

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
CYNERGY DATA, LLC, *et al.*, ) Case No. 09-13038 (KG)  
)  
Debtors. ) Jointly Administered  
)  
\_\_\_\_\_ )

**MOTION OF TRIBUL MERCHANT SERVICES, LLC, TRIBUL LLC, AND SECOND SOURCE FUNDING LLC FOR AN ORDER UNDER 11 U.S.C. § 102(1) SHORTENING NOTICE RELATING TO THE MOTION OF TRIBUL MERCHANT SERVICES, LLC, TRIBUL LLC, AND SECOND SOURCE FUNDING LLC FOR ENTRY OF AN ORDER AUTHORIZING THE ISO AGREEMENTS TO BE FILED UNDER SEAL**

Tribul Merchant Services, LLC, Tribul LLC, and Second Source Funding LLC (together, the “Tribul Parties”) hereby move (the “Motion”) for entry of an order, pursuant to section 102(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) (a) shortening notice to allow the *Motion of Tribul Merchant Services, LLC, Tribul LLC, and Second Source Funding LLC for Entry of an Order Authorizing the ISO Agreements to be Filed Under Seal* (the “Seal Motion”),<sup>1</sup> filed contemporaneously herewith, to be considered on an expedited basis; (b) setting October 7, 2009 at 2:00 p.m. (ET) as the deadline to file objections to the Seal Motion (the “Objection Deadline”); and (c) scheduling the hearing on the Seal Motion for the omnibus hearing currently scheduled for October 7, 2009 at 2:00 p.m. (ET) (the “Hearing”). In further support of this Motion, the Tribul Parties respectfully represent as follows:

<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Seal Motion.

## **JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 102(1) of the Bankruptcy Code, as supplemented by Bankruptcy Rules 9006 and Local Rule 9006-1(e).

## **BACKGROUND**

3. On September 1, 2009 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. On the Petition Date, the Debtors filed a motion, seeking, among other things, (a) authority to sell substantially all of their assets free and clear of all liens, claims, interests and encumbrances to a proposed stalking horse bidder or another bidder; (b) approval of certain procedures for the solicitation of competing bids with respect to the Sale Transaction; (c) establishing a date, time, and location for an auction if competing bids are received, (d) to establish procedures relating to the assumption and assignment of executory contracts and unexpired leases; and (d) scheduling of a final hearing with the Bankruptcy Court for approval of the sale (the "Sale Motion").

5. Contemporaneous with the filing of this Motion, the Tribul Parties filed the *Objection of Tribul Merchant Services, LLC, Tribul LLC, and Second Source Funding LLC to Debtors' Motion for an Order Pursuant to Sections 105, 363, 365, 503, And 507 of the Bankruptcy Code And Bankruptcy Rules 2002, 6004, 6006, 9007 And 9014 (I)(A) Authorizing and Scheduling an Auction at Which the Debtors Will Solicit Higher and Better Offers in Connection with the Sale Of Certain Assets, (B) Approving the Bid Procedures for Such Assets, (C) Approving Break-Up Fee and Expense Reimbursement and (D) Approving the Form and*

*Scope of Notice of the Bid Procedures and Auction; (II) Approving the Sale of the Assets Free and Clear of All Liens, Claims, and Encumbrances; (III) Approving Procedures For Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief as Requested Herein (the “Objection”).* Due, however, to the confidential and sensitive nature of the ISO Agreements, the Tribul Parties did not attach the ISO Agreements to the Objection and instead filed the Motion to Seal seeking authority to file the ISO Agreements under seal. The hearing on the Sale Motion and the Objection is currently set for October 7, 2009 at 2:00 p.m.

#### **RELIEF REQUESTED**

6. By this Motion, the Tribul Parties seek entry of an order (a) shortening notice to allow the Seal Motion to be considered on an expedited basis; (b) setting October 7, 2009 at 2:00 p.m.. (ET) as the Objection Deadline to the Seal Motion; and (c) scheduling the hearing on the Seal Motion for the hearing on October 7, 2009 at 2:00 p.m. (ET).

#### **BASIS FOR RELIEF**

7. Local Rule 9006-1(e) provides for shortened notice “by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” Del. Bankr. L.R. 9006-1(e).

8. Local Rule 9018-1 provides that “[a]ny party who seeks to file documents under seal must file a motion to that effect.” Del. Bankr. R. 9018-1. Local Rule 9018-1 further provides that a copy of the sealed documents must be delivered directly to the Judge’s chambers by 12:00 pm. (ET) two (2) days prior to the hearing on the motion to file under seal. The hearing on the Sale Motion and the Objection is currently set for tomorrow, October 7, 2009 at 2:00 p.m.,

accordingly, the Tribul Parties are seeking shortened notice of the Motion to Seal. As set forth below, shortening notice is justified.

9. The Sale Motion and the Objection are currently set for hearing on October 7, 2009 at 2:00 p.m. To allow the Court to rule on the merits of the Objection, the Seal Motion must be considered at the hearing currently scheduled for October 7, 2009, at 2:00 p.m.

10. Accordingly, the Tribul Parties believe that shortening notice is justified in these circumstances.

**NOTICE**

11. Notice of this Motion will be served by facsimile upon the Debtors, the Creditors Committee, those parties requesting notice pursuant to Bankruptcy Rule 2002, and the Office of the United States Trustee for the District of Delaware. The Tribul Parties respectfully submit that no other or further notice is necessary under the circumstances.

**NO PRIOR REQUEST**

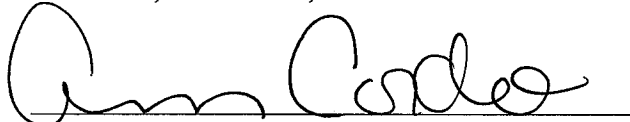
12. No prior request for the relief sought herein has been made to this or any other court.

*[Remainder of Page Intentionally Left Blank]*

WHEREFORE, the Tribul Parties respectfully request that this Court (i) grant this Motion and the relief requested herein; (ii) enter the proposed order attached hereto; and (iii) grant such other and further relief as it deems just and proper.

Date: October 6, 2009  
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

A handwritten signature in black ink, appearing to read "Ann Cordo", written over a horizontal line.

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*Attorneys for Tribul Merchant Services, LLC, Tribul  
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**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
CYNERGY DATA, LLC, *et al.*, ) Case No. 09-13038 (KG)  
)  
Debtors. ) Jointly Administered  
)  
\_\_\_\_\_ ) Re: D.I. \_\_\_\_\_

**ORDER UNDER 11 U.S.C. § 102(1) SHORTENING NOTICE RELATING TO THE  
MOTION OF TRIBUL MERCHANT SERVICES, LLC, TRIBUL LLC, AND SECOND  
SOURCE FUNDING LLC FOR ENTRY OF AN ORDER AUTHORIZING THE ISO  
AGREEMENTS TO BE FILED UNDER SEAL**

Upon consideration of the motion (the “Motion”)<sup>1</sup> of Tribul Merchant Services, LLC, Tribul LLC, and Second Source Funding LLC (together, the “Tribul Parties”), for entry of an Order pursuant to section 102(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) (a) shortening notice to allow the *Motion of Tribul Merchant Services, LLC, Tribul LLC, and Second Source Funding LLC for Entry of an Order Authorizing the ISO Agreements to be Filed Under Seal* (the “Seal Motion”), filed contemporaneously herewith, to be considered on an expedited basis; (b) setting October 7, 2009 at 2:00 p.m. (ET) as the deadline to file objections to the Seal Motion (the “Objection Deadline”); and (c) scheduling the hearing on the Seal Motion for the omnibus hearing currently scheduled for October 7, 2009 at 2:00 p.m. (ET) (the “Hearing”) and notice of the Motion having been given that is due and adequate under the circumstances; and it appearing that no further notice is required; and sufficient cause appearing therefore;

<sup>1</sup> Capitalized terms used but undefined herein shall have the meanings ascribed to them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Seal Motion will be considered at the hearing scheduled for **October 7, 2009 at 2:00 p.m.(ET)**.

2. Objections, if any, to the Seal Motion shall be filed and served no later than **October 7, 2009 at 2:00 p.m. (ET)**.

3. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2009  
Wilmington, Delaware

\_\_\_\_\_  
THE HONORABLE KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

**CERTIFICATE OF SERVICE**

I, Ann C. Cordo, certify that I am not less than 18 years of age, and that service of the **Motion Of Tribul Merchant Services, LLC, Tribul LLC, And Second Source Funding LLC For An Order Under 11 U.S.C. § 102(1) Shortening Notice Relating To The Motion Of Tribul Merchant Services, LLC, Tribul LLC, And Second Source Funding LLC For Entry Of An Order Authorizing The ISO Agreements To Be Filed Under Seal** was caused to be served on October 6, 2009, in the manner indicated upon the parties on the attached list.

Date: October 6, 2009

  
Ann C. Cordo (No. 4817)

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