

PATENT ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
Saratoga DMS LLC	05/14/2003
RECEIVING PARTY DATA	
Name:	FatWire Corporation
Street Address:	330 Old Country Road, Suite 207
City:	Mineola
State/Country:	NEW YORK
Postal Code:	11501-4143
PROPERTY NUMBERS Total: 4	
Property Type	Number
Patent Number:	6012071
Patent Number:	6055522
Patent Number:	6397217
Patent Number:	6836774
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Total Attachments: 53	

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divine™

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September 16, 2003

Ref: Asset Purchase Agreement dated May 6, 2003; and subsequent Asset Purchase Agreement dated May 14, 2003

Dear Customer,

Pursuant to section 2.1 of the above mentioned Agreement, all assets specifically related to divine's Content Management business were sold to an entity formed by Saratoga Partners IV, L.P., who subsequently transferred these assets to FatWire Corporation, a company registered in the State of Delaware, USA.

By virtue of this Agreement, FatWire acquired the rights to all divine's Content Management customers' product license, professional services, training, maintenance and support contracts as well as all corresponding accounts receivable as at 14th May 2003. FatWire also, on that date, assumed its obligation under the Agreement to supply the above mentioned services to the Content Management customer base.

All valid product license, professional services, training, maintenance and support Agreements between your company and divine Inc (or Open Market Inc) are therefore assigned to FatWire and divine Inc is no longer in a position to supply such services to your company.

Any Content Management license fees, professional services fees, training, maintenance and support contract renewals that remain unbilled as of 14th May 2003 will be invoiced to you, either by FatWire Inc or its local subsidiary. New invoices in the name of FatWire or its local subsidiary should be paid to FatWire's designated bank details as shown on their invoice. Unpaid divine Inc. invoices should also be paid to FatWire's bank details as communicated to you by FatWire Inc or its local subsidiary.

While the legal complications of the transaction with FatWire have delayed the sending of this letter, we have been working together with FatWire to ensure continuous operational support to Content Management customers, our primary concern.

Yours truly

divine, inc.

By: 

Jude Sullivan, Senior Vice
President and General Counsel

PATENT

REF: 006450 FRAME: 0017

EXHIBIT A**PRODUCTS**

Product Line	Point Products	Acquired From
ECM	Participant Server	Eprise
ECM	Content Server	Open Market
ECM	Athena	Mindwrap

ASSET PURCHASE AGREEMENT

by and among

Saratoga DMS LLC

as Seller

and

FatWire Corporation

as Purchaser

dated as of

May 14, 2003

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement"), dated as of May 14, 2003 (the "Execution Date"), is entered into by and between Saratoga DMS LLC, a Delaware limited liability company ("Seller"), and FatWire Corporation, a Delaware corporation (the "Purchaser").

WITNESSETH:

WHEREAS, divine, inc., a Delaware corporation ("Divine"), and certain subsidiaries of Divine (the "Divine Subsidiaries", together with Divine, the "Divine Entities") are debtors and debtors in possession in a case (the "Bankruptcy Case") filed in the United States Bankruptcy Court for the District of Massachusetts, Eastern Division (the "Bankruptcy Court") under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") on February 25, 2003 (the "Petition Date");

WHEREAS, pursuant to the terms of that certain Asset Purchase Agreement dated as of May 6, 2003 by and among Divine, the Divine Subsidiaries, Seller and Saratoga Partners IV, L.P., a Delaware limited partnership (the "Divine Asset Purchase Agreement"), Seller has agreed to acquire the Transferred Assets (as such term is defined in the Divine Asset Purchase Agreement), which Transferred Assets include, among others, the ECM Transferred Assets, from the Divine Entities, and to assume certain liabilities, including, among others, the ECM Assumed Liabilities, of the Divine Entities; and

WHEREAS, Seller has agreed to transfer the ECM Transferred Assets to Purchaser contemporaneously with the Divine Closing, in accordance with the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 Definitions. The following terms, as used in this Agreement, shall have the following meanings:

"Accounts Receivable" shall mean all accounts receivable of the Divine Entities as of the Closing Date to the extent relating to the ECM Business, including any unbilled accounts receivable of the Divine Entities as of the Closing Date.

"Acquisition Documents" shall mean, collectively, this Agreement, the Bill of Sale and the Assignment and Assumption Agreement and all agreements, instruments,

certificates and other documents executed and delivered in connection herewith or contemplated hereby.

“Action” shall mean any claim, dispute, demand, cause of action or action asserted in any arbitration, litigation, adversary proceeding, mediation, suit, investigation or other proceeding and any appeal therefrom.

“Adjusted Accounts Receivable” shall mean (i) the \$939,902 of gross billed and unbilled outstanding domestic accounts receivable of the Divine Entities as they relate to the ECM Business as of 12:01 am Eastern Time on March 18, 2003, *plus* (ii) any new billed domestic accounts receivable (without duplication to unbilled accounts receivable included in clause (i) or this clause (ii)) and any new unbilled domestic accounts receivable of the Divine Entities as they relate to the ECM Business, in each case, that accrued at any time during the period from March 18, 2003 through the Business Day prior to the Closing Date, all as determined in accordance with GAAP, *minus* (iii) the amount of cash collections of the Divine Entities as they relate to the ECM Business during the period from March 18, 2003 through the Business Day prior to the Closing Date with respect to the accounts receivable described in clauses (i) and (ii).

“Affiliate” shall mean, with respect to any Person, any Person which, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. As used in this definition, the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct the management policies of such Person, whether through the voting power of outstanding securities, by contract or otherwise.

“Agreement” shall mean this Asset Purchase Agreement and shall include all of the Schedules and Exhibits attached hereto.

“Allocation” shall have the meaning ascribed to such term in Section 2.5 hereof.

“Approval” shall mean any approval, authorization, consent, license, franchise, order or permit of or by, notice to, or filing or registration with, a Person.

“Assigned Contracts” shall mean (i) all Contracts listed on Schedule 1.1(a) and (ii) to the extent assignable, all Contracts set forth on Schedule 1.1(b). The Purchaser shall have the right by written notice delivered to the Seller, at any time during the period from and after the date hereof through and including seventeen (17) Business Days after the Closing Date, to request that Seller acquire from the Divine Entities under the Divine Asset Purchase Agreement and transfer to Purchaser (x) any Contract that is not a Restricted Contract to Schedule 1.1(a) hereof and (y) any Contract that is a Restricted Contract to Schedule 1.1(b) hereof (excluding, in each case, employment agreements to which any Divine Entity is a party), provided, in each case, that such Contract has not been previously rejected in the Bankruptcy Case, and provided further that (a) the Seller’s obligation with respect to any Contract so added shall be limited to requesting that the Divine Entities file a motion with the Bankruptcy Court to approve the transfer of such Contract to the Seller and using reasonable best efforts to effectuate such transfer and (b) to the extent such Contract is added after the Closing Date, the Purchaser shall pay all

amounts which may be payable pursuant to Section 365(b) of the Bankruptcy Code on account of the assignment and assumption of such Contract. Schedules 1.1(a) and 1.1(b) also include the estimated amounts (as of the date hereof) of all amounts which may be payable pursuant to Section 365(b) of the Bankruptcy Code on account of the assumption and assignment of any Assigned Contract.

“Assignment and Assumption Agreement” shall mean the Assignment and Assumption Agreement, substantially in the form attached hereto as Exhibit B.

“Bankruptcy Case” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Bankruptcy Code” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Bankruptcy Court” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Bill of Sale” shall mean the bill of sale transferring to the Purchaser the Transferred Assets, substantially in the form attached hereto as Exhibit C.

“Books and Records” shall have the meaning ascribed to such term in Section 2.1(f) hereof.

“Business Day” shall mean a day that is not a Saturday, a Sunday or a day on which banks in the State of New York are required or authorized to close for regular banking business.

“Claims” shall mean all claims, causes of action, choses in action, rights of recovery and rights of set-off of whatever kind or description against any person or entity.

“Closing” shall mean the consummation of the transactions contemplated by this Agreement.

“Closing Date” shall mean the date of the Closing, which shall be the same date of the Divine Closing.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“Contract” shall mean each instrument, contract, license and other agreement, including real property leases, operating leases, capital leases, unexpired leases of personal property and other leases, in each case primarily relating to the ECM Business, to which any Divine Entity is a party or by which it or any of the ECM Transferred Assets is bound.

“Customer Contract” means the Customer Contract in the form attached hereto as Exhibit E.

“Deposit” shall have the meaning ascribed to such term in Section 2.5 hereof.

“Divine Closing” shall mean the “Closing” under the Divine Asset Purchase Agreement.

“Divine Asset Purchase Agreement” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Divine Entities” shall have the meaning ascribed to such term in the recitals to this Agreement.

“ECM Assumed Liabilities” shall have the meaning ascribed to such term in Section 2.3 hereof.

“ECM Business” shall have the meaning ascribed to such term in the Divine Asset Purchase Agreement.

“ECM Transferred Assets” shall have the meaning ascribed to such term in Section 2.1 hereof.

“Effective Time” shall mean 12:01 a.m. on the Closing Date.

“Equipment” shall have the meaning ascribed to such term in the Divine Asset Purchase Agreement as relates to the ECM Business.

“Execution Date” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Foreign Subsidiary” or “Foreign Subsidiaries” shall have the meanings ascribed to such terms in Section 2.6 of the Divine Asset Purchase Agreement.

“GAAP” shall mean generally accepted accounting principles in the United States.

“Governmental Authority” shall mean any foreign, federal, state, local or other governmental, administrative or regulatory authority, body, agency, court, tribunal or similar entity including any arbitrator or arbitration panel, including, without limitation, the Bankruptcy Court.

“Intellectual Property” shall mean all of the following whether patented or patentable or not and whether or not such items have been reduced to written, computer-readable or other tangible form and irrespective of where any of the same were issued, are pending or exist that are owned by, issued to or licensed by a Divine Entity and that primarily relate to the ECM Business: United States and foreign patents of any description, and applications therefor, utility models and utility model applications (whether owned or licensed), including any equivalents, divisionals, continuations, continuations-in-part, re-issues, registrations, additions or extensions thereof, as well as any further patents, patent applications, utility models and utility model applications (whether owned or licensed); United States (federal, state and common law)

and foreign trademarks and other trade names, service marks, logos, labels, trade dress, advertising and package designs, and other trade rights (and all goodwill associated with the foregoing), whether or not registered and all applications therefor; United States and foreign copyrights, whether or not registered and all applications therefor (including copyrights in computer software and computer software documentation, source code and systems documentation), all other rights relating to computer software, Web sites, domain name registrations, know-how, trade secrets, business leads, research and results thereof, technology, techniques, data, methods, processes, instructions, drawings and specifications, inventions, discoveries, improvements, designs, formulae, recipes, shop rights and license agreements and other agreements of every kind and character relating to any of the foregoing, and all claims and causes of action relating to any of the foregoing, including all claims or causes of action for past infringement, and all other intellectual property rights of any kind or nature.

“Inventory” shall mean all inventories owned by the Divine Entities wherever located that primarily relate to the ECM Business. For purposes hereof, inventories shall include packaging, finished goods, raw materials, supplies, work in process, spare parts and other miscellaneous items of tangible property normally considered a part of “inventory” under GAAP.

“Knowledge” means (i) with respect to Seller, the actual knowledge, without independent investigation, of each of the executive officers of Seller, and (ii) with respect to the Purchaser, the actual knowledge, without independent investigation, of each officer of Purchaser.

“Law” shall mean any law, statute, rule, regulation, ordinance, standard, requirement, administrative ruling, order or process promulgated by any Governmental Authority as in effect from time to time.

“Liability” shall mean any debt, liability, commitment, guaranty, warranty or obligation of any kind, character or nature whatsoever, whether known or unknown, secured or unsecured, accrued, fixed, absolute, potential, contingent or otherwise, and whether due or to become due.

“Lien” shall have the meaning assigned to such term under Section 101(37) of the Bankruptcy Code.

“New York Court” shall have the meaning ascribed to such term in Section 12.7(c) hereof.

“Other Personalty” shall have the meaning ascribed to such term in the Divine Asset Purchase Agreement as relates to the ECM Business.

“Patent License Agreement” shall mean the Patent License Agreement in the form attached hereto as Exhibit D.

“Person” shall mean any individual, general or limited partnership, corporation, limited liability company, association, business trust, joint venture, Governmental Authority, business entity or other entity of any kind or nature.

“Purchase Price” shall have the meaning ascribed to such term in Section 2.4 hereof.

“Purchaser” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Representative” shall mean, with respect to a Person, any employee, officer, director, stockholder, partner, accountant, attorney, investment banker, broker, finder, investor, subcontractor, consultant or other authorized agent or representative of such Person.

“Restricted Assets” shall have the meaning ascribed to such term in Section 3.3 hereof.

“Schedules” means the schedules annexed hereto and made a part hereof.

“Seller” shall have the meaning ascribed to such term in the preamble to this Agreement.

“Tax” shall mean any federal, state, province, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

“Tax Return” shall mean any return, report, declaration, claim for refund, estimate, election, or information statement or return relating to any Tax, including any schedule or attachment thereto, and any amendment thereof.

“Transfer” shall mean any sale, transfer, conveyance, assignment, delivery or other disposition, and “Transfer” or “Transferred,” used as a verb, shall each have a correlative meaning.

“Transferred Assets” shall have the meaning ascribed to such term in the Divine Asset Purchase Agreement.

“Transferred Facilities” shall have the meaning ascribed to such term in the Divine Asset Purchase Agreement as relates to the ECM Business.

SECTION 1.2 Additional Definitions. In addition to the foregoing defined terms, other capitalized terms appearing in this Agreement shall have the respective meanings ascribed to such terms where they first appear in the text of this Agreement.

SECTION 1.3 Headings. The headings contained in this Agreement are for convenience of reference only and shall not constitute a part hereof or define, limit or otherwise affect the meaning of any of the terms or provisions hereof.

SECTION 1.4 Schedules. Unless the context otherwise requires, all capitalized terms used in the Schedules shall have the respective meanings assigned in this Agreement. No reference to or disclosure of any item or other matter in the Schedules shall be construed as an admission or indication that such item or other matter is material or that such item or other matter is required to be referred to or disclosed in the Schedules. No disclosure in the Schedules relating to any possible breach or violation of any agreement, law or regulation shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. Any information, item or other disclosure set forth in any Schedule shall be deemed to have been set forth in all other applicable Schedules if the relevance of such disclosure to such other Schedules is reasonably apparent from the facts specified in such disclosure.

SECTION 1.5 References to Articles, Etc. All references herein to Articles, Sections, Exhibits and Schedules shall be to Articles and Sections of and Exhibits and Schedules to this Agreement.

SECTION 1.6 References to "Herein," Etc. As used in this Agreement, the words "herein," "hereof," "hereby" and "hereunder" shall refer to this Agreement as a whole, and not to any particular section, provision or subdivision of this Agreement.

ARTICLE II

PURCHASE AND SALE OF THE ASSETS; PURCHASE PRICE

SECTION 2.1 Purchase and Sale of the Assets. At and as of the Effective Time, the Seller shall Transfer to the Purchaser, and the Purchaser shall purchase and accept from the Seller, subject to the provisions of Section 4.5 hereof, all of the Seller's right, title and interest in and to the Transferred Assets that relate to the ECM Business, including, without limitation, each of the products listed on Exhibit A hereto and the following (the "ECM Transferred Assets"):

(a) the Accounts Receivable, a recent summary schedule of which is attached hereto as Schedule 2.1(a) (it being understood that such schedule does not reflect Accounts Receivable as of the Closing Date that will be included in the ECM Transferred Assets);

(b) the Equipment and Other Personalty whether located at the Transferred Facilities of the Divine Entities or elsewhere;

(c) the Intellectual Property primarily used in the ECM Business(except for those patents being licensed by Seller to Purchaser pursuant to the Patent License Agreement), including, without limitation, the patented or registered Intellectual Property set forth on Schedule 2.1(c) and pending patent applications or other applications for the registration of Intellectual Property;

(d) all Inventory, a recent summary schedule of which is attached hereto as Schedule 2.1(d) (it being understood that such schedule does not reflect Inventory as of the Closing Date that will be included in the ECM Transferred Assets);

- (e) all rights of the Seller under Assigned Contracts;
- (f) originals or copies of all books, financial and other records and information which has been reduced to written, recorded or encoded form, in each case to the extent related to the ECM Business (collectively, the “Books and Records”);
- (g) licenses and permits primarily used in the operation of the ECM Business, to the extent transferable;
- (h) any warranties of third parties on any ECM Transferred Assets;
- (i) all prepaid expenses, security deposits and other credits owed to the Divine Entities from third parties, to the extent primarily related to the ECM Transferred Assets;
- (j) all rights and incidents under policies, contracts or arrangements related to insurance of the Divine Entities to the extent related to ECM Assumed Liabilities or ECM Transferred Assets and to the extent transferable (it being understood that (i) such policies will be cancelled at Closing and the Divine Entities will be entitled to any refunds upon such cancellation and (ii) the Divine Entities’ directors and officers insurance policies will not constitute ECM Transferred Assets);
- (k) all rights and claims of the Divine Entities of every kind and description under all non-disclosure, confidentiality, non-competition, non-solicitation, assignment of invention and other agreements of a comparable nature with (i) all present and former employees of the Divine Entities other than Eligible Employees who are hired by the Purchaser to the extent such agreements relate to the ECM Transferred Assets and (ii) all Eligible Employees who are hired by the Purchaser whether or not such agreements relate to the ECM Transferred Assets; and
- (l) all other assets of the Divine Entities primarily related to the ECM Business purchased by Seller under the Divine Asset Purchase Agreement.

Notwithstanding the foregoing, if the Divine Entities fail to Transfer any of the Transferred Assets that relate to the ECM Business to Seller pursuant to the Divine Asset Purchase Agreement (the “Non-Transferred ECM Assets”), Seller will not be liable to Purchaser for failing to Transfer such Non-Transferred ECM Assets to Purchaser hereunder, provided, however, that Purchaser shall have the right to direct Seller, at Purchaser’s expense and with counsel of Purchaser’s choosing, to pursue all of Seller’s rights under the Divine Asset Purchase Agreement and Purchaser agrees to hold Seller harmless from any claim against Seller for pursuing such rights.

SECTION 2.2 Excluded Assets; Restricted Assets. Notwithstanding anything to the contrary contained herein, including in Section 2.1 above, the Purchaser acknowledges that the Seller shall not Transfer to the Purchaser any of the Excluded Assets (as such term is defined in the Divine Asset Purchase Agreement) or Restricted Assets.

SECTION 2.3 Assumption of Liabilities. Subject to the terms and conditions of this Agreement, at and as of the Effective Time, the Purchaser shall assume and agree to pay, perform, discharge and satisfy when due in accordance with their terms the Liabilities that relate to the ECM Business that constitute “Assumed Liabilities” under the Divine Asset Purchase Agreement, including, without limitation, the following liabilities:

3 (i) Liabilities under any of the Assigned Contracts accruing, arising out of or
4 relating to periods after the Effective Time;

 (ii) any amount which may be payable by Seller under the Divine Asset Purchase Agreement pursuant to Section 365(b) of the Bankruptcy Code on account of the assumption and assignment of any Assigned Contract;

 (iii) any Liabilities for accrued vacation with respect to Eligible Employees who are hired by the Purchaser at the Effective Time or within 30 days following the Closing Date; and

 (iv) any Liabilities covered by warranties assigned to the Purchaser pursuant to Section 2.1(h) of this Agreement.

 The Liabilities described in the foregoing clauses (i), (ii), (iii) and (iv) are collectively defined herein as the “ECM Assumed Liabilities”.

SECTION 2.4 Purchase Price. In consideration for the ECM Transferred Assets, the Purchaser has agreed to pay to the Seller an aggregate of Six Million Five Hundred Thousand Dollars (\$6,500,000), as the same may be adjusted pursuant to Section 8.4 hereof (the “Purchase Price”), of which (i) Six Hundred Fifty Thousand Dollars (\$650,000) (the “Deposit”) has been heretofore advanced to Seller as a deposit and (ii) Five Million Eight Hundred Fifty Dollars (\$5,850,000) shall be paid to the Seller by wire transfer of immediately available funds payable at the Closing. In addition to the Purchase Price, Purchaser shall pay to Seller Two Hundred Thousand Dollars (\$200,000) in consideration for Seller’s assumption certain of post-Petition Date accounts payable of the Divine Entities pursuant to Section 2.3(a)(v) of the Divine Asset Purchase Agreement. The Seller shall give the Purchaser two (2) Business Days written notice of the prospective Closing Date.

SECTION 2.5 Allocation of the Purchase Price. No later than three (3) Business Days prior to the Closing Date, the parties will mutually agree upon an allocation of the total Purchase Price for the ECM Transferred Assets (including the cash purchase price and the assumption of the ECM Assumed Liabilities) and, if applicable, any Foreign Subsidiary, pursuant to Section 1060 of the Code and the regulations thereunder (the “Allocation”). The Purchaser and the Seller agree to use such Allocation in filing all required forms under Section 1060 of the Code and not take any position inconsistent with such Allocation upon any examination of any such Tax Return, in any refund claim or in any tax litigation. The Seller agrees that it will consult with Purchaser prior to entering into any agreement with the Divine Entities with respect to the allocation of the purchase price to be paid by Seller to the Divine Entities in respect of the ECM Transferred Assets.

SECTION 2.6 Foreign Subsidiaries. In the event that Seller exercises the dMS Foreign Subsidiary Option and/or ECM Foreign Subsidiary Option (as each is defined in the Divine Asset Purchase Agreement) pursuant to Section 2.6 of the Divine Asset Purchase Agreement, Seller agrees that it shall Transfer to Purchaser any assets of such Foreign Subsidiaries relating to the ECM Business. If Seller does not exercise one (1) or both options, Seller agrees to assign to Purchaser its rights under such unexercised option or options, as the case may be. If Purchaser exercises its rights under one (1) or both options, as the case may be, Purchaser agrees that it shall Transfer to Seller any assets of such Foreign Subsidiaries relating to the dMS Business (as such term is defined in the Divine Asset Purchase Agreement).

SECTION 2.7 Other Payments. Purchaser will pay to Seller the amount of \$7,500 per month toward the obligations of the Seller under the Temporary Services Agreement and the Transition Services Agreement (as each is defined in the Divine Asset Purchase Agreement) for a maximum of two months. In consideration for such payment, Purchaser shall have general access to data and personnel located at the facility referred in such Agreements with respect to matters relating to the ECM Business.

ARTICLE III

THE CLOSING

SECTION 3.1 Time and Place of Closing. The Closing shall take place contemporaneously with and at the time and place of the Divine Closing.

SECTION 3.2 Deliveries at Closing. (a) Deliveries by Purchaser. At the Closing, the Purchaser shall deliver to the Seller the following:

- (i) a wire transfer of the Purchase Price (less the amount of the Deposit);
- (ii) the Assignment and Assumption Agreement;
- (iii) the Patent License Agreement;
- (iv) the Customer Contract;
- (v) a certificate of an executive officer of the Purchaser to evidence compliance with the conditions set forth in Sections 9.1 and 9.2 hereof and any other certificates to evidence compliance with the conditions set forth in Article IX hereof as may be reasonably requested by the Seller or its counsel;
- (vi) any cure costs reimbursed by Seller to the Divine Entities as a result of the same having been advanced by the Divine Entities on or prior to the Divine Closing that would otherwise have constituted ECM Assumed Liabilities pursuant to Section 2.3(a)(ii) hereof; and

(vii) such other documents as Seller's counsel may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

(b) Deliveries by the Seller. At the Closing, the Seller (or its Affiliates, if applicable) shall deliver to the Purchaser the following:

- (i) the Bill of Sale;
- (ii) the Assignment and Assumption Agreement;
- (iii) the Patent License Agreement;
- (iv) the Customer Contract;
- (v) a certificate of an executive officer of the Seller to evidence compliance with the conditions set forth in Sections 8.1 and 8.2 hereof and any other certificates to evidence compliance with the conditions set forth in Article VIII hereof as may be reasonably requested by the Purchaser or its counsel; and
- (vi) such other documents as Purchaser's counsel may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the transactions contemplated by this Agreement.

SECTION 3.3 Assignment of Assigned Contracts, Etc. Anything contained herein to the contrary notwithstanding, this Agreement shall not effect the Transfer of any Assigned Contract or any claim, right, or benefit arising thereunder or resulting therefrom, if a Transfer thereof, without the Approval of any other party thereto, would excuse such other party thereto from accepting performance from the Purchaser, constitute a breach thereof or in any way affect the rights of the Seller or the Purchaser, as the case may be, thereunder (collectively, "Restricted Assets"). Any Transfer to the Purchaser of any Restricted Asset which shall require the Approval of any other party for such Transfer as aforesaid shall be made subject to such Approval being obtained.

SECTION 3.4 Sales, Use and Other Taxes. Any sales, use, purchase, transfer, stamp, or documentary stamp Taxes which may be payable by reason of the sale of the ECM Transferred Assets or, if applicable, the capital stock of any Foreign Subsidiary, under this Agreement for the transactions contemplated herein and any and all claims, charges, interest or penalties assessed, imposed or asserted in relation to any such Taxes, shall be the responsibility and obligation of and timely paid by the Purchaser, it being agreed that the Seller shall use commercially reasonable best efforts to obtain a waiver of such Taxes to the extent permitted under the Bankruptcy Code. In no event shall any party to this Agreement be responsible for the income taxes of any other party that arise as a consequence of the transactions consummated hereunder.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE SELLER

As an inducement to the Purchaser to enter into this Agreement, the Seller represents and warrants as of the Closing Date as follows:

SECTION 4.1 Organization. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the requisite power and authority to own, operate and lease its properties and assets and to conduct its business as it is now being owned, operated, leased and conducted.

SECTION 4.2 Power and Authority. (i) Seller has the requisite power and authority to execute and deliver this Agreement and the other Acquisition Documents to which it is a party and, subject to the Divine Closing, perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby, (ii) the execution and delivery by Seller of this Agreement and the other Acquisition Documents to which it is a party, the performance of its obligations hereunder and thereunder and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary actions on the part of Seller, and (iii) this Agreement and each other Acquisition Document to which Seller is a party will constitute, upon the mutual execution and delivery thereof, the legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors generally and by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

SECTION 4.3 No Violation. Neither the execution and delivery by Seller of this Agreement or any of the other Acquisition Documents to which it is a party, the performance by it of its obligations hereunder or thereunder, nor the consummation by it of the transactions contemplated hereby or thereby, will (i) contravene any provision of the certificate of formation or operating agreements of Seller; (ii) result in the creation or imposition of any Lien upon any of the properties or assets of Seller, or (iii) violate, conflict with or require any Approval, under, any Law or any judgment, decree or order of any Governmental Authority to which Seller is subject or by which it or any of its assets or properties are bound.

SECTION 4.4 Actions. There is no Action pending or, to the knowledge of Seller, threatened in writing, against Seller that questions or challenges the validity of this Agreement or the other Acquisition Documents or any action taken or proposed to be taken by Seller pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby, and, to Seller's knowledge, no condition exists which could reasonably be expected to lead to any such Action.

SECTION 4.5 Title to Property. Seller represents that Seller has taken no action to cause the imposition of any Liens on the ECM Transferred Assets.

SECTION 4.6 Approvals. Except (i) for Approval of the Bankruptcy Court and (ii) for consents required to assign the Restricted Assets, no material Approval of any

Governmental Authority or other Person is required to be made, obtained or given by or with respect to the Seller in connection with the execution or delivery by Seller of this Agreement and the other Acquisition Documents to which it is a party, the performance by it of its obligations hereunder or thereunder or the consummation by it of the transactions contemplated hereby or thereby, including without limitation the Transfer of the ECM Transferred Assets to the Purchaser.

SECTION 4.7 Broker's or Finder's Fees. Seller has not authorized any Person to act as broker, finder, banker, consultant, intermediary or in any other similar capacity which would entitle such Person to any investment banking, brokerage, finder's or similar fee in connection with the transactions contemplated by this Agreement or any of the other Acquisition Documents.

SECTION 4.8 "AS IS" Transaction. The Purchaser hereby acknowledges and agrees that, except as otherwise expressly provided in this Agreement, Seller makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the ECM Business or the ECM Transferred Assets or, if applicable, the Foreign Subsidiaries, including, without limitation, income to be derived or expenses to be incurred in connection with the ECM Transferred Assets or, if applicable, the Foreign Subsidiaries, the physical condition of any personal property comprising a part of the ECM Transferred Assets, or, if applicable, owned by the Foreign Subsidiaries, or which is the subject of any Assigned Contract or assigned lease to be assumed by the Purchaser at the Closing, the environmental condition or other matter relating to the physical condition of any real property or improvements which are the subject of any assigned lease to be assumed by the Purchaser at the Closing, the zoning of any such real property or improvements, the value or transferability of the ECM Transferred Assets (or any portion thereof), or, if applicable, the Foreign Subsidiaries, the terms, amount, validity or enforceability of any ECM Assumed Liabilities, the merchantability or fitness of the ECM Transferred Assets (or any portion thereof for any particular purpose, or any other matter or thing relating to the ECM Business or the ECM Transferred Assets or any portion thereof or, if applicable, the Foreign Subsidiaries). Without in any way limiting the foregoing, Seller hereby disclaims any warranty (express or implied) of merchantability or fitness for any particular purpose as to any portion of the ECM Transferred Assets. The Purchaser further acknowledges that the Purchaser has conducted an independent inspection and investigation of the physical condition of the ECM Transferred Assets and, if applicable, the Foreign Subsidiaries, and all such other matters relating to or affecting the ECM Transferred Assets and, if applicable, the Foreign Subsidiaries, as the Purchaser deemed necessary or appropriate and that in proceeding with its acquisition of the ECM Transferred Assets and, if applicable, the Foreign Subsidiaries, the Purchaser is doing so based solely upon such independent inspections and investigations, but subject to the satisfaction or waiver of the closing conditions specified herein. Accordingly, if the Closing occurs, the Purchaser will accept the ECM Transferred Assets at the Closing and, if applicable, the Foreign Subsidiaries at or after the Closing "AS IS," "WHERE IS," and "WITH ALL FAULTS."

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

As an inducement to Seller to enter into this Agreement, Purchaser hereby represents and warrants as of the Closing Date as follows:

SECTION 5.1 Organization and Good Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the requisite corporate power and authority to own, operate and lease its properties and assets and to conduct its business as they are now being owned, operated, leased and conducted. Purchaser is duly qualified or licensed to do business as a foreign corporation and is in good standing in every jurisdiction where such qualification is material to the ECM Business.

SECTION 5.2 Power and Authority. The Purchaser has the requisite corporate power and authority to execute and deliver this Agreement and the other Acquisition Documents, perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby. The execution and delivery by the Purchaser of this Agreement and the other Acquisition Documents to which it is a party, the performance by it of its obligations hereunder and thereunder and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate actions on the part of the Purchaser. This Agreement and each other Acquisition Document to which the Purchaser is a party will constitute upon the mutual execution and delivery thereof the legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity (regardless of whether such enforceability is considered in a preceding in equity or at law).

SECTION 5.3 No Violation. Neither the execution and delivery by the Purchaser of this Agreement or any of the other Acquisition Documents to which it is a party, the performance by it of its obligations hereunder or thereunder, nor the consummation by it of the transactions contemplated hereby or thereby, will (i) contravene any provision of the certificate of incorporation and bylaws of the Purchaser; (ii) result in the creation or imposition of any Lien upon any of the properties or assets of the Purchaser, or (iii) violate, conflict with or require any Approval under, any Law or any judgment, decree or order of any Governmental Authority to which the Purchaser is subject or by which it or any of its assets or properties are bound.

SECTION 5.4 Approvals. No Approval of any Governmental Authority or other Person is required to be made, obtained or given by or with respect to the Purchaser in connection with the execution or delivery by it of this Agreement and the other Acquisition Documents, the performance by it of its obligations hereunder or thereunder or the consummation by it of the transactions contemplated hereby or thereby, except for any such Approval which could not adversely impact the Purchaser's ability to perform its obligations under this Agreement.

SECTION 5.5 Solvency, Availability of Funds. (a) As of the Closing and immediately after consummating the transactions contemplated herein and the other transactions contemplated by the Acquisition Documents, the Purchaser will not (i) be insolvent (either because its financial condition is such that the sum of its debts is greater than the fair value of its assets or because the present fair value of its assets will be less than the amount required to pay its probable Liability on its debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in its business, including the ECM Business or (iii) have incurred or plan to incur debts beyond its ability to repay such debts as they become absolute and matured, and (b) the Purchaser has cash available on hand, permitted borrowing capacity under existing facilities or firm financing commitments that together are sufficient funds to enable it to pay the Purchase Price in full at Closing and consummate the transactions contemplated under the Acquisition Documents.

SECTION 5.6 Affiliated and Associated Persons. As of the date hereof, there are no officers, directors, employees or Affiliates of any Divine Entities that are assisting, advising, affiliated with, participating with or otherwise associated with the Purchaser or any Affiliate of the Purchaser (including as current or prospective equity-holders or co-investors in or with the Purchaser or its Affiliates) in connection with the transactions contemplated herein by reason of any arrangement in place as of the date hereof, other than any assistance, advice, participation or association which results from ordinary course business contacts between the Purchaser and the Divine Entities and their respective officers, directors, employees or affiliates as a result of the contemplated sale of the ECM Business.

SECTION 5.7 Broker's or Finder's Fees. Except for the fees of S.G. Cower & Co., which shall be paid by the Purchaser, neither the Purchaser nor any of its Affiliates has authorized any Person to act as broker, finder, banker, consultant, intermediary or in any other similar capacity which would entitle such Person to any investment banking, brokerage, finder's or similar fee in connection with the transactions contemplated by this Agreement or any of the other Acquisition Documents, except where any fee or payment due such persons would be solely the obligation of the Purchaser or its Affiliates.

ARTICLE VI

COVENANTS OF THE SELLER AND THE PURCHASER

SECTION 6.1 Notification of Bankruptcy Court Matters. From and after the date hereof, each of the Seller and the Purchaser and their respective attorneys and other advisors shall cooperate with the other party hereto, and keep each other and their attorneys reasonably apprised of all matters with respect to the Bankruptcy Case, including without limitation, by providing each other and their attorneys with a copy of any substantive motion or other pleadings or filings to be made with the Bankruptcy Court with respect to, or related to, the transactions contemplated herein (including without limitation, a reasonable opportunity to review and comment on the same), and reasonable advance notice of any motion to assume or reject any Contract.

ARTICLE VII

AGREEMENTS OF PURCHASER AND SELLER

SECTION 7.1 Employees. Purchaser shall have the right, but not the obligation, to make offers of employment to the employees of the Divine Entities set forth on Schedule 7.1 engaged in the ECM Business. The terms of employment offered to such employees set forth on Schedule 7.1 shall be at substantially similar salary levels to those currently enjoyed by such employees, and with such other terms and conditions of employment to be determined by the Purchaser.

SECTION 7.2 Restricted Assets. The Purchaser and the Seller shall utilize their reasonable best efforts to obtain the Approvals of third parties as required to validly Transfer the Restricted Assets.

ARTICLE VIII

CONDITIONS PRECEDENT TO THE PURCHASER'S OBLIGATIONS

The obligations of the Purchaser to purchase and accept transfer and delivery of the ECM Transferred Assets are subject to the satisfaction on or, where appropriate, prior to, the Closing Date, of the following conditions, except to the extent that any such condition may have been waived in writing by the Purchaser on or prior to the Closing Date:

SECTION 8.1 Representations and Warranties. The representations and warranties of the Seller contained in Article IV of this Agreement shall have been true and correct in all material respects when made and shall be true and correct in all material respects at and as of the Closing Date (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date).

SECTION 8.2 Performance. The Divine Closing shall have occurred simultaneously with the Closing. The Seller shall have performed and complied in all material respects with the covenants and obligations required by this Agreement to be performed or complied with by the Seller at or prior to the Closing Date.

SECTION 8.3 No Order. No order, statute, rule, regulation, executive order, injunction, stay, decree, directive, or restraining order shall have been enacted, entered, promulgated or enforced by any court of competent jurisdiction or Governmental Authority that would (i) prevent the consummation of any of the transactions contemplated by this Agreement or (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, nor shall any such injunction, judgment, order, decree, ruling or charge be in effect. No Action shall be pending before any Governmental Authority or before any arbitral body wherein an unfavorable injunction, judgment, order, decree, ruling, directive or charge would (x) prevent consummation of any of the transactions contemplated by this Agreement or (y) cause any of the transactions contemplated by this Agreement to be rescinded following consummation.

SECTION 8.4 Adjusted Accounts Receivable. In the event that (i) Seller obtains a purchase price reduction pursuant to Section 9.7 of the Divine Asset Purchase Agreement in respect of the Transferred Assets and (ii) the actual Adjusted Accounts Receivable for the ECM Business as of the Closing Date is less than \$939,902, the Purchase Price hereunder shall be reduced by an amount equal to the lesser of (a) the amount of the Seller's aggregate purchase price reduction under Section 9.7 of the Divine Asset Purchase Agreement or (b) the difference between \$939,902 and the actual Adjusted Accounts Receivable for the ECM Business as of the Closing Date.

ARTICLE IX

CONDITIONS PRECEDENT TO THE SELLER'S OBLIGATIONS

The obligations of the Seller to sell, transfer and deliver the ECM Transferred Assets are subject to the satisfaction on or, where appropriate, prior to the Closing Date, of the following conditions, except to the extent that any such condition may have been waived in writing by the Sellers on or prior to the Closing Date:

SECTION 9.1 Representations and Warranties. The representations and warranties of the Purchaser contained in Article V of this Agreement shall have been true and correct in all material respects when made and shall be true and correct in all material respects at and as of the Closing Date (except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date), except, in each case, where the failure of such representations and warranties to be true and correct would not adversely impact the Purchaser's ability to perform its obligations under this Agreement.

SECTION 9.2 Performance. The Divine Closing shall have occurred simultaneously with the Closing. The Purchaser shall have performed and complied in all material respects with the covenants and obligations required by this Agreement to be performed or complied with by the Purchaser at or prior to the Closing Date.

SECTION 9.3 No Order. No order, statute, rule, regulation, executive order, injunction, stay, decree, directive, or restraining order shall have been enacted, entered, promulgated or enforced by any court of competent jurisdiction or Governmental Authority that would (i) prevent the consummation of any of the transactions contemplated by this Agreement or (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, nor shall any such injunction, judgment, order, decree, ruling or charge be in effect. No Action shall be pending before any Governmental Authority or before any arbitral body wherein an unfavorable injunction, judgment, order, decree, ruling, directive or charge would (x) prevent consummation of any of the transactions contemplated by this Agreement or (y) cause any of the transactions contemplated by this Agreement to be rescinded following consummation.

ARTICLE X

COVENANTS AND AGREEMENTS SUBSEQUENT TO THE CLOSING

SECTION 10.1 Books and Records; Access. After the Closing Date, the Purchaser shall not destroy or otherwise dispose of any original Books and Records in its possession as of the Closing Date relating to the ECM Business or the ECM Transferred Assets prior to the Closing or the ECM Assumed Liabilities without first offering to surrender such Books and Records to the Seller, upon ninety (90) days written notice and shall maintain such Books and Records in good condition in a reasonably accessible location. In addition, after the Closing Date the Purchaser shall afford the Seller and its representatives, successors and assigns, reasonable access to their books, records, personnel, offices and other information with respect to the ECM Business that is necessary for the purpose of obtaining information related to reasonable business purposes and shall cooperate with Seller with respect to such matters without cost or charge to the Seller (except that the Seller shall bear any out-of-pocket costs incurred in connection therewith).

SECTION 10.2 Further Assurances. In addition to the actions, documents, files, pleadings and instruments specifically required to be taken or delivered by this Agreement or the other Acquisition Documents, whether on or from time to time after the Closing, and without further consideration, each party hereto shall make reasonable best efforts to, and shall use their reasonable best efforts to cause their respective Affiliates to, take such other actions, and execute and/or deliver such other documents, data, pleadings, files, information and instruments, as the other party hereto or its counsel may reasonably request in order to effectuate and perfect the transactions contemplated by this Agreement and the other Acquisition Documents, including without limitation, such actions as may be necessary to Transfer to the Purchaser and to place the Purchaser in possession or control of, all of the rights, properties, assets and businesses intended to be sold, Transferred, conveyed, assigned and delivered hereunder, or to assist in the collection of any and all such rights, properties and assets or to enable the Purchaser to exercise and enjoy all rights and benefits of the Sellers with respect thereto.

ARTICLE XI

TERMINATION

SECTION 11.1 Termination. This Agreement may be terminated:

- (a) by the mutual written consent of the Purchaser and the Seller;
- (b) automatically upon the termination of the Divine Asset Purchase Agreement for any reason; or
- (c) by the non-breaching party, if the Divine Closing has occurred and either party has materially breached any term or condition of this Agreement, provided, that the non-breaching party notifies the breaching party in writing of such breach and the breaching party has thirty (30) days to cure.

SECTION 11.2 Effect of Termination. (a) In the event of the termination of this Agreement under Section 11.1(b), except with respect to this Section 11.2, Section 12.1, Section 12.2, Section 12.3, Section 12.4 and Sections 12.7 through 12.12 hereof, (i) this Agreement shall forthwith become void, and (ii) subject to the provisions of Section 11.2(b) below, there shall be no liability on the part of the Seller, the Purchaser or any of their respective Representatives.

(b) Notwithstanding the provisions of Section 11.2(a) above, if this Agreement is terminated pursuant to Section 11.1(b), the following provisions shall apply:

(i) if the termination of the Divine Asset Purchase Agreement is caused by, or shall have resulted from, the failure of Seller to fulfill any of its obligations under the Divine Asset Purchase Agreement, the Seller shall refund the full amount of the Deposit to Purchaser; and

(ii) if the termination of the Divine Asset Purchase Agreement is not caused by, and has not resulted from, an act or failure to act on the part of either Seller or Purchaser, the Seller shall refund the Purchaser the pro-rata portion of any amount returned to Seller by the Divine Entities on account of the deposit made by Seller pursuant to the Divine Asset Purchase Agreement.

(c) Nothing under Section 11(b) shall preclude or restrict in any manner either party from asserting any Claim against the other party at law or in equity.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Public Announcements. Other than oral statements made in the Bankruptcy Court, the Purchaser and the Seller shall consult with each other before issuing any press release or making any public statement or other public communication with respect to this Agreement or the transactions contemplated herein (including any written statements made in the Bankruptcy Court or in pleadings filed therein relating to this Agreement or the transactions contemplated herein). The Purchaser and the Seller shall not issue any such press release or make any such public statement or public communication without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, with the prior consent of the other party (which consent shall not be unreasonably withheld or delayed), issue such press release or make such public statement as may, upon the advice of counsel, be required by applicable Law, any Governmental Authority with competent jurisdiction or any listing agreement with any national securities exchange, so long as the other party is given an opportunity to review and comment on any such press release or public statement. Notwithstanding any provision to the contrary in this Agreement, the Seller or the Purchaser may disclose the existence, terms and conditions and a copy of this Agreement or any other Acquisition Document to the Bankruptcy Court, to any Representative of the Seller or the Purchaser.

SECTION 12.2 Amendment, Waiver. Neither this Agreement, nor any of the terms or provisions hereof, may be amended, modified, supplemented or waived except by a written instrument signed by all of the parties hereto (or, in the case of a waiver, by the party granting such waiver). No waiver of any of the terms or provisions of this Agreement shall be deemed to be or shall constitute a waiver of any other term or provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. No failure of a party hereto to insist upon strict compliance by another party hereto with any obligation, covenant, agreement or condition contained in this Agreement shall operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of a party hereto, such consent shall be given in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 12.2.

SECTION 12.3 Survival of Representations and Warranties. Except for the representations in Section 4.5 hereof which shall survive until the expiration of the applicable statute of limitations, the representations and warranties of the Seller set forth in Article IV hereof and the Purchaser set forth in Article V hereof shall not survive the Closing.

SECTION 12.4 Fees and Expenses. Except as otherwise expressly provided in this Agreement, each of the parties hereto shall bear and pay all fees, costs and expenses incurred by it or any of its Affiliates in connection with the origin, preparation, negotiation, execution and delivery of this Agreement and the other Acquisition Documents and the transactions contemplated hereby or thereby (whether or not such transactions are consummated) and the performance of their respective obligations under this Agreement, including, without limitation, any fees, expenses or commissions of any of its Representatives, none of which shall be included in the ECM Assumed Liabilities.

SECTION 12.5 Notices. (a) All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and mailed or facsimiled or delivered by hand or courier service:

(i) If to the Sellers, to:

c/o Saratoga Partners IV, L.P.
535 Madison Avenue
New York, NY 10022
Fax: (212) 750-3343
Attention: Richard Petrocelli

With a copy, which shall not constitute notice, to:

Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
Fax: (212) 269-5420
Attention: Richard Farley

(ii) If to the Purchaser, to:

FatWire Corporation
330 Old Country Road, Suite 207
Mineola, NY 11501-4143
Fax: (516) 739-5069
Attention: Mark Fasciano, President and CEO

With a copy, which shall not constitute notice, to:

Westerman Ball Ederer Miller & Sharfstein, LLP
170 Old Country Road
Mineola, NY 11501
Fax: (516) 622-9212
Attention: Alan C. Ederer, Esq.

(b) All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 12.5 (i) if delivered personally against proper receipt or by confirmed facsimile transmission shall be effective upon delivery and (ii) if delivered (A) by certified or registered mail with postage prepaid shall be effective five (5) Business Days or (B) by Federal Express or similar courier service with courier fees paid by the sender, shall be effective two (2) Business Days following the date when mailed or couriered, as the case may be. Any party hereto may from time to time change its address for the purpose of notices to such party by a similar notice specifying a new address, but no such change shall be deemed to have been given until it is actually received by the party sought to be charged with its contents.

SECTION 12.6 Assignment. This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by the Seller or the Purchaser; provided the Purchaser may assign any of its rights, interests or obligations to any of its Affiliates, so long as the Purchaser remains the primary obligor hereunder. Any assignment made in contravention of the terms of this Section 12.6 shall be void ab initio.

SECTION 12.7 Governing Law; Consent to Jurisdiction. (a) This Agreement and the legal relations among the parties hereto shall be governed by and interpreted in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely within such State.

(b) Each party to this Agreement hereby irrevocably submits to the exclusive jurisdiction of any New York state or federal court sitting or located in the Borough of Manhattan, City of New York (a "New York Court") in any Action arising out of or relating to this Agreement or the other Acquisition Documents, and each such party hereby irrevocably agrees that all claims in respect of such Action shall be heard and determined in such New York Court. Each party, to the extent permitted by applicable Laws, hereby expressly waives any defense or objection to jurisdiction or venue based on the doctrine of forum non conveniens, and

stipulates that any New York Court shall have in personam jurisdiction and venue over such party for the purpose of litigating any dispute or controversy between the parties arising out of or related to this Agreement or the other Acquisition Documents. In the event any party shall commence or maintain any Action arising out of or related to this Agreement in a forum other than a New York Court, the other party shall be entitled to request the dismissal or stay of such Action, and each such party stipulates for itself that such Action shall be dismissed or stayed. To the extent that any party to this Agreement has or hereafter may acquire any immunity from jurisdiction of any New York Court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution or otherwise) with respect to itself or its property, each such party hereby irrevocably waives such immunity.

(c) Each party irrevocably consents to the service of process of any of the New York Courts in any such Action by any means permitted by the rules applicable in such New York Court including, if permissible, personal delivery of the copies thereof or by the mailing of the copies thereof by certified mail, return receipt requested, postage prepaid, to it at its address specified in accordance with Section 12.5 above, such service to become effective upon the earlier of (i) the date ten (10) calendar days after such mailing or (ii) any earlier date permitted by applicable Law.

SECTION 12.8 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER ACQUISITION DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER ACQUISITION AGREEMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 12.8.

SECTION 12.9 Entire Agreement. This Agreement and the other Acquisition Documents embody the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, commitments, arrangements, negotiations or understandings, whether oral or written, between the parties hereto, their respective Affiliates or any of the Representatives of any of them with respect thereto. There are no agreements, covenants or undertakings with respect to the subject matter of this Agreement and the other Acquisition Documents other than those expressly set forth or referred to herein or therein and no representations or warranties of any kind or nature whatsoever, express or implied, are made or shall be deemed to be made herein by the parties hereto except those expressly made in this Agreement and the other Acquisition Documents.

SECTION 12.10 Severability. Each term and provision of this Agreement constitutes a separate and distinct undertaking, covenant, term and/or provision hereof. In the event that any term or provision of this Agreement shall be determined to be unenforceable,

invalid or illegal in any respect, such unenforceability, invalidity or illegality shall not affect any other term or provision hereof, but this Agreement shall be construed as if such unenforceable, invalid or illegal term or provision had never been contained herein. Moreover, if any term or provision of this Agreement shall for any reason be held to be excessively broad as to time, duration, activity, scope or subject, the parties request that it be construed, by limiting and reducing it, so as to be enforceable to the fullest extent permitted under applicable Law.

SECTION 12.11 No Third Party Beneficiaries. Except as and to the extent otherwise provided herein, nothing in this Agreement is intended, nor shall anything herein be construed, to confer any rights, legal or equitable, in any Person other than the parties hereto and their respective successors and permitted assigns.

SECTION 12.12 Counterparts. This Agreement may be executed in one or more counterparts, each which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be duly executed as of the day and year first above written.

SELLER

SARATOGA DMS LLC

By: 

Name:

Title:

PURCHASER

FATWIRE CORPORATION
a Delaware corporation

By: 

Name:

Title: MARK FASIANO
CEO.

Signature Page to Asset Purchase Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Saratoga DMS LLC, a Delaware limited liability company (the "Seller"), does hereby assign, grant, bargain, sell, convey and transfer to FatWire Corporation, a Delaware corporation (the "Purchaser"), all of Seller's right, title and interest to the Contracts listed on Schedule I attached hereto together with all amendments, waivers, supplements and other modifications of and to such agreements, contracts, licenses and other instruments through the date hereof (collectively, the "Assigned Contracts").

Upon the execution and delivery hereof, in consideration of the foregoing assignment and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Purchaser hereby absolutely and unconditionally assumes all duties, obligations and liabilities in respect of the ECM Assumed Liabilities (as such term is defined in Section 2.3(a) of the Purchase Agreement), including, without limitation the Assigned Contracts, and agrees to be bound by the terms, conditions and covenants thereof, and to perform all duties and obligations of Seller thereunder.

Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in that certain Asset Purchase Agreement, dated as of May 14, 2003, by and between Seller and Purchaser (the "Purchase Agreement").

This Assignment and Assumption Agreement shall be binding upon the successors and assigns of the parties.

[Signature Page Follows]

Executed this 15th day of May, 2003.

SELLER:

SARATOGA DMS LLC

By: 

Name: Richard A. Petrocelli

Title: Treasurer

Signature Page to Assignment and Assumption Agreement

PURCHASER:

FATWIRE CORPORATION
a Delaware corporation

By: 

Name:

Title:

MARK FIESCHI
CEO

Signature Page to Assignment and Assumption Agreement

Schedule 1.1 (a)**Assigned Contracts**

(must be assigned)

ECM Contracts

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
3M Company	3M Center Maplewood, MN 55144 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement	\$0.00
AAF-McQuay, Inc.	13400 Industrial Park Plymouth, MN Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Software Order Form	\$0.00
ADVO Incorporated	One Univac Lane Windsor, CT 06095 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement	\$0.00
Aetna Corporation	100 Middle St. MAI8 Middletown, CT 06457 Attn: Charlotte Klewicki / Ed Rudman	divine, Inc.	ECM	CUSTOMER - ECM	Software Maintenance and Support Renewal Order Form	\$0.00
Aetna Services, Inc.	151 Farmington Ave. Hartford, CT 06156 Attn: James Helms	Eprise Corporation	ECM	CUSTOMER	Master Multi-Platform Software License Agreement	\$0.00
Allen & Shariff Corp.	7061 Delpage Dr. Columbus, OH 21045 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement	\$0.00
AltaVista Company	1070 Arastradeto Road Palo Alto, CA 94301 Attn: President	Open Market, Inc.	ECM	OEM - IN	OEM Distribution Agreement (and Amendments No. 1-7 thereto)	\$38,980.00
Altera Corporation	101 Innovation Drive San Jose, CA 95134 Attn: President	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - CM	Software License and Services Agreement; Software Order Form	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Arch Wireless Operating Company, Inc.	1500 International Parkway, Suite 300 Richardson, TX 75081 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement	\$0.00
Bank of the West (f/k/a/ United California Bank)	Invoice Control 1977 Saturn Street Monterey Park, CA 91755 Attn: Mona Chui	divine, Inc.	ECM	SOFTWARE MAINTENANCE	PS Maintenance Contract (copies unavailable)	\$0.00
BEA Systems, Inc.	2315 North First Street San Jose, CA 95131 Attn: President	divine, Inc.	ECM	OEM - IN	Strategic Alliance Agreement (including Reseller Addendum and Channel License Addendum and Amendment Nos. 1 and 2)	\$184,359.82
Best Buy Co., Inc.	7075 Flying Cloud Drive Eden Prairie, MN 55344 Attention: Jim Moore	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement and Software Order Form; Software License and Maintenance Agreement (with Addendum and Schedule)	\$0.00
Blue Cross and Blue Shield of Kansas City	2300 Main St. Suite 150 Kansas City, MO 64108 Attn: Bruce L. Gelb / Bruce Koster	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER	Software License and Services Agreement and Software Maintenance and Support Renewal Order Form	\$0.00
Blue Rhino Corporation	104 Cambridge Plaza Drive Winston-Salem, NC 27104 Attn: President	divine, Inc.	ECM	CUSTOMER-CM	Master Agreement and Software Ordering Form	\$0.00
Bureau of National Affairs, Inc.	1231 25 th St. N.W. Washington, D.C. 20037 Attn: President	Open Market, Inc.	ECM	CUSTOMER	Transact Software License Agreement	\$0.00
Business Week	2 Penn Plaza New York, NY ATTN: Anoop Srivastava	Open Market, Inc.	ECM	CUSTOMER	Agreement for Software Support	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Capital Group Companies, Inc.	135 South State College Blvd. Brea, CA 92821 Attn: President	divine, Inc.	ECM DMS	CUSTOMER - CM	Agreement for Annual Software Maintenance and Support; Master Agreement and Software Offering Terms, Software Order Form, Purchase Orders; Master Software License Agreement	\$0.00
Cast Info	1 Waynaldo Road Burlington, MA 01803	Open Market, Inc.	ECM	CUSTOMER - CM	Channel Partner Licenes Agreement; Purchase Order	\$0.00
Caucho Technology, Inc.	P.O. Box 2452 Los Angeles, CA 90078-2452 Attn: President	Open Market, Inc.	ECM	OEM – IN	OEM Agreement and Amendment No. 1 thereto	\$16,290.00
Chase Manhattan Bank	NYC Industrial Development Agency 4 Metrotech Center Brooklyn, NY 11245 Attn: President	divine, Inc. (successor in interest to Future Tense)	ECM	CUSTOMER - CM	Software License Agreement and Amendment thereto; Software Maintenance Schedule	\$0.00
City of Vaughn	Purchasing Services Dept. 2141 Major Mackenzie Vaughn, ON L6A 1T1 Canada Attention: Fan Cheng	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement and Software Offering Terms	\$0.00
Cognizant Technology Solutions US Corporation	500 Glenpointe Center West Teaneck, NJ 07666 Attn: President	divine, Inc.	ECM	SI	Systems Integrator Partner Agreement (CM alliance contract)	\$0.00
Cognizant Technology Solutions US Corporation	500 Glenpointe Center West Teaneck, NJ 07666 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Systems Integrator Partner Agreement	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Corel Corporation	1600 Carling Avenue Ottawa, Ontario, Canada K1Z 8R7 Attn: President	Open Market, Inc.	ECM	CUSTOMER - CM	Transact Software Ordering Form and Purchase Order	\$0.00
Crompton Corporation	One American Lane Greenwich, CT 06831 Attn: Brian J. Dick	Open Market, Inc.	ECM	CUSTOMER	Master Software License Agreement	\$0.00
Dow Jones & Company, Inc.	P.O. Box 300 Princeton, NJ 08543-0300 Attn: President	divine, Inc. (successor in interest to Eprise Corporation)	ECM	CUSTOMER - CM	Software License and Services Agreement	\$0.00
DSI Technology Escrow Services	Contract Administration 9265 Sky Park Court, Suite 202 San Diego, CA 92123	divine, Inc. (successor in interest to Eprise Corporation)	ECM	SOURCECODE ESCROW	FlexSAFE Agreement	\$10,286.00
DSI Technology Escrow Services	Contract Administration 9555 Chesapeake Dr. Ste. 200 San Diego, CA 92123	Open Market, Inc.	ECM	SOURCECODE ESCROW	Master Preferred Escrow Agreement	\$6,050.00
Eaton Cutler Hammer	1000 Cherrington Parkway Moon Township, PA 15108 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER - CM	Master Software License Agreement; Software Order Form	\$0.00
Edison Electric Institute	701 Penn Ave. NW Washington, D.C. 20004 Attn: Samuel Tornabene	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - Enterprise Content Management	License and Services Agreement and Software Maintenance and Support Renewal Order Form	\$0.00
Epicentric, Inc.	The Landmark @ One Market One Market Street 7 th Floor San Francisco, CA 94105 Attn: Byron Spence	divine, Inc.	ECM	JMA/TA	Technology Partner Agreement	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Etruria Informatica	Via Calamandrei – 255 52100 Arezzo, Italia Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Software Licenes Agreement; Agreement for Annual Software Maintenance and Support	\$0.00
Fidelity Investments Canada Limited	250 Yonge St. #700 Toronto, Ontario Canada, MSB 227 Attn: John Ler	Open Market, Inc.	ECM	CUSTOMER	Agreement for Software Support (Specific to End of Life products only)	\$0.00
First Allmerica Financial Life Insurance Company	440 Lincoln Street Worcester, MA 01653 Attn: Ann Baril	divine, Inc.	ECM	CUSTOMER-CM	Purchase and License Order	\$0.00
Ford Motor Company	The American Road Dearborn, MI 48126-2798 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER-CM/ SOFTWARE OTHER	Licensed Software and Services Terms and Conditions (as amended); Software Order Forms	\$0.00
Gallup Organization	301 S. 68 th Street Pl. Lincoln, NE 68510 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement and Software Order Form	\$0.00
Granitar, Inc.	One Clarks Hill Framingham, MA 01702 Attn: Michael Morris	divine, Inc.	ECM	REFERRAL	Systems Integrator Partner Agreement (CM alliance contract)	\$0.00
Hach Company	5600 Lindbergh Drive Loveland, CO 80539 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement; Software Offering Terms; Software Order Form No. 1	\$0.00
Haht Commerce, Inc.	400 Newton Road Raleigh, NC 27615 Attn: President	divine, Inc. (successor in interest to Eprise Corporation)	ECM	OEM – OUT	Product Distributor License Agreement (with maintenance and support)	\$0.00
Horizon Blue Cross Blue Shield of New Jersey	Three Penn Plaza East Newark, NJ 07105-2200 Attn: Robert J. Pures / Carrie Ivler	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - Enterprise Content Management	Software License and Services Agreement and Software Maintenance and Support Renewal Order Form	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Houghton Mifflin Company	222 Berkeley St. Boston, MA 02116-3764 Attn: Mildene Bradley, Director College Division Information Services	divine, Inc.	ECM	CUSTOMER	Master Software License Agreement and Agreement for Annual Software Maintenance and Support	\$0.00
Hutchison Whampoa 3G IP S.a.r.l.	7 rue du Marche aux Herbes L-1728 Luxembourg Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Framework Services Agreement; Maintenance and Support Services Agreement; License Agreement	\$0.00
Illinois Institute of Technology	10 West 33 rd Street Chicago, IL 60616-3793 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement and Order Form; Professional Services Offering Terms;	\$0.00
ING Funds Distributor, Inc.	7337 Doubletree Ranch Road Scottsdale, AZ ,85258 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement; Software Offering Terms and Software Order Form	\$0.00
Insurance.com Insurance Agency and Boston Coach (affiliates)	1320 Centre Street, Suite 101 Newton, MA 02459 Attn: President	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - CM	Agreement and Product Order Form	\$0.00
Intelligent Internet Solution Corp.	Suite 454, 4F, 19-13, Building E Sanchung Road Nanking, Taipei 115 Taiwan, R.O.C. Attn: President	Open Market, Inc.	ECM	CUSTOMER - CM	Channel Partner Agreement and Purchase Order	\$0.00
International Business Machines Corporation	3200 Windy Hill Road WG9A Atlanta, GA 30339 Attention: Sandra R. Draper	divine, Inc.	ECM		Master Relationship Agreement	\$0.00
International Business Machines Corporation	3200 Windy Hill Road – WG9A Atlanta, GA 30339 Attn: President	divine, Inc.	ECM	JMA/TA	Master Relationship Agreement	\$20,624.70

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
International Business Machines Corporation	4111 Northside Parkway H08K07 Atlanta, GA 30327 Attn: President	divine, Inc.	ECM	RESELLER-OUT	Business Partner Agreement – Systems Integrator Profile	\$0.00
International Business Machines Corporation	4111 Northside Parkway H08K07 Atlanta, GA 30327 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER	Master Statement of Work (and Amendment No. 1 thereto) to Customer Solutions Agreement #4900S50319	\$0.00
International Business Machines Corporation	Route 100 Somers, NY 10509 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	RESELLER -OUT	Limited Reseller Agreement and Amendment Nos. 1 and 2 thereto	\$0.00
J.P. Morgan Chase & Co.	4 Chase Metro Tech Center, 11 th Floor Brooklyn, NY 11245 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Software Order Form	\$0.00
Jockey.com, Inc.	2300 60 th St. Kenosha, WI 53140-3889 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Product License Agreement	\$0.00
John Crane International	6400 West Oakton Morton Grove, IL 60053-2725 Attn: President	Open Market, Inc.	ECM	CUSTOMER - CM	Master Software License Agreement and Agreement for Annual Maintenance and Support	\$0.00
Jones Knowledge, Inc.	9697 East Mineral Drive Englewood, CO 80112 Attn: President	divine, Inc.	ECM	CUSTOMER - CM	Master Agreement and Software Offering Terms	\$0.00
Kelly Services	999 Big Beaver Road Troy, MI 48040 Attn: President	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - CM	License and Services Agreement	\$0.00
Liberty Mutual Insurance Company	225 Borthwick Ave. Portsmouth, NH 03801 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER - CM	Master Software License Agreement and Purchase Order	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Lincoln National Corporation (Lincoln Life)	1300 S. Clinton St. MS – 2H16 Ft. Wayne, IN 46802 Attn: Marie Hilker	divine, inc. (formerly Eprise Corporation)	ECM	CUSTOMER - Enterprise Content Management	Software License and Services Agreement and Software Maintenance and Support Renewal Order Form	\$0.00
Loyalty Management Group Canada Inc.	4110 Yonge St., Suite 200 North York, Ontario M2P 2B7 Attn: President	divine, Inc. (Open Market, Inc.)	ECM	CUSTOMER - CM	Software Order Forms	\$0.00
MacQuarie Bank Limited	No. 1 Martin Place Sydney NSW 2000 Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER – CM	Software License Agreement, Software Order Form	\$0.00
MacroMedia, Inc.	600 Townsend Street San Francisco, CA 94103 Attn: President		ECM	OEM – In	OEM License and Distribution Agreement	\$0.00
McGraw-Hill Companies Inc.	1221 Avenue of the Americas, New York, New York 10020-1095 Attn: President	Open Market, Inc.	ECM	CUSTOMER	Amended and Restated Transact Software License Agreement	\$0.00
Media General Operations, Inc.	333 East Franklin Street Richmond, VA 23293-0001 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License and Services Purchase	\$0.00
MediaBin, Inc.	7 Piedmont Center Suite 600 Atlanta, GA 30305 Attn: President	divine, Inc.	ECM	RESELLER - IN	Non-Exclusive Software Distribution Agreement	\$50,654.62
Medrad, Inc.	One Medrad Drive Indianola, PA 15051 Attn: President	divine, Inc. (formerly Eprise Corp.)	ECM	CUSTOMER – CM	Software License and Service Agreement, Service Order Form	\$0.00
Miller Brewing Company	3939 W. Highland Drive Milwaukee, WI 53201-0482 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License and Service Agreement	\$0.00
Minolta Corporation	101 Williams Drive Ramsey, NJ 07446 Attn: President	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER – CM	License and Services Agreement, License Order Form	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Mitsubishi Electric Automation (MEAU)	500 Corporate Woods Parkway, Vernon Hills, IL 60061 Attn: David S. Tubmann / Ray Kump	divine, Inc (Eprise Corporation)	ECM	CUSTOMER – Enterprise Content Management	Software License and Services Agreement, Mutual Non-Disclosure Agreement, Eprise Pricing Proposal and Software Maintenance and Support Renewal Order Forms	\$0.00
Natural Rural Electric Cooperative Association	4301 Wilson Blvd. Arlington, VA 22203-6333 Attn: President	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER – CM	Software License and Services Agreement, Software Order Form	\$0.00
nurun, Inc.	210 Dundas Street West, Suite 120 Toronto, Ontario, M5G 2E8 Canada Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER – CM	Channel Partner Agreement, Software Order Form	\$0.00
Ontario Securities Commission	19 th Floor, Box 55 20 Queen Street West Toronto, Ontario M5H 3S8 Canada Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement	\$0.00
OnX Enterprise Solutions	155 Commerce Valley Drive E. Thornhill, Ontario L3T 7T2 Canada Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement	\$0.00
Oracle Corporation	500 Oracle Parkway Redwood Shores, CA 94065 Attn: President	Open Market Inc.	ECM	JMA	Oracle Alliance Agreement	\$0.00
Perficient	7600-B.N. Capital of Texas Hwy. Suite 340 Austin, TX 78731 Attention: Eric Simone	divine, Inc.	ECM	REFERRAL	Referral Partner Agreement	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
PHI Service Company	800 King Street Wilmington, DE 19899 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement	\$0.00
Pinnacle West Capital Corporation	400 E. Van Buren Street Phoenix, AZ 85004 Attn: President	divine, Inc. (formerly Eprise Corp.)	ECM	CUSTOMER – CM	Software License and Service Agreement, Software Order Form	\$0.00
Potomac Electric Power Company (Pepco)	701 9 th St. Washington, D.C. 20090 Attn: John Macker / Kermit Saffron	divine, Inc. (formerly Eprise Corporation)	ECM	CUSTOMER - Enterprise Content Management	Addendum and Software Maintenance and Support Renewal Order Form	\$0.00
Public Broadcasting Service	1320 Braddock Place Alexandria, VA 22314 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License and Service Agreement	\$0.00
Qunara	1700 Ellice Av. Winnepeg, Manitoba R3C 3V3 Canada Attn: President	divine, Inc. (formerly Open Market, Inc.)	ECM	CUSTOMER – CM	Channel Partner Agreement, Purchase Order Form	\$0.00
Rogers Broadcasting Ltd. / Rogers Media	777 Jarvis St. W. Toronto, Ontario Canada, M4Y 3B7	Eprise Corporation	ECM	CUSTOMER	License and Services Agreement	\$0.00
Sallie Mae, Inc.	11100 USA Parkway Fishers, IN 46038 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement, Software Order Form	\$0.00
Seven Trent PLC	2257 Coventry Road Birmingham B28 3PU United Kingdom Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement, Agreement for Maintenance and Support	\$0.00
Space.com	120 W. 45 th St. 35 th Fl. New York, NY 10036 212-703-5800 Attn: Mitchell Cannold	Open Market, Inc.	ECM	CUSTOMER	Purchase Order and Order Form for Software and Support	\$0.00
Sprint Corp., Ltd.	Attn: Cynthia Bertschy MS KSOPHE 0202-2C514 8380 Sprint Parkway Overland Park, KS 66251	eshare communications, Inc.	ECM	CUSTOMER	Professional Services Offerings / Seat Licensing Pricing (multiple)	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Standard & Poor's IMS	7400 S. Alton Ct. Englewood, CO 80112 Attn: Marjie Veselik	divine, Inc.	ECM	CUSTOMER - CS	Software maintenance and support renewal order form	\$0.00
Standard & Poor's Internet Marketing	65 Broadway, 6 th Fl New York, NY 10006 Attn: Narayana Bandhi	divine, Inc.	ECM	CUSTOMER - CS	Software maintenance and support renewal order form	\$0.00
Standard & Poor's WebSolution	65 Broadway, 6 th Fl New York, NY 10006 Attn: Brian Whitehead/ Gregory Colbert	divine, Inc.	ECM	CUSTOMER - CS	Software maintenance and support renewal order form	\$0.00
Sun Microsystems, Inc.	901 San Antonio Road Palo Alto, CA 94303 Attention: Samuel Turcotte	divine, Inc.	ECM	JMA	Joint Marketing Agreement	\$0.00
Tele Danmark InterNordia	Fredrik Selmersvel 2, 0603 Oslo, NORWAY Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License and Service Agreement	\$0.00
Telus Mobility	200 Consillum Place, Suite 1600 Toronto, Ontario M1H 333 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License and Service Agreement, Software Order Form	\$0.00
The Hartford	Hartford Plaza Hartford, CT 06115 Attn: President	divine, Inc. (successor in interest to Eprise Corp.)	ECM	CUSTOMER – CM	Software License and Service Agreement	\$0.00
The Kroger Co.	1014 Vine St. Cincinnati, OH 45202-1100 Attention: Randy Agee	divine, Inc.	ECM	CUSTOMER – CM	Master Agreement and Software Order Form	\$0.00
The Relizon Company	220 E. Monument Ave. Dayton, OH 45402 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Product License Agreement	\$0.00
Toronto Transit Commission	1900 Yonge Street Toronto, Ontario M4S 1Z2 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement, Software Maintenance and Support Agreement	\$0.00
TPG TeleManagement, Inc.	301 Oxford Valley Rd. Ste. 1714 Yardley, PA 19067 Attn: President	SoftMetric, Inc.	ECM	RESELLER-OUT	Master Distributor Agreement	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
UKCC	23 Portland Place London, England W18 1PZ Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Software License Agreement	\$0.00
Unisys Corporation	Unisys Way Blue Bell, PA 19424-0001 Attn: President	divine, Inc. (formerly Eprise Corp.)	ECM	CUSTOMER – CM	Software License and Service Agreement, Software Order Form	\$0.00
Universal Beverage Operating Ltd. (successor in interest to Beer.com)	48 Par la Ville Road, Suite 573 Hamilton HM11 Bermuda Attn: Danny Galic / Aiden Tracy	divine, Inc. (successor in interest to Open Market, Inc.)	ECM	CUSTOMER – CM	Master Software License Agreement; Software Order Forms	\$0.00
University of Wisconsin Hospitals and Clinics Authority	600 Highland Ave. Madison, WI 53792 Attn: President	divine, Inc.	ECM	CUSTOMER – CM	Master Agreement; Software Order Form, Software Offering Terms	\$0.00
Wayside Realty Trust	Burlington Office Park 1 Wall Street Burlington, MA 01803 Attn: Arthur J. Gutierrez and John A. Cataldo	Open Market, Inc.	ECM		Real Property Lease (1 Wayside Road Burlington, MA)	\$0.00
Web Methods (Active Software, Inc.)	3333 Octavius Drive Santa Clara, CA 95054 Attn: President	Open Market, Inc.	ECM	OEM – IN	OEM Agreement	\$62,450.00
Wood's Hole Oceanographic Institute	Challenger's Annex MS#1 Wood's Hole, MA 02543 Attn: President	divine, Inc.	ECM	CUSTOMER – SOFTWARE OTHER	Master Software License Agreement, Agreement for Annual Software Maintenance and Support	\$0.00
YUM Restaurants Services Group, Inc. (formerly Tricon Global Restaurants)	1900 Colonel Sanders Lane Louisville, KY 40213-1964 Attn: President	divine, Inc. (successor in interest to Eprise Corp.)	ECM	CUSTOMER-CM/ OPINIONWARE	Software License and Service Agreement, Software Order Form and Software Maintenance and Support Renewal Order Form	\$0.00

ECM International Contracts

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Altia Consultoree SL	Avenida Del Pasaje 32 BL 1-2 La Coruña, Spain Attention: Nacho Cabanas Fax: 34-981138847	divine, Inc.	ECM	RESELLER – OUT (INTL)	Channel Partner Agreement	\$0.00
American Express Travel Related Services Company, Inc.	World Financial Tower American Express Tower 200 Vesey Street New York, NY 10285 Attn: President	eprise Corporation	ECM		Master License Agreement	\$0.00
CSK Japan	Shinjuku Sumitomo Bldg., 2-6-1, Nishi-Shinjuku, Shinjuku-ku, Tokyo 163-0227 Japan Attn: President	divine, Inc.	ECM	RESELLER- OUT (INTL)	Entire agreement in Japanese	\$0.00
Hitachi	4-12-7, Higashishinagawa, shinagawa-ku, Tokyo 140-0002 Japan Attn: President	divine, Inc.	ECM	RESELLER - OUT (INTL)	Entire agreement in Japanese	\$0.00
InfoCom Japan	3-11 Kanda-Surugadai, Chiyoda-ku, Tokyo 101-0062 Japan Attn: President	divine, Inc.	ECM	RESELLER- OUT (INTL)	Entire agreement in Japanese	\$0.00
MDS Software, Inc.	Suite 081 GIBCA Building P.O. Box 45652 Khalifa Street, Abu Dhabi United Arab Emirates Attn: George Khouri	Open Market, Inc.	ECM	RESELLER – OUT (INTL)	Non-Exclusive Distributor Agreement	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Open Dimensions Tecnologia Ltda.	Rua Quintana, 950 – 2 andar Sao Paulo, Brazil 04569-011 Attention: Nilton Guarnieri Junior	divine, Inc.	ECM	RESELLER- OUT (INTL)	Partner Information Sheet	\$0.00
OportunaNet Servicios Informaticos, S.L.	Via Laietana, 11, 4o. 2a. 08003 Barcelona, Spain Attention: Alfons Raventos Moret	divine, Inc.	ECM	RESELLER-OUT (INTL)	Channel Partner Agreement	\$0.00
Optimisa S.A.	Curico 18, Piso 6 Santiago, Chile Attention: Alfredo Piquer	Open Market, Inc.	ECM	RESELLER-OUT (INTL)	Non-Exclusive Distributor Agreement	\$0.00
Turnaround Solutions Pty Ltd.	Level 5, 18 Elizabeth St., Hobart TAS 7000, Australia Attn: Stephen Williams, Managing Director	Open Market, Inc.	ECM		Channel Partner Agreement	\$0.00
Turnaround Solutions Pty Ltd.	Level 5, 18 Elizabeth St., Hobart TAS 7000, Australia Attn: Stephen Williams, Managing Director	Open Market, Inc.	ECM		Engagement Letter (re Hutchinson 3G Content Management System Project)	\$48,000.00

Schedule 1.1 (b)

Assigned Contracts (to the extent assignable)

ECM Contracts Assigned to the Extent Assignable

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Autonomy, Inc.	301 Howard Street San Francisco, CA 94105 Attn: Thomas A. Unger, Chief Operating Officer	Open Market, Inc. (signed by FutureTense, Inc.)	ECM	OEM – IN	OEM License Agreement	\$13,500.00
Ektron, Inc.	59 Composite Way Suite 200 Lowell, MA 01851 Attn: President	divine, Inc. (replacing Eprise Corporation as of Am. No. 3)	ECM	OEM – IN	Master OEM Agreement (and Amendment Nos. 1-3 thereto) covers both Open Market and Eprise	\$0.00
MacroMedia, Inc.	200 West Street Waltham, MA 02451 Attn: Robert Walmsley	Eprise Corporation	ECM	OEM	OEM License and Distribution Agreement	\$0.00
Net Direct LLC	9420 Key West Avenue Rockville, MD 20850 Attn: President	divine, Inc.	ECM	OEM – IN	Software License and Redistribution Agreement	\$8,669.15
Oracle Corporation	500 Oracle Parkway Redwood Shores, CA 94065 Attn: President	Open Market Inc.	ECM	RESELLER – IN	Application Specific Sublicense Agreement to Business Alliance Program Agreement and Amendment No. 1 thereto	\$269,784.20
Phaos Technology Corporation	11 Broadway 10 th Floor New York, NY 10004 Attn: Darren Calman	divine, Inc. (successor in interest to FutureTense, Inc.)	ECM	OEM – IN	Phaos Technology Product Development Agreement #1S Site License	\$0.00

Counterparty	Notice Address	Seller Party	Product/Business Segment	Contract Type	Contract Name	Cure Amount
Sun Microsystems, Inc.	901 San Antonio Road Palo Alto, CA 94303 Attention: Samuel Turcotte	divine, Inc.	ECM	NDA	Confidential Disclosure Agreement	\$0.00
Sun Microsystems, Inc. (Iplanet)	901 San Antonio Road Palo Alto, CA 94303 Attention: Samuel Turcotte	Open Market Incorporated	ECM	OEM – IN	Joint Marketing Agreement; Confidential Disclosure Agreement; Channel Agreement; Binary Licence and Redistribution Agreement and Amendment No. 2	\$25,000.00
Sybase, Inc. (iAnywhere)	6475 Christie Avenue Emeryville, CA 94608 Attn: President	Open Market, Inc.	ECM	OEM – IN	OEM Software Distribution Agreement	\$4,000.00
Venetica Corporation	1230 W. Morehead Street Suite 400 Charlotte, NC 28208 Attn: President	divine, Inc.	ECM	OEM – IN	Venetica Corporation ISV Reseller Agreement	\$1,857.69

Schedule 2.1 (c)

Intellectual Property

Registered Trademarks:

Trademark	Registration Number	Registration Date
ADCOMMAND	2170160	June 30, 1998
ADFAST	2184546	August 25, 1998
ADONTIME	2482823	August 28, 2001
E (and Design)	2339958	April 11, 2000
EPRISE CORPORATION	2367534	July 18, 2000
EPRISE PARTICIPANT SERVER	2323967	February 29, 2000
OPEN MARKET	2091594	August 26, 1997

ECM Related Patents:

Title	Country	Filing Date	Patent No.	Grant/Issue Date	Product/Business Segment
Distributed electronic publishing system in which formatting instructions are sorted separately from content information (as amended)	U.S.	1/29/1997	6,012,071	1/4/2000	ECM
Distributed electronic publishing system in which formatting instructions are sorted separately from content information (as amended)	U.S.	6/19/1997	6,055,522	4/25/2000	ECM
Hierarchical caching techniques for efficient dynamic page generation	U.S.	3/4/1999	6,397,217	5/28/2002	ECM

Schedule 7.1

Employees of Divine Entities Eligible to be Hired by Purchaser

ECM Employees

<u>Last name</u>	<u>First name</u>
Abraham	Smitha
Addanki	Venkateswara
Anderson	John
Aradhya	Pradeep
Bajjuri Naveen	Kumar
Beaumont	Carrie
Bell	Deon
Birkland	Kathy
Blight	Colin R.
Bouchard	Mark
Boyd	Mary
Brand	Andrew
Caiozzi	Ian
Cardozo	Thomas
Carey	Stephen
Chambers	Mark
Charest	Donna
Coletti	Sarah
Collins	Jenny
DeLangie	Joanne
Dias	Stephen
Dockery	Peter
Drummond	David
Errico	Karen
Gillen	Samuel
Gorthi	Krishna
Granat	Katherine
Handley	Joseph
Hart	Matthew
Herholz	Camilla
Hitzemann	Marietta
Hogan	Dylan
Holland	Mark
Hubbard	JoAnne
Jacobs	George
Jin	Hong
Johnson	Markley
Julka	Birendra
Kannan	Anand

ECM Employees (continued)

<u>Last name</u>	<u>First name</u>
Khait	Gariy
Kumaravelu	Rajendran
Kurz	Jill
Lawrence	John
Lindsey	Eugene
Loughlin	Maria
Lovy	Elliot
Mange	Damodar
Maybury	David
McDonough	Thomas
Mcguire	Christine
McMonigal	Bill
Mididoddi	Rammohan
Milner	Inga
Morgan	April
Naleway	Christopher
Nasto	Spartak
Nosal	Michael
O'Connor	Kevin
O'Toole	David
Pitsch	Gloria
Platz	Brian
Porter	Marie
Puliafico	Joseph
Rawlins	Nathan
Reed	Michael
Robinson	Fredrick
Romer	Christopher
Rosenberg	Barry
Rowell	William
Scanlon	Joseph
Schmitt	Daniel
Shastri	Shreerang
Shayan	Shahpoor
Singh	Vivek
Slade	Dorothy
Smolar	Anthony
Soong	Welber
Strandberg	Josiah
Sullivan	Edward
Sullivan	Michael
Thompson	William
Thompson Jr.	David

ECM Employees (continued)

<u>Last name</u>	<u>First name</u>
Walsh	Joseph
Warren	Robert
Welch	Paul
Wright	Carolyn
Wright	Karl
Zheng	Meng

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