

## INDEMNIFICATION AGREEMENT

This Master Service Agreement (the "MSA") is entered into between COMPANY A, LLC ("COMPANY A"), a Georgia limited liability corporation, and PDX COMPANY INC \_\_\_\_\_ ("Client" or "you").

THIS AGREEMENT is dated for reference this 21st day of October, 2003.

Unless otherwise agreed by the parties in writing, Products and Services acquired by XX under this EMA are solely for XX's and its Affiliates' own internal use and not for resale or sub-licensing, e. XX may not assign, delegate or otherwise transfer all or any part of this EMA without prior consent from <COMPANY>.

If Licensor advises Licensee to remove its facilities, and Licensee refuses to do so, Licensor may remove the facilities and charge the cost and expense of removal to Licensee or deduct the costs and expenses from monies due Licensee under this Agreement, individual Site Licenses or any other agreements. Licensor, in its sole discretion, may allow some or all of Licensee's equipment to remain on Licensor's property. If no such monies are owed, Licensor may invoke any remedies provided herein or at law or equity to recover all monies owed. Except as otherwise provided herein, the fee for use of a Site terminated before the end of the term for that Site License shall not terminate until the later of (1) the effective date of the early termination or (2) the date on which Licensee has removed its equipment and restored the Site in accordance with Section 12(a) or (3) the date on which Licensor notifies Licensee of its election to exercise its option to accept transfer of Licensee's facilities.

14.26 Subject to Sections 11 (Warranties; Disclaimers) and 12 (Limitation of Damages) above, Cirracore shall indemnify, defend and hold Client and its employees, agents, shareholders, officers, directors, successors, End Users and assigns harmless from and against any and all claims, damages, liabilities, costs, settlements, penalties and expenses (including attorneys' fees, expert's fees and settlement costs) arising out of any.

22.8 B. All Orders shall be paid within 30 days of the date of invoice. If payment is not received by ABAXIS within said 30 days, the payment shall bear a late payment charge equal to 1.5% per month (or partial month) that the payment is delayed.

23.6 Term: The term of this Agreement shall commence on the date first written above and shall continue until March 31, 2006, provided that Publisher shall have the option, via notice to Atari no later than February 15, 2006, to extend the term for an additional one-year period, through March 31, 2007, on the same terms and conditions (the "TERM"). The Term may be extended for one or more additional one (1) year periods via a mutually executed amendment to this Agreement. The three (3) month sell-off period shall commence as of the earlier expiration of this Agreement or upon notice of termination. Upon

14.58 By DIRECTV. DIRECTV shall indemnify and hold harmless each of Programmer, its Affiliated Companies, Programmer's contractors, subcontractors and authorized distributors, each supplier to Programmer of any portion of the Services hereunder and each participant therein and the directors, officers, employees and agents of Programmer, such Affiliated Companies, such contractors, subcontractors and distributors and such suppliers and participants therein (collectively, the "Programmer Indemnitees") from, against and with respect to any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' and experts' fees) incurred in connection with any third party claim (including, without limitation, a claim by any Governmental Authority) against the Programmer Indemnitees arising out of (i) DIRECTV's breach or alleged breach of any provision of this Agreement, (ii) the distribution by DIRECTV of the Services (except with respect to claims relating to the content of the Services for which Programmer is solely responsible pursuant to Section 8.1(ii) and Section 8.1(iii)), (iii) DIRECTV's advertising and marketing of the Services (except with respect to such advertising and marketing materials or content supplied or approved by Programmer), and (iv) any other materials, including advertising or promotional copy, supplied by DIRECTV. In addition, DIRECTV shall pay and hold Programmer harmless from any federal, state, or local taxes or fees, including any fees payable to local franchising authorities, which are based upon revenues derived by, or the operations of, DIRECTV.

## 25. RightToAssign

28.12 Termination by Emergent without Cause. Notwithstanding anything contained herein to the contrary, Emergent shall have the right to terminate this Agreement in its entirety or with respect to one or more countries in the Territory at any time in its sole discretion by giving one hundred and eighty (180) daysâ€™ written notice to Supplier.

14.36 (c) The relevant Borrower shall indemnify the Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent or such Lender, as the case may be, on or with respect to any payment by or on account of any obligation of any Borrower hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section), and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

14.10 Except to the extent caused by the negligence of willful misconduct of Tenant Parties, Landlord shall indemnify and hold Tenant harmless from and against any and all claims or liability for any injury or damage to any person or property including any reasonable attorney's fees (but excluding any consequential damages or loss of business) occurring in, on, or about the Project to the extent such injury or damage is caused by the negligence or willful misconduct of Landlord, its employees, its property manager, or its property manager's employees; provided, however, that the foregoing indemnity shall not include claims or liability to the extent waived by Tenant pursuant to Paragraph 10(b) below. Further, (1) in the event of a discrepancy between the terms of this Paragraph and the terms of Paragraph 39 of this Lease concerning Hazardous Substances liability, the latter shall control; and (2) nothing in this Paragraph 10(a) is intended to nor shall it be deemed to override the provisions of Paragraph 11.

## 9. DutyToReturn

4.12 The transfer, on a cumulative basis, of more than 50% 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

26.5 Distributor shall have the right of first refusal to match the delivered cost to JJC Stores for products that are not delivered by Distributor, which shall remain firm for the duration of that specific contract. Any changes to the above pricing formula must have the prior written approval of the JJC's Director of Supply Chain Management.

8.5 To the extent that you provide confidential information to us, we shall protect the secrecy of the confidential information with the same degree of care as we use to protect our own confidential information, but in no event with less than due care.

(a) Licensee shall at all times and in all respects comply with all federal, state and local laws, ordinance and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code section 25249.5, et seq.), other applicable provisions of the California Health and Safety Code (section 25100, et seq., and section 39000, et seq.), California Water Code (section 13000, et seq.), and other comparable state laws, regulations and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this agreement, "hazardous materials" include any "hazardous substance" as that term is defined in section 25316 of the California Health and Safety Code or posing a hazard to health or the environment. Except as otherwise expressly permitted in this Agreement, Licensee shall not use, create, store or allow any hazardous materials on the site. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted. Back-up generators and the storage of fuel for such generators shall only be allowed if provided in a particular Site License under the conditions of that Site License. In no case shall Licensee cause or allow the deposit or disposal of any hazardous materials on the site. Licensor, or its agents or contractors, shall at all times have the right to go upon and inspect the Site and the operations thereon to assure

6.4 In addition to the foregoing, during the Facilities Company Employee Non- Solicitation Period and subject to Section 4.13(D), neither Party shall, without the prior written consent of the other Party, directly or indirectly recruit or solicit any employee of a Facilities Company (" Restricted Employees " for purposes of this subsection (B) and subsection (G)) to leave his or her employment with such Facilities Company.

11.6 Notwithstanding the foregoing, Sharp shall have no obligation to provide items printed for production (e.g. end user manual, product packaging) for longer than [ \* ] year following Product discontinuation.

25.1 Assignments. This Agreement shall be freely assignable by Company to and shall inure to the benefit of, and be binding upon, Company, its successors and assigns and/or any other entity which shall succeed to the business presently being conducted by Company. Being a contract for personal services, neither this Agreement nor any rights hereunder shall be assigned by Employee.

5.28 Neither this Agreement nor any of the parties' rights hereunder shall be assignable by any party hereto without the prior written consent of the other party hereto.

WHEREAS Licensor may seek to provide the traveling public with wireless telephone access to traffic information lines. If Licensor does so, Licensee shall cooperate in developing a program to provide the traveling public with wireless telephone access to information lines, and to create an emergency access line subject to Licensee's operational capacity; NOW THEREFORE, in consideration of the mutual covenants and benefits stated herein, and in further consideration of the obligations, terms and considerations hereinafter set forth and recited; Licensor and Licensee agree as follows:

15.2 CONSEQUENTIAL DAMAGES WAIVER. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, BUT NOT LIMITED TO ECONOMIC LOSS OR LOSS OF PROFITS BY HEINZ) SUFFERED OR INCURRED AS A RESULT OF OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT OR ANY TORT (INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY OR NEGLIGENCE) COMMITTED BY A PARTY IN CONNECTION WITH THIS AGREEMENT.

15.3 NO LIABILITY FOR CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR THEIR AFFILIATES, SUPPLIERS OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, DAMAGES FOR LOSS OF PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), ARISING IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF SERVICES, SERVICES, SERVICE DELIVERABLES, FIXES, PRODUCTS, OR ANY OTHER MATERIALS OR INFORMATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. THIS EXCLUSION OF LIABILITY DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATION, REDISTRIBUTION OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

4.3 The Option Agreement will provide that the subject options will vest in the event of a Change in Control or a Public Offering (as such terms are defined in the Option Agreement).

23.5 Term. The Term of this Agreement shall extend for three years from the Effective Date, unless terminated earlier as permitted in this Section 5 below. The Term may be renewed as mutually agreed to by the parties.

15.4 Limitations of Liability . IN NO EVENT SHALL LICENSOR OR ITS LICENSORS, BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY GENERAL, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, BREACH OF SECURITY, OR LOST OR DAMAGED DATA) ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT, THE LICENSED SOFTWARE, OR ANY SERVICES RENDERED BY LICENSOR, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDING LICENSOR'S INDEMNIFICATION OBLIGATIONS, THE TOTAL LIABILITY OF LICENSOR TO LICENSEE FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) SHALL NOT EXCEED THE TOTAL FEES PAID BY LICENSEE HEREUNDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY.

14.60 Contractor warrants and guarantees that all materials furnished under the Contract Documents shall be new and of a quality equal to or better than what would be acceptable industry standard for comparable projects, unless otherwise specified in the Plans and Specifications, and that the Work will be of good quality, free from fault or defect, and in conformance with the Contract Documents. In furtherance of that guaranty, Contractor agrees to indemnify, protect, defend and hold harmless Owner against all Claims arising from or relating to any defect in workmanship or material in the Work or any non-conformance of the Work with the requirements of the Contract Documents or applicable laws ("Warranty Claims"). Upon receipt of written notice from Owner, Contractor shall, at its own expense and under the terms and conditions of the Contract Documents, promptly and diligently replace any defective or non-conforming portions of the Work. Contractor shall also bear all costs and expenses, replace any materials and perform any labor required to correct or repair any portion of the Project or Property damaged or destroyed in repairing or correcting any defective or non-conforming Work. This guaranty requires Contractor to correct the substandard condition and not merely to pay money damages for breach of the guaranty. If Contractor fails, after written notice from Owner, to promptly and diligently comply with its obligations, as required herein, Owner may perform those obligations, at Contractor's expense, and Contractor shall reimburse Owner promptly upon demand for all costs or expenses incurred by Owner in connection with fulfilling Contractor's guaranty, including

10.23 Subject to Sections 2(b) and 2(c), NBC further grants to NQV for use in the creation and operation of the Channel the exclusive, non-transferable license to incorporate into the Channel and distribute by means of the Internet Medium throughout the world still photographs and sequential still photographs taken from Highlight Video from all Event Video owned by NBC or licensed to NBC where NBC has the right to sublicense such rights to the Event Video.

(i) the suitability of any particular Site for the purposes contemplated hereunder, including without limitation the adequacy of such Site's location, its condition, or the condition of any structure or appurtenances thereto; or,

27.2 Either party signing the cover page may terminate this agreement if the other party is in material breach or default of any obligation that is not cured within 30 calendar days notice of such breach.

Category 1: "Prime Urban" - Are the "Urbanized" (as defined below) portions of the Counties of Marin, San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Los Angeles, Orange and San Diego.

14.15 Liability or indemnity obligation for claims of infringement of intellectual property rights arising from (i) use of the Licensed Software in combination with non-Licensors approved third party products, including hardware and software, (ii) modifications or maintenance of the Licensed Software by a party other than Licensors, (iii) misuse of the Licensed Software, and (iv) failure of Licensee to implement any improvement or updates to the Licensed Software, if the infringement claim would have been avoided by the use of the improvement or updates. Licensee shall indemnify and defend Licensors and hold it harmless from and against any claims, damages, or costs, including reasonable attorneys' fees, asserted by third parties arising out of any of the foregoing exceptions; provided that Licensee is given prompt notice of any such claim and right to control and direct the investigation, preparation, defense and settlement of each such claim and further provided that Licensors shall fully cooperate with Licensee in connection with the foregoing.

14.6 HEINZ. Heinz shall indemnify, defend and hold Merisant harmless against all costs, claims, suits, demands, judgments, expenses (including reasonable attorneys' fees) or damages resulting from or arising out of the following: (i) any breach by Heinz of any of its warranties, duties or obligations under this Agreement; and (ii) the error, omission, negligence or willful misconduct of Heinz, its employees or agents, except to the extent any such damage resulted from or was contributed to by Merisant, its employees or agents.

Licensee acknowledges it is not entitled to any relocation assistance payments at the conclusion of this Agreement or any Site License under State (Government Code Section 7260 et seq.) or federal law (42 U.S.C.A. 4601 et seq.), and Licensee further agrees it will not file or pursue any such claim.

16.3 CONTRACT TERMINATION. Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: (1) non-performance of contractual requirements; and/or (2) a material breach of any term or condition of this contract. WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: (1) exercise any remedy provided by law; (2). terminate this contract and any related contracts or portions thereof; (3) impose liquidated damages; and/or (4) suspend Contractor from receiving future bid solicitations.

(iv) neither party has liability for any brokerage commission due to any broker in connection with this Agreement or any Site License.

28.7 Termination. Cornell may terminate this Agreement at any time without cause, upon 30 days written notice to Consultant. Consultant may retain amounts, if any, paid by Cornell under this Agreement prior to termination, but explicitly waives any right to additional or other amounts of any kind, including based on quantum meruit or other similar theory. The obligations imposed by Sections 5 and 6 of this Agreement as well as any licenses granted hereunder shall survive termination under this Agreement.

(c) In any notice of an alleged default by Licensee from Licensor, Licensor shall specify the nature of the default and the Site License(s) potentially affected thereby. After applicable notice and grace periods have expired, at any time thereafter that Licensee remains in default, Licensor may terminate the Site License(s) directly affected by such default and, if all Site Licenses shall be affected, this Agreement, without notice or demand. Upon the applicable termination, Licensee shall immediately surrender all applicable Sites then licensed to Licensee under the affected Site License to Licensor and, subject to Subsection 4(g), remove all of its facilities and equipment therefrom. If Licensee fails to promptly remove all of its facilities and equipment from the Premises, Licensor may remove the same (without any liability to Licensee for any damage to such equipment and/or facilities which may result from reasonable efforts at removal), and Licensee shall pay to Licensor on demand any and all costs incurred by Licensor in removing and storing such facilities and equipment prior to retrieval of same by Licensee.

(f) In the event Licensee fails to pay the annual License Fee within ten (10) days of when due, the past-due License Fees shall bear interest from (but excluding) the date due until paid at the lesser of (i) twelve percent (12%) per annum, or (ii) the maximum rate permitted under California or federal law, if the aforesaid rate exceeds such maximum.

## 6. ConditionalNonSolicitation

16.4 In the event Customer terminates this MSA or any NSO subject to this MSA in part or in whole without cause at any time during the Initial Term or any Renewal Period, or if DSCI terminates for Customer's default, then Customer shall be liable to pay to DSCI as liquidated damages (and not as a penalty) a termination charge, which shall become due and owing as of the effective date of cancellation or termination. Said charge shall equal any previously waived non-recurring charges plus the monthly recurring charge(s) of the terminated Service(s) times the remaining number of months in the Term of said Service(s). Customer shall also be liable for any charges DSCI incurs from third parties because of Customer's early termination.

27.3 (b) Either party may terminate this Agreement in the event of other party's breach of, or failure to comply with, any material term or provision of this Agreement and the continuance of such breach or failure for thirty (30) days after such party has received written notice of such breach or failure from the other party; provided, however that this Section 4.4(b) shall not apply to a Payment Default.

(a) Licensee shall, at all times during the term of any particular Site License and at Licensee's sole cost and expense, keep its facilities and equipment located on or about the Premises and every part thereof in good condition and repair, reasonable wear and tear excepted, including making replacements when necessary. If Licensee fails to promptly make any repairs that are necessary to remedy a dangerous condition on the Site caused by Licensee, its agents, employees or contractors, or other condition caused by Licensee, its agents, employees or contractors which is materially adverse to the quiet enjoyment by Licensor or any other user of the Site, Licensor shall give Licensee written notice of its intention to make such repairs and the date on which such repairs shall commence. Except for emergencies, Licensee shall be given at least fifteen (15) days from the day the letter is sent to commence the repairs. If Licensee does not, prior to the date set forth in such notice, commence to make such repairs, Licensor may make such repairs and shall be reimbursed by Licensee for any and all reasonable costs incurred by Licensor in performing (or contracting to have performed) such repairs, including any overhead costs reasonably allocable to the performance thereof. Licensor shall provide Licensee reasonably detailed supporting documentation of such costs concurrently with any demand for reimbursement.

2.2 To the extent not in violation of Applicable Law, each Member and its agents (which may include employees of the Member or the Members independent certified accountants) shall have the right, at any reasonable time, to inspect, review, copy and audit (or cause to be audited) at the expense of the inspecting Member any and all properties, assets, books of account, corporate records, contracts, documentation and any other material of the Joint Venture Company or any of its Subsidiaries, at the request of the inspecting Member.

28.3 I understand that this Agreement does not constitute a contract of employment or create an obligation on the part of the Company to continue my employment with the Company. I understand that my employment is "at will" and that my obligations under this Agreement shall not be affected by any change in my position, title or function with, or compensation, by the Company.

7.1 Term. This Agreement shall terminate two (2) years from the Effective Date of this Agreement, or thirty (30) calendar days following written notice by either Party to the other of its desire to terminate this Agreement, whichever occurs first. However, the obligations contained herein shall remain in effect for a period of two (2) years from the date the Confidential Information was disclosed under this Agreement.

(d) License Fee Payment Schedule - The first annual payment for each Site shall be paid to Licensor within ten (10) days after the issuance of the Encroachment Permit to Construct (Commencement Date). The prorated annual payment for the period from the Commencement Date through the next occurring July 1 shall be calculated by dividing a full annual payment as indicated in the Pricing Matrix by 12 and multiplying that number by the number of remaining full months in the year. Thereafter, Licensee shall make an annual payment on July 1. Payments shall be mailed to: Department of Transportation, Attention: Cashier, P.O. Box 168019, Sacramento, CA 95816-3819.



14.47 Indemnification of Supplier . Subject to Section 6.3, Emergent shall indemnify Supplier, its Affiliates and their respective directors, officers, employees and agents, and defend and save each of them harmless, from and against any and all Losses arising from or occurring as a result of (a) any material breach by Emergent of this Agreement or (b) the gross negligence or willful misconduct of Emergent, its Affiliates or its other sub-contractors in performing Emergent's obligations under this Agreement, except for those Losses for which Supplier has an obligation to indemnify Emergent and its Affiliates pursuant to Section 6.1, as to which Losses each Party shall indemnify the other to the extent of their respective liability for the Losses.

15.14 In no event will Uptime be liable for any loss of profit or revenue by Client, or for any other consequential, incidental, indirect or economic damages incurred or suffered by Client arising as a result of or related to the Services, whether in contract, tort, or otherwise, even if Client has been advised of the possibility of such loss or damages. In no event will Uptime be liable for any loss of data that may occur, regardless of the cause of such loss of data. The total liability of Uptime for all claims of any kind arising as a result of or related to this Agreement, or to any act or omission of Uptime, whether in contract, tort or otherwise, will not exceed an amount equal to the amount actually paid by Client to Uptime for the Services during the twelve

(b) If Licensor chooses to occupy a tower/monopole built by Licensee, it may engage a contractor to install its equipment on Licensee's facilities. Licensee reserves the right to approve Licensor's list of contractors prequalified to perform the equipment installation. Contractors utilized by Licensor must all provide proof of adequate insurance coverage and must name Licensee as an additional insured. Licensee shall inspect the installation and advise Licensor of any deficiencies noted. Alternatively, Licensor may request that Licensee install Licensor's equipment. All expenses that Licensee actually incurs for ancillary equipment purchased or installed for the benefit of Licensor, or for radio tower work performed by Licensee for the benefit of Licensor, shall be at State expense, provided that such costs are commercially competitive and documented in reasonable detail.

13.4 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

Your rights and obligations under this Agreement may not be assigned by you without the prior written consent of Alloy.

(iv) Except as specifically set forth in an individual Site License, Licensor represents to the best of its knowledge no Hazardous Substances are present on, in or under the Premises or Site in violation of applicable law, and, to the best of Licensor's knowledge: (i) all operations on the Premises and Site are and have been in substantial compliance with all laws regulating such Hazardous Substances, (ii) no litigation has been brought or threatened, nor any settlements reached with any governmental, quasi-governmental entity or private party concerning the actual or alleged presence, disposal, release or threatened release of such Hazardous Substances in, on, about or under the Premises or Site, and (iii) Licensor has not received notice of any violation, or any alleged violation of any law related to Hazardous Substances and relating to the Premises or Site. "Hazardous Substances" includes substances, chemicals or wastes that are identified as hazardous, toxic or dangerous in any applicable federal or state law.

18.9 Grant MDA grants to Licensee a non-exclusive license to use and offer the program as its exclusive group indoor cycling program at the Facility, and to include the Marks in all marketing materials used to promote the Program. Licensee is not granted any right to use the Marks on any other products (i.e., t-shirts, towels, etc.) or for any services or for any other commercial exploitation other than the promotion of the Program without MDA's prior written consent in each instance. Licensee shall not assign, sublicense, or otherwise transfer this Agreement or the right to use the Intellectual Property to any other person or entity without prior express written consent of MDA.

7.2.1 During a period beginning at the Effective Date and ending ten (10) years after the later of the termination of this Agreement or the termination of the Know How Transfer Agreement set forth in Appendix A, it shall be prohibited for either Party to disclose to any third party (except Affiliates) information which has been disclosed by the other, whether such disclosure is direct or indirect, by any means such as a writing, factory tour, or other means used to communicate information, provided that such information shall be documented or described in a tangible form and shall be marked "Confidential" (hereinafter "Confidential Information"). Any such Confidential Information shall be used only for the purposes of carrying out this Agreement. Any other use of Confidential Information is prohibited. Each of the Parties will cause its own and employees of the Company to adhere to the obligations of this Article 8 through provisions in their respective employment agreements or otherwise. Confidential Information specifically includes the terms of this Agreement and its conditions provided however that the Parties may in connection with an actual or proposed merger or acquisition, and in connection with the enforcement of its rights under this Agreement and the Ancillary Agreements disclose the terms and conditions of these agreements in confidence to its legal counsel, accountants and other advisors.

14.16 Indemnification. Licensor agrees to defend and indemnify Licensee and to hold it harmless from all damages awarded against Licensee, and all reasonable expenses (including attorneys' fees) incurred by Licensee, for any claim of infringement of a third party's U.S. patent registered as of the Effective Date or copyright asserted against Licensee by virtue of Licensee's authorized use of the Licensed Software as delivered by Licensor; provided that Licensor is given prompt notice of any such claim and right to control and direct the investigation, preparation, defense and settlement of each such claim and further provided that Licensee shall fully cooperate with Licensor in connection with the foregoing.

14.13 Indemnification of Licensor. Licensee shall indemnify, defend and hold harmless Licensor, and its partners, members, shareholders, officers, directors, agents and employees (the " Licensor Indemnitees ") from and against all third party claims made or judicial or administrative actions filed which allege that any Licensor Indemnitee is liable to the claimant (other than to the extent caused by or arising from a Licensor Indemnitee's recklessness or willful misconduct) by reason of (i) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about the License Area or the Premises, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of the License Area or the Premises, to the extent caused by or arising from the recklessness or willful misconduct of Licensee or its partners, members, shareholders, officers, directors, agents, employees, contractors, assignees, licensees, sublessees, invitees or any other Person for whose conduct Licensee is legally responsible, (ii) any breach by Licensee under this Agreement, or (iii) Licensee's use and occupancy of the License Area or use of the Premises, except to such extent that any such claim is caused by or arises from the recklessness or willful misconduct of any Licensor Indemnitee.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. To the extent any provisions of this Agreement are in conflict with, or inconsistent with regulations or rules promulgated by the California Public Utilities Commission such provisions shall be null and void.

#### 14. Indemnity

(ii) Commercial general liability insurance having a minimum limit of liability of \$5,000,000 for each injury or death arising out of one occurrence and \$5,000,000 for damage to property from any one occurrence and excess/umbrella coverage of \$5,000,000; and,

10.2 GRANT OF LICENSE Subject to the terms of this Agreement the Manufacturer hereby grants to the Distributor the exclusive right to sell Product within the Principal Territories.

5.45 Neither the Company nor any Member shall assign its rights or delegate its obligations hereunder without written consent of all of the Members except to an Affiliate of the Company or such Member; provided that no such assignment shall relieve the assignor of its obligations.

6.1 Demarco agrees that for a period of three years following the Effective Date, he will not, without the prior written consent of Titan, directly or indirectly, solicit for hire any officer, employee or consultant of Titan or any of its affiliates, or knowingly solicit or encourage any such officer, employee or consultant to leave the employ of Titan or its affiliates, as the case may be.

WHEREAS Licensee seeks to construct, install, operate and maintain radio transmitting and receiving antennas and/or other associated electronic equipment for wireless communications in the State of California; and

3.10 The term of this Agreement will be automatically renewed for three (3) additional terms of five years a piece.

## 16. Liquidated

(e) In the event of a termination of a Site License, it shall be lawful for Licensor, after not less than thirty (30) days' prior written notice, to reenter into and upon the Site, and every part thereof, and to remove at Licensee's expense all of Licensee's property therefrom and to repossess and occupy the Site. In the event Licensor terminates a Site License pursuant to this Section, Licensor shall not be required to pay Licensee any sum or sums whatsoever related to that Site License.

10.17 To the extent that under mandatory law, our proprietary rights cannot be assigned, we irrevocably agree to grant, and hereby grant, to you an exclusive (excluding also us), perpetual, irrevocable, unlimited, worldwide, fully paid and unconditional license to use and commercialize our proprietary rights to the Work Product in any manner now known or in the future discovered with effect from the termination date.

3.9 Following the Initial Term, this Agreement shall automatically renew for successive one year periods (each a "Renewal Period"; collectively, the Initial Term and each Renewal Period, the "Employment Period"), unless sooner terminated as provided in Section 4 hereof.

14.1 Licensee shall indemnify, defend and hold Licensor harmless from and against any and all direct and proximate claims, actions, damages, liability and expense (including reasonable attorneys' fees, costs and disbursements) in connection with the loss of life, personal injury, and/or damage to property to the extent arising from or out of: (i) all claims relating to or caused by, the equipment Licensee installs on Licensor's property and/or Licensee's Operations, (ii) any occurrence in, upon or at the Premises or elsewhere on the Site or on the land of which the Site is a part to the extent caused by the negligence or willful misconduct of Licensee or its employees, agents, or contractors, (iii) any occurrence occasioned by the violation of any law, regulation or ordinance by Licensee or its agents, employees, or contractors, or (iv) by Licensee's default under a Site License or this Agreement. The provisions of this Subsection 9(d) shall survive the expiration or termination of this Agreement with respect to any damage, injury, or death occurring before such expiration or termination.

28.1 TERMINATION WITHOUT CAUSE. Reseller or Handspring may terminate this Agreement without cause, at any time, by written notice to the other party not less than thirty (30) days prior to the effective date of termination. All unfilled orders pending at the time of the date of such notice of termination shall be deemed canceled, and Handspring and Reseller hereby waive all claims against the other in connection with the cancellation of such orders.

## 28. TerminationConvenience

19.1 During the term of this Agreement, neither Party or any of its Affiliated Person shall engage or be involved, directly or indirectly, in any business which may compete directly or indirectly with the Business of the Company globally, and this restriction shall continue to apply to all Parties and their Affiliated Person for twelve (12) months after ceasing to hold any shares in the Company unless otherwise approved by the meeting of shareholders of the Company and the other Party; provided, however, that either Party or its Affiliated Person, if any, who has been in the business that competes directly or indirectly with the Business of the Company globally as disclosed to the other Party upon the execution of this Agreement may continue the operation of such business without prejudice.

(f) In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement or any individual Site License, such party shall not unreasonably delay, withhold or condition its approval or consent.

3.13 Unless Cirracore is otherwise notified by Client or Client is otherwise notified by Cirracore at least 30 days prior to the end of the Committed Term, the SO will automatically renew for successive one year terms on the first day of each calendar month following the expiration of the Committed Term (each, "Renewal Term").

Licensor may require Licensee to submit its most recent annual financial statements to Licensor prior to Licensor executing any Site License with Licensee; thereafter, at Licensor's request, Licensee shall submit its most recent annual financial statement on or before June 30 of each year this Agreement or any Site License remains in effect. Licensor shall not enter or renew any Site License if, based on a review of the financial statement, Licensor determines, in its sole opinion, that Licensee cannot perform the financial obligations of this Agreement and/or any Site License. Copies of annual financial statements filed with the Securities and Exchange Commission ("SEC") shall fulfill this requirement; if Licensee is not a publicly traded corporation, then an audited financial statement will be required. If Licensee desires to fulfill this requirement by submitting the Annual Financial Statement of a parent or affiliated corporation, then that parent or affiliated corporation shall guarantee Licensee's performance of all obligations required by this Agreement and any Site License.

15.15 Limitation on Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) OF ANY NATURE ARISING UNDER THIS AGREEMENT, REGARDLESS OF WHETHER LIABILITY ARISES IN CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, INDEMNIFICATION, OR OTHERWISE. IN ADDITION TO THE FOREGOING, ZIXIT'S AGGREGATE LIABILITY TO DISTRIBUTOR ARISING UNDER THIS AGREEMENT OR RELATING TO THE PROVISION OF THE ZIXMAIL SOFTWARE/SERVICE TO DISTRIBUTOR UNDER ANY THEORY OF RECOVERY SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY DISTRIBUTOR TO ZIXIT UNDER THIS AGREEMENT WITHIN THE ONE-YEAR PERIOD PRECEDING THE ASSERTION OF A CLAIM BY DISTRIBUTOR. OTHER THAN FOR THE PAYMENT OBLIGATIONS SET FORTH IN SECTION 3 OR FOR THE MISAPPROPRIATION BY DISTRIBUTOR OF ZIXIT'S INTELLECTUAL PROPERTY RIGHTS, DISTRIBUTOR'S AGGREGATE LIABILITY TO ZIXIT ARISING UNDER THIS AGREEMENT UNDER ANY THEORY OF RECOVERY SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY DISTRIBUTOR TO ZIXIT UNDER THIS AGREEMENT WITHIN THE ONE-YEAR PERIOD PRECEDING THE ASSERTION OF A CLAIM BY ZIXIT.

## 2. Audit

16.2 If a Party or a third party (including an Affiliated Person) transfers, sells, assigns, or otherwise disposes of the shares of the Company other than pursuant to this Article 5, the other Party not disposing of the shares shall be entitled to liquidated damages from such Party or third Party equal to ten (10) times the par value of the shares disposed of, or ten (10) times the proceeds received by such Party as a result of the disposal of its shares, whichever is higher.

23.4 A. Landlord and Tenant are parties to a Lease dated as of March 20, 2007 (the "Initial Lease"), covering premises consisting of approximately 37,293 square feet of space constituting Suite 200 (the "Initial Premises") of the building commonly known as 2029 Stierlin Court (the "Building") in the Britannia Shoreline Technology Park in Mountain View, California (the "Center"). The term of the Initial Lease is scheduled to expire on April 30, 2010, subject to one 2-year renewal option as set forth in the Initial Lease.

3.12 At the end of the Initial Term or at the end of any Renewal Term, this Agreement shall automatically renew for an additional one (1) year period (each such additional term a "Renewal Term"), unless either Party notifies the other Party in writing to the contrary at least sixty (60) days prior to the expiration of the then-current term.

14.21 Each party shall indemnify, save, and hold harmless the other party from any and all claims or causes of action whatsoever, at common law, statutory, or otherwise, brought by, under, or through such party relating to the claims released by such party in this Section 6.9.

(f) Notwithstanding anything in this Section 6 to the contrary, Licensee acknowledges that Licensor may not have control over equipment located on or adjoining the Premises which would interfere with Licensee's use of the Site and shall not be liable for such lack of control. In the event of such interference, Licensor and Licensee shall use all reasonable efforts within their control to obtain the cooperation of the equipment owner to resolve such interference; provided, however, that if the parties shall not succeed in obtaining the cooperation of the equipment owner to resolve such interference within thirty (30) days following such interference, Licensee may immediately terminate any Site License so affected (and/or this Agreement if no Site Licenses remain subject hereto), and neither party shall have any further liability with respect to such Site License. Any prepaid License Fee shall be credited or returned to Licensee on a pro rated basis.

3.3 Following the Initial Term, this Agreement shall automatically renew for successive one-year periods (each a "Renewal Period"; collectively, the Initial Term and each Renewal Period, the "Employment Period"), unless sooner terminated as provided in Section 4 hereof.

23.3 This Agreement may be extended for an additional one (1) year term by mutual written agreement of the parties at least thirty (30) days prior to the expiration of the current term.

(d) Any spill caused by Licensee or from Licensee's equipment resulting in a release of a hazardous material to the air, soil, surface water, or groundwater in violation of applicable law will be immediately reported to Licensor as well as to appropriate government agencies and shall be promptly and fully cleaned up and the Premises (including soils, surface water, and groundwater) restored to its condition existing immediately prior to such spill or release, all in accordance with and as may be required by applicable law.

15.31 (b) From and after the Closing Date, Buyer shall defend, indemnify and hold harmless Seller, its subsidiaries and affiliates and each of Seller's, its subsidiaries' and affiliates' respective officers, directors, employees and agents (the "Seller Indemnified Parties") from and against any and all costs, expenses, losses, damages and liabilities (including reasonable attorneys' fees and expenses) (collectively, "Losses") incurred by such Seller Indemnified Party arising (1) from any claim by any third party other than any Seller Indemnified Party arising in respect of the Membership Interests in connection with any matter arising on or after the Closing Date or (2) from any breach of any representation or warranty made by Buyer and set forth in this Agreement as of the date made or as of the Closing Date. Notwithstanding anything in this Agreement to the contrary, in no event shall Buyer be liable for (i) punitive, consequential, incidental, indirect or special damages of any kind or nature, or any diminution in value, regardless of the form of action through which such damages are sought except to the extent payable by a Seller Indemnified Party to a third party in connection with a claim for such damages brought by such third party and with respect to which claim Buyer is otherwise obligated to indemnify such Seller Indemnified Party pursuant to this Section 4(b) or (ii) any Losses incurred by such Seller Indemnified Party as a result of a breach by Seller of a representation or warranty made by Seller in this Agreement.

28.4 Term and termination. This agreement will remain in effect until terminated. The parties signing the cover page of this agreement may terminate it at any time by giving the other party at least 60 calendar days prior written notice.

20.6 I further agree that for twelve (12) months from this date, I will not hire any employees of the Company and I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

3.5 This Agreement and shall be automatically renewed for an additional one (1) year period unless either party provides written notice of its intention to terminate this Agreement ninety (90) days prior to the expiration of this Agreement.

6.2 Unless expressly consented to by the Company, the Employee will not seek directly or indirectly, by the offer of alternative employment or other inducement whatsoever, to solicit the services of any employee of the Company and its subsidiaries employed as at or after the date of such termination, or in the year preceding such termination.

28.5 (b) Either Party may terminate this Agreement upon not less than one hundred and eighty (180) days prior written notice to the other Party, which notice may be given at any time, provided that the effective date of such termination may not be prior to the expiration of the Initial License Period.

(iii) if a receiver, custodian, or trustee is appointed by Licensee or for any of the assets of Licensee which appointment is not vacated within ninety (90) days of the date of the appointment;

(ii) Subject to Subsection 14(c) below and except as otherwise disclosed to Licensee in writing prior to the execution of any Site License, there are, to Licensor's actual knowledge (without any independent investigation), no known liens, restrictions, mortgages, covenants, conditions, easements, leases, agreements of record or not of record, which would adversely affect or prohibit Licensee's use and enjoyment of the Premises under a Site License.

WHEREAS Licensor has properties well suited for the antennas needed for wireless communications systems because they are extensive and located throughout the State, and because often they are adjacent to populated areas but not located in the heart of residential areas; and

(c) Manufacturing; maintenance of equipment (excluding communications equipment and back-up power sources such as batteries and generators operated pursuant to the Site License Agreement) or vehicles, or use, installation or construction of vessels, tanks, (stationary or mobile), dikes, sumps, or ponds; or any activity for which a license or permit is required from any government agency for (1) transportation, storage, treatment, or disposal of any waste, (2) discharge of any pollutant including but not limited to discharge to air, water, or a sewer system is prohibited.

21.1 Agreement of Issuer Not to Assign or Pledge. Except for the assignment and pledge of the Trust Estate in the Indenture, the Issuer agrees that it will not attempt to further assign, pledge, transfer or convey its interest in or create any assignment, pledge, lien, charge or encumbrance of any form or nature with respect to any of the property, moneys, securities and rights granted by the Issuer to the Trustee under the Granting Clause of the Indenture.

Licensor will not keep improvements which are constructed or installed by Licensee under the provisions of this Agreement insured against fire or casualty, and Licensee will make no claim of any nature against Licensor by reason of any damage to the business or property of Licensee in the event of damage or destruction by fire or other cause. Licensee is solely responsible for insuring, or self-paying, all expenses caused by the destruction or damage of its facilities regardless of cause or fault.

10.9 Subject to all terms and conditions set forth herein, LEADTEK hereby appoints the Distributor as the exclusive distributor of the Products the customers within the Market with physical and operating offices in Territory and the Distributor hereby accepts such appointment.

17. MFN – “Most Favored Nation

4.9 ZixIt undergoes a Change of Control to a competitor of (whether as a result of an equity transaction, asset or any other form of merger or acquisition.

(b) Licensor and Licensee represent and warrant to each other that:



(b) No new individual Site Licenses shall be entered into pursuant to this Agreement after June 30, 2013. The initial term of each Site License shall be ten (10) years commencing on the Commencement Date. Licensee agrees to begin the process of gaining the approvals necessary to the initiation of site construction immediately after the Execution Date. If, however, Licensee does not, in good faith, actively pursue a building permit within the "Local Permitting Period" (as may be extended pursuant to Subsection 2(b)), Lessor may terminate the individual Site License.

## 8. DutyOfCare

14.8 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, reimburse, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, losses including without limitation loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

23.2 The term of the Contract is twelve (12) years. The establishment of the Project shall start from October 2001 and to be terminated at the end of October 2013. A Party may file a request to extend the Contract one hundred and eighty (180) days prior to the termination of this Contract.

## 5. ConditionalAssign

5.26 Distributor shall not without the prior written consent of ZixIt assign or attempt to assign this Agreement or any of its rights hereunder or delegate any of its duties hereunder.

15.27 LIMITATION OF LIABILITY. IN NO EVENT SHALL FWK BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF REVENUES, OR LOSS OF OPPORTUNITIES, ARISING OUT OF THIS AGREEMENT, EVEN IF FWK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE LIABILITY OF FWK FOR DAMAGES OR ALLEGED DAMAGES UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EXCEED THE AMOUNTS PAID IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM.

20.7 No Solicitation of Employees. I acknowledge the importance to the business carried on by the Company of the human resources engaged and developed by it and the unique access that my employment or engagement offers to interfere with these resources. Accordingly, I will not while employed or engaged by the Company and for a period of 12 months after the termination of my employment or engagement with the Company, induce or solicit or assist any third party in inducing or soliciting any employee or consultant of the Company who was employed by the Company at the time of my termination or who became employed during the 12 months immediately following my termination, to leave the Company or to accept employment or engagement elsewhere. <PAGE>

## 19. NonCompete

20.3 NONSOLICITATION. During the Committed Term , and for a period of six months after this Agreement is terminated, neither party shall directly solicit or assist any other person or entity in soliciting any employee or independent contractor of the other party to perform services for any person or entity, or attempt to induce any employee or independent contractor to leave the employment of that party.

5.34 No Borrower may assign or otherwise transfer any of its rights or obligations hereunder or under any Borrowing Subsidiary Agreement without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent

4.11 If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition.

15.9 CONSEQUENTIAL DAMAGES In no event shall LEADTEK be liable to the Distributor or to the Distributor's employees, officers, directors, shareholders, customers or affiliates for any incidental or consequential damages, including, without limitation, or any loss, damage, claim, liability or expense, of any kind or nature, caused directly or indirectly by the furnishing of services or Products pursuant to this Agreement, or by any interruption of service, or loss of use thereof or for any loss of business or damage to the Distributor or end user whatsoever and however caused, even LEADTEK is aware of the risk of such damages.

5.38 This Agreement may not be sold, subleased, assigned or transferred, in whole or in part, without the written consent of Specialty, for any purpose, which consent may be withheld in Specialty's absolute discretion.

Manager shall not be required to take cognizance of any provisions or terms of the Trust Agreement, except for any investment, restriction or limitation that has been communicated to Manager in writing

14.30 Warranty/Support/Product Liability. Products shall comply with all applicable consumer legislation, including any governmentally mandated warranties, products liability legislation. It is Distributor's responsibility to notify Company of violations within their Territory, and give commercially reasonable time to cure the problem. Company shall provide Distributor with commercially reasonable support for any customer's warranty claims. See clause 3 in Exhibit A. Company shall indemnify, defend and hold harmless Distributor and its directors, officers, employees and agents from any and all causes of action, liabilities, claims, costs, losses, damages and expenses (including reasonable attorneys' fees) arising out of, related to or in connection with the Product's manufacturing defects or product liability. Company shall in such event have the right to, at its sole discretion and expense, undertake the defense of any claim against the Distributor, either as the defendant or as co-defendant by intervention. Distributor shall indemnify, defend and hold harmless Company and its directors, officers, employees and agents from any and all causes of action, liabilities, claims, costs, losses, damages and expenses (including reasonable attorneys' fees) arising out of related to or in connection with non-conformance with consumer or governmental legislation related to sales of Company products within their Territory.

25.8 Assignment, Sale or Lease of Project. The Company may assign its interest in this Agreement and may sell, lease or otherwise dispose of the Project, in whole or in part, provided that (a) the purchaser, lessee or transferee in such transaction shall be bound by the terms and provisions of this Agreement, and (b) such transaction shall not affect the liability of the Bank under the Letter of Credit.

2.4 Each party agrees to allow an independent certified public accountant the right to audit and examine such books, records and accounts during normal business hours no more than once per year upon ten (10) days notice at such examining party's expense, to verify the accuracy of the reports and payments made under this Section 6.

(e) Fee Adjustments - Beginning on July 1, 2009 and on each July 1 thereafter during the term of each Site License: (i) Licensor will automatically increase and Licensee shall automatically pay the License Fee, payable under the Site License, and (ii) the License Fee set forth in Subsection 5(b) shall be increased. The amount of such annual increase shall be reflected in the Pricing Matrix to be issued annually prior to July 1 by the Department of Transportation's Division of Right of Way. The amount of each annual increase may be approximated by multiplying the annual License Fee for the last year prior to the increase by three and one-half percent (3.5%). Should the Consumer Price Index (All Urban Consumers- Western Region All Items) US City Average, as published by the United States Department of Labor, Bureau of Labor Statistics, exceed 3.5% for the year, the Pricing Matrix will be adjusted correspondingly but in no event will the annual increase exceed 5.0%. The CPI adjusted increase will be calculated by the Department of Transportation's Division of Right of Way and will be incorporated into the annually prepared Pricing Matrix. A chart showing the expected annual fee for each year after July 1, 2008, is attached hereto as Exhibit C.

9.6 If a Member elects to make a Conditional Capital Contribution and the other Members decline or fail to make their respective Optional Capital Contributions, then the Company shall immediately return the Conditional Capital Contribution to the Member making such Conditional Capital Contribution and such Conditional Capital Contribution shall be deemed never to have been made.

Unless otherwise provided herein, any notice or demand required or permitted to be given hereunder shall be given in writing by hand delivery, first class certified or registered mail, return receipt requested, or by recognized overnight mail, in a sealed envelope, postage prepaid, to be effective when received or refused. Notice shall be addressed to the parties at the addresses set forth on the signature pages. Either party hereto may change the place for the giving of notice to it by like written notice to the other as provided herein.

14.28 Each Party agrees to hold the other Party harmless and to indemnify the other Party from and against any and all liabilities, losses, costs, damages, reasonable attorney's fees and expenses which it may sustain by reason of the breach or alleged breach of any of the provision in this Agreement.

14.35 Specialty shall indemnify and hold Customer and all subsidiary companies and affiliates harmless against any claim of liability or loss from bodily injury and/or property damage resulting from or arising out of Specialty's and/or any of its subcontractors', servants', agents' or invitees' use of occupancy of the Site, including but not limited to any claim of liability or loss associated with any Environmental Hazards as defined in this Agreement, excepting, however, such claims or damages

22.9 All applicable fees, charges, and expenses, as specified in this Agreement or the Exhibits, will be invoiced monthly and are due and payable in full within fifteen (15) days of the date of each invoice. Finance charges in the amount of 5% of the total amount overdue or

14.51 Indemnity . You will indemnify, defend, and hold harmless Zivity, its parents, subsidiaries, affiliates, and their respective directors, officers, employees, licensees and agents, with respect to any claim, demand, cause of action, or debt or liability brought by or claimed by any third party (including, without limitation, by any Model), including reasonable outside attorneys' fees (collectively "Claims"), to the extent that any such Claim is based upon or arises out of a breach of any of Your representations, warranties, covenants, or obligations hereunder.

(a) This Agreement and the Site Licenses constitute the entire agreement and understanding between the parties, and supersede all offers, negotiations and other agreements concerning the subject matter contained herein except for any Master License Agreement entered into prior to January 1, 2009 and the Site Licenses entered into by the parties thereunder. Any amendments to this Agreement or any Site License must be in writing and executed by both parties.

5.22 Assignment: Neither party may assign, subcontract, or delegate its rights and obligations under this Agreement without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have duly signed this Agreement as of the day and year first above written.

CompanyName (EUROPE) LTD.

By: /S/ DAVID BASER ----- Name: David Baser Title: VP, IMG

Company B

By: /S/ Benny DiMaggio ----- Name: Benny DiMaggio Title: President

☒ Confidential Treatment Requested