

PATENT ASSIGNMENT

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
divine, inc.	05/06/2003
RECEIVING PARTY DATA	
Name:	Saratoga DMS LLC
Street Address:	535 Madison Avenue
Internal Address:	C/O Saratoga Partners IV, L.P.
City:	New York
State/Country:	NEW YORK
Postal Code:	10022
PROPERTY NUMBERS Total: 4	
Property Type	Number
Patent Number:	6012071
Patent Number:	6055522
Patent Number:	6397217
Patent Number:	6836774
CORRESPONDENCE DATA	
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NAME OF SUBMITTER:	William D. Pegg

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REEL: 026468 FRAME: 0001

Total Attachments: 102

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Writer's Director Dial
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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.

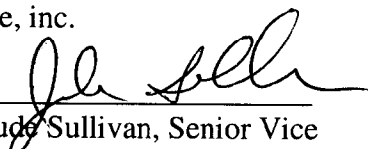
All valid product license, professional services, training, maintenance and support Agreements between your company and divine Inc (or Open Market Inc) are therefore assigned to FatWire and divine Inc is no longer in a position to supply such services to your company.

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

ASSET PURCHASE AGREEMENT

by and among

divine, inc.

and

Certain Domestic Subsidiaries Listed on the Signature Pages Hereto

as Sellers

and

Saratoga DMS LLC

as Purchaser

and

Saratoga Partners IV, L.P.

as Guarantor

dated as of

May 6, 2003

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement"), dated as of May 6, 2003 (the "Execution Date"), is entered into by and among divine, inc., a Delaware corporation ("Parent") and certain of its domestic subsidiaries set forth on the signature pages hereto ("Subsidiaries") and together with Parent, the "Sellers"), Saratoga DMS LLC, a Delaware limited liability company (the "Purchaser") and, for purposes of Section 13.13 hereof, Saratoga Partners IV, L.P., a Delaware limited partnership (the "Guarantor").

W I T N E S S E T H

WHEREAS, the Sellers are engaged in (i) the business of building, hosting, managing, monitoring, and securing clients' critical applications by offering design and engineering of managed hosting solutions; installation, configuration, and testing of hardware and software systems; ongoing maintenance, back-ups, and upgrades; performance and security monitoring; and technical support, including, without limitation, with respect to each of the products listed on Exhibit A attached hereto under the caption "Managed Services Products" (the "dMS Business") (ii) the business of deploying software solutions that focus on relationship and content management such as auto-response applications, team interaction, content acquisition, organization and management, content delivery and training programs, including, without limitation, with respect to each of the Products listed on Exhibit A attached hereto under the caption "Content Management Products" (the "ECM Business") and (iii) certain other businesses and operations of the Sellers listed on Exhibit A attached hereto under the caption "Northern Lights" (the dMS Business, the ECM Business and the operative businesses of the Sellers related to Northern Lights are hereinafter referred to as the "Business");

WHEREAS, each Seller is a debtor and a debtor 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, upon the terms and subject to the conditions set forth herein, the Sellers desire to transfer, sell, convey, assign and deliver to the Purchaser, and the Purchaser desires to acquire from Sellers, substantially all of the assets of the Sellers primarily used in the Business, and Purchaser desires to assume certain liabilities of the Sellers primarily incurred in connection with the Business in accordance with the terms and subject to the conditions of this Agreement (the "Proposed Transaction"); and

WHEREAS, the parties desire to consummate the Proposed Transaction, including (i) the sale of the Transferred Assets to the Purchaser pursuant to Sections 363(b), (f) and (m) of the Bankruptcy Code, free and clear of all Liens except Assumed Liabilities and Permitted Exceptions, and (ii) the assignment by the Sellers and the assumption by the Purchaser, pursuant to Section 365 of the Bankruptcy Code, of all Assigned Contracts to be assigned to the Purchaser under this Agreement, as promptly as practicable after the Bankruptcy Court enters an order approving the Proposed Transaction (the "Sale Approval Order").

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 Sellers as of the Closing Date to the extent relating to the Business, including any unbilled accounts receivable of the Sellers 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 \$8,726,553 of gross billed and unbilled outstanding domestic accounts receivable 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 clauses (i) or this clause (ii)) and any new unbilled domestic accounts receivable, 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 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).

“Adjustment Amount” shall mean 25% of the amount by which the MSB Liabilities are less than \$8,000,000 as of the Effective Time. The Adjustment Amount shall be calculated after giving effect to any payments made to reduce the MSB Liabilities on or prior to the Effective Time, including any such payments made, at the sole discretion of the Sellers, with the proceeds of the Purchase Price contemporaneously with the Effective Time.

“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 2.6 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.

“Assets” shall mean both the Transferred Assets and the Excluded Assets.

“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 Sellers, at any time during the period from and after the date hereof through and including twenty (20) Business Days after the Closing Date, to add (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 Seller 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 Sellers’ obligation with respect to any Contract so added shall be limited to filing a motion with the Bankruptcy Court to approve the transfer of such Contract to the Purchaser and using reasonable best efforts to effectuate such transfer and (b) to the extent such Contract is added after the Auction 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. Notwithstanding anything in the Agreement to the contrary, the Purchaser shall not have the right to add the Contracts listed on Schedule 1.1(c) to either Schedule 1.1(a) or 1.1(b).

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

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

“Auction Date” shall mean April 29, 2003, or such other later date as the Auction (as defined in the Sale Procedures Order) is concluded.

“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.

“Bankruptcy Court Orders” shall mean the Sale Procedures Order and the Sale Approval Order.

“Beneficiaries” shall have the meaning ascribed to such term in Section 13.13(a) hereof.

“Beneficiary” shall have the meaning ascribed to such term in Section 13.13(a) hereof.

“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(e) hereof.

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

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

“CIM and Collaboration Business” shall mean the business of deploying software solutions that focus on collaboration and work flow such as voice based customer contract tools, telephony webinars (Web-based seminars) and secured messaging.

“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 (i) the later of (A) the Business Day that is three (3) Business Days after the date that all the conditions to Closing described in Article IX and Article X hereof have been fully satisfied or waived by the appropriate party or parties or (B) the Business Day that is ten (10) Business Days after the Auction (as defined in the Sale Procedures Order) or (ii) such other date as the Purchaser and the Sellers may mutually agree upon.

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

“Committee” shall mean the Official Committee of Unsecured Creditors in the Bankruptcy Case.

“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 Business, to which any Seller is a party or by which it or any of the Transferred Assets is bound.

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

“dMS Business” shall have the meaning ascribed to such term in the recitals to this Agreement.

“dMS Foreign Subsidiary Option” shall have the meaning ascribed to such term in Section 2.7 hereof.

“Drop Dead Date” shall have the meaning ascribed to such term in Section 12.1(e) hereof.

“d/W-H” shall have the meaning ascribed to such term in Section 2.2(b) hereof.

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

“ECM Foreign Subsidiary Option” shall have the meaning ascribed to such term in Section 2.7 hereof.

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

“Eligible Employee” shall mean any individual in the employment of any Seller with respect to the Business as of the Effective Time.

“Environmental Laws” shall mean Laws relating to the protection of the environment and/or human health and safety from environmental effects or to the generation, management, removal, remediation, emission, discharge, control, processing, use, treatment, storage, disposal, transport, release, recycling, or handling of Hazardous Materials.

“Environmental Permits” shall mean all permits, licenses, authorizations, registrations and other governmental consents required under Environmental Laws.

“Equipment” shall mean each item of machinery, equipment and fixture owned by any Seller as of the Execution Date, or any subsequent replacements or additions thereto in each case which has been or is now primarily used by any Seller in connection with the Business.

“Escrow Account” shall have the meaning set forth in the Escrow Agreement.

“Escrow Agent” means U.S. Bank, N.A.

“Escrow Agreement” shall mean the Escrow Agreement, dated as of the date hereof, entered into by and among the Purchaser, Parent and Escrow Agent.

“Excluded Assets” shall have the meaning ascribed to such term in Section 2.2 hereof.

“Excluded Liabilities” shall have the meaning ascribed to such term in Section 2.4 hereof.

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

“Executory Contracts” shall mean all Contracts to which any Seller is a party that constitute “executory contracts” as such term is used in Section 365 of the Bankruptcy Code.

“Foreign Subsidiary” shall have the meaning ascribed to such term in Section 2.7 hereof.

“Foreign Subsidiaries” shall have the meaning ascribed to such term in Section 2.7 hereof.

“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.

“Guaranteed Obligations” shall have the meaning ascribed to such term in Section 13.13(a) hereof.

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

“Guaranty” shall have the meaning ascribed to such term in Section 13.13(a) hereof.

“Hazardous Materials” means any substance: (i) the presence of which requires or may require investigation, remediation, monitoring or control of any kind under any Environmental Laws; or (ii) which is or becomes regulated or defined as “hazardous waste,” “hazardous material,” “hazardous substance,” “friable asbestos,” “radioactive material,” “radioactive waste,” “low-level radioactive waste,” “oil,” “petroleum,” “petroleum products,” “polychlorinated biphenyls,” “volatile organic compounds” (including those that are airborne) or “wastewater” under any Environmental Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

“Illinois Court” shall have the meaning ascribed to such term in Section 13.7(c) hereof.

“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 any Seller and that primarily relate to the

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 by 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, processes, 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 any Seller wherever located that primarily relate to the 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 Sellers, the actual knowledge, without independent investigation, of each of the executive officers of Sellers, 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 (including, without limitation, any zoning or land use law or ordinance, building code, Environmental Law, securities, blue sky, civil rights or occupational health and safety law or regulation and any court, administrative agency or arbitrator’s order or process).

“Liability” shall mean any debt, liability, commitment and 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.

“Material Adverse Change” shall mean a material adverse change in (i) the Business or the Transferred Assets, (ii) the properties, business, results of operations or condition of the Sellers, (iii) the ability of the Sellers to consummate the Proposed Transaction contemplated by this Agreement or (iv) the ability of the Purchaser or the Purchaser’s Affiliates to operate the Business of the Sellers (other than the Excluded Assets) after the Closing Date in

substantially the same manner as they were operated prior to the occurrence of a Material Adverse Change of the type described in clauses (i) and (ii) above; provided, however, that any material adverse change resulting from (a) changes in the technology managed services industry generally (which changes do not affect the Business disproportionately), (b) changes in the economy generally in the United States, Canada, Europe or Asia (which changes do not affect the Business disproportionately), or (c) changes directly caused by the transactions contemplated by this Agreement, shall not constitute a Material Adverse Change.

“MSB Liabilities” shall have the meaning ascribed to such term in Section 2.3(a)(iii) hereof.

“Other Personalty” shall mean all personal property (including parts, furniture and furnishings), other than Equipment, Intellectual Property and Inventory, owned, held or leased by any Seller, in each case that primarily relates to the Business.

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

“Permitted Exceptions” means imperfections of title, restrictions or encumbrances, if any, that (a) do not materially impair the use and operation of such asset in the Business as currently conducted or (b) are caused solely by the Purchaser.

“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.

“Petition Date” shall have the meaning ascribed to such term in the recitals to this Agreement.

“Proposed Transaction” shall have the meaning ascribed to such term in the recitals to this Agreement.

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

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

“Real Property” shall have the meaning ascribed to such term in Section 4.9 hereof.

“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.

“Restricted Contract” shall mean any Contract which, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, if Transferred without the Approval of the non-debtor party thereto, would (i) result in excusing the non-debtor party thereto from accepting performance from the Purchaser, (ii) constitute a breach thereof or (iii) in any way affect the rights of any Seller or the Purchaser, as the case may be, thereunder.

“RoweCom” shall have the meaning ascribed to such term in Section 2.2(b) hereof.

“Sale Approval Order” shall have the meaning ascribed to such term in the recitals to this Agreement. The Sale Approval Order shall be substantially similar in form and substance to the sale approval order attached hereto as Exhibit D.

“Sale Procedures Motion” shall mean the Sellers’ motion filed with the Bankruptcy Court seeking entry of the Sale Procedures Order.

“Sale Procedures Order” shall mean the order of the Bankruptcy Court entered on March 20, 2003 with respect to approving the break-up fee and over bidding procedures, as amended by the order of the Bankruptcy Court entered on April 16, 2003.

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

“Sellers” 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.

“Temporary Services Agreement” shall mean the Temporary Services Agreement in the form attached hereto as Exhibit E.

“Transition Services Agreement” shall mean the Transition Services Agreement in the form attached hereto as Exhibit F.

“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 Section 2.1 hereof.

“Transferred Facilities” shall mean the facilities identified on Schedule 2.1(h).

“U.K. Assets” shall have the meaning ascribed to such term in Section 2.7 hereof.

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. Except for the Excluded Assets set forth in Section 2.2 below, at and as of the Effective Time, the Sellers shall Transfer to the Purchaser, and the Purchaser shall purchase and accept from the Sellers, free and clear of all Liens to the maximum extent provided in the Sale Approval Order, all of the Sellers’ right, title and interest in and to the following assets (the “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 Transferred Assets);

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

(c) the Intellectual Property primarily used in the Business, 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 Transferred Assets);

(e) all rights of the Sellers 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 Business (collectively, the “Books and Records”);

(g) licenses and permits primarily used in the operation of the Business, to the extent transferable;

(h) subject to the Purchaser’s right to reject any lease of Real Property in accordance with the terms of this Agreement, owned and leased Real Property primarily used in the operation of the Business, each parcel of which is set forth on Schedule 2.1(h);

(i) any warranties of third parties on any Transferred Assets;

(j) all prepaid expenses, security deposits and other credits owed to the Sellers from third parties, to the extent primarily related to the Transferred Assets;

(k) all rights and incidents under policies, contracts or arrangements related to insurance of any Seller to the extent related to Assumed Liabilities or Transferred Assets and to the extent transferable (it being understood that (i) such policies will be cancelled at Closing and the Sellers will be entitled to any refunds upon such cancellation and (ii) the Sellers’ directors and officers insurance policies will constitute Excluded Assets in all respects);

(l) all rights and claims of the Sellers 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 Sellers other than Eligible Employees who are hired by the Purchaser to the extent such agreements relate to the Transferred Assets and (ii) all Eligible Employees who are hired by the Purchaser whether or not such agreements relate to the Transferred Assets; and

(m) all other assets primarily related to the Business, other than any Excluded Assets.

SECTION 2.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, including in Section 2.1 above, the Sellers shall retain all of their right, title and

interest in and to, and shall not Transfer to the Purchaser, the following (collectively, the “Excluded Assets”):

(a) all cash, cash equivalents and marketable securities, including, but not limited to, any and all cash, check, money order, wire transfer or other deposits of the Sellers received prior to the Effective Time and deposited into the bank or other deposit accounts of the Sellers prior to the Effective Time, whether or not such deposits have cleared;

(b) any tangible or intangible assets of RoweCom, Inc., a Delaware corporation (“RoweCom”) and divine/Whittman-Hart, Inc., an Illinois corporation (“d/W-H”) and their respective direct or indirect subsidiaries;

(c) all Contracts that are not Assigned Contracts;

(d) all prepaid expenses, security deposits and other credits owed to the Sellers from third parties, to the extent not primarily related to the Transferred Assets;

(e) all intercompany rights or obligations between any Sellers;

(f) all rights and incidents under policies, contracts or arrangements other than as set forth in Section 2.1(k) above;

(g) all rights, demands, Claims, and Actions of Sellers (except to the extent related to a Transferred Asset or an Assumed Liability);

(h) all defenses, Claims, counter-Claims, rights or offset and other Actions against any Person asserting or seeking to enforce any Liability against the Sellers, to the extent such Liability is not assumed by the Purchaser pursuant to this Agreement;

(i) any intracompany or Affiliate receivables, advances or indebtedness of any Seller;

(j) any rights of any Seller under this Agreement;

(k) subject to Section 6.5 hereof, any avoidance or similar Actions, including but not limited to Actions under sections 544, 545, 547, 548, 550 and 553 of the Bankruptcy Code;

(l) any income tax refunds or credits arising out of the operation of the Business prior to the Closing Date;

(m) any bids received from any other Person in connection with the proposed sale of the Business or the Transferred Assets and any analyses prepared by or on behalf of Sellers of any bids for the Business or any materials relating to the negotiations with any potential bidder;

(n) any Books and Records related to the Sellers' employees the Transfer of which would conflict with any confidentiality or privacy obligation of the Sellers under applicable Law;

(o) any assets of any employee benefit plan of any Seller and any rights under any such plan or any contract, agreement or arrangement between any employee or consultant and Sellers;

(p) all rights of the Sellers under the agreements set forth on Schedule 2.2(p) under which the counterparty or counterparties agree not to compete with the Business or agree to keep confidential information regarding the Business, but only to the extent such agreements are not assignable to the Purchaser as a matter of law under the Bankruptcy Code;

(q) except as set forth in Section 2.7 below, the capital stock of any subsidiary of any Seller;

(r) assets primarily relating to the Net Unlimited business of the Sellers;

(s) any professional retainer fees previously paid by the Sellers;

(t) the assets listed on Schedule 2.2(t) which includes (A) certain computers and related information technology necessary to wind-up the Bankruptcy Case and (B) certain non-core assets of the Sellers;

(u) all employment agreements to which any Seller is a party; provided that to the extent any benefit of a nature described in Section 2.1(l) arising under any such employment agreement is transferable to the Purchaser without the consent of the employee (notwithstanding the fact that such employment agreements will not be assumed by or assigned to the Purchaser, and are intended to be rejected by the Sellers in the Bankruptcy Case), then such benefit shall be included in the Transferred Assets;

(v) any monies escrowed by customers of RoweCom;

(w) all bank and other deposit accounts of the Sellers;

(x) all furniture, fixtures and equipment currently at or removed by the Sellers on or prior to the date hereof from the 302 Town Centre Drive, Markham, Ontario, Canada facility;

(y) the following servers:

- EAGLE (Dell PowerEdge 4300/Dual PIII 500, 1 gig RAM, 112 gig HD);
- HAWK (Dell PowerEdge 4300/Dual PIII 500, 1 gig RAM, 112 HD);
- IS3 (HP LPR/Dual PIII 700, 1 gig RAM, 18 gig);
- FALCON (HP LPR/Dual PIII 700, 1 gig RAM, 18 gig);
- LILMIDEV01 (Dell PowerEdge 4300/Dual PIII 500, 1 gig RAM, 80 gig);

- PENGUIN (IBM Netfinity 3500 Single 500 Mhz PIII processor, 384 MB RAM, 2 SCSI 10 GB);
- CHMOCHDOEXCH01 (Compaq 1600/Dual PIII 500, 1 gig RAM, 9 gig).

(z) all assets of the Sellers other than those primarily related to the Business;
and

(aa) the trade name “divine”.

SECTION 2.3 Assumption of Liabilities.

(a) 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 following Liabilities:

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

(ii) any amount which may be payable pursuant to Section 365(b) of the Bankruptcy Code on account of the assumption and assignment of any Assigned Contract shall be borne 25% by the Purchaser and 75% by the Sellers;

(iii) those capital equipment lease obligations of the Business and debt obligations under outstanding promissory notes of the Business identified on Schedule 2.3(a)(iii) (excluding all amounts which may be payable pursuant to Section 365(b) of the Bankruptcy Code on account of the assumption and assignment of any such capital lease obligations and debt obligations and giving effect to any reduction to any such obligations occurring on or prior to the Effective Time) (the “MSB Liabilities”) (it being expressly understood that the Sellers may renegotiate the terms of or prepay any of the MSB Liabilities on or prior to the Effective Time (including with proceeds of the Purchase Price) so long as the payment terms of the MSB Liabilities after the Effective Time resulting from any such renegotiation or prepayment are no less favorable than those in existence as of the date hereof, and so long as (A) the weighted average interest rate and the weighted average life to maturity of the MSB Liabilities as of the Effective Time do not exceed the weighted average interest rate and the weighted average life to maturity of the MSB Liabilities as of the date hereof and (B) the restructuring of the MSB Liabilities will not require the Purchaser to make any additional cash payments in connection therewith (other than payments in respect of amounts which may be payable pursuant to Section 365(b) of the Bankruptcy Code on account of the assumption and assignment of any such capital lease or debt obligation in accordance with Section 2.3(a)(ii) hereof) other than with respect to the principal of, or interest on, such Liabilities which comply with the requirements of clause (A) above);

(iv) 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;

(v) except for any items specifically excluded pursuant to Section 2.4 (iii) hereof, any unpaid post-Petition Date accounts payable of the Sellers incurred in the ordinary course of business in an amount not to exceed \$1,200,000 in the aggregate designated by the Sellers, up to \$1,000,000 of which will relate to the Business and up to \$200,000 of which may relate to any expense of the Sellers; and

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

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

(b) From the date hereof through the Closing Date, Sellers shall use reasonable best efforts to obtain settlements or stipulations (but without any obligation of any Seller to pay any amount in respect of such settlements, except as specified in Section 2.3(a) hereof) with any party that objects to the assumption and assignment of an Assigned Contract or any related cure amount. Notwithstanding any provision contained herein to the contrary, from and after the date hereof through the Closing Date: (i) the Sellers will not reject, without the prior consent of the Purchaser, any Executory Contract other than (A) those Executory Contracts which are currently subject to motions pending before the Bankruptcy Court as of the date hereof and (B) Contracts that are Excluded Assets and (ii) the Sellers will consult with the Purchaser with respect to the restructuring of, and negotiations with respect to the amount of cure costs to be paid in respect of, any Assigned Contract (including, without limitation, any such Assigned Contract described in Section 2.3(a)(iii) hereof).

SECTION 2.4 Excluded Liabilities. Except for the Assumed Liabilities, the Purchaser shall not assume, and shall have no liability or obligation for any other Liabilities of the Sellers including, without limitation (except to the extent included in the Assumed Liabilities) any Liability arising out of, or related to, any (i) employee of the Sellers (other than pursuant to Section 2.3(a)(iv) above), including any Liability with respect to any key employee retention plans; (ii) any severance payable to any employee of the Business (other than any such person who accepts employment with the Purchaser); (iii) any costs or expenses incurred in connection with, or related to, the administration of the Bankruptcy Case, including without limitation, any accrued professional fees and expenses of the Sellers’ attorneys, accountants, financial advisors and other professional advisors related to the Bankruptcy Case; (iv) Liabilities arising under any and all Contracts of the Sellers which are not Assigned Contracts; (v) Liabilities to the extent relating to the Excluded Assets; (vi) except as set forth in Section 2.3, Liabilities for any capital leases or indebtedness for borrowed money of any kind or nature; (vii) any royalties related to any period of time prior to the Petition Date; (viii) any income Taxes of any kind or nature; (ix) intercompany payables, intercompany loans or other intercompany liabilities of any kind or nature; (x) any pre-Closing litigation, claim or assessment, breach of contract, breach of warranty, tort, infringement, violation of law or environmental matters arising from circumstances or events prior to the Closing Date, in each case, of any kind or nature and whether related to the Business or otherwise and regardless of when commenced; or (xi) any Liabilities arising out of or related to any outstanding checks or other cash payments (whether paid by check, wire transfer or otherwise) issued, made or drawn on any bank or other deposit

accounts of the Sellers at any time, including any Liabilities with respect to cash overdrafts on such accounts (collectively, the “Excluded Liabilities”).

SECTION 2.5 Purchase Price. In consideration for the Transferred Assets, the Purchaser shall pay to the Sellers by wire transfer of immediately available funds Twenty-Three Million Two Hundred Eighty-One Thousand Dollars (\$23,281,000) plus the Adjustment Amount payable at Closing, as the same may be adjusted pursuant to Section 9.6 or Section 9.7 hereof (the “Purchase Price”). Upon the execution and delivery of this Agreement by the parties hereto, the Purchaser shall deposit \$1,746,075 into the Escrow Account. Upon entry by the Bankruptcy Court of the Sale Approval Order approving the sale and transfer of the Transferred Assets to the Purchaser, the Purchaser shall deposit an additional \$582,025 into the Escrow Account (the funds deposited into the Escrow Account including funds deposited prior to the date hereof with the Sellers pursuant to the Sale Procedures Order, together with any accrued interest thereon after the date hereof, are collectively referred to as the “Deposit”). Upon termination of this Agreement for any reason other than as set forth in the following sentence, immediately following such termination, the Purchaser and Parent shall execute joint written instructions to the Escrow Agent instructing the Escrow Agent to return the Deposit to the Purchaser. If this Agreement is terminated as a result of the Purchaser’s material breach of its obligations under this Agreement, and the Sellers are not in material breach of their obligations under this Agreement, immediately following such termination, the Purchaser and Parent shall execute joint written instructions to the Escrow Agent instructing the Escrow Agent to return the Deposit to the Sellers. Sellers’ right to receive the Deposit under such circumstances shall be without prejudice to any rights Sellers may have to be compensated in full for any damages which they may have suffered as a result of any breach of this Agreement by the Purchaser. Simultaneously with the consummation of the Proposed Transaction contemplated hereby, the Purchaser and Parent shall execute joint written instructions to the Escrow Agent instructing the Escrow Agent to wire the Deposit to an account designated by the Sellers on the Closing Date.

SECTION 2.6 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 Transferred Assets (including the cash purchase price and the assumption of the 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 Sellers 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.

SECTION 2.7 Foreign Subsidiaries. Effective as of the Closing Date, at the option of the Purchaser as may be determined in its sole discretion, the Sellers shall, or shall cause their respective Affiliates to (or, in the case of the U.K. business operations, shall cause Kenneth Kinsella, or take such other appropriate steps, to) (A) at the election of the Sellers, (a) Transfer to the Purchaser or to one or more of its designated Affiliates, the capital stock of a wholly-owned subsidiary of Silverprime Ltd., (which subsidiary shall contain the Assets and the Executory Contracts primarily related to the operation of the dMS Business in the U.K. (the “U.K. Assets”)), or (b) directly transfer the U.K. Assets to the Purchaser ((a) and (b) collectively, the “dMS Foreign Subsidiary Option”) and (B) Transfer to the Purchaser or to one or more of the

of its designees, the capital stock of any of the foreign subsidiaries listed on Exhibit G attached hereto (the “ECM Foreign Subsidiary Option”) (any of the foregoing foreign subsidiaries which the Purchaser so elects to acquire individually referred to herein as a “Foreign Subsidiary”, and collectively as the “Foreign Subsidiaries”); provided that the Purchaser (x) must exercise the dMS Foreign Subsidiary Option, if at all, no later than 30 days following the Closing Date and (y) may only exercise the ECM Foreign Subsidiary Option, if at all, on the first Business Day following the 30th day after the closing of the sale of the CIM and Collaboration Business, to the extent the capital stock of such Foreign Subsidiaries has not been previously acquired. In connection therewith, immediately prior to any such Transfer, all intercompany receivables, payables, loans and investments and any other intercompany accounts of any type or nature between any Seller or any of its Affiliates that are controlled by any Seller and not subject to any insolvency or similar proceeding, on the one hand, and the Foreign Subsidiary(ies) the stock of which is the subject of such Transfer, on the other hand, shall be settled, cancelled or otherwise terminated or eliminated (it being understood that the Sellers will determine, in their sole discretion, the method of such termination or elimination).

ARTICLE III THE CLOSING

SECTION 3.1 Time and Place of Closing. If all the conditions to Closing set forth in this Agreement have been satisfied or waived in writing prior to such date, the Closing shall take place at 10:00 a.m., Illinois time, on the Closing Date at the offices of Latham & Watkins Illinois LLC, 233 South Wacker Drive, Sears Tower Suite 5800, Chicago, Illinois 60606, or at such other time or place as may be mutually agreed upon by the parties hereto. The Closing, the Transfer of the Transferred Assets, the effectiveness of the documents, agreements and certificates delivered in accordance with this Agreement, and the consummation of the transactions contemplated hereby shall be deemed to occur at the Effective Time.

SECTION 3.2 Deliveries at Closing.

(a) Deliveries by Purchaser. At the Closing, the Purchaser shall deliver to the Sellers the following:

- (i) a wire transfer of the Purchase Price (less the amount of the Deposit if the Deposit is wired by the Escrow Agent to an account designated by the Sellers on the Closing Date);
- (ii) the Assignment and Assumption Agreement;
- (iii) the Temporary Services Agreement;
- (iv) the Transition Services Agreement;
- (v) a certificate of an executive officer of the Purchaser to evidence compliance with the conditions set forth in Sections 10.1 through 10.2 hereof and any other certificates to evidence compliance with the conditions set forth in Article X hereof as may be reasonably requested by the Sellers or their counsel;

(vi) any cure costs advanced by the Sellers on or prior to the Closing Date that would otherwise have constituted Assumed Liabilities pursuant to Section 2.3(a)(ii) hereof; and

(vii) such other documents as Sellers' 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 Sellers. At the Closing, the Sellers (or their Affiliates, if applicable) shall deliver to the Purchaser the following:

(i) the Bill of Sale;

(ii) the Assignment and Assumption Agreement;

(iii) the Temporary Services Agreement;

(iv) the Transition Services Agreement;

(v) a certificate of an executive officer of each Seller to evidence compliance with the conditions set forth in Sections 9.1 through 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 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 listed on Schedule 1.1(b) or any claim, right, or benefit arising thereunder or resulting therefrom, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, a Transfer thereof, without the Approval of the non-debtor party thereto, would excuse the non-debtor party thereto from accepting performance from the Purchaser, constitute a breach thereof or in any way affect the rights of any Seller or the Purchaser, as the case may be, thereunder (collectively, "Restricted Assets"). Any Transfer to the Purchaser of any Restricted Asset which shall, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, require the Approval of any non-debtor 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 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 Sellers 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 SELLERS

As an inducement to the Purchaser to enter into this Agreement, the Sellers, jointly and severally, represent and warrant as of the date hereof and as of the Closing Date as follows:

SECTION 4.1 Organization. Except as set forth on Schedule 4.1, each Seller is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and except as affected by the pendency of the Bankruptcy Cases, has the requisite power and authority to own, operate and lease its properties and assets and to conduct the Business as it is now being owned, operated, leased and conducted.

SECTION 4.2 Power and Authority. (i) Each Seller has the requisite corporate power and authority to execute and deliver this Agreement and the other Acquisition Documents to which it is a party and, subject to the entry of the Sale Approval Order by the Bankruptcy Court, perform its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby, (ii) the execution and delivery by each 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 corporate actions on the part of each Seller and by the Bankruptcy Court, and (iii) subject to the entry of the Sale Approval Order by the Bankruptcy Court, this Agreement and each other Acquisition Document to which each Seller is a party will constitute, upon the mutual execution and delivery thereof, the legal, valid and binding obligation of each 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 any 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 incorporation and bylaws of any Seller; (ii) result in the creation or imposition of any Lien upon any of the properties or assets of any Seller, or (iii) violate, conflict with or require any Approval, other than entry of the Sale Approval Order by the Bankruptcy Court, under, any Law or any judgment, decree or order of any Governmental Authority to which any Seller is subject or by which it or any of its assets or properties are bound, except in the case of this clause (iii) any such violation which would not reasonably be expected to result in a Material Adverse Change.

SECTION 4.4 Actions. Except (i) as set forth on Schedule 4.4 and (ii) for Actions filed in the Bankruptcy Court with respect to the Bankruptcy Case, there is no Action pending or, to the knowledge of each Seller, threatened in writing, against any Seller (a) before any Governmental Authority relating to the Business or any Transferred Asset or any Environmental Laws, or (b) that questions or challenges the validity of this Agreement or the other Acquisition Documents or any action taken or proposed to be taken by each Seller pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby, and, to Sellers' knowledge, no condition exists which could reasonably be expected to lead to any such Actions, except in the case of clause (a) only, any such matter which would not reasonably be expected to result in a Material Adverse Change.

SECTION 4.5 Compliance with Laws. Except (i) as set forth on Schedule 4.5, (ii) as would not reasonably be expected to result in a Material Adverse Change, and (iii) as excused by the Bankruptcy Code or in connection with the Bankruptcy Cases, (a) no Seller is in violation of any Laws relating to the Business or the Transferred Assets, (b) no Seller has been notified in writing or has knowledge that it has been charged with or threatened in writing with, any charge concerning any violation of any provision of any Law relating to the Business or the Transferred Assets that has not already been resolved, and (c) no Seller is in violation of, or in default under, and no event has occurred which, with the lapse of time or the giving of notice, or both, would result in the violation of or default under, the terms of any judgment, decree, order, injunction or writ of any Governmental Authority relating to the Transferred Assets or the Business.

SECTION 4.6 Title to Property. Except as set forth on Schedule 4.6, Seller has, and at the Closing will transfer to the Purchaser, good and marketable title to, or a valid leasehold interest in, all of the Transferred Assets free and clear of all Liens (other than Permitted Exceptions).

SECTION 4.7 Approvals. Except (i) for Approval of the Bankruptcy Court, (ii) for Approval under the HSR Act, if applicable, (iii) for consents required to assign the Restricted Assets, and (iv) as set forth on Schedule 4.7, no material Approval of any Governmental Authority or other Person is required to be made, obtained or given by or with respect to any Seller in connection with the execution or delivery by each 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 Transferred Assets to the Purchaser.

SECTION 4.8 Broker's or Finder's Fees. Except as set forth on Schedule 4.8, the Sellers have 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 4.9 Real Property. Schedule 2.1(h) sets forth the street address of each parcel of real property (the "Real Property") primarily relating to the Business leased or

subleased by each Seller and the name of the lessor or sublessor. Sellers do not own any real property that is primarily used in connection with the Business.

SECTION 4.10 “AS IS” Transaction. The Purchaser hereby acknowledges and agrees that, except as otherwise expressly provided in this Agreement, each Seller makes no representations or warranties whatsoever, express or implied, with respect to any matter relating to the Business or the Transferred Assets or, if applicable, the Foreign Subsidiaries (including, without limitation, income to be derived or expenses to be incurred in connection with the Transferred Assets or, if applicable, the Foreign Subsidiaries, the physical condition of any personal property comprising a part of the 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 Transferred Assets (or any portion thereof), or, if applicable, the Foreign Subsidiaries, the terms, amount, validity or enforceability of any Assumed Liabilities, the merchantability or fitness of the Transferred Assets (or any portion thereof for any particular purpose, or any other matter or thing relating to the Business or the Transferred Assets or any portion thereof or, if applicable, the Foreign Subsidiaries). Without in any way limiting the foregoing, each Seller hereby disclaims any warranty (express or implied) of merchantability or fitness for any particular purpose as to any portion of the Transferred Assets. The Purchaser further acknowledges that the Purchaser has conducted an independent inspection and investigation of the physical condition of the Transferred Assets and, if applicable, the Foreign Subsidiaries, and all such other matters relating to or affecting the Transferred Assets and, if applicable, the Foreign Subsidiaries, as the Purchaser deemed necessary or appropriate and that in proceeding with its acquisition of the 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 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 each Seller to enter into this Agreement, Purchaser hereby represents and warrants as of the date hereof and 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 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.

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, other than Approval by the Bankruptcy Court and pursuant to the HSR Act, if required, 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, except in the case of this clause (iii) any such violation which would not reasonably be expected to result in a Material Adverse Change.

SECTION 5.4 Approvals. Except as set forth on Schedule 5.4 and under the HSR Act, if applicable, and other than Approval by the Bankruptcy Court, 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 Proposed Transaction 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 Business or (iii) have incurred or plan to incur debts beyond its ability to repay such debts as they become absolute and matured.

(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 Seller 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 Proposed Transaction 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 Sellers and their respective officers, directors, employees or affiliates as a result of the contemplated sale of the Business.

SECTION 5.7 Broker's or Finder's Fees. 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 SELLERS

The Sellers hereby covenant and agree that, subject to the orders and direction of the Bankruptcy Court and except as otherwise consented to in writing by the Purchaser or as otherwise contemplated by this Agreement, from and after the Execution Date until the Closing:

SECTION 6.1 Conduct of Business. Each of the Sellers shall, subject to the requirements and obligations under the Bankruptcy Code, (i) use commercially reasonable efforts consistent with practices of a similarly situated debtor-in-possession to conduct the Business in the ordinary course consistent with past practice, (ii) use commercially reasonable efforts consistent with reasonable business practices of a similarly situated debtor-in-possession to preserve intact its business organizations and relationships with employees and persons having dealings with it; (iii) not institute any new methods of accounting that will vary from the methods used by the Sellers as of the date of this Agreement; (iv) continue to operate the Sellers' billing and collection policies and procedures with respect to the Business consistent with the reasonable business practices of a similarly situated debtor-in-possession, but in any event consistent with the Sellers' historical billing and collection policies and procedures with respect to the Business, and in no event will the Sellers grant any discounts or other similar incentives to encourage customers to accelerate payment of billed or unbilled accounts receivable other than in the ordinary course of business consistent with past practice; (v) maintain its Books and Records in accordance with the reasonable business practices of a similarly situated debtor-in-possession; provided, that, subject to Section 2.3(b), the foregoing shall not prevent the Sellers from rejecting Contracts that are not Assigned Contracts being assumed by the Purchaser hereunder; (vi) Transfer any material Transferred Assets, except for sales of inventory and

services in the ordinary course of business in a manner consistent with past practice; (vii) except for contemplated employee retention plans, not increase, except pursuant to existing contracts or established practice, the salary, compensation or benefits payable to any employees, directors or consultants or modify, establish or enter into any employee benefit plan; and (viii) continue to operate the Sellers' accounts payable and payment policies and procedures with respect to the Business consistent with the reasonable business practices of a similarly situated debtor-in-possession, and, to the extent reasonably practicable, consistent with Seller's historical accounts payable and payment policies and procedures with respect to the Business.

SECTION 6.2 Access to the Sellers. The Sellers shall use reasonable efforts to afford the Purchaser and its Representatives reasonable access during normal business hours throughout any period from and after the date hereof until the Closing Date, to the Books and Records, files, pleadings, data base, documents, properties, facilities and employees of the Sellers relating to the Business or the Transferred Assets, as the Purchaser may reasonably request; provided that such reasonable access shall not unduly interfere with Sellers' ongoing business, operational or Bankruptcy Case obligations.

SECTION 6.3 Notification of Certain Matters. Each of the Sellers shall give prompt notice to the Purchaser of (i) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would be likely to cause any representation or warranty contained in this Agreement to be materially untrue or inaccurate, (ii) any failure of any Seller to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it hereunder and (iii) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would reasonably be expected to have a Material Adverse Change; provided, however, that the delivery of any notice pursuant to this Section 6.3 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

SECTION 6.4 Avoidance Actions. Notwithstanding any provision to the contrary contained in this Agreement, in no event shall any Seller or any of its Affiliates pursue any avoidance or similar Action, including but not limited to any Action under Sections 544, 545, 547, 548, 550 or 553 of the Bankruptcy Code, against any party to any Assigned Contract with respect to the payment of any amounts previously paid under such Assigned Contract.

SECTION 6.5 Bankruptcy Court Filings. From and after the date hereof and until the earlier of the consummation of the Proposed Transaction and the termination of this Agreement pursuant to its terms, the Sellers and their attorneys and other advisors shall cooperate with the Purchaser, and keep the Purchaser and its attorneys reasonably apprised of all matters with respect to the Bankruptcy Case, including without limitation, by providing the Purchaser and its 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 Proposed Transaction (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.

SECTION 6.6 Change of Name. Within five (5) Business Days of the entry by the Bankruptcy Court of the Sale Approval Order, the Sellers shall file a motion with the Bankruptcy Court to change the names of the Sellers which include the names "divine" or

“Data Return” to names which do not include the names “divine” or “Data Return”, and shall cause their Affiliates (other than the Foreign Subsidiaries) to do the same; and neither the Sellers nor any of their Affiliates shall make any further use of the “divine” or “Data Return” names or any derivatives thereof, except to the extent necessary to wind up their respective affairs.

SECTION 6.7 Satisfaction of Conditions. From and after the date hereof until the Closing Date, each Seller will, and will use its reasonable best efforts to cause each of its Affiliates to, use its reasonable best efforts to perform, comply with and fulfill all obligations, agreements, covenants and conditions required by this Agreement to be performed, complied with or fulfilled by any of them prior to or as of the Closing Date.

SECTION 6.8 Post-Closing Cash Receipts. No later than the Effective Time, Sellers shall instruct each of their banks to transfer all lock-box or other cash receipts received on account of any Transferred Asset after the Effective Time directly to Purchaser’s bank accounts. From and the Effective Time, all cash receipts and other cash collections received by Sellers with respect to the Transferred Assets (other than receipts or collections relating to Excluded Assets) shall be held in trust for the exclusive benefit of Purchaser, shall be segregated from the other funds of Sellers, and shall promptly (but in no event later than two Business Days following the receipt thereof), be paid over to Purchaser.

ARTICLE VII COVENANTS OF THE PURCHASER

The Purchaser hereby covenants and agrees that, except as otherwise consented to in writing by the Sellers, from and after the Execution Date until the Closing:

SECTION 7.1 No Interference with Bankruptcy Case. So long as the Sale Procedures Motion or the Sale Approval Motion shall be pending and the Purchaser has not terminated this Agreement pursuant to Section 12.1, the Purchaser shall not acquire whether directly or indirectly any Claim against or Liability of the Sellers nor cooperate with, induce or support any entity (other than the Sellers) in the acquisition of any Claim against or Liability of the Sellers, in the formation of a plan of reorganization in the Bankruptcy Case, in the objection to the Sale Procedures Motion or the Sale Approval Motion, or in seeking the appointment of a Chapter 11 trustee or examiner or the conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code.

SECTION 7.2 Adequate Assurance. Purchaser shall be responsible for providing evidence and argument in support of the Sale Approval Motion in order to establish its ability to provide “adequate assurance of future performance” (within the meaning of Section 365(f)(2)(B) of the Bankruptcy Code) of any Contract identified as an Assigned Contract. The Sellers agree to use their reasonable best efforts to cooperate with the Purchaser in the presentation of such evidence and argument. The Bankruptcy Court’s refusal to approve the assumption by the Purchaser of any Contract on the grounds that “adequate assurance of future performance” by the Purchaser of such Contract has not been provided shall not constitute (i) a failure of the condition precedent described in Section 9.4(b) hereof or (ii) grounds for termination pursuant to Section 12.1(b) hereof.

SECTION 7.3 Notification of Certain Matters. The Purchaser shall give prompt notice to the Sellers of (i) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which would be likely to cause any representation or warranty contained in this Agreement to be materially untrue or inaccurate, (ii) any failure of the Purchaser to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it hereunder and (iii) the occurrence or nonoccurrence of any event the occurrence or nonoccurrence of which is or would reasonably be expected to result in a material adverse change in the ability of the Purchaser to consummate the Proposed Transaction; provided, however, that the delivery of any notice pursuant to this Section 7.3 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

SECTION 7.4 Satisfaction of Conditions. From and after the date hereof until the Closing Date, the Purchaser will, and will use its reasonable best efforts to cause each of its Affiliates to, use its reasonable best efforts to perform, comply with and fulfill all obligations, agreements, covenants and conditions required by this Agreement to be performed, complied with or fulfilled by any of them prior to or as of the Closing Date.

SECTION 7.5 Assets Covered by MSB Liabilities. Purchaser agrees that it will not (and that it will cause its Affiliates not to) (i) enter into any new arrangement on or prior to the Closing Date and for a period of 120 days thereafter to purchase, lease or otherwise use the assets covered by any Contract or debt obligation listed on Schedule 7.5 and (ii) on or prior to the Closing Date and for a period of 120 days thereafter, enter into any arrangement with the other party to any such Contract or, if applicable, the lender under such debt obligation (or any of their respective Affiliates) to purchase or lease any assets replacing the assets that were covered by any such Contract or debt obligation listed on Schedule 7.5.

ARTICLE VIII AGREEMENTS OF PURCHASER AND SELLER

SECTION 8.1 Hart-Scott-Rodino Cooperation. To the extent applicable, the Purchaser and the Sellers shall cooperate with each other (at the sole cost and expense of each party hereto) to comply with, and provide the information required by, the pre-merger notification and waiting period rules of the HSR Act, if necessary, in any Federal Trade Commission regulations, and in any provisions or regulations of or relating to the Clayton Act. In that connection, the Purchaser and the Sellers shall use diligent efforts to make their joint pre-merger notification filing with the Federal Trade Commission, if necessary, no later than three (3) days following the date (if any) that the Purchaser (as is required under the HSR Act) reasonably determines that such a filing is required. The Purchaser shall bear the Sellers' cost of any filing fee in connection with such filing.

SECTION 8.2 Employees. Purchaser shall make offers of employment to not less than a majority of the employees of the Sellers set forth on Schedule 8.2 engaged in the Business, subject to the consummation of the transactions contemplated in this Agreement. The terms of employment offered to such employees to whom the Purchaser makes such offers of employment 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. The Purchaser shall be permitted to conduct employee interviews for purposes of

making such hiring decisions after providing the Sellers with two (2) Business Days notice of the employees the Purchaser intends to interview.

SECTION 8.3 Restricted Assets. The Purchaser and the Sellers shall utilize their reasonable best efforts to obtain the Approvals of third parties as required to validly Transfer the Restricted Assets.

ARTICLE IX CONDITIONS PRECEDENT TO THE PURCHASER'S OBLIGATIONS

The obligations of the Purchaser to purchase and accept transfer and delivery of the 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 9.1 Representations and Warranties. The representations and warranties of the Sellers 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), except, in each case, where the failure of such representations and warranties to be true and correct would not result in a Material Adverse Change.

SECTION 9.2 Performance. The Sellers 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 Sellers 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.

SECTION 9.4 Bankruptcy Court Orders. The Sale Approval Order shall have been entered and shall be in full force and effect on the Closing Date; provided that approval by the Bankruptcy Court of the following conditions shall not be a condition precedent to the Purchaser's obligations to consummate the Proposed Transaction: (i) that certain Conclusion of Law set forth in Section II, Part E of the form Sale Approval Order, (ii) the first sentence of the ordering provision set forth in Section III, Part D of the form Sale Approval Order, (iii) the ordering provision set forth in Section III, Part E of the form Sale Approval

Order, (iv) the ordering provision set forth in Section III, Part F of the form Sale Approval Order, (v) the last sentence of the ordering provision set forth in Section III, Part H of the form Sale Approval Order, (vi) the last sentence of the ordering provision set forth in Section III, Part L of the form Sale Approval Order, (vii) the ordering provision set forth in Section III, Part O of the form Sale Approval Order, (viii) the ordering provision set forth in Section III, Part P of the form Sale Approval Order and (ix) the ordering provision set forth in Section III, Part T of the form Sale Approval Order.

SECTION 9.5 Expiration of the HSR Act Waiting Period. The applicable waiting period, if any, required under the HSR Act with respect to the Proposed Transaction shall have expired or been terminated.

SECTION 9.6 MSB Liabilities. The amount of the MSB Liabilities, calculated by reference to the GAAP amount thereof, as reduced, shall not exceed \$8,000,000; provided, however, that this Section 9.6 shall not apply if the Sellers agree to reduce the Purchase Price by an amount equal to 75% of the amount by which the amount of the MSB Liabilities exceed \$8,000,000.

SECTION 9.7 Adjusted Accounts Receivable. As of the Effective Time, the Adjusted Accounts Receivable shall be no less than \$7,022,482, provided, however, that this Section 9.7 shall not apply if the Sellers agree to reduce the Purchase Price by an amount equal to the amount by which the amount of the Adjusted Accounts Receivable is less than \$7,022,482.

ARTICLE X CONDITIONS PRECEDENT TO THE SELLERS' OBLIGATIONS

The obligations of the Sellers to sell, transfer and deliver the 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 10.1 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 10.2 Performance. 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 10.3 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 10.4 Bankruptcy Court Orders. The Sale Approval Order shall have been entered, provided that approval by the Bankruptcy Court of the following conditions shall not be a condition precedent to the Sellers' obligations to consummate the Proposed Transaction: (i) that certain Conclusion of Law set forth in Section II, Part E of the form Sale Approval Order, (ii) the first sentence of the ordering provision set forth in Section III, Part D of the form Sale Approval Order, (iii) the ordering provision set forth in Section III, Part E of the form Sale Approval Order, (iv) the ordering provision set forth in Section III, Part F of the form Sale Approval Order, (v) the last sentence of the ordering provision set forth in Section III, Part H of the form Sale Approval Order, (vi) the last sentence of the ordering provision set forth in Section III, Part L of the form Sale Approval Order, (vii) the ordering provision set forth in Section III, Part O of the form Sale Approval Order, (viii) the ordering provision set forth in Section III, Part P of the form Sale Approval Order and (ix) the ordering provision set forth in Section III, Part T of the form Sale Approval Order.

SECTION 10.5 Expiration of the HSR Act Waiting Period. The applicable waiting period, if any, required under the HSR Act with respect to the Proposed Transaction shall have expired or been terminated.

ARTICLE XI COVENANTS AND AGREEMENTS SUBSEQUENT TO THE CLOSING

SECTION 11.1 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 Business or the Transferred Assets prior to the Closing or the Assumed Liabilities without first offering to surrender such Books and Records to the Sellers, 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 Sellers and their representatives, successors and assigns, including, without limitation, any successor trustee or any other person created or appointed by the Bankruptcy Court pursuant to a plan of reorganization, reasonable access to their books, records, personnel, offices and other information with respect to the Business that is necessary for the purpose of obtaining information related to the Bankruptcy Case, winding up the Bankruptcy Case, taxes and other reasonable business purposes and shall cooperate with Sellers with respect to such matters without cost or charge to the Sellers (except that the Sellers shall bear any out-of-pocket costs incurred in connection therewith).

SECTION 11.2 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 before 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 XII TERMINATION

SECTION 12.1 Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) by the mutual written consent of the Purchaser and the Sellers;
- (b) by the Purchaser upon written notice in the event of a material breach of any covenant or agreement to be performed or complied with by the Sellers, or in the event of a material breach of any representation or warranties of the Sellers, pursuant to the terms of this Agreement or any of the Acquisition Documents, which breach would result in a condition to Closing set forth in Article IX hereof becoming incapable of fulfillment or cure (which condition has not been waived by the Purchaser in writing) prior to the Drop Dead Date;
- (c) by the Sellers upon written notice in the event of a material breach of any covenant or agreement to be performed or complied with by the Purchaser, or in the event of a material breach of any representation or warranties of the Purchaser, pursuant to the terms of this Agreement or any of the Acquisition Documents, which breach would result in a condition to Closing set forth in Article X hereof becoming incapable of fulfillment or cure (which condition has not been waived by the Sellers in writing) prior to the Drop Dead Date;
- (d) by either the Purchaser or the Sellers if any Governmental Authority having competent jurisdiction shall have issued a final, non-appealable order, decree, ruling or injunction (other than a temporary restraining order), or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or the other Acquisition Documents; provided, however, that the right to terminate this Agreement under this Section 12.1(d) shall not be available to any party who shall not have complied with its obligations, if any, under Articles VI, VII or VIII, as the case may be, to avoid the entry of such order, decree, ruling or injunction; and
- (e) by either the Sellers or the Purchaser if (i) the Bankruptcy Court has not entered the Sale Approval Order on or before May 9, 2003 or (ii) the Closing shall not have

occurred on or before May 30, 2003 (the “Drop Dead Date”); provided, however, that the right to terminate this Agreement under this Section 12.1(e) shall not be available to any party whose failure to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to such date (for purposes of this subsection (e) the failure or refusal by any party to provide any waiver that under the terms hereof may be given or withheld in such party’s discretion shall not be deemed a failure to fulfill any obligation under this Agreement).

SECTION 12.2 Effect of Termination.

(a) In the event of the termination of this Agreement under Section 12.1, except with respect to this Section 12.2, Section 13.1, Section 13.2, Section 13.3, Section 13.4 and Sections 13.7 through 13.12 hereof, (i) this Agreement shall forthwith become void, and (ii) subject to the provisions of Section 12.2(b) below, there shall be no liability on the part of the Sellers, the Purchaser or any of their respective Representatives.

(b) Notwithstanding the provisions of Section 12.2(a) above, if this Agreement is terminated pursuant to Section 12.1(b) or 12.1(c), this Section 12.2 shall not relieve the breaching party from Liabilities to the non-breaching party(ies) arising from any breach of this Agreement.

ARTICLE XIII MISCELLANEOUS

SECTION 13.1 Public Announcements. Other than oral statements made in the Bankruptcy Court, the Purchaser and the Sellers 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 Proposed Transaction (including any written statements made in the Bankruptcy Court or in pleadings filed therein relating to this Agreement or the Proposed Transaction). The Purchaser and the Sellers 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 Sellers 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 Sellers or the Purchaser and to other Persons as permitted by Section 6.2 hereof.

SECTION 13.2 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 13.2.

SECTION 13.3 No Survival of Representations and Warranties. The representations and warranties of the Sellers set forth in Article IV hereof and the Purchaser set forth in Article V hereof shall not survive the Closing.

SECTION 13.4 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 Assumed Liabilities.

SECTION 13.5 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:

divine, inc.
4225 Naperville Road
Lisle, IL 60532
Fax: (630) 699-7501
Attention: Jude Sullivan, General Counsel

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

Latham & Watkins Illinois LLC
233 S. Wacker Drive, Suite 5800
Chicago, IL 60606
Fax: (312) 993-9767
Attention: Mark D. Gerstein

and

Casas, Benjamin & White LLC
5215 Old Orchard Road, Suite 850
Skokie, IL 60077

Fax: (847) 583-1719
Attention: Edward R. Casas and Neil Luria

(ii) If to the Purchaser, 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

(b) All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 13.5 (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 13.6 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. Prior to the Effective Time, neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by the Sellers 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 and so long as Guarantor remains obligated under Section 13.13 with respect to such assignee. Any assignment made in contravention of the terms of this Section 13.6 shall be void ab initio.

SECTION 13.7 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 Illinois applicable to agreements made and to be performed entirely within such State.

(b) Until the entry of an order either closing or dismissing the Bankruptcy Case, each party hereto (i) irrevocably elects as the sole judicial forum for the adjudication of

any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court; (ii) expressly waives any defense or objection to jurisdiction or venue based on the doctrine of forum non-conveniens; and (iii) stipulates that the Bankruptcy Court shall have in personam jurisdiction and venue over such party.

(c) After the entry of an order either closing or dismissing the Bankruptcy Case, each party to this Agreement hereby irrevocably submits to the exclusive jurisdiction of any Illinois state or federal court sitting or located in Cook County, Illinois (an “Illinois 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 Illinois 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 Illinois 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 an Illinois 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 Illinois 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.

(d) After the entry of an order either closing or dismissing the Bankruptcy Case, each party irrevocably consents to the service of process of any of the Illinois Courts in any such Action by any means permitted by the rules applicable in such Illinois 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 as its address specified in accordance with Section 13.5 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 13.8 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 13.8.

SECTION 13.9 Entire Agreement. This Agreement, the other Acquisition Documents and the Non-Disclosure Agreement 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, the other Acquisition Documents and the Non-Disclosure Agreement 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, the other Acquisition Documents and the Non-Disclosure Agreement.

SECTION 13.10 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 13.11 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 13.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

SECTION 13.13 Guarantee.

(a) Guarantor hereby, unconditionally and irrevocably, guarantees (this "Guaranty") by way of an independent obligation to the Sellers (each Seller referred to herein individually as a "Beneficiary" and collectively referred to herein as "Beneficiaries") (i) the due, prompt and faithful performance by the Purchaser of all undertakings, obligations, required acts and performances of the Purchaser to such Beneficiaries under or arising out of this Agreement, and (ii) the due and punctual payment of all amounts due and payable by the Purchaser to such Beneficiaries under or arising out of this Agreement after the date hereof, when and as the same shall arise and become due and payable in accordance with the terms of and subject to the conditions contained in this Agreement (the "Guaranteed Obligations").

(b) This is a guaranty of payment and performance and not of collection only. If for any reason whatsoever the Purchaser shall fail or be unable to perform or comply with any of its Guaranteed Obligations, Guarantor will promptly upon receipt of notice thereof from the Beneficiaries entitled to such performance or payment forthwith (i) pay or cause to

be paid in lawful money of the United States the unpaid Guaranteed Obligations then due and payable to each such Beneficiary (at the place specified and in the amounts and to the extent required of the Purchaser under this Agreement) and (ii) perform or comply with the Guaranteed Obligations for which performance or compliance is due or cause such Guaranteed Obligations to be performed or complied with (such performance or compliance as required of Purchaser under this Agreement).

(c) Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against Guarantor and without notice to or further assent by Guarantor, any demand for payment of any of the Guaranteed Obligations made by the Beneficiaries may be rescinded by the Beneficiaries and any of the Guaranteed Obligations continued, and the Guaranteed Obligations, or the liability of any other Person upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, if any, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Beneficiaries, and this Agreement and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part.

(d) Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by the Beneficiaries upon this Guaranty or acceptance of this Guaranty; the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon this Guaranty; and all dealings between the Purchaser and Guarantor, on the one hand, and the Beneficiaries, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guaranty. Guarantor agrees that (i) any notice provided under this Agreement to the Purchaser (including any demand for payment or notice of default or non payment) shall be deemed to constitute notice to Guarantor for purposes hereof and (ii) any knowledge of the Purchaser shall be deemed knowledge of Guarantor for purposes hereof. Nothing in this Section 13.13 shall be deemed to constitute a waiver of, or prevent Guarantor from asserting, any valid defense that may be asserted by the Purchaser. Guarantor waives any defense whatsoever to the performance of the Guaranteed Obligations that would not constitute a valid defense by the Purchaser. Guarantor understands and agrees that this Guaranty shall be construed as a continuing, absolute and unconditional guaranty of payment and performance without regard to (x) the validity or enforceability of this Section 13.13, or (y) any other circumstance whatsoever (with or without notice to or knowledge of the Purchaser or Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of the Purchaser for the Guaranteed Obligations, or of Guarantor under this Guaranty in bankruptcy or any similar proceedings. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against Guarantor, the Beneficiaries may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against the Purchaser or any other Person or against any collateral security or guaranty for the Guaranteed Obligations or any right of offset with respect thereto, and any failure by the Beneficiaries to make any such demand, to pursue such other rights or remedies or to collect any payments from the Purchaser or any other Person or to realize upon any such collateral security or guaranty or to exercise any such

right of offset, or any release of the Purchaser or any other Person or any such collateral security, guaranty or right of offset, shall not relieve Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Beneficiaries against Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

(e) This Guaranty shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by the Beneficiaries upon any insolvency, bankruptcy, dissolution, liquidation or reorganization involving the Purchaser or Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Purchaser or Guarantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

(f) Guarantor shall pay reasonable out-of-pocket attorneys' fees, reasonable out-of-pocket costs and other expenses of each of the Beneficiaries expended or incurred in enforcing this Guaranty against Guarantor with respect to any claim against the Purchaser in which the Beneficiaries are the prevailing party, whether or not legal action is instituted, including, without limitation, all fees, costs and expenses incurred in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving the Purchaser or Guarantor which in any way affect the exercises by any Beneficiary of any of its rights and/or remedies hereunder.

(g) This Section 13.13 shall terminate at the Effective Time.

[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.

SELLERS

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SM1 Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name: _____
Title: _____

divine technology ventures

By: divine, inc., its general partner

By: _____

Name:

Title:

PURCHASER

Saratoga DMS LLC
a Delaware limited liability company

By: _____
Name:
Title:

GUARANTOR

Saratoga Partners IV, L.P.
a Delaware limited partnership

By: _____
Name:
Title:

LIST OF EXHIBITS AND SCHEDULES

Exhibits

<u>Exhibit A</u>	Managed Service Products; Content Management Products; and Northern Lights
<u>Exhibit B</u>	Form of Assignment and Assumption Agreement
<u>Exhibit C</u>	Form of Bill of Sale
<u>Exhibit D</u>	Form of Sale Approval Order
<u>Exhibit E</u>	Form Temporary Services Agreement
<u>Exhibit F</u>	Form Transition Services Agreement
<u>Exhibit G</u>	Foreign Subsidiaries

Schedules

Schedule 1.1(a)	Assigned Contracts (must be assigned)
Schedule 1.1(b)	Assigned Contracts (to the extent assignable)
Schedule 2.1(a)	Summary of Accounts Receivable
Schedule 2.1(c)	Registered Intellectual Property
Schedule 2.1(d)	Summary of Inventory
Schedule 2.1(h)	Owned & Leased Real Property
Schedule 2.2(p)	Non-competition and Confidentiality Agreements that are not assignable
Schedule 2.2(t)	Bankruptcy Related Windup Assets & Non-Core Assets
Schedule 2.3(a)(iii)	Capital Equipment Lease Obligations and Debt Obligations of the dMS Business
Schedule 4.1	Good Standing Exceptions
Schedule 4.4	Actions
Schedule 4.5	Compliance with Laws
Schedule 4.6	Title to Property
Schedule 4.7	Seller Approvals
Schedule 4.8	Broker's or Finder's Fees
Schedule 7.5	Capital Equipment Leases and Debt Obligations Deleted From Schedule 2.3(a)(iii) by Purchaser
Schedule 8.2	Employees of Sellers Eligible to be Hired by Purchaser

MANAGED SERVICES PRODUCTS

All Assets Principally Related to the divine Managed Services (dMS) Business

CONTENT MANAGEMETN PRODUCTS

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

NORTHERN LIGHTS

All assets of Northern Lights (including, but without limitation, source code, object code, user interfaces, trademarks, URLs, patents, copyrights, taxonomies, software tools, software licenses and customer lists) associated with Lot D-3/DECC/NL on Schedule D of the Process Overview For Potential Bidders.

Such assets, include, without limitation, the following:

1. URL's: www.northernlight.com, www.northernlights.com, www.nlsearch.com, www.nlresearch.com,
2. Registered Trademarks: NLResearch.com (244485, April 17, 2001), Northern Light (2459826, June 12, 2001), Northern Light (2224936, February 23, 1999), Northern Light and design (2318044, February 15, 2000), Rivaleye (2689945, February 25, 2003), Special Editions (2569438, May 14, 2002), www.nlsearch.com (2313709, February 1, 2000). Also, need clarification on "WWW and design" (2374694, August 8, 2000).
3. Patents: Method and apparatus for researching a database of records. Filing data: 5/1/1997, Patent number 5,924,090, Grant date 7/13/1999. Australian patent 736428, Method and apparatus for searching a database of records.
4. Manuals, engineering designs and specifications, product plans, bug lists, source code and object code on appropriate electronic media, software tools, software licenses (to the extent transferable), programming languages, compilers, any back up tapes made within the last year that contained programs or data, and all copyrights for the Northern Light search engine (also known as "Divine SinglePoint Search"), Northern Light's classification solution, and Northern Light's content integration solutions. Technical components appertaining to Northern Light technology include:
 - Crawler software
 - Classification software, including classification queries.
 - Taxonomy (database of categories) and training documents for the taxonomy.
 - Relevance ranking algorithms and software.
 - Content loaders and related utilities.

- Content filters.
 - Document server.
 - Query parsers and syntax checker software.
 - Back office software including subscription management, account verification, seat management, pay per view transaction system, royalty accounting system.
 - Web server front-end.
 - Query server.
 - Clustering software.
 - Indexing engine.
 - Document retrieval software.
 - All end user documentation, and all technical documentation.
 - All user interfaces for www.northernlight.com, www.nlresearch.com, RivalEyes, and Special Editions.
5. Any fully paid-off hardware used by or for Northern Light, SinglePoint customers, RivalEye, or by or for Ireland..
 6. All customer lists, escrow agreements, and accounts receivable associated with Northern Light, SinglePoint, RivalEye, Special Editions, Alumni Portals.

**FORM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, divine, inc., a Delaware corporation ("Parent") and certain domestic subsidiaries set forth on the signature page hereto ("Subsidiaries" and together with Parent, the "Sellers"), do hereby assign, grant, bargain, sell, convey and transfer to Saratoga DMS LLC, a Delaware limited liability company (the "Purchaser"), all of Sellers' 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 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 Sellers 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 6, 2003, by and among Sellers 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 ____ day of _____, 2003.

SELLERS:

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SM1 Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name: _____
Title: _____

S-1

divine technology ventures

By: divine, inc., its general partner

By: _____

Name:

Title:

S-2

Assignment and Assumption of Contract Rights

PATENT
REEL: 026468 FRAME: 0055

PURCHASER

Saratoga DMS LLC

a Delaware limited liability company

By: _____

Name:

Title:

S-3

Assignment and Assumption of Contract Rights

PATENT
REEL: 026468 FRAME: 0056

SCHEDULE I

THE ASSIGNED CONTRACTS

Assignment and Assumption of Contract Rights

**FORM OF
BILL OF SALE**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, divine, inc., a Delaware corporation ("Parent") and certain domestic subsidiaries set forth on the signature pages hereto ("Subsidiaries" and together with Parent, the "Sellers"), do hereby grant, bargain, transfer, sell, assign, convey and deliver to Saratoga DMS LLC, a Delaware limited liability company (the "Purchaser"), all right, title and interest in and to the Transferred Assets as such term is defined in the Asset Purchase Agreement, dated as of May 6, 2003 (the "Asset Purchase Agreement"), by and among Sellers and Purchaser. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement.

This Bill of Sale is being executed and delivered by Sellers as of the ___ day of _____, 2003 pursuant to the terms of the Asset Purchase Agreement.

[Signature Page Follows]

Executed this ____ day of _____, 2003.

SELLERS

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SM1 Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name:
Title:

S-1

divine technology ventures

By: divine, inc., its general partner

By: _____

Name:

Title:

FORM OF SALE APPROVAL ORDER

SEE ATTACHED

FORM OF TEMPORARY SERVICES AGREEMENT

SEE ATTACHED

FORM OF TRANSITION SERVICES AGREEMENT

SEE ATTACHED

FOREIGN SUBSIDIARIES

<u>Subsidiary</u>	<u>Jurisdiction of Incorporation</u>	<u>Seller</u>
divine international, Inc.	Delaware	divine, inc.
divine India Ltd. (f/k/a Westbound Consulting PVT., Ltd.)	India	divine Global Services
divine Korea (f/k/a Denalii Korea)	South Korea	Denalii, Inc.
Emicom (Israel)	Israel	divine/Emicom, Inc.
Silverprime Ltd.	England	divine, inc. or Ken Kinsella o/b/o divine, inc.
SORA Labs	Spain	divine, inc. or Ken Kinsella o/b/o divine, inc.

Subsidiaries of divine international, Inc.

<u>Subsidiary (status)</u>	<u>Jurisdiction of Incorporation</u>	<u>Parent</u>
divine Global Holding GmbH (holding company)	Switzerland	divine international, Inc.
divine GmbH (active)	Germany	divine Global Holding GmbH
divine France SAS (active)	France	divine Global Holding GmbH
divine Pacific Pty. Ltd. (active)	Australian	divine Global Holding GmbH
divine KK (active)	Japan	divine Global Holding GmbH
divine Singapore Pte. Ltd. (active)	Singapore	divine Global Holding GmbH
divine Nordic AS (active)	Norway	divine Global Holding GmbH
divine Solutions GmbH (dormant)	Switzerland	divine Global Holding GmbH
Open Market Italy s.r.l. (dormant)	Italy	divine Global Holding GmbH

EXHIBIT F

<u>Subsidiary (status)</u>	<u>Jurisdiction of Incorporation</u>	<u>Parent</u>
Open Market UK Ltd. (dormant)	United Kingdom	divine Global Holding GmbH
divine Solutions Ltd. (dormant)	United Kingdom	divine Global Holding GmbH
divine Solutions Netherlands BV (dormant)	Netherlands	divine Global Holding GmbH
eshare Technologies Ltd. (dormant)	United Kingdom	divine Global Holding GmbH
eshare Technologies SARL (dormant)	France	eshare Technologies Ltd.
Global Recall, Ltd. (dormant)	United Kingdom	divine Global Holding GmbH
Global Recall, Inc. (dormant)	Delaware	Global Recall, Ltd.
Global Recall Ltd. Computing (dormant)	United Kingdom	Global Recall, Ltd.

LIST OF EXHIBITS AND SCHEDULES

Exhibits

<u>Exhibit A</u>	Managed Service Products; Content Management Products; and Northern Lights
<u>Exhibit B</u>	Form of Assignment and Assumption Agreement
<u>Exhibit C</u>	Form of Bill of Sale
<u>Exhibit D</u>	Form of Sale Approval Order
<u>Exhibit E</u>	Form Temporary Services Agreement
<u>Exhibit F</u>	Form Transition Services Agreement
<u>Exhibit G</u>	Foreign Subsidiaries

Schedules

Schedule 1.1(a)	Assigned Contracts (must be assigned)
Schedule 1.1(b)	Assigned Contracts (to the extent assignable)
Schedule 2.1(a)	Summary of Accounts Receivable
Schedule 2.1(c)	Registered Intellectual Property
Schedule 2.1(d)	Summary of Inventory
Schedule 2.1(h)	Owned & Leased Real Property
Schedule 2.2(p)	Non-competition and Confidentiality Agreements that are not assignable
Schedule 2.2(t)	Bankruptcy Related Windup Assets & Non-Core Assets
Schedule 2.3(a)(iii)	Capital Equipment Lease Obligations and Debt Obligations of the dMS Business
Schedule 4.1	Good Standing Exceptions
Schedule 4.4	Actions
Schedule 4.5	Compliance with Laws
Schedule 4.6	Title to Property
Schedule 4.7	Seller Approvals
Schedule 4.8	Broker's or Finder's Fees
Schedule 7.5	Capital Equipment Leases and Debt Obligations Deleted From Schedule 2.3(a)(iii) by Purchaser
Schedule 8.2	Employees of Sellers Eligible to be Hired by Purchaser

Exhibits + Sched.

APA

Divino → Saratoga

PATENT

REEL: 026468 FRAME: 0066

MANAGED SERVICES PRODUCTS

All Assets Principally Related to the divine Managed Services (dMS) Business

CONTENT MANAGEMETN PRODUCTS

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

NORTHERN LIGHTS

All assets of Northern Lights (including, but without limitation, source code, object code, user interfaces, trademarks, URLs, patents, copyrights, taxonomies, software tools, software licenses and customer lists) associated with Lot D-3/DECC/NL on Schedule D of the Process Overview For Potential Bidders.

Such assets, include, without limitation, the following:

1. URL's: www.northernlight.com, www.northernlights.com, www.nlsearch.com, www.nlresearch.com
 2. Registered Trademarks: NLResearch.com (244485, April 17, 2001), Northern Light (2459826, June 12, 2001), Northern Light (2224936, February 23, 1999), Northern Light and design (2318044, February 15, 2000), Rivaleye (2689945, February 25, 2003), Special Editions (2569438, May 14, 2002), www.nlsearch.com (2313709, February 1, 2000). Also, need clarification on "WWW and design" (2374694, August 8, 2000).
 3. Patents: Method and apparatus for researching a database of records. Filing data: 5/1/1997, Patent number 5,924,090, Grant date 7/13/1999. Australian patent 736428, Method and apparatus for searching a database of records.
 4. Manuals, engineering designs and specifications, product plans, bug lists, source code and object code on appropriate electronic media, software tools, software licenses (to the extent transferable), programming languages, compilers, any back up tapes made within the last year that contained programs or data, and all copyrights for the Northern Light search engine (also known as "Divine SinglePoint Search"), Northern Light's classification solution, and Northern Light's content integration solutions. Technical components appertaining to Northern Light technology include:
 - Crawler software
 - Classification software, including classification queries.
 - Taxonomy (database of categories) and training documents for the taxonomy.
 - Relevance ranking algorithms and software.
-
- Content loaders and related utilities.

- Content filters.
 - Document server.
 - Query parsers and syntax checker software.
 - Back office software including subscription management, account verification, seat management, pay per view transaction system, royalty accounting system.
 - Web server front-end.
 - Query server.
 - Clustering software.
 - Indexing engine.
 - Document retrieval software.
 - All end user documentation, and all technical documentation.
 - All user interfaces for www.northernlight.com, www.nlresearch.com, RivalEyes, and Special Editions.
5. Any fully paid-off hardware used by divine for Northern Light, SinglePoint customers, RivalEye, or by divine Ireland..
6. All customer lists, escrow agreements, and accounts receivable associated with Northern Light, SinglePoint, RivalEye, Special Editions, Alumni Portals.

**FORM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, divine, inc., a Delaware corporation ("Parent") and certain domestic subsidiaries set forth on the signature page hereto ("Subsidiaries" and together with Parent, the "Sellers"), do hereby assign, grant, bargain, sell, convey and transfer to Saratoga DMS LLC, a Delaware limited liability company (the "Purchaser"), all of Sellers' 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 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 Sellers 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 6, 2003, by and among Sellers 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 ___ day of _____, 2003.

SELLERS:

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SM1 Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name:
Title:

divine technology ventures

By: divine, inc., its general partner

By: _____

Name:

Title:

PURCHASER

Saratoga DMS LLC

a Delaware limited liability company

By: _____
Name:
Title:

SCHEDULE I

THE ASSIGNED CONTRACTS

Assignment and Assumption of Contract Rights

**FORM OF
BILL OF SALE**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, divine, inc., a Delaware corporation ("Parent") and certain domestic subsidiaries set forth on the signature pages hereto ("Subsidiaries" and together with Parent, the "Sellers"), do hereby grant, bargain, transfer, sell, assign, convey and deliver to Saratoga DMS LLC, a Delaware limited liability company (the "Purchaser"), all right, title and interest in and to the Transferred Assets as such term is defined in the Asset Purchase Agreement, dated as of May 6, 2003 (the "Asset Purchase Agreement"), by and among Sellers and Purchaser. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement.

This Bill of Sale is being executed and delivered by Sellers as of the ____ day of _____, 2003 pursuant to the terms of the Asset Purchase Agreement.

[Signature Page Follows]

Executed this ____ day of _____, 2003.

SELLERS

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SM1 Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name: _____
Title: _____

EXHIBIT C

divine technology ventures

By: divine, inc., its general partner

By: _____
Name: _____
Title: _____

Bill of Sale

EXHIBIT D

FORM OF SALE APPROVAL ORDER

SEE ATTACHED

EXHIBIT E

FORM OF TEMPORARY SERVICES AGREEMENT

SEE ATTACHED

TEMPORARY SERVICES AGREEMENT

This Temporary Services Agreement (this "Agreement"), dated as of May __, 2003, is entered into by and among divine, inc., a Delaware corporation ("divine"), certain of its domestic subsidiaries listed on the signature page below (collectively, "Sellers") and Saratoga DMS LLC, a limited liability company formed pursuant to the laws of Delaware ("Buyer").

RECITALS

WHEREAS, the Sellers have filed a voluntary petition for relief commencing a case (the "Bankruptcy Case") 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;

WHEREAS, pursuant to an Asset Purchase Agreement, dated as of May 1, 2003 (the "Purchase Agreement"), Buyer is purchasing and obtaining assignment from the Sellers, and the Sellers are selling, conveying, assigning and transferring to Buyer, certain assets and properties of the Sellers relating to the "Business" (as defined in the Purchase Agreement), together with certain obligations and liabilities relating thereto, all in the manner and subject to the terms and conditions set forth herein and the Purchase Agreement and in accordance with Sections 105, 363 and 365 of the Bankruptcy Code (the "Transaction"); and

WHEREAS, the Sellers and Buyer recognize that certain actions will need to be taken by each of them in order to ensure an orderly transition of the Business, and have set forth in this Agreement their respective agreements related thereto.

NOW, THEREFORE, in consideration of each party's agreement to enter into and consummate the Transaction contemplated by the Purchase Agreement and the premises and the mutual covenants and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

ARTICLE I TEMPORARY SERVICES

1.1 Office Space, Equipment and Operating Systems. During the period commencing on the "Closing Date" (as defined in the Purchase Agreement) and continuing for sixty (60) days (as extended, the "Service Period"), the Sellers agree to provide Buyer and any employee, officer, director, accountant, attorney, investment banker, subcontractor, consultant or other authorized agent or representative (collectively, "Representatives") of Buyer, to the extent possible, the services described on Schedule A (provided that Buyer shall provide all labor to perform such services) (collectively, the "Temporary Services"); provided, further, that Buyer shall have the right to extend the Service Period:

(x) through June 30, 2003, if (A) the Closing occurs on or prior to May 15, 2003 and Buyer notifies Sellers in writing of its election to extend the Service Period on or prior to May 15, 2003; and

(y) through July 31, 2003, if (A) the Closing occurs after May 15, 2003 and Buyer notifies Sellers in writing of its election to extend the Service Period on or prior to June 15, 2003.

Notwithstanding the foregoing, if the Closing does not occur on or prior to May 15, 2003, the Service Period shall automatically extend through June 30, 2003.

1.2 Records. During the Service Period and for five (5) years thereafter, Buyer agrees to provide the Sellers and Representatives of the Sellers with reasonable access to and use of the books, financial and other records and information of Buyer which has been reduced to written, recorded or encoded form primarily related to the Business and the conduct thereof prior to the Closing Date ("Books and Records"), all of which will be transferred to Buyer on the Closing Date.

1.3 Nature of Temporary Services. Buyer acknowledges and understand that the Temporary Services provided hereunder are transitional and temporary in nature and are furnished by the Sellers solely for the purpose of facilitating the transition of the Business to Buyer during the Service Period. Buyer acknowledge and understand that Sellers are not in the business of providing Temporary Services to third parties and has no long term interest in continuing this Agreement.

1.4 Buyer Services. Buyer agrees to provide the Sellers, at no charge during the Service Period and for a reasonable period thereafter, (not to exceed an additional sixty (60) days) as requested by the Sellers, those services set forth on Schedule A (collectively, "Buyer Services").

1.5 Financial Personnel of Buyer. Buyer agrees to provide the Sellers, at no charge during the Service Period and for a reasonable period thereafter, as requested by the Sellers, the use of up to twenty five percent (25%) of the productive time of eight (8) Buyer personnel with the following job descriptions, to the extent Buyer's personnel includes employees with such job descriptions or performing such functions: (i) Treasury Manager, (ii) Director of Financial Accounting, (iii) Vice President of Human Resources, (iv) two (2) Staff Accountants, (v) Accounts Payable Manager, (vi) Director of Payroll and Accounts Payable, and (vii) Accounting Manager.

1.6 Assets of Buyer. During the Service Period and at no charge, Buyer agrees that (i) Buyer shall not move, relocate or disable, and (ii) the Sellers may use, and may use to provide services to third parties, all assets purchased by Buyer in the Transaction which are located at 4225 Naperville Road, Suite 400, Lisle, IL 60532.

ARTICLE II. CHARGES/PAYMENT FOR SERVICES/CREDIT.

2.1 Compensation.

As consideration for the provision of Temporary Services, Buyer shall reimburse the Sellers for all reasonable out-of-pocket expenses, incurred in its performance of the Temporary

Services, and, if directed by the Sellers, pay directly any third parties providing goods or services to or for the benefit of Buyer (collectively, the "Expenses").

2.2 Payments.

(a) Buyer shall pay an estimate of all Expenses, such estimate being the previous month's Expenses (or a pro rata portion of the April 2003 Expenses for that portion of May 2003 after the Closing Date) (collectively the "Estimated Expenses") in advance on or before the Closing Date or the date on which the Service Period for any such facility is extended. Promptly after each additional month, the Sellers will provide Buyer with documentation substantiating the actual amount of Expenses, and if less than the Estimated Expenses, the Sellers shall remit the overpayment to Buyer within ten (10) days. If the actual amount of Expenses exceed the Estimated Expenses, Buyer shall remit the undercharge to the Sellers within ten (10) days.

(b) Unless otherwise mutually agreed in writing, all amounts payable under this Section 2.2 shall be payable by electronic transfer of immediately available funds to a bank account designated by the Sellers.

**ARTICLE III.
FURTHER AGREEMENTS; TERMINATION**

3.1 Relationship of the Parties; No Partnership or Joint Venture. For purposes of this Agreement, each party hereto shall provide the Temporary Services as independent contractors to the other party. In all matters relating to this Agreement, each party hereto shall retain control over its employees, and employees of one party shall not be considered employees of the other party. Nothing contained in or performed pursuant to this Agreement will be construed as creating a partnership, agency, or joint venture between the Sellers and Buyer and, except as may be otherwise expressly provided in this Agreement, neither party will become bound by any representation, act or omission of the other party. No party shall have any right, power or authority to create any obligation, express or implied, on behalf of any other party.

3.2 Cooperation. The parties hereto will cooperate with each other and will cause their officers, employees, agents, auditors and representatives to cooperate with each other during the term of this Agreement to facilitate the operation of the Business and the administration and wind up of the Bankruptcy Case and to minimize any disruption to the operation of the Business that might result from the transactions contemplated hereby.

3.3 Standard of Care.

(a) The Sellers do not assume any responsibility under this Agreement other than to render the Temporary Services required hereunder in good faith and in accordance with the provisions of Section 1 of this Agreement. Buyer's sole remedy on account of the failure of the Seller's to render a Temporary Service as and when required hereunder shall be to terminate immediately the provision of such Temporary Service and/or all Temporary Services hereunder. ~~The Sellers make no guarantee, representation, or warranty of any kind (whether express or implied) regarding any of the Temporary Services provided hereunder, and expressly disclaims all other guarantees, representations, and warranties of any nature whatsoever, whether statutory,~~

oral, written, express or implied, including, without limitation, any warranties of merchantability or fitness for a particular purpose and any warranties arising from course of dealing or usage of trade.

(b) Buyer makes no guarantee, representation, or warranty of any kind (whether express or implied) regarding any of the Buyer Services provided hereunder, and expressly disclaims all other guarantees, representations, and warranties of any nature whatsoever, whether statutory, oral, written, express or implied, including, without limitation, any warranties of merchantability or fitness for a particular purpose and any warranties arising from course of dealing or usage of trade.

ARTICLE IV. MISCELLANEOUS

4.1 Assignability. This Agreement may not be assigned by operation of law or otherwise by Buyer without the prior written consent of the Sellers (which consent shall not be unreasonably withheld); provided, notwithstanding the foregoing, this Agreement may be assigned in part by Buyer to a purchaser of the Sellers' content management business without the prior written consent of the Sellers so long as such purchaser's and Buyer's continuing and ongoing requirements for Temporary Services during the Service Period, in the aggregate, are no more burdensome upon the Sellers than the Buyer's requirements for Temporary Services hereunder in the absence of such partial assignment. Other than to any affiliate of any of the Sellers and to their respective successors and assigns, including, without limitation, any successor trustee or any other person created or appointed by the Bankruptcy Court pursuant to a plan of reorganization, this Agreement may not be assigned by operation of law or otherwise by the Sellers without the prior written consent of Buyer (which consent shall not be unreasonably withheld).

4.2 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and permitted assigns. To the extent that Sellers sells all or any portion of the Business to which any of the Temporary Services set forth herein relate, any such purchaser of all or a portion of the Business shall expressly assume the obligations of Sellers to provide the Temporary Services under this Agreement.

4.3 Notices. Unless otherwise provided herein, any notice, request, instruction or other document to be given hereunder by any party to the other shall be in writing and delivered by any of the following methods: (a) hand delivery; (b) certified U.S. mail, return receipt requested, postage prepaid; or (c) overnight courier; in each case directed to the following persons and at the following addresses, or such other person(s), address(es), and number(s) as to which written notice has been given:

(a) if to Sellers to:

divine, inc.
4225 Naperville Rd., Suite 400
Lisle, IL 60532
Telecopy: (630) 799-7501
Attention: Jude Sullivan, General Counsel

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

Latham & Watkins
233 South Wacker Drive
Sears Tower - Suite 5800
Chicago, IL 60606
Telecopy: (312) 993-9767
Attention: Mark D. Gerstein

and

Casas Benjamin & White LLC
5215 Old Orchard Road, Suite 850
Skokie, IL 60077
Telecopy: (847) 627-4501
Attention: Edward Casas and Neil Luria

(b) if to Buyer:

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

or to such other place and with such other copies as any party may designate as to itself by written notice to the others. All notices will be deemed received as follows: (i) in the event of hand-delivery, on the date of delivery; (ii) in the event of delivery by certified U.S. mail, on the date of receipt appearing on the return receipt card; or (iii) in the event of delivery by overnight courier service, on the next business day following deposit with such service for delivery.

4.4 Captions. The section captions used in this Agreement are for reference and cross-reference purposes only and shall not otherwise affect the meaning or interpretation of this Agreement.

4.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall be deemed to constitute the same Agreement.

4.6 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Illinois (without regard to the laws that might be applicable under conflicts of law principles). Each of the parties hereby (a) irrevocably and unconditionally submits to the exclusive jurisdiction of any Illinois state court sitting in County, Illinois or the U.S. District Court for the Northern District of Illinois, and any appellate court in such jurisdiction, in any action or proceeding arising out of this Agreement, (b) agrees not to commence any such action or proceeding except in such courts and that all claims in such action or proceeding may be decided by such courts, (c) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action or proceeding in any such court, (d) waives, to the fullest extent it may legally and effectively do so, the defense of an inconvenient forum, and (e) consents to the service of process in any manner provided by law.

4.7 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY

4.8 Remedies Cumulative. The remedies provided in this Agreement shall be cumulative and shall not preclude the assertion or exercise of any other rights or remedies available under law, in equity or otherwise.

4.9 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes and cancels all prior agreements, representations, warranties or communications, whether oral or written, between the parties hereto relating to the transactions contemplated hereby or the subject matter hereof.

4.10 Amendment. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

4.11 Waiver. Either party to this Agreement may (a) extend the time for the performance of any of the obligations or other acts by the other party, (b) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered by the other party pursuant hereto or (c) waive compliance with any of the agreements or conditions of the other party contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition, of

this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights.

4.12 Integration; Parties of Interest. The rights and obligations of the parties hereto pursuant to this Agreement are integrated and are not severable. Nothing in this Agreement, express or implied, is intended to confer upon any person not a party to this Agreement any rights or remedies of any nature whatsoever under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their respective behalf, by their respective officers thereunto duly authorized, all as of the day and year first above written.

divine, inc.
Air Divine, Inc.
Data Return Corporation
databites, inc.
Delano Technology Corp.
Denali, Inc.
divine Global Services, Inc.
divine international, inc.
divine interVentures, Inc.
divine Ireland, Inc.
divine Managed Services, Inc.
divine software, inc.
divine Synchrony Communications, Inc.
divine/Emicom, Inc.
eprise Corporation
Eprise Securities Corp.
eShare Communications, Inc.
Folio Corporation
Futuretense Corporation
Global Recall, Inc.
iCentral, Inc.
Inventions, Inc.
LOTN, Inc.
Melita Finance, Inc.
Melita Intellectual Property, Inc.
Open Market Securities Corporation
Open Market, Inc.
Opinionware.com, Inc.
Perceptual Robotics, Inc.
Retrieval Technologies, Inc.
RWT Corporation
SafeMaker (Europe), Inc.
SageMaker, Inc.
SM2 Holding Corp.
smallwonders software!, inc.
SMI Holding Corp.
Softmetric, Inc.
Venture Capital Unlimited Acquisition Sub, Inc.
Viant Corporation
Waypoint Software Corporation

By: _____
Name: _____
Title: _____

divine technology ventures

By: divine, inc., its general partner

By: _____

Name:

Title:

Saratoga DMS LLC

By: _____
Name: _____
Title: _____

EXHIBIT A
TEMPORARY SERVICES AND BUYER SERVICES

Temporary Services Provided by the Sellers to Buyer

- Access to hardware, software, infrastructure, data bases and report generators utilized to process human resource, financial, accounting, and other information necessary to transition the Business to Buyer.
 - application support, technical systems support, and backup and recovery services associated with hardware, software, infrastructure, data bases and report generators utilized to process human resource, financial, accounting, and other information necessary to transition the Business to Buyer.
-
-

Buyer Services to the Sellers

- AP Processing - receive, batch and process invoices for payment
 - Cash Management - personnel to provide cash application of lock box receipts; and personnel to provide appropriate cash transfers as instructed by ~~Buyer~~Sellers.
-

EXHIBIT F

FORM OF TRANSITION SERVICES AGREEMENT

SEE ATTACHED

TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT (this "Agreement") is made and entered into as of May __, 2003, by and among dS&MS Newco, Inc., a Cayman Islands corporation (the "Buyer"), and Saratoga DMS LLC, a Delaware limited liability company ("Saratoga"). Saratoga and Buyer are sometimes referred to herein as the "Parties" and are each individually referred to as a "Party."

RECITALS

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated May 6, 2003, by and among divine, inc., a Delaware corporation, and certain of its domestic subsidiaries set forth on the signature pages thereof (collectively, "divine") and the Buyer, under which the Buyer purchased certain assets of divine relating to divine's Software Services Organization Business (the "Golden Gate Purchase Agreement");

WHEREAS, pursuant to that certain Asset Purchase Agreement, dated May 6, 2003, by and among divine and Saratoga, Saratoga purchased certain assets of divine (the "Saratoga Purchase Agreement"); and

WHEREAS, Saratoga and the Buyer recognize that certain actions will need to be taken by each of them in order to ensure an orderly transition of divine's businesses, and have set forth in this Agreement their respective agreements related thereto.

AGREEMENT

NOW, THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1 TRANSITION SERVICES

Section 1.1 Services. Beginning on the Closing Date (as defined in the Golden Gate Purchase Agreement), and subject to the terms and conditions of this Agreement, each party shall provide to the other the services described on Schedule A (each, a "Service," and, collectively, the "Services").

Section 1.2 Duration of Performance of Services.

(a) Each party shall provide the Services described as Schedule A to be provided by such party until, with respect to any particular Service, the earliest to occur of:

(i) the end of the Term (as defined in Section 3.1); and

(ii) the 15th day following the service provider's receipt of written notice from the service recipient requesting that the service provider no longer provide such Service.

Provided, if the leased facilities pursuant to the Temporary Services Agreement, dated May, 2003, between dS&MS Newco, Inc. and divine, inc. and certain of its domestic subsidiaries (the "Temporary Services Agreement") is terminated pursuant to the terms of the Temporary Services Agreement, then such Service shall terminate as well.

(b) For the sake of clarity, the Parties acknowledge and agree that:

(i) the termination of the service provider's obligation to perform any one Service hereunder shall not, taken alone, constitute or cause a termination of the service provider's obligation to perform any other Services hereunder; and

(ii) nothing under this Agreement obligates the service provider to provide, or to cause to be provided, any Services (or other services) during or after the expiration of the Term;

(c) Notwithstanding anything to the contrary contained herein, the service provider will have no obligation to advance or pay any amounts to any person or entity for the benefit of the service recipient (*e.g.*, amounts payable to employees on reimbursements, amounts payable to consultants, amounts for the purchase of computer hardware, software, or other goods or services); *provided, however*, that nothing in this Section 1.2(c) is intended to negate or limit any present or future agreement by the service provider to make payments to any person or entity where the service recipient has advanced the funds for such payment to the service provider and has directed the service provider to make such payment.

Section 1.3 Scope of Services; Subcontracting.

(a) The service provider shall not be obligated hereunder to provide any services other than the Services; *provided, however*, that if the scope of services actually performed by the service provider hereunder, in its sole discretion pursuant to the service recipient's request, differs in any material respect from the Services described herein, then the Parties shall negotiate in good faith to revise the scope of Services, to adjust the charges for such Services, and to make appropriate revisions to Schedule A.

(b) The Parties acknowledge and agree that the quantity and nature of Services to be provided under this Agreement shall be substantially consistent with recent historical levels, and there shall be no material change in the scope of Services prior to the mutual agreement of all Parties as to such change and the adjustments, if any, to the charges for such Services.

(c) The service provider may, in its discretion, retain affiliate(s) or third parties to provide any or all of the Services hereunder, and the service provider shall have the right to select any outsourced provider or subcontractor; *provided, however*, that the service provider shall remain responsible for the provision of the Services.

Section 1.4 Performance of Services. The service provider will use its commercially reasonable efforts to perform, or cause to be performed, the Services in a timely, efficient, and workmanlike manner.

Section 1.5 Transition of Services.

(a) The service provider and the service recipient shall reasonably cooperate with each other and any relevant third parties in connection with any transition of responsibility for providing the Services to the service recipient or a third party, as reasonably requested by the service recipient during the Term.

(b) Notwithstanding the foregoing, the service provider will not be required under this Section 1.5 to (i) incur any costs or expenses in connection with any such transition (except to the extent that the service recipient has reimbursed the service provider for such costs or expenses) or (ii) to allocate resources to such a transition in an amount that is significantly greater than the allocation of resources required by the performance of the Services.

(c) The service recipient may provide the service provider with a transition plan and a request that the service provider provide certain enumerated transition services ancillary thereto, and the service provider shall promptly provide its good faith estimate of the fees and expenses the service recipient will be required to pay the service provider for such transition services. Neither Party will be obligated to perform or pay for such transition without a written agreement to that effect signed by both Parties.

ARTICLE 2
CHARGES/PAYMENT FOR SERVICES/CREDIT.

Section 2.1 Compensation.

(a) As consideration for the performance of the Services, the service recipient will pay the service provider the periodic fees set forth on Schedule A.

(b) In addition to the obligation to pay the amounts set forth in Section 2.1(a), the service recipient shall, at the service provider's election, either:

(i) promptly reimburse the service provider for any reasonable, documented out-of-pocket expenses incurred in its performance of the Services, or

(ii) pay directly any third parties providing goods or services to or for the benefit of the service recipient ; or

(iii) pre-pay to service provider service recipient's pro-rata portion of any pre-pay expense requirements of the service provider for any reasonable expenses service provider is required to pre-pay (including fifty percent (50%) of the costs service provider is required to prepay for (and any future payments associated with) the lease facility at 4225 Naperville Road, Suite 400, Lisle, IL 60532 ((b)(i), (ii) and (iii) collectively being "Expenses").

(c) For purposes of this Section 2.1(b), Expenses include reasonable expenses necessary to perform the Services (e.g., reasonable travel expenses for the "on-site" Services; reasonable mailing and printing costs; reasonable incremental connectivity fees; any reasonable third-party license, integration, or hardware costs incurred by changes to the service recipient's computing environment made at the service recipient's written request). For the sake of clarity, the Parties acknowledge and agree that Expenses do not include costs of labor involved in the ordinary course performance of the Services, charges for overhead expenses (such as rent, utilities, etc.), or costs incurred in the outsourcing of the Services by the service provider pursuant to Section 1.3(c).

Section 2.2 Payments.

(a) *Fees.*

(i) the service recipient shall pay the fees specified in Section 2.1(a) in advance on or before the first day in which any of the Services are to be provided.

(ii) Unless otherwise mutually agreed in writing, all amounts payable under this Section 2.2(a) shall be payable by electronic transfer of immediately available funds to a bank account designated by the service provider.

(b) *Expenses.*

(i) The service recipient shall pay, by the close of business on the last business day of the following month, all Expenses incurred by the service provider under Section 2.1(b)(i) during the preceding calendar month (e.g., all payments for Expenses for January shall be due the last business day of February). Unless otherwise mutually agreed in writing, such amounts shall be payable by electronic transfer of immediately available funds by the service recipient to a bank account designated by the service provider.

(ii) The service recipient shall pay, prior to the due date therefor, all invoices for services performed by, and all out-of-pocket expenses incurred by, third parties hired pursuant to Section 2.1(b)(ii). The service provider shall forward all such invoices that it receives to the service recipient for payment, and the service recipient timely shall make such payments directly to the third party good or service provider. The service provider shall have no liability to third parties for obligations of the service recipient.

Section 2.3 Dispute Over Payments. All payment disputes must be evidenced by a written claim from the service recipient to the service provider within ninety (90) days from the date on which the applicable invoice was received by the service recipient.

Section 2.4 Failure to Pay. The service provider shall be entitled to terminate this Agreement pursuant to Section 3.1(a)(ii) for any failure of the service recipient to make payments as required under Sections 2.1 or 2.2.

ARTICLE 3 TERM

Section 3.1 Term.

(a) The term of this Agreement (the "Term") shall commence on the Closing Date and shall terminate upon the earliest to occur of the following events:

(i) sixty (60) days from the Closing (as defined in the Golden Gate Purchase Agreement);

(ii) upon written notice from the service provider to the service recipient following the failure of the service recipient to timely pay any amounts due hereunder (other than those being disputed in good faith in accordance with the terms and conditions contained herein), after written notice of such failure by the service provider and a ten (10) day opportunity to cure such failure after receipt of such written notice from the service provider;

(iii) the mutual written agreement of the service recipient and the service provider; and

(iv) the thirtieth (30th) day following the service provider's receipt of notice from the service recipient terminating all of the Services (or, if an earlier date of termination is specified in such notice, the later of (A) such date of termination, and (B) the 15th day following the service provider's receipt of such notice). For the purposes of clarity, the service recipient may deliver a notice under Section 3.1(a)(iv) at any time during the Term.

ARTICLE 4 OTHER OBLIGATIONS

Section 4.1 Books, Records and Reports.

(a) The service provider shall keep books and records of the Services provided and reasonable supporting documentation, including receipts for out-of-pocket expenses, and of all Expenses incurred in connection therewith. The service provider shall maintain the service recipient's books, records, reports and other information to storage and security procedures substantially similar to those applied to the service provider's own books, records, reports and other information.

(b) Upon request and reasonable written notice by the service recipient, the service provider shall make such books and records available to the service recipient, and its representatives and agents during normal business hours. In addition, the service provider shall provide such other reports and information as the service recipient or the service recipient may reasonably request, at the service recipient's sole cost and expense.

(c) At the service recipient's request, the service provider shall provide to the service recipient, at the service recipient's sole cost and expense (which cost and

expense shall equal the service provider's incremental cost of providing such storage medium and arranging for file aggregation, conversion, and transmission), computer tapes (or such other storage medium format requested by the service recipient which the service provider is reasonably capable of supplying) containing the service recipient's data. All right, title and interest in and to such the service recipient -unique books, records, reports and other information shall vest in the service recipient.

Section 4.2 Trademarks. The service recipient shall have no right to, and shall not, use or license to others any intellectual property of the service provider or any of its affiliates, including without limitation, any trademark, service mark, copyright or other marks owned by the service provider or any of its affiliates, and the service recipient shall not hold itself out after the Closing Date to any person or entity as an affiliate of the service provider.

ARTICLE 5 TERMS OF PERFORMANCE

Section 5.1 Terms and Standards.

(a) The service provider does not assume any responsibility under this Agreement other than to render the Services required hereunder in good faith and in accordance with the provisions of Section 1.4 of this Agreement. Subject to Section 7.16, the service recipient's sole remedy on account of the failure of the service provider to render a Service as and when required hereunder shall be to terminate immediately the provision of such Service and/or all Services hereunder, upon which termination, the service recipient will promptly make reimbursement payments in respect of all Expenses incurred through the date of termination.

(b) Other than as set forth in Section 1.4, the service provider makes no guarantee, representation, or warranty of any kind (whether express or implied) regarding any of the Services provided hereunder, and expressly disclaims all other guarantees, representations, and warranties of any nature whatsoever, whether statutory, oral, written, express or implied, including, without limitation, any warranties of merchantability or fitness for a particular purpose and any warranties arising from course of dealing or usage of trade.

Section 5.2 Confidentiality.

(a) The term "Confidential Information" shall mean (i) the terms of this Agreement (and not its existence), (ii) any information disclosed by one party to the other pursuant to this Agreement which is in written, graphic, machine readable or other tangible form and is marked "Confidential", "Proprietary" or in some other manner to indicate its confidential, nature, and (iii) oral information disclosed by one Party to the other pursuant to this Agreement, provided that such information is designated as confidential at the time of disclosure and reduced to a written summary by the disclosing Party, within thirty (30) days after its oral disclosure, which is marked in a manner to indicate its confidential nature and delivered to the receiving Party. Notwithstanding the above, neither Party shall have liability to the other with regard to ~~any Confidential Information of the other which: (i) was generally known and available at the~~ time it was disclosed or becomes generally known and available through no fault of the receiver; (ii) was known to the receiver, without restriction, at the time of disclosure as shown by the files

of the receiver in existence at the time of disclosure; (iii) is disclosed with the prior written approval of the disclosure; (iv) was independently developed by the receiver without any use of the Confidential Information; or (v) becomes known to the receiver, without restriction, from a source other than the disclosure without breach of this Agreement by the receiver and otherwise not in violation of the disclosure's rights. In addition, each Party shall be entitled to disclose the other Party's Confidential Information to the extent such disclosure is requested by the order or requirement of a court, administrative agency, or other governmental body; provided, that the Party required to make the disclosure shall provide prompt, advance notice thereof to enable the other Party to seek a protective order or otherwise prevent such disclosure.

(b) Each Party shall (i) treat as confidential all Confidential Information of the other Party, (ii) not use such Confidential Information except as expressly set forth herein or otherwise authorized in writing, (iii) implement reasonable procedures to prohibit the disclosure, unauthorized duplication, misuse or removal of the other Party's Confidential Information, and (iv) not disclose any of the other Party's Confidential Information to any third Party except as may be necessary and required under this Agreement, and subject to confidentiality obligations at least as protective as those set forth herein. Without limiting the foregoing, each of the Parties shall use at least the same procedures and degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other Party under this Agreement, but in no event less than reasonable care. The receiving Party shall notify the disclosing Party, in writing, of any disclosure, loss or use of Confidential Information in violation of this Agreement promptly after the receiving Party receives notice of such violation.

(c) If either Party breaches any of its obligations with respect to confidentiality, or if such a breach is likely to occur, the other Party shall be entitled to equitable relief, including specific performance or an injunction, in addition to any other rights or remedies, including money damages, provided by law.

ARTICLE 6 DISPUTE RESOLUTION

Section 6.1 Except as otherwise provided in this Agreement, in the event any disagreement, dispute, or claim (collectively, a "Dispute") arises among the Parties with respect to the enforcement or interpretation of any term or provision of this Agreement or the performance of Services, such Dispute shall be resolved in accordance with the procedures set forth in this Article VI.

Section 6.2 Meet-and-Confer. In the event of a Dispute between or among the Parties to the Agreement, any Party may give written notice to the other Party or Parties setting forth the nature of such Dispute (a "Dispute Notice"). The Parties shall meet and confer to discuss the Dispute in good faith within thirty (30) days of receipt of the Dispute Notice in an attempt to resolve the Dispute. Appropriate representatives shall meet at such dates and times as are mutually convenient to the representatives of each Party within such thirty (30) day period.

Section 6.3 Arbitration of Disputes. Except as set forth below, any Dispute which cannot be resolved by the Parties within thirty (30) days after a Party's receipt of a Dispute

Notice shall be submitted to binding arbitration, which arbitration shall be conducted in accordance with the following provisions:

(a) Venue. The arbitration shall be conducted in Chicago, Illinois unless the Parties mutually agree that another venue would be more convenient for them.

(b) Law. The governing law shall be the substantive law of the State of Illinois.

(c) Selection. Any single disinterested arbitration shall be selected by mutual agreement of the Parties within fifteen (15) days after the thirty (30) days referred to in subsection 6.2 referred to above, or if they are unable to mutually select an arbitrator within such fifteen (15) days, then by the appointment of a single arbitrator by the New York office of JAMS/Endispute ("JAMS") in accordance with its then-current rules.

(d) Rules. The arbitration shall be conducted in accordance with the procedural rules established by the arbitrator.

(e) Award. The decision of the arbitrator shall be final and binding upon the Parties, and judgment upon the award may be entered in any court of competent jurisdiction in the United States. The award shall include written findings of fact, a summary of the evidence and reasons underlying the decision and conclusions of law. The arbitrator shall have the power to award equitable relief, including specific performance of the terms and conditions of this Agreement and/or injunctive relief. However, the arbitrator shall not have the right to award punitive damages.

(f) Fees and Costs. As part of the award, the arbitrator shall award to the prevailing Party reasonable and necessary costs actually incurred by the prevailing Party in its award, including that Party's share of the arbitrators' fees, costs, and expenses, as well as any administrative fees and attorneys' fees, unless the arbitrator determines that there is no prevailing Party.

(g) The arbitrator will have power to order appropriate discovery.

Section 6.4 Injunctive Relief. Nothing in this Agreement shall be interpreted to limit any Party's right to pursue preliminary or provisional equitable relief pending the arbitration award, including, without limitation, specific performance, a temporary restraining order, or preliminary injunctive relief from a court of competent jurisdiction at any time. For the avoidance of doubt, the foregoing provisions of this Section shall not be interpreted to require any Party to submit to the meet-and-confer or arbitration provisions set forth above prior to exercising such Party's right to pursue preliminary equitable relief to protect trade secrets or prevent irreparable harm.

Section 6.5 Selection of Alternative Arbitrator. In the event that JAMS is not in existence at the time of commencement of the arbitration proceeding, then the Dispute shall be submitted for arbitration to the successor to JAMS or, if there is no successor, to the American Arbitration Association or to a court of competent jurisdiction as agreed to by the Parties.

ARTICLE 7 MISCELLANEOUS

Section 7.1 Further Cooperation. Each Party agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereby.

Section 7.2 Assignment. No Party may assign or otherwise dispose of all or any portion of its right, title, or interest herein to any person or entity without the prior written consent of the other Parties, which consent may be given or withheld in each such other Party's sole and absolute discretion. Notwithstanding the foregoing, (i) either party shall have the right to assign its rights and obligations hereunder, in whole or in part, to any of its Affiliates or any successor-in-interest of all or a portion of its assets or business without the consent of the other party or provided, however, that no such assignment shall relieve such party of any of its obligations hereunder. Any assignment in violation of this Section 7.2 shall be void. Subject to the foregoing, the Agreement shall be binding upon and shall inure to the benefit of the Parties, and each of their respective successors and permitted assigns.

Section 7.3 Limitation of Liability. No Party shall be liable to any other Party for any indirect, incidental, special, punitive or consequential damages of any kind.

Section 7.4 Notices. Any notice, payment, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes: (i) if delivered personally to the Party to whom the same is directed, or (ii) when the same is actually received, if sent by a nationally recognized overnight courier service (with tracking capability), addressed as follows (or to such other address as such Party may from time to time specify by due notice):

To Buyer: to the address specified in the Golden Gate Purchase Agreement;
and

To Saratoga: to the address specified in the Saratoga Purchase Agreement.

Section 7.5 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. In the event a judicial proceeding is necessary, subject to Article 6, the sole forum for resolving disputes arising under or relating to this Agreement are the courts of the State of Illinois or the federal district court for the Northern District of Illinois and all related appellate courts and the Parties hereby consent to the jurisdiction of such courts. Each Party agrees that personal jurisdiction over it may be effected by service of process by registered or certified mail addressed as provided in Section 7.4, and that when so made shall be as if served upon it personally within the State of Illinois.

Section 7.6 Severability; Survival. Except as otherwise provided in the succeeding sentence, every provision of this Agreement is intended to be severable, and, if any term or provision herein is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement. The

preceding sentence of this Section 7.6 shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any Party to lose the material benefit of its economic bargain. Upon the expiration of the Term or any other expiration or termination of this Agreement, this Agreement shall have no further force or effect; *provided, however*, that Articles 2, 5, 6 and 7 shall survive any such expiration or termination.

Section 7.7 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all Parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

Section 7.8 Section Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

Section 7.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether written or oral, regarding the subject matter hereof.

Section 7.10 Amendments and Waivers.

(a) No amendment, modification, or supplement to this Agreement shall be binding on any Party unless it is in writing and duly executed by each of the Parties hereto.

(b) None of the provisions of this Agreement shall be considered waived by any Party unless such waiver is given in writing by or on behalf of the Party against whom such waiver is claimed. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect. Waiver by a Party of any default under this Agreement shall not be deemed a waiver of any other default.

Section 7.11 No Implied Assignments or Licenses. Nothing in this Agreement is to be construed as an assignment or grant of any right, title, or interest in any trademark, copyright, design, or trade dress, patent right, or any other intellectual or industrial property right.

Section 7.12 Construction. Every covenant, term, and provision of this Agreement shall be construed and interpreted simply according to its fair meaning and shall not be construed or interpreted for or against any Party that drafted or caused its legal representative to draft such covenant, term, or provision.

Section 7.13 Force Majeure. No Party shall be held liable or responsible ~~for delay or failure to perform its obligations under this Agreement occasioned by force majeure~~ or any cause beyond its control, including, without limitation, civil disturbance, fire, flood, earthquake, failure of the Internet, windstorm, unusually severe weather, act of labor trouble,

lack of or inability to obtain raw materials, transportation, labor, fuel or supplies or governmental laws, acts, regulations, embargoes, or orders (whether or not such later prove to be invalid).

Section 7.14 Third-Party Beneficiaries. The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person or entity. However, should any third party institute proceedings, this Agreement shall not provide any such person or entity with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those provided herein.

Section 7.15 Relationship of Parties. Nothing contained in this Agreement shall constitute or be construed to be or create a trust, partnership, or joint venture between the Parties. The relationship established hereby is that of independent contractors. Neither Party shall be liable for the payment of any debts, obligations or other liabilities of the other Party, and neither Party shall be required to advance any of its own funds for payment thereof or for the maintenance or operation of the other Party.

Section 7.16 Specific Performance. The Parties agree that if any of the provisions of Section 5.2 were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the Parties shall be entitled to specific performance of the terms of such Section 5.2.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Agreement as of the date first above written.

dS&MS Newco, Inc.

By: _____
Name:
Title:

Saratoga DMS LLC

By: _____
Name:
Title:

Schedule 2.1(c)

Registered Intellectual Property

Registered Trademarks:

Trademark	Registration Number	Registration Date
ADCOMMAND	2170160	June 30, 1998
ADFAST	2184546	August 25, 1998
ADONTIME	2482823	August 28, 2001
DATA RETURN	2619447	September 17, 2002
DATA RETURN	2657683	December 10, 2002
E (and Design)	2339958	April 11, 2000
EPRISE CORPORATION	2367534	July 18, 2000
EPRISE PARTICIPANT SERVER	2323967	February 29, 2000
JUST WHAT YOU'VE BEEN SEARCHING FOR	2467269	July 10, 2001
LIVEPUBLISH	2380838	August 29, 2000
NLRESEARCH.COM	2444855	April 17, 2001
NORTHERN LIGHT	2459826	June 12, 2001
NORTHERN LIGHT	2224936	February 23, 1999
NORTHERN LIGHT (and design)	2318044	February 15, 2000
OPEN MARKET	2091594	August 26, 1997
RIVALEYE	2689945	February 25, 2003
SMART STATEMENT	2164270	June 9, 1998
SPECIAL EDITIONS	2569438	May 14, 2002
WEBREPORTER	2027827	December 31, 1996
WWW (and Design)	2374694	August 8, 2000

dMS Related Patent:

Title	Country	Filing Date	Patent No.	Grant/Issue Date
System and Method of Synchronizing Replicated Data	U.S.	8/14/2000	6,529,917	3/4/2003

ECM Related Patents:

Title	Country	Filing Date	Patent No.	Grant/Issue Date	Product/Business Segment
Certifying authorizations in computer	U.S.	11/15/1996	6,212,634	4/3/2001	ECM

SCH-66

*W/ proper to brand
what patents have at the
3 solutions*
PATENT

REEL: 026468 FRAME: 0103

Title	Country	Filing Date	Patent No.	Grant/Issue Date	Product/Business Segment
networks					
Certifying authorizations in computer networks	U.S.	8/16/2000	6,490,358	12/3/2002	ECM
Controlled transfer of information in computer networks	U.S.	10/29/1996	6,279,112	8/21/2001	ECM
Digital active advertising	European Patent	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	Belgium	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	France	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	U.K.	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	Italy	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	Netherlands	12/13/1994	0734556	9/4/2002	ECM
Digital active advertising	Germany	12/13/1994	69431306.8-08	9/2/2002	ECM
Digital active advertising	Japan	12/13/1994	3367675	11/8/2002	ECM
Digital active advertising	Japan	12/13/1994	3190882	5/18/2001	ECM
Digital active advertising	Japan	12/13/1994	3190881	5/18/2001	ECM
Digital active advertising	U.S.	11/29/1995	5,724,424	3/3/1998	ECM
Digital active advertising	U.S.	3/2/1998	6,195,649	2/27/2001	ECM
Digital active advertising	U.S.	3/2/1998	6,049,785	4/11/2000	ECM
Digital active advertising	U.S.	3/2/1998	6,199,051	3/6/2001	ECM
Digital active advertising	U.S.	3/2/1998	6,205,437	3/20/2001	ECM
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

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PATENT
REEL: 026468 FRAME: 0104

Title	Country	Filing Date	Patent No.	Grant/Issue Date	Product/Business Segment
Hierarchical caching techniques for efficient dynamic page generation	U.S.	3/4/1999	6,397,217	5/28/2002	ECM
Internet server access control and monitoring systems	Australia	6/3/1996	694367	11/5/1998	ECM
Internet server access control and monitoring systems	U.S.	6/7/1995	5,708,780	1/13/1998	ECM
Method of providing internet pages by mapping telephone number provided by client to url and returning the same in a redirect command by server	U.S.	6/7/1995	5,812,776	9/22/1998	ECM
Enabling Business Transactions in Computer Networks	U.S.	11/15/1996	6,192,181	2/20/2001	ECM (abandoned patent but possibly revivable)
Information method and apparatus using simplex and duplex communications	U.S.	12/1/1986	4,845,658	7/4/1989	ECM (this patent actually owned by MIT, but ECM has exclusive license)

divine technology ventures

Title	Country	Filing Date	Patent No.	Grant/Issue Date	Product/Business Segment
Method and Apparatus for Searching a Database of Records	U.S.	5/1/1997	5,924,090	7/13/1999	Non-core (Northern Lights)
Method and Apparatus for Searching a Database of Records	Australia	4/29/1998	736428	11/8/2001	Non-core (Northern Lights)

Domain Names:

See domain names reflected as executory contracts on Schedule 1.1(a) and Schedule 1.1(b).