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May 6, 2014

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Re: New Continuum Holdings Corporation v. China/United Capital, LLC
C.A. No. 9589-VCN
Date Submitted: May 6, 2014

Dear Counsel:

Defendant China/United Capital, LLC (“China/United”) commenced an arbitration proceeding against Plaintiff New Continuum Holdings Corporation (“NCHC”) based on an agreement, with an arbitration provision, between China/United and Continuum Data Centers, LLC (“CDC”). NCHC acquired certain assets of CDC, and the general question is whether NCHC became bound to arbitrate either by the terms of the CDC-China/United agreement or because of the circumstances of the transfer from CDC to NCHC.

NCHA seeks interim injunctive relief protecting it from having to arbitrate China/United's claims. The parties agree that this action should be expedited. Their fundamental disagreement for the moment is whether discovery is appropriate.

China/United apparently suffers from a lack of knowledge about the CDC transfer to NCHC. Information regarding that transaction will be developed at some point; the question is whether it makes sense to postpone it. China/United has agreed to not push forward with the arbitration against NCHC during this Court's consideration of this matter. Moreover, the schedule in the arbitration between China/United and NCHC is not aggressive and has no major milestones in the immediate future. If discovery does not take place now, there is the risk that the questions regarding the arbitrability of the claims asserted by China/United against NCHC will have to be addressed twice, once on the relatively paltry record that now exists and later, on a more fully developed record. Because the discovery necessary to allow China/United to develop a factual record for its claim that NCHC is subject to arbitration appears to be relatively narrow, it is simply more

efficient to proceed with that discovery now. In that way, a more comprehensive answer to the question of arbitrability can be given.

The Court is setting an expedited schedule for discovery necessary to determine whether or not NCHC is somehow burdened with CDC's obligation to arbitrate the dispute with China/United. The parties may want to negotiate a different schedule because, for example, each knows far better than does the Court what the needs and resources are. The following discovery schedule is set:

1. The parties shall serve document requests on or before May 12, 2014;
2. The parties shall respond to document requests and produce documents on or before May 19, 2014.

When discovery is complete, the parties should confer about a schedule for briefing NCHC's request for interim injunctive relief.¹ Discussion should also address whether a temporary restraining order or a preliminary injunction is then sought. Indeed, if the parties believe that the record is sufficient to move directly to summary judgment, they may also want to discuss that option.

¹ This is without prejudice to China/United's opportunity to move to dismiss.

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IT IS SO ORDERED.

Very truly yours,

/s/ John W. Noble

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cc: Register in Chancery-K