBRIDGE ENDOSCOPIC DEVICES, INC.)	
)	Case No. 15-41706-CJP
Debtor.)	
_____)	

ORDER: (I) APPROVING SALE BY DEBTOR OF CERTAIN ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES PURSUANT TO SECTIONS 105(a), 363(b), (f) AND (m) AND 365 OF THE BANKRUPTCY CODE; AND (II) GRANTING RELATED RELIEF

Upon the motion, dated September 4, 2015 [Doc. No. 6] (the "Motion") of Cambridge Endoscopic Devices Inc. (the "Debtor"), as debtor and debtor in possession for, among other things, entry of an order pursuant to 11 U.S.C. §§ 105(a), 363, and 365 and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014 (the "Sale Order") (i) authorizing the Debtor's sale (the "Sale") of substantially all of the Debtor's assets (the "Assets") as described in that certain Asset Purchase Agreement dated as of September 4, 2015, a copy of which is annexed hereto as **Exhibit A**,¹ including all of the Schedules and Exhibits thereto (as they may be amended, in accordance with the terms thereof, the "Purchase Agreement"), among the Debtor, as seller, and White Sand Beach, LLC in its capacity as agent for the Debtor's secured lenders (the "Purchaser"), free and clear of all liens, claims, encumbrances, and interests (hereinafter defined collectively as the "Interests"), with such Interests to transfer, affix, and attach to the proceeds of the Sale, all as more fully set forth herein; (ii) approving the Purchase Agreement; (iii) authorizing the assumption and assignment of certain executory contracts and unexpired leases (the "Included Contracts") pursuant to and as provided for in the Purchase Agreement; and (iv)

¹ Capitalized terms not defined herein shall have the meanings set forth in the Purchase Agreement

fixing all amounts, if any, required to be paid or escrowed pending resolution of disputes concerning such amounts in connection with the assumption of the Included Contracts pursuant to 11 U.S.C. § 365(b)(1)(A) and (B) (the "Cure Amounts"); and the Court having held a hearing on September 22, 2015 and thereafter entered an Order dated September 25, 2015 [Doc. No. 28] (the "Bid Procedures Order"), authorizing the Debtor to conduct an auction pertaining to and approving the terms and conditions for the Sale of the Assets and the assumption and assignment of the Included Contracts, and for the Debtor to consider higher or otherwise better offers for the Assets and the Included Contracts (the "Auction") and scheduling a hearing to consider the Motion and the results of the Auction (the "Sale Hearing"); and the Court having entered a supplemental order dated December 2, 2015 [Doc. No. 63] (the "Supplemental Bid Procedures Order") extending the deadline for the Debtor to solicit offers for the Assets and for parties in interest to file objections to the proposed sale to 5:00 p.m. on December 22, 2015 (the "Extended Deadline"); and no competing qualified bids or objections to the Motion having been submitted on or before the Extended Deadline, and Purchaser having submitted the highest and best bid for the Assets and the Included Contracts; and it appearing that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and all parties in interest; and the Debtor having filed a declaration of John Schulte dated November 25, 2015 [Doc. No. 54] (the "Schulte Declaration") in support of the proposed sale; and the Court having entered an order on November 25, 2015 [Doc. No. 55] cancelling the Sale Hearing, originally scheduled for November 30, 2015, in view the fact that no opposition to the sale had been filed with the Court and the Court having reviewed and considered the Schulte Declaration and determined that, under the circumstances, there was sufficient notice and an opportunity for parties in interest to be heard and thus there was no need for an actual hearing; and, no such offers for the Assets or

objections to the proposed sale having been filed on or before the Extended Deadline; and the Court having ruled, in the Supplemental Bid Procedures Motion, that it may approve the Motion and the sale of the Assets without further hearing; and after due deliberation; and good cause appearing therefor, the Court hereby

FINDS, DETERMINES, AND CONCLUDES THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052, made applicable to this proceeding pursuant to Fed. R. Bankr. P. 9014.

B. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. The Court has jurisdiction over the Motion and the transactions contemplated by the Purchase Agreement pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (N). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

D. The statutory predicates for the relief sought in the Motion are sections 105, 363, and 365 of 11 U.S.C. §§ 101 et. seq. (the "Bankruptcy Code"), and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014.

E. As evidenced by the affidavits of service previously filed with the Court, (i) proper, timely, adequate, and sufficient notice of the Motion, the Auction, the Bid Procedures Order, the Sale Hearing and the Sale has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Fed. R. Bankr. P. 2002, 6004, and 9014, the Bidding Procedures Order and the Purchase Agreement; (ii) such notice was good and sufficient, and

appropriate under the particular circumstances, and (iii) no other or further notice of the Motion, the Auction, the Bid Procedures Order, the Sale Hearing, the Sale, or the assumption and assignment of the Included Contracts is or shall be required.

F. As evidenced by the Schulte Declaration and the Certificate of Notice of Intended Sale dated December 3, 2015 [Doc. No. 65], notice to all interested parties was circulated, properly, timely, adequate so that interested parties in this space were all provided with notice and an opportunity to bid.

G. As evidenced by affidavits previously filed with the Court, in the two years period prior to the Petition Date, the Debtor extensively marketed the Assets to numerous parties directly and through its former investment banker MedCap Advisors LLC.

H. The Debtor (i) has full power and authority to execute the Purchase Agreement and all other documents contemplated thereby, (ii) has all of the power and authority necessary to consummate the transactions contemplated by the Purchase Agreement, and (iii) has taken all company action necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby.

I. No consents or approvals, other than those expressly provided for in the Purchase Agreement, are required for the Debtor to consummate the transactions contemplated herewith.

J. Emergent circumstances and sound business reasons exist for the Debtor's Sale of the Assets under the Purchase Agreement. Entry into the Purchase Agreement and consummation of the transactions contemplated thereby constitute the exercise by the Debtor of sound business judgment, and such acts are in the best interests of the Debtor, its estate, its creditors and all parties in interest. The Court finds that the Debtor has articulated good and

sufficient business reasons justifying the Sale of the Assets under sections 105 and 363 of the Bankruptcy Code. Such business reasons include, but are not limited to, the following: (i) there is substantial risk of deterioration of the value of the Assets if the Sale is not consummated quickly; (ii) the Purchase Agreement constitutes the highest and best offer for the Assets; and (iii) the Purchase Agreement and the closing thereon will present the best opportunity to realize the value of the Assets on a going-concern basis, and avoid decline and devaluation of the Debtor's business.

K. The Purchase Agreement and the transactions contemplated thereby were negotiated, and have been and are being undertaken by the Debtor and Purchaser, at arms' length and without collusion or fraud, and in good faith within the meaning of section 363(m) of the Bankruptcy Code. The Auction was conducted in accordance with the Bid Procedures Order, and this Court concluded at the hearing on the Motion that the Purchaser submitted the highest and best bid for the Assets.

L. The Purchase Agreement was negotiated, proposed and entered into by the Debtor and the Purchaser without collusion, in good faith, and at arms' length bargaining positions. Neither the Debtor nor the Purchaser has engaged in any conduct that would cause or permit the Purchase Agreement to be avoided under section 363(n) of the Bankruptcy Code.

M. The consideration provided by the Purchaser for the Assets is the highest and otherwise best offer received by the Debtor and is fair and reasonable. A sale of the Assets, other than one free and clear of Interests, would impact materially and adversely on the Debtor's estate, and would yield substantially less value for the Debtor's estate, with less certainty than the Sale. Therefore, the Sale is in the best interests of the Debtor, its estate, creditors and all parties in interest.

N. A reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons and entities, including: (i) the Office of the United States Trustee for the District of Massachusetts (the "U.S. Trustee"); (ii) the Purchaser; (iii) all entities that may have an interest in a transaction with respect to the Assets; (iv) all entities known to have asserted any Interests in, upon or against the Assets or the Debtor; and (v) all parties having filed a notice of appearance in this Case.

O. The Purchaser is not an "insider" of the Debtor, as that term is defined in section 101(31) of the Bankruptcy Code.

P. The transfer of the Assets to the Purchaser will be a legal, valid, and effective transfer of the Assets, and will vest the Purchaser with all right, title, and interest of the Debtor to the Assets free and clear of all Interests including, but not limited to, claims otherwise arising under doctrines of successor liability.

Q. The Purchaser would not have entered into the Purchase Agreement, and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtor, its estate and creditors, if the sale of the Assets to the Purchaser was not free and clear of all Interests of any kind or nature whatsoever other than liabilities expressly assumed under the Purchase Agreement, or if the Purchaser would, or in the future could, be liable for any of such Interests including, without limitation, the Excluded Liabilities.

R. The Debtor may sell the Assets free and clear of all Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests which did not object, or which withdrew their objections to the Sale or the Motion, are deemed to have consented under section 363(f)(2) of the Bankruptcy Code. Those holders of Interests that did

object fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code, and are adequately protected by having their Interests, if any, attach to the cash proceeds of the Sale ultimately attributable to the property against or in which they assert an Interest.

S. Approval of the Purchase Agreement and consummation of the sale of the Assets, at this time are in the best interests of the Debtor, its creditors, its estate and all parties in interest.

For all of the foregoing and after due deliberation, the Court **ORDERS, ADJUDGES, AND DECREES THAT:**

GENERAL PROVISIONS

1. The Motion is granted, as provided for herein.
2. No objections to the Motion were filed. All responses, formal or informal objections to the Motion or reservations of rights concerning the Motion are resolved in accordance with the terms of this Order and are otherwise overruled and denied.

APPROVAL OF THE PURCHASE AGREEMENT

3. The Purchase Agreement, and all of the terms and conditions thereof, is approved.
4. Pursuant to section 363(b) of the Bankruptcy Code, the Debtor is authorized and directed to perform its obligations under, and comply with the terms of, the Purchase Agreement and consummate the Sale pursuant to and in accordance with the terms and conditions of the Purchase Agreement.
5. The Debtor is authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take all further actions as may be requested by the

Purchaser for the purpose of assigning, transferring, granting, conveying and conferring the Assets to the Purchaser or reducing the Assets to their possession, all as may reasonably be necessary or appropriate to the performance the Debtor's obligations as contemplated by the Purchase Agreement.

6. This Sale Order and the Purchase Agreement shall be binding in all respects upon all creditors (whether known or unknown) of the Debtor, all governmental entities, all successors and assigns of the Purchaser, the Debtor and their affiliates and subsidiaries, and any subsequent trustee appointed in the Debtor's chapter 11 case or upon a conversion of the Debtor's case to chapter 7. Nothing contained in any chapter 11 plan confirmed in this bankruptcy case or the order confirming any such chapter 11 plan shall conflict with or derogate from the provisions of the Purchase Agreement or this Sale Order.

TRANSFER OF ASSETS

7. Except as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Assets, including all patents and patent designs and title and interest throughout the world in and to any and all developments, original works of authorship, inventions, concepts, know-how, improvements or trade secrets, whether or not patentable or registrable, shall be transferred to the Purchaser, and upon Closing shall be free and clear of all Interests of any kind or nature whatsoever with all such Interests of any kind or nature whatsoever to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force and effect, which they now have as against the Assets, subject to any claims and defenses the Debtor may possess with respect thereto.

8. The transfer of the Assets to the Purchaser under the Purchase Agreement constitutes a legal, valid, and effective transfer of the Assets, and shall vest the Purchaser with all

right, title, and interest of the Debtor in and to the Assets free and clear of all Interests of any kind or nature whatsoever.

9. If any person or entity that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing Interests in the Assets, shall not have delivered to the Debtor prior to the Closing in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction or releases of all interests that the person or entity has with respect to the Assets, then the Purchaser is authorized on or after Closing, to file, register or otherwise record a certified copy of this Sale Order which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Assets of any kind or nature whatsoever subject to paragraph 7 hereof.

PAYMENT TO THE DEBTOR

10. Purchaser's consideration for the Assets to be paid at Closing in accordance with the Purchase Agreement is (i) a credit bid in the amount of \$3,000,000, (ii) cash in the amount of \$100,000, and (iii) a waiver of its deficiency claim. (collectively, the "Purchase Price"). The Debtor acknowledges it has already received the sum of \$32,200 under the Purchase Agreement which shall be credited against the Purchase Price at Closing.

ADDITIONAL PROVISIONS

11. The consideration provided by the Purchaser for the Assets under the Purchase Agreement shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law, and the auction sale and sale price was not controlled by an agreement among potential bidders at the auction sale, and may not be avoided under section 363(n) of the Bankruptcy Code.

12. On the Closing of the Sale, all parties are authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release their Interests in the Assets, if any, as such Interests may have been recorded or may otherwise exist.

13. Except as otherwise expressly provided in the Purchase Agreement, Purchaser shall have no obligation to pay wages, bonuses, severance pay, benefits (including, without limitation, contributions or payments on account of any under-funding with respect to any and all pension plans) or any other payment to employees of the Debtor. Purchaser shall have no liability with respect to any collective bargaining agreement, employee pension plan, employee welfare or retention, benefit and/or incentive plan to which the Debtor is or was a party and that relates to the Assets (including, without limitation, arising from or related to the rejection or other termination of any such agreement), and Purchaser shall in no way be deemed to be parties to or assignees of any such agreements, and no employee of Purchaser shall be deemed in any way to be covered by or a party to any such agreement, and all parties to any such agreements are enjoined from asserting against Purchaser any and all claims arising from or relating to such agreements.

14. Each and every federal, state, and local governmental agency or department is directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

15. All entities that are presently, or on the Closing may be, in possession of any or all of the Assets are directed to surrender possession of the Assets to the Purchaser on the Closing.

16. Except for the Assumed Liabilities or as expressly permitted or otherwise specifically provided for in the Purchase Agreement or this Sale Order, the Purchaser shall have no liability or responsibility for any liability or other obligation of the Debtor arising under or related to the Assets other than for the Assumed Liabilities. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein and in the Purchase Agreement, to the extent allowed by law, the Purchaser shall not be liable for any claims against the Debtor or any of its predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character including, but not limited to, any such liability that may be imposed by statute (e.g., under so-called "bulk-sale" laws) or any theory of antitrust, environmental, products liability, successor or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtor or any obligations of the Debtor arising prior to the Closing including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Assets prior to the Closing.

17. Under no circumstances shall the Purchaser be deemed to be a successor of or to the Debtor for any Interest against or in the Debtor or the Assets of any kind or nature whatsoever. The sale, transfer, assignment and delivery of the Assets shall not be subject to any Interests, and Interests of any kind or nature whatsoever shall remain with and continue to be obligations of the Debtor. All Persons holding Interests against or in the Debtor or the Assets of any kind or nature whatsoever (including but not limited to, the Debtor and/or its respective successors, including any trustee's thereof, creditors, employees, unions, former employees and shareholders, administrative agencies, governmental units, secretaries of state, federal, state and

local officials, maintaining any authority relating to any environmental, health and safety laws, and their respective successors or assigns) shall be and are forever barred, estopped and permanently enjoined from asserting, prosecuting or otherwise pursuing such Interests of any kind or nature whatsoever against the Purchaser, their property, their successors and assigns, or the Assets as an alleged successor or otherwise, with respect to any Interest of any kind or nature whatsoever such Person or entity had, has or may have against or in the Debtor, its estate, officers, directors, shareholders or the Assets. Except as expressly permitted or otherwise specifically provided in the Purchase Agreement or this Sale Order, following the Closing no holder of an Interest in the Debtor shall interfere with the Purchaser's title to or use and enjoyment of the Assets based on or related to such Interest, or any actions that the Debtor may take in its chapter 11 case.

18. Nothing in this Sale Order shall be construed to limit, in any fashion, the lawful regulatory and enforcement powers of the Federal Trade Commission.

19. This Court retains jurisdiction to enforce and implement the terms and provisions of the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects including, but not limited to, retaining jurisdiction to (i) compel delivery of the Assets and the Included Contracts to the Purchaser; (ii) upon compliance with all of the terms and conditions of the Purchase Agreement, to compel delivery of the Purchase Price to the Debtor; (iii) resolve any disputes arising under or related to the Purchase Agreement; (iv) interpret, implement and enforce the provisions of this Sale Order; and (v) protect the Purchaser against (a) any of the Excluded Liabilities, or (b) any Interests in the Debtor or the Assets, of any kind or nature whatsoever, that are or will be attaching to the proceeds of the Sale; provided, however, that in

the event the Court abstains from exercising or declines to exercise such jurisdiction or is without jurisdiction respecting the Purchase Agreement or this Sale Order, such abstention, refusal or lack of jurisdiction shall have no effect upon, and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter; provided, further, that nothing in this Sale Order shall contravene any provisions in the Purchase Agreement concerning the processes for dispute resolution.

20. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale of the Assets to the Purchaser (including the assumption, assignment and sale of any of the Included Contracts), unless such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good faith of the Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

21. The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of the Debtor, its estate, its creditors and all parties in interest, the Purchaser, and their respective affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons asserting an Interest in the Assets to be sold to the Purchaser under the Purchase Agreement, notwithstanding any subsequent appointment of a trustee(s), party, entity, or other fiduciary under any section of any chapter of the Bankruptcy Code or, as to which trustee(s), party, entity, or other fiduciary such terms and provisions likewise shall be binding.

22. The provisions of this Sale Order and the terms and conditions of the Purchase Agreement shall be binding upon, fully enforceable against and inure to the benefit of any trustee, responsible officer or other fiduciary appointed in the Debtor's chapter 11 case under any section of the Bankruptcy Code or any applicable law. Such binding effect is an integral part of this Sale Order. The failure specifically to include any particular provisions of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety. Notwithstanding anything herein to the contrary, the Purchase Agreement and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estate.

23. The stay of orders authorizing the (i) use, sale, or lease of property as provided for in Fed. R. Bank. P. 6004(g) and (ii) assignment of an executory contract or unexpired lease as provided for in Fed. R. Bank. P. 6006(d), shall not apply to this Sale Order, and this Sale Order is immediately effective and enforceable upon its entry.

Dated: December 24, 2015



UNITED STATES BANKRUPTCY JUDGE