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 and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

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 :
In re : **Chapter 11 Case No.**
 :
RDA HOLDING CO., et al., : **13-22233 (RDD)**
 :
Debtors.¹ : **(Jointly Administered)**
 :
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**NOTICE OF MOTION OF DEBTORS FOR ENTRY OF ORDER
 PURSUANT TO 11 U.S.C. §§ 363 AND 365(a), FED. R. BANKR. P. 6006, AND
 LOCAL BANKRUPTCY RULE 6006-1 APPROVING ASSUMPTION OF SECOND
 AMENDED AND RESTATED MASTER SERVICES AGREEMENT BETWEEN
HCL AMERICA, INC. AND THE READER’S DIGEST ASSOCIATION, INC.**

PLEASE TAKE NOTICE that on June 14, 2013, RDA Holding Co. (“**RDA Holding**”), The Reader’s Digest Association, Inc. (“**Reader’s Digest**”), and certain of their subsidiaries and affiliates, as debtors and debtors in possession in the above-captioned chapter 11

¹ The Debtors in these cases, along with the last four digits of the federal tax identification number for each of the Debtors, are RDA Holding Co. (7045); The Reader’s Digest Association, Inc. (6769); Ardee Music Publishing, Inc. (2291); Direct Entertainment Media Group, Inc. (2306); Pegasus Sales, Inc. (3259); Pleasantville Music Publishing, Inc. (2289); R.D. Manufacturing Corporation (0230); Reiman Manufacturing, LLC (8760); RD Publications, Inc. (9115); Home Service Publications, Inc. (9525); RD Large Edition, Inc. (1489); RDA Sub Co. (f/k/a Books Are Fun, Ltd.) (0501); Reader’s Digest Children’s Publishing, Inc. (6326); Reader’s Digest Consumer Services, Inc. (8469); Reader’s Digest Entertainment, Inc. (4742); Reader’s Digest Financial Services, Inc. (7291); Reader’s Digest Latinoamerica S.A. (5836); WAPLA, LLC (9272); Reader’s Digest Sales and Services, Inc. (2377); Taste of Home Media Group, LLC (1190); Reiman Media Group, LLC (1192); Taste of Home Productions, Inc. (1193); World Wide Country Tours, Inc. (1189); W.A. Publications, LLC (0229); WRC Media Inc. (6536); RDCL, Inc. (f/k/a CompassLearning, Inc.) (6535); RDA Digital, LLC (5603); RDWR, Inc. (f/k/a Weekly Reader Corporation) (3780); Haven Home Media, LLC (f/k/a Reader’s Digest Sub Nine, Inc.) (2727); Weekly Reader Custom Publishing, Inc. (f/k/a Lifetime Learning Systems, Inc.) (3276); and World Almanac Education Group, Inc. (3781).

cases (collectively, the “**Debtors**”²) filed the annexed motion (the “**Motion**”), pursuant to sections 363 and 365(a) of title 11 of the United States Code, Rule 6006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for entry of an order approving the assumption of that certain Second Amended and Restated Master Services Agreement, dated as of June 10, 2013, between Reader’s Digest and HCL America, Inc., and certain related relief. A hearing on the relief requested in the Motion will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, at The Hon. Charles L. Briant Jr. Federal Building and Courthouse, Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 (the “**Bankruptcy Court**”) on **June 28, 2013, at 10:00 a.m. (Eastern Time)** (the “**Hearing**”) or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion (the “**Objections**”) must be in writing, shall conform to the Bankruptcy Rules and the Local Rules, and shall be filed with the Bankruptcy Court (a) by registered users of the Bankruptcy Court’s case filing system, electronically in accordance with General Order M-399 (which can be found at <http://nysb.uscourts.gov>) and (b) by all other parties in interest, on a CD-ROM or other electronic media, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 and on (i) the attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Joseph H. Smolinsky, Esq.), (ii) the

² The direct and indirect international subsidiaries of RDA Holding are not debtors in these chapter 11 cases.

Debtors, c/o The Reader's Digest Association, Inc., 44 South Broadway, White Plains, New York 10601 (Attn: Andrea Newborn, Esq.), (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Susan Golden, Esq.) and 271 Cadman Plaza East, Suite 4529, Brooklyn, New York 11201 (Attn: Marylou Martin, Esq.), (iv) the attorneys for the Official Committee of Unsecured Creditors, Otterbourg, Steindler, Houston & Rosen, P.C., 230 Park Avenue, New York, New York 10169 (Attn: Scott L. Hazan, Esq. and David M. Posner, Esq.), and (v) all entities that requested notice in these chapter 11 cases under Bankruptcy Rule 2002 so as to be received no later than **June 21, 2013 at 4:00 p.m. (Eastern Time)** (the "**Objection Deadline**").

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard.

Dated: June 14, 2013
New York, New York

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**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

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**MOTION OF DEBTORS FOR ENTRY OF ORDER
 PURSUANT TO 11 U.S.C. §§ 363 AND 365(a), FED. R. BANKR. P. 6006, AND
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¹ The Debtors in these cases, along with the last four digits of the federal tax identification number for each of the Debtors, are RDA Holding Co. (7045); The Reader’s Digest Association, Inc. (6769); Ardee Music Publishing, Inc. (2291); Direct Entertainment Media Group, Inc. (2306); Pegasus Sales, Inc. (3259); Pleasantville Music Publishing, Inc. (2289); R.D. Manufacturing Corporation (0230); Reiman Manufacturing, LLC (8760); RD Publications, Inc. (9115); Home Service Publications, Inc. (9525); RD Large Edition, Inc. (1489); RDA Sub Co. (f/k/a Books Are Fun, Ltd.) (0501); Reader’s Digest Children’s Publishing, Inc. (6326); Reader’s Digest Consumer Services, Inc. (8469); Reader’s Digest Entertainment, Inc. (4742); Reader’s Digest Financial Services, Inc. (7291); Reader’s Digest Latinoamerica S.A. (5836); WAPLA, LLC (9272); Reader’s Digest Sales and Services, Inc. (2377); Taste of Home Media Group, LLC (1190); Reiman Media Group, LLC (1192); Taste of Home Productions, Inc. (1193); World Wide Country Tours, Inc. (1189); W.A. Publications, LLC (0229); WRC Media Inc. (6536); RDCL, Inc. (f/k/a CompassLearning, Inc.) (6535); RDA Digital, LLC (5603); RDWR, Inc. (f/k/a Weekly Reader Corporation) (3780); Haven Home Media, LLC (f/k/a Reader’s Digest Sub Nine, Inc.) (2727); Weekly Reader Custom Publishing, Inc. (f/k/a Lifetime Learning Systems, Inc.) (3276); and World Almanac Education Group, Inc. (3781).

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

RDA Holding Co. (“**RDA Holding**”), The Reader’s Digest Association, Inc. (“**Reader’s Digest**”), and certain of their subsidiaries and affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, including RDA Holding and Reader’s Digest, the “**Debtors**,” and together with their non-Debtor subsidiaries, “**RDA**”²), respectfully represent:

Preliminary Statement

1. Since September 2011, RDA’s current management has sought to transform RDA. The transformation has been centered around three areas: (a) reducing corporate overhead, legacy expenses and complexity; (b) revitalizing the Debtors’ core businesses; and (c) selling and/or licensing the international direct marketing businesses or pursuing alternate solutions. In connection with this transformation, and as an ongoing component of the chapter 11 process, the Debtors have taken steps to improve operations, reduce costs, and emerge from these cases in a stronger posture that will allow for their long-term success. As part of these efforts, the Debtors have conducted an extensive analysis of their relationships with their various vendors, suppliers and other contract parties to determine which relationships are beneficial to maintain on a going-forward basis. Based on this analysis, the Debtors have determined that maintaining their information technology (“**IT**”) support services arrangement with HCL America, Inc. (“**HCL**”), on improved terms, is necessary for the effective operation of the Debtors’ domestic and international businesses.

² The direct and indirect international subsidiaries of RDA Holding are not debtors in these chapter 11 cases.

2. HCL is a global information technology consulting and outsourcing services company that offers, among other things, IT application development support, IT maintenance support, infrastructure support, business process outsourcing, and procurement services. Since 2009, pursuant to that certain Master Services Agreement, dated March 4, 2009 (as amended and restated on January 30, 2013, the “**HCL Agreement**”), by and between HCL and Reader’s Digest, the Debtors have outsourced the vast majority of their IT support services to HCL. HCL provides IT infrastructure support and IT application development and maintenance support to the Debtors’ domestic and international businesses. HCL’s IT infrastructure support includes, among other things, the support and maintenance of the Debtors’ networks, desktop computers, servers, and IT help desks. As part of its application development support, HCL both develops and supports applications used by the Debtors’ business systems, including, without limitation, the Debtors’ fulfillment systems, financial systems, marketing systems, and advertising/sales systems.

3. Following the commencement of these chapter 11 cases, the Debtors and HCL engaged in good faith, arm’s-length, and necessary negotiations regarding certain amendments to the HCL Agreement. Based on these negotiations, the Debtors and HCL have reached an agreement on certain amended terms, all of which are incorporated into the Second Amended and Restated Master Services Agreement, dated as of June 10, 2013 (the “**Amended HCL Agreement**”). As more fully described herein, the anticipated benefits of assuming the Amended HCL Agreement, include, among other things, the uninterrupted provision of essential IT support services for the Debtors’ domestic and international businesses, while providing additional flexibility for the Debtors to implement their restructuring plan. Accordingly, assumption of the HCL Agreement, as amended by the Amended HCL Agreement, is warranted.

Background

4. Commencing on February 17, 2013 (the “**Commencement Date**”) and continuing immediately thereafter, the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11, United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

5. The Debtors’ chapter 11 cases have been jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

6. On February 28, 2013, the United States Trustee for the Southern District of New York appointed an official committee of unsecured creditors in these chapter 11 cases (the “**Creditors Committee**”).

7. Information regarding the Debtors’ business, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the Declaration of Robert E. Guth Pursuant to Local Bankruptcy Rule 1007-2, dated February 17, 2013 (ECF No. 3).

8. On March 25, 2013, the Court entered the Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105, Fed. R. Bankr. P. 2002, 3003(c)(3) and 4007(c), and Local Rule 3003-1 (i) Establishing Deadline for Filing Proofs of Claim, (ii) Establishing Deadline for Filing Complaints to Determine Dischargeability of Debts and Procedures Relating Thereto, and (iii) Approving Form and Manner of Notice Thereof (ECF No. 165) (the “**Bar Date Order**”). Pursuant to the Bar Date Order, the Court set May 6, 2013 at 5:00 p.m. (Eastern Time) as the

deadline for each person or entity, not including governmental units as defined in section 101(27) of the Bankruptcy Code, to file a proof of claim in the Debtors' chapter 11 cases (the "**Bar Date**").

9. On March 29, 2013, notice of the Bar Date (the "**Bar Date Notice**") was provided by mail by the Debtors' claims and noticing agent, Epiq Bankruptcy Solutions, LLC (the "**Noticing Agent**"), in accordance with the procedures set forth in the Bar Date Order. The Noticing Agent thereafter filed affidavits of service with respect to the service of the Bar Date Notice (ECF Nos. 211, 238, and 253). Further, in accordance with the Bar Date Order, the Debtors caused the Bar Date Notice to be published in the national editions of *The New York Times* and *The Wall Street Journal* and caused a corresponding affidavit of service to be filed reflecting such publications (ECF No. 260).

10. On or about May 2, 2013, HCL filed two proofs of claim (Claim Nos. 289 and 290) (the "**HCL Claims**"), asserting prepetition claims in the aggregate amount of \$4,677,080.00 and \$201,362.00, respectively.

11. On May 7, 2013, the Debtors other than Direct Entertainment Media Group, Inc. (the "**Reorganization Plan Debtors**") filed the Second Amended Joint Plan of Reorganization of Certain Debtors Under Chapter 11 of the Bankruptcy Code, dated May 7, 2013 (ECF No. 318) (as may be modified, supplemented or amended from time to time, the "**Reorganization Plan**"), and a related disclosure statement (ECF No. 319). A hearing to consider confirmation of the Reorganization Plan is scheduled to commence on June 28, 2013.

Jurisdiction

12. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

13. By this Motion, the Debtors request, pursuant to sections 363 and 365(a) of the Bankruptcy Code, Bankruptcy Rule 6006, and Rule 6006-1 of the Local Bankruptcy Rules for the Southern District of New York, entry of an order (a) approving the assumption of the Amended HCL Agreement, (b) authorizing Reader's Digest and HCL to enter into, and perform under, the Amended HCL Agreement, and (c) approving the determination and allowance of the Cure Amount and the General Unsecured Claim (each as herein defined). A proposed form of order is annexed hereto as **Exhibit "A"**.

14. In support of this Motion, the Debtors rely upon the declaration of Joseph Held, a copy of which is attached hereto as **Exhibit "B"** (the "**Held Declaration**").

15. A redacted copy of the Amended HCL Agreement is attached hereto as **Exhibit "C"**.³

The Amended HCL Agreement

16. By assuming the Amended HCL Agreement, the Debtors will (a) continue to receive the essential IT infrastructure support and IT application development and maintenance support that HCL currently provides, and (b) benefit from certain modified terms that are more favorable than those set forth in the HCL Agreement. The Debtors' domestic and

³ An unredacted version of the Amended HCL Agreement will be made available to (a) the Court upon request, and (b) other parties upon request, including the Creditors Committee, upon such parties entering into a confidentiality agreement acceptable to HCL.

international businesses cannot function without the continued operation of the Debtors' technology infrastructure. Assumption of the Amended HCL Agreement will ensure that HCL provides both ongoing support for the Debtors' business systems as well as the additional IT support services that are critical to the Debtors' operations.

17. As described below, the Amended HCL Agreement provides certain key advantages over the existing HCL Agreement.

- (a) Pursuant to the Amended HCL Agreement, the Debtors may assign the agreement in parts to their subsidiaries or third parties, thereby enabling the Debtors to sell their international business to purchasers with stand-alone IT support services. As a result, the Debtors will be able to sell certain of their international businesses without the need to enter into cumbersome transition service agreements with the applicable purchaser.
- (b) The Amended HCL Agreement caps the Debtors' indemnification obligations under the HCL Agreement with respect to the severance liabilities related to certain former employees. In connection with the HCL Agreement, in 2009, approximately 110 of the Debtors' former employees became employees of HCL. As part of the transition, HCL absorbed the Debtors' severance obligations with respect to such employees. Under the HCL Agreement, the Debtors agreed to indemnify HCL for the severance obligations of HCL arising from the termination of the re-badged employees. The Amended HCL Agreement, however, caps the Debtors' indemnification obligations with respect to such employees at 75% of the severance cap set forth in the HCL Agreement.
- (c) The Amended HCL Agreement eliminates certain minimum commitments that were required under the HCL Agreement. Moreover, under the Amended HCL Agreement, the Debtors may eliminate applications on a resource-by-resource basis, as opposed to eliminating entire systems, thereby providing the Debtors with greater flexibility to manage costs.
- (d) HCL also has agreed to reduce the amount that the Debtors would be required to pay as a cure cost for assuming the Amended HCL Agreement. Absent such agreement, the Debtors would be obligated pursuant to section 365 of the Bankruptcy Code to pay the full amount of the HCL Claims in connection with the

assumption of the Amended HCL Agreement (i.e., \$4,878,442.00). Subject to this Court's approval of the relief requested herein, the Debtors will only be required to pay a cure amount of \$2,820,080.00. The remaining prepetition amounts owed to HCL will be limited to a single allowed general unsecured claim against Reader's Digest in the aggregate amount of \$1,857,000.00.

18. Based on the benefits that the Amended HCL Agreement provides, the Debtors have determined that outsourcing their IT support services to a new supplier would not be advantageous. The Debtors obtained favorable service rates under the HCL Agreement, which rates remain in effect under the Amended HCL Agreement. The Debtors do not believe they would be able to obtain such favorable rates from a new supplier. Moreover, as more fully set forth in the Held Declaration, the Debtors anticipate that it would take at least several months to transition to another supplier, which would expose the Debtors' business operations to a number of technical risks. Finally, the Debtors estimate that outsourcing to a new supplier would cause the Debtors to incur onerous transition costs, including, without limitation, resource costs, travel costs, and software costs.

**The Assumption of the Amended HCL Agreement Is a
Sound Exercise of Business Judgment and Should Be Approved**

19. Section 365(a) of the Bankruptcy Code provides, in relevant part, that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *Adelphia Bus. Solutions, Inc. v. Abnos (In re Adelphia Bus. Solutions)*, 482 F.3d 602, 605 (2d Cir. 2007); *Smart World Techs., LLC v. Juno Online Servs. (In re Smart World Techs., LLC)*, 423 F.3d 166, 174 n.10 (2d Cir. 2005). In determining whether an executory contract or unexpired lease should be assumed, courts apply the "business judgment" test. *Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures)*, 4 F.3d 1095, 1099

(2d Cir. 1993); *see also Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985) (“More exacting scrutiny would slow the administration of the debtors’ estate and increase its cost, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten the court’s ability to control a case impartially”); *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006) (“The decision to assume or reject an executory contract is within the sound business judgment of the debtor-in-possession. . .”).

20. Section 363(b)(1) of the Bankruptcy Code permits a debtor to use, sell or lease property, other than in the ordinary course of business, with court approval. 11 U.S.C. § 363(b). Although section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize a transaction outside the ordinary course of business, courts in the Second Circuit, in applying this section, have required that any such transaction be based upon the sound business judgment of the debtor. *See, e.g., In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992) (affirming approval of transaction under section 363(b) on the grounds that the transaction was supported by a “good business reason”); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983) (requiring “sound business justifications” for transactions under section 363(b)); *In re Calpline Corp.*, 356 B.R. 585, 594 (Bankr. S.D.N.Y. 2007) (requiring a “good business reason” for 363(b) authorization).

21. It is generally understood that “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos-Related Litigants v. Johns Manville Corp. (In re Johns Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). If a valid business justification exists, there is a strong presumption that

“the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003) (citation omitted).

22. When assuming an executory contract, section 365(b) of the Bankruptcy Code requires the debtor to cure any defaults under the contract or provide adequate assurance that it will promptly cure these defaults. 11 U.S.C. § 365(b)(1)(A). If there has been a default, the debtor must also provide adequate assurance of future performance under the contract. 11 U.S.C. § 365(b)(1)(C). Section 365(b) provides:

(1) If there has been a default in an executory contract or unexpired lease of the debtor, the [debtor] may not assume such contract or lease unless, at the time of the assumption of such contract or lease, the [debtor] –

(A) cures, or provides adequate assurance that the [debtor] will promptly cure, such default;

(B) compensates, or provides adequate assurance that the [debtor] will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

23. Here, in accordance with the sound exercise of their business judgment, the Debtors have determined that the assumption of the Amended HCL Agreement is in the best interests of the Debtors and their estates. By assuming the Amended HCL Agreement, the Debtors will continue to receive critical IT infrastructure support, IT application development and maintenance support, and business process operations support from HCL. As discussed above, the Amended HCL Agreement also provides multiple additional benefits to the Debtors,

including, among other things, (a) the ability to assign in-part the agreement to their subsidiaries or third parties, (b) an indemnity cap for HCL's severance liability with respect to the Debtors' former employees, (c) the elimination of certain minimum commitments, (d) greater flexibility to manage costs, and (e) a reduced cure cost.

24. Moreover, if the Debtors were to reject the HCL Agreement, it is highly unlikely that another IT service provider would offer terms as favorable as those set forth in the Amended HCL Agreement. Furthermore, if the Debtors were to outsource their IT operations to a new service provider, the Debtors likely would incur burdensome transition costs and expose their operations to a number of risks related to the Debtors' IT infrastructure. Accordingly, valid business reasons exist for the Debtors to enter into, perform under, and assume the Amended HCL Agreement.

25. Finally, the facts of these chapter 11 cases sufficiently demonstrate the Debtors' adequate assurance of future performance. First, the Debtors have sufficient liquidity through access to their \$105 million in debtor-in-possession financing, which is to be converted to exit financing when the Debtors emerge from chapter 11, and additional cash flow from their ongoing business operations, such that the Debtors can meet their future obligations under the Amended HCL Agreement. Second, the Reorganization Plan Debtors' current reorganization efforts and likelihood for an effective reorganization provide adequate assurance of future performance. Accordingly, approval of the relief requested herein is warranted.

Waiver of Bankruptcy Rule 6004(h)

26. To implement the foregoing immediately, the Debtors seek a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

27. Notice of this Motion has been provided to HCL, and parties in interest in accordance with the Order Pursuant to 11 U.S.C. §§ 105(a) and (d) and Bankruptcy Rules 1015(c), 2002(m), and 9007 Implementing Certain Notice and Case Management Procedures, dated February 21, 2013 (ECF No. 30). The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided.

28. No previous request for the relief sought in this Motion has been made by the Debtors to this or any other Court.

WHEREFORE the Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: June 14, 2013
New York, New York

/s/ Joseph H. Smolinsky
Marcia L. Goldstein
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Exhibit "A"

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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HCL AMERICA, INC. AND THE READER’S DIGEST ASSOCIATION, INC.**

Upon the Motion, dated June 14, 2013 (ECF No. [●]) (the “**Motion**”),¹ of RDA Holding Co. (“**RDA Holding**”), The Reader’s Digest Association, Inc. (“**Reader’s Digest**”), and certain of their subsidiaries and affiliates, as debtors and debtors in possession (collectively, including RDA Holding and Reader’s Digest, the “**Debtors**”), pursuant to sections 363 and 365(a) of title 11, United States Code, Rule 6006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), for entry of an order (a) approving the assumption of the Second Amended and Restated Master Services Agreement, dated as of June 10, 2013 (the “**Amended HCL Agreement**”), (b) authorizing Reader’s Digest and HCL America, Inc. (“**HCL**”) to enter into, and perform under, the Amended HCL Agreement, and (c) approving the determination and allowance of the Cure Amount and the General Unsecured Claim (each as herein defined), all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and

¹ Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

1334 and Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon the Declaration of Robert E. Guth Pursuant to Local Bankruptcy Rule 1007-2, dated February 17, 2013 (ECF No. 3), the Held Declaration, and the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted as provided herein; and it is further

ORDERED that the Debtors are authorized to enter into, and perform under, the Amended HCL Agreement; and it is further

ORDERED that the Debtors are authorized to assume the Amended HCL Agreement; and it is further

ORDERED that, within thirty (30) days following the entry of this Order, Reader’s Digest shall pay to HCL a cure payment in the aggregate amount of \$2,820,080.00 (the “**Cure Amount**”), in accordance with the Amended HCL Agreement; and it is further

ORDERED that HCL is hereby deemed to have a new allowed general unsecured claim against Reader’s Digest in the aggregate amount of \$1,857,000.00 (the “**Allowed General Unsecured Claim**”); and it is further

ORDERED that, upon Reader's Digest's payment of the Cure Amount, the HCL Claims shall be deemed withdrawn with prejudice; and it is further

ORDERED that the Debtors, the Debtors' claims and noticing agent, Epiq Bankruptcy Solutions, LLC (the "**Claims and Noticing Agent**"), and the Clerk of this Court are authorized to take all actions necessary or appropriate to give effect to this Order, and the Claims and Noticing Agent shall (a) reflect in the claims register the Allowed General Unsecured Claim in the amount of \$1,857,000.00 for HCL, and (b) provide notice of such new claim to HCL; and it is further

ORDERED that notice of the Motion satisfies Bankruptcy Rule 6006 and Local Rule 6006-1; and it is further

ORDERED that the stay under Bankruptcy Rule 6004 is waived; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: _____, 2013
White Plains, New York

HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit "B"

Held Declaration

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re	: Chapter 11 Case No.
	:
RDA HOLDING CO., et al.,	: 13-22233 (RDD)
	:
Debtors.¹	: (Jointly Administered)
	:
-----X	

**DECLARATION OF JOSEPH HELD IN SUPPORT OF
MOTION OF DEBTORS FOR ENTRY OF ORDER PURSUANT
TO 11 U.S.C. §§ 363 AND 365(a), FED. R. BANKR. P. 6006, AND LOCAL
BANKRUPTCY RULE 6006-1 APPROVING ASSUMPTION OF SECOND
AMENDED AND RESTATED MASTER SERVICES AGREEMENT BETWEEN
HCL AMERICA, INC. AND THE READER’S DIGEST ASSOCIATION, INC.**

I, Joseph Held, make this declaration under 28 U.S.C. § 1746:

1. I currently serve as the Global Chief Information Officer for The Reader’s Digest Association, Inc. (“**Reader’s Digest**”), which position I have held since May 9, 2011. I am familiar with the day-to-day operations of Reader’s Digest, RDA Holding Co., and their affiliated debtors and debtors-in-possession (collectively, the “**Debtors**” and together with their non-Debtor subsidiaries, “**RDA**”²), as well as the Debtors’ information technology (“**IT**”)

¹ The Debtors in these cases, along with the last four digits of the federal tax identification number for each of the Debtors, are RDA Holding Co. (7045); The Reader’s Digest Association, Inc. (6769); Ardee Music Publishing, Inc. (2291); Direct Entertainment Media Group, Inc. (2306); Pegasus Sales, Inc. (3259); Pleasantville Music Publishing, Inc. (2289); R.D. Manufacturing Corporation (0230); Reiman Manufacturing, LLC (8760); RD Publications, Inc. (9115); Home Service Publications, Inc. (9525); RD Large Edition, Inc. (1489); RDA Sub Co. (f/k/a Books Are Fun, Ltd.) (0501); Reader’s Digest Children’s Publishing, Inc. (6326); Reader’s Digest Consumer Services, Inc. (8469); Reader’s Digest Entertainment, Inc. (4742); Reader’s Digest Financial Services, Inc. (7291); Reader’s Digest Latinoamerica S.A. (5836); WAPLA, LLC (9272); Reader’s Digest Sales and Services, Inc. (2377); Taste of Home Media Group, LLC (1190); Reiman Media Group, LLC (1192); Taste of Home Productions, Inc. (1193); World Wide Country Tours, Inc. (1189); W.A. Publications, LLC (0229); WRC Media Inc. (6536); RDCL, Inc. (f/k/a CompassLearning, Inc.) (6535); RDA Digital, LLC (5603); RDWR, Inc. (f/k/a Weekly Reader Corporation) (3780); Haven Home Media, LLC (f/k/a Reader’s Digest Sub Nine, Inc.) (2727); Weekly Reader Custom Publishing, Inc. (f/k/a Lifetime Learning Systems, Inc.) (3276); and World Almanac Education Group, Inc. (3781).

² The direct and indirect international subsidiaries of RDA Holding are not debtors in these chapter 11 cases.

systems and the arrangements between the Debtors and certain third-party IT service providers, including, among others, HCL America, Inc. (“**HCL**”).

2. I submit this declaration in support of the Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. §§ 363 and 365(a), Fed. R. Bankr. P. 6006, and Local Bankruptcy Rule 6006-1 Approving Assumption of Second Amended and Restated Master Services Agreement Between HCL America, Inc. and The Reader’s Digest Association, Inc. (the “**Motion**”). I have read the Motion and I agree with the factual statements asserted therein.

3. Except as otherwise indicated, the facts set forth in this declaration are based upon (a) my personal knowledge of the Debtors’ businesses and operations, (b) information learned from my review of relevant documents, (c) information provided to me or verified by other executives, management, employees or the Debtors’ professional advisors and/or (d) my opinion based upon my experience, knowledge and information concerning the Debtors’ businesses and operations. I am authorized to submit this declaration on behalf of the Debtors, and, if I were called upon to testify, I could and would testify competently to the facts set forth herein.

Background

4. Since September 2011, RDA’s current management has sought to transform RDA. The transformation has been centered around three areas: (a) reducing corporate overhead, legacy expenses and complexity; (b) revitalizing the Debtors’ core businesses; and (c) selling and/or licensing the international direct marketing businesses or pursuing alternate solutions. In connection with this transformation, and as an ongoing component of the chapter 11 process, the Debtors have taken steps to improve operations, reduce costs, and emerge from these cases in a stronger posture that will allow for their long-term

success. As part of these efforts, the Debtors have conducted an extensive analysis of their relationships with their various vendors, suppliers and other contract parties to determine which relationships are beneficial to maintain on a going-forward basis. Based on this analysis, the Debtors have determined that maintaining their IT support services arrangement with HCL, on improved terms, is necessary for the effective operation of the Debtors' domestic and international businesses.

The HCL Agreement

5. HCL is a global information technology consulting and outsourcing services company that offers, among other things, IT application development support, IT maintenance support, infrastructure support, business process outsourcing, and procurement services. Since 2009, pursuant to that certain Master Services Agreement, dated March 4, 2009 (as amended and restated on January 30, 2013, the "**HCL Agreement**"), by and between HCL and Reader's Digest, the Debtors have outsourced the vast majority of their IT support services to HCL. HCL provides IT infrastructure support and IT application development and maintenance support to the Debtors' domestic and international businesses. HCL's IT infrastructure support includes, among other things, the support and maintenance of the Debtors' networks, desktop computers, servers, and IT help desks. As part of its application development support, HCL both develops and supports applications used by the Debtors' business systems, including, without limitation, the Debtors' fulfillment systems, financial systems, marketing systems, and advertising/sales systems.

6. In connection with the HCL Agreement, in 2009, approximately 110 of the Debtors' former employees became employees of HCL. As part of the transition, HCL absorbed the Debtors' severance obligations with respect to such employees. Under the HCL

Agreement, the Debtors agreed to indemnify HCL for the severance obligations of HCL arising from the termination of the re-badged employees.

The Amended HCL Agreement

7. Following the commencement of these chapter 11 cases, the Debtors and HCL engaged in good faith, arm's-length negotiations regarding certain amendments to the HCL Agreement. Based on these negotiations, the Debtors and HCL have reached an agreement on certain amended terms, all of which are incorporated into the Second Amended and Restated Master Services Agreement, dated as of June 10, 2013 (the "**Amended HCL Agreement**").

8. Assuming the Amended HCL Agreement will enable the Debtors to continue to receive the essential IT infrastructure support and IT application development and maintenance support that HCL currently provides. The Debtors' domestic and international businesses cannot function without the continued operation of the Debtors' myriad business systems. Assumption of the Amended HCL Agreement will ensure that HCL provides both ongoing support for these business systems as well as the additional IT support services that are critical to the Debtors' operations.

9. In addition, the Amended HCL Agreement caps the Debtors' indemnification obligations with respect to such employees at 75% of the severance cap set forth in the HCL Agreement. The Amended HCL Agreement also eliminates certain minimum commitments that were required under the HCL Agreement. Moreover, under the Amended HCL Agreement, the Debtors will be able to eliminate applications on a resource-by-resource basis, as opposed to eliminating entire systems, thereby providing the Debtors with greater flexibility to manage costs.

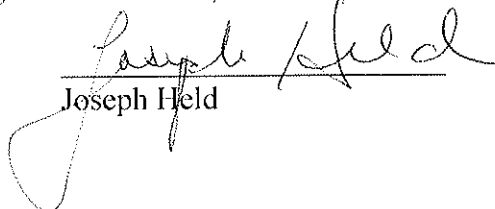
10. HCL also has agreed to reduce the amount that the Debtors would be required to pay as a cure cost for assuming the Amended HCL Agreement. Absent such

agreement, the Debtors would be obligated to pay the full amount of the HCL Claims in connection with the assumption of the Amended HCL Agreement (i.e., \$4,878,442.00).

11. Rejecting the HCL Agreement would not be advantageous for the Debtors. The Debtors obtained favorable service rates under the HCL Agreement, which rates remain in effect under the Amended HCL Agreement. The Debtors likely would not be able to obtain such favorable rates from a new supplier. In addition, it would take at least several months to transition to another supplier, which would expose the Debtors' business operations to a number of risks related to the Debtors' IT infrastructure. Moreover, outsourcing to a new supplier would cause the Debtors to incur onerous transition costs, including, among other things, resource costs, travel costs, and software costs.

I declare under penalty of perjury that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Executed on this 13th day of June, 2013, at White Plains, New York



Joseph Held

Exhibit "C"

Amended HCL Agreement

SECOND AMENDED AND RESTATED MASTER SERVICES AGREEMENT

between

HCL AMERICA, INC.

and

THE READER'S DIGEST ASSOCIATION, INC.

dated

June 10, 2013

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[REDACTED]

[REDACTED]

SECOND AMENDED AND RESTATED MASTER SERVICES AGREEMENT

This agreement (the "Master Agreement") is made and entered into as of March 4, 2009 (the "Effective Date") by and between HCL AMERICA, INC., with offices at 330 Potrero Avenue, Sunnyvale, California 94085 ("Supplier MSA Party") and THE READER'S DIGEST ASSOCIATION, INC., with offices at 44 South Broadway, White Plains, New York 10601 ("Customer MSA Party").

This Master Agreement was amended and restated, in its entirety, by Supplier MSA Party and Customer MSA Party on January 30, 2013 (the "First Restated Date"). On February 17, 2013 (the "Commencement Date"), Customer MSA Party and certain Affiliates of the Customer MSA Party filed a petition for Chapter 11 bankruptcy protection in the U.S. Bankruptcy Court. In connection with Customer MSA Party's restructuring plan this Master Agreement is hereby amended and restated again, in its entirety, by Supplier MSA Party and Customer MSA Party as of June 10, 2013 (the "Second Restated Date"). This Master Agreement supersedes and replaces the Master Services Agreement, dated March 4, 2009, by and between HCL America, Inc. and The Reader's Digest Association, Inc. (the "2009 Agreement") and the Amended and Restated Master Services Agreement, dated January 30, 2013, by and between HCL America, Inc. and The Reader's Digest Association, Inc. (the "2013 Agreement") as of the Second Restated Date.

Supplier MSA Party and Customer MSA Party agree as follows:

1. Definitions and Interpretation.

1.01. Definitions. The following terms have the following meanings:

- (1) "2009 Agreement" has the meaning set forth in the preamble.
- (2) "2013 Agreement" has the meaning set forth in the preamble
- (3) "Acceptance" means (a) with respect to a Deliverable for which acceptance criteria are set forth in the applicable work order or project plan, written acceptance by the Customer MSA Party of the Deliverable (or, in the event the applicable Deliverable is delivered pursuant to a Country Service Agreement, the applicable Customer CSA Party), (b) with respect to each Deliverable for which acceptance criteria are not set forth in a work order or project plan, written acceptance by Customer MSA Party of a Deliverable (or, in the event the applicable Deliverable is delivered pursuant to a Country Service Agreement, the applicable Customer CSA Party) as determined in Customer's reasonable discretion and (c) with respect to any other item for which acceptance criteria are agreed by the Parties, written acceptance by the Customer MSA Party of the Deliverable (or, in the event the applicable Deliverable is delivered pursuant to a Country Service Agreement, the applicable Customer CSA Party). For clarity, "Acceptance" shall include any deemed acceptance in accordance with Section 7.03 of Exhibit 9.
- (4) "Acceptance Criteria" has the criteria agreed by the Parties for Acceptance of a Deliverable.
- (5) "Affected Party" has the meaning set forth in Section 24.01.
- (6) "Affected Service Delivery Organization Member" has the meaning set forth in Section 22.11.
- (7) "Affiliate" means, as to any entity, any other entity that, directly or indirectly, Controls, is Controlled by or is under common Control with such entity.
- (8) "Agreements" means this Master Agreement and the Country Service Agreements, collectively.
- (9) "Approval Motion" has the meaning set forth in Section 1.06.
- (10) "Approval Order" has the meaning set forth in Section 1.06.

- (11) "Assigned Agreements" means the third party agreements that are assigned, in whole or in part, to Supplier and that are identified as "Assigned Agreements" in Exhibit 5.
- (12) "Bankruptcy Court" has the meaning set forth in Section 1.06.
- (13) "Base Case" means the base case set forth in [REDACTED]
- (14) "Business" means an Affiliate, entity or business unit, including any brand, book or magazine title or series.
- (15) "Business Continuity Plan" has the meaning set forth in Section 24.02.
- (16) "Change Control Process" has the meaning set forth in Exhibit 9.
- (17) "Chapter 11 Cases" has the meaning set forth in Section 1.06.
- (18) "Commencement Date" has the meaning set forth in the preamble.
- (19) "Confidential Information" of a Party means all technical or business information (and documentation) and all intellectual property of such Party, its affiliated entities (to the extent not already included in the term "Party") or its customers, suppliers (including contractors) and other third parties doing business with such Party, whether disclosed to, accessed by or otherwise learned by the other Party. The term "Confidential Information" includes: (a) with respect to Customer, all Customer Data; (b) the Agreements; (c) all information described in this definition that is marked as confidential (or with words of similar meaning); and (d) anything developed by reference to the information described in this definition.
- (20) "Control" means, with respect to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities (or other ownership interest), by contract or otherwise.
- (21) "Control Objectives" has the meaning set forth in Section 15.03.
- (22) "Country Service Agreement" means a country-specific agreement entered into under this Master Agreement by and between a Customer CSA Party and a Supplier CSA Party and substantially in the form of Exhibit 15.
- (23) "Critical Services" means those Services described as Critical in Exhibit 13.
- (24) "CSA Party" means either a Customer CSA Party or the Supplier CSA Party, as applicable.
- (25) "Cure Amount" has the meaning set forth in Section 1.07.
- (26) "Customer" means Customer MSA Party, the Customer CSA Parties and any Affiliates of Customer MSA Party or a Customer CSA Party that is receiving the Services.
- (27) "Customer Agent" means an agent or contractor of Customer, exercising any of Customer's rights or performing any of Customer's obligations under this Master Agreement.
- (28) "Customer Architecture" has the meaning set forth in Section 3.06.
- (29) "Customer Auditors" has the meaning set forth in Section 15.01.
- (30) "Customer Consents" means all licenses, consents, permits, approvals and authorizations that are necessary to allow Supplier (and Supplier Agents) to use, to the extent required to provide the Services (a) Customer's owned and leased assets; (b) the services provided for the benefit of Customer under Customer's third party services contracts; and (c) the Customer Software and Customer Work Product in accordance with Article 8.

- (31) "Customer CSA Party" means, with respect to each Country Service Agreement, the Affiliate of the Customer MSA Party that is the party to such Country Service Agreement.
- (32) "Customer MSA Party" has the meaning set forth in the preamble.
- (33) "Customer Data" means all data or information (including reports): (a) submitted to Supplier (or to which access by Supplier is permitted) by Customer or Service Recipients; or (b) developed or produced by Supplier (other than data internal to Supplier) in connection with this Master Agreement.
- (34) "Customer Executive" has the meaning set forth in Exhibit 9.
- (35) "Customer Location" means the Customer Service Locations and Customer Sites, collectively.
- (36) "Customer Policies" has the meaning set forth in Section 3.06.
- (37) "Customer Privacy Policy" has the meaning set forth in Section 9.05.
- (38) "Customer Proprietary Information Policy" has the meaning set forth in Section 9.06.
- (39) "Customer Senior Executive" has the meaning set forth in Exhibit 9.
- (40) "Customer Service Location" means any premises, owned or leased by Customer and set forth in Exhibit 8, at which Customer shall provide space for the applicable number of Supplier Delivery Organization set forth in Exhibit 8 and from which Supplier shall provide the Services described in Exhibit 8 for each such location.
- (41) "Customer Site" means any premises, owned or leased by Customer to which Supplier shall provide the applicable Services described in Exhibit 8, as may be updated by Customer from time to time.
- (42) "Customer Software" means the Software owned or licensed by Customer (other than the Supplier Software or the Developed Software) that is used in connection with the Services.
- (43) "Customer Third Party Contracts" has the meaning set forth in Exhibit 5.
- (44) "Customer Work Product" means the Work Product owned or licensed by Customer (other than the Supplier Work Product) that is used in connection with the Services.
- (45) "Data Safeguards" has the meaning set forth in Section 9.04.
- (46) "Data Subject" means any natural person about whom data may be processed by Supplier in connection with Services under this Master Agreement.
- (47) "Data Privacy Agreement" means the Data Privacy Agreements (or such other similarly named agreements regarding the transfer of data) entered into by Customer and Supplier in connection with the Agreements. Each Data Privacy Agreement shall be in the form set forth in Exhibit 17 as such form may be modified under a Country Service Agreement.
- (48) "Deliverables" means the Developed Software, Developed Work Product (and any other Work Product) and other products, documentation or other items to be developed and provided by Supplier pursuant to the Agreements.
- (49) "Designated Services" means the provisioning of individuals to perform (1) the services, functions and responsibilities of Supplier described in this Master Agreement (including the services, functions, responsibilities and projects described in the Statement of Work set forth as Exhibit 2 and the in-flight projects or planned projects described in Attachment 2F2), (2) the services, functions and responsibilities that (a) Customer can reasonably demonstrate were

performed in the 12 months prior to the applicable Service Transfer Date by Customer's employees, agents, subcontractors or representatives whose services, functions or responsibilities were displaced or transitioned as a result of this Master Agreement, even if the service, function or responsibility is not specifically described in this Master Agreement and (b) are reasonably related to services, functions, responsibilities described in the Statement of Work set forth as Exhibit 2 (excluding the in-flight projects or planned projects other than those described in Attachment 2F2), (3) the services, functions and responsibilities of Supplier included in, and contemplated by, the Base Case; and (4) any services, functions or responsibilities not specifically described in this Master Agreement, but which are required for the proper performance and delivery of the services described in clause (1) through clause (3). The term "Designated Services" includes any Deliverables provided by Supplier in connection with its provision of the Designed Services.

- (50) "Developed Software" means any Software developed by Supplier pursuant to the Agreements that is: (a) a modification or enhancement of Customer Software; or (b) an original non-derivative work.
- (51) "Developed Work Product" means any Work Product developed by Supplier pursuant to the Agreements that is: (a) a modification or enhancement of Customer Work Product; or (b) an original non-derivative work.
- (52) "Direct Damages Cap" has the meaning set forth in Section 20.01.
- (53) "Dispute Notice" has the meaning set forth in Section 25.01.
- (54) "Disputing Parties" has the meaning set forth in Section 7.03(1).
- (55) "Divestiture Date" has the meaning set forth in Section 25.03(3).
- (56) "Effective Date" has the meaning set forth in the preamble.
- (57) "Employment Transfer Date" means the date a Transferred Employee became an employee of Supplier.
- (58) "Entity" means a corporation, partnership, joint venture, trust, limited liability company, limited liability partnership, association or other organization or entity.
- (59) "Exit Plan" has the meaning set forth in Section 22.13.
- (60) "Export Controls" has the meaning set forth in Section 25.08.
- (61) "Fee Dispute" has the meaning set forth in Section 12.04(1).
- (62) "Fees" means the Service Fees, expenses, pass-through amounts and taxes paid by Customer (or to be paid by Customer, depending on the context in which the term is used) and any credits provided to Customer (or to be provided to Customer, depending on the context in which the term is used), pursuant to the Agreements.
- (63) "First Fee Dispute Notice" has the meaning set forth in Section 12.03(2).
- (64) "First Restated Date" has the meaning set forth in the preamble.
- (65) "Force Majeure Event" has the meaning set forth in Section 24.01.
- (66) "Former Business" has the meaning set forth in Section 25.03(3).
- (67) "General Unsecured Claim" has the meaning set forth in Section 1.07.

- (68) "Human Resource Agreement" means the Human Resource Agreements (or such other similarly named agreements regarding the Transferred Employees) entered into by the applicable entities of Customer and Supplier in connection with a Country Service Agreement.
- (69) "Improved Technology" means any information processing technology developments, including new developments in Software and Machines, that could reasonably be expected to have an impact on Customer's business, to the extent known and made available within or by Supplier.
- (70) "Income Tax" means any tax on or measured by the net income of an Entity (including taxes on capital or net worth that are imposed as an alternative to a tax based on net or gross income), or taxes which are of the nature of excess profits tax, minimum tax on tax preferences, alternative minimum tax, accumulated earnings tax, personal holding company tax, capital gains tax or franchise tax for the privilege of doing business.
- (71) "Indemnified Party" has the meaning set forth in Section 19.03.
- (72) "Indemnifying Party" has the meaning set forth in Section 19.03.
- (73) "Key Individual" has the meaning set forth in Section 4.02.
- (74) "Laws" means all applicable laws, ordinances, rules, regulations and court (or other governmental or administrative) orders, whether international, federal, state or local.
- (75) "LIBOR" means the six month London Interbank Offered Rate.
- (76) "Logically Segregated" means, with respect to any Machine leased or owned by Supplier to perform the Services, that (a) such Machines are dedicated exclusively to providing the Services and (b) measures have been taken with respect to such Machine to ensure that such Machine is not networked with, electronically linked to or otherwise accessible by (i) any Machine that is not leased or owned by Supplier to perform the Services or (ii) any Machine leased or owned by Supplier to provide services to a third party.
- (77) "Machines" means the equipment used to provide the Services, including computers and related equipment, such as central processing units and other processors, controllers, modems, communications and telecommunications equipment (voice, data and video), cables, storage devices, printers, terminals, other peripherals and input and output devices, and other tangible mechanical and electronic equipment intended for the processing, input, output, storage, manipulation, communication, transmission and retrieval of information and data.
- (78) "Master Agreement" has the meaning set forth in the preamble and as further described in Section 1.02.
- (79) "MSA Contracting Parties" means Customer MSA Party and Supplier MSA Party.
- (80) "MSA Contracting Party" means Customer MSA Party or Supplier MSA Party, as applicable.
- (81) "New Services" means services that are not within the scope of the Designated Services. For clarity, a change to the Designated Services shall be deemed to be a New Service to the extent such change has been requested by Customer, is not required for Supplier to meet its obligations as set forth in the Agreements and either (a) materially alters the manner in which Supplier provides the applicable Designated Service or (b) results in a material increase in Supplier's cost to provide such Designated Service.
- (82) "New Services SOW" has the meaning set forth in Section 3.13.
- (83) "Other Supplier" has the meaning set forth in Section 7.01.

- (84) "Party" means either Customer or Supplier, as applicable; "Parties" means Customer and Supplier.
- (85) "Personal Data" means all data concerning an identified or identifiable natural person.
- (86) "Pre-Termination Notice" has the meaning set forth in Section 13.03.
- (87) "Procedures Manual" has the meaning set forth in Exhibit 9.
- (88) "Related Documentation" means all materials, documentation (including control documentation utilized in connection with an audit), specifications, technical manuals, user manuals, flow diagrams, file descriptions and other written information that describes the function and use of related Software.
- (89) "RTO" has the meaning set forth in Exhibit 13.
- (90) "Second Fee Dispute Notice" has the meaning set forth in Section 12.04(1)(a).
- (91) "Second Restated Date" has the meaning set forth in the preamble.
- (92) "Service Delivery Organization" means the personnel of Supplier (including, for clarity, the Supplier Agents) providing the Services, including the Key Individuals.
- (93) "Service Fees" has the meaning set forth in Article 10 and as further described in [REDACTED]
- (94) "Service Levels" has the meaning set forth in Exhibit 3.
- (95) "Service Location" has the meaning set forth in Article 5.
- (96) "Service Problem" has the meaning set forth in Section 7.02.
- (97) "Service Recipient(s)" means (a) Customer, (b) Customer Agents and (c) such other entities (including the customers and other third parties providing goods or services to or purchasing goods or services from Customer) designated by Customer from time to time to receive the Services.
- (98) "Service Tax" means all sales, service, goods and service (GST), value-added (VAT), use, excise, consumption and other similar taxes that are assessed against the Services as a whole, or on any particular Service received by any Service Recipient from Supplier, but excluding Income Taxes.
- (99) "Service Transfer Date" means the date when Supplier assumed responsibility for providing a Service pursuant to the 2009 Agreement.
- (100) "Services" means the Designated Services, New Services and Termination Assistance Services.
- (101) "Software" means the source code and object code versions of any applications programs, operating system software, computer software languages, utilities, tools and other computer programs, in whatever form or media (including the tangible media upon which such are recorded or printed), together with all corrections, improvements, updates and releases thereof. The term "Software" includes the Related Documentation.
- (102) "Supplier" means the Supplier MSA Party, the Supplier CSA Parties and any Affiliates of Supplier or the Supplier CSA Parties performing any of their obligations under the Agreements. The term "Supplier" includes the Supplier Agents in accordance with Section 4.06.

- (103) "Supplier Agents" means the agents and contractors of Supplier performing any of Supplier's obligations under this Master Agreement.
- (104) "Supplier Consents" means all licenses, consents, permits, approvals and authorizations that are necessary to allow (a) Supplier and Supplier Agents to use (i) the Supplier Software, Supplier Machines and Supplier Work Product; (ii) any asset owned or leased by Supplier and (iii) any third party services retained by Supplier to provide the Services; (b) Customer and Customer Agents to use the Supplier Software, Supplier Machines and Supplier Work Product in accordance with Article 8 and (c) Supplier and Supplier Agents to assign to Customer the right, title and interest in (i) the Developed Software and Developed Work Product in accordance with Article 8 and (ii) the Customer Data in accordance with Section 9.01.
- (105) "Supplier CSA Party" means, with respect to each Country Service Agreement, the Affiliate of the Supplier MSA Party that is the party to such Country Service Agreement.
- (106) "Supplier Dispute" has the meaning set forth in Section 7.03(1).
- (107) "Supplier Executive" has the meaning set forth in Exhibit 9.
- (108) "Supplier Machines" means those Machines leased or owned by Supplier that are used by Supplier to provide the Services.
- (109) "Supplier MSA Party" has the meaning set forth in the preamble.
- (110) "Supplier Resources" has the meaning set forth in Section 18.02(8).
- (111) "Supplier Senior Executive" has the meaning set forth in Exhibit 9.
- (112) "Supplier Service Location" means any premises, owned or leased by Supplier (or a Supplier Agent) and set forth in Exhibit 8, from which Supplier shall provide the Services described in Exhibit 8 for each such location.
- (113) "Supplier Software" means the Software owned or licensed by Supplier (other than the Customer Software or the Developed Software) that is used in connection with the Services, including the Software set forth in Exhibit 7. Supplier Software licensed by Supplier shall not include source code to such Software, except to the extent permitted by the applicable third party license agreement. Supplier Software owned by Supplier shall include source code except to the extent noted in Exhibit 7 or as may be agreed by the Parties.
- (114) "Supplier Work Product" means the Work Product owned or licensed by Supplier (other than the Customer Work Product) that is used in connection with the Services.
- (115) "Tax Authority" means any federal, state, provincial, regional, territorial, local or other fiscal, revenue, customs or excise authority, body or official competent to impose, collect or assess tax.
- (116) "Term" has the meaning set forth in Section 22.01.
- (117) "Termination Assistance Period" has the meaning set forth in Section 22.12.
- (118) "Termination Assistance Services" has the meaning set forth in Section 22.12.
- (119) "Tower" mean, for purposes of this Master Agreement only, the ADM Super Tower (as described in Attachment 2F), the Infrastructure Super Tower (as described in Attachment 2C) and the Mainframe Super Tower (as described in Attachment 2B).
- (120) "Transferred Employee" means those employees of Customer who became employed by Supplier in connection with the Agreements.

- (121) "Virus or Disabling Code" means any defect, device, computer virus, "lockout", self-help code or other software code or routine (e.g., back door, time bomb, Trojan horse or worm) that will: (a) disable, restrict use of, lock, erase or otherwise harm Software, hardware or data; or (b) permit unauthorized monitoring of user behavior (e.g., spyware).
- (122) "Work Product" means (a) any literary works (other than Software), including manuals, training materials and documentation or (b) processes, methodologies or procedures.

1.02. References.

- (1) All references to this Master Agreement include the Exhibits; all references to the Exhibits include any Attachments thereto. Except where otherwise indicated: (1) all references in this Master Agreement (exclusive of the Exhibits) to Articles or Sections are to Articles or Sections in this Master Agreement (exclusive of the Exhibits); and (2) all references in this Master Agreement to Exhibits are to Exhibits to this Master Agreement.
- (2) This Master Agreement applies to (such that it is incorporated into) each Country Service Agreement. All references to any Country Service Agreements include the Exhibits thereto and work orders pursuant thereto. All uses of "the Country Service Agreement" shall mean the applicable Country Service Agreement.
- (3) References in the Agreements to any Law shall mean references to such Law in changed or supplemented form or to a newly adopted Law replacing a previous Law.
- (4) All references in this Master Agreement to and mentions of the word "include", "including" or the phrases "e.g." or "such as" shall mean "including, without limitation."

1.03. Headings. The Article and Section headings, Table of Contents and Table of Exhibits are for reference and convenience only and shall not be considered in the interpretation of this Master Agreement.

1.04. Precedence. This Master Agreement shall control in the event of any conflict with any Exhibit. Except as otherwise expressly set forth in this Master Agreement or in a Country Service Agreement, in the event of a conflict between the provisions in this Master Agreement and a Country Service Agreement, the provisions of this Master Agreement shall prevail; provided that a provision of a Country Service Agreement shall prevail over a conflicting provision of this Master Agreement to the extent such Country Service Agreement specifically references the provision of the Master Agreement that is to be modified by such Country Service Agreement.

1.05. 2009 Agreement and 2013 Agreement. The terms and conditions of the 2009 Agreement shall apply to services provided by Supplier to Customer pursuant to the 2009 Agreement or any claim or liability arising between the Parties pursuant to the 2009 Agreement with respect to periods prior to the First Restated Date. The terms and conditions of the 2013 Agreement shall apply to any Services, claim or liability arising between the Parties pursuant to the 2013 Agreement on the First Restated Date and with respect to the period up to the Second Restated Date. The terms and conditions of this Master Agreement shall apply to any Services, claim or liability arising between the Parties pursuant to this Master Agreement on the Second Restated Date and with respect to periods after the Second Restated Date. However, for the avoidance of doubt, the Direct Damages Cap is a single cumulative cap for the 2009 Agreement, the 2013 Agreement and this Master Agreement. The change in the Direct Damages Cap between the 2009 Agreement and the 2013 Agreement does not establish separate damages caps, but rather reduces the Direct Damages Cap for claims or liability arising between the Parties pursuant to this Master Agreement on the First Restated Date and with respect to periods after the First Restated Date, including under this Master Agreement.

1.06. Bankruptcy Court Approval. Notwithstanding anything to the contrary herein, the Second Amended and Restated Master Services Agreement and its terms are subject to, and conditioned upon, the entry of an order (the "Approval Order"), by the United States Bankruptcy Court for the

Southern District of New York (the "Bankruptcy Court") presiding over the Chapter 11 cases of Customer MSA Party and its debtor affiliates under the jointly administered lead case, *In re RDA Holding Co., et al.*, Ch. 11 Case No. 13-22233 (RDD) (the "Chapter 11 Cases") in a form and substance reasonably satisfactory to Supplier MSA Party. The Approval Order shall also provide for the approval of, among other things, (1) the assumption of this Master Agreement, and authorize Customer MSA Party and Supplier MSA Party to enter into, and perform under, this Master Agreement and (2) the determination and allowance of the Cure Amount and the General Unsecured Claim. Promptly following the execution and delivery of this Master Agreement by Customer MSA Party and Supplier MSA Party, Customer MSA Party shall file with the Bankruptcy Court a motion requesting entry of the Approval Order (the "Approval Motion"). Customer MSA Party shall use good faith and diligent efforts to obtain Bankruptcy Court approval of the Approval Motion and Approval Order within 25 days after the filing of the Approval Motion.

1.07. Cure Amount and General Unsecured Claim.

- (1) The MSA Contracting Parties agree that the amount due and owing to Supplier MSA Party in connection with Customer MSA Party's assumption of this Master Agreement pursuant to section 365 of the Bankruptcy Code shall be an amount equal to [REDACTED] (the "Cure Amount") and the Approval Motion and Approval Order shall provide for the prompt payment of the Cure Amount within 30 days following entry by the Bankruptcy Court of the Approval Order.
- (2) The MSA Contracting Parties agree that Supplier MSA Party shall be entitled to a single allowed general unsecured claim in the chapter 11 case of The Reader's Digest Association, Inc. (Ch. 13-22234 (RDD)) in an amount equal to [REDACTED] (the "General Unsecured Claim") and the Approval Motion and Approval Order shall provide for the allowance of the General Unsecured Claim.
- (3) The MSA Contracting Parties agree that payment of the Cure Amount and allowance of the General Unsecured Claim shall be in full and final satisfaction of all Service Fees and other fees and expenses due and owing under this Master Agreement with respect to periods prior to the Commencement Date. For clarity, a distribution, or distributions, on account of the General Unsecured Claim has not been made as of the Second Restated Date and shall be made in accordance with the terms and conditions of a chapter 11 plan of reorganization confirmed in accordance with the terms and conditions of the U.S. Bankruptcy Code with respect to Customer MSA Party and its debtor Affiliates.

1.08. Bankruptcy Matters.

- (1) Notwithstanding anything to the contrary in this Master Agreement, Supplier MSA Party may terminate this Master Agreement: (a) if a motion to dismiss or convert the Chapter 11 Cases is granted by the Bankruptcy Court with respect to Customer MSA Party or any of its debtor Affiliates other than Direct Entertainment Media Group, Inc.; (b) the Approval Motion is denied; (c) the Cure Amount is not paid in accordance with the Approval Order; or (d) in accordance with Section 22.04.
- (2) Customer MSA Party acknowledges and expressly agrees that the Services Fees relating to the period after the Commencement Date are actual and necessary costs of preserving the bankruptcy estate. If Customer fails to timely pay any invoice, nothing in this Master Agreement shall limit Supplier MSA Party's ability to file a request for the payment of the applicable Service Fees and other Fees and expenses due hereunder relating to the period after the Commencement Date as administrative expenses under section 503 of the Bankruptcy Code. No term of this Master Agreement requiring invoices to be submitted to Customer within a specified time limit shall shorten any period established by the Bankruptcy Court for the filing by Supplier MSA Party of requests for the payment of administrative claims.
- (3) To protect the confidential and proprietary nature of this Master Agreement and the Country Service Agreements, before filing its Approval Motion, Customer MSA Party will seek permission from the Bankruptcy Court to file this Master Agreement and the Country Service

Agreements under seal, pursuant to Section 107(b) of the Bankruptcy Code, and Bankruptcy Rule 1018. In the event that the Bankruptcy Court does not permit Customer MSA Party to file this Master Agreement and the Country Service Agreement under seal, Customer MSA Party shall promptly notify Supplier MSA Party in writing of the Bankruptcy Court's decision, and shall cooperate with Supplier MSA Party in taking such legally permissible measures to protect the confidentiality of this Master Agreement and the Country Service Agreements.

2. Transition Services.

The Parties acknowledge and agree that transition services were performed pursuant to the 2009 Agreement and have been successfully completed.

3. Services.

3.01. Services. Supplier shall provide the Services to the Service Recipients in accordance with this Master Agreement.

3.02. Country Service Agreements. Supplier shall provide, and Customer shall purchase, the Services in accordance with the Country Service Agreements. Exhibit 15 sets forth the list of Country Service Agreements that have been entered into pursuant to the 2009 Agreement and the 2013 Agreement and the information for the entities of Customer and Supplier that are the parties for such Country Service Agreements. All such Country Service Agreements are hereby restated and made part of this Master Agreement. In addition, any other Service Recipient may receive Services in any country pursuant to this Master Agreement as follows:

- (1) For each additional country in which Customer wishes to receive, and be separately invoiced for, Services directly from Supplier: (a) Customer MSA Party shall notify Supplier MSA Party; and (b) Customer MSA Party and Supplier MSA Party, respectively, shall cause the applicable Affiliate of Customer MSA Party within such country (which shall be the applicable Customer CSA Party) and the corresponding Affiliate of Supplier MSA Party (which shall be the applicable Supplier CSA Party) to enter into a Country Service Agreement for such Services using the form set forth in Exhibit 15. Such Country Service Agreement shall modify any terms of this Master Agreement (or the form of Country Service Agreement) only to the extent required to comply with the Laws of the applicable country.
- (2) In addition to the Customer CSA Party, any other Service Recipient within a country for which there is a Country Service Agreement may receive Services directly from Supplier via the Customer CSA Party under such Country Service Agreement upon notice from Customer MSA Party or the applicable Customer CSA Party. Supplier shall begin to provide Services to any such Service Recipient as soon as possible, but shall not be required to do so until 90 days after such notice from Customer MSA Party or the applicable Customer CSA Party. In the alternative, if Customer wishes for such Service Recipient to receive, and be separately invoiced for, the Services directly from Supplier: (a) Customer MSA Party shall notify Supplier Party; and (b) Customer MSA Party and Supplier MSA Party, respectively, shall cause such Service Recipient and the Supplier CSA Party to enter into an amendment to the applicable Country Services Agreement, as agreed by such Service Recipient and the Supplier CSA Party, for such Services under such Country Service Agreement to effectuate such direct provision and invoicing of such Services. Notwithstanding the foregoing, Customer shall not be obligated to obtain the Services from Supplier with respect to any Customer Affiliate.
- (3) With respect to each Country Service Agreement, (a) Supplier MSA Party shall cause the applicable Supplier CSA Party to comply with the terms of this Master Agreement and such Country Service Agreement and (b) Customer MSA Party shall cause applicable Customer CSA Party to comply with the terms of this Master Agreement and such Country Service Agreement.

3.03. Acceptance of Deliverables. Each Deliverable developed or otherwise provided by Supplier as part of the Services shall be subject to Acceptance in accordance with Exhibit 9.

3.04. Customer Third Party Contracts. Supplier shall assist Customer to manage, administer and maintain the Customer Third Party Contracts in accordance with Exhibit 5.

3.05. Labor and Materials. Supplier shall perform all work necessary to provide the Services in accordance with the Agreements. Supplier shall furnish and pay for all labor, materials, services, facilities, equipment and computer resources necessary to provide the Services and meet its obligations under the Agreements (including the Supplier Software and Supplier Machines), excluding those items for which Customer is financially responsible as set forth in the financial responsibility matrix set forth in Exhibit 2. Supplier shall keep the Customer Locations and Customer assets free of any liens resulting from a failure by Supplier to comply with its obligations pursuant to this Section 3.05.

3.06. Customer Architecture and Policies. Supplier shall comply with Customer's information technology architecture rules and policies as set forth in Exhibit 11 ("Customer Architecture") and Exhibit 12 ("Customer Policies"). Supplier shall comply with any modifications to the Customer Architecture or Customer Policies communicated to Supplier in writing. To the extent that such modifications materially increase or decrease Supplier's costs to provide the Services, the MSA Contracting Parties shall negotiate an equitable adjustment to the Service Fees with respect to such increased or decreased cost in accordance with the Change Control Process. If Customer requests Supplier to perform the Services in a manner that does not comply with the Customer Architecture or Customer Policies, Supplier shall not do so until Customer MSA Party provides a written variance approved by the person(s) designated by Customer MSA Party. Otherwise, if Supplier discovers or is notified of a failure to comply with the Customer Architecture or Customer Policies, Supplier shall immediately: (1) notify Customer MSA Party in accordance with the governance procedures set forth in Exhibit 9; and (2) if Supplier was responsible for the failure, investigate and cure such failure. Supplier shall cure such failure with respect to such Services as soon as reasonably practicable.

3.07. Knowledge Sharing. Supplier shall transfer and sustain knowledge of the methods, processes and functions regarding the Services to Customer as follows: Supplier shall (1) explain and review the procedures set forth in the Procedures Manual with Customer; (2) assist Customer subject matter experts (as designated by Customer) in understanding the performance of the Services including attending meetings with Customer or its designee upon Customer's request; (3) permit Customer personnel to visit the Supplier Service Locations to observe performance of the Services upon notice from Customer; and (4) provide such training and documentation as Customer may request from time to time for Customer to understand and operate the systems used to provide the Services and to understand and provide the Services after expiration or termination of any of the Agreements.

3.08. Inspections and Monitoring. Upon 10 days' prior notice (or where practicable, reasonable prior notice of a period of time less than 10 days), Customer shall have the right to inspect all Service Locations and to observe any Service Delivery Organization member as he or she performs the Services. In addition, Customer shall have the right to review upon reasonable prior notice all training materials, systems, Customer Data, Software and other Machines utilized in providing the Services. With respect to any interactions with Customer's customers, Customer shall have the right to monitor such interactions, electronically, remotely or otherwise. Customer shall have the right to intervene in the escalation process for dissatisfied Customer customers.

3.09. Directions. Customer may provide direction to Supplier with respect to any aspect of the Services, including the provision of the Services. Supplier shall comply with Customer's reasonable directions. If such direction could potentially negatively impact the Service Levels, Supplier shall first advise Customer MSA Party of such potential negative impact.

3.10. Training, Instruction and Related Support. Upon the request of Customer MSA Party and not more than once every 180 days, Supplier shall provide to Customer training and instruction by experienced, duly qualified instructors designed to provide Customer with sufficient capability to operate

and utilize the Services in its business environment and operations. Such training and instruction shall be provided on a time and materials basis in accordance with the rates set forth in [REDACTED]

3.11. Improved Technology. In providing the Services to Customer, Supplier shall: (1) jointly with Customer MSA Party, identify the most cost-efficient methods to implement technology changes and proven methodologies and, upon Customer MSA Party's approval, implement in accordance with the Change Control Process technology changes and proven methodologies; (2) as approved by Customer MSA Party, maintain a level of technology that allows Customer to take advantage of technological advances relating to the Services in order for Customer to remain competitive in the markets that it serves; (3) provide to Customer MSA Party the Improved Technology for Customer MSA Party's evaluation in connection with the Services; and (4) meet with Customer MSA Party as reasonably requested by Customer MSA Party, to inform Customer MSA Party of any new information processing technology Supplier is developing or information technology trends and directions of which Supplier is otherwise aware that could reasonably be expected to have an impact on Customer's business.

3.12. Continuous Improvement and Best Practices. Subject to any applicable intellectual property or confidentiality restrictions, Supplier shall on a continuous basis (1) identify ways to improve the Service Levels from the perspective of Customer and (2) identify, seek Customer MSA Party approval for and, after obtaining Customer MSA Party approval, apply proven techniques and tools from other installations and organizations within its operations, that would benefit Customer operationally or financially. Supplier shall, from time to time, include updates with respect to such improvements, techniques and tools in the reports provided to Customer pursuant to Article 14.

3.13. Procedures Manual. Supplier shall assist Customer in updating the Procedures Manual on a time and materials basis in accordance with the rates set forth in [REDACTED]

3.14. New Services. Customer may from time to time request that Supplier perform New Services. Upon receipt of such a request from Customer MSA Party, Supplier shall provide Customer MSA Party the proposed statement of work in a format consistent with the form statement of work set forth in Exhibit 18 (a "New Services SOW"). Supplier will commence New Services only upon execution of a New Services SOW. The fees for any New Services shall be determined in accordance with the applicable New Services SOW. Nothing in the Agreements shall be construed as obligating Customer (1) to request any New Services from Supplier or (2) to permit Supplier to participate in any request for proposal process initiated by Customer. Upon execution of a New Services SOW by Customer and Supplier in accordance with this Section 3.14, the New Services shall be deemed "Services" and, except to the extent the New Services SOW provides otherwise, shall be subject to the terms and conditions of the Agreements.

3.15. Savings Clause. Supplier shall not be responsible for a failure to perform any of its obligations under the Agreements to the extent Supplier can demonstrate with sufficient documentation that such failure was directly caused:

- (1) by the failure of Customer or any Customer Agent to perform its obligations under the Agreements, and Supplier has: (a) promptly notified the Customer Executive of Customer's (or the applicable Customer Agent's) failure to perform and Supplier's inability to perform under such circumstances; (b) if possible, provided Customer with reasonable opportunity to correct such Customer (or Customer Agent) failure to perform and thereby avoid or limit such Supplier's non-performance; (c) identified and pursued means to avoid or mitigate the impact of Customer's (or Customer Agent's) failure to perform; and (d) used all reasonable efforts to perform notwithstanding Customer's (or Customer Agent's) failure to perform;
- (2) as a result of Supplier's compliance with an instruction issued by an authorized representative of Customer, and Supplier has: (a) notified Customer at the time such instruction was issued that Supplier's compliance with such instruction may result in a failure by Supplier to perform an obligation under the Agreements; (b) promptly notified the Customer Executive if Supplier's compliance with such instruction resulted in Supplier's failure to perform such obligation; and (c) used all reasonable efforts to perform notwithstanding such result; or

- (3) as a result of Customer's reduction in the number of Service Delivery Organization members, and Supplier has: (a) notified Customer within the notice period for such reduction set forth in [REDACTED] that Supplier's compliance with such instruction may result in a failure by Supplier to perform an obligation under the Agreements; and (b) promptly notified the Customer Executive if Supplier's compliance with such instruction resulted in Supplier's failure to perform such obligation.

4. Service Delivery Organization.

4.01. Service Delivery Organization.

- (1) All Service Delivery Organization members shall possess the training, skills and qualifications agreed upon by the MSA Contracting Parties and otherwise necessary to properly perform the Services.
- (2) Subject to Section 4.01(6), before assigning any individual (other than a Transferred Employee) to the Service Delivery Organization, Supplier shall: (a) conduct, in compliance with all applicable Laws, an educational and prior work experience background check on each such individual; and (b) have a third party conduct, in compliance with all applicable Laws, a criminal background check on each individual assigned to the Service Delivery Organization, which criminal background check shall include an investigation by such third party of records with respect to each such individual in (i) the country in which such individual is a permanent resident, (ii) the country which is the primary work location for such individual, if different than the country of permanent residence and (iii) in the event such individual has been assigned a U.S. Social Security number, the United States. Supplier shall maintain a copy of such background checks during the Term and, upon Customer's request, provide Customer with such copy for its review. In addition, Supplier shall ensure that all Service Delivery Organization members performing services in the United States are legally authorized to work in the United States. Attachment 8A sets forth the specific steps Supplier shall take with respect to this provision for individuals in the Service Delivery Organization residing in countries other than the United States.
- (3) Except as indicated in Exhibit 9, or as otherwise approved by Customer MSA Party or the applicable Customer CSA Party, all members of the Service Delivery Organization shall be dedicated full-time to providing the Services.
- (4) Supplier shall provide Customer MSA Party with a list of all Service Delivery Organization members providing the Services and an organization chart regarding such Service Delivery Organization on each anniversary of the Effective Date and as otherwise requested by Customer MSA Party.
- (5) Except as otherwise approved by Customer MSA Party (in its sole discretion) or set forth in Exhibit 8, those Supplier personnel located on Customer Service Locations may only provide services from such Customer Service Locations that support Customer's operations. Supplier shall notify Customer MSA Party and the applicable Customer CSA Party as soon as possible after dismissing or reassigning any Service Delivery Organization member whose normal work location is at a Customer Service Location.
- (6) Notwithstanding Section 4.01(2), Supplier may assign individuals to the Service Delivery Organization located in India prior to completing the criminal background check set forth in Section 4.01(2); provided that Supplier commences such criminal background check on such individual prior to such assignment to the Service Delivery Organization and such background check is completed within eight weeks after the commencement of such background check. If Supplier fails to complete the criminal background check on any such individual in accordance with this Section 4.01(6), or if the results of such criminal background check reveals anything other than a "clean" record, Supplier shall (a) immediately provide Customer MSA Party notice thereof and (b) immediately comply with any Customer request to remove such individual from

the Service Delivery Organization. Supplier shall not charge Customer for any amounts with respect to removing or replacing any such removed individual.

- (7) Supplier shall ensure that not more than 25 percent of the members of the Service Delivery Organization rotate off the Customer account in any 90 day period a result of Supplier's internal employee rotation and promotion practices.
- (8) Supplier shall not use the individuals assigned to the Service Delivery Organization as references for other Supplier customer accounts, without Customer's prior approval.

4.02. Key Individuals. Supplier shall provide the personnel specified in Exhibit 9. If such personnel are specified by service category (e.g., job title), Supplier shall provide personnel in such category; if such personnel are specified by name, or by name for key position, Supplier shall provide such personnel (each such named individual, a "Key Individual"). Key Individuals shall be dedicated to performing the Services on a full-time basis, except as otherwise indicated in Exhibit 9. Before assigning any Key Individual (or any other Service Delivery Organization member, if requested by Customer), whether as an initial assignment or as a replacement, Supplier shall: (1) notify Customer MSA Party of the proposed assignment; (2) introduce the individual to appropriate representatives of Customer MSA Party; (3) provide Customer MSA Party with a resume and any other information available to Supplier regarding the individual that may be requested by Customer MSA Party; and (4) obtain Customer MSA Party's approval for such assignment. If Customer MSA Party does not approve such individual, Supplier shall promptly propose a replacement to Customer MSA Party in accordance with this Section 4.02. Supplier shall provide Customer MSA Party with an updated list of all Key Individuals at least quarterly after the Effective Date and otherwise upon request by Customer MSA Party.

4.03. Replacement.

- (1) Supplier shall not replace or reassign any Key Individual until the date 24 months after such individual was first approved by the Customer Executive to be a Key Individual (for clarity, such approval may have occurred pursuant to the 2009 Agreement or 2013 Agreement, in which case such 24 month period shall commence on the date on which such approval occurred pursuant to the 2009 Agreement or 2013 Agreement), unless: (a) the Customer Executive consents to such reassignment or replacement; or (b) such individual (i) voluntarily resigns from, or is dismissed by, Supplier, (ii) fails to perform his or her duties and responsibilities pursuant to this Master Agreement or (iii) dies or is disabled. In no event shall Supplier replace more than one-quarter of the total number of Key Individuals during any rolling 60-day period during the Term.
- (2) Upon notice from, as applicable, the Customer Executive for any reason (other than a reason prohibited by applicable Law), Supplier shall remove any Service Delivery Organization member as soon as practical; provided, however, that in the event the Customer Executive requests removal of a Service Delivery Organization member (a) because of such individual's tortious conduct, illegal conduct or moral turpitude or (b) because the Customer Executive reasonably believes such individual's continuing as a member of the Service Delivery Organization poses a risk to Customer's business, Supplier shall remove such individual immediately upon receiving request from the Customer Executive. Supplier shall promptly replace any Service Delivery Organization member who is terminated, resigns or otherwise ceases to perform the Services with an individual with equal or better qualifications to perform the Services and shall otherwise maintain backup and replacement procedures for the Service Delivery Organization to maintain continuity of the Services.
- (3) Except as otherwise provided in Exhibit 19, if within 24 months from the date a Transferred Employee begins employment with Supplier, Supplier terminates a Transferred Employee as a result of Customer MSA Party's or the applicable Customer CSA Party's request to remove such Transferred Employee in accordance with Section 4.03(2) and Supplier pays such Transferred Employee severance (and provided that Customer has not previously paid such Transferred Employee severance in connection with such employee transferring to Supplier),

Customer MSA Party or such Customer CSA Party, as applicable, shall reimburse Supplier the lesser of (a) the amount of such severance payment and (b) the amount of severance payment to which such Transferred Employee would have been entitled in accordance with Customer's policies had Customer paid such severance on the date such Transferred Employee ceased employment with Customer; provided, however, that no such amounts shall be payable by Customer unless (i) Supplier used commercially reasonable efforts to assign such Transferred Employee to the account of another Supplier client and (ii) Supplier could not have terminated such Transferred Employee on grounds which would not have obligated Supplier under Law to pay such Transferred Employee severance and Supplier used reasonable efforts to terminate such Transferred Employee on such grounds.

- (4) Supplier shall not bill Customer for, and Customer shall have no obligation to pay any amounts with respect to, time to train any individual replacing an individual who was removed from the Service Delivery Organization by Supplier.

4.04. Conduct of Service Delivery Organization. The Supplier shall ensure that each member of the Service Delivery Organization complies with (1) the confidentiality provisions of the Master Agreement, both during and after the Term, (2) Article 5 of this Master Agreement and (3) while such member of the Service Delivery Organization is at any Customer Location, the facilities policies, codes of conduct, and safety requirements applicable to such Customer Location, as posted at such Customer Location or as otherwise made available to Supplier. Prior to assigning an individual to the Service Delivery Organization, Supplier shall cause such individual to enter into the applicable non-disclosure and assignment of rights agreement in the form set forth in Exhibit 14. Supplier (and each Service Delivery Organization member) shall comply with Customer's code of conduct, as Customer shall make available to Supplier from time to time.

4.05. Severance Costs for Transferred Employees. If Customer is required under this Master Agreement (and, for clarity, Exhibit 19 and any Country Service Agreement) to reimburse Supplier for severance paid by Supplier in connection with the termination of a Transferred Employee, notwithstanding anything to contrary herein (and, for clarity, notwithstanding the terms set forth in Exhibit 19 or any Country Service Agreement), the amount Customer shall reimburse Supplier pursuant to this Master Agreement (and, for clarity, Exhibit 19 and any Country Service Agreement) for each Transferred Employee is as set forth in Exhibit 1 (the Parties understand that the severance amount may be reimbursed in the applicable local currency).

4.06. Subcontracting. Except with respect to the subcontractors approved by Customer MSA Party to provide the corresponding services as set forth in Exhibit 15, Supplier shall not subcontract or delegate performance of any of Supplier's obligations under the Agreements, including to any Affiliate of Supplier MSA Party or any successor to a Supplier Agent, without Customer MSA Party's prior consent; such consent not to be unreasonably withheld with respect to a wholly owned Affiliate of Supplier. Supplier MSA Party shall cause the Supplier Agents and Affiliates of Supplier to comply with the obligations of Supplier MSA Party under the Agreements. Supplier MSA Party shall be responsible for such compliance and all other acts and failures to act of the Supplier Agents and such Affiliates. Supplier MSA Party shall be responsible for all payments to the Supplier Agents and any Affiliates, except as expressly provided otherwise in [REDACTED], Exhibit 5 or a Country Service Agreement to the extent a Supplier CSA Party issues an invoice to a Customer CSA Party in accordance with the Agreements.

To the extent any Supplier Agent is providing the Services, or performing any other obligation of Supplier MSA Party pursuant to this Master Agreement, use of "Supplier" shall include such agent. For clarity, the inclusion of Supplier Agent within the definition of "Supplier" does not cause any Supplier Agent to be a party to any of the Agreements (or be part of the term "MSA Contracting Party" or "Party").

5. Service Locations.

5.01. Service Location. Supplier shall provide the Services from the Customer Service Locations and Supplier Service Locations (the "Service Locations"). Customer shall provide the amount of space to Supplier at each Customer Service Location as specified in Exhibit 8 at no additional cost to

Supplier. Supplier's use of each Customer Service Locations shall be subject to the facility use terms set forth in Exhibit 8 and any additional terms set forth in the applicable Country Service Agreement. Provision of any Services from any other service location on Supplier's request must be approved in advance by Customer MSA Party and any incremental expense incurred by Customer as a result of relocation to, or use of, another service location shall be reimbursed by Supplier to Customer. In the event Customer requests that Supplier provide any Services from any other service location, Supplier shall relocate the provision of such Services in accordance with such request, and any incremental expense incurred by Supplier as a result of relocation to, or use of, another such service location shall be reimbursed by Customer to Supplier.

5.02. Safety, Health and Hazards. Supplier shall provide the Service Delivery Organization with a safe and healthy workplace and shall provide the Services in a careful and safe manner. If Customer notifies Supplier of any non-compliance with the provisions of this Section 5.02, Supplier shall (immediately, if so directed, or otherwise within 48 hours after receipt of such notice) correct the non-compliance. If Supplier fails to correct the non-compliance, then: (a) Customer may suspend all or any part of the Services under this Master Agreement immediately upon notice thereof to Supplier; or (b) Customer MSA Party may terminate this Master Agreement as of the date specified by Customer MSA Party in a termination notice to Supplier if Supplier fails to cure such noncompliance within 15 days of such notice. If the Services are suspended, a start order shall be issued by Customer when satisfactory corrective action has been taken by Supplier. Supplier shall be responsible for any time lost, or any additional costs or damages incurred by it due to any such suspension.

5.03. Security at Supplier Service Locations. The Supplier Service Locations shall: (1) have adequate physical and electronic data security to prevent interruption of Services and unauthorized access to Customer's Confidential Information, and (2) shall provide for the Services to be provided using Machines that are Logically Segregated; provided that with respect to mainframe Services, network operations center Services, security Services, and non-English help desk Services, any applicable networks may not be Logically Segregated but, with respect to each such network, shall in any event be protected by a firewall implemented by Supplier in accordance with Customer's policies. Subject to the foregoing, Services may be provided from shared services facilities within the Supplier Service Locations.

5.04. Supplier-furnished Space. At the Supplier Service Locations, Supplier shall furnish office space for Customer, including associated services (e.g., telephone), supplies and equipment in accordance with Exhibit 8.

6. Service Levels. Supplier shall perform the Services in accordance with the Service Levels. Supplier's performance against the Service Levels shall be measured and assessed in accordance with the methodology set forth in Exhibit 3. Supplier's failure to meet or exceed a Service Level shall not in and of itself be deemed a breach of this Master Agreement.

7. Cooperation with Other Suppliers.

7.01. Cooperation with Other Suppliers. Supplier shall cooperate with any third parties providing services to Customer (each an "Other Supplier"), to the extent required for Supplier to provide the Services in accordance with the Agreements or to the extent required for such Other Supplier to provide its services to Customer. Such cooperation shall include:

- (1) provision of requested and applicable written information concerning the Services, data and technology used in providing the Services including information regarding the operating environment, system constraints and other operating parameters;
- (2) assistance and support to the Other Suppliers;
- (3) access to Supplier and Customer systems and architecture configurations to the extent reasonably requested by Other Suppliers;
- (4) access to the Service Locations; and

- (5) access to and use of the Supplier Software and Supplier Machines to the extent reasonably requested by Other Suppliers;

provided, however, that provision of such information, assistance, support and access shall be subject to such Other Supplier being bound by confidentiality provisions consistent with those in this Master Agreement and complying with Supplier's security policies, to the same extent such policies are applicable to Customer under the Agreements.

In the event that Supplier breaches any of its obligations set forth in this Article 7, and Supplier fails to cure such breach (a), with respect to breaches which may have a material adverse effect on the applicable Service Recipient's business, within three days and (b), with respect to any other breach, within 15 days, and, as a result thereof, Customer is required to pay any additional amount to any Other Supplier, then Supplier shall reimburse Customer for any such additional amount Customer is required to pay to such Other Supplier; provided, however, that before Customer incurs any such additional amount, Customer shall notify Supplier of such breach and an estimate of such additional amount. Such reimbursement shall not limit Customer's right to recover in accordance with this Master Agreement, other damages incurred by Customer as a result of such failure.

7.02. Cooperation on Issues and Service Problems. Supplier shall cooperate with the Other Suppliers to establish the root cause of any failure (1) by Supplier to perform its obligations under this Master Agreement and (2) by any Other Supplier to perform its obligations relating to Customer (each such failure, a "Service Problem"). To the extent the root cause of a Service Problem falls within the responsibility of Supplier or any of the Other Suppliers to correct, each shall provide to the others, as requested, reasonable assistance and support regarding the resolution of the Service Problem. Customer shall use commercially reasonable efforts to cause Other Suppliers to cooperate with Supplier in a manner consistent with this Article 7. Subject to Section 7.03, in no event shall such assistance and support affect the overall allocation of responsibility between Supplier and the Other Suppliers regarding (a) Supplier's performance of its obligations under this Master Agreement and (b) any Other Supplier's obligations relating to Customer.

7.03. Disputes Related to Cooperation.

- (1) If any dispute arises between Supplier and any Other Supplier (any such combination of disputing parties, the "Disputing Parties"), regarding the allocation of responsibility for an issue or Service Problem (each such dispute, a "Supplier Dispute"), Supplier shall use reasonable efforts to resolve such Supplier Dispute without Customer's intervention within 15 days.
- (2) If the Disputing Parties are not able to resolve such Supplier Dispute within such time period:
- (a) Supplier shall: (i) immediately advise Customer MSA Party in writing of the Supplier Dispute; (ii) provide information to Customer MSA Party concerning the Supplier Dispute; and (iii) provide Supplier's recommendation for remedying the Supplier Dispute. Customer MSA Party may request additional information concerning the Supplier Dispute and require the Disputing Parties to attend meetings to determine the appropriate resolution of the Supplier Dispute; and
- (b) Customer MSA Party may, in its sole discretion, direct any one of the Disputing Parties to begin to perform any services necessary to cure the Service Problem. If Customer MSA Party directs Supplier to perform such services, Customer MSA Party will so inform Supplier and Supplier shall (assuming that Supplier has technical competency to provide such service) immediately commence performance of such service. Subject to Section 7.03(3), any such services performed by Supplier shall be performed at no additional cost or expense to Customer; provided that in the event the Parties agree that Supplier is not responsible for the applicable Service Problem, but Customer MSA Party nonetheless directs Supplier to cure such Service Problem, Supplier shall invoice Customer MSA Party (or the applicable Customer CSA Party, if directed by the Customer MSA Party), in accordance with the applicable rate card set forth in

██████████ on the monthly invoice issued the month after Supplier undertook such efforts to cure such breach.

- (3) If either Party wishes to pursue further the resolution of the Supplier Dispute, it shall submit the issue to other Party for dispute resolution in accordance with the procedures set forth in Section 25.01. Pending final adjudication of a dispute, Supplier shall continue to perform the undisputed services in accordance with the terms of the Agreements. If it is determined, either through the dispute resolution procedures set forth in Section 25.01 or a final adjudication by a court or arbitrator, as applicable, that Supplier is not responsible under this Master Agreement for curing the disputed Service Problem, Customer MSA Party will compensate Supplier (using the applicable hourly rates set forth in ██████████ for Supplier's effort to correct such disputed Service Problem. If it is so determined that Supplier is responsible under this Master Agreement for curing the disputed Service Problem, Supplier shall refund any amounts paid by Customer to Supplier for Supplier's efforts to correct the disputed Service Problem.

7.04. Customer Responsibilities. Customer's responsibility pursuant to this Article 7 with respect to any Other Supplier shall be limited to using commercially reasonable efforts to cause such Other Suppliers to perform as specified.

8. Licenses and Proprietary Rights.

8.01. Customer Software and Work Product. To the extent Supplier will use the Customer Software or Customer Work Product in connection with the Services, Customer MSA Party grants Supplier MSA Party, during the Term, a global, royalty-free, irrevocable, non-exclusive, non-transferable license for Supplier (and, for clarity, the Supplier Agents) to access, use and copy the Customer Software and Customer Work Product (but only to the extent permitted by any applicable third party license agreement) only for such use. Such license shall be only for the Term and shall be limited to the extent necessary for Supplier to perform its obligations hereunder.

8.02. Supplier Software and Work Product. To the extent Customer will use Supplier Software or Supplier Work Product in connection with the Services, Supplier MSA Party grants Customer during the Term a global, royalty-free, irrevocable, non-exclusive, non-transferable license to access, use and copy the Supplier Software and Supplier Work Product. Such license shall extend to third parties providing services to Customer to the extent necessary for such services and provided such third parties are bound by confidentiality obligations similar to those of Customer hereunder. Supplier shall be responsible for obtaining, including the cost of, any consents necessary to provide the license granted to Customer under this Section 8.02.

8.03. Developed Software and Developed Work Product. Customer MSA Party shall own and have all right, title and interest in and to the Developed Software and Developed Work Product. Supplier irrevocably assigns, transfers and conveys to Customer MSA Party all of its right, title and interest (including ownership of copyright) in and to the Developed Software and Developed Work Product. Supplier shall execute any documents (or take any other reasonable actions) as may be necessary, or as Customer may request, to perfect the ownership of Customer MSA Party in the Developed Software and Developed Work Product. Customer MSA Party may designate another entity of Customer for the ownership in this Section 8.03, in which case the references to Customer MSA Party in this Section 8.03 shall be to such Customer entity.

8.04. Consents, Approvals and Requests. Customer, at its own expense, is responsible for obtaining and maintaining all Customer Consents. Supplier, at its own expense, shall obtain and maintain all Supplier Consents. Each Party shall cooperate with the other Party in connection with such other Party obtaining and maintaining its consents.

9. Data.

9.01. Ownership of Data. Supplier shall not acquire any rights in Customer Data provided by a Service Recipient. Supplier shall not use (except as necessary to perform the Services), disclose or

provide any Customer Data without Customer's prior approval. To the extent Supplier has any rights in Customer Data, Supplier irrevocably assigns, transfers and conveys to Customer MSA Party (or the entity of Customer designated by Customer MSA Party) all of its right, title and interest in and to Customer Data. Upon Customer's request, Supplier shall execute any documents (or take any other reasonable actions) as may be necessary, or as Customer may request, to enforce these rights of Customer in Customer Data. Supplier shall limit the disclosure of any confidential Customer Data to only those personnel of Supplier or Supplier Agents who have been advised of the confidential and proprietary nature of such Customer Data and who have acknowledged the obligation to maintain the confidentiality of Customer Data in accordance with the terms of this Master Agreement. Additionally, Supplier shall only disclose Customer Data to those members of the Service Delivery Organization for whom such disclosure is required for them to provide the Services.

9.02. Correction of Errors. Supplier shall promptly correct any errors or inaccuracies in Customer Data, to the extent caused by Supplier's act or omission. Supplier shall inform Customer of any such corrections. To the extent that any errors or inaccuracies in Customer Data are not caused by Supplier, Supplier shall correct such error or inaccuracy upon Customer's request and at Customer's expense.

9.03. Provision and Return of Data. Upon Customer's request and as directed by Customer, Supplier shall promptly: (1) provide or return Customer Data, or requested portion thereof, to Customer and (2) erase or destroy the Customer Data, or requested portion thereof, in Supplier's possession. Any archival tapes containing Customer Data shall be used by Supplier solely for back-up purposes.

9.04. Data Security and Computer Access. Supplier shall comply with Customer's electronic security policies, standards and procedures as set forth in Attachment 2A9 (collectively, the "Data Safeguards"). Supplier shall comply with any modifications to the Data Safeguards communicated to Supplier by Customer. To the extent that such modifications materially increase or decrease Supplier's costs to provide the Services, the MSA Contracting Parties shall negotiate an equitable adjustment to the Service Fees with respect to such increased or decreased cost in accordance with the Change Control Process. If Supplier discovers or is notified of a failure to comply with the Data Safeguards, or of a breach or attempted breach of Customer's information security, Supplier shall immediately: (1) notify Customer in accordance with the governance procedures set forth in Exhibit 9; and (2) if Supplier was responsible for the failure, breach or attempted breach, (a) investigate and cure such failure, breach or attempted breach and (b) provide satisfactory assurance to Customer that such failure, breach or attempted breach will not recur.

9.05. Privacy and Personal Data. Supplier shall comply with Customer's privacy policy as set forth in Exhibit 12 (the "Customer Privacy Policy"). In order to comply with applicable Law concerning processing of Personal Data, Customer MSA Party and Supplier MSA Party shall each cause its respective Affiliates in each applicable country, as set forth in Exhibit 15, to execute a Data Privacy Agreement substantially in the form set forth in Exhibit 17 and to make such amendments to the Data Privacy Agreement as may be required under applicable Law from time to time. Supplier shall comply with any modifications to the Customer Privacy Policy communicated to Supplier by Customer. To the extent that such modifications materially increase or decrease Supplier's costs to provide the Services, the MSA Contracting Parties shall negotiate an equitable adjustment to the Service Fees with respect to such increased or decreased cost in accordance with the Change Control Process. With respect to any Personal Data, Supplier shall:

- (1) process all Personal Data collected by Supplier only to perform its obligations under the Agreements and as specifically permitted by the Agreements, or as otherwise instructed in writing from time to time by Customer;
- (2) not use such Personal Data for any other purpose including for its own commercial benefit, unless agreed to by Customer;
- (3) treat all Personal Data as Confidential Information;

- (4) ensure that all Personal Data created by Supplier on behalf of Customer is not subject to unauthorized alteration or deletion;
- (5) ensure that all appropriate technical and organizational measures are taken to protect Personal Data against accidental or unlawful destruction or accidental loss or alteration, or unauthorized disclosure or access and against all other unlawful forms of processing. In particular, "appropriate technical and organizational measures" must meet or exceed the requirements of the Data Safeguards;
- (6) notify Customer immediately upon learning of any accidental or intentional breaches of the security of the Personal Data, or any unlawful or unauthorized uses or disclosures of Personal Data and, if Supplier was responsible for such breach, use or disclosure, investigate and cure such breach or disclosure and provide satisfactory assurance to Customer that such breach, use or disclosure will not recur;
- (7) notify Customer prior to any change that is made with respect to Supplier's organizational or technical measures taken to protect Personal Data that could affect the controls or standards of protection previously specified or approved;
- (8) notify Customer promptly in writing (and in any event within five days of receipt) of any communication received from a Data Subject relating to the Data Subject's rights to access, modify or correct his or her Personal Data and to comply with all reasonable instructions of Customer before responding to such communications;
- (9) comply with the provisions of the Agreements and the reasonable instructions of Customer to return, store or destroy the Personal Data;
- (10) comply with all applicable Law with respect to processing of Personal Data and take any additional steps reasonably requested by Customer to comply with any notification or other obligations under such Laws; and
- (11) limit access to and possession of Personal Data only to those members of the Service Delivery Organization whose responsibilities under the Agreements reasonably require such access or possession.

9.06. Records Retention. Supplier shall comply with Customer's proprietary information policy as set forth in Exhibit 12 (the "Customer Proprietary Information Policy"). Subject to the Change Control Process, Supplier shall comply with any modifications to the Customer Proprietary Information Policy communicated to Supplier in writing. If Supplier discovers or is notified of a failure to comply with the Customer Proprietary Information Policy, Supplier shall immediately: (1) notify Customer in accordance with the governance procedures set forth in Exhibit 9; and (2) if Supplier was responsible for the failure, (a) investigate and cure such failure and (b) provide satisfactory assurance to Customer that such failure will not recur. In addition, Supplier shall maintain, in secure locations (to prevent destruction and unauthorized access) and in accordance with Generally Accepted Accounting Principles and Practices, records sufficient to document Services and Fees, including such records required to be kept by governmental or regulatory authorities. Supplier shall retain such records in accordance with statutory requirements and, to the extent applicable, the Customer Proprietary Information Policy, but in no case less than seven years from the date of creation of each such record.

9.07. Regulatory Information. Supplier shall promptly provide to Customer any information or records of Customer maintained by Supplier that are requested by any governmental or regulatory authority or otherwise required to answer any inquiries from such governmental or regulatory authority.

10. Service Fees.

10.01. Service Fees.

- (1) The fees for the Designated Services (the "Service Fees") shall be determined in accordance
██████████
- (2) The fees for any New Services shall be determined in accordance with the applicable New Services SOW.

10.02. Expenses. Except as expressly set forth in the Agreements or ██████████ all expenses are included in the Service Fees and there shall be no charges, expenses, costs or other amounts (including for Software, hardware, facilities, telecommunications, transition or export) to be paid or reimbursed by Customer (other than Service Fees) for the performance of Supplier's obligations pursuant to the Agreements. If any expenses are expressly set forth to be reimbursed by Customer, such expenses shall be reimbursed pursuant to Article 12 but only if such expense is: (1) in a category and in an amount specifically provided for in the Agreements or ██████████ or (2) approved by the Customer in accordance with the governance procedures set forth in Exhibit 9. Any expense to be reimbursed by Customer in accordance with this Section 10.02 shall be itemized on the next month's invoice and upon Customer's request, Supplier shall make available to Customer for inspection and copying copies of all receipts for expenses in excess of \$25.

11. Taxes.

11.01. Income Taxes. Each Party shall be responsible for its own Income Taxes.

11.02. Other Taxes. Each party shall be responsible for any sales, use, lease, personal property, stamp duty or other such taxes on equipment, Software or property it owns or leases from a third party, or for which it is financially responsible under this Master Agreement.

11.03. Taxes on Goods or Services Used by Supplier. Supplier shall be responsible for all sales, service, value-added, lease, use, personal property, excise, consumption, and other taxes and duties payable by Supplier on any goods or services used or consumed by Supplier in providing the Services (including services obtained from subcontractors) where the tax is imposed on Supplier's acquisition or use of such goods or services; provided that to the extent Supplier acts as Customer's purchasing agent, Supplier may pass through to Customer (without management fee, other mark-up or any additional Service Taxes just because of Supplier acting as a purchasing agent for Customer) taxes imposed on Customer's acquisition or use of goods or services.

11.04. Service Taxes. Subject to the provisions of this Article 11, the Fees paid to Supplier are exclusive of any applicable Service Taxes. In the event that a Service Tax applies pursuant to the Agreements, and except to the extent otherwise set forth in the subsequent sentence, Supplier shall be financially responsible for all Service Taxes assessed by Tax Authorities against any party to the Agreements on the provision of the Services as a whole, or on any particular Service received by Customer or any Service Recipient from Supplier. Customer shall be responsible for and pay the amount of any such Service Tax to the extent the Supplier issues a legally valid invoice, as discussed in Section 11.05, and is properly registered in the jurisdiction where the Services are provided. If required under applicable Laws, Supplier shall invoice Customer or the applicable Service Recipient for the full amount of such Service Taxes and then credit or reimburse the invoiced entity for that portion of such Service Taxes for which Supplier is financially responsible under this provision. However, (1) if Customer becomes liable for any Service Taxes as a result of Supplier doing business or having a location in a taxing jurisdiction without proper certification to do business in such jurisdiction, then Supplier shall indemnify Customer for any such Service Taxes that arise on an after tax basis and (2) if Supplier becomes liable for any Service Taxes as a result of Customer doing business or having a location in a taxing jurisdiction without proper certification to do business in such jurisdiction, then Customer shall indemnify Supplier for any such Service Taxes that arise on an after tax basis.

11.05. Tax Invoicing.

- (1) To the extent that any Service Tax is required to be separately identified in Supplier's billings to Customer, Supplier shall separately identify the Service Tax and assume any and all

responsibility for non-compliance, including any interest and penalty assessments. To the extent that (a) any tax authority refuses a refund of a Service Tax to Customer due to incorrect invoicing by Supplier, Supplier will compensate Customer for any loss incurred due to the incorrect invoicing or (b) Supplier issues an invoice too late for Customer to obtain a refund of any applicable Service Tax, Supplier shall immediately issue a credit to Customer equal to the amount of the un-refund Service Tax until such time as such Service Tax is refunded to Customer, whereupon Customer repay to Supplier the amount of such refund up to the amount of the credit that was provided by Supplier.

- (2) Customer and Supplier shall reasonably cooperate to segregate the Fees into the following separate payment streams: (a) those for taxable goods or Services; (b) those for nontaxable goods or Services; (c) those for which Service Tax has already been paid, and (d) those for which Supplier functions merely as a paying agent for Customer in receiving goods, supplies or services (including leasing and licensing arrangements) that otherwise are nontaxable or have been previously subject to Service Tax.

11.06. Withholding Tax. Supplier shall be responsible for and bear all withholding taxes on cross-border payments to the extent such taxes are lawfully levied by any duly constituted Tax Authority and are attributable to Supplier's performing (or billing and receiving payment for) Services for any reason from a location outside the country in which Customer or any Service Recipient is located. Customer (or the applicable Service Recipient) shall withhold such taxes from payments to Supplier and Supplier shall accept the resulting net payment as full settlement of the invoice. In no event shall Customer or any Service Recipient be required to "gross-up" or increase any payment to Supplier for Services due to such payment being subject to a lawfully levied withholding tax. Customer and any applicable Service Recipient shall provide Supplier with appropriate documentation or certification of the taxes so withheld to enable Supplier to obtain a tax credit or deduction. All such receipts and other evidence of withholding shall be forwarded to Supplier in accordance with Section 24.13. Customer and each applicable Service Recipient shall provide necessary documentation (including certification), to the extent available, to allow Supplier the ability to claim a lower or nil withholding tax rate pursuant to double tax treaties.

11.07. Tax Filings. Customer and Supplier each represents, warrants and covenants that it will file (and, as applicable, cause its Affiliates to file) appropriate tax returns, and pay applicable taxes owed arising from or related to the provision of the Services in applicable jurisdictions. Supplier represents, warrants and covenants that it is registered to and will collect and remit Service Taxes in all applicable jurisdictions as required by Law.

11.08. Tax Cooperation. In accordance with the indemnification procedures set forth in Article 19, Customer and Supplier shall promptly notify each other and coordinate with each other in the response to and settlement of any claims for Services Taxes asserted by applicable taxing authorities for which Customer or Supplier is responsible for under this Master Agreement. In addition, each of Customer and Supplier shall reasonably cooperate with the other to more accurately determine each Party's tax liability and (without incurring additional aggregate costs) to minimize the other Party's tax liability, to the extent legally permissible. Each of Customer and Supplier shall provide and make available to the other any resale certificates, information regarding out-of-state sales or use of equipment, materials or services, and any other exemption certificates or information requested by a Party. Customer and Supplier each shall be entitled to any tax refunds, credits or rebates obtained with respect to the taxes for which such party is financially responsible under the Master Agreement.

12. Invoices and Payment.

12.01. Invoices Generally. Supplier's invoices shall be accompanied by such records or other written proof as Customer deems adequate to verify the amounts billed and shall be in the form required by Customer. A properly prepared and correct invoice is an original document received at the proper Customer address, as indicated in [REDACTED] that is in the form set forth in [REDACTED]. If an invoice is not in the form of invoice set forth in [REDACTED] (or the applicable Country Service Agreement), or is otherwise incomplete or incorrect (e.g., an incorrect amount or an item for which Customer is not responsible for

payment), the invoice will not be processed or paid. Supplier shall cancel such invoice and shall issue a new, correct invoice.

12.02. Invoice Timing.

- (1) Within 10 days of the end of each month, the Supplier MSA Party shall cause (a) the applicable entities set forth in [REDACTED] submit an invoice to the Customer MSA Party for the applicable Fees specified in [REDACTED] and (b) each applicable Supplier CSA Party to submit an invoice to the to the corresponding Customer CSA Parties for the applicable Fees specified in [REDACTED]
- (2) Services are considered received in the month in which such Service is: (a) properly performed, if such Service is provided on a time and materials basis or monthly fee basis; or (b) properly completed, based on any applicable milestones.
- (3) Supplier shall not invoice Customer MSA Party or any Customer CSA Party, and Customer MSA Party and each Customer CSA Party shall have no obligation to pay Supplier, any amounts that are not invoiced within 180 days after such Services are considered received in any month.

12.03. Payment.

- (1) Customer MSA Party and each Customer CSA Party, as applicable, shall pay Supplier within [REDACTED] from receipt of a properly prepared and correct invoice in accordance with this Article 12. For clarity, Customer MSA Party shall pay the Cure Amount in accordance with the Approval Order.
- (2) If an invoice is not properly prepared or correct or any amount on such invoice is disputed, Customer MSA Party (or the applicable Customer CSA Party) shall give Supplier MSA Party (or the applicable Supplier CSA Party) notice within [REDACTED] days of receipt thereof of Customer MSA Party's (or the applicable Supplier CSA Party's) intention to withhold disputed or incorrectly invoiced fees (a "First Fee Dispute Notice"). (Notwithstanding the [REDACTED] day limitation in the preceding sentence, Customer may dispute a fee after such [REDACTED] day period (a) if Customer determines in connection with an audit conducted under Article 15 that any Fees were improperly invoiced or paid by Customer or (b) pursuant to a dispute notice issued by Customer pursuant to Section 13.03.) Additionally, if any such invoiced fees are not paid when due in accordance with the Agreements and Customer has not provided a First Fee Dispute Notice with respect to such fees, then Supplier MSA Party may issue a First Fee Dispute Notice with respect to such fees. With respect to the undisputed and correctly invoiced fees set forth in such invoice, Supplier shall deliver to Customer MSA Party (or the applicable Customer CSA Party) an invoice for such undisputed and correctly invoiced fees (without waiving any of its rights with respect to the disputed fees), which invoice shall be payable upon the later of (i) 10 days after the date Customer receives such reissued invoice and (ii) the date on which the original invoice, updated by such reissued invoice, would have otherwise been payable in accordance with this Section 12.03.
- (3) At Customer's option, payment shall be made by electronic funds transfer, wire or check. Payment by electronic funds transfer shall be per the terms of the electronic payment agreement between the Parties; payment by electronic funds (or wire) shall be considered made when released from Customer's account; and payment by check shall be considered made when received by Supplier.
- (4) If any undisputed amount is not paid when due in accordance with Section 12.03(1), Supplier may charge interest on such amounts beginning on the date that is 30 days after the date such amounts were so due, as follows: (a) LIBOR plus one percent for the period 31 to 45 days after such amounts were so due; (b) LIBOR plus two percent for the period 46 to 60 days after

such amounts were so due; and (c) LIBOR plus four percent for the period after [REDACTED] days after such amounts were so due.

- (5) Notwithstanding the foregoing, Customer MSA Party shall not dispute the Management Fee (as defined in [REDACTED] if such fee is invoiced in accordance with the payment schedule set forth in [REDACTED]. Subject to the preceding sentence, Customer shall be under no obligation to pay any Fees for Services not provided by Supplier.

12.04. Fee Dispute.

- (1) Upon receipt of a First Fee Dispute Notice, Customer MSA Party and Supplier MSA Party shall immediately meet (including by telephone conference) to attempt to resolve the dispute. If Customer MSA Party and Supplier MSA Party are unable to resolve the dispute at such meeting (a "Fee Dispute"), then Customer MSA Party or Supplier MSA Party may implement the following expedited payment dispute escalation procedures at any time.
- (a) Customer MSA Party or Supplier MSA Party may initiate the expedited process by an arbitrator by sending notice of such request to the other Party and describing the dispute or referencing this Section 12.04 (a "Second Fee Dispute Notice").
- (b) For five days after delivery of the Second Fee Dispute Notice, Customer MSA Party and Supplier MSA Party each shall use good faith efforts to mutually agree upon an arbitrator. If Customer MSA Party and Supplier MSA Party are not able to agree upon an arbitrator within such period of time, such arbitrator shall be selected in accordance with the International Institute for Conflict Prevention and Resolution for Non-Administered Arbitration, or its successor, within 10 days after delivery of the Second Fee Dispute Notice.
- (c) The arbitrator shall possess at least 15 years of relevant experience in a law firm or corporate law department of over 25 lawyers or as a judge of a court of general jurisdiction or, if the arbitrator is to be selected by the International Institute for Conflict Prevention and Resolution in accordance with Section 12.01(1)(b), such qualifications as the International Institute for Conflict Prevention and Resolution deems appropriate. The arbitrator shall not have represented or acted on behalf of either Party, or be otherwise affiliated with or interested in either Party. The place of arbitration shall be New York, New York.
- (d) Upon selection of the arbitrator, Customer MSA Party and Supplier MSA Party shall agree on a schedule to present the dispute to the arbitrator and obtain a decision as described herein, during a time frame of no more than 20 days after delivery of the Second Fee Dispute Notice; provided, however, that if Customer MSA Party and Supplier MSA Party cannot agree upon a schedule within five days after selecting the arbitrator, the arbitrator shall provide such a schedule for the arbitration. Customer MSA Party and Supplier MSA Party each shall submit a memorandum to the arbitrator that is not more than 10 pages in length, accompanied by relevant documents and not more than three affidavits. After receiving and reviewing the memoranda and supporting information, the arbitrator shall conduct a hearing within 20 days after delivery of the Second Fee Dispute Notice (such hearing not to last more than one day and not to include more than two representatives of each Party) at which Customer MSA Party and Supplier MSA Party may present their case and shall submit to questioning by the arbitrator. The arbitrator shall render his or her decision within three business days of the hearing.
- (e) The standard under which the arbitrator shall render his or her decision shall be whether there exists a good faith basis for Customer to withhold the disputed charges under the terms of the Agreements. The arbitrator shall issue his or her decision in the form of a ruling on that single issue, and shall not provide any written basis or support

for his or her opinion; provided, however, after a decision is rendered, either MSA Contracting Party may ask for a written basis for the opinion. Notwithstanding the preceding sentence, if the basis of the Fee Dispute was Supplier's failure to adequately provide a Service, and the decision is against the Supplier, then (i) the arbitrator's decision shall include a description of how the Supplier's performance of the Service was deficient and (ii) a subsequent Fee Dispute based on Supplier's failure to adequately provide such Service shall be submitted to the same arbitrator for resolution.

- (f) If the arbitrator determines that Customer had a good faith basis for withholding the disputed charges, then such sums shall remain in Customer's possession. If the arbitrator determines that Customer did not have a good faith basis for withholding the disputed charges, then Customer shall pay such disputed charges to Supplier, under reservation of rights, within 10 days after the date of the arbitrator's decision. For clarity, if Customer fails to pay such amount within such period, Supplier may exercise its rights under Section 22.04, and such amounts shall be considered undisputed for the purposes of Section 22.04. After the arbitrator renders such decision, each Party may continue to pursue any and all rights associated with the Fee Dispute through the dispute escalation procedures set forth in Section 25.01. The decision of the arbitrator shall have no force or effect other than for the limited purposes stated in this Section 12.04(1).
 - (g) The decision of the arbitrator and all communications, memoranda and supporting documentation exchanged in connection with the procedures set forth in this Section 12.04(1) shall be exchanged on a without prejudice basis and the decision of the arbitrator and briefs of the Parties shall be inadmissible in any respect in any subsequent proceeding. All communications, memoranda, supporting documentation, and the arbitrator's decision shall be deemed Confidential Information under the Agreements.
 - (h) The arbitrator shall be compensated at his or her applicable billing rate, which shall be split equally between the Parties. Any costs incurred by either Party shall be borne by that Party.
- (2) A Party's failure to commence or pursue the expedited procedures set forth in this Section 12.04 shall not constitute, operate or be construed as a waiver of any right the Party may have under this Agreement.

12.05. Rights of Set-Off. With respect to any undisputed amount that should be reimbursed to Customer by Supplier or is otherwise payable to Customer by Supplier, Customer may deduct the entire amount owed to Customer against the Service Fees.

12.06. Currency. Each invoice submitted to (1) the Customer MSA Party under this MSA shall be denominated and paid in U.S. dollars and (2) to a Customer CSA Party shall be denominated and paid in the currency referenced in [REDACTED] or the applicable Country Service Agreement, if different than the currency specified in [REDACTED]

13. Governance and Change Control.

13.01. Governance. The Parties shall comply with the governance procedures set forth in Exhibit 9.

13.02. Changes of Scope. Any changes to the Services not otherwise contemplated in Exhibit 2 shall be in accordance with the Change Control Process described in Exhibit 9.

13.03. Pre-Termination Executive Committee Meeting. Prior to Customer MSA Party providing a notice of termination pursuant to Section 22.03 or Supplier MSA Party providing a notice of

termination pursuant to Section 22.04, the MSA Contracting Party intending to issue the notice of termination shall first provide notice to the other MSA Contracting Party indicating such intention and specifying the basis for such termination (a "Pre-Termination Notice"). The Executive Committee shall convene a meeting (including by telephone) within five business days of the other MSA Contracting Party's receipt of the Pre-Termination Notice to discuss the facts and circumstances giving rise to such basis for termination. The MSA Contracting Party that provides the Pre-Termination Notice may not issue a notice of termination pursuant to Section 22.03 or Section 22.04, as applicable, before the earlier of (1) the date six business days after the Pre-Termination Notice and (2) the first business day after the Executive Committee convenes. Notwithstanding Section 12.03(2), Customer MSA Party may issue a First Fee Dispute Notice with respect to any disputed or incorrectly invoiced fee on or before the date the Executive Committee convenes in accordance with this Section 13.03.

14. Reports, Data Feeds and Online Data Access. Supplier shall provide the reports and data feeds specified by this Master Agreement, including those identified in Exhibit 10. Supplier shall at all times provide Customer with on line access to the Customer Data held by Supplier and to all training materials, job aids and other materials used by Supplier in the performance of the Services.

15. Audits.

15.01. Service Audits. Upon notice from Customer to the Supplier Executive, Supplier shall provide Customer and any of its regulators, accountants and auditors (collectively, the "Customer Auditors") with access to, and any assistance and information that they may require with respect to, Service Locations and Services for purposes of auditing Supplier's compliance with the Agreements (including compliance with the Data Safeguards) and applicable Laws. Upon notification that an audit identifies that: (1) Supplier is not in compliance with the Agreements or (2) Customer is not in compliance with applicable Laws due to Supplier's noncompliance with the Agreements or applicable Laws, Supplier shall promptly correct such non-compliance at its expense.

15.02. Financial Audits. Upon notice from Customer to the Supplier Executive, Supplier shall provide Customer Auditors with access to such records and supporting documentation (except for records and documentation regarding Supplier's internal costs, payroll and profitability) as may be requested by Customer Auditors to audit and determine if the Fees are accurate and in accordance with the Agreements as well as compliance with financial terms and conditions of this the Agreements. If such audit reveals that Supplier has overcharged Customer, upon notice from Customer of the amount of such overcharge: (1) Supplier shall promptly pay to or credit Customer, as Customer requests, the amount of the overcharge; and (2) Supplier shall reimburse Customer for the reasonable cost of such audit not exceeding U.S. \$25,000, if such overcharge is more than 10% of the average fees for the period audited. Such audit shall be conducted not more than once every calendar year.

15.03. Control Audits. Customer shall, from time to time, provide to Supplier, Customer's internal audit controls with respect to the Services (such controls, the "Control Objectives"). Supplier shall comply with, shall provide the Services to satisfy and shall otherwise not cause the Customer computer systems to fail to satisfy, the Control Objectives (including any corrective recommendations or other Customer instructions). In addition, Supplier shall assist Customer in addressing its audit control requirements relating to the Control Objectives, including by: (1) participating in any reviews by Customer as to compliance with such requirements; and (2) including Customer in any reviews by Supplier as to compliance with such requirements. Supplier shall promptly remediate any weakness or deficiency that has resulted in a qualified controls audit as a result of any failure by Supplier to comply with, or to provide Services which comply with, the Control Objectives, at its expense.

15.04. SSAE-16.

- (1) Customer MSA Party may from time-to-time, at its cost and expense, engage an external auditor to perform a SSAE-16 review of Supplier's provision of the Services (including, as directed by Customer, for each of Supplier's subcontractors and at each of the Service Locations). Supplier shall reasonably cooperate with such review.

- (2) Supplier shall promptly remediate any weakness or deficiency that results in a qualified SSAE-16 report, or that could reasonably be expected to result in a qualified SSAE-16 report, no later than 90 days after receipt of notice of the weakness or deficiency; provided, however, that any remediation due to a unique Customer requirement shall be remediated at Customer's cost and expense.
- (3) If Customer determines that a form of independently audited quality certification other than a SSAE-16 report is sufficient to satisfy Customer's audit and reporting requirements, then Supplier shall, at Customer's request, perform its obligations under this Section 15.04 with respect to such new quality certification.

15.05. Facilities. Supplier shall provide Customer Auditors with space, office furnishings (including lockable cabinets), telephone, internet and facsimile services, utilities and duplicating services and reasonable access to systems, data and reports containing Customer information on Supplier's premises as Customer Auditors may require to perform the audits and inspections described in this Article 15.

16. Confidential Information.

16.01. Generally. Each Party shall not: (1) access or use the Confidential Information of the other Party except as necessary to perform its obligations or exercise its rights hereunder; or (2) disclose or otherwise allow access to the Confidential Information of the other Party to any individuals or third parties except as provided in Section 16.02. In addition, each Party shall protect the Confidential Information of the other Party with at least the same level of care as it protects its own confidential information, but not less than a commercially reasonable level of care.

16.02. Permitted Disclosure. Either Party may disclose relevant aspects of the other's Confidential Information to the officers, directors, employees, professional advisors (including accountants), contractors and other agents of it to the extent such disclosure is necessary for the current or future performance of their obligations to such Party; provided, however, that the disclosing Party causes the Confidential Information to be held in confidence by the recipient to the same extent and in the same manner as required under this Master Agreement. In addition, (1) either Party may disclose Confidential Information of the other Party to the extent required to comply with any Law; provided, however that to the extent permissible by Law such Party provides the other Party with prior notice of any such disclosure and further provided that the disclosing Party limit any such disclosure to the information or records required to satisfy the request or inquiry and to the entity (or entities) to whom such disclosure is required to be made; and (2) Customer may include any Confidential Information relating to the Services in any requests for information or proposals and in any due diligence information for recipients of such requests for information or proposals.

16.03. Exclusions. The restrictions on use and disclosure in this Article 16 shall not apply to: (1) Confidential Information already known to a Party, as demonstrated by prior existing records, when it was disclosed by the other Party; (2) Confidential Information that is or becomes known to the public through no fault of a Party or its employees, agents or contractors; (3) Confidential Information that is lawfully received by a Party from a third party where the third party has not required that Party to maintain the information in confidence; and (4) Confidential Information developed by a Party independently of disclosure by or receipt from the other Party.

16.04. Return of Materials. In addition to Section 22.10, upon a Party's request and as directed by such Party, the other Party shall promptly return any or all Confidential Information and all written materials that contain, summarize or describe any Confidential Information in its possession, except to the extent there is a license to such materials under this Master Agreement.

16.05. Unauthorized Acts. Each Party shall immediately notify the other of any unauthorized possession, use or knowledge of the other's Confidential Information of which such Party is aware.

17. Compliance with Laws.

17.01. By Customer. Customer shall comply with all Laws applicable to Customer.

17.02. By Supplier. Supplier shall comply with all Laws applicable to Supplier and Supplier's performance of the Services. Supplier shall provide the Services to Customer in compliance with, and shall ensure that all Supplier Service Locations, Supplier Software and Supplier Machines used to provide the Services, comply with all applicable Laws. Customer may direct Supplier in writing on the method of compliance with the applicable Laws. Supplier shall comply with all such direction. If Supplier is not in compliance with any applicable Law, then: (1) Supplier shall at its own cost immediately undertake such measures as Customer shall require and which are necessary to establish compliance with the applicable Law; (2) Customer (or its designee) may, at Supplier's cost, undertake such measures as Customer shall require and which are necessary to establish compliance with the Law; or (3) Customer MSA Party may terminate this Master Agreement as of the date (including immediately) specified by Customer in a termination notice to Supplier.

17.03. Interpretation of Laws. If Supplier reasonably determines that performance of the Services requires an interpretation of any Law, Supplier shall present to Customer MSA Party the issue for resolution, and Customer MSA Party shall have the right to instruct Supplier in writing with respect to such issue. Supplier shall be authorized to act and rely on, and shall promptly implement any such Customer instruction in the performance and delivery of the Services. Supplier shall not be responsible for a failure to comply with Laws to the extent that Supplier relies on, and complies with, such instructions. The Parties shall resolve questions of interpretation and shall implement the resulting Customer instructions on an expedited basis.

18. Representations, Warranties and Covenants.

18.01. By Customer MSA Party. Customer MSA Party represents, warrants and covenants that:

- (1) Customer MSA Party is a corporation duly organized, validly existing and in good standing under the Laws of Delaware;
- (2) Customer MSA Party has all requisite power and authority to execute, deliver and perform its obligations under this Master Agreement;
- (3) the execution, delivery and performance of this Master Agreement by Customer MSA Party (a) has been duly authorized by the board of Customer MSA Party and, (b) shall not conflict with, result in a breach of or constitute a default under any other agreement to which Customer MSA Party is a party or by which Customer MSA Party is bound;
- (4) Customer MSA Party is duly licensed, authorized or qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except where the failure to be so licensed, authorized or qualified would not have a material adverse effect on Customer MSA Party's ability to fulfill its obligations under this Master Agreement;
- (5) Customer MSA Party is in compliance with all Laws applicable to Customer MSA Party and has obtained all applicable governmental permits and licenses required of Customer MSA Party in connection with its obligations under this Master Agreement; and
- (6) there is no outstanding litigation, arbitrated matter or other dispute to which Customer MSA Party is a party which, if decided unfavorably to Customer MSA Party, would reasonably be expected to have a material adverse effect on Supplier's or Customer's ability to fulfill their respective obligations under this Master Agreement.

18.02. By Supplier. Supplier represents, warrants and covenants that:

- (1) Supplier MSA Party is a corporation duly incorporated, validly existing and in good standing under the Laws of California;
- (2) Supplier MSA Party has all requisite corporate power and authority to execute, deliver and perform its obligations under this Master Agreement;
- (3) the execution, delivery and performance of this Master Agreement by Supplier MSA Party (a) has been duly authorized by the board of Supplier and (b) shall not conflict with, result in a breach of or constitute a default under any other agreement to which Supplier is a party or by which Supplier is bound;
- (4) Supplier MSA Party is duly licensed, authorized or qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except where the failure to be so licensed, authorized or qualified would not have a material adverse effect on Supplier's ability to fulfill its obligations under this Master Agreement;
- (5) Supplier MSA Party is in compliance with all Laws applicable to Supplier and has obtained all applicable governmental permits and licenses required of Supplier in connection with its obligations under this Master Agreement;
- (6) there is no outstanding litigation, arbitrated matter or other dispute to which Supplier MSA Party is a party which, if decided unfavorably to Supplier MSA Party, would reasonably be expected to have a material adverse effect on Customer's or Supplier's ability to fulfill their respective obligations under this Master Agreement;
- (7) Supplier has sufficient right, title and interest (and has obtained the consents) to assign, transfer and convey the ownership rights, and to grant the licenses, set forth in Article 8;
- (8) the Supplier Software, Supplier Work Product, Developed Software, Developed Work Product, Deliverables, Services or any other resource or item provided to Customer by Supplier (collectively, the "Supplier Resources") (and use thereof) do not infringe, and shall not infringe or cause the infringement of, the proprietary rights of a third party, except to extent such infringement is a result of: (a) use of the Supplier Resources in contravention of the Related Documentation or license granted to Customer under Article 8; (b) modifications made by Customer or Customer Agents; (c) Supplier complying with instructions or designs required or provided by Customer; or (d) combination of the Supplier Resources by Customer or Customer Agents with products or systems other than those provided by, or authorized by, Supplier;
- (9) the Services shall be performed (a) with adequate numbers of qualified personnel (as to training, skill and experience); provided that with respect to Services to be provided on a time and materials basis, such numbers of qualified personnel shall be as agreed by the Parties; (b) in a good and workmanlike manner; and (c) consistent with industry standards and practice;
- (10) Supplier shall maintain equipment and Software to the extent that Supplier has maintenance responsibility for such assets so that they operate in accordance with their specifications, including: (a) maintaining equipment in good operating condition, subject to normal wear and tear, (b) undertaking repairs and preventive maintenance on equipment in accordance with the applicable equipment manufacturer's recommendations, and (c) performing Software maintenance in accordance with the applicable Software vendor's documentation and recommendations;
- (11) each Deliverable that is Developed Software shall: (a) for a period of six months (with respect to Developed Software provided on a fixed fee basis) and 30 days (with respect to Developed

Software provided on a time and materials basis), in each case, after Acceptance by Customer, conform to and perform in accordance with the applicable Related Documentation and Acceptance Criteria; (b) for a period of [REDACTED] (with respect to Developed Software provided on a fixed fee basis) and [REDACTED] (with respect to Developed Software provided on a time and materials basis), in each case, after Acceptance by Customer, (i) properly execute on the hardware and systems on which such Deliverable is to be installed, configured and operated, (ii) properly interface with, and not negatively impact, other Software, hardware and systems (including any other Deliverables), (iii) function as designed and (iv) otherwise be free of errors and defects that interrupt hardware and systems operations or otherwise negatively impact normal operations or business processes; and (c) be provided on media that is free of defects in materials and workmanship, under normal use, for a period of [REDACTED] after Acceptance; provided, however, that with respect to Developed Software provided on a time and materials basis (A) the requirements for such Developed Software are provided by Customer and documented by Supplier, (B) the Developed Software is developed in accordance with an industry standard development process, (C) the Developed Software is tested in a separate test environment and (D) Acceptance (or rejection) of the Developed Software is provided by Customer within [REDACTED] after Supplier provides the Developed Software to Customer for testing. In no event shall the warranty set forth in this Section 18.02(11) limit Supplier's obligation to provide the Services in accordance with the Agreements;

- (12) Supplier shall provide Customer with all Related Documentation (and other documentation that is Work Product) that is customarily provided with the applicable type of service and deliverable and such Related Documentation (and other documentation that is Work Product) shall be accurate, current and complete and sufficient to enable a programmer skilled in the relevant programming language to maintain the related Software without reference to any other person or materials;
- (13) Supplier shall use commercially reasonable efforts (including at a minimum use of then-current industry standard security and anti-virus tools and such other anti-virus tools as may be specified by Customer) to prevent the Services from containing any Virus or Disabling Code. In the event any Virus or Disabling Code is found to be contained in any Deliverable provided by Supplier or any system used to deliver the Services, Supplier shall promptly use commercially reasonable efforts to eliminate the Virus or Disabling Code. To the extent any Virus or Disabling Code is found to be contained in any Deliverable provided by Supplier or any system used to deliver the Services as a result of Supplier's failure to comply with its obligations set forth in this Section 18.02(13), Supplier shall bear the cost and expense for any work required to eliminate the effects of the Virus or Disabling Code (including to mitigate any interruption in Services and restoration of any Customer Data); and
- (14) without Customer's prior approval, Supplier shall not embed in any Software, any Software that requires as a condition of its use, modifications or distribution that such Software (or other Software incorporated into, derived from or distributed with such Software) be (a) disclosed or distributed in source code form, (b) licensed for the purpose of making derivative works and (c) redistributed at no charge.

18.03. Disclaimer. NEITHER SUPPLIER MSA PARTY NOR CUSTOMER MSA PARTY MAKES ANY REPRESENTATION OR WARRANTY OTHER THAN AS SET FORTH IN THIS ARTICLE 18. SUPPLIER MSA PARTY AND CUSTOMER MSA PARTY EACH EXPLICITLY DISCLAIM ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

18.04. Repair and Re-performance. In the event of breach of the representations, warranties and covenants made by Supplier in Section 18.02 (other than breach of Section 18.02(8), which is addressed in Section 18.05 or a breach of Section 18.02(11), which is addressed in Section 18.02(11)), Supplier shall correct such breach in a prompt and timely manner commensurate with the nature and effect of such breach, but in no event later than 30 days after notification from Customer. Such correction

shall be repairing or replacing the applicable Deliverable, or re-performing (or performing, if not yet performed) the applicable Service, such that the corrected Deliverable or Service complies with such representations, warranties and covenants. If the breach is not so corrected, Customer (at its sole discretion) may:

- (1) extend the time for Supplier to correct such breach (if correction is commercially practical);
- (2) receive an appropriate, agreed-upon reduction in the Service Fees for such non-conforming Deliverable or Service (which reduction shall be in the form of a credit, if requested by Customer);
- (3) receive a refund of all Fees for such non-conforming Deliverable or Service (provided Customer returns or certifies destruction of the applicable Deliverable) any costs incurred by Customer arising from such breach;
- (4) hire, at Supplier's cost, a third party to correct such breach; or
- (5) terminate this Master Agreement as of the date (including immediately) specified by Customer in a termination notice to Supplier, in which case Supplier shall, upon Customer's return or certification of the destruction of the applicable non-conforming Deliverables, immediately refund to Customer all Fees under this Master Agreement (or for the terminated portion).

If Customer selects the option set forth in Section 18.04(1), and the breach remains uncorrected within the extended time, Customer shall have the same options. Any re-performed Service, or repaired or replaced Deliverable, shall be subject to the same representations and warranties and same remedies for a new warranty period that begins on the date correction is completed and extends until the later of (a) the expiration of the warranty for such Deliverable as determined in accordance with Section 18.02(11) and (b) the date [REDACTED] (or [REDACTED] with respect to Developed Software provided on a time and materials basis) after the date such correction is completed.

18.05. Obligation to Replace. In the case of a breach of Section 18.02(8), or a breach of such Section appears likely, Supplier shall either: (1) procure for Customer the right to continue using or receiving the applicable Supplier Software, Supplier Work Product, Deliverable or Service; or (2) replace or modify the applicable Supplier Software, Supplier Work Product, Deliverable or Service to be non-infringing without degradation.

18.06. Pass-Through Warranties. Supplier makes no warranty on any Machines it acquires on Customer's behalf under the Agreements, but shall to the extent permissible, pass through to Customer all available warranties and provide all available, including extended, applicable original equipment manufacturer and additional warranties for such third party Machines used to provide the Services. Supplier shall obtain and pass-through to Customer any warranties required by the specifications for a Machine procured on Customers behalf.

19. Indemnification.

19.01. Indemnification by Customer. Customer MSA Party shall defend, indemnify and hold harmless Supplier, its Affiliates, officers, directors, employees, successors and permitted assigns from and against any loss, liability (including settlements, judgments, fines and penalties) or costs (including reasonable attorney fees, court costs and other litigation expenses) relating to any actual or threatened claim, action, suit or proceeding (whether civil, criminal, administrative, arbitral, investigative or otherwise) by a third party against Supplier (including, for clarity, by any governmental agency):

- (1) that the Customer Software (and use thereof) infringe, or cause the infringement of, the proprietary rights of a third party, except to extent such infringement is a result of: (a) use of the Customer Software in contravention of the Related Documentation; (b) modifications made by Supplier, its agents or its contractors that were not previously authorized by Customer; (c) Customer complying with instructions or designs required by Supplier; or (d) combination of

- the Customer Software by Supplier, its agents or its contractors with products or systems other than those provided by, or authorized by, Customer;
- (2) relating to any taxes, interest, penalties or other amounts assessed against Supplier that are the obligation of Customer pursuant to Article 11;
 - (3) relating to breach of Article 16 by Customer;
 - (4) relating to breach of Section 17.01 by Customer;
 - (5) relating to the inaccuracy, untruthfulness or breach of any representation or warranty made by Customer MSA Party in Section 18.01(1), Section 18.01(2), Section 18.01(3), Section 18.01(4), Section 18.01(5), and Section 18.01(6);
 - (6) relating to (a) injury or death of any person (including employees of Supplier or Customer) or (b) the loss of or damage to any property (including property of the employees of Supplier or Customer), in each case, (i) resulting from the acts or omissions (including breach of contract) of Customer or its agents or contractors and (ii) with respect to such amounts in excess of amounts covered by any insurance coverage payments received by the indemnified Party with respect to such action, suit or proceeding.
 - (7) with respect to the Transferred Employees, relating to work-related injury or death occurring on or before the applicable Employment Transfer Date or death caused by Customer
 - (8) except where the terms, conditions and indemnities set forth in Exhibit 19 provide that Customer shall not be responsible, or that Supplier shall be responsible for the applicable claim, action, suit or proceeding, with respect to the Transferred Employees, relating to (a) accrued employee benefits for any period prior to the Employment Transfer Date or (b) any other aspect of the Transferred Employees' employment relationship with Customer or the termination of the Transferred Employees' employment relationship with Customer (including claims for breach of an express or implied contract of employment);
 - (9) where such third party was an employee of Customer or Customer Agent (other than a Transferred Employee) and such claim, action, suit or proceeding is brought within 18 months of the date upon which Customer or Customer Agent terminates the employment or engagement of such employee and which arise out of:
 - (a) the employment by Customer or Customer Agent of such employee up to and including the date on which their employment with Customer or Customer Agent (as the case may be) terminates; or
 - (b) the termination of the employment or engagement of such employee by Customer or Customer Agent in connection with the transactions contemplated by the Master Agreement;excluding, each case, any such claim, action, suit or proceeding where the terms, conditions and indemnities set forth in Exhibit 19 provide that Customer shall not be responsible, or that Supplier shall be responsible for the applicable claim, action, suit or proceeding.
 - (10) as provided in Exhibit 19.

Customer MSA Party shall indemnify Supplier from any costs incurred in connection with enforcing this Section 19.01.

19.02. Indemnification by Supplier. Supplier MSA Party shall defend, indemnify and hold harmless Customer, its Affiliates, officers, directors, employees, successors and permitted assigns from and against any loss, liability (including settlements, judgments, fines and penalties) or costs (including reasonable attorney fees, court costs and other litigation expenses) relating to any actual or threatened

claim, action, suit or proceeding (whether civil, criminal, administrative, arbitral, investigative or otherwise) by a third party against Customer (including, for clarity, by any governmental agency):

- (1) that the Supplier Resources (and use thereof) infringe, or cause the infringement of, the proprietary rights of a third party, except to extent such infringement is a result of: (a) use of the Supplier Software, Supplier Work Product or Deliverables in contravention of the Related Documentation; (b) modifications made by Customer, its agents or its contractors that were not previously authorized by Supplier; (c) Supplier complying with instructions or designs required by Customer; or (d) combination of the Supplier Software, Supplier Work Product or Deliverables by Customer, its agents or its contractors with products or systems other than those provided by, or authorized by, Supplier;
- (2) relating to breach of Section 9.01, Section 9.03 or Section 9.05 by Supplier;
- (3) relating to any taxes, interest, penalties or other amounts assessed against Customer that are the obligation of Supplier pursuant to Article 11;
- (4) relating to breach of Article 16 by Supplier;
- (5) relating to breach of Section 17.02 by Supplier;
- (6) relating to the inaccuracy, untruthfulness or breach of any representation or warranty made by Supplier MSA Party in Section 18.02(1), Section 18.02(2), Section 18.02(3), Section 18.02(4), Section 18.02(5), Section 18.02(6) and Section 18.01(7);
- (7) relating to inadequacies in the facilities and the physical, technical and data security controls at the (a) Customer Service Locations, to the extent the same are controlled or provided by Supplier and relate to Supplier's provision of the Services, and (b) Supplier Service Locations relating to (i) injury or death of any person (including employees of Supplier or Customer) or (ii) the loss of or damage to any property (including property of the employees of Supplier or Customer), in each case, (A) resulting from the acts or omissions (including breach of contract) of Supplier or its agents or contractors and (B) with respect to such amounts in excess of amounts covered by any insurance coverage payments received by the indemnified party with respect to such action, suit or proceeding;
- (8) with respect to Transferred Employees, relating to work-related injury or death occurring on or after the applicable Employment Transfer Date or death caused by Supplier;
- (9) except where the terms, conditions and indemnities set forth in Exhibit 19 provide that Supplier shall not be responsible, or that Customer shall be responsible, for the applicable claim, action, suit or proceeding, with respect to Transferred Employees, relating to (a) accrued employee benefits for any period after the Employment Transfer Date or (b) any other aspect of the Transferred Employees' employment relationship with Supplier or the termination of the Transferred Employees' employment relationship with Supplier (including claims for breach of an express or implied contract of employment);
- (10) except where the terms, conditions and indemnities set forth in Exhibit 19 provide that Supplier shall not be responsible, or that Customer shall be responsible, for the applicable claim, action, suit or proceeding, with respect to any employee of Customer (other than the Transferred Employees) relating to (a) a violation of Law for the protection of persons or members of a protected class or category of persons by Supplier, including unlawful discrimination and (b) any representation, oral or written, made by Supplier to such individuals;
- (11) relating to any obligations of Supplier in respect of any third party or Supplier Agent;
- (12) relating to any obligations of Supplier in respect of any member of the Service Delivery Organization;

- (13) any failure by Supplier to (a) comply with any of the Customer Third Party Contracts assigned or novated to Supplier after the date of assignment, or (b) observe or perform any duties or obligations to the extent Supplier has assumed financial, administrative or operations responsibility under any Customer Third Party Contracts; or
- (14) as provided in Exhibit 19.

Supplier MSA Party shall indemnify Customer from any costs incurred in connection with enforcing this Section 19.02.

19.03. Indemnification Procedures. If any actual or threatened claim, action, suit or proceeding is commenced against a party entitled to indemnification under Section 19.01 or Section 19.02 (the "Indemnified Party"), prompt notice thereof shall be given by the Indemnified Party to the applicable Party (the "Indemnifying Party"). At the Indemnifying Party's cost: (1) the Indemnifying Party shall immediately take control of the defense of such claim and shall engage attorneys reasonably acceptable to the Indemnified Party to defend such claim; and (2) the Indemnified Party shall cooperate with the Indemnifying Party (and its attorneys) in the defense of such claim. The Indemnified Party may, at its own cost, participate (through its attorneys or otherwise) in such defense. No settlement of a claim that involves a remedy other than the payment of money by the Indemnifying Party shall be entered into without the consent of the Indemnified Party. If the Indemnifying Party does not assume control over the defense of a claim as provided in this Section 19.03, the Indemnified Party may defend the claim in such manner as it may deem appropriate, at the cost of the Indemnifying Party.

19.04. Contribution. If any actual or threatened claim, action, suit or proceeding entitles each MSA Contracting Party to indemnification from the other under Section 19.01 or Section 19.02, then the MSA Contracting Parties shall allocate between themselves any loss, liability or costs arising out of or relating to such claim according to each MSA Contracting Party's relative share of liability. Contributory negligence, or any analogous principle, shall not be a defense to any allocation of loss, liability or costs pursuant to this Section 19.04.

20. Damages.

20.01. Direct Damages. Each of Customer MSA Party and Supplier MSA Party shall be liable to the other for any direct damages arising out of or relating to its performance or failure to perform under the Agreements; provided, however, that (1) the aggregate liability of an MSA Contracting Party to the other MSA Contracting Party, whether based on an action or claim in contract, equity, negligence, tort or otherwise, for all events, acts or omissions shall not exceed an amount equal to the Service Fees, in the aggregate under the Agreements, during the 12 months prior to the date of the occurrence of the first applicable event, act or omission giving rise to such liability or if less than 12 months have elapsed since the Effective Date, 12 times the monthly Service Fees, on average, since the Effective Date (the "Direct Damages Cap") (for clarity, excluding any Service Fees payable by a Former Business (or third party purchaser) on or after the Divestiture Date) and (2) with respect to a Former Business, the Direct Damages Cap shall be calculated in accordance with Section 25.03.

20.02. Consequential Damages. Neither Customer MSA Party nor Supplier MSA Party shall be liable for, nor shall the measure of damages include, any consequential, incidental, indirect, special or punitive damages arising out of, or relating to, the Agreements, including either MSA Contracting Party's performance or failure to perform under the Agreements.

20.03. Liability of Customer. The limitations or exculpations of liability set forth in Section 20.01 or Section 20.02 shall not apply, in the case of liability of Customer MSA Party, to:

- (1) any damages suffered by Supplier resulting from breach of Article 16 by Customer;
- (2) any damages suffered by Supplier resulting from breach of Section 17.01 by Customer;

- (3) the indemnification obligations of Customer pursuant to Section 19.01, the Data Privacy Agreements or the Human Resource Agreements;
- (4) Customer's breach of its obligation to pay the Fees in accordance with the Agreements; or
- (5) any damages suffered by Supplier resulting from the fraud, gross negligence or willful misconduct of Customer.

20.04. Liability of Supplier. The limitations or exculpations of liability set forth in Section 20.01 or Section 20.02 shall not apply, in the case of liability of Supplier MSA Party, to:

- (1) any damages suffered by Customer resulting from breach of Article 9 by Supplier;
- (2) any damages suffered by Customer resulting from breach of Article 16 by Supplier;
- (3) any damages suffered by Customer resulting from breach of Section 17.02;
- (4) any damages suffered by Customer resulting from breach by Supplier of Section 18.02(5), Section 18.02(7), Section 18.02(8) or Section 18.02(14);
- (5) the indemnification obligations of Supplier pursuant to Section 19.02, the Data Privacy Agreements or the Human Resource Agreements;
- (6) any damages suffered by Customer resulting from the fraud, gross negligence or willful misconduct of Supplier;
- (7) any damages suffered by Customer resulting from the abandonment of any of the Agreements (in whole or in part) by Supplier (for clarity, Supplier's termination of this Master Agreement in accordance with Section 22.04 shall not be consider an abandonment of this Master Agreement; provided, however, that Supplier comply with its obligations under this Master Agreement arising after such termination).

20.05. Assignment of Claims. Any cause of action arising under the Agreements that may be brought (1) by Customer, shall be brought by Customer MSA Party or (2) by Supplier, shall be brought by Supplier MSA Party. For clarity, (a) Customer MSA Party and Supplier MSA Party shall be entitled to the benefit of all rights, defenses, counterclaims and other protections to which their applicable Affiliates may be entitled with respect to any such cause of action and (b) the liability of Customer and Supplier shall, for clarity, be subject to the terms and conditions set forth in this Article 20.

20.06. Injunctive Relief. Supplier acknowledges and agrees that any breach (or threatened breach) of Section 3.01, Section 3.07, Section 3.08, Section 3.09, Section 3.10, Section 7.03, Article 9, Article 16, Section 17.02, Section 18.02, Section 18.04, Section 18.05, Section 22.09, Section 22.10, Section 22.11, Section 22.12, Article 23, Article 24 and Section 25.06 by Supplier shall be deemed to cause immediate and irreparable injury to Customer, and in the event of such breach (or threatened breach), Customer shall be entitled to seek injunctive relief, without bond or other security, in a court of competent jurisdiction (notwithstanding Section 25.11).

21. Insurance.

21.01. Coverage. Supplier shall carry and maintain in force, with reputable insurance companies authorized to do business in the jurisdictions where the Services are performed, insurance of the types and in the amounts of the minimum coverage, including:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21.02. Cost of Insurance Coverage. All insurance coverage shall be provided at Supplier's sole expense. The deductible amounts for each of the policies in Section 21.01 shall be borne by Supplier.

21.03. Certificate of Insurance Coverage. Within 10 days after the Effective Date and otherwise upon Customer's request, Supplier shall furnish to Customer certificates of insurance or other appropriate documentation in a form acceptable to Customer (including evidence of renewal of insurance) evidencing all coverage referenced in Section 21.01 including, as applicable, evidence that the Customer MSA Party and its Affiliates as additional insureds to the commercial general liability and automobile liability policy and the Customer MSA Party as loss payee for the crime insurance. Thirty days' notice must be received by Customer MSA Party from Supplier MSA Party prior to coverage cancellation or material reduction of the coverage by either Supplier or the applicable insurer. Such cancellation or material reduction shall not relieve Supplier of its continuing obligation to maintain insurance coverage in accordance with this Article 21.

21.04. Status and Rating of Insurance Company. All insurance coverage shall be written through insurance companies authorized to do business in the state in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide.

22. Term and Termination.

22.01. Term. This Master Agreement shall commence on the Effective Date and shall expire at 24:00 (Eastern Time) on [REDACTED], unless terminated earlier as otherwise permitted under this Master Agreement or extended for a Termination Assistance Period. The term of this Master Agreement (the "Term") shall be from the Effective Date until: (1) the last day of a Termination Assistance Period with respect to this Master Agreement; or (2) if there is no Termination Assistance Period with respect to this Master Agreement, the expiration date or effective date of termination (as applicable). Upon the last day of the Term, each Country Service Agreement shall terminate.

22.02. Termination for Convenience. Customer MSA Party shall be permitted to terminate this Master Agreement or any Country Service Agreement, any Tower or any Service, at any time without cause, upon [REDACTED] notice to Supplier.

22.03. Termination for Cause by Customer. Prior to issuing a notice of termination under this Section 22.03, Customer MSA Party shall comply with Section 13.03.

- (1) If Supplier has breached any of its material obligations (or has committed any other breaches which in the aggregate are material) under this Master Agreement, and fails to cure such breach within [REDACTED] after receipt of notice thereof from Customer MSA Party, then Customer MSA Party may terminate this Master Agreement upon notice to Supplier. If this Master Agreement is terminated, each of the Country Service Agreements shall also terminate.
- (2) In addition, If Supplier has breached any of its material obligations (or has committed any other breaches which in the aggregate are material) under a Country Service Agreement, and fails to cure such breach within 30 days after receipt of notice thereof from Customer MSA Party, then Customer MSA Party may terminate the Country Service Agreement upon notice to Supplier.
- (3) For clarity, the cure period in this Section 22.03 shall not apply to, and shall not prejudice, any specific right in any other portion of this Master Agreement to terminate (including immediately) this Master Agreement.

22.04. Termination for Cause by Supplier. Prior to issuing a notice of termination under this Section 22.04, Supplier MSA Party shall comply with Section 13.03. If Customer MSA Party (or any Customer CSA Party), breaches its obligation to pay undisputed Fees due to Supplier pursuant to any of the Agreements and fails to cure such breach within 30 days after receipt by Customer MSA Party (and, if applicable, the Customer CSA Party) of notice thereof by Supplier MSA Party referencing this Section 22.04, then after such 30 day period Supplier MSA Party shall provide Customer MSA Party (and, if applicable, the Customer CSA Party) a second notice of such breach referencing this Section 22.04. If Customer MSA Party (or, as applicable, the Customer CSA Party) fails to cure such breach within seven days after its receipt of such second notice, then Supplier MSA Party may terminate the Agreements upon notice to the Customer MSA Party.

22.05. Intentionally left blank.

22.06. Reorganization and Insolvency. If Supplier (a) makes an assignment for the benefit of creditors or (b) files for protection, or is subject to an accepted petition for any involuntary bankruptcy, under any applicable insolvency or bankruptcy Laws, then Customer MSA Party may terminate this Master Agreement as of the date (including immediately) specified by such party in a termination notice to the affected entity.

22.07. Partial Termination. If Customer has the right to terminate this Master Agreement in its entirety or any Country Service Agreement, Customer may alternatively elect (in its sole discretion) to terminate any Towers or Services affected by the events, facts or circumstances giving rise to Customer's right to terminate. Any rights or obligations of the Parties applicable to a termination of this Master Agreement in its entirety, shall also apply to the termination of any Tower or Services.

22.08. Termination Fees. Any termination fees payable shall be determined and payable in accordance with [REDACTED]. If Customer terminates a Country Service Agreement, or a Tower or any portion of the Services, then the Service Fees shall be adjusted in accordance with [REDACTED]. Except as otherwise specifically set forth in [REDACTED], no termination fee shall be payable by Customer in connection with a termination under this Master Agreement.

22.09. Effect of Termination. Any termination (or expiration) of this Master Agreement shall be accomplished without penalty and shall not relieve or release either Customer MSA Party or Supplier MSA Party from any rights, liabilities or obligations that may have accrued under the Law or the Agreements. In the event of any such termination (or expiration):

- (1) Supplier shall cease the terminated Services upon the effective date of termination, subject to Section 22.12.

- (2) Supplier MSA Party shall only be entitled to termination fees pursuant to Section 22.08 (if any) and payment for Services performed in accordance with the Agreements prior to the effective date of termination (and, therefore, shall refund to Customer MSA Party any Fees paid for any Services not performed in accordance with the Agreements, including progress payments based on calendar dates rather than deliverable milestones), apportioned according to any deliverable payment milestones or fixed price arrangements if payment is other than on a time and materials basis. However, Supplier MSA Party shall not be entitled to any payment for deliverable milestones that have not been met if termination is by Customer MSA Party due to breach by Supplier (and, therefore, shall refund to Customer any Fees paid for any such deliverable milestones).
- (3) The rights granted to Supplier MSA Party in Section 8.01 shall immediately terminate, and Supplier shall (a) deliver to Customer, at no cost to Customer, a current copy of the Customer Software and Customer Work Product in the form in use as of the date of termination or expiration of the applicable Agreement and (b) destroy or erase all other copies of the Customer Software and Customer Work Product in Supplier's possession. Supplier shall, upon Customer's request, certify to Customer that all such copies have been destroyed or erased.
- (4) With respect to Supplier Software owned by Supplier that Supplier is using to provide the Services as of the termination (or expiration) date and that is commercially available, Supplier shall, upon Customer's request, grant Customer a global, perpetual, royalty-free, irrevocable, fully paid-up, sublicensable, non-exclusive license to access, use, copy, maintain and modify such Supplier Software without payment of any fees other than any ongoing license, support and maintenance fees that are generally and customarily applicable to other Supplier customers licensing such Supplier Software and shall deliver to Customer a copy of such Software (excluding source code if not commercially available) in the form in use as of the date of termination or expiration of the applicable Agreement. With respect to Supplier Software owned by Supplier that Supplier is using to provide the Services as of the termination (or expiration) date and that is not commercially available, Supplier shall, upon Customer's request, grant Customer a global, perpetual, royalty-free, irrevocable, fully paid-up, sublicensable, non-exclusive license to access, use, copy, maintain and modify such Supplier Software without payment of any fees other than any ongoing license, support and maintenance fees which the Parties shall negotiate in good faith and shall deliver to Customer a copy of such Software (excluding source code, unless otherwise agreed by the Parties) in the form in use as of the date of termination or expiration of the applicable Agreement.
- (5) Supplier shall (a) deliver to Customer a copy of all Developed Software and Developed Work Product, in the form in use as of the date of termination or expiration of the applicable Agreement and (b) destroy or erase all other copies of Developed Software and Developed Work Product in Supplier's possession. Supplier shall, upon Customer's request, certify to Customer that all such copies have been destroyed or erased.
- (6) Upon Customer's request, with respect to (a) any agreements for maintenance, disaster recovery services or other third party services or any Supplier Machines not owned by Supplier being used by Supplier primarily for the benefit of Customer to provide the Services as of the effective date of expiration or termination of the applicable Agreement and (b) Assigned Agreements (not otherwise covered in Section 22.09(6)(a)), Supplier shall (i) make reasonable efforts to transfer or assign such agreements to Customer or its designee, on terms and conditions acceptable to all applicable parties and (ii) use commercially reasonable efforts to assist Customer to obtain the replacements for any such agreements which Supplier cannot assign to Customer in accordance with this Section 22.09(6).
- (7) Upon Customer's request, Supplier shall sell to Customer or its designee Supplier Machines used by Supplier or Supplier Agents primarily for the benefit of Customer to perform the Services as of the effective date of expiration or termination of the applicable Agreement free

and clear of all liens, security interests or other encumbrances at fair market value plus any tax, if any, on such sale.

22.10. Return of Materials. At the end of the Term (or any termination under this Master Agreement), Supplier shall promptly tender or return to Customer all versions of any Deliverables, all Confidential Information and all other information or materials provided by Customer (or with respect to the terminated portion). Such tender and return shall be as directed by Customer.

22.11. Hiring of Service Delivery Organization. As of the date a determination is made that there shall be an expiration or termination under this Master Agreement, with respect to the then-current members of the Service Delivery Organization based at a Customer Service Location (each, an "Affected Service Delivery Organization Member"), Supplier shall (1) not terminate, reassign or otherwise remove from the Service Delivery Organization any Affected Service Delivery Organization Member without providing Customer at least 45 days prior notice of such termination, reassignment or other removal and (2) upon Customer's request, prior to the end of such 45 day, or longer, period in respect of an Affected Service Delivery Organization Member, and to the extent not prohibited by applicable Laws, (a) provide Customer with the name of each Affected Service Delivery Organization Member's position and such Affected Service Delivery Organization Member's description of job responsibilities, in accordance with Supplier's standard employment policies, (b) provide Customer and its designees full access to such Affected Service Delivery Organization Member and (c), subject to the following sentence, allow Customer and its designees to meet with and extend offers of employment to such Affected Service Delivery Organization Member. Upon (i) expiration or a termination, other than pursuant to Section 22.02 or Section 22.04, Customer may hire all of the Affected Service Delivery Organization Members or (ii) a termination pursuant to Section 22.02 or Section 22.04, Customer may hire any Affected Service Delivery Organization Member that is a Transferred Employee. Supplier shall waive any restrictions that may prevent any Affected Service Delivery Organization Member from being hired by Customer or its designees pursuant to this Section. Additionally, Supplier shall not make any other material change to the terms or conditions of its employment of the Affected Service Delivery Organization Member other than such changes that are made in accordance with Supplier's normal personnel practices and cycles.

22.12. Termination Assistance.

- (1) If any Agreement terminates or expires for any reason (including termination by Supplier due to breach by Customer), Customer MSA Party may require Supplier, for up to 24 months after the effective date of termination or expiration, to: (a) continue to perform the terminated or expired Services (or portion thereof); and (b) perform any other services requested by Customer to transition the provision of the terminated or expired Services to Customer or another provider, in accordance with services and timeframes set forth in the Exit Plan and including any services set forth in Exhibit 16 (the services in sub-clauses (a) and (b), the "Termination Assistance Services"). The Termination Assistance Services shall be considered "Services" and shall be provided in accordance with the Agreements. If there are no rates for the services in sub-clause (b) of the definition of Termination Assistance Services set forth in [REDACTED] the MSA Contracting Parties shall negotiate rates for such services consistent with the rates set forth in [REDACTED] (e.g., comparable discounts and as may be adjusted in accordance with [REDACTED]). To receive Termination Assistance Services, Customer MSA Party must notify Supplier MSA Party prior to the effective date of any such termination of Termination Assistance Services to be provided and the time period during which such services will be provided (the "Termination Assistance Period"). Customer MSA Party may extend the Termination Assistance Services and the Termination Assistance Period up to four times upon 30 days' notice. During any Termination Assistance Period, the Termination Assistance Services shall be of the same quality, level of performance and scope as provided prior to termination, but not less than as required under the Agreements. Customer may withhold 10% of all Service Fees incurred with respect to Termination Assistance Services until the later of (i) the date on which the applicable Termination Assistance Services are completed to Customer's satisfaction or (ii) the end of the Termination Assistance Period.

- (2) If Customer fails to pay any undisputed amounts for the Termination Assistance Services under an Agreement, the payment terms in Section 12.03 shall be replaced with the provisions of this Section 22.12(2) with respect to invoicing for the Termination Assistance Services under such Agreement. Supplier shall invoice Customer on the first day of each month during the Termination Assistance Period for the Termination Assistance Services to be provided in such month. The Fees for such month shall be due and payable to Supplier on the later of (a) the last day of such month and (b) the date 30 days after Customer receives a correct invoice from Supplier. In the immediately following month, Supplier shall true-up the Fees for the preceding month based on the amount of Termination Assistance Services actually received by Customer. Supplier shall charge or credit (as applicable) the amount of such true-up Fees on its next invoice to Customer. If such credit is greater than the remaining payments under the applicable Agreement then Customer shall receive a refund equal to such amount from Supplier within 10 days. In the event that Customer fails to make any undisputed payments when due under this Section 22.12(2), Supplier shall not be required to perform the Termination Assistance Services under the applicable Agreement.
- (3) Notwithstanding anything to the contrary in the Agreements (including non-payment of any termination fees or past undisputed amounts), under all circumstances Supplier is obligated to provide Termination Assistance Services for up to 60 days as requested by Customer MSA Party, provided that Customer MSA Party pays in advance for such Termination Assistance Services, such pre-payment for each 30 days of Termination Assistance Services not to exceed 200 percent of the then current Monthly Fees. After such 60 day period, the MSA Contracting Parties shall meet and true-up the actual amount of Fees incurred in respect of Supplier's provision of the Termination Assistance Services with the amount that was pre-paid by Customer MSA Party and any excess (or shortfall) will be repaid (or paid) by the applicable MSA Contracting Party to the other MSA Contracting Party.
- (4) Following the Termination Assistance Period, Supplier shall continue to make the members of the Service Delivery Organization who are not located at a Customer Service Location available to Customer on a "staff augmentation" basis on Supplier's standard terms and conditions and at rates no more than those provided by Supplier to its other customers for similar services.

22.13. Exit Plan. Within 180 days after the Effective Date, Supplier shall deliver to Customer MSA Party and thereafter shall periodically update and maintain a detailed Exit Plan for the transfer of each of the Services from Supplier to Customer or another supplier designated by Customer MSA Party in accordance with Exhibit 16 (the "Exit Plan"). Upon Customer MSA Party's request, Supplier shall provide a copy of such updated plan to Customer MSA Party for review and comment. A failure to develop, update or maintain the Exit Plan shall, for clarity, be a material breach of this Master Agreement.

23. Intentionally left blank.

24. Force Majeure and Business Continuity.

24.01. Force Majeure. To the extent performance by a Party (the "Affected Party") or any of its obligations under this Master Agreement is prevented, hindered or delayed by fire, flood, earthquake, other elements of nature or acts of God, acts of war, terrorism, riots, rebellions or revolutions, civil disorders or third party labor strikes or disputes (excluding those involving a Party's agents or other contractors) (each a "Force Majeure Event"), the Affected Party shall be excused for such non-performance, hindrance or delay for as long as such Force Majeure Event continues; provided, however: (1) such Force Majeure Event is beyond the control of the Affected Party and could not be prevented by appropriate precautions; (2) the Affected Party is diligently attempting to recommence performance (including through alternate means); and (3) Supplier, if it is the Affected Party, is implementing the Business Continuity Plan, as applicable. The Affected Party shall immediately notify the other Party of the occurrence of the Force Majeure Event and describe the Force Majeure Event in sufficient detail. If the Supplier does not remove or work around the Force Majeure Event within three days after the applicable RTO time respect to Critical Services or 10 business days with respect to any other Services,

then Customer MSA Party may terminate this Master Agreement as of the date (including immediately) specified by such Party in a termination notice to the Affected Party.

24.02. Business Continuity. If a Force Majeure Event or other business continuity event affects Supplier's ability to provide the Services, then Supplier shall perform its responsibilities under the applicable disaster recovery plans set forth in Exhibit 2 if the event affects a Customer Service Locations or implement Supplier's business continuity plan set forth in Exhibit 13 if the event affects a Supplier Service Location (the "Business Continuity Plan"), at its expense (and shall immediately notify Customer MSA Party if notice is not provided pursuant to Section 24.01). If Supplier does not perform its obligations under the disaster recovery plan or the Business Continuity Plan is not implemented within the specified time frames, then Customer MSA Party may terminate this Master Agreement as of the date (including immediately) specified in a termination notice to Supplier.

24.03. Alternate Source. If any Force Majeure Event prevents, hinders or delays performance of a Critical Services for more than three days after the applicable RTO time set forth in Exhibit 13, or more than five days in the case of all other Services, Supplier, at Customer MSA Party's request, shall procure such Services from an alternate source for up to 180 days from the date of such event and Supplier shall reimburse Customer MSA Party for the costs and expenses that are commercially reasonable under the circumstances and incurred by Customer MSA Party in procuring such Services, to the extent that those costs and expenses exceed the Service Fees for such Services. If the Supplier does not alleviate, mitigate or work around the Force Majeure Event within three days after the applicable RTO time, in the case of a Critical Service, or within 10 business days, in the case of all other Services through disaster recovery, and does not obtain them from an alternate source pursuant to the preceding sentence, or through other means, then Customer MSA Party may terminate this Master Agreement as of the date (including immediately) specified in a termination notice to Supplier.

24.04. No Payment for Unperformed Services. Except as provided in Section 24.03, nothing in this Article 24 shall limit Customer MSA Party's obligation to pay any Service Fees; provided, however, that if Supplier fails to provide the Services in accordance with this Agreement due to the occurrence of a Force Majeure Event, Service Fees shall be adjusted in a manner such that Customer MSA Party is not responsible for the payment of any Service Fees for Services that Supplier (or an alternate source obtained by Supplier) fails to provide.

25. Miscellaneous.

25.01. Dispute Resolution. Any dispute arising out of the Agreements shall be considered by the Customer Executive and Supplier Executive within 10 days after receipt of a notice from either MSA Contracting Party specifying the nature of the dispute ("Dispute Notice"). If such individuals do not resolve such dispute within 10 days after the date of receipt of a Dispute Notice, the MSA Contracting Parties shall escalate the dispute to the Customer Senior Executive and Supplier Senior Executive (and any additional agreed-upon designees of the MSA Contracting Parties). If such individuals do not resolve such dispute within 20 days after the date of receipt of a Dispute Notice, then either MSA Contracting Party may otherwise pursue its rights and remedies under the Agreements.

25.02. Amendment. No amendment of this Master Agreement shall be valid unless in writing and signed by an authorized representative of Customer MSA Party and Supplier MSA Party (as designated by each entity from time to time).

25.03. Assignment. Neither Customer MSA Party or Supplier MSA Party shall assign this Master Agreement, or any amounts payable pursuant to this Master Agreement, without the prior consent of the other. Notwithstanding the immediately preceding sentence:

- (1) Customer MSA Party may assign this Master Agreement to: (a) an entity acquiring all or substantially all of the assets of Customer MSA Party; (b) the successor in any merger involving Customer MSA Party; or (c) an Affiliate of Customer MSA Party;

- (2) Customer MSA Party may assign this Master Agreement (including any indemnification obligations and portions of any applicable caps agreed to by Customer MSA Party and such Affiliate) in part on a Tower-by-Tower basis to a Business of Customer MSA Party for the duration of the then-current term of the Master Agreement upon notice to Supplier MSA Party; provided, however, that for so long as the Business remains under the Control of, or under common Control with, Customer MSA Party (a) Customer MSA Party (which, for clarity, is The Reader's Digest Association, Inc. as of the Second Restated Date) shall remain financially responsible for all obligations and liabilities of such Business under such assigned Master Agreement, (b) the Direct Damages Cap shall be deemed a single cumulative cap for this Master Agreement and the portion of the Master Agreement assigned to such Business and (c) any cause of action (including any claim for indemnification) arising under such assigned Master Agreement that may be brought by such Business, shall be brought only by Customer MSA Party (and not by such Business) and Customer MSA Party shall be entitled to the benefit of all rights, defenses, counterclaims and other protections to which such Business may be entitled with respect to any such cause of action (including any claim for indemnification); and
- (3) in the event Customer MSA Party divests such Business or such Business is otherwise no longer Controlled by, or under common Control with, Customer MSA Party (such entity, a "Former Business") then such Former Business may assign the portion of the Master Agreement that the Customer MSA Party assigned to the Former Business (including any indemnification obligations, except as set forth in Section 25.03(3)(b), and portions of any applicable caps agreed to by Customer MSA Party and such Former Business) upon notice to Supplier MSA Party to a third party purchaser of the Former Business that agrees to assume such portion of the Master Agreement in writing. Following such Change in Control of such Business or assignment of such portion of the Master Agreement to a third party purchaser of such Former Business: (a) Customer MSA Party shall no longer remain financially liable for the obligations and liabilities of the Former Business under the assigned Master Agreement accruing on or after the date of such assignment (the "Divestiture Date"), (b) the indemnity set forth in Section 19.02(13)(b) shall be deemed removed from the portion of the Master Agreement assigned to such Former Business (or third party purchaser), (c) such Former Business (or third party purchaser) may not assert any cause of action (including any claim for indemnification) under the portion of the Master Agreement assigned to such Former Business (or third party purchaser) that arose prior to the Divestiture Date (provided, that Customer MSA Party may assert such cause of action, including any claim for indemnification, on such Former Business' behalf and Customer MSA Party shall be entitled to the benefit of all rights, defenses, counterclaims and other protections to which such Former Business would have otherwise been entitled with respect to any such cause of action, including any claim for indemnification), (d) Customer MSA Party shall remain liable for the obligations and liabilities of the Former Business under the assigned portion of the Master Agreement accruing prior to the Divestiture Date and (e) any rights, obligations and liabilities of Supplier and a Former Business (or third party purchaser) with respect to each other shall commence as of the Divestiture Date, and any caps (including the Direct Damages Cap) shall be calculated from the Divestiture Date. Upon the Former Business' request, Supplier shall continue to provide the Services to such Former Business subject to an agreed upon management overhead fee. If Supplier and such Former Business (or third party purchaser) are unable to reach agreement on such management overhead fee prior to the applicable Divestiture Date, such Former Business shall be responsible for a management overhead fee at the end of each calendar year during which Supplier provides such Services to the Former Business in an amount equal to (i) 10 percent of the annualized Service Fees paid by the Former Business at the end of the first calendar year for each year Supplier provides Services to the Former Business if the Service Fees paid by the Former Business to Supplier at the end of the first calendar year are equal to or less than \$500,000, (ii) seven and one-half percent of the annualized Service Fees paid by the Former Business at the end of the first calendar year for each year Supplier provides Services to the Former Business if the Service Fees paid by the Former Business to Supplier at the end of the first calendar year exceed \$500,000 but are less than or equal to

\$1,000,000, or (iii) five percent of the annualized Service Fees paid by the Former Business at the end of the first calendar year for each year Supplier provides Services to the Former Business if the Service Fees paid by the Former Business to Supplier at the end of the first calendar year exceed \$1,000,000. If transition services are required in order to commence providing Services to the Former Business (including the replication of technology, connectivity or materials that cannot otherwise be divided between Customer and the Former Business), Supplier MSA Party and the Former Business shall agree to the terms and timeframes under which Supplier shall provide such services and Supplier shall complete such transition services within such timeframes and the Former Business shall pay the Service Fees therefor at the rates set forth in this Master Agreement, unless otherwise agreed by Supplier MSA Party and the Former Business (or third party purchaser). This Master Agreement shall be binding upon the successors and permitted assigns of Customer MSA Party and Supplier MSA Party.

- (4) Supplier MSA Party may assign the portion of the Master Agreement assigned by Customer MSA Party pursuant to Section 25.03(2) or Section 25.03(3) to an Affiliate of Supplier MSA Party, which is providing all or substantially all of the Services to the Business or Former Business that Customer MSA Party assigned such portion of the Master Agreement to pursuant to Section 25.03(2) or Section 25.03(3); provided, however, that HCL Technologies Limited remains jointly and severally liable for the obligations of such Affiliate of Supplier MSA Party in accordance with the signature block to this Master Agreement.

25.04. Business Ethics. Supplier shall not pay any salaries, commissions or fees (or make any other payments or rebates) to any employee, officer or director of Customer (or any designee of such employee, officer or director) or favor any such individual with gifts, entertainment, services or goods. Supplier shall comply with Customer's vendor code of conduct set forth in Exhibit 12.

25.05. Remedies Cumulative. No specific remedy under this Master Agreement shall limit a MSA Contracting Party's right to exercise all other remedies available to such MSA Contracting Party under Law, in equity or under this Master Agreement, and all such remedies shall be cumulative.

25.06. Divestiture and Acquisition.

- (1) If Customer MSA Party divests a Business unit, in whole or in part, Customer MSA Party may elect either (a) to reduce the volume of Services provided to Customer by the volume of the Services that was provided to the divested Business unit or (b) to have Supplier continue to provide the Services to such divested Business unit in accordance with the then-existing terms and charging methodologies for the Services, for a period not to exceed the lesser of (i) 30 months from the effective date of such divestiture (provided, however, that Supplier MSA Party shall extend such period for an additional six months upon Customer MSA Party's request) and (ii) the remainder of the Term and any Termination Assistance Period; provided, however, that (A) Customer MSA Party continues to be responsible and liable for such divested Business unit's compliance with the terms and conditions of this Master Agreement for the period of time that Customer MSA Party elects to have Supplier provide the Services to such Business unit and (B) upon the last date that such divested Business unit receives Services, Customer MSA Party may elect to reduce the volume of Services provided to Customer by the volume of the Services that was provided to such divested Business unit. Any divested Business unit of Customer MSA Party receiving Services pursuant to this Section 25.06 shall have all rights afforded to Customer under this Master Agreement relating to those Services it continues to receive after its divestiture. If transition services are required in order to commence providing Services to a divested Business unit, Supplier MSA Party and Customer MSA Party shall agree to the terms and timeframes under which Supplier shall provide such services and Supplier shall complete such transition services within such timeframes and Customer MSA Party shall pay the Service Fees therefor at the rates set forth in this Master Agreement, unless otherwise agreed to by the Parties.
- (2) Notwithstanding the notice requirement set forth in Section 22.02, in connection with the divestiture of a Business unit by Customer MSA Party, the termination date of any applicable

Country Service Agreement (but not any Tower or Service) shall be the closing date of such divestiture (and, for clarity, such termination of the Country Service Agreement without [REDACTED] notice shall not alter (I) Supplier MSA Party's entitlement to [REDACTED] notice as to the termination of any Service or Tower, including Services provided to the geography for which the applicable Country Service Agreement is terminated, unless Supplier MSA Party agrees to waive the requirement for [REDACTED] notice and accept a shorter notice period or (II) Customer MSA Party's responsibility for payment of any fees that would have been payable under the Country Service Agreement if [REDACTED] notice, or such shorter period agreed to by Supplier MSA Party, of termination had been given, in which case Supplier may invoice Customer MSA Party for the fees that were to be invoiced to the Customer CSA Party). Notwithstanding termination of the applicable Country Service Agreement, if Services continue to be provided to a divested Business (either under this Master Agreement pursuant to a transition services agreement or under the portion of the Master Agreement assigned in part to such divested Business), (I) the Data Transfer Agreement that was executed concurrently with or as an exhibit to the applicable Country Service Agreement shall continue to apply for so long as the Services continue to be provided and (II) any obligations of the Customer CSA Party under the applicable Country Service Agreement to reimburse Supplier for severance and other termination or redundancy payments made by Supplier in connection with the termination of a Transferred Employee shall be assumed by Customer MSA Party (subject to Customer MSA Party's right to assign such obligation in accordance with Section 25.03); provided, however, that the amount of any such severance and other termination or redundancy payments made to a Transferred Employee shall be as set forth in Section 4.05 and Exhibit 1.

- (3) In the event that Customer MSA Party acquires an entity or business, Customer MSA Party may elect to have Supplier provide some or all of the Services to such acquired entity or business in accordance with the existing terms and charging methodologies for such Services. If transition services are required in order to commence providing Services to the acquired entity, Supplier MSA Party and Customer MSA Party shall agree to the terms and timeframes under which Supplier shall provide such services and Supplier shall complete such transition services within such timeframes and Customer MSA Party shall pay the Service Fees therefor at the rates set forth in this Master Agreement, unless otherwise agreed to by the Parties.

25.07. Entire Agreement. This Master Agreement supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof and represents the entire agreement between the Parties with respect to that subject matter.

25.08. Export. Each MSA Contracting Party shall comply with all export Laws, restrictions and national security controls of the United States and all other applicable international or foreign governments, agencies and authorities (the "Export Controls"). Prior to exporting (or requesting that Customer export) any technology or material (including data) of Customer from the United States (or any other country) to perform the Services, Supplier shall promptly (with cooperation and assistance from Customer): (1) identify the Export Controls applicable to such technology and materials, including any required licenses, consents, authorizations or approvals; (2) notify Customer of such Export Controls; (3) obtain any such required licenses, consents, authorizations and approvals or, if and as requested by Customer, cooperate with and assist Customer in obtaining such licenses, consents, authorizations or approvals; and (4) provide any documents requested by Customer to demonstrate compliance with the Export Controls. In addition, Supplier shall not access any Customer Data from a country embargoed by the United States.

25.09. Good Faith and Fair Dealing. Except where explicitly stated otherwise (e.g., use of "sole discretion"), the performance of all obligations and exercise of all rights by each Party shall be governed by the principle of good faith and fair dealing and by a commercially reasonable standard.

25.10. Governing Law and Jurisdiction; Arbitration.

- (1) The Agreements shall be governed by, and construed and enforced in accordance with, the law of the state of New York without giving effect to the principles of conflicts of Law. The

Agreements shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods.

- (2) Any claim pursuant to the Agreements shall be resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce and the following conditions:
- (a) The place of arbitration shall be New York, New York.
 - (b) The arbitral panel shall determine the rights and obligations of the MSA Contracting Parties in accordance with the substantive laws of the State of New York and without regard to conflicts of laws principles thereof.
 - (c) The arbitral panel shall have no power to alter or modify any terms or provisions of the Agreements, or to render any award that, by its terms or effects, would alter or modify any term or provision of the Agreements.
 - (d) The arbitral panel shall be composed of three arbitrators, one to be selected by the Supplier MSA Party, one to be selected by Customer MSA Party and the third (who shall act as chairman of the panel) to be selected by the two previously-selected arbitrators.
 - (e) If the two previously-selected arbitrators cannot agree on the selection of the third arbitrator, the International Chamber of Commerce shall select the third arbitrator.
 - (f) Once the arbitral panel has been composed, the arbitrators shall act as neutrals and not as party arbitrators, and no MSA Contracting Party shall engage in any ex parte communication with any member of the arbitral panel.
 - (g) Each MSA Contracting Party shall bear its own attorney fees, expenses, and costs.
 - (h) The arbitration award will provide for the costs of the arbitration. The award will be made as soon as possible.
 - (i) The award shall be in writing and state the reasons upon which it is based. For clarity, the award shall be comply with the terms and conditions set forth in Article 20.
 - (j) The award shall be final and binding on the MSA Contracting Parties, and barring fraud or material prejudice, not subject to any regular or extraordinary means of appeal and Customer MSA Party and Supplier MSA Party exclude and waive any right to any form of appeal or recourse to any court or other judicial authority which would otherwise have jurisdiction.
 - (k) Judgment on the award may be entered by any court with competent jurisdiction.
- (3) Notwithstanding the foregoing, arbitration of claims arising from alleged misuse or misappropriation of intellectual property or Confidential Information shall be non-binding and shall not prejudice the right of either MSA Contracting Party to subsequently litigate such claims in any court of competent jurisdiction located in New York, New York, provided that with regard to such litigation, the MSA Contracting Parties irrevocably waive their right to trial by jury and agree that all prior negotiations and proceedings relating to such claims as provided herein shall be deemed inadmissible compromise negotiations.

25.11. Independent Contractor. Supplier is an independent contractor of Customer. Officers, directors, employees, agents and contractors retained by or on behalf of Supplier to perform Supplier's obligations under this Master Agreement shall at all times be under Supplier's exclusive direction and control and shall in no way be deemed to be an employee, agent or contractor of Customer.

25.12. Notices. All notices, consents, approvals, agreements, authorizations, acceptances, rejections and waivers under this Master Agreement shall be in writing and shall be deemed given when: (1) received at the facsimile number specified for the receiving MSA Contracting Party; (2) delivered by hand to the person specified for the receiving MSA Contracting Party at the address specified; (3) mailed to that addressee at that address by certified mail, return receipt requested, with postage fully prepaid; or (4) for those items Customer MSA Party and Supplier MSA Party agree may be communicated via email, received by the person specified at the e-mail address specified. Customer MSA Party and Supplier MSA Party may change the address or person for notification upon 10 days' notice to the other. The initial notification information is:

For Supplier MSA Party:

[REDACTED]

With a copy to:

[REDACTED]

For Customer MSA Party:

[REDACTED]

With a copy to:

[REDACTED]

25.13. Publicity. Supplier shall not, without the prior, proper and final approval of Customer MSA Party, which approval Customer MSA Party may withhold in its sole discretion: (1) use the name, trade name, oval, trademarks, service marks or logos of Customer in any publicity releases, news releases, annual reports, product packaging, signage, stationary, print literature, advertising or websites; (2) represent (directly or indirectly) that any product or service offered by Supplier has been approved or endorsed by Customer; or (3) make any sort of public communication regarding Customer or this Agreement. Supplier may submit to each stock exchanges on which it is a listed member, the following statement: "HCL signs a new contract with The Reader's Digest Association, Inc."

25.14. Intentionally left blank.

25.15. Survival. Section 8.02, Section 8.03, Section 9.01, Section 9.02, Section 9.03, Section 12.03, Article 16, Article 18, Article 19, Article 20, Section 22.08, Section 22.09, Section 22.10, Section 22.11, Section 22.12, Section 22.09, Section 25.10, Section 25.13, Section 25.14, this

Section 25.15, Section 25.17 and Section 25.19 and any other provisions, Sections or Articles that by their nature should survive, shall survive termination (or expiration) of this Master Agreement.

25.16. Third Party Beneficiaries. This Master Agreement is for the sole benefit of the MSA Contracting Parties and their permitted assigns and, except as provided in Section 20.05, each MSA Contracting Party intends that this Master Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the MSA Contracting Party and their permitted assigns.

25.17. Waiver. No delay or omission by either MSA Contracting Party to exercise any right or power it has under this Master Agreement shall impair or be construed as a waiver of such right or power. A waiver by a MSA Contracting Party of any breach or obligation shall not be construed to be a waiver of any succeeding breach or any other obligation.

25.18. Legal Compliance. Supplier shall comply with (1) all requirements of the U.S. Department of Commerce, including with respect to exporting or diverting of products to certain countries, and shall not knowingly assist or participate in any such exporting or diverting or other violation of applicable U.S. export Laws and regulations, (2) the Foreign Corrupt Practices Act and any related or successor statute, regulation, or governmental directive regarding payments to foreign nationals or other persons or entities, (3) Occupational Safety and Health Administration (OSHA) Laws and (4) environmental Laws.

25.19. Non-solicitation. Except as set forth in Section 22.11, neither Party during the Term shall solicit the other Party's employees for employment without the other Party's consent. For the purposes of this Section 25.20, "solicit" does not include general advertising in newspapers, other periodicals or web postings which are not targeted at the employees of the other Party, including where an employee of either Party responds to such general advertising. If a Party breaches this Section and hires an employee of the other Party, the hiring Party shall pay the other Party a liquidated damage of one year of the applicable employee's then current annual salary. Such payment shall be the other Party's sole and exclusive remedy for a breach of this Section 25.19.

IN WITNESS WHEREOF, the authorized representatives of HCL AMERICA, INC. and THE READER'S DIGEST ASSOCIATION, INC. have executed this Master Agreement as of the Second Restated Date.

HCL America, Inc.

The Reader's Digest Association, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

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