

## TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
NextSource Inc.		08/05/2013	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	PeopleTicker LLC		
Street Address:	110 East Atlantic Ave.		
Internal Address:	Suite 330		
City:	Delray Beach.		
State/Country:	FLORIDA		
Postal Code:	33444		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	2779139	THE PEOPLE BLUE BOOK	
Registration Number:	2809954	PEOPLE TICKER	
Registration Number:	2355416	ROCC	
Registration Number:	2355415	GOING ONCE, GOING TWICE, GOING TO WORK!	
Registration Number:	2355414	CONSULTINGDIRECT	
Registration Number:	3761273	THE PEOPLE STOCK EXCHANGE	
Registration Number:	4241723	CERTIFIEDPERSON	
CORRESPONDENCE DATA			
Fax Number:	6196881322		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	619-688-1300		
Email:	email@nydegger.com		
Correspondent Name:	Nydegger & Associates		

OP: \$190.00 2779139

Address Line 1: 348 Olive Street  
Address Line 4: San Diego, CALIFORNIA 92103

ATTORNEY DOCKET NUMBER:	11638.100
NAME OF SUBMITTER:	Neil K. Nydegger
Signature:	/Neil K. Nydegger/
Date:	09/05/2013

**Total Attachments: 24**

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**ASSET PURCHASE AGREEMENT**

**by and between**

**NEXTSOURCE INC.**

**and**

**PEOPLETICKER LLC**

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THIS AGREEMENT is made as of this 5th day of August, 2013, by and between PeopleTicker LLC, a Delaware limited liability company, ("Buyer"), and NextSource Inc., a Delaware corporation ("Seller"). Buyer and Seller are sometimes individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, Seller owns and operates a business related to developing, marketing, providing, purchasing, selling and servicing proprietary technology using a combination of advanced conceptual search techniques and probabilistic latent semantic indexing to provide clients real-time job search and reporting tools which offer visibility into current job market pay rates, bill rates, and markups based on true employment market conditions ("Business");

WHEREAS, on the date hereof, Seller desires to sell and transfer to Buyer, and Buyer desires to purchase and acquire from Seller those certain assets and properties of Seller exclusively related to the operation of the Business set forth on Exhibit A, attached hereto (the "Assets"), on the terms and conditions as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing and of the mutual representations, warranties, covenants and promises contained herein, and intending to be legally bound hereby, the Parties represent, warrant, covenant and agree as follows:

ARTICLE I

PURCHASE AND SALE OF ASSETS

1.1 Transfer of Assets.

On the date hereof, Seller shall sell, convey, transfer and assign to Buyer and Buyer shall purchase and acquire from Seller all of the Assets.

1.2 Assumption of Liabilities.

At the Closing (as defined in Section 2.1), Buyer shall assume, by instruments of assumption reasonably satisfactory to Seller, and discharge as they become due and payable and hold Seller harmless with respect to all liabilities and obligations arising out of or relating to Buyer's ownership or operation of the Business and the Assets prior to, on or after the Closing, including but not limited to the liabilities of Seller related to the operation of the Business set forth on Exhibit B, attached hereto (the "Assumed Liabilities").

## ARTICLE II

### PURCHASE PRICE AND PAYMENT

#### 2.1 Date and Location.

Unless otherwise mutually agreed to by the Parties, the closing shall take place on the date hereof, at such location as Buyer and Seller shall mutually agree (the "Closing"). The effective date of the sale of the Assets shall be August 5th, 2013.

#### 2.2 Purchase Price.

In consideration of the transfer of the Assets, Buyer and Seller will enter into the License Agreement attached hereto as Exhibit C.

## ARTICLE III

### COVENANTS

#### 3.1 Further Assurances.

Following the Closing, each of the Parties shall execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the documents to be delivered hereunder.

#### 3.2 Transfer Taxes.

Buyer shall pay any sales or transfer taxes, recording fees or other similar costs or fees payable in connection with the transfer of the Assets.

#### 3.3 Transfer of Certain Personnel.

On or prior to the Closing, Buyer shall hire the persons set forth on Exhibit D hereto.

## ARTICLE IV

### CLOSING

#### 4.1 Actions to be Taken by Seller at Closing.

At Closing, Seller shall take all actions required to be taken hereunder and Seller shall deliver to Buyer:

- (a) a Bill of Sale and Assignment and Assumption Agreement, duly executed by Seller ("Assignment Agreement");

- (b) such other documents and certificates as required to be delivered hereunder or reasonably requested by Buyer including assignments that are required to be filed with the United States Patent and Trademark Office; and
- (c) the License Agreement.

4.2 Actions to be Taken by Buyer at Closing.

At Closing, Buyer shall take all actions required to be taken hereunder and shall deliver, or cause to be delivered, to Seller:

- (a) the Assignment Agreement, duly executed by Buyer;
- (b) the License Agreement, and
- (c) such other documents and certificates required to be delivered hereunder or reasonably requested by Seller.

ARTICLE V

NOTICE

All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered or sent by electronic mail, facsimile or electronically via PDF format (with hard copy to follow); (b) one (1) day after being sent by reputable overnight express courier (charges prepaid), or (c) five (5) days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless another address is specified in writing, notices, demands and communications shall be sent to the addresses indicated below:

To Seller:

NextSource Inc.  
3 Park Avenue, 15th Floor  
New York, NY 10016

To Buyer:

PeopleTicker LLC  
110 East Atlantic Ave.  
Delray Beach, FL 33444

## ARTICLE VI

### MISCELLANEOUS

#### 6.1 Representations and Warranties Counterparts.

(a) Each of the Parties hereby represents and warrants to the other that: (i) it is a legal entity duly organized, validly existing, and in good standing under the laws of its state of organization has all requisite power and authority to carry on its business as presently conducted; (ii) it has full power and authority to enter into and perform this Agreement; and (iii) this Agreement (A) is a valid and binding contract, enforceable in accordance with its terms and (B) does not constitute a violation of or default under any of its governing documents, any of its other contracts or commitments, or any order or ruling of any court or governmental authority to which it or its property is subject.

(b) Each of the Parties acknowledges and agrees that no Party is making any representation or warranty whatsoever, express or implied, whether in this Agreement, in any Exhibit to this Agreement or otherwise (notwithstanding anything to the contrary in any Exhibit to this Agreement), with respect to the Assets and Assumed Liabilities or the transactions contemplated hereby other than those expressly given in the preceding paragraph, including any implied warranty or representation as to condition, merchantability, suitability or fitness for a particular purpose or trade. Each Party understands and agrees that, except as set forth in the preceding paragraph, any intellectual property, assets, and properties included in the Assets and Assumed Liabilities are furnished "as is," "where is" with all faults and without any other representation or warranty of any nature whatsoever.

#### 6.2 Survival of Representations and Warranties.

Seller and Buyer acknowledge that the representations, warranties, covenants and agreements of Seller and Buyer contained in this Agreement form an integral part of the consideration given to Buyer in exchange for the Purchase Price and to Seller in exchange for the Assets, without which Buyer would be unwilling to purchase, and Seller would be unwilling to sell, the Assets. Seller and Buyer agree that the representations, warranties, covenants and agreements of Seller and Buyer contained in this Agreement or in any exhibit, statement, report, certificate or other document or instrument required to be delivered pursuant to this Agreement shall survive the making of this Agreement, any investigation or review made by or on behalf of the Parties and the Closing hereunder.

#### 6.3 Counterparts.

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument.

#### 6.4 Assignment.

This Agreement may not be assigned by any Party without the prior written consent of the other Party.



6.5 Severability.

Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

6.6 Entire Agreement.

This Agreement is an integrated document, contains the entire agreement between the Parties, wholly cancels, terminates and supersedes any and all previous and/or contemporaneous oral agreements, negotiations, commitments and writings between the Parties hereto with respect to such subject matter. No change, modification, extension, termination, notice of termination, discharge, abandonment or waiver of this Agreement or any of the provisions hereof, nor any representation, promise or condition relating to this Agreement, shall be binding upon the Parties unless made in writing and signed by the Parties.

6.7 Governing Law; Waiver of Jury Trial.

(a) ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAW OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTIONS) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTIONS OTHER THAN THE STATE OF DELAWARE.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER.

6.8 Venue.

The Parties hereby irrevocably submit to the exclusive jurisdiction of any state or federal court located in or covering the jurisdiction of Wilmington, Delaware over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby and each Party hereby irrevocably agrees that all claims in respect of such dispute or any suit, action proceeding related thereto may be heard and determined in such courts. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Parties hereby consents to process being served by any party to this Agreement in any suit, action or proceeding by the mailing of a copy thereof in accordance with the provisions of Article V.

6.9 Captions.

The captions of Sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

6.10 Counterparts.

This Agreement may be executed in one or more counterparts (including by means of facsimile or PDF signature pages), all of which taken together shall constitute one and the same instrument.

6.11 Delivery by Facsimile or Other Electronic Delivery.

This Agreement and any signed agreement or instrument entered into in connection with this Agreement, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or other electronic delivery (including PDF), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or other electronic delivery (including PDF) to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic delivery (including PDF) as a defense to the formation of a contract and each such party forever waives any such defense.

6.12 Expenses.

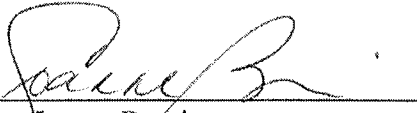
Except as otherwise expressly provided herein, Seller and Buyer each will pay all costs and expenses, including any and all legal and accounting fees, of its performance and compliance with all agreements and conditions contained herein on its part to be performed or complied with.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized corporate officers on the day and year first above written.

SELLER:

NEXTSOURCE INC.

By:   
Name: Joanne Bocci  
Title: \_\_\_\_\_

BUYER:

PEOPLETICKER LLC

By: \_\_\_\_\_  
Name: Joseph Musacchio  
Title: \_\_\_\_\_

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

**TRADEMARK**  
**REEL: 005106 FRAME: 0410**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized corporate officers on the day and year first above written.

SELLER:

NEXTSOURCE INC.

By: \_\_\_\_\_  
Name: Joanne Bocci  
Title: \_\_\_\_\_

BUYER:

PEOPLETICKER LLC

By: *Joseph Musacchio*  
Name: Joseph Musacchio  
Title: \_\_\_\_\_

*Joseph Musacchio*

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

## EXHIBIT A

### ASSETS

#### ConsultingDirect

100% of the capital stock of Consulting Direct, Inc., a Delaware corporation

#### Accounts Receivable

The following accounts receivable:

Honeywell – \$70,000, represented by invoice number 1000159246

Caterpillar – \$60,000, represented by invoice number 1000161119

Moody's Corp. – \$75,000, represented by invoice number(s): 1000156761

#### IP

PeopleTicker Software and all Intellectual Property Rights therein, but solely to the extent such Software and Intellectual Property Rights are not used in connection with, necessary for, or useful in the operation of the business retained by Seller. For purposes of clarity, the Assets do not include any Software or Intellectual Property Rights embedded in, embodied by, or necessary to use TAMS or MLSA

CertifiedPerson Software

ConsultingDirect Software

The following domain names:

certifiedperson.com

peopleticker.com

consultingdirect.com

consultingdirect.net

consultingdirect.org

peopleticker.com

thepeopleticker.com

peopleticker.co.uk

thepeopleticker.co.uk

Seller will also transfer one copy of its TAMS Software to Buyer for internal use only

#### Trademarks/Service marks

PeopleTicker – US Registration No. 2,809,954

PeopleTicker – Canada Registration No. 1,169,466

CertifiedPerson – US Registration No. 4,241,723

ConsultingDirect – US Registration No. 2,355,414  
The People Blue Book – US Registration No. 2,779,139  
Going Once, Going Twice, Going To Work – US Registration No. 2,355,415  
The People Stock Exchange – US Registration No. 3,761,273  
ROCC – US Registration No. 2,355,416  
PeopleTicker – European Community Registration No. 003071552

**Agreements with the following entities for licenses to the PeopleTicker:**

Letter Agreement with Mir Mitchell and Company, LLP dated February 11, 2013  
Terms of Use Agreement with AIG Global Services, Inc. dated June 22, 2009  
Terms of Use Agreement with Caterpillar, Inc. dated March 2, 2012  
Terms of Use Agreement with Honeywell International dated Decembr 21, 2011  
Terms of Use Agreement with Veritude, LLC dated June 26, 2006  
Data Agreement for the Provision of Data, Software and Documentation Services with Lloyds  
TSB Bank, plc dated May 6, 2013  
Terms of Use Agreement with Monsanto dated August 2, 2012  
Terms of Use Agreement with Moody's Corporation dated April 4, 2013  
Terms of Use Agreement with The Computer Merchant, Ltd. dated May 22, 2013

**Fixed Assets**

3 Dell Laptop computersand 1 Apple computer including software contained thereon  
All furniture and equipment located in Joseph Musacchio's home office (approximate cost of  
\$184,106)

**EXHIBIT B**

**ASSUMED LIABILITIES**

Liabilities related to the contracts and assets set forth on Exhibit A and the employees set forth on Exhibit D, including, without limitation, liabilities arising out of or related to accounts payable, taxes, accrued vacation, accrued salaries and any other liabilities relating to employees and employee benefits.

EXHIBIT C

FORM OF LICENSE AGREEMENT



## SOFTWARE LICENSE AGREEMENT

This **SOFTWARE LICENSE AGREEMENT** (the "**Agreement**") is entered into between PeopleTicker LLC ("**Licensor**"), and nextSource Inc. ("**Licensee**") as of August 5, 2013 (the "**Effective Date**"). Licensor and Licensee are individually referred to as a "**Party**" and collectively as the "**Parties**".

### WHEREAS:

- (A) Pursuant to that certain Securities Purchase Agreement entered into on even date herewith (the "**SPA**") by and among Licensee, NextSource Acquisition Corp., and the Sellers (as defined in the SPA), NextSource Acquisition Corp. and NextSource Holdings, LLC acquired all of the equity interests of Licensee;
- (B) In furtherance of the transaction contemplated by the SPA, Licensee is on even date herewith assigning all of its right, title, and interest in and to the Software and Related Materials to Licensor, and desires to receive a license back to the Software and Related Materials, and Licensor is willing to grant Licensee such a license pursuant to the terms herein;
- (C) This Agreement is a license agreement and not an agreement for the sale of software or services;
- (D) This Agreement gives Licensee limited rights to use the Software and Related Materials described below and imposes upon Licensee certain obligations to protect the Software and Related Materials from unauthorized use, reproduction, distribution or publication; and
- (E) The Parties have entered into a Transition Services Agreement setting out additional terms and conditions associated with the sale and license of the Software.

**NOW THEREFORE** in consideration of the mutual covenants and agreements hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Definitions.** In this Agreement the following words and phrases shall have the following respective meanings, unless the context otherwise requires:
  - (a) "**Confidential Information**" Confidential Information shall mean all strategic and development plans, financial condition, business plans, co-developer identities, data, business records, customer lists, project records, market reports, employee lists and business manuals, policies and procedures, information relating to processes, software, technologies or theory and all other information, that may be disclosed by one Party to the other Party or to which one Party may be provided access by the other Party or others in accordance with this Agreement, or which is generated as a result of or in connection with this Agreement, which is not generally available to the public;

- (b) "**Copyrights**" shall refer to those copyrights or copyright registrations for the Software and Related Materials and shall include future copyrights belonging to Licensor or any third party related to Licensor for improvements and modifications thereof and applications by Licensor for registration of copyrights for improvements and modifications thereof;
  - (c) "**Enhancements**" means changes and/or improvements to the Software, whether arising out of the particular Software configuration for the specific use of Licensee or otherwise;
  - (d) "**Errors**" means, with regard to the Software, incorrect source code or object code or anything not conforming, in all material respects, with published Specifications or requested modifications;
  - (e) "**Know-How**" includes all technology, source code, object code, local area network manager code, technical information, procedures, processes, trade secrets, methods, practices, techniques, information, logic/flow charts, sketches, drawings, Specifications, application and modification manuals and data relating to the design, manufacture, production, inspection, and testing of the Software, which are from time to time in Licensor's possession;
  - (f) "**Manuals**" means the technical manuals and the user manuals and other similar documentation;
  - (g) "**Modifications**" means Enhancements and/or correction of Errors, and Modifications provided to Licensee by Licensor shall be deemed to have been accepted by Licensee upon the lapse of sixty (60) days following successful installation of any Modifications unless Licensee notifies Licensor in writing prior to the lapse of such period that the Modifications in question do not conform to Specifications;
  - (h) "**Related Materials**" means all of the printed materials, user documentation, training documentation and confidential activation code for the Software supplied by Licensor to Licensee, and includes the Manuals;
  - (i) "**Software**" means Licensor's web based software tool referred to as *The People Ticker*, in source and object code forms, including all Know-How and, unless otherwise hereinafter set out to the contrary, any Modifications, relating thereto; and
  - (j) "**Specifications**" means the functional performance parameters of the Software.
2. **Grant of License and Reservation of Ownership.** Pursuant to the terms of this Agreement, Licensor hereby grants to Licensee a personal, non-exclusive, perpetual (except as provided in Section 7 hereof), royalty free, non-transferable (except as provided

in Section 6 hereof) license to host, reproduce, sublicense and otherwise make available to Licensee's existing customers as of immediately prior to the Effective Date ("**Pre-Existing Customers**") and to future customers of Licensee utilizing Licensee's MSP or VMS Products ("**Future Customers**"), modify, create derivative works of, and otherwise use the Software and Related Materials with the Pre-Existing Customers and Future Customers in the same manner as Licensee has done so prior to the Effective Date with respect to the Pre-Existing Customers, including the right and authority to generate, distribute, and use Software user IDs and passwords. For the avoidance of doubt, the foregoing license does not include the right for Licensee to host, reproduce, sublicense or otherwise make available the Software and Related Materials to any Future Customers on a standalone basis. As between Licensor and Licensee, Licensor retains title and exclusive ownership of any and all copies of the Software and Related Materials licensed hereby, including any modifications and other derivative works to the Software or Related Materials created by Licensee that (i) are specific to the Software or Related Materials, and (ii) do not relate to Licensee's other products or services (including, without limitation, TAMS) or the interface between Licensee's other products or services and the Software (such modifications or derivative works referred to herein as "**Improvements**"). Licensee assigns to Licensor all right, title and interest in and to any such Improvements, provided that all Improvements shall be considered part of the Software or Related Materials, as applicable, hereunder, and licensed to Licensee pursuant to the terms and conditions hereto. Licensee agrees to use its best efforts to protect the Software and Related Materials from unauthorized use, reproduction, distribution or publication.

3. **Registration and Password.** Any password or right given to Licensee to gain access to the Software is not transferable except as set forth herein. Each authorized user will access the Software by using their unique user ID and password that will be initially provided by Licensor; provided, however, that if Licensor fails, within a reasonable time, but in no event less than forty-eight (48) hours, to generate a user ID or password upon Licensee's request, Licensee may generate such user ID and password. Licensor will upon execution of this Agreement provide Licensee with all software and other technical measures necessary to generate user IDs and passwords for the Software. It is also understood that the licenses granted herein include an unlimited number of users provided such users are employees of Licensee or its customers. Licensee is responsible for maintaining the confidentiality of its logins and passwords. Licensee agrees to notify Licensor immediately of any unauthorized use of its logins and passwords of which it becomes aware.

4. **Intellectual Property.**

(a) As between Licensor and Licensee, the Software and Related Materials are owned by Licensor and are protected by U.S. copyright laws and applicable international treaties and/or conventions. Without limiting the prohibition on assignment contained elsewhere in this Agreement, Licensee acknowledges that its rights to use the Software and Related Materials are personal to Licensee. Licensee therefore covenants not to permit the use of the Software and Related Materials by unauthorized persons and to use best efforts to prevent the exportation of the Software and Related Materials or any portion thereof into any country which does

not have copyright laws that will protect Licensor's Copyrights.

- (b) Subject to the limitations set forth in Section 9(d), Licensor, at its own expense, will defend and indemnify Licensee from all claims, liabilities, costs, losses, and expenses arising out of or relating to a claim that the Software or Related Materials infringe a U.S. patent, trademark, copyright, trade secret, or other U.S. intellectual property right of any third party, provided that Licensee gives Licensor prompt written notice of such claims and permits Licensor to defend or settle the claims and provides Licensor with all reasonable co-operation and further provided that Licensor shall not be required to defend and indemnify Licensee from: (a) infringement claims resulting from Modifications made by Licensee during the term of this Agreement; (b) Licensee's combination of the Software and Related Materials with any materials or software that (i) were not provided by Licensor to Licensee hereunder, (ii) had not historically been used in connection with the Software or Related Materials by Licensor or Licensee prior to the Effective Date, and (iii) are not necessary to use the Software or Related Materials as intended to be used hereunder; or (c) Licensee's use or distribution of the Software and Related Materials in violation of the restrictions set forth herein.
- (c) As to any Software and Related Materials which are or in the opinion of Licensor may become subject to a claim of infringement, Licensor, at Licensor's option, may obtain the right for Licensee to continue using the Software and Related Materials or replace or modify the Software and Related Materials so as to make it non-infringing but still conform to the Specifications in all material respects; provided that if none of the foregoing are commercially practicable for Licensor, then Licensee shall return the Software and Related Materials to Licensor (and the license to Licensee hereunder shall terminate) upon Licensor's written request and Licensor shall refund to Licensee the fair market value of one (1) year of the license rights provided to Licensee hereunder. Licensor shall also comply with any obligations, agreed upon prior to the Effective Date, of Licensor or Licensee pertaining to such infringement as specifically set forth in such customer agreement with a Pre-Existing Customer entered into prior to the Effective Date.. Licensee acknowledges that the remedies set out in this Section 4 constitute the sole and exclusive remedy of Licensee for intellectual property infringement.

5. **Uses Not Permitted.** Licensee covenants and agrees that it will not:

- (a) except as expressly permitted herein, sell, rent, lease, sublease, license, sublicense, lend, time-share, transfer, assign or provide the use of or access to the Software and Related Materials, or any portion thereof, whether in whole or in part, to unlicensed persons;
- (b) except as expressly permitted herein, assign, mortgage, charge or otherwise encumber either the Software and Related Materials or its rights under this Agreement;

- (c) reverse engineer, decompile or disassemble the Software;
- (d) alter, modify or create any derivative works of the Software and Related Materials or any portion thereof unless Licensee has requested Licensor in accordance with Licensor's obligations hereunder and Licensor has failed to make such alternations, modifications, or derivative works in accordance with such obligations in a reasonable time;
- (e) except as expressly permitted herein, make additional copies of the Software and Related Materials or any portion thereof; or
- (f) obscure or remove any copyright or trademark notices present on the Software or Related Materials.
- (g) During the Support Period, create or build any service or software which is substantially similar to or otherwise directly competitive with the Software or Related Materials, nor during such Support Period shall the Licensee engage any third party to do any of the foregoing on behalf of the Licensee.

**6. Assignment; Transfer of Hosting.**

- (a) Without limiting anything contained elsewhere in this Agreement, neither Party shall assign this Agreement or any rights herein, whether by merger, change in control, operation of law, or otherwise, without the prior written consent of the other Party, which consent may not be unreasonably withheld; provided, however, that Licensee may assign this Agreement, or its rights or obligations hereunder, without Licensor's consent, to (a) a subsidiary of Licensee, or (b) to a third party in connection with a merger, change in control, acquisition, sale, or other transfer of all or substantially all of Licensee's assets which pertain to this Agreement.
- (b) Prior to assigning or transferring the Software or the Related Materials to any third party, including by way of a merger, change in control, by operation of law, or otherwise, Licensor shall provide Licensee with thirty (30) days prior written notice of its intent to assign or transfer the Software or Related Materials and Licensee shall have the right to acquire the Software and Related Materials on substantially identical terms as to those offered to such third party by providing written notice to Licensor within fifteen (15) days of actual receipt of notice from Licensor. If Licensee provides Licensor with written notice of Licensee's election not to exercise its right of first refusal, then Licensor may assign or transfer the Software or the Related Materials to such third party, but only if: (a) such third party has agreed in writing to be bound by all of the terms and conditions of this Agreement and to assume Licensor's obligations and liabilities hereunder; and (b) such third party has executed a source code escrow agreement and a support and service level agreement which are reasonably acceptable to Licensee. Any purported assignment or transfer of the Software or Related Materials in violation of the above shall be null and void. For purposes of clarity, Licensee's rights hereunder shall survive any transfer or assignment of the Software and Related

Materials from Licensor to a third party.

- (c) The Parties acknowledge that the Software is currently hosted using the servers and other infrastructure of Licensee. If Licensee chooses to terminate such services, or if Licensor elects to use the hosting services of a third party, then the Parties agree to enter into a mutually acceptable source code escrow agreement and a mutually acceptable support and service level agreement with respect to the Software and such third party hosting provider.

- 7. **Term.** The license granted by this Agreement is a perpetual license. Notwithstanding the foregoing, this Agreement will terminate upon sixty (60) days' prior written notice if Licensee fails to comply with any provision of this Agreement, provided such non-compliance is not cured by Licensee prior to the end of such sixty (60) day period. All sublicenses and other rights granted to customers prior to termination of this Agreement will remain in place unchanged provided that such customers are in compliance with the terms and conditions of their applicable sublicense or customer agreements. Sections 1, 3, 4(b), 4(c), and 5-17 will survive any termination of this Agreement.

8. **Updates; Support.**

- (a) Provided that Licensee is in compliance with the terms and conditions of this Agreement, or so long as any customers retain any rights to access or use the Software, Licensor agrees to make available to Licensee all updates, improvements and Enhancements for the Software, if any, at no additional charge to Licensee. Nothing herein shall be construed or interpreted as requiring Licensor to develop any such updates, improvements or enhancements.
- (b) Subject to the following clarifications, Licensor will, until the later of the expiration of this Agreement or until Licensee is no longer actively providing support for Pre-Existing Customers and Future Customers (the "**Support Period**"), use commercially reasonable efforts to provide Licensee with 24x7x365 e-mail and telephonic assistance and technical support with respect to the Software and Related Materials; provided that in connection with such commercially reasonable efforts, the support provided to Licensee or on behalf of Licensee to Pre-Existing Customers and Future Customers shall be comparable to the Licensor's support obligations with respect to Pre-Existing Customers prior to the Effective Date. Licensor shall also comply with any additional support obligations agreed upon prior to the Effective Date as specifically set forth in any such customer agreements entered into prior to the Effective Date. Any additional support beyond the foregoing requested by Licensee and/or Pre-Existing Customers or Future Customers shall be provided or withheld at Licensor's discretion, and shall be subject to additional charges as determined by Licensor.

9. **Limited Warranty.**

- (a) Licensor warrants that, for a period of one (1) year from the date of receipt by Licensee of the Software or any Modifications, that the provided Software or

Modification will: (a) conform to the Related Materials and Specifications in all material respects; (b) be free, in all material respects, from viruses, “trojan horses”, and Errors; and (c) comply with all applicable laws and regulations. Licensor warrants that the media upon which the Software is provided and the Related Materials will be free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the date of receipt by Licensee. Licensor further warrants that it, and the Software and Related Materials, will comply with any other warranties agreed upon prior to the Effective Date as to Licensor or Licensee and specifically set forth in any such agreement with a Pre-Existing Customer entered into prior to the Effective Date.

- (b) **LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE AND RELATED MATERIALS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE LIMITATION OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE FOREGOING EXCLUSIONS MAY NOT APPLY TO COMPANY. COMPANY MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.**
- (c) In the event of a breach of any representation or warranty set forth above during the applicable warranty period, Licensor shall, as Licensee's sole remedy with respect to such breach:
  - (i) promptly correct or work around Errors; and/or
  - (ii) promptly replace the Software and Related Materials with software and related materials of substantially similar capabilities; and
  - (iii) comply with any obligations of Licensor or Licensee pertaining to such breach agreed upon prior to the Effective Date as specifically set forth in any customer agreements entered into prior to the Effective Date.
- (d) Licensor, at its own expense, will defend and indemnify Licensee from all claims, liabilities, costs, losses, and expenses arising out of or relating to: (a) Licensor's breach of any representation or warranty hereunder, or (b) any claim brought against Licensee from a customer of Licensee stemming from the Software or Related Materials, or such customer's use thereof, that is not attributable to Licensee.
- (e) If Licensor has abandoned or entirely ceased supporting the Software or the Related Materials, or the business relating thereto, then Licensee shall have the right to acquire all of Licensor's right, title, and interest in and to the Software and Related Materials for one U.S. dollar (\$1.00 USD).

- (f) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY, NOR ITS AFFILIATES, ITS RESPECTIVE SUCCESSORS AND ASSIGNS (IF ANY), NOR ITS RESPECTIVE DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES, EQUITY HOLDERS, CONSULTANTS OR AGENTS WILL UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSSES (INCLUDING WITHOUT LIMITATION LOST PROFITS, WHETHER OR NOT SUCH LOSSES ARE FORESEEABLE). Anything to the contrary herein notwithstanding, Licensor shall have no liability to Licensee in excess of the fair market value of one (1) year of the license rights provided to Licensee hereunder.

10. **Confidentiality.** With respect to any Confidential Information disclosed by one Party to the other Party, the receiving Party agrees that it will use the same skill and care as used to protect its own Confidential Information to prevent the disclosure or accessibility to others of the disclosing Party's Confidential Information and will use such Confidential Information only for the purpose of this Agreement. The receiving Party shall limit dissemination of and access to the other's Confidential Information to only such of its employees or agents or consultants who have a need to know for the purpose of this Agreement.

Specifically excluded from the foregoing obligation is any and all information that:

- (a) is independently developed by the receiving Party without breach of this Agreement;
- (b) is already in the public domain at the time of disclosure, or thereafter becomes publicly known other than as the result of a breach by the receiving Party of its obligations under this Agreement;
- (c) is rightfully received from a third party without breach of this Agreement;
- (d) is furnished by the disclosing Party to a third party without a similar restriction on its rights; or
- (e) upon advice of counsel, must be produced by the receiving Party as a matter of law; provided, however, that in such case the receiving Party shall promptly notify the disclosing Party and, insofar as is permissible and reasonably practicable without placing the disclosing Party under penalty of law gave it an opportunity to appear and to object to such production before producing the requested information.

11. **No Implied Waiver.** No failure or delay by either Party in enforcing any right or remedy in this Agreement shall be construed as a waiver of any future exercise of such right or remedy by such Party.

12. **Governing Law.**

- (a) ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY,



ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAW OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTIONS) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTIONS OTHER THAN THE STATE OF DELAWARE.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER.

13. **Consent to Jurisdiction.** The parties hereto agree that all disputes, legal actions, suits and proceedings arising out of or relating to this Agreement must be brought exclusively in a federal district court located in Wilmington, Delaware. Each party hereto hereby consents and submits to the exclusive jurisdiction of such courts. No legal action, suit or proceeding with respect to this Agreement may be brought in any other forum. Each party hereto hereby irrevocably waives all claims of immunity from jurisdiction and any right to object on the basis that any dispute, action, suit or proceeding brought in such court has been brought in an improper or inconvenient forum or venue.
14. **Entire Agreement.** This Agreement constitutes the sole and entire agreement between the Parties with respect to the subject matter hereof, and supersedes any previous agreements, understandings and arrangements between the Parties relating to the Software and Related Materials. Any amendments hereto are enforceable only if in writing and signed by each of the Parties. In the event of conflict between a provision of this Agreement, and a provision in the SPA or the Transition Services Agreement, the provision in this Agreement shall control.
15. **Severability.** If any portion of this Agreement is deemed by any court of competent jurisdiction to be illegal or unenforceable, then the remaining provisions of this Agreement shall remain in full force and effect notwithstanding and any illegal or unenforceable provision(s) shall be deemed modified to the least extent possible so as to make them valid and enforceable and so as to give the maximum effect allowable by law to the parties' original intent as expressed by the terms hereof.
16. **Execution.** This Agreement has been executed by an authorized signatory duly entitled to bind the Party on behalf of which he or she has executed this Agreement.
17. **Counterparts.** This Agreement may be executed in one or more counterparts (including by means of facsimile or PDF signature pages), all of which taken together shall constitute one and the same instrument.

\* \* \*

**EXHIBIT D**  
**TRANSFERRED EMPLOYEES**

None.

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**RECORDED: 09/05/2013**

**TRADEMARK**  
**REEL: 005106 FRAME: 0425**