

7.29.2011

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103629912

HEET

Atty Ref/Docket No.: 2385.004US

Patent and Trademark Office

To the Director of the U.S. Patent and Trademark Office: Please record attached original documents or copy thereof.

1. Name of conveying party(ies):

FoundationIP, LLC

Additional name(s) of conveying party(ies) attached?

[ ] Yes [X] No

3. Nature of conveyance:

[X] Assignment [ ] Merger

[ ] Security Agreement [ ] Change of Name

[ ] Other

Execution Date: July 22, 2011

2. Name and address of receiving party(ies):

Name: Lucid Patent, LLC

Street Address: 900 South Avenue South, Oracle Center,  
Suite 490-495

City Minneapolis State: Minnesota Zip: 55402-3356

Country: United States of America

Name: Steven W. Lundberg

Street Address: 4517 Arden Avenue

City: Edina State: Minnesota Zip: 55424

Country: United States of America

Additional name(s) & address(es) attached? [ ] Yes [X] No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Serial No. 12/958,113, filed December 10, 2010



Additional numbers attached? [ ] Yes [X] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: James D. Hallenbeck

Address:

Schwegman, Lundberg & Woessner, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402-0938

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

[ ] Enclosed

[X] Authorized to be charged to deposit account  
19-0743

8. Please charge any additional fees or credit any over payments to our Deposit Account No.: 19-0743

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James D. Hallenbeck/Reg. No. 63,561

Name of Person Signing

[Signature]

Signature

7/26/2011

Date

Total number of pages including cover sheet: 93

Mail documents to be recorded with required cover sheet information to:

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**Alexandria, VA 22313-1450**

07/29/2011 HTON11 00000066 190743 12958113  
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**PATENT**  
**REEL: 026683 FRAME: 0070**

**S/N 10/915,265 and 12/958,113**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Steven W. Lundberg et al.	Examiner:	Luke Wassum
Serial Nos.:	10/915,265; 12/958,113	Group Art Unit:	2167
Filed:	August 10, 2004	Docket Nos.:	2385.004US1;
	December 10, 2010		2385.004US2
Customer No.:	21186		
Title:	PATENT MAPPING		

**AFFIDAVIT OF STEVEN W. LUNDBERG**

**RE: Assignment of United States Patent Application Serial Number 10/915,265 entitled "PATENT MAPPING" and filed on August 10, 2004; the Divisional United States Patent Application, filed December 10, 2010 as a Divisional Application under 37 C.F.R. § 1.53(b), Serial Number 12/958,113 entitled "PATENT MAPPING;" and any and all divisions, continuations, continuations-in-part, or renewals thereof.**

I, Steven W. Lundberg, under penalty of perjury according to law, do hereby swear that the following matters stated herein are true to my knowledge and belief:

1. This affidavit memorializes the transfer of ownership and assignment of United States Patent Application Serial Number 10/915,265 entitled "PATENT MAPPING" and filed on August 10, 2004 (hereinafter "the '265 Application") and all continuations, divisionals, continuations-in-part, and the like, which includes the divisional filing from the '265 Application of United States Patent Application Serial Number 12/958,113 entitled "PATENT MAPPING" and filed on December 10, 2010 (hereinafter "the '113 Application"). As evidenced below, the ownership and assignment of both the '265 Application, the subsequently filed divisional '113 Application, and any subsequently filed continuation or divisional applications therefrom transferred from FoundationIP, LLC to Steven W. Lundberg and Lucid Patent, LLC.
2. Attached hereto are EXHIBITS C, D, and F which are the assignment documents evidencing assignment of ownership and title to the '265 Application, the '113 Application, and any and all divisions, continuations, continuations-in-part, or renewals thereof to Steven W. Lundberg and Lucid Patent, LLC. The '265 Application and the '113 Application are applications regarding "Claimmapper" technology referred to in EXHIBITS D and F. The Claimmapper technology, and thereby the '265 Application, the '113 Application, and any and all divisions, continuations, continuations-in-part, or renewals thereof, was finally transferred by assignment in EXHIBIT F to Steven W. Lundberg and Lucid Patent, LLC.

**PATENT**

**REEL: 026683 FRAME: 0071**

3. As of the date of this affidavit, the recorded assignee of United States Patent Application Numbers 10/915,265 and 12/958,113 is FoundationIP, LLC.
  - a. I, Steven W. Lundberg, am one of three inventors of the inventive subject matter illustrated, described, and claimed in the '265 Application. My status as an inventor was established in the '265 Application by my execution of a COMBINED DECLARATION AND POWER OF ATTORNEY, which I executed on October 14, 2004, was filed on October 27, 2004, and received by the United States Patent and Trademark Office (hereinafter "USPTO") on November 1, 2004 as shown in data present in the Patent Application Information Retrieval (PAIR) system of the USPTO. A copy of the COMBINED DECLARATION AND POWER OF ATTORNEY downloaded from the PAIR system is attached as EXHIBIT A and includes a received stamp of the USPTO dated November 1, 2004.
  - b. I, Steven W. Lundberg, and my co-inventors executed an assignment of the '265 Application which was received and recorded by the USPTO on August 4, 2005 assigning the '265 Application to FOUNDATIONIP, LLC. The assignment was recorded by the USPTO at Reel/Frame 016611/0752. Evidence of this recorded assignment is attached hereto as EXHIBIT B.
  - c. The executed assignment documents that were recorded for the '265 patent as shown in EXHIBIT B are attached hereto as EXHIBIT C. Of note in the executed assignment documents of EXHIBIT C on the page with the heading "ASSIGNMENT" in the third paragraph is that the assignment to the Assignee, FoundationIP, LLC, is of "the entire right, title and interest ... in and to all inventions and improvements disclosed in the aforesaid application (the '265 Application), and in and to the said application, all divisions, continuations, continuations-in-part, or renewals thereof...." Thus, the assignment of the '265 Application also is applicable the '113 Application, which is a divisional application of the '265 Application filed under 37 C.F.R. § 1.53(b), and all divisions, continuations, continuations-in-part, or renewals thereof.
  - d. Thus, the recorded Assignee of both the '265 Application and the '113 Application, as well as any and all divisions, continuations, continuations-in-part, or renewals thereof as of the date of this affidavit is FoundationIP, LLC.
4. Ownership of the '265 Application, the '113 Application, and any and all divisions, continuations, continuations-in-part, or renewals thereof transferred from FoundationIP, LLC to a newly created joint venture established in part to exploit the technology thereof.
  - a. FoundationIP, LLC was acquired by CPAUSH, LTD, which is part of CPA Global, from previous owners International IP Ventures, LLC, Steven W. Lundberg, Leon Steinberg, Pradeep Sinha, Janal Kalis, and Thomas Brennan.

EXHIBIT D is a Purchase Agreement which provides details of this transaction. EXHIBIT E is a web page from the CPA Global website ([www.cpaglobal.com/software/foundationip](http://www.cpaglobal.com/software/foundationip)) which shows that FoundationIP is now a part of CPA Global.

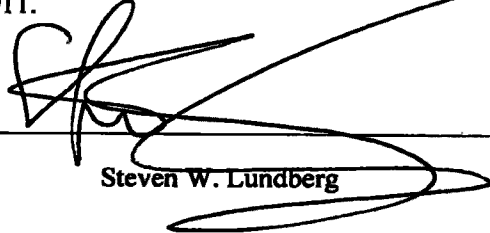
- b. As part of the transaction where CPAUSH, LTD acquired FoundationIP, LLC, a joint venture was established between parties to the transaction for exploiting certain technologies. The '265 Application was contributed to the joint venture by CPAUSH, LTD, as the new owner of FoundationIP, LLC. In particular, page 5 of EXHIBIT D at Section 1.59 refers to a "Joint Venture Agreement Term Sheet," a subsequently amended version of which is attached hereto as EXHIBIT F. Section 1.58 on page 5 of EXHIBIT D refers to "Joint Venture Assets" which are summarized on Schedule 1.58 of EXHIBIT D. Schedule 1.58 includes a "Product or Service Idea" listing and, for each, a "Status as JVE Opportunity or other." Included as a listed "Product or Service Idea" is "Claimmapper." Claimmapper as described in Schedule 1.58 is to "Map claim subject matter for example based on a pre-existing ontology, or on the fly claim categorization." On a subsequent page of Schedule 1.58, Claimmapper is further described to be for "product infringement tracking looking for similar technology that may related to mapped claims, based on ontology information, components or constraints or classes, looking through public data or potential matches of infringing information." The "Claimmapper" technology which was identified as a Joint Venture Asset is the subject matter of the '265 and '113 applications.
  - c. The transaction where CPAUSH, LTD acquired FoundationIP, LLC and established the Joint Venture to exploit certain technologies, including "Claimmapper," included transfer of particular assets. The particular included Intellectual Property Assets as set forth in Section 3.9 of EXHIBIT D, which at Section 3.9(b) refers to Schedule 3.9(b) that provides a listing of all patents and pending application that are subject to the transaction. Within Schedule 3.9(b) of EXHIBIT D there is a Schedule of Patents that at number 37 includes the '265 application and identifies the "BUYER" thereof as the JVE, or Joint Venture.
  - d. Thus, ownership of the '265 Application and "all divisions, continuations, continuations-in-part, or renewals thereof..." which includes the '113 Application, was transferred to the joint venture from FoundationIP, LLC by the new owner of FoundationIP, LLC, CPAUSH, LTD as of the transaction closing following execution of the document of EXHIBIT D dated August 11, 2005.
5. Ownership of the '265 Application, and the '113 Application, as a subsequently filed divisional application, was transferred from the joint venture to "Steven W. Lundberg and/or an affiliate of International IP Ventures, LLC."

- a. EXHIBIT F, as mentioned above, is an amended "Joint Venture Agreement Term Sheet." EXHIBIT F, in Section 6.0 in the last paragraph on page 6 states that "The Parties acknowledge that CPAUSH Ltd. has transferred ownership of all intellectual property rights in Claimmapper to Lundberg and/or an affiliate of International IP Ventures, LLC pursuant to that certain Agreement between CPAUSH Ltd., SLWK, Lundberg, Sinha and Intertech Systems, LLC dated effective as of September 1, 2006."
  - b. The intellectual property rights in Claimmapper, as discussed above with regard to EXHIBIT D include, among others, both the '265 Application and the '113 Application.
  - c. The '265 Application and the '113 Application therefore transferred to "Lundberg and/or an affiliate of International IP Ventures, LLC" no later than November 26, 2007 when the last party executed the document of Exhibit F.
6. The current owners of all right title and interest in and the assignees of the '265 Application, the '113 Application, and any and all divisions, continuations, continuations-in-part, or renewals thereof are Steven W. Lundberg and Lucid Patent, LLC.
- a. As established above with regard to EXHIBIT F, ownership to all right title in and interest and therefore also the assignees of the '265 Application, the '113 Application, and any and all divisions, continuations, continuations-in-part, or renewals thereof are Steven W. Lundberg and/or an affiliate of International IP Ventures, LLC.
  - b. I, Steven W. Lundberg, am a cofounder and partial owner of both International IP Ventures, LLC and Lucid Patent, LLC. Lucid Patent, LLC is an affiliate of International IP Ventures, LLC due to this partial common ownership.
  - c. The operations of Lucid Patent, LLC are located at and the mailing address therefor is as follows:  
  
**Lucid Patent, LLC  
Suite 490-495  
Oracle Center  
900 South Avenue South  
Minneapolis, MN 55402-3356**
  - d. The residence and mailing address for Steven W. Lundberg is:  
  
**Steven W. Lundberg  
4517 Arden Ave.  
Edina, MN 55424**

**EXHIBITS (6):**

- A - 4 pages
- B - 1 page
- C - 7 pages
- D - 62 pages
- E - 2 pages
- F - 11 pages

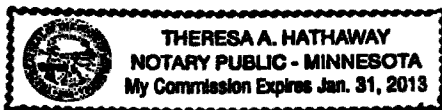
IN TESTIMONY WHEREOF, AND UNDER PENALTY OF PERJURY, I have hereunto set  
my hand this 22 day of July, 2011.

  
\_\_\_\_\_  
Steven W. Lundberg

STATE OF Minnesota )

COUNTY OF Hennepin )

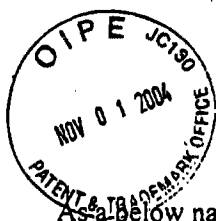
On this 22<sup>nd</sup> day of July, 2011 before me personally came and appeared Steven W. Lundberg, to me known and known to me to be the person described in and who executed the foregoing instrument, under penalty of perjury and upon oath and affirmation of belief and personal knowledge of the matters, facts, and things set forth are true and correct to the best of his knowledge, and he duly acknowledged to me that he executed the same for the uses and purposes therein set forth.



[SEAL]

  
\_\_\_\_\_  
Notary Public

# EXHIBIT A



Attorney Docket No.750.021 US1

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

## United States Patent Application COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **PATENT MAPPING**.

The specification of which was filed on August 10, 2004 as application serial no. 10/915,265.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**No such claim for priority is being made at this time.**

I hereby appoint the attorneys associated with the customer number listed below to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

**Customer Number: 21186**

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary. Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:  
**P.O. Box 2938, Minneapolis, MN 55402**  
**Telephone No. (612)373-6900**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1 : **Steven W. Lundberg**  
Citizenship: **United States of America** Residence: **Edina, MN**  
Post Office Address: **4517 Arden Avenue**  
**Edina, MN 55424**

Signature: \_\_\_\_\_

**Steven W. Lundberg**

Date: \_\_\_\_\_

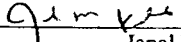
**10/14/2004**

☒ Additional inventors are being named on separately numbered sheets, attached hereto.



Full Name of joint inventor number 2 : Janal M. Kalis  
Citizenship: United States of America  
Post Office Address: 1235 Yale Pl. No. 701  
Minneapolis, MN 55403

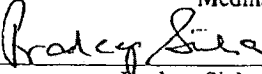
Residence: Minneapolis, MN

Signature:   
Janal M. Kalis

Date: 14 Oct 04

Full Name of joint inventor number 3 : Pradeep Sinha  
Citizenship: United States of America  
Post Office Address: 4050 Wild Meadows Drive  
Medina, MN 55340

Residence: Medina, MN

Signature:   
Pradeep Sinha

Date: 14 Oct '04

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

# EXHIBIT B



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10/915,265

Patent mapping

2385,004US1

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## Assignments Data

### Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 10915265

Filing Dt: 06/10/2004

Patent #: NONE

Issue Dt:

PCT #: NONE

Publication #: US20060036451

Pub Dt: 02/16/2006

Inventors: Steven W. Lundberg, Janal M. Kalis, Pradeep Sinha

Title: Patent mapping

Assignment: 1

Reel / Frame: 016611 / 0752

Received: 08/04/2005

Recorded: 08/04/2005

Mailed: 10/04/2005

Pages: 5

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: LUNDBERG, STEVEN W.

KALIS, JANAL M.

SINHA, PRADEEP

Assignee: FOUNDATIONIP, LLC

830 TCF TOWER

121 S 8TH ST

MINNEAPOLIS, MINNESOTA 55402

Correspondent: JANAL M. KALIS

SCHWEGMAN, LUNDBERG, WOESSNER

8 KLUTH, P.A.

P.O. BOX 2838

MINNEAPOLIS, MN 55402

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## EXHIBIT C

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Minneapolis, MN 55402  
Telephone (612) 373-6900 Facsimile (612) 339-3061

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(Minneapolis, Minn.)

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Attn: Assignment Recordation Services  
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Facsimile Center  
P.O. Box 1450  
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**FAX NUMBER 703-306-5995**

FROM: Janal M. Kalis

OUR REF: 750.021US1

Documents Transmitted: Please find an Assignment of the invention to the FoundationIP, LLC (4 pgs.), Recordation Form Cover Sheet (1 pg.) and authorization to charge Deposit Account No. 19-0743 in the amount of \$40.00 to cover Recordation Fee.

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In re. Patent Application of: Steven Lundberg et al.

Serial No.: 10/915,265

Filed: August 10, 2004

Title: PATENT MAPPING

Examiner: Unknown

Group Art Unit: 2171

Docket No.: 750.021US1

PATENT  
REEL: 026683 FRAME: 0081

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH  
PATENT, TRADEMARK & COPYRIGHT ATTORNEYS  
P.O. Box 2938

Minneapolis, MN 55402  
Telephone (612) 373-6900 Facsimile (612) 339-3061

Date: August 4, 2005

Time: 3:00 pm  
(Minneapolis, Minn.)

TO: Commissioner for Patents  
Attn: Assignment Recordation Services  
Patent Examining Corps  
Facsimile Center  
P.O. Box 1450  
Alexandria, VA 22313-1450  
**FAX NUMBER 703-306-5995**

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Docket No.: 750.021US1

Please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

By: Janal M. Kalis  
Name: Janal M. Kalis  
Reg. No. 37,650

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Julie A. Lindseth  
Julie A. Lindseth

August 4, 2005  
Date

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PATENTS ONLY

Atty Ref/Docket No.: 750.021US1

Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Steven W. Lundberg, Janal M. Kalis and Pradeep Sinha

Additional name(s) of conveying party(ies) attached?

☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment

☐ Merger

☐ Security Agreement ☐ Change of Name

☐ Other

2. Name and address of receiving party(ies):

Name: FoundationIP, LLC

Street Address: 830 TCF Tower  
121 S 8th St

City: Minneapolis State: MN Zip: 55402

Additional name(s) & address(es) attached? ☐ Yes ☒ No

Execution Date: July 22, 2005, July 22, 2005, July 21, 2005

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Serial No. 10/915,265, filed August 10, 2004

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Janal M. Kalis

Address:

Schwegman, Lundberg, Woessner & Kluth, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

☐ Enclosed

☒ Authorized to be charged to deposit account

8. Please charge any additional fees or credit any over payments to our Deposit account number: 19-0743

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Janal M. Kalis/Reg. No. 37,650

Name of Person Signing

Janal M. Kalis  
Signature

3 Aug 05  
Date

Total number of pages including cover sheet: 5

Mail documents to be recorded with required cover sheet information to:

Mail Stop Assignment Recordation Services  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## ASSIGNMENT

WHEREAS, We, Steven W. Lundberg, residing at 4517 Arden Avenue, Edina, MN 55424, and Janal M. Kalis, residing at 1235 Yale Pl. No. 701, Minneapolis, MN 55403, and Pradeep Sinha, residing at 4050 Wild Meadows Drive, Medina, MN 55340, made certain new and useful inventions and improvements for which we filed an application for Letters Patent of the United States on August 10, 2004, which application was assigned U.S. patent application serial number 10/915,265, and is entitled PATENT MAPPING;

AND WHEREAS, FoundationIP, LLC, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, and having an office and place of business at 830 TCF Tower, 121 S 8th St, Minneapolis, MN 55402 (hereinafter "Assignee"), is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefor;

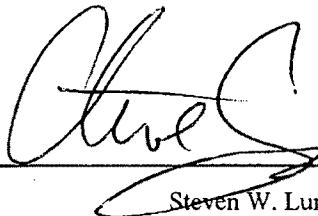
NOW, THEREFORE, to all whom it may concern, be it known that for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, we have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the said application, all divisions, continuations, continuations-in-part, or renewals thereof, all Letters Patent which may be granted there from, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the said inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted there from; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the said Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the said Assignee, its successors and assigns.

AND, for the consideration aforesaid, we do hereby agree that we and our executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to us relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the said improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

AND, furthermore, we covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by us and that full right to convey the same as herein expressed is possessed by us.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 22 day of

July, 2005.



Steven W. Lundberg

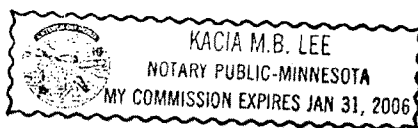
STATE OF Minnesota )

)ss

COUNTY OF Hennepin )

On this 22 day of July, 2005 before me personally appeared Steven W. Lundberg, to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]



Kacia M. B. Lee  
Notary Public



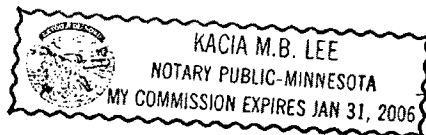
IN TESTIMONY WHEREOF, I have hereunto set my hand this 22 day of  
July, 2005.

Janal M. Kalis  
Janal M. Kalis

STATE OF Minnesota  
)ss  
COUNTY OF Hennepin

On this 22 day of July, 2005 before me personally appeared Janal M. Kalis,  
to me known and known to me to be the person described in and who executed the foregoing instrument,  
and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set  
forth.

[SEAL]



Kacia M. B. Lee  
Notary Public

IN TESTIMONY WHEREOF, I have hereunto set my hand this 21 day of

July, 2005.

Pradeep Sinha

Pradeep Sinha

STATE OF Minnesota )

)ss

COUNTY OF Hennepin )

On this 21 day of July, 2005 before me personally appeared Pradeep Sinha, to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]



Kacia M. B. Lee  
Notary Public

**EXHIBIT D**

**PURCHASE AGREEMENT  
BY AND AMONG  
CPAUSH LTD.,  
INTERNATIONAL IP VENTURES, LLC,  
STEVEN LUNDBERG,  
LEON STEINBERG,  
PRADEEP SINHA,  
JANAL KALIS  
AND THOMAS BRENNAN  
August 11, 2005**

## PURCHASE AGREEMENT

This Purchase Agreement (this "Agreement"), entered into as of August 11, 2005, is by and among CPAUSH Ltd., a company incorporated in England and Wales ("Buyer"), International IP Ventures, LLC, a Delaware limited liability company ("Seller"), Steven Lundberg, Leon Steinberg, Pradeep Sinha, Janal Kalis and Thomas Brennan (together, the "Seller Owners"). Buyer, Seller and Seller Owners are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

### RECITALS

- A. Intellevate LLC, a Delaware limited liability company ("Intellevate"), PortfolioIP LLC, a Delaware limited liability company ("PIP") and Intellevate (India) Private Limited, an Indian corporation ("India" and, together with Intellevate and PIP and each of their Predecessor Entities, the "Companies") are entities that together conduct the Business (as defined below). As used herein, "Predecessor Entities" means legal entities no longer in existence which were merged into or whose assets were transferred into a subsequent legal entity; *provided that*, for the avoidance of doubt, under no circumstances shall SLWK be deemed to be a Predecessor Entity.
- B. Seller is a special purpose entity which has been formed for the purpose of acquiring all of the outstanding equity interests in the Companies (other than the 0.01% interest in India owned by Leon Steinberg as nominee) for purposes of the transactions contemplated hereunder.
- C. Buyer wishes to purchase from Seller, and Seller wishes to sell to Buyer, 70% of the outstanding equity interests in Intellevate to Buyer in exchange for a purchase price consisting of cash, all on the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the foregoing premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, the Parties agree as follows:

### ARTICLE I DEFINITIONS

1.1 "Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities or interests, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

1.2 "Applicable Law" means any applicable law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority having jurisdiction over a Party or any of its properties.

1.3 "Assumed Debt" has the meaning set forth in Section 2.2(a).

1.4 “Business” means (i) the provision of outsourcing services and the provision of support and intellectual property management services to intellectual property professionals, including but not limited to general practice law firms and patent attorneys, corporate in house technical and legal staff, and academic professionals; which services shall include but not be limited to paralegal services, litigation support, proofreading, illustrating, document filing, docketing, process management, management of intellectual property filings, technical analysis of intellectual property, intellectual property renewals and responding to patent office actions; (ii) the implementation of any currently planned features, improvements, extensions and enhancements to products or services offered or provided as part of the business conducted by the Companies; and (iii) all other business activities directly related or incidental to the foregoing.

1.5 “Buyer” has the meaning set forth in the preamble.

1.6 “Buyer Claims” has the meaning set forth in Section 10.4(a).

1.7 “Buyer Indemnitees” has the meaning set forth in Section 10.2.

1.8 “Buyer’s Certification” has the meaning set forth in Section 2.2(b).

1.9 “Claim” has the meaning set forth in Section 10.5(a).

1.10 “Closing” has the meaning set forth in Section 2.3(a).

1.11 “Closing Date” has the meaning set forth in Section 2.3(a).

1.12 “Closing Indebtedness” has the meaning set forth in Section 2.2(b).

1.13 “Code” means the Internal Revenue Code of 1986, as amended.

1.14 “Companies” has the meaning set forth in Recital A.

1.15 “Companies Act” means the Companies Act, 1956 of the Republic of India.

1.16 “Company Assets” means all of the assets, rights, properties, and claims of the Companies, whether tangible or intangible, and whether owned, leased, or licensed.

1.17 “Company LLC Agreement” has the meaning set forth in Section 2.1(c).

1.18 “Confidential Information” has the meaning set forth in Section 7.1(a).

1.19 “Contracts” has the meaning set forth in Section 3.11(a).

1.20 “Copy of Company Software” means a copy of all physical embodiments of source and object code of the Company Software including, without limitation, variations, versions, updates and modifications thereof as of the date hereof.

1.21 “Copyrights” has the meaning set forth in Section 3.9(a)(i).

1.22 “Customer” has the meaning set forth in Section 7.2(a).

1.23 "Deductible Amount" has the meaning set forth in Section 10.4(a).

1.24 "Disclosing Party" has the meaning set forth in Section 7.1(a).

1.25 "Disclosure Schedule" has the meaning set forth in Article III.

1.26 "Domain Names" has the meaning set forth in Section 3.9(a)(iv).

1.27 "Employee Benefit Plan" means each "employee benefit plan" (as defined in Section 3(3) of ERISA), and all other employee compensation and fringe benefit plans or arrangements (including, without limitation, all bonus, incentive, deferred compensation, supplemental retirement and stock compensation plans) that currently is or previously was contributed to or maintained by any Company or in which any employee of any Company currently participates or previously participated, or with respect to which a Company has any liability (contingent or otherwise).

1.28 "Encumbrance" means any claim (other than with respect to the infringement of any Patent, Trademark or Copyright), lien, pledge, option, charge, easement, security interest, deed of trust, mortgage, right of way, encroachment, building or use restriction, conditional sales agreement, encumbrance, or other right of third parties, whether voluntarily incurred or arising by operation of law, and includes, without limitation, any agreement to give any of the foregoing in the future, and any contingent sale or other title retention agreement or lease in the nature thereof.

1.29 "Environment" means all air, water vapor, surface water, groundwater, drinking water supply or land, including land surface or subsurface, and includes all fish, wildlife, biota and all other natural resources.

1.30 "Environmental Condition" means any of the following that results in any Environmental Damages: any violation of any Environmental Law with respect to the Business or the Real Property; the presence of Hazardous Substances at the Real Property; or the Release of Hazardous Substances from the Real Property.

1.31 "Environmental Damages" means all claims, judgments, damages (including punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such is ultimately defeated, and of any settlement or judgment, of whatever kind or nature, any of which are incurred at any time as a result of any Environmental Condition.

1.32 "Environmental Laws" means any and all laws pertaining to the protection of the Environment.

1.33 "Equity Holder Letter of Representations" means a representation letter dated as of the Closing Date and executed by each holder of equity interests in Seller other than the Seller Owners, in the form attached hereto as Exhibit A.

1.34 "ERISA" has the meaning set forth in Section 3.16(c).

- 1.35 "Escrow Agreement" has the meaning assigned to such term in the Temporary Funds Account Agreement.
- 1.36 "Expiration Date" has the meaning set forth in Section 10.1(b).
- 1.37 "Final Indebtedness" has the meaning set forth in Section 2.2(c).
- 1.38 "Financial Statements" has the meaning set forth in Section 3.6.
- 1.39 "FIP" means FoundationIP LLC, a Delaware limited liability company.
- 1.40 "FIP Purchase Agreement" means the Purchase Agreement dated as of even date herewith by and among CPAUSH Ltd., Estella IP Ventures, LLC, Steven Lundberg, Leon Steinberg, Pradeep Sinha, Janal Kalis and Thomas Brennan.
- 1.41 "Governmental Body" means any: (a) nation, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; or (c) governmental or quasi-governmental authority or any nature (including any governmental division, department, agency, commission, instrumentality, official, organization, unit, body or entity and any court or other tribunal) having jurisdiction over a Party or its properties.
- 1.42 "Guarantees" has the meaning set forth in Section 3.25(b).
- 1.43 "Hazardous Substance" means any substance, whether solid, liquid or gaseous that is listed, defined or regulated as a "hazardous substance", "hazardous waste" or "solid waste", or is otherwise classified as hazardous or toxic, in or pursuant to any Environmental Law; or which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or which causes or poses a threat to cause contamination or a nuisance or a hazard to the Environment or to the health or safety of persons.
- 1.44 "Incentivization Plan" means the Intellevate Services Long Term Incentivization Plan pursuant to which certain employees and independent contractors of the Business may be issued participations representing up to 10% of the increase in the value of the equity of the Companies from the Closing Date through the occurrence of certain realization events.
- 1.45 "Indebtedness" of any Company means, without duplication, (a) all indebtedness of such Company for borrowed money, (b) all obligations, contingent or otherwise, of such Company for the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of such Company's business), (c) all obligations, contingent or otherwise, of such Company evidenced by notes, bonds, debentures or other similar instruments, (d) all obligations, contingent or otherwise, of such Company under acceptance, letter of credit or similar facilities, (e) any contingent fees payable by such Company to SLWK or an Affiliate of SLWK, (f) all obligations overdue by not less than 60 days of Intertech and/or Pradeep Sinha for trade payables, (g) all indebtedness of others referred to in clauses (a) through (f) above or clause (h) below guaranteed directly or indirectly in any manner by such Company, or in effect guaranteed directly or indirectly by such Company through an agreement or otherwise to assure a

creditor against loss, and (h) all indebtedness referred to in clauses (a) through (g) above and other payment obligations of another Company secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including, without limitation, accounts and contract rights) owned by such Company, even though such Company has not assumed or become liable for the payment of such indebtedness.

1.46 "Indemnification Escrow Account" means the account administered pursuant to the Escrow Agreement for the purposes of the indemnification provided in Article X hereof and Article X of the FIP Purchase Agreement.

1.47 "Indemnification Escrow Funds" has the meaning set forth in Section 2.3(b).

1.48 "Indemnitee" has the meaning set forth in Section 10.5(a).

1.49 "Indemnitor" has the meaning set forth in Section 10.5(a).

1.50 "Independent Accountant" has the meaning set forth in Section 2.2(c).

1.51 "Indigo Companies" means Intellevate, PIP, India, FIP and SeekIP LLC, a Delaware limited liability company.

1.52 "Intellectual Property" has the meaning set forth in Section 3.9(a).

1.53 "Intellevate Indemnification Escrow Funds" has the meaning set forth in Section 2.3(b).

1.54 "Intellevate Reorganization" means the transactions described in Schedule 1.54.

1.55 "Interests" means the outstanding membership interests and any other equity interests in Intellevate.

1.56 "Intertech" means InterTech Systems, LLC, a Minnesota limited liability company.

1.57 "Joint Account" has the meaning assigned to such term in the Temporary Funds Account Agreement.

1.58 "Joint Venture Assets" means all rights in Intellectual Property relating to the software products known as CoreIP and Claimapper, which rights are summarized on Schedule 1.58.

1.59 "Joint Venture Agreement Term Sheet" means the term sheet dated as of the date hereof among Buyer, Steven Lundberg and Pradeep Sinha in the form attached hereto as Exhibit B.

1.60 "Kalis Restrictive Covenant Agreement" means the agreement dated as of the Closing Date between Buyer and Janal Kalis in the form attached hereto as Exhibit C.



- 1.61 "Leases" has the meaning set forth in Section 3.10(a)(ii).
- 1.62 "License" has the meaning set forth in Section 3.9(c).
- 1.63 "Lien" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever having substantially the same economic effect as any of the foregoing.
- 1.64 "Losses" has the meaning set forth in Section 10.2.
- 1.65 "Lundberg Consulting Agreement" means the agreement dated as of the Closing Date between Steven Lundberg and Buyer in the form attached hereto as Exhibit D.
- 1.66 "Material Adverse Effect" means any effect which is material and adverse to the financial condition, operations, business, results of operation, or future prospects of the Companies or the Business, to the ability or right of Buyer to acquire India or conduct the Business, or to the ability or right of the Parties to consummate the transactions contemplated by this Agreement, other than such changes, effects or circumstances reasonably attributed to: (A) economic conditions generally in the United States or foreign economies in any locations where any of the Companies have material operations or sales, provided that, with respect to this clause (A), such changes, effects or circumstances do not have a materially disproportionate effect relative to other industry participants) on the Companies; (B) any action taken by the Seller or the Companies with Buyer's express written consent; or (C) the announcement of the transactions contemplated by this Agreement; in the case of (B) and (C) only, to the extent of any effect only on such future prospects.
- 1.67 "Members Agreement" means an agreement dated as of the Closing Date by and among Buyer and the Seller Parties pertaining to certain rights and obligations regarding membership interests in Buyer in the form attached hereto as Exhibit E.
- 1.68 "Ordinary Course of Business" means the ordinary course of business consistent with past custom and practice.
- 1.69 "Other Indemnification Escrow Funds" shall mean the FIP Indemnification Escrow Funds as such term is defined in Section 2.3(b) of the FIP Purchase Agreement.
- 1.70 "Other Seller Parties" means Estella IP Ventures, LLC, Steven Lundberg, Leon Steinberg, Pradeep Sinha, Janal Kalis and Thomas Brennan, as parties to the FIP Purchase Agreement.
- 1.71 "Party" or "Parties" has the meaning set forth in the preamble.
- 1.72 "Patent Infringement Damages" has the meaning set forth in Section 10.2.
- 1.73 "Patents" has the meaning set forth in Section 3.9(a)(ii).

1.74 "Payment and Release Agreements" means the Payment and Release Agreements dated as of the Closing Date among the Companies, on the one hand, and certain creditors of the Companies, on the other hand, collectively in the forms attached hereto as Exhibit F.

1.75 "Permits" means all licenses, permits, certificates of authority, authorizations, approvals, registrations, franchises and similar consents granted or issued by any Governmental Body related to the conduct of the Business.

1.76 "Permitted Encumbrances" means (i) liens for Taxes, assessments and other governmental charges not yet due and payable; (ii) mechanic's, workman's, repairman's, warehouseman's, carriers or other like liens arising or incurred in the Ordinary Course of Business if the underlying obligations are not past due; and (iii) original purchase price conditional sales contracts for personal property and equipment leases with third parties entered into in the Ordinary Course of Business.

1.77 "Person" means any individual, estate, association, corporation, trust, joint venture, partnership, limited liability company, Governmental Body, or other entity of every kind and nature.

1.78 "Predecessor Entities" has the meaning set forth in the Recitals.

1.79 "Proceeding" means any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding and any informal proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or any arbitrator or arbitration panel.

1.80 "Purchase Price" has the meaning set forth in Section 2.1(b).

1.81 "Purchase Price Adjustment Escrow Account" means the account administered pursuant to the Escrow Agreement for the purposes of the purchase price adjustment provided in Section 2.2.

1.82 "Purchase Price Adjustment Escrow Funds" has the meaning set forth in Section 2.3(b).

1.83 "PTO" has the meaning set forth in Section 3.9(g).

1.84 "Real Property" means all real property owned or leased by any Company.

1.85 "Real Property Agreements" has the meaning set forth in Section 3.10(a)(ii).

1.86 "Recipient" has the meaning set forth in Section 7.1(a).

1.87 "Related Party" means: (a) each individual who is, or, during the one year period immediately prior to Closing, was, a director, officer, or employee of any Company or an Affiliate thereof; (b) the Seller Owners; (c) each member of the family of each of the Seller Owners; and (d) any entity (other than any Company or Affiliate thereof) in which any one of the

individuals referred to in the preceding clauses (a), (b) and (c) holds or held (or in which more than one of such individuals collectively hold or held), beneficially or otherwise, a controlling interest or a material voting, proprietary or equity interest.

1.88 "Release" means any past or present spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a Hazardous Substance into the Environment (including the abandonment of or discharging from barrels, containers, or other receptacles containing any Hazardous Substance).

1.89 "Remaining Debt" has the meaning set forth in Section 2.2(a).

1.90 "Restricted Business" has the meaning set forth in Section 7.2(a).

1.91 "Restricted Party" has the meaning set forth in Section 7.2(b).

1.92 "Restricted Period" has the meaning set forth in Section 7.2(a).

1.93 "Seller Claims" has the meaning set forth in Section 10.4(b).

1.94 "Seller Entities" means Seller, the Seller Owners, and the Companies.

1.95 "Seller Indemnitees" has the meaning set forth in Section 10.3.

1.96 "Seller Parties" means Seller and the Seller Owners.

1.97 "Seller Payoff Debt" has the meaning set forth in Section 2.2(a).

1.98 "Seller Representative" has the meaning set forth in Section 11.15(a).

1.99 "Sinha Employment Agreement" means the agreement dated as of the Closing Date between Pradeep Sinha and Buyer in the form attached hereto as Exhibit G.

1.100 "SLWK" means Schwegman, Lundberg, Woessner & Kluth LLC, a Minnesota limited liability company.

1.101 "SLWK-India Agreement" means Amendment No. 1 to the Intellevate India – SLWK Services Agreement dated as of the Closing Date between SLWK and India in the form attached hereto as Exhibit H-1.

1.102 "SLWK-PIP Agreement" means Amendment No. 1 to the PortfolioIP – SLWK Services Agreement dated as of the Closing Date between SLWK and PIP in the form attached hereto as Exhibit H-2.

1.103 "SLWK Transitional Services Agreement" means the agreement dated as of the Closing Date among Buyer, PIP, FIP and SLWK in the form attached hereto as Exhibit I.

1.104 "Software" has the meaning set forth in Section 3.9(a)(viii).

1.105 "Statement of Indebtedness" has the meaning set forth in Section 2.2(a).

1.106 "Steinberg Employment Agreement" means the agreement dated as of the Closing Date between Leon Steinberg and Buyer in the form attached hereto as Exhibit J.

1.107 "Strategic Alliance Term Sheet" means the term sheet among Buyer, PIP and SLWK in the form attached hereto as Exhibit K.

1.108 "Subsidiary" means, as to any Person, any corporation or other legal entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions are at the time directly or indirectly owned by such Person.

1.109 "Tax" means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, 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.

1.110 "Temporary Funds Account Agreement" means the agreement dated as of the Closing Date among Buyer, International IP Ventures, LLC, and Estella IP Ventures, LLC in the form attached hereto as Exhibit L.

1.111 "Territory" means worldwide.

1.112 "Trade Secrets" has the meaning set forth in Section 3.9(a)(v).

1.113 "Trademarks" has the meaning set forth in Section 3.9(a)(iii).

1.114 "Transaction Documents" means this Agreement, the Company LLC Agreement, the Members Agreement, the Strategic Alliance Term Sheet, the SLWK-India Agreement, the SLWK-PIP Agreement, the SLWK Transitional Services Agreement, the Joint Venture Agreement Term Sheet, the Incentivization Plan, the Steinberg Employment Agreement, the Sinha Employment Agreement, the Lundberg Consulting Agreement, the Kalis Restrictive Covenant Agreement, the Equity Holder Letters of Representations, the Payment and Release Agreements, the Temporary Funds Account Agreement, and the Escrow Agreement.

1.115 "US Bank Loans" has the meaning set forth in Section 2.2(a).

1.116 "Utility Equipment" has the meaning set forth in Section 3.10(a)(vii).

1.117 **Commonly Used Terms.** Unless the context clearly otherwise requires, the terms below mean the following:

- (a) "Hereof," "herein," and "hereinafter" refer to this entire Agreement.
- (b) "Including" means including, without limitation (whether or not so expressed).

(c) References to Sections, Exhibits, Recitals, and Schedules mean, respectively, Sections, Exhibits, Recitals, and Schedules of this Agreement.

(d) Words denoting the singular include the plural and vice versa.

(e) "It" or "its" or words denoting any gender include all genders.

(f) "\$" or "dollars" means United States dollars.

## ARTICLE II PURCHASE AND SALE

### 2.1 Purchase and Sale of Interests.

(a) Upon the terms and subject to the conditions set forth in this Agreement, Seller shall sell, assign, transfer and deliver to Buyer at the Closing, and Buyer shall purchase from Seller seventy percent (70%) of the Interests in Intellevate free and clear of all Encumbrances.

(b) Buyer will purchase the Interests from Seller for an amount equal to five million six hundred thousand dollars (\$5.6 million) (the "Purchase Price"). In lieu of Seller's payment of any capital contribution to Buyer on the Closing Date as Buyer and Seller may agree in writing, Buyer and Seller may specify in such written agreement that the Purchase Price shall be reduced by the amount of such capital contribution.

(c) The rights and responsibilities of Buyer and Seller as the members of Intellevate and provisions relating to the management and operation of Intellevate, among other provisions, shall be as set forth in an amended and restated operating agreement for Intellevate between such Parties in the form of Exhibit M, which at the time of execution shall include all funding plans, and other attachments referred to therein (the "Company LLC Agreement").

### 2.2 Company Indebtedness.

(a) Statement of Indebtedness. Attached hereto as Exhibit N is a statement of indebtedness prepared by Seller accurately identifying and providing an accurate and complete breakdown of the Indebtedness owing by any Company to any other Person, other than the other Indigo Companies, as of the date hereof (the "Statement of Indebtedness"), with the breakdown thereon showing (i) Indebtedness to be paid by Seller Parties prior to the Closing, or as part of the Closing with the proceeds received from Buyer as part of the Purchase Price (the "Seller Payoff Debt"), and (ii) all other Indebtedness (the "Remaining Debt" or "Assumed Debt"), including but not limited to Indebtedness owing to US Bank (the "US Bank Loans"), and an amount equal to that necessary to repay the Remaining Debt in full shall be deducted from the Purchase Price paid at Closing by Buyer. Representatives of Buyer shall be entitled to full access, in a reasonable manner, to all documents relevant thereto during normal business hours and shall be entitled to communicate with Seller and the Companies and personnel of Seller and the Companies and discuss procedures in connection with the preparation of the Statement of Indebtedness.

(b) Determination of Closing Indebtedness. As promptly as practicable following the Closing, but in no event later than thirty (30) days subsequent to the Closing, Buyer shall deliver to Seller a certificate (the "Buyer's Certification") accurately identifying and providing an accurate and complete breakdown of the Indebtedness owing by any Company to any other Person, other than the other Indigo Companies, as at the Closing (after giving effect to Seller Payoff Debt actually paid and to the US Bank Loans paid pursuant to Section 2.3(e)), derived from and prepared in a manner consistent with the Financial Statements (the "Closing Indebtedness"). Buyer shall give to Seller and its representatives, including Seller's accountants, full and complete access in a reasonable manner to work papers and supporting documentation prepared by Buyer, or otherwise relied upon by Buyer's accountants, in connection with the calculation of Buyer's Certification, and shall be entitled to communicate in a reasonable manner with Buyer and personnel of Buyer and discuss in a reasonable manner procedures in connection with the preparation of Buyer's Certification.

(c) Purchase Price Adjustment. If Seller disagrees with Buyer's Certification and the calculations relating thereto, Seller Representative shall notify Buyer of its objections within twenty (20) days after receipt of Buyer's Certification and the calculations relating thereto, and shall set forth in reasonable detail in such notice the reason for such objections. Any such notice of disagreement shall identify those items or amounts as to which Seller Representative disagrees, and Seller shall be deemed to have agreed with all other unrelated items and amounts contained in Buyer's Certification and the calculations relating thereto. If Seller Representative fails to deliver such notice within such time period, the Closing Indebtedness shall be deemed to be that reflected on Buyer's Certification. If Seller Representative timely delivers such notice, Buyer and Seller Representative shall endeavor in good faith to resolve their dispute over the determination of the Closing Indebtedness within twenty (20) days after receipt of such notice of objections by Buyer. If they are unable to do so within such 20-day period, the dispute shall be submitted to Deloitte & Touche LLP so long as such firm is independent of Buyer, the Companies, Seller, or any of their respective Affiliates, or, if such firm shall cease to be independent thereof, another independent nationally-recognized accounting firm in the United States as shall be mutually acceptable to Buyer and Seller Representative (either the named firm or such other independent accounting firm selected hereunder being referred to herein as the "Independent Accountant"). The parties shall thereupon promptly submit to the Independent Accountant all relevant financial data as well as this Agreement (including the disclosure schedules hereto) and the disputed items or amounts for the purpose of calculating the Closing Indebtedness. In making such calculation, the Independent Accountant shall consider only those items or amounts in Buyer's calculation of Closing Indebtedness set forth in Buyer's Certification as to which Seller Representative shall have disagreed in accordance with this Section 2.2(c). The Independent Accountant shall use its best efforts to reach a determination with respect to the disputed items or amounts and to deliver to Buyer and Seller Representative, within ten (10) days after such submission, a report setting forth its adjustments, if any, to the Closing Indebtedness and the calculations supporting such adjustments. Such report shall be final and binding upon the parties. The fees and costs of the Independent Accountant shall be borne equally by Buyer, on the one hand, and Seller Parties, severally and jointly, on the other hand. For purposes of this Agreement, the "Final Indebtedness" shall equal one of the following, as applicable: (i) the Closing Indebtedness as determined by Buyer and set forth in Buyer's Certification, if the same shall be accepted or deemed accepted by the Parties as set forth in this Section 2.2(c); (ii) the agreed upon Closing Indebtedness, if Seller Representative disputes the

Closing Indebtedness and the Parties are able to resolve such dispute among themselves as set forth in this Section 2.2(c); or (iii) the Closing Indebtedness as shown in the Independent Accountant's calculation delivered pursuant to this Section 2.2(c).

(d) Payments by Seller. Seller Parties, jointly and severally, shall pay Buyer an amount equal to the Final Indebtedness. Any payment under this Section 2.2(d) shall first be made from the Purchase Price Adjustment Escrow Account within ten (10) days after the determination of the Final Indebtedness by wire transfer of immediately available funds in accordance with written instructions given by Buyer to Seller Representative and the Escrow Agent; provided that if the amount in the Purchase Price Adjustment Escrow Account is less than the amount of the payment required to be made pursuant to this Section 2.2(d), then the entire Purchase Price Adjustment Escrow Account shall be paid to Buyer and Buyer shall be entitled to, at its option, (i) recover the amount of such deficiency from Seller Parties, severally and jointly, from the Indemnification Escrow Funds, (ii) recover the amount of such deficiency from Seller Parties, severally and jointly, without any deduction from the Indemnification Escrow Funds or (iii) recover the amount of such deficiency through any combination of the two foregoing means. If the amount in the Purchase Price Adjustment Escrow Account is greater than the amount of the payment required to be made pursuant to this Section 2.2(d), any such excess amount shall be released to Seller pursuant to the terms set forth in Section 6.4.

Seller Parties shall also pay in full, at or before Closing, the Seller Payoff Debt as set forth in the Schedule of Indebtedness, and shall obtain, from each Person receiving payment in respect of Seller Payoff Debt (other than Persons entering into Incentive Compensation Agreements), and for the benefit of Buyer, an appropriately completed and executed Payment and Release Agreement reflecting such payment.

(e) Payment by Buyer. The Buyer shall be obligated to pay in full the Assumed Debt set forth on the Schedule of Indebtedness and shall request a release of all guarantees and collateral associated with such Assumed Debt; provided that, with respect to the US Bank Loans, Buyer shall be obligated to make such payment within ten (10) days of the Closing Date.

### 2.3 The Closing.

(a) The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, commencing at 10:00 a.m. local time on August 9, 2005, or such other time and date as the Parties may mutually determine but in no event later than August 12, 2005 (the "Closing Date").

(b) At the Closing, (i) Seller will deliver to Buyer the various certificates, instruments, and documents referred to in Section 8.2(c); (ii) Buyer will deliver to Seller the various certificates, instruments, and documents referred to in Section 8.3(c); and (iii) Buyer will deliver twenty percent (20%) of the Purchase Price in immediately available funds by wire transfer to the Joint Account (the "Intellevate Indemnification Escrow Funds"), and together with the Other Indemnification Escrow Funds, the "Indemnification Escrow Funds") and an additional portion of the Purchase Price equal to the Assumed Debt as set forth on the Statement of

Indebtedness plus \$250,000 (two hundred fifty thousand dollars) in immediately available funds by wire transfer also to the Joint Account (the "Purchase Price Adjustment Escrow Funds"), and the balance of the Purchase Price in immediately available funds by wire transfer to an account specified by Seller contemporaneously with the Closing Date. All deliveries and other transactions at the Closing will be deemed to occur simultaneously. Buyer and Seller shall subsequently cause the funds deposited in the Joint Account to be transferred in the appropriate amounts to the Indemnification Escrow Account and the Purchase Price Adjustment Escrow Account in accordance with the terms of the Temporary Funds Account Agreement. The Indemnification Escrow Account and the Purchase Price Adjustment Escrow Account shall be administered after the Closing as set forth in Sections 6.3 and 6.4, respectively.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLER PARTIES

Each of the Seller Parties hereby jointly and severally represents and warrants to Buyer as of the date hereof and as of the Closing Date, except as set forth in the disclosure schedule of even date herewith delivered to Buyer by Seller (the "Disclosure Schedule"), the provisions which are numbered to correspond to the section numbers of this Agreement to which they refer, as follows:

**3.1 Organization and Authorization.** Seller and each Company have been duly organized and are validly existing and in good standing under the laws of their respective jurisdictions of organization with the requisite power and authority to conduct the businesses in which each such entity is currently engaged and to own and use the properties used in connection therewith. Seller has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to consummate the transactions contemplated herein. Each Company is duly authorized to conduct business and is in good standing in each jurisdiction where such authorization is required to conduct its business substantially as conducted immediately prior to the date of this Agreement, except where the failure to be in good standing or qualified would not have a Material Adverse Effect. This Agreement has been duly executed and delivered by Seller and, assuming the due authorization, execution and delivery of this Agreement by all other parties hereto, constitutes the valid and binding obligation of Seller, enforceable in accordance with its terms.

**3.2 No Conflicts.** Except as disclosed in Schedule 3.2, neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Encumbrance upon any property or assets of Seller or any Company pursuant to any indenture, mortgage, deed of trust, loan agreement or other material agreement or instrument to which such Person is a party or by which such Person is bound or to which any of the property or assets of such Person is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of such Person, (iii) result in the violation in any material respect of any Applicable Law, (iv) give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any (x) material Permit or (y) any Permit relating to the Companies' operations in the Republic of India, or (v) give any Person the right to (1) declare a default or exercise any remedy



under any Material Contract, (2) accelerate the maturity or performance of any Material Contract or (3) cancel, terminate or modify any Material Contract.

**3.3 No Consents Required.** Except as set forth on Schedule 3.3, no consent, approval, authorization, order, registration or qualification of or with any Governmental Body or any other Person is required for the execution, delivery and performance by Seller of this Agreement and performance of its obligations hereunder and the consummation of the transactions contemplated by this Agreement.

**3.4 Organizational Documents; Records.** Seller has delivered to (or made available for inspection by) Buyer accurate and complete copies of: (a) the organizational documents of the Companies, including all amendments thereto; (b) records reflecting ownership of membership or other equity interests in the Companies; and (c) the minutes and other records of the meetings and other proceedings (including any actions taken by written consent or otherwise without a meeting) of the shareholders or members of the Companies. There have been no meetings or other proceedings of the shareholders or members of the Companies that are not fully reflected in such minutes or other records. The books of account, stock records, minute books and other records of the Companies are accurate, up-to-date and complete in all material respects.

**3.5 Capitalization and Governance.** Immediately prior to consummation of the Closing, the sole member of Intellevate will be Seller. Except as set forth in Schedule 3.5, all of which shall be terminated prior to the Closing in accordance with Section 5.10, there is no: (a) outstanding subscription, option, call, warrant or right (whether or not currently exercisable) to acquire any membership interests in the Companies; (b) outstanding security, instrument or obligation that is or may become convertible into or exchangeable for any membership interests in the Companies; or (c) oral or written agreement or understanding other than this Agreement under which Seller or any other Person is or may become obligated to sell any membership interests in the Companies. No Person other than Steven Lundberg has any right to control or direct the management of Seller. All membership interests in each Company are duly authorized and validly issued in accordance with all applicable securities laws. No preemptive rights exist with respect to the membership interests in any Company. Upon consummation of the Closing, Buyer will own seventy percent (70%) of the Interests in Intellevate, which in turn will own 100% of the Interests in PIP and India. No agreements or other documents have governed the rights and obligations of members of any Company other than the laws of the state of its formation, the articles of organization of such Company, and the operating agreement of such Company, true and correct copies of which articles of organization and operating agreements have been provided to Buyer.

**3.6 Financial Statements.** Seller has delivered to Buyer the financial statements relating to the Companies and the Business set forth on Schedule 3.6 (collectively, the "Financial Statements"). The Financial Statements are complete and accurate in all material respects, have been derived from the Companies' financial books and records prepared on a consistent basis, and present fairly in all material respects the cash financial position of the Companies and the Business as of the respective dates thereof and the cash results of operations and cash flows of the Companies for the periods covered thereby (except that the Financial Statements for the interim period ending May 31, 2005 are subject to normal year-end adjustments). Nothing has come to the

attention of any of the Seller Entities that has caused any of the Seller Entities to believe that the results of operations and financial condition of the Companies as reported in the Financial Statements would be materially different if the Financial Statements had been prepared in accordance with accounting principles generally utilized in the United States for accounts maintained on a cash basis.

**3.7 Absence of Changes.** Except as set forth in Schedule 3.7 or as expressly contemplated by this Agreement, since April 30, 2005: (a) there has not been any event that could reasonably be expected to result in a Material Adverse Effect, excluding any change, event or effect arising out of or in connection with or resulting from financial market conditions, including without limitation interest rates or changes therein; (b) there has not been any loss, damage or destruction to, or any interruption in the use of, any Company asset that could reasonably be expected to result in a Material Adverse Effect; (c) no Company has purchased or otherwise acquired or sold or otherwise transferred any asset to any other Person, or leased or licensed any asset to or from any other Person, other than in the Ordinary Course of Business; (d) no Company has entered into any transaction or taken any other action outside the Ordinary Course of Business; and (e) no Company has agreed, committed or offered (in writing or otherwise) to take any of the actions referred to in clauses (c) and (d) above.

**3.8 Title to Assets.** Except as set forth in Schedule 3.8, each Company owns, and has good and valid title to, or a valid leasehold interest in, all of its material assets, free and clear of any Encumbrances other than Permitted Encumbrances. Other than as may be disclosed in Schedule 3.9(e) with respect to patents and patent applications, the Company Assets collectively constitute all of the properties, rights, interests and other tangible and intangible assets necessary to conduct the Business in the manner in which the Business has been conducted and is currently being conducted.

**3.9 Intellectual Property.**

(a) "Intellectual Property" means all intellectual property owned or licensed (as licensor or licensee) by each Company, or that has been used in the business of any Company, or in any product, service, technology or process currently or formerly offered by any Company, or currently under development by any Company, including:

(i) all domestic and foreign copyright interests in any original work of authorship, whether registered or unregistered, including but not limited to all copyright registrations or foreign equivalents, all applications for registration or foreign equivalent, all moral rights, all common-law rights, and all rights to register and obtain renewals and extensions of copyright registrations, together with all other copyright interests accruing by reason of international copyright convention ("Copyrights");

(ii) all domestic and foreign patents (including certificates of invention and other patent equivalents), provisional applications, nonprovisional patent applications and patents issuing therefrom as well as any division, continuation or continuation in part, reissue, extension, reexamination, certification, revival or

renewal of any patent, and subject matter related to such patents, in any and all forms ("Patents");

(iii) all domestic and foreign trademarks, trade dress, service marks, trade names, icons, logos, slogans, and any other indicia of source or sponsorship of goods and services, in any and all forms, all trademark registrations and applications for registration related to such trademarks (including, but not limited to intent to use applications), and all goodwill related to the foregoing ("Trademarks");

(iv) all domain name registrations ("Domain Names");

(v) any formula, design, device or compilation, or other information which is used or held for use by a business, which gives the holder thereof an advantage or opportunity for advantage over competitors which do not have or use the same, and which is not generally known by the public ("Trade Secrets"). Trade Secrets can include, by way of example, formulas, algorithms, market surveys, market research studies, information contained on drawings and other documents, and information relating to research, development or testing;

(vi) novel devices, processes, compositions of matter, methods, techniques, observations, discoveries, apparatuses, machines, designs and ideas, whether or not patentable;

(vii) scientific, engineering, mechanical, electrical, financial, marketing or practical knowledge or experience useful in the operation of Seller;

(viii) (A) any and all computer programs and/or software programs (including all source code, object code, firmware, programming tools and/or documentation), (B) machine readable databases and compilations, including any and all data and collections of data, and (C) all content contained on Internet site(s) ("Software");

(ix) all documentation and media constituting, describing or relating to the above, including memoranda, manuals, technical specifications and other records wherever created throughout the world; and

(x) the right to sue for past, present, or future infringement and to collect and retain all damages and profits related to the foregoing.

(b) Schedule 3.9(b) lists (i) all issued Patents, and all pending applications for Patents, owned by each Company; (ii) all registered Trademarks, and all pending applications for Trademarks, owned by each Company; (iii) all registered Copyrights, and all pending applications for Copyrights, owned by each Company; and (iv) all Domain Names owned by each Company.

(c) Schedule 3.9(c) lists all licenses, sublicenses, agreements or instruments involving the Intellectual Property of each Company including (i) licenses by each Company to

any Person of any Intellectual Property; and (ii) all licenses by any other Person to each Company of any Intellectual Property (except with respect to generally available "off-the-shelf" software) (each a "License"). To the knowledge of the Seller Entities after due inquiry, each License identified in Schedule 3.9(c) is a valid and binding agreement enforceable in accordance with its terms. With respect to each License, there is no material default (or event that with the giving of notice or passage of time would constitute a material default) by any Company or, to the knowledge of the Seller Entities after due inquiry, the other party thereto. There are no pending and, to the knowledge of the Seller Entities after due inquiry, no threatened claims with respect to any License. Except as identified on Schedule 3.9(c), no License contains an indemnity by any Company in favor of a third party with respect to the Intellectual Property.

(d) Each of the Companies has good and valid title to, or otherwise possesses the rights to use, all Intellectual Property necessary to enable Buyer and the Companies to conduct the Business in the manner in which the Business is being conducted as of the Closing and as currently contemplated to be conducted. Neither the consummation of the transactions contemplated by this Agreement nor Seller's performance hereunder will constitute a breach of any instrument or agreement governing any Intellectual Property or result in the diminution, license, transfer, termination or forfeiture of the Companies' rights in the Intellectual Property or Licenses nor impair the right of Buyer after the Closing Date to use or otherwise exploit the Intellectual Property. Except for Intellectual Property owned by or licensed to third parties, no person or entity other than a Company has any right or interest of any kind or nature in or with respect to the Intellectual Property, or any portion thereof, or any rights to sell, license, lease, transfer or use or otherwise exploit the Intellectual Property or any portion thereof. Except as disclosed in Schedule 3.9(d), all officers, employees and contractors of each Company who have created Intellectual Property, have executed an agreement under which all rights, title and ownership in and to such Intellectual Property have been assigned to such Company. No current or prior officers, employees, or consultants of the Companies or the Business claim or have a right to claim an ownership interest in any Intellectual Property as a result of having been involved in the development or licensing of such Intellectual Property while employed by or consulting to the Business.

(e) Except as disclosed in Schedule 3.9(e), to the knowledge of the Seller Entities, none of the Companies has been alleged to have, nor has any Company, infringed upon, misappropriated or misused or otherwise violated any intellectual property or other right or proprietary information of another person or entity, and there are no valid grounds to the knowledge of the Seller Entities after due inquiry for any bona fide claims that the Business infringes or otherwise violates, or that the Intellectual Property conflicts with, any intellectual property owned or used by any other Person; provided, however, the Seller Entities have not conducted any patent infringement clearance searches nor conducted any inquiry for the purpose of determining if any of the Companies has infringed, currently infringes or may in the future infringe any patents or patent applications held by third parties. As such, notwithstanding any other provision of this Agreement to the contrary, no such warranty or representation is made by the Seller Entities. There are no pending, or to the knowledge of the Seller Entities after due inquiry, threatened claims or proceedings contesting or challenging the Intellectual Property, or a Company's use of the intellectual property owned by another person or entity. To the knowledge of the Seller Entities after due inquiry, no third party, including any current or former employee

or contractor of any Company, is infringing upon, misappropriating, or otherwise violating any of the Company's rights to the Intellectual Property.

(f) Patents:

(i) All of the issued Patents and pending applications for Patents of each of the Companies are currently in compliance in all material respects with all substantive legal requirements (including payment of filing, examination, and maintenance fees).

(ii) No Patent of any Company has been or is now involved in any infringement, interference, reissue or reexamination proceeding and, to the knowledge of the Seller Entities after due inquiry, no such action is threatened with respect to any of the Patents of any Company.

(iii) Except as disclosed in Schedule 3.9(f), no product manufactured or sold by any Company or any service offered of any Company is alleged to infringe any patent or other intellectual property right of any Person, and to the knowledge of the Seller Entities after due inquiry, no Patent of any Company is infringed.

(iv) All products sold or materials associated with services provided under the Patents have been marked with the proper patent notice.

(g) Trademarks:

(i) All registered Trademarks, and pending applications for Trademarks with the United States Patent and Trademark Office ("PTO") or any other country's trademark office, of each Company are currently in compliance in all material respects with all legal requirements (including the filing of affidavits of use and renewal applications as applicable) and are not subject to any maintenance fees or taxes or actions falling due within ninety (90) days after the Closing Date.

(ii) No Trademark of any Company has been or is now involved in any opposition, infringement, dilution, unfair competition or cancellation proceeding, and to the knowledge of the Seller Entities after due inquiry, no such action is threatened with respect to any of the Trademarks.

(iii) No Trademark of any Company is alleged to infringe any trade name, trademark or service mark of any other person or entity, and to the knowledge of the Seller Entities after due inquiry, no Trademark of any Company is infringed.

(iv) All products displaying a Trademark of any Company which has been registered with the PTO bear the proper federal registration notice.

(h) Copyrights:

(i) All registered Copyrights and pending applications for Copyrights of the Companies are currently in compliance in all material respects with all legal requirements and are not subject to any maintenance fees or taxes or actions falling due within ninety (90) days after the Closing Date.

(ii) No Copyright of any Company has been or is now the subject of any invalidation or infringement proceeding, and to the knowledge of the Seller Entities after due inquiry, no such action is threatened with respect to any Copyright of any Company.

(iii) No Copyright of any Company is alleged to infringe any copyright of any other person or entity, and to the knowledge of the Seller Entities after due inquiry, no Copyright of any Company is infringed.

(iv) All works encompassed by the Copyrights of the Companies have been marked with the proper copyright notice.

(i) Domain Names:

(i) All registered Domain Names of the Companies, are currently in compliance with all legal requirements and are not subject to any maintenance fees or taxes or action falling due within ninety (90) days after the Closing Date.

(ii) No Domain Name of any Company has been or is now the subject of any dispute resolution or infringement proceeding and, to the knowledge of the Seller Entities after due inquiry, no such action is threatened with respect to any Domain Name of any Company.

(iii) No Domain Name of any Company is alleged to infringe the trademark or domain name of any other person or entity, and to the knowledge of the Seller Entities after due inquiry, no Domain Name of any Company is infringed.

(j) Each of the Companies has taken all reasonable steps to protect the proprietary nature of the Intellectual Property and to maintain in confidence all Trade Secrets and confidential Intellectual Property and information owned or used by the Companies. Each of the Companies has taken reasonable steps to document any Trade Secrets and any such documentation is safely and securely stored, and with respect to data stored in any electronic format, in duplicate on two different sites. Except as set forth in Schedule 3.9(j), no Trade Secret or other confidential Intellectual Property or information of any Company has been disclosed or authorized to be disclosed to any person, including any employee, agent, contractor, or other entity, other than pursuant to the filing of a patent application by such Company or to a non-disclosure agreement or other conditional obligation that protects such Company's proprietary interests in and to such Trade Secrets or confidential Intellectual Property or information.

(k) Schedule 3.9(k) contains a true and complete list of all of the Software included, embedded or incorporated in or developed for inclusion in the Companies' products or websites, or used in the delivery of Company services (the "Company Software"). The

Companies own full and unencumbered right and good, valid and marketable title or have valid licenses to such Company Software, and Company Software owned by the Companies is free and clear of all Liens. No Company has incorporated any third party Intellectual Property into Company Software not identified in Schedule 3.9(k). Except as identified in Schedule 3.9(k), no open source or public library software, including any version of any software licensed pursuant to any GNU public license, is, in whole or in part, embodied or incorporated in the Company Software. The Copy of Company Software is true and complete.

(l) Each Company employs commercially reasonable measures to ensure that Company Software contains no "viruses." For the purposes of this Agreement, "virus" means any computer code intentionally designed to disrupt, disable or harm in any manner the operation of any software or hardware. None of the Company Software contains any worm, bomb, backdoor, clock, timer or other disabling device, code, design or routine which causes the software to be erased, inoperable, impaired in performance or otherwise incapable of being used, either automatically or upon command by any Person.

(m) All Intellectual Property (including the Intellectual Property of third parties licensed to any Company), is free and clear of any and all Encumbrances.

(n) Schedule 3.9(n) sets forth all agreements by which any Company is obligated to make to third parties any payments related to Intellectual Property. None of the Companies is bound by an agreement by which it owes any present or future royalties or other payments to third parties in respect of Intellectual Property in excess of \$10,000.

(o) Each Company has implemented reasonable practices to ensure the physical and electronic protection of its active server pages and information assets from unauthorized disclosure, use or modification. Other than as set forth in Schedule 3.9(o), there has been no breach of security involving any Company website, active server pages or information assets. All data which has been collected, stored, maintained or otherwise used by any Company has been collected, stored, maintained and used in accordance with all applicable U.S. and foreign laws, rules, regulations, guidelines and industry standards. Neither the Seller nor any Company has received a notice of noncompliance with applicable data protection laws, rules, regulations, guidelines or industry standards.

(p) The only representations and warranties made by Sellers in this Agreement with respect to Intellectual Property are as set forth in Section 3.8 and this Section 3.9, and, in the event of any conflict between this Section 3.9 and any other Section of this Article III other than Section 3.8, the terms of this Section 3.9 shall govern.

### **3.10 Other Property.**

(a) Other than as set forth on Schedule 3.10(a):

(i) To the knowledge of the Seller Entities, there are no pending or threatened condemnation or eminent domain proceedings affecting any Real Property or any portion thereof, and no Seller Entity has received any written notices of any such proceedings.

(ii) Other than the leases (the "Leases"), non-disturbance agreements, and other Lease-related documents listed on Schedule 3.10(a), there are no leases, licenses, occupancy agreement, or other non-disturbance or Lease-related agreement in effect with respect to all or any portion of the Real Property. The Companies have good and valid leasehold estates in the Real Property pursuant to the Leases, free and clear of any Encumbrances other than Permitted Encumbrances. No Person is using or occupying (or is entitled to use or occupy) any space at the Real Property other than in accordance with the terms of the Leases and the agreements, easements and declarations that are listed on Schedule 3.10(a) hereto (collectively, the "Real Property Agreements"). The Leases and the Real Property Agreements have not been amended, supplemented or otherwise modified, and Seller has furnished to Buyer true, correct and complete copies of the Leases and the Real Property Agreements. The Leases and the Real Property Agreements are in full force and effect. Neither any Company nor any other party to the Leases or the Real Property Agreements is in default thereunder. No party to the Leases or the Real Property Agreements has given or received any written notice or claim of default which remains uncured.

(b) No Company owns any real property.

(c) Set forth on Schedule 3.10(c) is a true, correct and complete listing of all Permits.

(d) Schedule 3.10(d) sets forth a complete and accurate list of all furniture, fixtures, equipment, materials, automobiles and all other tangible assets (including its date of acquisition, original cost and book value) of the Companies which have a book value in excess of \$2,000 per item. Such tangible assets are not held under any lease, security agreement, conditional sales contract or other title retention or security arrangement or subject to any liens or are located other than in the possession of the Companies. The assets identified or required to be identified on Schedule 3.10(d) are, taken as a whole, in good condition and repair (ordinary wear and tear excepted) and comply in all material respects with, and are being operated and otherwise used in full compliance in all material respects with, all Applicable Law.

### 3.11 Contracts.

(a) Schedule 3.11(a) lists all written or oral agreements, contracts, understandings and commitments (or groups of related agreements, contracts and commitments with the same or related parties) ("Contracts") to which any Company or Subsidiary thereof is a party or by which its assets or properties are bound comprising the following ("Material Contracts"):

(i) agreements which have a term of one (1) year or more or involve commitments in excess of \$10,000 in the aggregate;

(ii) agreements to which any Affiliate of any Seller Entity, officer or director of a Company or any entity in which such person holds an interest (other than a de minimis interest) is a party;



(iii) agreements pursuant to which any Company is entitled or obligated to acquire or sell any assets from or to a third party for a purchase price in excess of \$5,000;

(iv) agreements which are collective bargaining agreements, union or labor agreements;

(v) agreements creating any Encumbrance, other than Permitted Encumbrances, and agreements which evidence, secure or otherwise relate to or create any Lien relating to any indebtedness for which any Company has or could have any liability in excess of \$5,000;

(vi) agreements which limit the ability of any Company to engage in any business or conduct its business in any geographic or product market or to buy, sell, lease, or license any products or services from or to any Person;

(vii) agreements to which the United States government or any department, agency or instrumentality thereof or any state or local governmental agency or authority is a party involving amounts in excess of \$5,000;

(viii) agreements which relate to the purchase, redemption, transfer or voting of any Interests;

(ix) agreements which are employment agreements;

(x) agreements relating to any outstanding commitment for capital expenditures in excess of \$10,000;

(xi) all Leases and Real Property Agreements;

(xii) agreements which provide for a joint venture, partnership or similar arrangement between or among any Company or Company Subsidiaries and any other Person;

(xiii) any other contract of a Company the loss of which could reasonably be expected to have, directly or indirectly, individually or in the aggregate, a Material Adverse Effect; and

(xiv) all customer Contracts.

True and complete copies of all written Material Contracts, and true and complete summaries of all oral Material Contracts, have been provided to Buyer prior to the date hereof.

(b) Each Material Contract is a valid and binding agreement of the Companies and, to the knowledge of the Seller Entities, the other parties thereto, and is in full force and effect. Except as set forth in Schedule 3.11(b), no Person has violated or breached, or declared or committed any default under, any Material Contract, and no event has occurred, and no circumstance or condition exists, that would reasonably be expected to (with or without notice or

lapse of time) (i) result in a violation or breach of any of the provisions of any Material Contract, (ii) give any Person the right to declare a default or exercise any remedy under any Material Contract, (iii) give any Person the right to accelerate the maturity or performance of any Material Contract or (iv) give any Person the right to cancel, terminate or modify any Material Contract. No Seller Entity has received any notice or other communication regarding any actual or alleged violation or breach of, default under, or proposed termination of, any Material Contract. The Material Contracts collectively constitute the contracts necessary to enable Buyer and the Companies to conduct the Business in all material respects in the manner in which the Business is currently being conducted.

**3.12 Compliance with Applicable Law.** The Companies and, in respect of the Business, Seller and all Affiliates of Seller and the Companies, have at all times been in full compliance in all material respects with all Applicable Law. To the knowledge of the Seller Entities, no event has occurred, and no condition or circumstance exists, that could reasonably be expected to (with or without notice or lapse of time) constitute or result directly or indirectly in a violation by the Seller Entities of, or a failure on the part of the Seller Entities to comply with, any Applicable Law. No Seller Entity has received, at any time, any notice or other communication (in writing or otherwise) from any Governmental Body or any other Person regarding any actual, alleged or potential violation of, or failure to comply with, any Applicable Law.

**3.13 Permits.** The Permits are valid, in full force and effect and constitute all of the Permits necessary to enable Buyer and the Companies to conduct the Business in the manner in which the Business is currently being conducted. The Companies are and have at all times been in full compliance in all material respects with all of the terms and requirements of each such Permit, and, to the knowledge of the Seller Entities, no event has occurred that could reasonably be expected to (with or without notice or lapse of time) result in a violation of any requirement of any such Permit, or result in the termination or modification of any such Permit. Seller has delivered to (or made available for inspection by) Buyer accurate and complete copies of all Permits.

**3.14 Tax Matters.**

(a) All tax returns required to be filed by or with respect to the Companies or the Business have been timely filed (taking into account any extensions validly obtained) in accordance with all applicable laws, and all such tax returns are true, correct and complete in all material respects.

(b) Each Tax due and payable on or before the Closing Date, or claimed by any Governmental Body to be due and payable on or before the Closing Date other than claims that are being contested in good faith, that relates to the Business has been duly paid or will be duly paid in full on or before the Closing Date. Any Tax that relates to the Business and that is required to be withheld or collected by any Company on or before the Closing Date, has been duly withheld and collected; and (to the extent required) has been paid, or will be paid prior to the Closing Date, to the appropriate Governmental Body.

(c) No claim or other proceeding is pending or has been threatened in writing against or with respect to any Company in respect of any Tax relating to the Business.

(d) India is an Indian corporation. None of the other Company Assets are attributable to, or part of, (i) a permanent establishment in any country (other than the United States) as defined in an applicable tax treaty, or (ii) a taxable presence in any other country as determined under the internal laws of such country.

(e) India is properly characterized as a corporation for U.S. federal income tax purposes. Each of the Companies other than India is, and since the date of its formation has been, properly characterized as a partnership or a disregarded entity for federal income tax purposes.

(f) All amounts required to be withheld or collected for payment by the Companies or Company Subsidiaries, including from employee salaries, wages and other compensation, have been timely collected or withheld and paid to the appropriate taxing authority.

(g) None of the Companies or Company Subsidiaries is a party to any tax sharing, tax allocation or tax indemnification agreement or has any liability for Taxes of another Person.

(h) No Tax is required to be withheld pursuant to Section 1445 of the Code as a result of the purchase and sale of any Interests contemplated by this Agreement.

**3.15 Employee and Labor Matters.** Schedule 3.15(a) accurately sets forth the name, title, hire date and annual compensation of each current employee, consultant, and independent contractor of the Companies (including wages, salary, commissions, fringe benefits, bonuses and other payments or benefits of any type). Schedule 3.15(b) accurately identifies each former employee of any Company receiving or scheduled to receive (or whose spouse or dependent is receiving or is scheduled to receive) any benefits from such Company, and accurately describes such benefits in all material respects. Except as set forth on Schedule 3.15(c), no Company is a party to or bound by any employment agreement, union contract, collective bargaining agreement or similar agreement or understanding, and the employment of each employee of the Companies is terminable at will. To the knowledge of the Seller Entities, (a) no employee or independent contractor of any Company intends to terminate his employment or relationship with such Company and (b) no employee or independent contractor is a party to or is bound by any confidentiality agreement, noncompetition agreement or other agreement or understanding (with any Person) that may have an adverse effect on the performance by such employee or independent contractor of any of his duties with respect to the Business. Except for accruals consistent with the compensation listed on Schedule 3.15(a) or the benefits listed on Schedule 3.15(b), there are no amounts in connection with compensation, wages, salary, commissions, fringe benefits, bonuses and other payments or benefits of any type due, payable or owing from the Companies to any current or former employees and consultants of the Companies.

### **3.16 Benefit Plans.**

(a) Schedule 3.16(a) identifies each Employee Benefit Plan and indicates for each such plan which entity or entities sponsor it and whether it exclusively covers employees of the Companies or also covers employees of other entities. Seller has caused to be delivered to Buyer accurate and complete copies of all material documents relating to each such Employee

Benefit Plan, including without limitation, the plan, summary plan description, summary of material modifications, Form 5500 and financial statements for the past three years, trust agreements and administrative forms.

(b) Each Employee Benefit Plan is being and has at all times been operated and administered in compliance in all material respects with the provisions thereof and all Applicable Law. Each contribution or other payment, including all premiums on insurance policies, that is required to have been accrued or made under or with respect to any such Employee Benefit Plan has been made or duly accrued and made on a timely basis. With respect to each Employee Benefit Plan, all reports and disclosures required to be filed with or furnished to governmental agencies, Employee Benefit Plan participants or beneficiaries have been filed or furnished in accordance with Applicable Law in a timely manner.

(c) No Employee Benefit Plan is subject to Title IV of Employee Retirement Income Security Act of 1976, as amended ("ERISA"), and no condition exists that could cause Buyer or any Company to be subject to any liability under Title IV of ERISA. Neither any Company nor any entity that is deemed to be one employer together with any Company pursuant to Section 414 of the Code has within six (6) years prior to the Closing Date contributed to (or been obligated to contribute to) any multiemployer plan within the meaning of ERISA.

(d) Each Employee Benefit Plan of the Companies that is intended to meet the requirements of a "qualified plan" under Code Section 401(a) has received a determination letter from the Internal Revenue Service to the effect that it meets the requirements of Code Section 401(a) and nothing has occurred since the date of such letter that could cause the disqualification of such plan.

(e) There has been no prohibited transaction (within the meaning of Section 406 of ERISA and Section 4975 of the Code) with respect to any Employee Benefit Plan. No fiduciary of an Employee Benefit Plan has breached any of the responsibilities or obligations imposed upon fiduciaries under Title I of ERISA.

(f) There is no matter pending and, to the knowledge of the Seller Entities after due inquiry, threatened (other than routine qualification determination filings) with respect to any of the Plans or Benefit Programs or Agreements before the Internal Revenue Service, the Department of Labor or the Pension Benefit Guaranty Corporation.

(g) Except to the extent required by Applicable Law, no Employee Benefit Plan promises or provides any benefits after an employee's termination of employment.

(h) No Company has informed any of its employees that any Employee Benefit Plan would be changed or that any new Employee Benefit Plan would be established.

(i) There are no actions, suits or claims pending (other than routine claims for benefits) or, to the knowledge of the Seller Entities after due inquiry, threatened against, or with respect to, any Employee Benefit Plan.

(j) Neither the execution and delivery of this Agreement nor the consummation of any or all of the transactions contemplated hereby, whether alone or together

with any other event, will: (A) entitle any current or former employee of any Company to severance pay, unemployment compensation or any similar payment, (B) accelerate the time of payment or vesting or increase the amount of any compensation due to any such employee or former employee, or (C) directly or indirectly result in any payment made to or on behalf of any person to constitute a "parachute payment" within the meaning of Section 280G of the Code.

**3.17 Environmental Matters.** Except as set forth on Schedule 3.17:

(a) The Companies and the Business are being conducted in compliance in all material respects with all applicable Environmental Laws.

(b) No Seller Entity has received any written notice that: (i) any aspect of the operation of the Business is in violation in any material respect of any Environmental Law; or (ii) any Seller Entity, in connection with the operation of the Business, is subject to or liable for any investigation, cleanup, treatment, personal injury or property damage relating to any Hazardous Substance Released at the Real Property.

(c) To the knowledge of the Seller Entities, no Hazardous Substances have been Released at, on or under the Real Property that could reasonably be expected to result in any liability to the Companies or the Business.

(d) To the knowledge of the Seller Entities, there are no circumstances involving the Companies or the Business that could reasonably be expected to result in any claims, liability, costs or losses pursuant to any Environmental Law relating to the Business or any restrictions on the ownership, use or transfer of the Business.

**3.18 Insurance.** Schedule 3.18 accurately sets forth, with respect to each insurance policy maintained by or at the expense of, or for the direct or indirect benefit of, any Company: (a) the name of the insurance carrier that issued such policy and policy number of such policy; (b) whether such policy made is a "claims made" or "occurrences" policy; and (c) a description of any claims pending. Each of such policies is valid, enforceable and in full force and effect. All premiums due to date on such policies have been paid in full. Each Company has been continually insured under such policies (or policies of similar scope) since its formation (and, for purposes of errors and omissions coverage, since the date of its first customer contract). Except as set forth in Schedule 3.18, the Companies do not have any self-insurance or co-insurance programs.

**3.19 Related Party Transactions.** Except as set forth in Schedule 3.19: (a) no Related Party has any direct or indirect interest of any nature in any of the Company Assets; (b) no Related Party is indebted to the Companies; (c) no Related Party has entered into, or has had any financial interest in, any Contract or transaction or business dealing involving the Companies; (d) no Related Party has any claim or right against the Companies or the Business; and (e) to the knowledge of the Seller Entities, no event has occurred that might (with or without notice or lapse of time) give rise to or serve as a basis for any claim or right in favor of any Related Party against the Companies or the Business.

**3.20 Certain Payments.** No Company has, and, to the knowledge of the Seller Entities after due inquiry, no officer, employee, agent or other Person associated with or acting

for or on behalf of any Company has, at any time, directly or indirectly: (a) used any corporate funds (i) to make any unlawful political contribution or gift or for any other unlawful purpose relating to any political activity, (ii) to make any unlawful payment to any governmental official or employee or (iii) to establish or maintain any unlawful or unrecorded fund or account of any nature; (b) made any false or fictitious entry, or failed to make any entry that should have been made, in any of the books of account or other records of any Company; (c) made any payment (whether or not lawful) to any Person, or provided (whether lawfully or unlawfully) any favor or anything of value (whether in the form of property or services or in any other form) to any Person, for the purpose of obtaining or paying for (i) favorable treatment in securing business or (ii) any other special concession; or (d) agreed, committed or offered (in writing or otherwise) to take any of the actions described in clauses (a) through (c) above.

**3.21 Proceedings.** Except as set forth in Schedule 3.21, there is no pending Proceeding and, to the knowledge of the Seller Entities after due inquiry, no Person has threatened to commence any Proceeding, that involves any Seller Entity or that otherwise relates to the Business or any Company Asset. There is no order to which any Seller Entity, or any Company Asset, is subject; and no Related Party is subject to any order that relates to the Business or to any Company Asset.

**3.22 Customers; Suppliers; Receivables; Payables; Indebtedness; Books and Records.**

(a) Schedule 3.22(a) accurately identifies, and provides an accurate and complete breakdown of (x) the cash receipts received by the Companies (other than India) or the Business (other than in connection with India) from, each customer or other Person that, during the period consisting of the previous two fiscal years ended December 31 and the five months ended May 31, 2005 and (y) the revenues on an accrual basis received by India or the Business (in connection with India) from, each customer or other Person that, during the period consisting of the previous two fiscal years ended March 31 and the four months ended July 31, 2005, has engaged in transactions with any of the Companies in an aggregate amount in excess of \$99 (ninety nine dollars) in any month. Since January 1, 2005, no Seller Entity has received any notice or other communication (in writing or otherwise), and no Seller Entity has received any other information, indicating that any customer or other Person identified or required to be identified in Schedule 3.22(a) has ceased or intends to cease dealing with any Company or intends to otherwise reduce the volume of business transacted by such Person with any Company in connection with the Business below historical levels. Since January 1, 2005, no Seller Entity has received any notice or other communication (in writing or otherwise), or has received any other information, indicating that any distributor of any of the products of any Company may cease acting as a distributor of such products or otherwise dealing with any Seller Entity.

(b) Schedule 3.22(b) accurately identifies, and provides an accurate and complete breakdown of the cash expenditures by the Companies or the Business to, each supplier or other Person that, with respect to the Companies (other than India), during the period consisting of the previous two fiscal years ended December 31 and the five months ended May 31, 2005, that has engaged in transactions with any of the Companies in an aggregate amount in excess of \$10,000 (ten thousand dollars) for any calendar year (or, in the case of 2005, on an annualized basis through May 31, 2005). With respect to suppliers to India, and other

Persons engaging in transactions with India in an aggregate amount in excess of \$10,000 (ten thousand dollars) for any calendar year, the accrual-based expenses appearing on the books and records of the Company for each of the foregoing periods reflecting expenses accrued to suppliers to India and other Persons engaging in transactions with India are accurate in all material respects. Since January 1, 2005, no Seller Entity has received any notice or other communication in writing or otherwise, and no Seller Entity has received any other information, indicating that any supplier or other Person identified or required to be identified in Schedule 3.22(b) intends to (i) cease dealing with any Company or intends to otherwise reduce the volume of business transacted by such Person with any Company in connection with the Business below historical levels or (ii) cease acting as a supplier of such products or otherwise dealing with any Seller Entity.

(c) All of the accounts receivable of each of the Companies arose from *bona fide* transactions in the Ordinary Course of Business, have been executed on terms consistent with the past practice of such Companies in all material respects, are reflected properly on the books and records of the Companies.

(d) All of the accounts payable of each of the Companies arose from *bona fide* transactions in the Ordinary Course of Business, have been executed on terms consistent with the past practice of the Companies in all material respects, and are reflected properly on the books and records of the Companies in a manner consistent with the preparation of the Financial Statements.

(e) The Statement of Indebtedness provides an accurate and complete listing of the Indebtedness of the Companies as of the date hereof.

(f) The books and records of each of the Companies are true, complete and accurate in all material respects and properly reflect, in all material respects, financial transactions engaged in by the Companies.

**3.23 Brokers' Fees.** Seller does not have any liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which any other Party could become liable or obligated.

**3.24 Other Material Adverse Effect Causes.** To the knowledge of the Seller Entities, there is no information concerning the Companies or the Business which has not heretofore been disclosed to Buyer, which information could reasonably be expected to have a Material Adverse Effect.

### **3.25 Undisclosed Liabilities.**

(a) At May 31, 2005, the Companies had no material liabilities (whether accrued, absolute, contingent, matured, unmatured or otherwise) that were not reflected or reserved against in the Financial Statements except as set forth on Schedule 3.25(a). Except (i) for liabilities incurred in the Ordinary Course of Business since May 31, 2005 that, individually or in the aggregate, do not have and would not reasonably be expected to have a Material Adverse Effect on the Companies or the Business, (ii) liabilities under the Guarantees and the Contracts, (iii) as disclosed on Schedule 3.25(a), or (iv) for any liabilities permitted to be

incurred pursuant to Section 5.5, none of the Companies has incurred any liabilities since March 31, 2005 that individually or in the aggregate have or would reasonably be expected to have a Material Adverse Effect on the Companies or the Business.

(b) Schedule 3.25(b) sets forth a complete and accurate list of all guaranties and guaranty obligations of any Seller Entities relating to obligations of any of the Companies (the "Guarantees"). Sellers have delivered to Buyer true, correct and complete copies of the Guarantees. Except as set forth on Schedule 3.25(b), (i) there is no default of any of the Seller Entities, or to the knowledge of the Seller, of any third party, under any Guarantee, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder, and (ii) no beneficiary of any such Guarantee has given notice of or made any claim with respect to any breach or default thereunder

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby represents and warrants to Seller as of the date hereof and as of the Closing Date as follows:

**4.1 Organization and Authorization.** Buyer has been duly organized and is validly existing and in good standing under the laws of its jurisdiction of organization with the requisite power and authority to conduct the business in which Buyer is currently engaged and to own and use the properties used in connection therewith. Buyer has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to consummate the transactions contemplated herein. This Agreement has been duly executed and delivered by Buyer and, assuming the due authorization, execution and delivery of this Agreement by all other parties hereto, constitutes the valid and binding obligation of Buyer, enforceable in accordance with its terms and conditions.

**4.2 No Conflicts.** Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Encumbrance upon any property or assets of such Party pursuant to any indenture, mortgage, deed of trust, loan agreement or other material agreement or instrument to which such Party is a party or by which such Party is bound or to which any of the property or assets of such Party is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of such Party or (iii) result in the violation in any material respect of any Applicable Law.

**4.3 No Consents Required.** No consent, approval, authorization, order, registration or qualification of or with any Governmental Body or any other third party is required for the execution, delivery and performance by such Party of this Agreement and performance of its obligations hereunder and the consummation of the transactions contemplated by this Agreement.

**4.4 Brokers' Fees.** Buyer does not have any liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which any other Party could become liable or obligated.



**4.5 Financing.** At Closing, Buyer will have sufficient cash and/or available credit facilities (and has provided Seller with evidence thereof) to pay the Purchase Price and to make all other necessary payments of fees and expenses in connection with the transactions contemplated by this Agreement.

## **ARTICLE V PRE-CLOSING COVENANTS**

The Parties agree as follows with respect to the period from and after the execution of this Agreement to the date of Closing:

**5.1 General.** Each of the Parties will act in good faith and use commercially reasonable efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement.

**5.2 Notices and Consents.** The Seller Parties will, and will cause the Companies to, give any required notices to third parties, and will use their commercially reasonable efforts to obtain any material third party consents, which are set forth in Schedule 5.2.

**5.3 Regulatory Matters and Approvals.** Each of the Parties will, and the Seller Parties will cause the Companies to, give any notices to, make any filings with, and use its commercially reasonable efforts to obtain any required authorizations, consents, and approvals of Governmental Bodies required in connection with the transactions contemplated in this Agreement.

**5.4 Patent Maintenance.** With respect to all Patents included in the Company Assets which are subject to maintenance fees, annuities or taxes which fall due within ninety (90) days after the Closing Date, the Seller Parties shall have attended to the timely payment of such fees, annuities or taxes or made provision to do so (e.g., by instructing and paying a renewals provider or other payment agent) by the Closing Date.

**5.5 Operation of Business.** Except as otherwise provided in this Agreement or as set forth in Schedule 5.5 hereto, the Seller Parties will not, and will cause the Companies not to, engage in any practice, take any action, or enter into any transaction or agreement outside the Ordinary Course of Business with regard to the Business or the Company Assets. Without limiting the generality of the foregoing, the Seller Entities:

(a) through their employees and agents will use their commercially reasonable efforts to maintain and preserve the Business intact, and to maintain relationships with customers and suppliers consistent with its past custom and practice;

(b) will maintain in full force and effect all insurance policies or self-insurance programs currently maintained with respect to the Business (including without limitation the Real Property);

(c) will operate and maintain all material tangible personal property and equipment, included in the Company Assets and all Real Property in accordance with the past business practices of the Companies;

- (d) will pay all taxes when due;
- (e) will promptly deliver notice to Buyer of any and all material violations, actions, suits, claims and other proceedings affecting the Business, the Companies, or the Company Assets;
- (f) will not, without the prior written consent of Buyer, which may be granted or withheld in its sole discretion,
  - (i) (A) grant or agree to grant or pay any additional bonuses to any employee of the Companies, (B) grant any general or specific increase in the rates of salaries or compensation of any employee of the Companies except such as are in accordance with regularly scheduled periodic increases, or (C) provide for any new pension, retirement or other employment benefits to any employee of the Companies or any increase in any existing employee benefit plans;
  - (ii) make or incur any capital expenditure or Indebtedness with regard to the Company Assets or the Business other than in the Ordinary Course of Business but in no event in excess of \$10,000 individually or \$100,000 in the aggregate;
  - (iii) amend, waive any provision of, terminate prior to its scheduled expiration date, or otherwise compromise in any way, any Contracts, Leases, Licenses, Permits or Real Property Agreements, or any other agreements or instruments affecting the Company Assets or the operation and maintenance thereof;
  - (iv) enter into any agreement, lease, license (except for licensing of Software to customers on standard commercial terms and otherwise in the ordinary course of business), instrument, commitment affecting the Company Assets or the operation and maintenance thereof, not to be fully performed or not to terminate or expire by its terms, at or prior to the Closing;
  - (v) sell, lease, license (except for licensing of Software to customers on standard commercial terms and otherwise in the ordinary course of business), pledge, mortgage, transfer or otherwise dispose of or encumber the Company Assets or any other right, benefit or asset of any Company affecting the Company Assets or the operation and maintenance thereof;
  - (vi) modify or alter the Real Property or the use thereof in any material respect;
  - (vii) enter into any loan or any documents evidencing, securing, guarantying or otherwise relating to, or modify, supplement or amend any loan and/or mortgage, pledge or encumber all or any part of the Company Assets, as security for indebtedness incurred on behalf of the Seller Parties, or modifying, supplementing or amending any such mortgage, pledge or encumbrance;

(viii) in the event of damage to, or condemnation of, any part of or all of the Real Property, will not elect to restore or not to restore the Real Property (subject to the provisions of any Leases then in effect);

(ix) make or agree to any changes to the zoning of the Real Property or any portion thereof make or agree to any subdivision of the Real Property or any portion thereof; approve the terms and provisions of any restrictive covenants or easements agreements affecting the Real Property or any portion thereof; grant or relocate easements and licenses benefiting the Real Property or any portion thereof, adjust boundary lines, road rights-of-way and dispose of other interests in the Real Property or any portion thereof; or

(x) agree to do any of the foregoing.

**5.6 Full Access.** The Seller Parties shall, and shall cause the Companies as well as each of their respective officers, accountants, attorneys, employees to, permit representatives of Buyer to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of such Persons, to all premises, properties, personnel, books, records (including Tax records), commission schedules, vendor lists, customer lists, contracts, and documents of or pertaining to the Company Assets and the Business, including without limitation for purposes of testing and inspecting the Real Property as Buyer may require, and shall furnish to Buyer such additional information regarding the Business as Buyer may from time to time reasonably request. In addition, the Seller Parties shall coordinate, at Buyer's request, meetings with the primary vendors and customers of the Business.

**5.7 Representations and Warranties; Notice of Developments.** Buyer and the Seller Parties shall not, and the Seller Parties shall cause the Companies not to (a) take or agree to take any action that would make any representation or warranty of such party hereunder inaccurate in any material respect at, or as of any time prior to, the Closing Date or (b) omit to take, or agree to omit to take, any action necessary to prevent any such representation or warranty from being inaccurate in any material respect at any such time. Buyer and the Seller Parties will give prompt written notice to the other of any material adverse development causing a breach of any of its respective representations and warranties hereunder. No disclosure by any Party pursuant to this Section 5.7, however, shall be deemed to prevent or cure any misrepresentation, breach of warranty, or breach of covenant.

**5.8 Exclusivity.** No Party will directly or indirectly solicit, discuss, initiate, encourage, accept, or take the submission of any proposal or offer from any Person relating to any business arrangement (whether structured as an asset purchase, stock or membership interest purchase, license, joint venture or otherwise) which would conflict with the transactions contemplated herein. The receiving Party shall notify the other Parties immediately if any Person makes any proposal, offer, inquiry, or contact with respect to any of the foregoing.

**5.9 Indebtedness.** The Seller Parties shall cause to be repaid at or prior to the Closing all Indebtedness owing by any of them (other than the Companies) to the Companies, other than the Indebtedness of Steven Lundberg set forth on Schedule 5.9.

**5.10 Termination of Options and Similar Rights.** The Seller Parties shall cause, not later than the Closing, all options and other rights in favor of any Person (including, without limitation, Leon Steinberg, Andrew Bergstrom and Shal Jain) other than Buyer to acquire any interest in any Company or the Company Assets.

## **ARTICLE VI POST-CLOSING COVENANTS**

The Parties agree as follows with respect to the period following the Closing:

**6.1 General.** In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as any other Party may reasonably request.

**6.2 Transition.** No Seller or Seller Owner will, during the applicable Restricted Period, directly or indirectly (through any Person) take any action that is designed or intended to have the effect of discouraging any lessor, licensor, customer, supplier, or other business associate of such Person from entering into or maintaining a business relationship with Buyer or the Companies after the Closing substantially the same or similar to that it maintained with the Companies prior to the Closing.

**6.3 Administration of Indemnification Escrow Account.** As further detailed in the Escrow Agreement, the Indemnification Escrow Funds shall be released only as follows:

(a) For a period of eighteen calendar months following the Closing Date, all Indemnification Escrow Funds shall remain available and shall be released only to satisfy the Seller Parties' and Other Seller Parties' indemnification obligations in accordance with Sections 10.2 and 10.5 hereof and Sections 10.2 and 10.5 of the FIP Purchase Agreement, respectively.

(b) Any Indemnification Escrow Funds remaining in the Indemnification Escrow Account at the expiration of the eighteen-month period in the preceding clause (a) that are not subject to a claim for indemnification pursuant to Sections 10.2 and 10.5 hereof or Sections 10.2 and 10.5 of the FIP Purchase Agreement shall be released to Seller and Estella IP Ventures, LLC, as a party to the FIP Purchase Agreement, in proportion to the respective amounts of their original contributions to the Indemnification Escrow Account pursuant to Section 2.2 hereof and Section 2.2 of the FIP Purchase Agreement, respectively.

**6.4 Administration of Purchase Price Adjustment Escrow Account.** As further detailed in the Escrow Agreement, the Purchase Price Adjustment Escrow Funds shall be released only as follows:

(a) For a period lasting until the determination of the Final Indebtedness, all Purchase Price Adjustment Escrow Funds shall remain available and shall be released only to satisfy the purchase price adjustment set forth in Section 2.2(d).

(b) Funds remaining in the Purchase Price Adjustment Escrow Account following the payment of the purchase price adjustment described in Section 6.4(a) shall be

released to Seller in immediately available funds by wire transfer to an account specified by the Seller Representative no earlier than 10 days from the date of the determination of Final Indebtedness.

**6.5 Maintenance of Insurance.** Until the later of the date the Call Option Period or Put Option Period, as applicable, expires (as such terms are defined in the Members Agreement), Buyer agrees to maintain professional indemnity/errors and omissions insurance coverage with respect to all acquired Companies, covering claims arising from the Business due to errors or omissions, negligence or processing errors on a "claims made" basis; provided that Seller Parties shall have caused to have provided to Buyer all documents and information requested by any insurer or its agents or brokers in connection with such insurance coverage. Such insurance shall be free of exclusions, other than exclusions customary for the Business, and shall have limits of liability of not less than \$10,000,000 and a deductible (retention) of not more than \$100,000.

**6.6 Tax.** Buyer and Seller agree to treat the purchase and sale of the Interests in accordance with Rev. Rul. 99-5, 1999-1 C.B. 434, Situation 1, as a purchase by Buyer of an undivided 70% interest in the assets of Intellevate followed by a contribution by Buyer and Seller of their proportionate interests in the assets of Intellevate to a new (for federal income tax purposes) partnership pursuant to Article 4 of the Company LLC Agreement. If Buyer determines that an election under section 754 of the Code is appropriate to cause the basis of the Company Assets to be adjusted, for federal income tax purposes, in the manner provided in Sections 734 or 743 of the Code, as the case may be, Buyer shall notify Seller in writing and request that Seller make such election in the final pre-acquisition partnership tax returns (January 1, 2005 through the Closing Date) for Intellevate and PIP. Seller agrees to comply with any such request if and to the extent such election may be properly made at the time Buyer's request is received.

**6.7 India Nominee.** Following the Closing, Leon Steinberg shall serve as Buyer's nominee in respect of the 0.01% interest he currently holds in India until such time as Buyer designates a replacement nominee. Mr. Steinberg shall follow the instructions of Buyer with respect to such interest in India, including without limitation with respect to the transfer of such interest to a replacement nominee.

**6.8 Development License.** Buyer and the Seller Parties shall exercise their commercially reasonable efforts to cause Buyer and SLWK to negotiate and enter into a development license agreement within one hundred twenty (120) days following the Closing Date which shall supersede the license granted under Section 4.1 of that certain Asset Purchase Agreement by and between FIP and SLWK with an effective date of March 31, 2001.

## **ARTICLE VII OTHER COVENANTS**

### **7.1 Confidential Information.**

(a) Each Party hereto (hereinafter referred to as the "Recipient") shall keep any and all confidential or proprietary information, which is either marked as such or given the

nature of the information or circumstances surrounding its disclosure, ought reasonably to be understood to be confidential or proprietary information ("Confidential Information") which it has heretofore obtained or shall hereafter obtain, directly or indirectly, from the other Parties (hereinafter referred to as the "Disclosing Party") pursuant to this Agreement, confidential, and shall not, without the Disclosing Party's prior written consent, use the same except solely in connection with this Agreement nor shall the Recipient disclose the same to any third party except to its directors, officers, auditors, employees, counsels and experts who need to have access to such Confidential Information solely in connection with this Agreement; provided that such confidentiality and non-use obligation shall not extend to any such Confidential Information that is:

(i) is already publicly known or was in the possession of the Recipient at the time when such information was acquired by the Recipient;

(ii) has become publicly known without any fault of the Recipient;

(iii) was legally and in good faith acquired by the Recipient without restriction on its use or disclosure from a third party or parties who is not bound by any confidentiality obligations to the Disclosing Party; or

(iv) is required to be disclosed to any Governmental Body as a result of operation of law, regulation, or court order, provided, however, that the Recipient gives prompt written notice of such requirement to the Disclosing Party and further that the Recipient takes all appropriate steps to the extent possible to restrict further disclosure by said authorities or court of the affected information, and information so disclosed is not otherwise removed from these secrecy obligations.

(b) Promptly upon request of the Disclosing Party or if this Agreement is terminated for any reason whatsoever, each Recipient agrees to return to the Disclosing Party all tangible embodiments (and all copies) thereof which are in its possession or under its control.

## 7.2 Restrictive Covenants; Consultation/Employment Agreements.

(a) As used in this Agreement, the "Restricted Period" means the period beginning on the Closing Date and ending the later of (i) the first anniversary of the date the Call Option Period or Put Option Period, as applicable, expires (as such terms are defined in the Members Agreement) or (ii) the date that is two (2) years after the termination of the respective consultation/employment agreement between Buyer and the respective Restricted Party entered into in conjunction with the transactions contemplated by this Agreement, if any; "Customer" means any customer of the Companies or the Restricted Business who licensed or purchased products or services from any of the Companies within the twenty four (24) month period preceding the Closing Date; the "Restricted Business" means the Business as it exists as of the Closing Date and such other businesses any of the Companies have been engaged in at any time during the one-year period prior to the Closing Date.

(b) Each of the Seller, Steven Lundberg, Leon Steinberg, Pradeep Sinha and Thomas Brennan (each a "Restricted Party") hereby irrevocably agrees that during his or its

respective Restricted Period, the Restricted Party shall not directly or indirectly (through any Person): (i) engage, within the Territory, in any Restricted Business; (ii) acquire an ownership share in, or otherwise manage, operate or control, participate in the ownership, management, operation or control of, or be connected with or have any beneficial share in, as a stockholder, director, officer, employee, agent, consultant, partner, investor, independent contractor or otherwise, any entity that engages or plans to engage, within the Territory, as all or any part of its business in any Restricted Business; or (iii) solicit the business of any Customer, provided, that a Restricted Party may be an investor holding not more than two percent (2%) of the outstanding shares of a public company engaged in a Restricted Business whose stock is available to the general public and is traded on a nationally recognized stock exchange; and provided further that, to the extent that Sections 9(a) and (b) of the Steinberg Employment Agreement, Sections 10(a) and (b) of the Sinha Employment Agreement, and Sections 8(a) and (b) of the Lundberg Consulting Agreement are either less restrictive than or provides exceptions to the general restrictive covenants, those lesser restrictions and those permitted exceptions shall, as to the particular Restricted Party who is a party to such Transaction Document that is an employment or consulting agreement, be deemed fully applicable to the covenants and restrictions set forth herein to the same extent as if fully set forth herein. If any Restricted Party violates any of the restrictions contained in this Section 7.2, the Restricted Period applicable to that Restricted Party shall be increased by the period of time from the commencement of any such violation until the time such violation shall be cured by that Restricted Party.

(c) It is the intention of the Parties that the provisions of this Section 7.2 be enforced to the fullest extent permissible, and that the unenforceability (or judicial modification) of any provisions of this Section 7.2 shall not render unenforceable, or impair, the remainder of the provisions of this Section 7.2.

(d) Each Restricted Party acknowledges that this Section 7.2 is an independent covenant within this Agreement; is independent of any covenant of a similar nature set forth in any Transaction Document, including without limitation any consultation/employment agreement between Buyer and the respective Restricted Party entered into in conjunction with the transactions contemplated by this Agreement; that this covenant shall survive the Closing; and shall be treated as an independent covenant for the purposes of enforcement. With respect to this covenant, each Restricted Party hereby acknowledges receipt of adequate consideration and other good and valuable consideration, including the consummation of the transactions contemplated by this Agreement.

**7.3 Equitable Relief.** Each Party hereto acknowledges and agrees that any violation of the undertakings contained in Sections 7.1 or 7.2 hereof would cause the injured party immediate, substantial and irreparable injury for which it has no adequate remedy at law. Accordingly, each Party agrees that in the event of its breach of any said undertakings, the injured party be entitled to temporary and permanent injunctive relief in any court of competent jurisdiction without the need to post bond and without proving that damages would be inadequate.

**7.4 Use of Names.** The Parties acknowledge and agree that, unless otherwise agreed upon in writing by the Parties, no Party has the right to use the trademarks, service names, logos and/or trade names of the other Parties or any other names confusingly similar to them.

**7.5 Transfer of Interests in Intellevate.** Except as expressly permitted herein, each Party agrees that it shall not transfer, sell, assign, distribute, exchange, pledge or otherwise encumber all or part of the Interests it may own in Intellevate to any third party except in accordance with the Company LLC Agreement and the Members Agreement.

## **ARTICLE VIII CLOSING CONDITIONS**

**8.1 Conditions to Obligations of Each Party.** The obligations of each Party to consummate the transactions to be performed by such Party in connection with the Closing is subject to satisfaction of the following condition: No Proceeding shall be pending or threatened before any Governmental Body or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, (iii) materially adversely affect the right of either Buyer or Seller to own membership interests in Intellevate, or (iv) materially adversely affect the right of Buyer to operate the Business (and no such injunction, judgment, order, decree, ruling, or charge shall be in effect).

**8.2 Conditions to Obligation of Buyer.** The obligations of Buyer to consummate the transactions to be performed by each such Party in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(a) the representations and warranties of the Seller Parties set forth in Article III hereof (i) shall be true and correct in all respects (in the case of any representation or warranty containing any materiality qualification) or in all material respects (in the case of any representation or warranty without any materiality qualification) at and as of the date hereof and the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect;

(b) the Seller Parties shall have performed and complied in all material respects with all of their covenants hereunder at or prior to the Closing Date;

(c) the Seller Parties shall have delivered to Buyer the following:

(i) certificates, in a form reasonably satisfactory to Buyer and dated the Closing Date, of each Seller Party and an executive officer of each of the Companies and confirming the matters set forth in Section 8.2(a) and (b);

(ii) an opinion of counsel to the Seller Parties, in form and substance reasonably satisfactory to Buyer and dated as of the Closing Date;

(iii) certificates, in form and substance reasonably satisfactory to Buyer, signed by the secretary of each Seller Party that is not a natural person or each Company (as applicable) and dated the Closing Date, certifying as to (1) resolutions adopted by the board of directors or members of such Seller Party approving the execution by such Seller Party of this Agreement; (2) the



organizational documents and by-laws of each Company as in effect on the Closing Date; and (3) the signatures and incumbency of individuals signing this Agreement on behalf of such Parties;

- (iv) copies of the consents identified in Schedule 5.2;
- (v) the Company LLC Agreement, executed by Seller;
- (vi) the Members Agreement, executed by the Seller Parties;
- (vii) such bills of sale, endorsements, assignments and other documents as may (in the reasonable judgment of Buyer) be reasonably necessary or appropriate to assign, convey, transfer and deliver to Buyer good and valid title to the Interests in Intellevate free of any Encumbrances;
- (viii) the Strategic Alliance Term Sheet, executed by PIP and SLWK;
- (ix) the SLWK-India Agreement, executed by SLWK;
- (x) the SLWK-PIP Agreement, executed by SLWK;
- (xi) the SLWK Transitional Services Agreement, executed by SLWK and PIP;
- (xii) the Joint Venture Agreement Term Sheet, executed by Steven Lundberg and Pradeep Sinha;
- (xiii) the Steinberg Employment Agreement, executed by Leon Steinberg;
- (xiv) the Sinha Employment Agreement, executed by Pradeep Sinha;
- (xv) the Lundberg Consulting Agreement, executed by Steven Lundberg;
- (xvi) the Kalis Restrictive Covenant Agreement, executed by Janal Kalis;
- (xvii) the Equity Holder Letters of Representations, executed by each of holder of equity interests in Seller other than the Seller Owners;
- (xviii) the Payment and Release Agreements, executed by each creditor of the Company;
- (xix) the Temporary Funds Account Agreement, executed by Seller; and
- (xx) the Copy of Company Software.

(d) the Intellevate Reorganization shall have been completed to the reasonable satisfaction of Buyer;

(e) between the date of this Agreement and the Closing Date, there shall have been no Material Adverse Effect relating to the Seller Entities or any Restricted Party; and

(f) all conditions precedent to the obligation of Buyer as defined under the FIP Purchase Agreement shall have been fulfilled.

**8.3 Conditions to Obligation of the Seller Parties.** The obligation of the Seller Parties to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(a) the representations and warranties of Buyer set forth in Article IV hereof (i) shall be true and correct in all respects (in the case of any representation or warranty containing any materiality qualification) or in all material respects (in the case of any representation or warranty without any materiality qualification) at and as of the date hereof and the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct does not have, individually or in the aggregate, a Material Adverse Effect;

(b) Buyer shall have performed and complied in all material respects with all of their covenants hereunder at or prior to the Closing Date;

(c) Buyer shall have delivered to the Seller the following:

(i) certificates, in a form reasonably satisfactory to the Seller and dated the Closing Date, of an executive officer of Buyer confirming the matters set forth in Sections 8.3(a) and (b);

(ii) certificates, in form and substance reasonably satisfactory to the Seller Parties, signed by the secretary of the Buyer and dated the Closing Date, certifying as to (1) resolutions adopted by the board of directors of Buyer approving the execution by Buyer; and (2) the signatures and incumbency of individuals signing this Agreement on behalf of Buyer;

(iii) the Company LLC Agreement, executed by Buyer;

(iv) the Members Agreement, executed by Buyer;

(v) the Strategic Alliance Term Sheet, executed by Buyer;

(vi) the SLWK Transitional Services Agreement, executed by Buyer;

(vii) the Joint Venture Agreement Term Sheet, executed by Buyer;

(viii) the Steinberg Employment Agreement, executed by Buyer;

- (ix) the Sinha Employment Agreement, executed by Buyer;
  - (x) the Lundberg Consulting Agreement, executed by Buyer;
  - (xi) the Kalis Restrictive Covenant Agreement, executed by Buyer; and
  - (xii) the Temporary Funds Account Agreement, executed by Buyer;
- (d) the term sheet for the Incentivization Plan shall have been agreed upon in the form attached hereto as Exhibit O;
- (e) between the date of this Agreement and the Closing Date, there shall have been no Material Adverse Effect relating to Buyer;
- (f) Buyer shall have obtained professional insurance/errors and omissions coverage with respect to all acquired Companies effective as of the Closing Date, covering claims arising from the Business due to errors or omissions, negligence or processing errors on a "claims made" basis, with limitations on liability of not less than \$10,000,000 and a deductible of not more than \$100,000; provided that Seller Parties shall have caused to have provided to Buyer all documents and information requested by any insurer or its agents or brokers in connection with such insurance coverage.
- (g) all conditions precedent to the obligation of the Seller Parties as defined under the FIP Purchase Agreement shall have been fulfilled.

## **ARTICLE IX TERMINATION**

**9.1 Termination of Agreement.** The Parties may terminate this Agreement as provided below:

- (a) the Parties may terminate this Agreement by written consent of the Seller Parties and Buyer at any time prior to the Closing Date;
- (b) Buyer may terminate this Agreement by giving written notice to the Seller Parties at any time prior to the Closing Date (i) in the event any Seller Party has breached any representation, warranty, or covenant contained in this Agreement in any respect, Buyer has notified the Seller Parties of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach or (B) if the Closing shall not have occurred on or before August 12, 2005 by reason of the failure of any condition precedent under Section 8.2 hereof; and
- (c) the Seller Parties may terminate this Agreement by giving written notice to Buyer at any time prior to the Closing Date (i) in the event Buyer has breached any representation, warranty, or covenant contained in this Agreement in any respect, the Seller Parties have notified Buyer of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach or (B) if the Closing shall not have occurred on or

before August 12, 2005 by reason of the failure of any condition precedent under Section 8.3 hereof.

**9.2 Effect of Termination.** If any Party duly terminates this Agreement pursuant to the provisions of Section 9.1 above, all rights and obligations of the Parties hereunder shall terminate without any liability of any Party to any other Party (except for any liability of any Party then in breach); provided, however, that the confidentiality provisions contained in this Agreement shall survive any such termination.

## **ARTICLE X INDEMNIFICATION**

### **10.1 Survival of Representations, Warranties and Agreements.**

(a) Except as otherwise provided in Section 10.1(b), the representations, warranties, covenants and agreements of each Party hereto shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of, or any knowledge of, any other Party hereto, any affiliate of such Party or any of their officers, directors or representatives, whether prior to or after the execution of this Agreement.

(b) Subject to Section 10.1(c), the Parties' representations and warranties in this Agreement or in any document or instrument delivered pursuant to this Agreement shall survive the Closing and continue until eighteen months after the Closing Date (the "Expiration Date"), except that the representations, warranties and covenants of the Parties set forth in Sections 3.1, 3.5, 3.8, 3.14 and 3.16 shall survive the Closing and continue indefinitely. Notwithstanding the preceding sentence, any representation or warranty in respect of which indemnity may be sought hereunder shall survive the time at which it would otherwise terminate pursuant to the preceding sentence, if written notice specifying the inaccuracy or breach thereof shall have been given to the party against whom such indemnity may be sought prior to the Expiration Date. The Parties' covenants and agreements in Articles V, VI, VII and X of this Agreement shall survive the Closing indefinitely or for the period of time, if any, specified with respect to such covenant or agreement.

(c) The indemnification obligations of the Seller Parties pursuant to Section 10.2 with respect to any (i) claims based on fraud or (ii) claims for Patent Infringement Damages shall survive the Closing and continue until and through the expiration of the Put Option Period (unless the Call Option has been exercised prior thereto, in which case through the date of the Call Exercise Notice) (as such terms are defined in the Company LLC Agreement).

### **10.2 Obligation of the Seller Parties to Indemnify, Reimburse, etc.**

(a) Subject to the provisions of Sections 10.1(b) and 10.4, the Seller Parties hereby jointly and severally agree to indemnify, defend and hold harmless Buyer and its successors, assigns, directors, officers, stockholders, members, managers, control persons, employees, affiliates, agents, representatives, accountants and attorneys (collectively, the "Buyer Indemnitees") from and against any and all costs and expenses (including, without limitation, reasonable attorneys' fees and reasonable expenses of investigation), judgments, fines, losses, claims, damages, liabilities or amounts paid in settlement other than in connection with any

Patent Infringement Claim (collectively, "Losses") imposed on, incurred or suffered by or asserted against any Buyer Indemnitee as a result of, arising out of or in connection with (i) any breach of or inaccuracy in any representations or warranties of the Seller Parties or in any document or instrument delivered pursuant to this Agreement, (ii) any failure by a Seller Party to perform or comply with any covenant or agreement on such Seller Party's part contained in this Agreement, (iii) any Employee Benefit Plan and (iv) any failure of the Company to comply with the Companies Act in respect of the matters set forth in Schedule 10.2(a)(iv); *provided, however*, that the rights of all Buyer Indemnitees to recover any Losses with respect to any Patent Infringement Claim shall be determined solely as set forth in Section 10.2(b) hereof.

(b) Subject to the provisions of Section 10.4, the Seller Parties hereby jointly and severally agree to indemnify and hold harmless the Buyer Indemnitees from and against any judgments, fines, damages, license fees or amounts paid in settlement imposed on, incurred or suffered by or asserted against any Buyer Indemnitee (collectively, the "Patent Infringement Damages") as a result of, arising out of or in connection with any infringement, interference, reissue or reexamination proceeding or other claim of any third party involving any Patent owned or used by any of the Companies (a "Patent Infringement Claim") including, without limitation, any proceeding involving WhitServe LLC or any of its directors, officers, stockholders, members, managers, control persons, employees, affiliates, agents or representatives (a "Whitmyer Proceeding"), only to the extent:

(i) that, with respect to a Patent Infringement Claim other than a Whitmyer Proceeding (a "Non-Whitmyer Claim"), the Patent Infringement Damages shall be determined based on the amount of the aggregate cash receipts or revenues (without duplication) of the Companies from sales of products and services that are within the scope of the allegedly infringed patent that have been reasonably apportioned to the product or service features of the Companies that allegedly infringe the infringed patent; provided that the Seller Parties shall have no indemnification obligations under this Section 10.2(b)(i) relating to any Non-Whitmyer Claims arising more than thirty-six (36) months after the Closing Date; and

(ii) of, with respect to a Whitmyer Proceeding, an amount equal to the product of (x) the Patent Infringement Damages derived from the Whitmyer Proceeding multiplied by (y) the quotient of (A) the aggregate cash receipts or revenues (without duplication) of the Companies from sales of products and services that are within the scope of such Whitmyer Proceeding and that have been reasonably apportioned to the product or service features of the Companies that allegedly infringe the infringed patent during any periods prior to the Closing Date that are within the scope of such Whitmyer Proceeding divided by (B) the aggregate cash receipts or revenues (without duplication) of the Companies and Buyer and its Affiliates from sales of products and services that are within the scope of such Whitmyer Proceeding during any periods that are within the scope of such Whitmyer Proceeding.

For the avoidance of doubt, Patent Infringement Damages that are indemnifiable by the Seller Parties shall not include attorneys' fees or expenses or any other litigation expenses (including,

by way of example and not in limitation thereof, fees and expenses of expert witnesses, accountants or other third parties) nor shall they include any Losses incurred in respect of any period after the Closing Date. Furthermore, for the avoidance of doubt, except with respect to a claim for indemnification for a breach of the representations and warranties in Section 3.8, this Section 10.2(b) shall be Buyer's sole source of recovery against any Seller Party of Patent Infringement Damages with respect to any and all third party patents or patent application matters.

**10.3 Obligation of Buyer to Indemnify, Reimburse, etc.** Subject to the provisions of Sections 10.1(b) and 10.4, Buyer hereby agrees to indemnify, defend and hold harmless the Seller Parties and their respective successors, assigns, directors, officers, stockholders, members, managers, control persons, employees, affiliates, agents, representatives, accountants and attorneys (collectively, the "Seller Indemnitees") from and against any and all Losses imposed on, incurred or suffered by or asserted against any Seller Indemnitee as a result of, arising out of or in connection with (i) any breach of or inaccuracy in any representations or warranties of Buyer in this Agreement or in any document or instrument delivered pursuant to this Agreement and (ii) any failure by Buyer to perform or comply with any covenant or agreement on the part of Buyer contained in this Agreement.

**10.4 Limits on Indemnification, Reimbursement, etc.**

(a) Obligations of the Seller Parties. With respect to matters referred to in Section 10.2(a)(i) and Non-Whitmyer Claims in the aggregate, and except for any obligations of the Seller Parties pursuant to Section 2.2 of this Agreement, no amount shall be payable by the Seller Parties under this Article X in respect of any individual claim less than \$1,000 and unless and until the aggregate amount of all claims for indemnification by the Buyer Indemnites (excluding individual claims less than \$1,000) (the "Buyer Claims") together with Buyer Claims, as defined in the FIP Purchase Agreement, exceed \$250,000, without duplication of the Deductible Amount, as defined in the FIP Purchase Agreement (the "Deductible Amount"), whereupon the indemnification obligations of the Seller Parties shall become effective, and Seller Parties shall be liable for the amount by which such claims exceed the Deductible Amount. For the purposes of computing the aggregate amount of Buyer Claims, the amount of each Buyer Claim shall be deemed to be an amount net of any tax benefit to the Buyer Indemnites (or any of them) and net of any insurance recovery by the Buyer Indemnites (or any of them). The Buyer Indemnites shall first seek to satisfy any Buyer Claims from any applicable insurance policies in effect as of the date of such Buyer Claims that are substantially similar in terms, conditions, coverage limits and premiums to those, if any, obtained by the Companies and currently in effect as of the date hereof for claims substantially similar to such Buyer Claims. For the avoidance of doubt, except as otherwise expressly provided in this Agreement, nothing contained in the foregoing sentence shall obligate the Buyer or any of the Buyer Indemnites to obtain any such insurance policies. The phrase "net of any insurance recovery by the Buyer Indemnites (or any of them)" in this Section 10.4(a) shall mean, with respect to a particular Loss, the amount of any actual insurance recovery by the Buyer Indemnites (or any of them) in respect of such Loss. The Buyer Indemnites shall seek to satisfy any Buyer Claims that are Whitmyer Proceedings from the Indemnification Escrow Account until the Indemnification Escrow Account is exhausted or the funds deposited therein are released pursuant to Section 6.3(b) hereof, but the Buyer Indemnites' right to indemnification in full for any Whitmyer

Proceedings arising in the thirty-six month period specified in Section 10.2(b) shall not be limited to the funds in the Indemnification Escrow Account.

The aggregate liability of the Seller Parties with respect to the indemnification obligations pursuant to Article X hereof, together with the aggregate liability of the Other Seller Parties with respect to the indemnification obligations pursuant to Article X of the FIP Purchase Agreement, in respect of matters referred to in Section 10.2(a)(i) of this Agreement and Section 10.2(a)(i) of the FIP Purchase Agreement, shall be limited to an amount equal to the original aggregate amount of the Indemnification Escrow Funds contributed to the Indemnification Escrow Account by the Buyer pursuant to Section 2.3(b) hereof and Section 2.3(b) of the FIP Purchase Agreement; *provided, that*, no limitation shall apply to (i) claims based on fraud or (ii) a claim based on a breach of the representations and warranties set forth in Sections 3.5, 3.8, 3.14 or 3.16 of this Agreement, (iii) a claim for Patent Infringement Damages or (iv) any obligations of the Seller Parties set forth in Section 2.2 hereof; *provided, further that*, any liability of any Seller Owner for breach of any covenant in Article VII or in Section 6.2 shall be the several, and not joint, responsibility of only the breaching Seller Owners and not the joint and several responsibility of all other Seller Owners.

(b) Obligations of Buyer. With respect to matters referred to in Section 10.3(i), no amount shall be payable by Buyer under this Article X in respect of any individual claim less than \$1,000 and unless and until the aggregate amount of all claims for indemnification by the Seller Indemnitees (excluding individual claims less than \$1,000) (the "Seller Claims") exceed the Deductible Amount, whereupon the indemnification obligations of Buyer shall become effective, and Seller Parties shall be liable for the amount by which such claims exceed the Deductible Amount. For the purposes of computing the aggregate amount of Seller Claims, the amount of each Seller Claim shall be deemed to be an amount net of any tax benefit to the Seller Indemnitees (or any of them) and net of any insurance recovery by the Seller Indemnitees (or any of them). The phrase "net of any insurance recovery by the Seller Indemnitees (or any of them)" in the immediately preceding sentence shall mean, with respect to a particular Loss, the amount of any actual insurance recovery by the Seller Indemnitees (or any of them) in respect of such Loss.

The aggregate liability of Buyer with respect to the indemnification obligations pursuant to Article X shall be limited to an amount equal to twenty percent (20%) of the Purchase Price in respect of matters referred to in Section 10.3(i); *provided, that*, no limitation shall apply to claims based on fraud.

(c) No Duplication of Recovery. Any liability for indemnification under this Agreement shall be determined without duplication of recovery by reason of the state of facts (i) giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement or (ii) taken into account in determining the Final Indebtedness.

(d) Exclusive Remedy. Except with respect to claims brought by the Buyer pursuant to Section 2.2 hereof, in which case Buyer may exercise the rights set forth in Section 2.2(d) hereof, the rights set forth in this Article X shall be the sole and exclusive remedy of each of the parties hereto for any misrepresentations or breaches of any of the representations, warranties, covenants and/or agreements contained in this Agreement or in any document or

instrument delivered pursuant to this Agreement, other than injunctive and other equitable relief remedies.

#### 10.5 Indemnification Procedures.

(a) Notice. Whenever any third Person claim shall arise for which indemnification may be sought hereunder (a "Claim"), the party entitled to indemnification (the "Indemnitee") shall, within ten (10) days of the receipt of such Claim, give notice to the Parties obligated to provide indemnity (the "Indemnitor") with respect to the Claim after the receipt by the Indemnitee of reliable information as to the facts constituting the basis for the Claim, the amount of the Claim and copies of all information provided to the Indemnitee by the third Person making the Claim with respect thereto; provided, that the failure to timely give such notice shall not relieve the Indemnitor from any obligation under this Agreement, except to the extent, if any, that the Indemnitor is materially prejudiced thereby.

(b) Defense.

(i) Upon delivery of notice from the Indemnitee of a Claim, the Indemnitor may elect to assume the defense of such Claim by selecting counsel reasonably satisfactory to the Indemnitee to defend the Indemnitee against the matter from which the Claim arose, at the Indemnitor's sole cost, risk and expense; provided, however, that Indemnitor shall have no right to assume the defense of a Claim on behalf of Indemnitee with respect to a Patent Infringement Proceeding or with respect to a Claim for which Indemnitor is also a party and the Indemnitee determines in good faith that joint representation would be inappropriate. The Indemnitee shall cooperate in all reasonable respects, at the Indemnitee's sole cost, risk and expense, with the Indemnitor and its counsel in the investigation, trial, defense and any appeal arising from the matter from which the Claim arose and shall deliver to the Indemnitor or its counsel copies of all pleadings and other information within the Indemnitee's knowledge or possession reasonably requested by the Indemnitor or its counsel that are relevant to the defense of the subject of any such Claim and that will not prejudice the Indemnitee's position, claims or defenses. The Indemnitor shall have the right to elect to settle any claim for monetary damages paid in full by Indemnitor without the Indemnitee's consent only if the settlement includes a complete release of the Indemnitee, does not include any finding or admission of any violation of law or any violation of the rights of any person and has no effect on any other claims that may be made against the Indemnitee. Any other settlement will be subject to the consent of the Indemnitee, which consent will not be unreasonably withheld. The Indemnitor may not admit any liability of the Indemnitee or waive any of the Indemnitee's rights without the Indemnitee's prior consent, which consent shall not be unreasonably withheld. If the subject of any Claim results in a judgment or settlement consistent with the terms of this Section 10.5(b), such judgment or settlement shall be promptly paid in accordance with this Article X.

(ii) Notwithstanding the foregoing, if the Indemnitee determines in good faith that there is a reasonable probability that a Claim adversely affects the Indemnitee or its Affiliates other than as a result of monetary damages for which it could be entitled to indemnification under this Agreement, the Indemnitee may, by notice to the Indemnitor, assume the exclusive right to defend, but not settle, such Claim by providing counsel to defend the Indemnitee against the matter from which the Claim arose, at the Indemnitee's sole cost, risk and



expense. The Indemnitor shall cooperate in all reasonable respects, at the Indemnitor's sole cost, risk and expense, with the Indemnitee and its counsel in the investigation, trial, defense and any appeal arising from the matter from which the Claim arose. The Indemnitor shall not be liable for any settlement effected without its prior consent, such consent not to be unreasonably withheld.

(iii) Except with respect to claims brought by the Buyer pursuant to Section 2.2 hereof, in which case Buyer may exercise the rights set forth in Section 2.2(d) hereof, the cost of any indemnification to be made by the Seller Parties for the benefit of the Buyer Indemnitees under this Agreement shall be deducted first from the Indemnification Escrow Account until there are no funds remaining in the Indemnification Escrow Account, and then, at the Seller Parties' option, by transfer to Buyer of Seller's percentage interest in the Company, using a per-Interest (as defined in the Company LLC Agreement) valuation as of the Closing Date of \$80,000<sup>1</sup>.

(iv) This Section 10.5(b) is subject to the limitations set forth in Sections 10.1(b) and 10.4.

## **ARTICLE XI MISCELLANEOUS**

**11.1 Press Releases and Public Announcements.** No Party shall issue any press release or make any public announcement relating to the subject matter of this Agreement without the prior written approval of the other Parties; provided, however, that any Party may make any public disclosure it believes in good faith is required by Applicable Law or any listing or trading agreement concerning its publicly-traded securities (in which case the disclosing Party will use its reasonable best efforts to advise the other Party prior to making the disclosure).

**11.2 No Third-Party Beneficiaries.** Except with respect to the Seller Indemnitees and the Buyer Indemnities under Article X hereof, this Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

**11.3 Entire Agreement.** This Agreement (including the schedules, exhibits and documents referred to herein) and the other Transaction Documents constitute the entire agreement among the Parties regarding the subject matter hereof and supersede all prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they related in any way to such subject matter.

**11.4 Succession and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Parties, except that Buyer may assign its rights hereunder to any Affiliate or any entity that acquires all or substantially all of Buyer's assets.

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<sup>1</sup> Subject to confirmation of calculation.

**11.5 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which taken together shall be deemed one agreement.

**11.6 Headings.** The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of, this Agreement or any provision hereof.

**11.7 Notices.** All notices and other communications made or required to be given pursuant to this Agreement shall be in writing and shall be (w) personally delivered, (x) mailed by first-class mail, postage fully prepaid, (y) sent by recognized overnight courier, or (z) sent by facsimile, and confirmed by letter, addressed as follows (or as any Party may hereafter provide by notice to the other Parties):

if to Buyer:

CPA House  
11-15 Seaton Place  
St. Helier  
Jersey  
Channel Islands  
JE1 1BL  
Attention: Christopher M. Lintell  
Telephone Number: +44 (0) 1534 811421  
Facsimile Number: +44 (0) 1534 811274

with a copy to:

Kramer Levin Naftalis & Frankel LLP  
1177 Avenue of the Americas  
New York, NY 10036  
Attention: Kenneth P. Kopelman, Esq.  
Telephone Number: (212) 715-9358  
Facsimile Number: (212) 715-8000

if to the Seller Parties:

International IP Ventures, LLC  
1600 TCF Tower  
121 South 8<sup>th</sup> Street  
Minneapolis, MN 55402  
Attention: Steven Lundberg, Chairman  
Telephone Number: (612) 373-6902  
Facsimile Number: (612) 339-3061

Steven Lundberg  
4517 Arden Avenue South  
Edina, MN 55424

Telephone Number: (952) 922-8799  
Facsimile Number: None

Leon Steinberg  
311 Westwood Drive North  
Golden Valley, MN 55422  
Telephone Number: (763) 374-4682  
Facsimile Number: None

Pradeep Sinha  
4050 Wild Meadows Drive  
Medina, MN 55340  
Telephone Number: (763) 478-3990  
Facsimile Number: None

Janal Kalis  
1235 Yale Place #701  
Minneapolis, MN 55403  
Telephone Number: (612) 343-0856  
Facsimile Number: None

Thomas Brennan  
16930 45<sup>th</sup> Avenue North  
Plymouth, MN 55446  
Telephone Number: (763) 550-1617  
Facsimile Number: None

In each case, with a copy to:

Dorsey & Whitney LLP  
50 South Sixth Street  
Minneapolis, MN 55402  
Attention: Robert A. Rosenbaum, Esq.  
Telephone Number: (612) 340-5681  
Facsimile Number: (612) 340-7800

Notice shall be considered duly given (i) on the day when delivered personally, (ii) five (5) Business Days after the date on which mailed by first-class mail, postage fully prepaid, (iii) on the Business Day immediately succeeding the day on which notice is sent by recognized overnight courier, and (iv) on the Business Day when sent by facsimile, provided receipt of such transmission is confirmed orally or in writing on such day (and if not so confirmed, then on the day such confirmation is given by the recipient).

**11.8 Conflicts.** In the event of any conflicts among this Agreement, the Company LLC Agreement, or the Members Agreement, the order of precedence from highest to lowest shall be the Members Agreement, the Company LLC Agreement, and this Agreement.

**11.9 Governing Law.** This Agreement, and the application or interpretation hereof, shall be governed exclusively by its terms and by the internal laws of the State of Delaware, including without limitation 6 Del. C. § 2708, without regard to principles of conflicts of law. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Wilmington, Delaware without regard to principles of conflicts of laws and hereby irrevocably waive any claim they may have that any proceedings brought in such courts have been brought in an inconvenient forum and agree that each may be served with legal process in accordance with such statute.

**11.10 WAIVER OF JURY TRIAL.** EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT WHICH EACH OF THEM, RESPECTIVELY, MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

**11.11 Amendments and Waivers.** No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all of the Parties. Any provision of this Agreement maybe waived if, and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**11.12 Severability; Specific Performance.**

(a) If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, rule or regulation by a court of competent jurisdiction as provided by this Agreement, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision has never comprised a part hereof. Furthermore, the Parties hereto agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration or area of the term or provision, or to delete specific words or phrases, and to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified.

(b) The Parties recognize that a Party shall have no adequate remedy at law for breach by another Party of the requirements of this Agreement and, in the event of such breach, the Parties hereby agree that the non-breaching Parties shall be entitled to specific performance, or any other appropriate remedy, to enforce performance of such requirements without the need to post a bond or other surety therefor. Nothing herein shall be construed as prohibiting any Party from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of damages.

**11.13 Expenses.** Each of the Parties will bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby; provided, however, that travel and entertainment costs and expenses less than \$15,000 that have been charged to the Companies shall be deemed to be expenses of the Companies for purposes of this Agreement.

**11.14 Construction.** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context otherwise requires. The Parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any Party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the Party has not breached shall not detract from or mitigate the fact that the Party is in breach of the first representation, warranty, or covenant.

**11.15 Appointment of Seller Representative.**

(a) Each Seller Owner agrees that Steven Lundberg shall be deemed appointed, without any further action, as the representative of the Seller Owners and the Seller (Steven Lundberg and any successor or successors being the "Seller Representative"). The Seller and each Seller Owner agrees that the Seller Representative (in his or her capacity as such) shall be irrevocably constituted and appointed as such Seller and Seller Owner's true and lawful agent, proxy and attorney-in-fact pursuant to this Section 11.15. The Seller Representative shall have full power and authority to act for the Seller and each Seller Owner and in the Seller and each Seller Owner's name, place and stead, and in any and all capacities to do and perform every act and thing required or permitted to be done in connection with the transactions contemplated by this Agreement, as fully to all intents and purposes as such Seller Owner might or could do in person. All decisions and actions by the Seller Representative shall be binding upon the Seller and all of the Seller Owners, and neither the Seller nor any Seller Owner shall have the right to object to, dissent from, protest or otherwise contest the same.

(b) The Seller Representative shall not be liable for any act done or omitted hereunder as Seller Representative while acting in good faith and in the exercise of reasonable judgment, and any act done or omitted pursuant to the advice of counsel, independent public accountants and other experts shall be conclusive evidence of such good faith.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

Intellevace LLC Purchase Agreement

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized representatives as of the date first set forth above.

CPAUSH LTD.

By: MA Shanahan  
Name: M A SHANAHAN  
Title: DIRECTOR

INTERNATIONAL IP VENTURES,  
LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Steven Lundberg

\_\_\_\_\_  
Leon Steinberg

\_\_\_\_\_  
Pradeep Sinha

\_\_\_\_\_  
Janal Kalis


\_\_\_\_\_  
Thomas Brennan


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized representatives as of the date first set forth above.

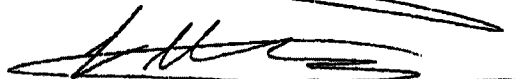
**CPAUSH LTD.**


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


**INTERNATIONAL IP VENTURES,  
LLC**


By:   
Name: STEVEN LUNDBERG  
Title: PRESIDENT

  
Steven Lundberg

  
Leon Steinberg

  
Pradeep Sinha

  
Janal Kalis

  
Thomas Brennan

**Intellevate Reorganization**

1. Intellevate will acquire 100% of the Interests in PIP from the current owners in exchange for the issue and allotment of new equity interests in itself.
2. FIP will acquire 100% of the Interests in SeekIP of the current owners in exchange for the issue and allotment of new equity interests in itself.
3. International IP Ventures LLC will acquire 100% of the Interests in Intellevate from the current owners including those who became owners pursuant to Section 1 above in exchange for the issue and allotment of new equity interests in itself.
4. Estella IP Ventures LLC will acquire 100% of the interests in FIP in from the current owners including those who became owners pursuant to Section 2 above in exchange for the issue and allotment of new equity interests in itself.
5. The Seller Parties will also procure that FIP acquires all assets and intellectual property rights comprising BizFIP, as well as all trademarks and other rights to use the name "BizFIP" to the extent FIP does not already have such rights. The Seller Parties will further procure that Intellevate, FIP, PIP, and Seek IP, respectively, acquire all trademarks and other rights to use the names "Intellevate", "FoundationIP", "PortfolioIP", and "SeekIP", respectively, to the extent the relevant Company does not already have such rights.
6. The number of interests which each of the Seller Parties will receive in the respective Sellers for the transfers of equity interest (and in the case of BizFIP, assets and IP rights) outlined above shall be determined by the Seller Parties.
7. The Seller Parties shall also formalize in writing any commercial agreements or Intellectual Property licenses between any Company on the one hand and Seller Parties or their Affiliates on the other hand (including, without limitation, Contata) on arms-length terms.
8. Intellevate, FIP, PIP and SeekIP will be converted from Minnesota limited liability companies into Delaware limited liability companies by merger of the existing Minnesota limited liability companies into newly-created Delaware limited liability companies.



<b>Product or Service Idea</b>	<b>Status as JVE Opportunity or other</b>
<b>CoreIP</b> and related services -- track claims or office actions or references or amendments or customer products or technologies, and capture key relationships between them, including amendment of claims over time. Can be stand alone or interfaced with FIP.	JVE Opportunity
<b>Claimmapper</b> and related services. Map claim subject matter for example based on a pre-existing ontology, or on the fly claim categorization	JVE Opportunity
<b>Technology and claim coverage mapping technology</b> for claim level coverage mapping using visualization of technology/product space and visualization of claim space and prior art space, to allow for portfolio coverage/development tracking. May map prior art coverage, third party patent coverage, and customer patent coverage, to show interrelationship of these key spaces in a visual way.	JVE Opportunity
<b>Portfolio Planning and tracking</b> tool, with some features in common with above item, that allows a client or attorney to plan a patent portfolio and to track success at building that portfolio based on goals for specific claim coverage. Set portfolio goals and track results against goals. May use other technologies mentioned here. Can show automatically generated 50,000 foot view of patent distribution in field, like a patent map, to show concentration of patents, and not just specific view. Could show concentration by competitors as well. This would be useful in ongoing portfolio management and goal setting.	This tool is not yet fully conceptualized and may or may not be a fit for FIP, or potentially only a partial fit. The parties will discuss once the product is more fully evolved.
<b>Performance Management Products or Services</b>	Owned by Steven Lundberg. Will grant CPA a right of first refusal to purchase any product or company arising from this opportunity.

<p><b>Mining of public PTO databases</b> involving extracting data in scanned form only (not in machine readable form other than as might be read using OCR) and placing that data in machine readable form in a data structure, for example taking scanned office actions or responses from PAIR or other on-line system and typing into a system or using OCR to enter into a system information from a scanned office action or response.</p>	<p>JVE Opportunity</p>
<p><b>IP Quality Manager</b> – quality checklist system loaded with checklist content (Schwegman based for starters) that is maintained as content (like country law) and that can be modified by customer to reflect their own checklists. Checklists can be used on-line, or printed with for example bar codes, filled in as process requires, and then scanned to determine compliance with process, or otherwise checked off. Quality manager may also, or solely, provide for importing data from IP systems such as FIP or other system, data from PAIR or Private PAIR, or data from accounting system, to cross check information to find possible errors or deviances from quality compliance policies. Can be implemented as a FIP module, or a limited version could be implemented in FIP. Users of system may be allowed to display "certification" trademark indicating they are compliant. Also, may provide consulting services with this.</p>	<p>JVE Opportunity</p>

<p><b>Free public IP "Google" style portal</b> uses a tool such as Bright Planet or custom made tool to build aggregate of publicly available IP data such as patent or trademark data, and provides free public search engine (with some potential subscription services) with simple front end like Google and special algorithms taking into account typical attributes of IP data that help user find patents or trademarks of interest without using any special searching logic. Automatic translation of international references would provide index, with full text translation on the fly. Portal would be funded on an on-line ad basis like other search engines. Goal would be to be the portal of choice for simple searches for attorneys, and portal of choice overall for engineers and scientists.</p>	<p>JVE Opportunity</p>
<p><b>On-line Prior Art Search and Analysis Room</b> allows for loading search result in on-line system that provides, for instance, electronic copies of references that can be further searched or analyzed using tools provided in Analysis room. References may be run through an indexing tool that provides an index to key elements, like numbers on drawings, or key terms. May use a tool such as that developed by David Fan. Would allow a paper report to be sent to printer with all references and analysis in a pre-formatted report for use on paper. Determines, electronically or otherwise, priority dates, to compare against invention date. Could allow for drafting patentability opinions on-line. Will be used by Intellevate to differentiate services. Could use CoreIP ideas in here, or Claimmapper ideas. Can show automatically generated 50,000 foot view of patent distribution in field, like a patent map, to show concentration of patents, and not just specific view. Could show concentration by competitors as well.</p>	<p>JVE Opportunity where Software, Services element belongs in Intellevate Services. Services to perform supporting functions will be priced to JVE at no greater than CPA's pricing for Exempt Transaction activities, unless agreed to by the parties.</p>
<p><b>On-line IP Analysis Room</b> for IP matters -- an on-line service wherein, for example, a file history may be loaded as an electronic relationship between various attributes of the file history, and allow users to annotate and cross reference key information, for example using some of the features of Claimmapper or CoreIP. Could use to analyze an infringement issue. Could use to automatically or by service, track developments in related cases, or perform prior</p>	<p>JVE Opportunity where Software, Services element belongs in Intellevate Services. Services to perform supporting functions will be priced to JVE at no greater than CPA's pricing for Exempt Transaction activities, unless agreed to by the parties</p>

<p>art cross-citation checks and other such things. Could use a vehicle to offer support services. Would offer ability to track sales of products against claims, and calculate potential damages, and other such features.</p>	
<p><b>IP analysis spreadsheet</b> -- Allows user to use a spreadsheet like tool that provides for a column and row arrangement of IP information, and "cell" functions that allow user to specify different types of relationships between items in rows and columns, and allows transposing of rows and columns and other such features. Allows for functions that are customized and specific to IP analysis. Key to tool is that users can use it easily based on knowledge of basic spreadsheet concepts.</p>	<p>JVE Opportunity where Software, Services element belongs in Intellevate Services. Services to perform supporting functions will be priced to JVE at no greater than CPA's pricing for Exempt Transaction activities, unless agreed to by the parties</p>
<p><b>Claimmapper</b> product infringement tracking, looking for similar technology that may relate to mapped claims, based on ontology information, components or constraints or classes, looking through public data for potential matches of infringing information.</p>	<p>JVE Opportunity. Any services element to this idea belongs to Intellevate Services. Services to perform supporting functions will be priced to JVE at no greater than CPA's pricing for Exempt Transaction activities, unless agreed to by the parties</p>
<p><b>IP Expert</b> allows user to specify point in IP process, such as point in prosecution of an application, and to determine based on that point all available options and test those options in an interactive format that dynamically determines the best option to take. Allows for structured analysis of other IP situations, such as how to respond to a particular type of restriction requirement, based on interactive questioning. Allows customization to user's preferences Provides for annual-maintenance fee for updates or for use on a per-click basis to analyze a situation. Start with most common situations and target paralegals and new attorneys, perhaps.</p>	<p>JVE Opportunity</p>

**Schedule 10.2(iv)**

**Possible Noncompliance with Companies Act**

1. Any failure of the Company to file a Form 2 or other filing required by the Companies Act in respect of any allotment of its shares.
2. Any failure of the Company to maintain statutory registers required by the Companies Act.

**Schedule 3.21 to Intellevate Services Purchase Agreement**

**Schedule of Pending Proceedings**

<b>Company</b>	<b>Proceeding</b>
1. Kreg Tool	Lapsed Annuity
2. Cornell Research	Lapsed Annuity
3. Whitserve, LLP	Have not been sue to our current knowledge, but suit may have been filed but not served.

Schedule 3.9(b) to FoundationIP Purchase Agreement

Schedule of Registered Domain Names

1. www.foundationip.com
2. www.foundationip.org
3. www.foundationip.net
4. www.intellicore.com
5. www.intellicore.net
6. www.intellicore.org

Schedule of Trademarks

FILE	TITLE	MATTER TYPE	COUNTRY	STATUS	SERIAL#	ACTIVITY
1. 80116.022US1	comPADR	Trademark - DRG	United States of America	Pending	78/340,689	Application has been published for opposition. Date of Status: 2005-05-10
2. 296.029US1	FOUNDATIONIP	Trademark - ORG	United States of America	Registered	78/454,953	Sec. 8/15 Due: 06/24/2008
3. 1531.003US1	FIPX	Trademark - ORG	United States of America	Allowed	78/150,154	Term of Use Due: 11/06/2005

Schedule of All Registered Copyrights

FILE	TITLE	MATTER TYPE	DATE FILED
1. 1531.003US1	FoundationIP Computer Program	Copyright	7/20/2005

Schedule of All Patents

FILE	TITLE	MATTER TYPE	DATE FILED	APPLICATION SERIAL NO.	BUYER
1. 750.009PRV	Transaction-based object oriented multipart database method and apparatus	Patent	9/10/1999	60/134,026	FIP
2. 750.006US1	Transaction-based object oriented multipart database method and apparatus	Patent	9/10/2000	09/658,795	FIP
3. 750.009US2	Transaction-based object oriented multipart database method and apparatus	Patent	6/22/2004	10/874,486	FIP
4. 296.013US1	DocNet Verification and data management system	Patent	12/28/2001	10/033,192	FIP
5. 296.023US1	Internet-based patent and trademark application management system	Patent	6/17/2001	09/872,701	FIP
6. 296.023AU1	Internet-based patent and trademark application management system	Patent	3/28/2002	2002254440	FIP
7. 296.023EP1	Internet-based patent and trademark application management system	Patent	3/28/2002	2444437	FIP
8. 296.022WO1	Internet-based patent and trademark application management system	Patent	3/28/2002	PCT/US02/09750	FIP
9. 296.043US1	Auto-filing of web results in an IP management system	Patent	2/18/2005	11/061,384	FIP
10. 296.049US1	System and method for prior art cross citation	Patent	2/18/2005	11/061,383	FIP
11. 296.044US1	System and method for a user interface in an IP management system	Patent	3/21/2005	11/085,811	FIP
12. 296.049US1	System and method for work flow templates in a professional services management system	Patent	3/21/2005	11/085,837	FIP
13. 296.050US1	System and method for intellectual property management	Patent	3/21/2005	11/085,810	FIP
14. 296.052US1	System and method for activity management using independent docket items	Patent	3/21/2005	11/085,814	FIP
15. 296.057US1	Electronic checklist for legal data management systems	Patent	UNFILED		JVR
16. 296.033US1	Methods, systems and emails to link emails to routers and organizations	Patent	4/23/2002	10/128,141	FIP
17. 296.050US1	Method for synchronizing information in multiple case management systems	Patent	5/10/2002	10/143,506	FIP
18. 1531.001PRV	System, functional data and methods for on-line collaborating using messaging, reporting, security, docketing, billing and document management	Patent	10/18/2001	60/335,732	FIP
19. 296.041US1	System and method for billing in a professional services information management system	Patent	3/21/2005	11/085,826	FIP
20. 296.043US1	System and method for router clients in an IP management system	Patent	3/21/2005	11/085,813	FIP
21. 296.099US1	A security system for an internet-based case management system, the security system based upon real world roles	Patent	UNFILED		FIP
22. 296.036US1	Case management system with integrated case extension management	Patent	2/14/2003	10/366,968	FIP
23. 1531.002US1	Web-based inventory system for documents cited in an information disclosure statement	Patent	3/1/2002	10/087,561	FIP
24. 750.009US1	Auto-docket system	Patent	10/24/2002	10/279,783	FIP
25. 296.037US1	Internet-based patent and trademark application management system	Patent	12/17/2003	10/741,166	FIP
26. 1531.004US1	System and method for information disclosure statement management	Patent	4/4/2004	10/091,761	FIP
27. 296.046US1	System and method for obtaining and disseminating research on-line data	Patent	2/18/2005	11/062,119	FIP
28. 296.047US1	System and method for parsing messages in a legal information system	Patent	2/18/2005	11/061,385	FIP
29. 296.051US1	Batch download of documents from a system for managing documents	Patent	3/21/2005	11/085,840	FIP
30. 296.053US1	System and method for automatic creation of activities in an information management system	Patent	UNFILED		FIP
31. 296.043US1	System and method for export control of technical documents	Patent	3/21/2005	11/085,815	FIP

32. 296 054US1	System and method for verifying email messages in an information management system	Patent	UNFILED		FIP
33. 296 017US1	Method for sending and receiving electronic messages	Patent	UNFILED		FIP
34. 296 021US1	Addressing PAIR through the Internet	Patent	UNFILED		FIP
35. 296 051US1	System and method for tracking claims in an IP management system (CoreIP patent for JV)	Patent	UNFILED		JVE
36. 296 056US1	Systems and methods for integrated client-centric and attorney-centric IP management	Patent	UNFILED		FIP
37. 750 021US1	Patent mapping (ClaimMapper patent for JV)	Patent	8/10/2004	10/915,265	JVE
38. 1301.001US1	Method and system for gathering information resident on global computer networks	Patent	7/1/1999	Pat. No. 6,594,662	FIP
39. 1301.001US2	Method and system for gathering information resident on global computer networks	Patent	7/1/2003	10/610,658	FIP
40. 1301.002US1	Web-based intermediary for intellectual property transfer	Patent	7/1/1999	09/346,063	FIP
41. 1301.004US1	Method and apparatus for intellectual property management on the Internet	Patent	6/15/2001	09/882,846	FIP
42. 296 040US1	System and method for public and private messages in an information management system	Patent	2/18/2005	11/061,312	FIP
43. 750 019US1	Patent mapping (ClaimMapper patent for JV)	Patent	7/27/2005	10/710,656	JVE
44. 750 019WO1	Patent mapping (ClaimMapper patent for JV) PCT	Patent	7/27/2005	PCT	JVE
45. 750 022PRV	Patent mapping (ClaimMapper patent for JV)	Patent	7/27/2005	10/710,656	JVE
46. 296 059PRV	Method and Apparatus for Cross Referencing Important Relationships... (CoreIP for JV)	Patent	5/27/2005	60/685,759	JVE
47. 296 058PRV	Patent Portfolio Analysis Spreadsheet (CoreIP for JV)	Patent	5/27/2005	60/685,556	JVE
48. 296 060PRV	System and Method used to support the needs of business using and creating intellectual property	Patent	5/27/2005	60/685,561	JVE
49. 684 014PRV	Method and apparatus for processing annuities	Patent	3/17/2005	60/662,881	FIP



## EXHIBIT E



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### Foundation IP

#### An innovative approach to IP management

By combining IP expertise with IT innovation, CPA Global has established itself as a technology leader in the IP management marketplace. We've analysed the way law firms and corporate IP departments work, and developed a revolutionary platform that has transformed the way businesses manage their IP, allowing them to reduce cost, mitigate risk, enable collaboration, and improve efficiency.

FoundationIP makes IP management easy. As a hosted solution, it also removes the need for an extensive IT infrastructure, which makes it quick to set up and simple to use. The system is preconfigured so you can be up and running quickly with no hardware to install or maintain. By harnessing the power of the web, this intelligent hub enables you to manage your IP portfolio seamlessly, from wherever you are, at any time. It stores all IP matters, including patents, trademarks, designs, licences, oppositions etc, with associated documents and emails, in one centralised and consolidated database. This means that you, your colleagues and your external clients, partners and customers can log in, share information and collaborate immediately.

FoundationIP is designed for both law firms and corporate IP departments. The system is highly flexible making it perfect for small firms who don't have the resources for large scale IT support, and for multinational organisations with large and complex portfolios. This scalability also means that the software can grow with your organisation and support you as your business evolves.

PATENT

REEL: 026683 FRAME: 0150

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# EXHIBIT F

## Amendment Agreement

### 1.0 Introduction

This Amendment Agreement (this "Agreement") is dated as of November \_\_, 2007 and is by and among the signatories hereto, who consist of the various parties to the Original Documents listed below (individually, a "Party", and collectively, the "Parties").

The Parties entered into the Original Documents in connection with the acquisition by CPAUSH Ltd. of 70% of the outstanding limited liability company interests (the "Interests") in Intellevate LLC, a Delaware limited liability company ("Intellevate" or the "Company"), from International IP Ventures, LLC.

The Parties wish to amend certain provisions of the Original Documents (and in the case of the Joint Venture Term Sheet, the Bonus Plan Term Sheet, and the Guaranty as defined below, terminate the same) to provide, among other things, that:

- the put and call option for the Interests will be subject to a streamlined exercise price formula with a guaranteed minimum amount of \$3,000,000;
- the guaranty by International IP Ventures, LLC and Schwegman Lundberg Woessner & Kluth, P.A. ("SLWK") of a loan made to the Company by an affiliate of Computer Patent Annuities Limited Partnership ("CPA") will be terminated;
- the Managers of the Company appointed by CPA will have broad general authority to govern the affairs and conduct the business of the Company without the existing consent rights of the Manager of the Company appointed by International IP Ventures, LLC; and
- the Parties confirm that neither CPAUSH Ltd., its affiliates, or Managers appointed by it owe any duty to the Company or International IP Ventures, LLC in respect of any business opportunity, other than recognising certain revenues for purposes of the exercise price of the put and call option for the Interests;

in each case on the terms set forth in this Agreement.

This Agreement therefore amends or terminates, as indicated, the following agreements, instruments, or other documents (the "Original Documents"):

- (i) The Members Agreement, entered into by CPAUSH Ltd., CPA, International IP Ventures, LLC, Steven Lundberg ("Lundberg"), Leon Steinberg ("Steinberg"), Pradeep Sinha ("Sinha"), Janal Kalis ("Kalis"), Thomas Brennan ("Brennan"), and together with Lundberg, Steinberg, Sinha, and Kalis, the "Seller Owners"), and Intellevate, dated 11 August 2005 (the "Members Agreement");
- (ii) The Amended and Restated Limited Liability Company Agreement of Intellevate LLC, dated 11 August 2005 (the "LLC Agreement");
- (iii) The Intellevate LLC Purchase Agreement, entered into by CPAUSH Ltd., International IP Ventures, LLC, and the Seller Owners, dated 11 August 2005 (the "Purchase Agreement");
- (iv) The Consulting Agreement, entered into by Lundberg, FoundationIP, LLC, and CPAUSH Ltd., dated 11 August 2005 (the "Lundberg Consulting Agreement");
- (v) The Employment Agreement, entered into by Steinberg and Intellevate, dated 11 August 2005 (the "Steinberg Employment Agreement");

- (vi) The Portfolio IP – SLWK Services Agreement, entered into by PortfolioIP LLC and SLWK, dated 1 June 2003;
- (vii) The Joint Venture Term Sheet prepared in connection with the Purchase Agreement (the "Joint Venture Term Sheet");
- (viii) The Bonus Plan Term Sheet (the "Bonus Plan Term Sheet") for the Intellevate Services Long Term Incentive Plan ("ISLTIP") prepared in connection with the Purchase Agreement and which is attached as an exhibit to each of the Lundberg Consulting Agreement, the Steinberg Employment Agreement, and the Employment Agreement entered into by Sinha and FoundationIP, LLC, dated 11 August 2005, which has been terminated (the "Sinha Employment Agreement"); and
- (ix) The Guaranty of SLWK and International IP Ventures, LLC in favor of CPA Management Systems Limited dated as of 20 September 2006 (the "Guaranty").

Capitalized terms used in any provision hereof that amends or terminates a given Original Document shall have the respective meanings assigned to such terms in such Original Document.

## 2.0 The Members Agreement

### Put and Call Price

The Members Agreement is hereby amended to provide that each of the earnings based Call Price in Clause 3.4 (b) (i) and (ii) and the earnings based Put Price in Clause 3.5 (b) (i) and (ii) is replaced with a single capped revenue based formula as described below, and the profit or fair market value based method of valuation is hereby deleted and superseded thereby.

As so amended, each of the Put Price and the Call Price in respect of International IP Ventures, LLC's Interest shall be a sum equal to International IP Ventures, LLC's Percentage Interest, as of the date of the exercise of the Put Option or the Call Option, of the result of (A) 1.25 x the Company's Qualifying Revenue, as defined below, for the year ended December 31, 2009, less (B) Qualifying Debt, as defined below, subject to a Guaranteed Minimum Amount, as further defined below, of \$3,000,000 and a Maximum Amount, as further defined below, of \$6,000,000. The Put and Call Option Periods, as defined in the Members Agreement, remain unaltered.

The new and applicable calculation method for determining the Put Price and the Call Price is shown below in the following sample calculations, using illustrative revenues for the year ended December 31, 2009:

<b>Illustration A</b>	<b>US\$ (millions)</b>
Qualifying Revenue:	20.00
Qualifying Debt:	7.527
Put / Call Price	5.2419

<b>Illustration B</b>	<b>US\$ (millions)</b>
-----------------------	------------------------

Qualifying Revenue:	12.00
Qualifying Debt:	7.527
Put / Call Price	3.00 *

\*The Guaranteed Minimum, rather than the \$2.2419m that would otherwise have been payable per the formula.

#### **Illustration C** **US\$ (millions)**

Qualifying Revenue:	35.00
Qualifying Debt:	7.527
Put / Call Price	6.00 **

\*\*The Maximum Amount, rather than the \$10.8669m that would otherwise have been payable per the formula.

#### **Qualifying Revenue**

The Company's Qualifying Revenue means: all net revenues received and recognised by the Company and any other member of the group of companies consisting of CPA and its majority-owned subsidiaries (the "CPA Group") in accordance with the CPA Group's standard revenue recognition policy, recorded in accordance with UK GAAP (or IFRS in the event that CPA adopts that standard) and audited by a qualified accounting firm selected by CPA, consisting of PricewaterhouseCoopers LLP, Deloitte & Touche LLP, Ernst & Young LLP, or KPMG or their affiliates (the "QAF"), in respect of the following services (the "IP Services"):

- (i) Docketing - Relating to Intellectual Property;
- (ii) Paralegal Support Services - Relating to Intellectual Property;
- (iii) Proofreading of Patent Documents;
- (iv) Microsoft Engineering Team Services, SLWK Engineering Team Services and any similar dedicated engineering team services; and
- (v) Drafting Illustrations for Patent Documents.

For the avoidance of doubt, the Company's Qualifying Revenue (A) shall include all revenues from the IP Services that are received and recognised by the Company and all other members of the CPA Group but (B) shall expressly exclude (x) any and all revenues received and recognised by the Company or any other member of the CPA Group in respect of services other than the IP Services and (y) any and all revenue in respect of any other products or services, including, without limitation, Prior Art Searching, or other Intellectual Property Search and Analytics work conducted by the Company, or any other member of the CPA Group, as it may be constituted from time to time, including, without limitation, the company currently known as CPA Lacasse Global Patent Research LLC ("CPA Lacasse").

#### **Qualifying Debt**

Qualifying Debt means a fixed sum of \$7,527,000 (calculated as (i) the operating expenses of \$2,527,000 previously incurred by the CPA Group in supporting the

Company, which shall be treated as a loan from the CPA Group to the Company, and (ii) the existing loan of \$5,000,000 made to the Company pursuant to that certain Intercompany Credit and Security Agreement by and between CPA Management Systems Limited and the Company). No other debt incurred by the Company in excess of \$7,527,000 constitutes Qualifying Debt.

**Guaranteed Minimum Amount**

In no event may the Put Price or the Call Price be less than \$3,000,000.

**Maximum Amount**

In no event may the Put Price or the Call Price exceed \$6,000,000.

**Guarantee**

CPA will guarantee CPAUSH Ltd.'s payment of the Put Price or the Call Price, as applicable.

**Put Option and Call Option Periods and Payment**

The Put Option Period and Call Option Period and the procedure for exercising them shall remain as currently specified in Clauses 3.4(a) and (c) and 3.5(a) and (c) of the Members Agreement.

Clauses 3.4(d) and 3.5(d) of the Members Agreement are hereby amended to provide that CPAUSH Ltd. shall pay the Guaranteed Minimum Amount to International IP Ventures, LLC in cash or immediately available funds within ten (10) business days after the due exercise of the Call Option or the Put Option, which payment shall be credited against the total Put Price or Call Price payable. CPAUSH Ltd. shall cause the QAF to complete its audit of Qualifying Revenue to determine the actual Put Price or Call Price payable, within one hundred and twenty (120) days of the date on which the Put Option or the Call Option, as the case may be, has been duly exercised. CPAUSH Ltd. shall pay the balance, if any, of the Put Price or the Call Price over and above the Guaranteed Minimum Amount to International IP Ventures, LLC in cash or immediately available funds within ten (10) business days after the completion of the audit to the reasonable satisfaction of both parties.

**3.0 The LLC Agreement**

The LLC Agreement is amended as follows:

**Governance**

The Parties confirm their intention that neither CPAUSH Ltd., its affiliates, nor any Manager appointed by CPAUSH Ltd. owe any duty to the Company or any other member of the Company in respect of any business opportunity of any nature. The Parties further hereby confirm that Clause 2.4 (Purpose) shall not be construed to list the types of business that the Company has the exclusive right to conduct. The Parties further agree that CPAUSH Ltd. and its affiliates have the free and unencumbered right to acquire and operate any business whatsoever in such manner as they see fit, and neither CPAUSH Ltd., its affiliates, nor any Managers appointed by CPA or its affiliates have any duty to the Company or International IP Ventures, LLC in respect of any such business, other than to treat as "Qualifying Revenue" any revenue received and recognised by the Company and any other member of the CPA Group that relates to the IP Services. International IP Ventures, LLC and the Seller Owners, as for themselves and their respective heirs, successors and assigns (collectively, the

"Releasors"), hereby remise, release, and forever discharge CPAUSH Ltd., its affiliates, subsidiaries, parents, joint ventures, the Managers of the Company appointed by CPAUSH Ltd., and its and their officers, directors, shareholders, employees, predecessors, and its and their respective successors and assigns, heirs, executors, and administrators, from any and all claims the Releasors may have arising out of or relating to the acquisition by an affiliate of CPAUSH Ltd. of CPA Lacasse.

#### **Board of Managers**

Unless otherwise agreed, the monthly Board meetings shall be held in Jersey and at least two (2) of the four (4) quarterly Board meetings will be held in Jersey each year, with the Class A or Class B Managers participating on an in-person basis only. The other two (2) quarterly Board meetings may be held elsewhere as determined by the Board, with the Class A or Class B Managers participating by telephone or video link.

A schedule of meeting dates will be agreed upon annually, in advance, which will serve as notice of the meeting dates, and the notice period for other meetings is reduced to five (5) business days and may be waived by the Managers.

Clause 3.2(d) of the LLC Agreement is hereby amended to read as follows:

(d) Quorum. The presence in person or by proxy of Managers holding the Requisite Manager Vote shall constitute a quorum for the transaction of business at all meetings of the Board of Managers.

#### **Actions Requiring Special Approval**

The list of actions requiring the positive assent of the Class B Managers (contained in Clause 3.2 (n)) is deleted in its entirety. It is the intent that the Class A Managers thereby shall have free and unfettered authority to operate the business and manage the affairs of the Company as they deem appropriate in their discretion. As a result, any action whatsoever may be taken by the Class A Managers acting alone, without notice to, or a vote of, the Class B Managers, except as otherwise required by law.

#### **Funding**

To the extent the Board of Managers determines that additional working capital is required for 2007-2008 and beyond, or that any debt repayment is required in the normal course of business under the Intercompany Debt and Security Agreement between the Company and CPA Management Systems Limited dated September 20, 2006, it shall be loaned to the Company by CPAUSH Ltd. (or any other company in the CPA Group or any third party) on commercially reasonable terms and treated as Non-Qualifying Debt.

The "Additional Funding" provisions in Clause 4.4 are deleted, with the result that any additional funding shall be at the discretion of the Board of Managers. For avoidance of doubt, it is agreed that International IP Ventures, LLC will have no obligation to contribute additional capital if and when called upon by the Board of Managers. In addition, any failure of International IP Ventures, LLC to contribute additional capital will not result in a dilution of International IP Ventures, LLC's Percentage Interest.

#### **4.0 The Purchase Agreement and the Lundberg Consulting Agreement**

The Restricted Parties' non-compete obligations in the Purchase Agreement (in relation to Prior Art Searching, and generally) are reaffirmed by the parties thereto. Nothing in this Agreement shall be construed to alter any of the original terms and conditions of, or modify, such non-compete obligations including, but not limited to, any provisions that define the scope or duration of the non-compete obligations.

The terms of the Lundberg Consulting Agreement are reaffirmed, as are the parties' established course of dealing for invoicing and the maintenance of time records under that agreement.

**5.0 The Portfolio IP – SLWK Services Agreement**

The term of this agreement is hereby extended so as to expire on December 31, 2011.

**6.0 Joint Venture – Claim Tracker/Claim Mapper**

The proposed Joint Venture contemplated by the Purchase Agreement is hereby abandoned, and the Joint Venture Term Sheet is terminated and shall have no force or effect; provided, however, that, notwithstanding the termination of the Joint Venture Term Sheet, the activities described in the Lundberg Consulting Agreement that refer or relate to the Joint Venture Term Sheet and that are exempted from the non-compete obligations and intellectual property assignment obligations of Lundberg thereunder (the "Exempted Activities") shall remain Exempted Activities with respect to (i) Claim Mapper (the transfer of the rights to which is noted below) or (ii) Claim Tracker, to the extent any rights thereto are transferred to International IP Ventures, LLC or its affiliates.

The parties to the Purchase Agreement will continue discussions regarding the exploitation and ownership of Claim Tracker, which are currently the subject of a full technical assessment by CPA in order for it to determine its potential value to CPA. The Parties understand that the structure for exploiting the commercial value of Claim Tracker and the sharing of profit as set forth in the Joint Venture Term Sheet, and as contemplated under the Claimkey Agreement dated September 1, 2006, will no longer be possible with the abandonment of the proposed Joint Venture. The Parties further understand that if CPA should desire to use Claim Tracker, an alternative arrangement to the proposed Joint Venture structure will need to be agreed upon.

Accordingly, if CPA does not indicate its intention to participate in the ownership and exploitation of Claim Tracker in writing to an affiliate of International IP Ventures, LLC on or before February 29, 2008, all of the respective right, title and interest, if any, of CPA, CPAUSH Ltd. and Intellevate in Claim Tracker will automatically transfer to International IP Ventures, LLC or its designee(s) without the necessity of any further documentation.

If CPA indicates its intention to participate in the ownership and exploitation of Claim Tracker in writing to International IP Ventures, LLC on or before February 29, 2008, the parties to the Purchase Agreement will proceed to negotiate in good faith the terms of an agreement containing commercially reasonable terms and conditions (including, without limitation, regarding ownership, funding, and profit sharing) under which either (i) such parties will jointly own and exploit Claim Tracker in a manner that is similar to the arrangement for acquisition and exploitation of an "Opportunity" as described in the proposed Joint Venture Term Sheet or (ii) such parties will agree upon a different arrangement pursuant to which they will jointly participate in the ownership and exploitation of Claim Tracker.

The Parties acknowledge that CPAUSH Ltd. has transferred ownership of all intellectual property rights in Claim Mapper to Lundberg and/or an affiliate of International IP Ventures, LLC pursuant to that certain Agreement between CPAUSH Ltd., SLWK, Lundberg, Sinha and Intertech Systems, LLC dated effective as of September 1, 2006.



## **7.0 Bonus Plan Term Sheet and ISLTIP**

The Parties agree that (i) the proposed ISLTIP contemplated under, among other things, the Lundberg Consulting Agreement, the Sinha Employment Agreement, and the Steinberg Employment Agreement has not been established, no benefits have been earned under such proposed ISLTIP, and no individual has any entitlement to benefits under such proposed ISLTIP and (ii) the proposal to establish the ISLTIP is hereby abandoned, and the Bonus Plan Term Sheet is terminated and shall have no force or effect. As a part of such termination and abandonment, the Parties agree and confirm that neither Intellevate, FoundationIP, LLC, nor any other member of the CPA Group shall have any obligation to establish the ISLTIP or any similar bonus plan or to provide any bonus compensation to Lundberg, Steinberg, Sinha, or any other individual under any such plan, whether pursuant to the Lundberg Consulting Agreement, the Sinha Employment Agreement, the Steinberg Employment Agreement, any Plan Award Agreement referred to in any of the foregoing agreements, or otherwise. In addition, Lundberg, Steinberg, and Sinha, as for themselves and their respective heirs, successors and assigns (the "ISLTIP Releasors"), hereby remise, release, and forever discharge the Company, FoundationIP, LLC, their respective affiliates, subsidiaries, parents, joint ventures, and Managers, and the officers, directors, shareholders, employees, predecessors of the foregoing, and the respective successors and assigns, heirs, executors, and administrators of the foregoing, from any and all claims the ISLTIP Releasors may have arising out of or relating to any failure to establish or fund the ISLTIP or any similar bonus plan or to provide any bonus compensation to Lundberg, Steinberg, Sinha, or any other individual under any such plan, whether pursuant to the Lundberg Consulting Agreement, the Sinha Employment Agreement, the Steinberg Employment Agreement, any Plan Award Agreement referred to in any of the foregoing agreements, or otherwise. In accordance with the foregoing, Section 4 of the Lundberg Consulting Agreement and Exhibits B and C thereto and Section 4 of the Steinberg Employment Agreement and Exhibits A and B thereto are hereby deleted.

## **8.0 Guaranty**

CPA Management Systems Limited and its successors, assigns, affiliates, administrators, employees, officers, directors and attorneys agree that the obligations of SLWK and International IP Ventures, LLC under the Guaranty are hereby terminated, released, satisfied and discharged, and the Guaranty is hereby terminated, released and discharged and shall cease to be of further force and effect.

## **9.0 Costs and Conditions**

- (i) Each Party is responsible for all costs it has incurred and may incur with respect to the negotiation and drafting of this Agreement, including the cost of any professional advice obtained; and
- (ii) Simultaneously with the execution of this Agreement, CPAUSH Ltd. will cause the Escrow Agent under the Escrow Agreement dated August 17, 2005 between CPAUSH Ltd., International IP Ventures, LLC and certain other parties to release the funds held in escrow under Section 2(b) of the Escrow Agreement to International IP Ventures, LLC pursuant to the terms of Section 4 of the Escrow Agreement. For avoidance of doubt, the release of such escrow funds shall not eliminate or limit any right or remedy that the Buyer Indemnitees (as defined in the Purchase Agreement and the FIP Purchase Agreement, dated 11 August 2005 (the "FIP Purchase Agreement")) may have under Article X of each of the Purchase Agreement and the FIP Purchase Agreement.

## **10.0 General**

The Parties will keep and cause their respective counsel, accountants, and other representatives to keep any information disclosed in connection with the transactions contemplated hereby confidential in accordance with the terms of Section 7.1 of the Purchase Agreement.

Any amendment to, or modification of, this Agreement shall not be effective unless in writing and signed by all of the Parties.

This Agreement, and the application or interpretation hereof, shall be governed exclusively by the internal laws of the State of Delaware, including, without limitation, 6 Del. C. § 2708, without regard to principles of conflicts of law. The Parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Wilmington, Delaware without regard to principles of conflicts of laws and hereby irrevocably waive any claim they may have that any proceedings brought in such courts have been brought in an inconvenient forum and agree that each may be served with legal process in accordance with such statute.

**WAIVER OF JURY TRIAL.** EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT WHICH EACH OF THEM, RESPECTIVELY, MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

In the event of a dispute with respect to any of the Original Documents, as the same are amended hereby, the dispute resolution mechanism set forth or permitted in the particular Original Document (for example, litigation or arbitration) shall govern resolution of the dispute.

This Agreement (including the other documents amended by and referred to in this Agreement) contains the entire understanding between the Parties with respect to the subject matter of this Agreement and supersedes any prior understandings, agreements or representations, written or oral, relating to the subject matter of this Agreement.

This Agreement shall be binding upon the transferees, successors, assigns and legal representatives of the Parties.

The Parties agree to execute and deliver any further instruments or perform any acts that are or may become necessary to effectuate the provisions of this Agreement.

Except as amended or terminated hereby, the Original Documents shall remain in full force and effect.

This Agreement may be executed in counterparts, each of which will be an original as regards any Party whose name appears thereon and all of which together will constitute one and the same instrument. A facsimile signature will be considered an original signature.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the last date set forth below.

**CPAUSH LTD.**

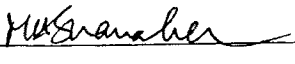
By: 

Name: Peter Sawell

Title: Director

Date Executed: 30 November 2007

**CPA MANAGEMENT SYSTEMS LIMITED**

By: 

Name: Tony Summahan

Title: Director

Date Executed: 30 November 2007

**COMPUTER PATENT ANNUITIES  
LIMITED PARTNERSHIP**

By: 

Name: Peter Sawell

Title: Director

Date Executed: 30 November 2007

**STEVEN LUNDBERG**

Date Executed:

**LEON STEINBERG**

Date Executed:

**PRADEEP SINHA**

Date Executed:

**INTERNATIONAL IP VENTURES, LLC**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

**SCHWEGMAN LUNDBERG WOESSNER &  
KLUTH, P.A.**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

**FOUNDATIONIP, LLC**

By: 

Name: Peter Sawell

Title: Member of The Board of Managers

Date Executed: 30 November 2007

**PORTFOLIOIP, LLC**

By: 

Name: Peter Sawell

Title: Member of The Board of Managers

Date Executed: 30 November 2007

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the last date set forth below.

**CPAUSH LTD.**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

**CPA MANAGEMENT SYSTEMS LIMITED**

By: \_\_\_\_\_

Name:

Title:

Date Executed:


**COMPUTER PATENT ANNUITIES  
LIMITED PARTNERSHIP**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

  
**STEVEN LUNDBERG**

Date Executed: 11-21-2007


  
**LEON STEINBERG**

Date Executed: 11-20-07

  
**PRADEEP SINHA**

Date Executed: 11/28/07

**INTERNATIONAL IP VENTURES, LLC**

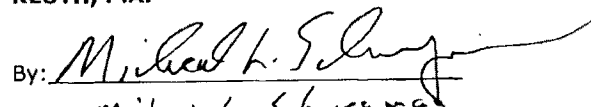
By: 

Name: STEVEN LUNDBERG

Title: PRESIDENT

Date Executed: 11/26/2007

**SCHWEGMAN LUNDBERG WOESSNER &  
KLUTH, P.A.**

By: 

Name: Michael L. Schwegman

Title: Chairman

Date Executed: 11-26-07

**FOUNDATIONIP, LLC**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

**PORTFOLIOIP, LLC**

By: \_\_\_\_\_

Name:

Title:

Date Executed:

De Koo  
JANAL KALIS 26 November 2007

Date Executed:

Thomas J. Brennan  
THOMAS BRENNAN

Date Executed: November 26, 2007