

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
: Chapter 11
In re: :
: Case No. 12-13398 (MFW)
THQ INC., *et al.*, :
: Jointly Administered
Debtors.¹ :
-----X RE: Docket Nos. 342 and 387

**ORDER APPROVING THE SALE OF MISCELLANEOUS ASSETS TO
CRYTEK GmbH**

On February 19, 2013, the Court granted the above-captioned Debtors’ Motion to Establish Procedures for the Sale or Abandonment of Certain Miscellaneous Assets Outside the Ordinary Course of Business Free and Clear of Liens, Claims, and Encumbrances [D.I. 288] (the “**Miscellaneous Asset Sale Motion**”) and entered the *Order to Establish Procedures for the Sale or Abandonment of Certain Miscellaneous Assets Outside the Ordinary Course of Business Free and Clear of Liens, Claims, and Encumbrances* [D.I. 387] (the “**Miscellaneous Asset Sale Procedures Order**”).²

On February 12, 2013, pursuant to the Miscellaneous Asset Sale Motion and the proposed Miscellaneous Asset Sale Procedures Order, THQ Inc. (“**THQI**”) along with its affiliated debtors and debtors in possession (collectively, the “**Debtors**”) filed and served *Debtors’ Notice of Proposed Sale of Miscellaneous Assets* [D.I. 342] (the “**Notice of Sale**”). A list of the miscellaneous assets located in Austin, Texas to be sold to purchaser Crytek GmbH (“**Crytek**”) was attached as Exhibit A to the Notice of Sale. A finalized list of miscellaneous

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: THQ Inc. (1686); THQ Digital Studios Phoenix, Inc. (1056); THQ Wireless Inc. (7991); Volition, Inc. (4944); and Vigil Games, Inc. (8651). The Debtors’ principal offices are located at 29903 Agoura Road, Agoura Hills, CA 91301.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Miscellaneous Asset Sale Procedures Order.



assets is attached hereto as Exhibit 1 (the “**Miscellaneous Assets**”). Crytek, THQI and Vigil Games, Inc. have agreed to the sale of the Miscellaneous Assets pursuant to the terms of the Asset Purchase Agreement substantially in the form attached hereto as Exhibit 2. The deadline for objections to the Notice of Sale was February 20, 2013 at 4:00 p.m. (ET).

On February 21, 2013, the Debtors filed a *Certification of Counsel with Respect to Order Approving the Sale of Miscellaneous Assets to Crytek GmbH* (the “**COC**”). The COC states that no objections to the Notice of Sale have been filed by the Notice Parties by the Objection Deadline and/or the Notice Parties have consented to the proposed sale.

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS:

A. Jurisdiction and Venue. This Court has jurisdiction to consider this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of these cases is proper under 28 U.S.C. §§ 1408 and 1409.

B. Statutory Predicates. The statutory predicates for the sale of the Miscellaneous Assets to Crytek are sections 363(b) and 363(f) of the Bankruptcy Code. Pursuant to Bankruptcy Rule 7052, 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.

C. Notice. As evidenced by the COC, the Notice of Sale was served on the Notice Parties and complied with all of the requirements of the Miscellaneous Asset Sale Procedures Order. No other or further notice need be provided and such notice was and is good, sufficient, and appropriate under the circumstances of the Debtors' Chapter 11 Cases.

D. Opportunity to Object. The Debtors provided the Notice Parties five (5) business days in which they could object to the proposed sale of the Miscellaneous Assets. There was a reasonable opportunity to object and to be heard with respect to the proposed sale of the Miscellaneous Assets and no objection was filed by any of the Notice Parties.

E. Free and Clear. As noted above, no objections to the Notice of Sale have been filed. Accordingly, pursuant to the terms set forth in the Miscellaneous Asset Sale Procedures Order, the Debtors may sell all of their rights, title, and interests in the Miscellaneous Assets to Crytek free and clear of all liens, claims, interests, and encumbrances, with any such liens, claims, interests, and encumbrances to attach to the proceeds of sale received by the Debtors from Crytek.

NOW, THEREFORE, IT IS ORDERED THAT:


1. The sale of the Miscellaneous Assets to Crytek is hereby GRANTED and APPROVED. Pursuant to section 363(f) of the Bankruptcy Code, the Miscellaneous Assets are hereby sold to Crytek free and clear of all liens, claims, interests, and encumbrances.

2. The Debtors and Crytek are authorized and empowered to take all actions necessary or appropriate to implement the relief granted herein and to close on the proposed sale as quickly as possible, all as provided hereunder and under the Miscellaneous Asset Sale Procedures Order.

3. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

4. This Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: Feb. 22, 2013
Wilmington, Delaware



MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

SALE OF MISCELLANEOUS ASSETS

Description of Miscellaneous Assets	Sale Price	Buyer	Location of Miscellaneous Assets
Set forth below	\$80,000	Crytek GmbH	Austin, Texas

MISCELLANEOUS ASSETS

GCS Tech Voice Cabling
 RL-MHW Relate Std Mesh High Bk/Adj Arms
 Sum Chairs High Back (quantity: 7)
 Cabinets for Sam Gage's office
 Sharp 50" TV (QTY 1) TAG 24806
 Conf Room Chairs
 Digital Playstation - Phones QTY1
 Refrigerator
 Samsung 23 (qty 10)
 16 Samsung 23" LCD TV
 Network Hardware for New Location
 Dell - 4 Post Rack and KVM
 48-Port Catalyst Switch
 Dell 4210 Rack & VKM Switch
 48 port GIG Blade for Vigil Games
 12 kVA Symmetra LX UPS System
 Sweetwater audio equip. (for new sound designer)
 Audio Equipment -Sweetwater quote (QTY 1)
 Sweetwater Quote 1564964 (QTY 1)
 Sweetwater Quote 1572919 (QTY 1)
 Sweetwater Audio Equipment
 Dell PrecisionT5500 Workstation (QTY 1)
 Dell Precision T5500 Machine (QTY 1)
 Dell PowerEdge R210 (Qty 1)
 Dell Precision T5500 QTY 5
 Network Storage System (QTY 2)
 Network Storage Syst (qty 1)
 Prepaid Service Hours
 Dell PowerEdge R410 qty 1 TAG 24805
 Dell Precision T5500 Workstation (QTY 1)

Dell Precision T5500 Workstation (QTY 7)
Insight Port Switch (Qty 1) TAG 24797
Dell 4220 42U Server Rack TAG 24875
T7500 Workstation & Graphic cards QTY 14
HP Servers DL160 QTY 4 TAG 24877 to 24880
Dell workstations T7500 TAG 24856 to 24870
Dell PE R510 Server QTY 1 TAG 24876
Dell Precision T7500 PCs Tag # 24893-94 & 24896-99
PE R610 Performance Server QTY 1
NE O 2000E 2-LO5 SAS FH
Dell Precision M6500
Dell T7500
PE R710 Server
PE R610 - Dell Backup System Server
Dell T7500 Workstation
M6500 laptops
Hardware Package Storage
CISCO Equipment
Dell T7500 Workstation (Q13) & Video Cards (Q13)
PE R515 Chassis
PowerVaultMD3620i
Alienware
Dell Mobile Precision Computer M6600 Qty 6
PA Box Qty 1
Dell Workstations (Q15) & Graphic Cards (Q15)
Dell PwrEdg R710 Server
Workstations (Qty9)
Catalyst 4500 E-Series
Dell Mobile Precision M6600 (Qty 5)
Alienware Aurora ALX
Dell Precision M6600 (Q3)
DellT7500/P2011H & U2410 Monitors/GTX580 Q10ea
NETGEAR ReadyNAS 4200 (qty1)
(2) Dell: XPS 9000s i7-960
(9) Dell Studio XPS 9000 i7-960
(3) XPS 9000 i7-960
(4) Studio XPS i7-960
(2) Dell: XPS 9000
(2) Dell XPS i7-960
Servers for the new build system (qty 2)
Dell T7500,20" Monitor,24" Monitors,GTX 580(Q10ea)
1 Dell Studio XPS 9000 i7-980 Extreme
M6600 (Qty 3)

Auto-uploading system
Dell PowerEdge R515
Wacom Cintiq 21UX Graphics Tablet
Wacom Cintiq 21 w/grip pen
Wacom Cintiq 21 Monitor w/pen
Cisco Catalyst 4500 Chassis
Wacom Cintiq 21 NR
Wacom Cintiq 21UX Monitor w/ Grip Pen
Wacom Cintiq 21UX Monitor W/Pen
Apple MacBook Pro
Canon image i PF8300
Dell PowerEdge R710 Rack Mount Server
Dell PowerEdge R710 Rack Mount Server
Dell PowerEdge R710 Rack Mount Server
Dell PowerEdge R710 Rack Mount Server
Dev CAT-DEV W/ DRC,CAT-R Disc Reader,Writer
PTHDXCore - Avid PPro Tools HDX System (q1)
PTNativeCore - Avid HD Native Core (q1)
Sharp 65" TV (Qty 3)
Brunswick Pool Table (Qty 1)
Lifesize Vid Con (Qty 1)
Integra Receivers (Qty 3)
Triad Speakers (Qty 3)
Polycom phones (Qty 2)
Brunswick Air Hockey (Qty 2)
Crestron Automation system (Qty 1)
Sure wireless Microphone system (Qty 1)
Edgestar Keg Fridge (Qty 1)
Sharp 52" TV (Qty 2)
GE Microwave (Qty 4)
Margeritaville margerita machine (Qty 1)
Frigidare freezer/fridge combo (Qty 1)
MGE UPS (Qty 1)
Avaya Phone system (Qty 1)
Avaya Phones (Est. qty 150)
Dell Printer (Qty 2)
HP K850 (Qty 1)
Epson Scanner (Qty 2)
Epson Printer (Qty 1)
Dell Printer (Qty 2)
Ping Pong table (Qty 2)
Dell Printer (Qty 2)

EXHIBIT 2

Execution Version

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (“Agreement”) is executed as of February 21, 2013, by and between Crytek GmbH, a German limited liability company (“Buyer”) on one hand and THQ Inc., a Delaware corporation (“THQ”) and Vigil Games, Inc., a Texas corporation (together with THQ, the “Seller”) on the other hand.

WITNESSETH:

WHEREAS, Seller is the lawful owner of the IT equipment and personal property located at 11305 4 Points Dr. #1-13, Austin, TX 78726 and described in Exhibit A hereto (“Property”);

WHEREAS, Buyer desires to purchase all of said Property and Seller desires to sell all of said Property to Buyer;

WHEREAS, the entities comprising Seller are currently operating their businesses as debtors in possession under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”); and

WHEREAS, Seller intends to seek authorization from the Bankruptcy Court to complete the sale contemplated herein free and clear of liens, claims, interests and encumbrances, pursuant to a Bankruptcy Court order approving asset sales pursuant to miscellaneous asset sale procedures and, if no objections to the notice of such sale are timely filed and served, pursuant to an order (the “Sale Order”) expected to be entered by the Bankruptcy Court approving the sale of the Property free and clear of liens, claims, encumbrances and other interests pursuant to section 363(f) of the Bankruptcy Code.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter contained, the Seller agrees to sell and the Buyer agrees to buy the Property upon the following terms and conditions.

1. INSPECTION OF PROPERTY

a. Prior to the day on which the Sale Order is entered (the “Sale Order Entry Date”), Buyer or its representatives shall have the right to inspect the Property provided that one or more representatives of Seller accompanies Buyer during such inspection.

2. CLOSING.

a. Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall be held at the offices of THQ Inc. or electronically prior to or on the date that is one business day after the Sale Order Entry Date (the “Closing Date”).

b. Purchase Price. On the Closing Date Buyer shall pay by wire transfer and Seller shall accept as the purchase price for the Property the sum of \$80,000 (the “Purchase Price”).

c. Title. On the Closing Date, Seller will deliver possession of the Property in accordance with Section 6.

3. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller hereby represents and warrants the following to Buyer:

a. Brokers. There has been no act or omission by Seller which would give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee, or other like payment in connection with the transaction contemplated hereby.

b. Organization and Good Standing. Each Seller is a corporation duly organized, validly existing and in good standing under the laws of its applicable state of organization, with full corporate power and authority to conduct its business as it is now being conducted.

c. Due Authorization; Power and Authority. Subject to requisite Bankruptcy Court approval, Seller has the right, power and capacity to execute, deliver and perform this Agreement and all the documents and instruments referred to herein and contemplated hereby to consummate the Agreement. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action on the part of Seller. This Agreement has been duly and validly executed and delivered by the authorized representative of Seller and constitutes the Seller's legal, valid and binding obligations, enforceable in accordance with terms hereof subject only to requisite Bankruptcy Court approval.

d. No Conflicts. The execution and delivery by the Seller of this Agreement and the consummation of this Agreement by Seller will not (i) violate or conflict with any of the provisions of the Seller's Charter; (ii) violate, conflict with, result in a breach or default under, cause termination of, create any right of termination under or any adverse change of rights as to this Agreement; (iii) violate any federal law, state law or similar uniform statement adopted in any state, relating to statutory or common law fraudulent conveyance or fraudulent transfer claims, it being understood and agreed by Seller that the Purchase Price represents fair consideration and reasonably equivalent value for the Property; nor (iv) violate any valid and enforceable court order or ruling of any governmental entity binding upon Seller.

e. Title to Property. Subject to requisite Bankruptcy Court approval, Seller has good and transferable title to the Property free and clear of all liens, claims, interests and encumbrances.

f. Taxes.

(i) Any sales, use, property transfer or gains, documentary, stamp, registration, recording or similar tax (including, for certainty, goods and services tax, harmonized sales tax and land transfer tax) solely payable as a result of the sale or transfer of the Property pursuant to this Agreement ("Transfer Taxes") shall (to the extent not subject to an exemption under the Bankruptcy Code) be borne by Buyer. Seller shall use reasonable efforts and cooperate in good faith as requested by Buyer to exempt the sale and transfer of the Property from any such Transfer Taxes. This Section 3(f)(i) shall survive the Closing. Seller acknowledges and agrees that it remains solely responsible for satisfaction of any other liabilities of Seller for taxes that

arise as a result of Seller's ownership of the Property, or the conduct or operation of the Seller's business, prior to the Closing Date. Seller further acknowledges and agrees that in no event is Buyer assuming, nor shall Buyer bear any liability or responsibility for, any such taxes, regardless of when the obligation to pay such taxes arose or arises in the future.

Notwithstanding anything herein to the contrary, Seller shall have no liability for any Taxes relating to the Property that arise as a result of Buyer's ownership of the Property, or that are otherwise attributable to periods (or portions thereof) beginning, on or following the Closing Date.

(ii) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all "bulk sales," "bulk transfer" and similar laws that may be applicable with respect to the sale and transfer of any or all of the Property to Buyer.

4. REPRESENTATIONS AND WARRANTIES OF BUYER. Buyer hereby represents and warrants the following to Seller:

a. Brokers. There has been no act or omission by Buyer which would give rise to any valid claim against any of the parties hereto for a brokerage commission, finder's fee, or other like payment in connection with the transaction contemplated hereby.

b. Organization and Good Standing. Buyer is a corporation duly organized, validly existing and in good standing under the laws of Germany, with full corporate power and authority to conduct its business as it is now being conducted.

c. Due Authorization; Power and Authority. Subject to requisite Bankruptcy Court approval, Buyer has the right, power and capacity to execute, deliver and perform this Agreement and all the documents and instruments referred to herein and contemplated hereby to consummate the Agreement. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action on the part of Buyer. This Agreement has been duly and validly executed and delivered by the authorized representative of Buyer and constitutes Buyer's legal, valid and binding obligations, enforceable in accordance with the terms hereof subject only to requisite Bankruptcy Court approval.

d. No Conflicts. The execution and delivery by the Buyer of this Agreement and the consummation of this Agreement by Buyer will not (i) violate or conflict with any of the provisions of the Buyer's Charter; (ii) violate, conflict with, result in a breach or default under, cause termination of, create any right of termination under or any adverse change of rights as to this Agreement; nor (iii) violate any valid and enforceable court order or ruling of any governmental entity binding upon Buyer.

5. EXPENSES. Except as provided in Section 3(f)(i), each of the parties hereto shall pay its own expenses in connection with this Agreement and the transactions contemplated hereby, including the fees and expenses of its counsel, if any.

6. TITLE/RISK OF LOSS. Seller shall exercise commercially reasonable efforts to assist the Buyer in collecting the Property from Seller's premises, including providing Buyer with reasonable access to Seller's premises during normal business hours upon reasonable notice, provided that (i) Seller shall not be required to pay or incur any out of pocket expenses in connection therewith, (ii) Buyer shall bear all risk of loss associated with loading, moving, relocating, transferring and delivering the Property, and (iii) Seller shall have no obligation or liability to load, move, or relocate the Property.

7. NO WARRANTY. Buyer agrees, warrants and represents that (a) Buyer is purchasing the Property on an "AS IS" and "WITH ALL FAULTS" basis based solely on Buyer's own investigation of the Property, and (b) except as set forth in Section 2.c., neither Seller nor any representative of Seller have made any warranties, representations or guarantees, express, implied or statutory, written or oral, respecting the Property, any part of the Property, the financial performance of the Property, or the physical condition of the Property. Buyer further acknowledges that the consideration for the Property specified in this Agreement has been agreed upon by Seller and Buyer after good-faith arms'-length negotiation in light of Buyer's agreement to purchase the Property "AS IS" and "WITH ALL FAULTS." Buyer agrees, warrants and represents that, except as set forth in this Agreement, Buyer has relied, and shall rely, solely upon its own investigation of all such matters, and that Buyer assumes all risks with respect thereto. EXCEPT AS SET FORTH IN THIS AGREEMENT, SELLER HEREBY DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED, OR FURNISHED (ORALLY OR IN WRITING) TO BUYER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION, OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO BUYER BY ANY DIRECTOR, OFFICER, MANAGER, EMPLOYEE, AGENT, CONSULTANT, OR REPRESENTATIVE OF SELLER OR ANY OF THEIR AFFILIATES). SELLER MAKES NO REPRESENTATIONS OR WARRANTIES TO BUYER REGARDING THE PROBABLE SUCCESS, PROFITABILITY OR VALUE OF ANY OF THE PROPERTY.

8. NO THIRD PARTY BENEFICIARY. The Buyer and Seller acknowledge there are no intended or implied third party beneficiaries hereto.

9. GENERAL.

a. Survival. Except as otherwise provided herein, all covenants and agreements contained herein that by their terms are to be performed in whole or in part, or that prohibit actions, subsequent to the Closing shall survive the Closing in accordance with their terms. All other covenants and agreements contained herein, and all representations and warranties contained herein or in any certificated deliveries hereunder, shall not survive the Closing and shall thereupon terminate.

b. Sections and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretations of this Agreement.

c. Governing Law.

(i) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other law that would make the laws of any other jurisdiction other than the State of Delaware applicable hereto.

(ii) Without limitation of any party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes that may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby and (ii) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such proceeding; provided, however, that, if the bankruptcy cases commenced by Seller and certain of their affiliates under chapter 11 of the Bankruptcy Code in the Bankruptcy Court on December 19, 2012 are closed, all proceedings arising out of or relating to this Agreement shall be heard and determined in a Delaware state court or a federal court sitting in the State of Delaware, and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such proceeding. The Parties consent to service of process by mail or any other manner permitted by law.

(iii) THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SELLER OR BUYER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.

d. Captions. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, or the intent of any provisions hereof.

e. Typewritten or Handwritten Provisions. Hand-written provisions inserted in this Agreement and typewritten provisions initialed by both parties shall control over the typewritten provisions in conflict therewith.

f. Time of the Essence. Time and timely performance are of the essence of this Agreement and of the covenants and provisions hereunder.

g. Contractual Procedures. Unless specifically disallowed by law, should litigation arise hereunder, service of process therefore may be obtained through certified mail, return receipt requested; the parties hereto waive any and all rights they may have to object to the method by which service was perfected.

Signature pages follow.

IN WITNESS WHEREOF, this Agreement has been executed by each of the individual parties hereto and signed by an officer thereunto duly authorized on the date and year first above written.

SELLER:

THQ Inc.

By: _____
Name: _____
Title: _____

Vigil Games, Inc.

By: _____
Name: _____
Title: _____

BUYER:

Crytek GmbH

By: _____

Name: _____

Title: _____

EXHIBIT A

Property

See attached.