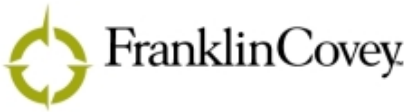
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):
July 7, 2008



FRANKLIN COVEY CO.

(Exact name of registrant as specified in its charter)

Commission File No. 1-11107

Utah	87-0401551
(State or other jurisdiction of incorporation)	(IRS Employer Identification Number)

2200 West Parkway Boulevard
Salt Lake City, Utah 84119-2099
(Address of principal executive offices)(Zip Code)

Registrant's telephone number, including area code: **(801) 817-1776**

Former name or former address, if changed since last report: **Not Applicable**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR240.14d-2(b))

[x] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

In connection with the completion of the sale of substantially all of the assets of Franklin Covey Co.'s (the Company) Consumer Solutions Business Unit (the CSBU) to Franklin Covey Products, LLC (Franklin Covey Products) as described in Item 2.01 below, the Company, or its wholly-owned subsidiaries, entered into the following material definitive agreements:

Master Licensing Agreement

On July 7, 2008, the Company entered into a master license agreement (the License Agreement), effective as of July 5, 2008, with Franklin Covey Products pursuant to which the Company granted to Franklin Covey Products, subject to certain restrictions and limitations, an exclusive, worldwide (excluding Japan and South Korea), transferable, sublicensable, royalty-bearing license to use the licensed trademarks and licensed copyrights, including FranklinCovey™ and FranklinCovey Planner™, in the design, development, manufacture, marketing, promotion, advertisement, distribution, lease and sale of licensed products in certain distribution channels, including wholesale channels, retail, eCommerce and call-center channels. The licensed products include planners, binders, totes and cases, personal leather goods, stationary items, writing instruments, organizational containers, calendars and non-dated paper products. The License Agreement will continue until terminated by either party due to a material breach of the terms of the License Agreement.

Pursuant to the License Agreement, for 99 years, Franklin Covey Products will make a yearly royalty payment to the Company equal to 30% of the amount of the earnings before interest, taxes, depreciation, and amortization (EBITDA) of Franklin Covey Products in excess of $13,000,000 each year, up to a maximum of $1,250,000.

The foregoing description of the License Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the License Agreement, which is filed as Exhibit 10.1 attached hereto.

Supply Agreement

In connection with the execution of the License Agreement, on July 7, 2008, Franklin Covey Product Sales, Inc., a wholly-owned subsidiary of the Company, entered into a supply agreement (the Supply Agreement), effective as of July 5, 2008, with Franklin Covey Products.

The Supply Agreement provides that Franklin Covey Products will be the Company's exclusive supplier of the products required to fulfill the Company's training and consulting service contracts that have historically been manufactured by the CSBU that will now be manufactured by Franklin Covey Products, directly or indirectly, including those products produced pursuant to the License Agreement, pursuant to certain forecasting and ordering procedures, as long as the products are supplied at a competitive price. Additionally, the Company will supply Franklin Covey Products with products that the Company produces. The Supply Agreement will continue until terminated by the parties. Either party may terminate the Supply Agreement effective immediately if the License Agreement has been terminated.

The foregoing description of the Supply Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Supply Agreement, which is filed as Exhibit 10.2 attached hereto.

Master Shared Services Agreement

On July 7, 2008, the Company, and the Company's wholly-owned subsidiaries Franklin Covey Client Sales, Inc., Franklin Covey Product Sales, Inc., Franklin Development Corp., Franklin Covey Canada, Ltd., Franklin Covey Europe, Ltd. and Franklin Covey de Mexico S. de R.L. de C.V. entered into a master shared services agreement (the Shared Services Agreement), effective as of July 5, 2008, with Franklin Covey Products and Franklin Covey Products' wholly-owned subsidiaries Franklin Covey Products Canada ULC, Franklin Covey Products Europe Limited and FC Products de Mexico, S. de R.L. de C.V.

Pursuant to the Shared Services Agreement, the Company and its subsidiaries will provide certain accounting, administrative, information technology, human resources and other transition services to Franklin Covey Products and its subsidiaries. Unless otherwise agreed upon by the Company and Franklin Covey Products, the Company will provide these transition services to Franklin Covey Products in substantially the same manner in which the Company provided these services to the CSBU prior to the closing of the transaction. Franklin Covey Products will pay an amount based upon the cost associated with the provision of these transition services, or a fee based on an agreed assessment of the cost associated with the provision of such services.

The foregoing description of the Shared Services Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Shared Services Agreement, which is filed as Exhibit 10.3 attached hereto.

Operating Agreement

On July 7, 2008, in connection with the Company's investment in Franklin Covey Products of approximately $1.8 million to purchase a 19.5% voting interest and a $1.0 million preferred capital contribution with a 10 percent priority return, Franklin Covey Client Sales, Inc., a wholly-owned subsidiary of the Company, entered into an amended and restated operating agreement for Franklin Covey Products (the Operating Agreement) with Franklin Covey Products, Peterson Partners V, L.P., and the other members and managers named therein. The Operating Agreement will govern the rights and obligations of the members and managers of Franklin Covey Products in connection with the operation of Franklin Covey Products.

Pursuant to the Operating Agreement, Franklin Covey Products will be managed by a five member management board, which will function substantially in the same manner as the board of directors of a Utah corporation. Three of the members of the management board will be appointed by Peterson Partners V, L.P. (the Peterson Managers), one member of the management board will be appointed by the Company (the FC Manager), and one member of the management board will be appointed by unanimous consent of the Peterson Managers and the FC Manager (the Peterson/FC Manager). Robert A. Whitman, the Company's CEO will serve as the initial FC Manager and as the chairman of the management board of Franklin Covey Products. Sarah Merz, the former President of the CSBU and new President of Franklin Covey Products, will initially serve as the Peterson/FC Manager on the management board. The management board will appoint officers that will manage the day-to-day business and affairs of Franklin Covey Products.

The foregoing description of the Operating Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Operating Agreement, which is filed as Exhibit 10.4 attached hereto.

Sublease Agreement

On July 7, 2008, Franklin Development Corp., a wholly-owned subsidiary of the Company, entered into a Sublease Agreement (the Sublease Agreement), effective as of July 5, 2008, with Franklin Covey Products.

Pursuant to the Sublease Agreement, through June 30, 2025, Franklin Covey Products will sublease from Franklin Development Corp. portions of the following buildings: Franklin, Washington, Jefferson, Patrick Henry and Adams buildings located in the office park commonly known as 2650 South Decker Lake Boulevard, Salt Lake City, Utah. Franklin Covey Products will sublease 53,701 square feet of office space at an initial monthly base rent of $9.00 per square foot, 975 square feet of computer room space at an initial monthly base rent of $12.00 per square foot, and 23,280 square feet of shared space, for which Franklin Covey Products will only be responsible for rent on 11,640 square feet, at an initial monthly base rent of $9.00 per square foot. Beginning on July 1, 2010, and each year thereafter, the base rent will increase by 2 percent per year. Franklin Covey Products will also pay its share of other expenses associated with the premises.

The foregoing description of the Sublease Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Sublease Agreement, which is filed as Exhibit 10.5 attached hereto.

Sub-sublease Agreement

On July 7, 2008, the Company entered into a Sub-sublease Agreement (the Sub-sublease Agreement), effective as of July 5, 2008, with Franklin Covey Products.

The Company subleases warehouse space from EDS Information Services L.L.C., and pursuant to the Sub-sublease Agreement, Franklin Covey Products will sub-sublease from the Company approximately 96,225 square feet of warehouse space through June 30, 2016. The initial monthly base rent due under the Sub-sublease Agreement is $31,408. Franklin Covey Products is also obligated to pay a portion of the costs related to utilities, operating expenses, garbage and recycling and real estate taxes.

The foregoing description of the Sub-sublease Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Sub-sublease Agreement, which is filed as Exhibit 10.6 attached hereto.

Modification Agreement

On July 8, 2008, the Company entered into a Modification Agreement (the Modification Agreement) with JP Morgan Chase Bank, N.A. The Modification Agreement modifies the terms of the long-term secured revolving line-of-credit agreements that the Company entered into with JP Morgan Chase Bank, N.A. on March 14, 2007 (the Credit Agreements). Pursuant to the Modification Agreement, the interest rate provided for in the Credit Agreements has been increased from LIBOR plus 1.10 percent to LIBOR plus 1.50 percent and, effective as of June 30, 2009, the borrowing capacity of the Company under the Credit Agreements will be reduced from $25,000,000 to $15,000,000.

The foregoing description of the Modification Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the Modification Agreement, which is filed as Exhibit 10.7 attached hereto.

Item 2.01 Completion of Acquisition or Disposition of Assets

On July 7, 2008, the Company announced that it completed its previously announced sale of substantially all of the assets of the CSBU to Franklin Covey Products. This new company, which is controlled by Peterson Partners, a private equity firm, purchased the CSBU assets for $32.0 million in cash subject to adjustments for net working capital. In addition, certain costs incurred in the completion of the sale transaction will be reimbursed to the Company by Franklin Covey Products. Prior to the transaction, the CSBU was primarily focused on the production and sale of the Company's products to individual customers and small business organizations and includes the operations of the Company's domestic retail stores, consumer direct channels (primarily eCommerce and call center), wholesale operations, international product channels in certain countries, and other related distribution channels, including government product sales and domestic printing and publishing operations.

In connection with the closing of the sale, the Company invested approximately $1.8 million to purchase a 19.5 percent voting interest in Franklin Covey Products and made a $1.0 million preferred capital contribution with a 10 percent priority return. The Company also has the opportunity to earn contingent license fees if Franklin Covey Products, LLC achieves certain performance objectives. The remaining interest in Franklin Covey Products will be primarily held by Peterson Partners V, L.P., an affiliate of Peterson Partners, Inc., a Salt Lake City, Utah based investment firm that specializes in small to mid-size companies. A founding general partner of Peterson Partners and a significant investor in Peterson Partners V, L.P. is Joel C. Peterson, a member of the Company's Board of Directors. Due to this relationship, Mr. Peterson recused himself from the negotiations and Board of Director discussions regarding the sale of CSBU.

The Company currently intends to utilize substantially all of the net sale proceeds to repurchase shares of its common stock pursuant to a Dutch auction tender offer, which it anticipates will commence in the fourth quarter of fiscal 2008.

A copy of the press release announcing the completion of the sale is attached hereto as Exhibit 99.1 and incorporated by reference herein.

The foregoing description of the sale of CSBU assets does not purport to be complete and is qualified in its entirety by reference to the sale agreements described in Item 1.01 above, which are filed as exhibits to this report on Form 8-K and incorporated by reference herein.

Forward Looking Statements

This current report and the exhibits furnished herewith contain forward-looking statements related to, among other things, a proposed tender offer. These statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Investors are cautioned that forward-looking statements inherently involve risks and uncertainties that could cause actual results to differ materially from those contemplated in the forward-looking statements. Such risks and uncertainties include, but are not limited to, the Company may decide, for any number of reasons, not to pursue the tender offer, the conditions to any such tender offer may not be satisfied, market conditions and the price of

the Company's stock may not be favorable, general economic conditions, the Company's cash needs, shareholders may not tender shares in response to the offer in sufficient numbers to make the tender offer advisable, and other risks and uncertainties outlined in the Company's documents filed with the SEC, including the Company's most recent annual report on Form 10-K for the fiscal year ended August 31, 2007 as filed with the Securities and Exchange Commission. All forward-looking statements and other information in this current report are based upon information available as of the date of this report. Such information may change or become invalid after the date of this report, and, by making these forward-looking statements, the Company undertakes no obligation to update these statements after the date of this report, except as required by law.

Tender Offer Statement

This communication is for informational purposes only and is not an offer to buy, or the solicitation of an offer to sell, any shares. The full details of any tender offer, including complete instructions on how to tender shares, will be included in the offer to purchase, the letter of transmittal and related materials, which will be mailed to shareholders promptly following commencement of the offer. Shareholders should read carefully the offer to purchase, the letter of transmittal and other related materials when they are available because they will contain important information. Shareholders may obtain free copies, when available, of the offer to purchase and other related materials that will be filed by Franklin Covey Co. with the Securities and Exchange Commission at the Commission's website at www.sec.gov. When available, shareholders also may obtain a copy of these documents, free of charge, from the Company's information agent.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors;Appointment of Certain Officers; Compensatory Arrangements ofCertain Officers

Departure of Sarah Merz

In connection with the completion of the sale of CSBU assets described in Item 2.01 above, on July 7, 2008, Sarah Merz ended her employment with Franklin Covey and as President of the CSBU. Ms. Merz was appointed the President and Chief Executive Officer of Franklin Covey Products, LLC.

Compensatory Arrangements of Executive Officers

As of the completion of the sale of the CSBU assets, the Company had granted unvested share awards to its executive officers and certain other managerial personnel that remained unvested. The terms and conditions of these awards, which were granted in fiscal 2004 and fiscal 2005, allow accelerated vesting based upon overall Company performance. However, the sale of the CSBU was not anticipated when these awards were granted to the participants.

The Compensation Committee of the Board of Directors authorized the Company to vest the previously unvested portion of the unvested share awards and to pay a discretionary cash bonus. As a result of these actions, the following compensatory amounts were authorized to be awarded to the Company's executive officers as shown in the table below.

Executive Officer	Cash Bonus	Number of Shares of Common Stock Vested
Robert A. Whitman	$ 645,100	112,500
Stephen D. Young	177,900	23,625
Robert William Bennett	177,900	26,250
Sarah Merz	261,000	26,250

Item 9.01 Financial Statements and Exhibits

(b) Pro Forma Financial Information

Pro forma financial information is attached hereto as Exhibit 99.2 and is incorporated herein by reference.

(d) Exhibits:

2.1 Master Asset Purchase Agreement between Franklin Covey Products, LLC and Franklin Covey Co. dated May 22, 2008 (filed as exhibit 2.1 to Form 8-K/A as filed with the Commission on May 29, 2008 and incorporated herein by reference).

2.2 Amendment to Master Asset Purchase Agreement between Franklin Covey Products, LLC and Franklin Covey Co. dated July 3, 2008 (filed as exhibit 2.2 to Form 10-Q as filed with the Commission on July 10, 2008 and incorporated herein by reference).

10.1 Master License Agreement between Franklin Covey Products, LLC and Franklin Covey Co. dated July 7, 2008, and effective as of July 5, 2008.**

10.2 Supply Agreement between Franklin Covey Products, LLC and Franklin Covey Product Sales, Inc. dated July 7, 2008, and effective as of July 5, 2008.**

10.3 Master Shared Services Agreement by and among Franklin Covey Co., Franklin Covey Client Sales, Inc, Franklin Covey Product Sales, Inc., Franklin Development Corp., Franklin Covey Canada, Ltd., Franklin Covey Europe, Ltd. and Franklin Covey de Mexico S. de R.L. de C.V., Franklin Covey Products, Franklin Covey Products Canada ULC, Franklin Covey Products Europe Limited and FC Products de Mexico, S. de R.L. de C.V., dated July 7, 2008, and effective as of July 5, 2008.**

10.4 Amended and Restated Operating Agreement of Franklin Covey Products, LLC, dated July 7, 2008, and effective as of July 5, 2008.**

10.5 Sublease Agreement between Franklin Development Corp. and Franklin Covey Products, LLC, dated July 7, 2008, and effective as of July 5, 2008.**

10.6 Sub-sublease Agreement, between Franklin Covey Co. and Franklin Covey Products, LLC, dated July 7, 2008, and effective as of July 5, 2008.**

10.7 Modification Agreement between Franklin Covey Co. and JP Morgan Chase Bank, N.A., dated July 8, 2008.**

99.1 Press release announcing the completion of the sale of the Consumer Solutions Business Unit dated July 7, 2008.**

99.2 Pro forma financial information.**

** Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FRANKLIN COVEY CO.

Date: July 11, 2008

By: /s/ Stephen D. Young

Stephen D. Young
Chief Financial Officer

Exhibit 10.1

MASTER LICENSE AGREEMENT

BETWEEN

FRANKLIN COVEY CO.

AND

FRANKLIN COVEY PRODUCTS, LLC

MADE EFFECTIVE AS OF

JULY 5, 2008, 11:59 P.M. MOUNTAIN DAYLIGHT TIME

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MASTER LICENSE AGREEMENT

This **MASTER LICENSE AGREEMENT** (this "*Agreement*") between Franklin Covey Products, LLC, a Utah limited liability company ("*Licensee*"), and Franklin Covey Co., a Utah corporation ("*Licensor*"), dated July 7, 2008, is made effective as of July 5, 2008, 11:59 P.M. Mountain Daylight Time.

Recitals

WHEREAS, Licensor and Licensee are parties to a Master Asset Purchase Agreement dated as of May 22, 2008, as amended (the "*Asset Purchase Agreement*"), a Supply Agreement dated effective as of July 5, 2008, 11:59 P.M., Mountain Daylight Time (the "*Supply Agreement*"), a Master Shared Services Agreement dated effective as of July 5, 2008, 11:59 P.M., Mountain Daylight Time (the "*Shared Services Agreement*"), the Lease Agreement between Franklin Development Corporation and Licensee (the "*Lease Agreement*") and the Sub-sublease Agreement between Licensor and Licensee (the "*Sub-sublease Agreement*") (collectively the "*Ancillary Agreements*");

WHEREAS, Licensee wishes to license from Licensor the right to use the Licensed Trademarks and the Licensed Copyrights (together and as defined below, the "*Licensed Materials*") in connection with certain of Licensee's activities, and Licensor has agreed to license to Licensee the Licensed Materials for such purpose, subject to the terms and conditions hereof.

WHEREAS, Licensor wishes to license back from Licensee the right to use the Assigned Trademarks in connection with certain of Licensor's activities, and Licensee has agreed to license to Licensor the Assigned Trademarks for such purpose, subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. All capitalized terms used in this Agreement have the meanings set forth below, unless the context clearly indicates otherwise.

"*Affiliate*" means, when used with reference to any Person, any other Person that directly, or indirectly through one or more intermediaries, has control of the first Person, or of which the first Person has control, or which is under common control with the first Person.

"*Agreement*" has the meaning set forth in the Preamble.

"*Ancillary Agreements*" has the meaning set forth in the Recitals.

"*Asset Purchase Agreement*" has the meaning set forth in the Recitals.

"*Assigned Software*" has the meaning set forth in Section 2.8.

"*Assigned Trademarks*" means the Trademarks listed on Exhibit B.

"*Back of Room Sales*" has the meaning set forth in Section 2.6.

"*Boxed PlanPlus Software*" has the meaning set forth in Section 2.8.

"*Branding Guidelines*" has the meaning set forth in Section 4.1.

"*Business of Licensee*" means the sales and service of and support functions for Licensed Products.

"*Business Day*" means any day, other than Saturday or Sunday, on which commercial banks in the United States of America are open for business.

"*Charter Flight*" has the meaning set forth in Section 2.5.

"*Commercial Loss*" has the meaning set forth in Section 10.2.

"*Competitor*" means any Person that, directly or indirectly through Affiliates, is engaged in the marketing, distribution or sale of Training-Oriented Products or Training-Oriented Services.

"*Confidential Information*" has the meaning set forth in Section 11.1.

"*Content-Rich Media*" has the meaning set forth in Section 2.7.

"*Corporate Gift Items*" has the meaning set forth in Section 2.10.

"*Current Version*" has the meaning set forth in Section 2.8.

"*Database Use Guidelines*" means the provisions set forth on Exhibit Q.

"*Discloser*" has the meaning set forth in Section 11.1.

"*Display*" has the meaning set forth in Section 4.1.

"*Domains*" has the meaning set forth in Section 3.1.

"*DYO Planner*" has the meaning set forth in Section 2.3.

"*DYO Website*" means those Internet pages and related Software and hardware, regardless of the IP address or the branded name, through which an online customer may design and order a DYO Planner, provided that the term shall not apply if such website is no longer under the direct control and supervision of Licensee.

"*EBITDA*" means earnings before interest, taxes, depreciation and amortization. Depreciation expense generated in the production of inventory shall be included in inventory's standard cost and the amortization of certain costs directly associated with the generation of revenue may be included in the EBITDA calculation (i.e. will lower EBITDA).

Examples of these costs include the depreciation of equipment specifically used for the production of inventory or the amortization of a prepaid author royalty.

"*EDS*" means Electronic Data Systems Corporation or any of its Affiliates.

"*Education Planner*" has the meaning set forth in Section 2.9.

"*Effective Date*" has the meaning set forth in Section 8.1.

"*Execution-Related Materials*" has the meaning set forth in Section 2.3.

"*Existing Distribution Agreements*" means the agreements listed on Exhibit G.

"*Existing Licensor International Agreement*" means an agreement between Licensor and an International Licensee of Licensor in effect as of the Effective Date in which such International Licensee of Licensor pays a royalty to Licensor in exchange for the right to sell Licensed Products bearing the Licensed Materials in any portion of the Licensed Territory.

"*Existing Sublicensed Entity*" means any Sublicensed Entity that became a Sublicensed Entity prior to the Effective Date, provided that such Sublicensed Entity shall be deemed a New Sublicensed Entity if Licensee renews or amends its agreement with the Existing Sublicensed Entity on substantially different terms.

"*Excluded Countries*" means Japan and South Korea.

"*GAAP*" means U.S. Generally Accepted Accounting Principles, as in effect from time to time.

"*Global Cap Loss*" has the meaning set forth in Section 10.2.

"*Gross Profit Margin*" means the difference between the price of the good sold and the cost of the good sold (which includes standard product cost, freight, credit card merchant discounts, royalties and amortization).

"*Indemnified Party*" has the meaning set forth in Section 9.3.

"*Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills*" has the meaning set forth in Section 2.4.

"*Intellectual Property Rights*" means (i) rights in patentable subject matter, whether or not the subject of an application, including continuation, divisional, continuation-in-part, and provisional patent applications and any patents issuing therefrom, including all reexaminations, reissues, and extensions thereof, and rights in respect of utility models or industrial designs, and invention disclosures or certificates of invention, (ii) rights in trademarks, service marks, trade names, trade dress and other designators of origin, registered or unregistered, (iii) rights in copyrightable subject matter, whether or not registered, including, without limitation, protectable designs, look and feel, web pages, and Software, (iv) trade secrets, including non-public know-how, inventions, discoveries, improvements, concepts, ideas, methods, processes, designs, plans, schematics, drawings, formulae, technical

data, specifications, research and development information, technology and product roadmaps, data bases and other proprietary or confidential information, including customer lists, but excluding any copyrights or patents that may cover or protect any of the foregoing, (v) rights in Internet domain names, uniform resource locators, e-mail addresses, metadata, and metatags, and (vi) all other intellectual and industrial property rights of every kind and nature and however designated, whether arising by operation of law, contract, license or otherwise including moral rights and publicity rights.

"*International Licensee*" has the meaning set forth in Section 2.2.

"*International Licensee of Licensee*" has the meaning set forth in Section 2.2.

"*International Licensee of Licensor*" has the meaning set forth in Section 2.2

"*Internet Search Terms*" means the terms listed on Exhibit O.

"*Lease Agreement*" has the meaning set forth in the Recitals.

"*Licensed Channels*" means the Wholesale Channels and the Proprietary Consumer Channels.

"*Licensed Copyrights*" means the copyrights and copyrighted materials, whether registered or not, that are listed on Exhibit C.

"*Licensed Materials*" means the Licensed Trademarks and the Licensed Copyrights.

"*Licensed Products*" means products listed on Exhibit D.

"*Licensed Territory*" means those territories listed on Exhibit F.

"*Licensed Trademarks*" means those trademarks listed on Exhibit A.

"*Licensee*" has the meaning set forth in the Preamble.

"*Licensee Change of Control*" with respect to Licensee means (i) the acquisition of Licensee by a third party by means of any transaction or series of transactions (including, without limitation, any acquisition, recapitalization, conversion, reorganization, merger or consolidation) other than a transaction or series of related transactions in which the holders of the voting securities of Licensee outstanding immediately prior to such transaction retain, immediately after such transaction or series of transactions, at least a majority of the total voting power represented by the outstanding voting securities of Licensee or such other surviving or resulting entity (or if Licensee or such other surviving or resulting entity is a wholly owned subsidiary immediately following such acquisition, then by the outstanding voting securities of its parent); (ii) a sale or other disposition of all or substantially all of the assets of Licensee and its wholly owned subsidiaries that relate to the Business of Licensee by means of any transaction or series of related transactions, except where such sale or other disposition is to a wholly owned subsidiary of Licensee; (iii) any assignment of this

Agreement; or (iv) any of the foregoing transactions involving a Licensee Qualified Entity which is a sublicensee of Licensee's rights under this Agreement.

"*Licensee Field*" means the design, development, manufacture, marketing, promotion, advertisement, distribution, lease and sale of Licensed Products in the Licensed Channels in the Licensed Territory.

"*Licensee Party*" has the meaning set forth in Section 10.2.

"*Licensee Qualified Entity*" has the meaning set forth in Section 2.11.

"*Licensee Qualified Vendor*" has the meaning set forth in Section 2.11.

"*Licensee Software Modification*" has the meaning set forth in Section 2.8.

"*Licensee Website*" has the meaning set forth in Section 3.1.

"*Licensor*" has the meaning set forth in the Preamble.

"*Licensor Change of Control*" with respect to Licensor means (i) the acquisition of Licensor by a third party by means of any transaction or series of transactions (including, without limitation, any acquisition, recapitalization, conversion, reorganization, stock purchase, merger or consolidation); (ii) a sale or other disposition of all or substantially all of the assets of Licensor; (iii) any of the foregoing transactions involving a wholly owned subsidiary of Licensor if such entity is a permitted assignee of this Agreement or (iv) any of the foregoing transactions involving the parent corporation of Licensor.

"*Licensor Party*" has the meaning set forth in Section 10.2.

"*Licensor Qualified Entity*" has the meaning set forth in Section 2.11.

"*Licensor Qualified Vendor*" has the meaning set forth in Section 2.11.

"*Licensor Software Modification*" has the meaning set forth in Section 2.8.

"*Licensor Website*" has the meaning set forth in Section 3.1.

"*Licensor's Knowledge*" means the actual knowledge, after diligent and customary inquiry, of Robert A. Whitman, Sarah E. Merz, Stephen D. Young, Robert Sumbot, Jeff Anderson and Michael Connelly.

"*Link*" has the meaning set forth in Section 3.1.

"*Material Breach*" means (i) a breach of this Agreement that has a material adverse effect on the non-breaching party's material Intellectual Property Rights, the goodwill associated therewith, or the ability to enforce any of its rights therein, and that has a material adverse effect on the non-breaching party, (ii) a material breach of Sections 2.22 or 2.23, (iii) a failure by a party timely to pay the other party amounts that are owed and undisputed under this Agreement or any Ancillary Agreement, individually or in the aggregate, in excess of $100,000, (iv) the release of any new product or marketing material, other than New

Products or New Campaign Materials released in compliance with all of the terms and conditions of Article V, that has a material adverse effect on the Business of Licensee or on the business of Licensor as a result of Licensee's involvement with any Prohibited Party or in any Prohibited Activity, or (v) a pattern of non-trivial breaches of this Agreement that (A) occur after a Licensee Change of Control transaction, (B) individually do not constitute Material Breaches, (C) are not disputed in good faith and (D) are repeated after the non-breaching party has provided written notice in good faith that such breaches have occurred, provided that no such pattern shall exist for this purpose if there are fewer than two of such breaches by the same party in the trailing twelve (12)–month period.

"*MFN Pricing*" means the party purchasing the good shall receive a price no less favorable than the price available to other similarly situated purchasers for the same good at the time of the sale.

"*Mobile PlanPlus Software*" has the meaning set forth in Section 2.8.

"*Software Modification*" has the meaning set forth in Section 2.8.

"*Modified Licensed Product*" has the meaning set forth in Section 5.1.

"*Motivational Artwork*" has the meaning set forth in Section 2.10.

"*Negotiation Period*" has the meaning set forth in Section 7.3.

"*New Branding Effort*" has the meaning set forth in Section 4.2.

"*New Campaign Materials*" has the meaning set forth in Section 5.1.

"*New Derivative Product*" has the meaning set forth in Section 5.1.

"*New Licensed Product*" has the meaning set forth in Section 5.1.

"*New Product*" has the meaning set forth in Section 5.1.

"*New Sublicensed Entity*" means any Sublicensed Entity that becomes a Sublicensed Entity after the Effective Date.

"*Notice of Alleged Infringement*" has the meaning set forth in Section 2.18.

"*Notice Period*" has the meaning set forth in Section 7.3.

"*Offer Notice*" has the meaning set forth in Section 7.3.

"*On-Site Training*" has the meaning set forth in Section 2.5.

"*Online PlanPlus Software*" has the meaning set forth in Section 2.8.

"*Option Fee*" has the meaning set forth in Section 6.4.

"*Ordinary Course of Business*" means the ordinary course of the business in question consistent with past custom and practice.

"*Organizational Client*" means an organization that purchases products or services where the decision maker at the client makes the purchase decision on behalf of people who are employees or members of, or otherwise actively affiliated with, the organization.

"*Partial Option Fee*" has the meaning set forth in Section 6.4.

"*Partial Royalty Buy-Out Option*" has the meaning set forth in Section 6.4.

"*Permitted Offeror*" has the meaning set forth in Section 7.3.

"*Person*" means an individual, corporation, partnership, limited partnership, limited liability company, unincorporated association, trust, joint venture, union or other organization or entity, including a governmental entity.

"*Planner*" means any paper-based product (i) bearing Trademarks of Licensor and (ii) organized consecutively by date so that its user may organize, plan and schedule events and tasks, along with ancillary pages that serve a related purpose, including, by way of example, pages to organize addresses and phone numbers and pages to take notes at meetings.

"*PlanPlus Software*" has the meaning set forth in Section 2.8.

"*Product Guidelines*" has the meaning set forth in Section 4.1.

"*Prohibited Activity*" means (i) publishing or promoting indecent or pornographic materials, (ii) deriving a substantial portion of revenue from gaming activities or the promotion or sale of alcoholic beverages, tobacco products or firearms, (iii) having as a primary purpose the advocacy of a particular political or moral position or (iv) illegal activities.

"*Prohibited Party*" means any Person that, directly or indirectly through Affiliates, engages in a Prohibited Activity.

"*Proprietary Consumer Channels*" means the sales channels defined under such term in Exhibit E.

"*Public Program*" has the meaning set forth in Section 2.5.

"*Public Program Cost Of Goods*" means fifty percent (50%) of the listed retail price for a seat at such Public Program.

"*Public Program Gross Margin*" means fifty percent (50%) of the retail price that would have been charged for the seat that was converted to an On-Site Training had the conversion not occurred.

"*Qualified Entity*" has the meaning set forth in Section 2.10.

"*Qualified Vendor*" has the meaning set forth in Section 2.10.

"*Quality Guidelines*" has the meaning set forth in Section 4.1.

"*Recipient*" has the meaning set forth in Section 11.1.

"*Relationship Manager*" has the meaning set forth in Section 7.1.

"*Reset EBITDA Threshold*" has the meaning set it Section 6.1.

"*Reset Ratio*" has the meaning set forth in Section 6.1.

"*Reset Royalties Minimum*" has the meaning set forth in Section 6.1

"*Royalties*" has the meaning set forth in Section 6.1.

"*Royalty Buy-Out Option*" has the meaning set forth in Section 6.4.

"*Search Terms Use Guidelines*" means the provisions set forth on Exhibit P.

"*SEC*" means the U.S. Securities and Exchange Commission.

"*Shared Services Agreement*" has the meaning set forth in the Recitals.

"*Software*" means computer programs or data, whether in object code or source code, regardless of the media format of such Software, and all documentation relating thereto.

"*Specialty Products*" has the meaning set forth in Section 5.1.

"*Standard Planner*" has the meaning set forth in Section 2.3.

"*Standard Spread*" has the meaning set forth on Exhibit T.

"*Strategic Relationship Committee*" has the meaning set forth in Section 7.2.

"*Sublicense Agreement*" means a written agreement between Licensor or Licensee, on the one hand, and a permitted Sublicensed Entity under Section 2.11, on the other hand, whereby such Sublicensed Entity expressly agrees, at minimum, that: (i) the Licensed Materials or Assigned Trademarks, as applicable to the subject matter of the Sublicense Agreement, are the property of Licensor or Licensee, respectively, and are subject to this Agreement; (ii) the party that owns the assets that are the subject matter of the Sublicense Agreement shall retain all ownership of such assets and the Sublicensed Entity shall not assert ownership or any other right or interest in any of such assets; (iii) any and all goodwill associated with the Sublicensed Entity's use of such assets shall inure to the benefit of the party that owns the assets; (iv) the Sublicense Agreement shall terminate immediately on termination of this Agreement for any reason; and (v) the party that owns the assets is an intended third-party beneficiary of the Sublicense Agreement.

"*Sublicensed Entity*" means a Qualified Entity, Qualified Vendor or International Licensee which has executed a Sublicense Agreement pursuant to Section 2.11 hereof.

"*Substantial Distribution*" has the meaning set forth in Section 2.8.

"*Sub-sublease Agreement*" has the meaning set forth in the Recitals.

"*Supply Agreement*" has the meaning set forth in the Recitals.

"*Tailored Planner*" has the meaning set forth in Section 2.3.

"*Top-Level Logos*" has the meaning set forth in Section 4.2.

"*Trademark*" means rights in trademarks, trade names, service marks, service names, design marks, logos, trade dress, or similar rights with respect to identification of origin, whether registered or unregistered, as well as rights in Internet domain names, uniform resource locators and e-mail addresses.

"*Training-Oriented Product*" has the meaning set forth in Section 2.4.

"*Training-Oriented Service*" has the meaning set forth in Section 2.4.

"*Training Planner*" has the meaning set forth in Section 2.3.

"*Updates*" has the meaning set forth in Section 4.2.

"*Wholesale Channels*" means the sales channels defined under such term in Exhibit E.

ARTICLE II.
LICENSE

2.1 License Grant to Licensee. Subject to all of the terms and conditions of this Agreement, Licensor hereby grants to Licensee an exclusive, worldwide, transferable (subject to Sections 7.3 and 12.1), sublicensable (subject to Section 2.11), royalty-bearing license, during the term set forth below, to use the Licensed Materials in connection with the design, development, manufacture, marketing, promotion, advertisement, distribution, lease and sale of Licensed Products, through the Licensed Channels, within the Licensed Territory. In addition, subject to all of the terms and conditions of this Agreement, Licensor hereby grants to Licensee a license during the term set forth below to translate the Licensed Copyrights into foreign languages as necessary to sell Licensed Products into Licensed Channels. As used in this Section 2.1, "exclusive" means that Licensor may not, after the Effective Date and during the term of this Agreement, grant to any third party a license to use, reproduce or display the Licensed Materials in the Licensee Field and that Licensor, subject to Section 2.22, may itself use the Licensed Materials for any purpose outside the Licensee Field. The rights granted to Licensee herein are expressly subject to the provisions of the Existing Distributor Agreements.

2.2 Special Provisions: International. The rights granted to Licensee in Section 2.1, as those rights may apply in countries and territories other than the United States, are subject to the following restrictions, limitations and qualifications, in addition to any and all restrictions provided elsewhere in this Agreement.

(a) Definitions.

(i) "*International Licensee*" means any International Licensee of Licensee or International Licensee of Licensor.

(ii) "*International Licensee of Licensee*" means any third-party distributor, manufacturer, sales organization or similar service provider, other than a Competitor or Prohibited Party, that is located outside the United States and engaged by Licensee in the Ordinary Course of Business to design, manufacture, distribute and/or sell Licensed Products in the Licensee Field outside the United States or, subject to Article V, to create New Products or New Campaign Materials. The International Licensees of Licensee as of the Effective Date are set forth on attached Exhibit M. Exhibit M shall be amended to include the names of parties which become International Licensees of Licensee as permitted by Section 2.11.

(iii) "*International Licensee of Licensor*" means any third-party distributor, manufacturer, sales organization or similar service provider that is located outside the United States and engaged by Licensor in the Ordinary Course of Business to engage in business activities. The International Licensees of Licensor as of the Effective Date are set forth on attached Exhibit L. Exhibit L shall be amended to include the names of parties which become International Licensees of Licensor as permitted by Section 2.11.

(b) Licensee shall have no right of exclusivity in any country, territory or region in which Licensor, as of the Effective Date, has granted a non-exclusive license to an International Licensee of Licensor which gives such International Licensee the right to sell Licensed Products in the Licensed Channels. Licensor shall pay to Licensee, according to the provisions of Section 2.24, the portion of royalties which Licensor receives under such Existing Licensor International Agreements that is directly attributable to the sale by International Licensees of Licensor of (i) Licensed Products bearing the Licensed Materials or (ii) Licensed Products that do not bear the Licensed Materials and were supplied to the International Licensee of Licensor by Licensee, but in both cases not including the sale of Licensed Products in connection with Training-Oriented Services or Training-Oriented Products and not including the sale of Content-Rich Media. Licensor shall make diligent inquiries with International Licensees of Licensor to determine the amounts payable by such International Licensees under all Existing Licensor International Agreements, provided that Licensor shall not be obligated to conduct audits of such International Licensees for such purpose.

(c) Licensee acknowledges that Licensor has, as of the Effective Date, granted to certain International Licensees of Licensor a limited right to manufacture Licensed Products for distribution within such Licensee's territory, including in some cases the right to manufacture Licensed Products for distribution in the Wholesale Channels. Nothing in Section 2.1 shall be deemed to derogate from the rights already granted to such International Licensees of Licensor. Subject to the foregoing limitations, Licensee shall have the exclusive right to manufacture Licensed Products for sale in the Licensed Channels outside of the United States other than the Excluded Countries, provided that (i) Licensor may freely grant to International Licensees of Licensor the right to manufacture Licensed Products (with the right to sublicense) for use in connection with Training-Oriented Services or Training-Oriented Products conducted within such International Licensee's territory, and (ii) Licensor

may permit the transfer or assignment of any existing manufacturing agreement between an International Licensee of Licensor and a vendor of such International Licensee if the transfer or assignment is made in connection with the International Licensee's sale of its business and the Person acquiring the International Licensee's business is not a Competitor or a competitor of Licensee. Licensor shall use its best efforts to cause International Licensees of Licensor that have the right to manufacture Licensed Products for sales in the Licensed Channels to enter into new, separate agreements with Licensee for such manufacturing.

(d) After the Effective Date, Licensor shall not enter into any manufacturing agreement with any New Sublicensed Entity that permits the manufacture of Licensed Products for distribution in the Licensed Channels, provided the Licensor may renew any Existing Licensor International Agreement. Licensee shall consult with Licensor with regard to any measures to enforce its rights under any new manufacturing agreements between Licensee and International Licensees of Licensor in order to reduce disruption to the relationship between Licensor and such International Licensees and shall terminate any such agreement only with Licensor's prior written consent.

(e) If Licensor's commitments relating to any Excluded Country are altered such that including such country in the Licensed Territory would not contravene any existing agreement of Licensor, then Licensee at its option may add such country to the Licensed Territory. Licensor shall provide Licensee written notice of this option promptly after it becomes exercisable and may set a reasonable time period in which Licensee must give notice of its exercise of its right.

2.3 Special Provisions: Planners. The rights granted to Licensee in Section 2.1, as those rights relate to certain categories of Planners (other than Education Planners, which are addressed in Section 2.9 below), are subject to the following restrictions, limitations and qualifications.

(a) Definitions.

(i) "*DYO Planner*" means any Planner that is customized according to the specifications of a customer through the DYO Website, printed and shipped to an address specified by the customer, and not including training or Execution-Related Materials.

(ii) "*Standard Planner*" means a Planner in the general form available to the general public in retail channels as of the Effective Date and not including training or Execution-Related Materials. For the avoidance of doubt, the content contained in Planners available to the general public in retail channels as of the Effective Date shall not be deemed "training or Execution-Related Materials."

(iii) "*Tailored Planner*" means a Planner that has been customized according to the specifications of an Organizational Client or other organizational customer to contain logos, employee directory information, a listing of company holidays and any other information approved by Licensor not including training or Execution-Related Materials.

(iv) "*Training Planner*" means a Planner that has been customized according to the specifications of an Organizational Client or other organizational customer

and that does contain training and/or Execution-Related Materials. A Training Planner may also include logos, employee directory information, a listing of company holidays and other information supplied by the Organizational Client or other organizational customer.

(v) "*Execution-Related Materials*" means information included in a Planner that assists an individual in performing tasks required or recommended by an employer, client or similar entity. As an example and without limitation, execution-related materials include information in a Planner for a retail manager that sets out steps to be followed in preparation for the peak retail selling season.

(b) Licensee shall have the exclusive right to design, market, manufacture and sell DYO Planners that use or incorporate the Licensed Materials worldwide, including the Excluded Countries. Licensee shall not directly or indirectly facilitate the inclusion of any training or Execution-Related Materials into any DYO Planner.

(c) Licensee shall have the exclusive right to design, manufacture, market and sell Standard Planners in the Licensee Field.

(d) Licensee shall have a non-exclusive right to design, market and sell Tailored Planners in the Licensee Field. Licensee shall not develop internally or contract externally with a dedicated sales force to promote exclusively or primarily the sale of Planners to Organizational Clients, provided that (i) personnel of Licensee's bricks-and-mortar stores may make direct sales calls but shall at all times hold themselves out as representing Licensee and not Licensor, and (ii) Licensee may enter into distribution agreements substantially similar in purpose and scope to the Existing Distribution Agreements.

(e) Licensor may, directly or indirectly, design, market and sell Tailored Planners to any Organizational Client, subject to the manufacturing right of first offer provided in Section 2.3(g) and the limits on certain sales provided in Section 2.3(h).

(f) Without limiting Licensor's other retained and reserved rights in any way, Licensor retains and reserves all rights to design, develop, market, promote, advertise, distribute, lease or sell Training Planners to Organizational Clients, subject to the manufacturing right of first offer provided in Section 2.3(g).

(g) Licensor grants to Licensee a right of first offer to manufacture any Tailored Planner or Training Planner sold by Licensor or its Affiliates, subject to the terms and conditions of the Supply Agreement. The right of first offer shall be conditioned on Licensee's ability to meet Licensor's cost, quality and timeliness requirements.

(h) Licensor's sales of Tailored Planners not used in connection with Training-Oriented Services or Training-Oriented Products shall be subject to the 1% sales cap provisions of Section 2.22.

2.4 Special Provisions: Training-Oriented Products and Training-Oriented Services. The rights granted to Licensee in Section 2.1, as those rights relate to Training-Oriented Products and Training-Oriented Services, are subject to the following restrictions, limitations and qualifications.

(a) Definitions.

(i) "*Training-Oriented Product*" means any good, product or thing in any tangible form (including Software) that is designed to teach individuals or organizations Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills.

(ii) "*Training-Oriented Service*" means any seminar, session, online course, webinar, consultation or similar interaction, whether or not for a fee, where the subject matter of such service relates to or includes Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills.

(iii) "*Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills*" means any and all organizational, management, leadership or personal effectiveness skills and the techniques and strategies for attaining such skills including, without limitation, executive coaching, management coaching, performance review, trust-building (in or out of an organizational setting), execution-related skills, personal time management, personal performance, personal goal-setting (including personal time-management, performance and goal setting in any academic or educational environment), family effectiveness, family organization, family goal-setting, family values, personal fitness, wellness and life balance, and any other form of training.

(b) Except as provided in Section 2.4(c) and in this Section 2.4(b), Licensee shall have no right to design or develop a New Product that is a Training-Oriented Product or that includes any Training-Oriented Service. Licensee may design, develop, manufacture, market, promote and distribute products in print, electronic and online media for the limited purpose of permitting customers who purchase Licensed Products to use Licensed Products in a more efficient manner, provided Licensor gives its prior written approval.

(c) If Licensor sells or agrees to sell a certain Training-Oriented Product on a non-exclusive basis through websites that are part of the Wholesale Channels, Licensee shall have the right to sell the same Training-Oriented Product through Licensee's Websites; and if Licensor sells or agrees to sell a certain Training-Oriented Product on a non-exclusive basis through bricks-and-mortar stores that are part of the Wholesale Channels, Licensee shall have the right to sell the same Training-Oriented Product through Licensee's bricks-and-mortar stores that are part of the Proprietary Consumer Channel. Licensor shall supply such products at MFN Pricing on a commercially reasonable delivery schedule.

(d) Licensee acknowledges that Licensor intends to make significant investments in the development of blogs, online communities and similar media as a method for the delivery of Training-Oriented Products and Training-Oriented Services. Licensee acknowledges that blogs, online communities and similar media are useful tools for the promotion of Planners but that any such activity, to the extent that it includes Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills, are prohibited under this Section 2.4, provided that Licensee may continue to use the blogs and online communities in existence as of the Effective Date under the name "Get Organized." Licensor agrees that:

(i) Licensee may modify the existing blogs and online communities or create new forms of blogs and online communities pursuant to an annual plan prepared by Licensee and approved by Licensor, whose consent shall not be unreasonably withheld;

(ii) Licensee's executives and employees shall be invited to participate in planning sessions for new products under development by Licensor involving blogs and online communities when Licensor determines, in good faith, that coordination of such an effort would be mutually beneficial, provided that neither Licensor nor Licensee shall have any obligation to participate in any such joint offering.

(e) Subject to any restrictions contained in any agreement between Licensee and its suppliers, the restrictions of this Section 2.4(e) and Section 2.22 and the terms and conditions of the Supply Agreement, Licensor shall have the right to purchase Licensed Products in any quantity from Licensee for use in connection with its Training-Oriented Services and Training-Oriented Products at Standard Spread; provided, however, that such Licensed Products are sold by Licensor as an implementation tool for the Training-Oriented Products and Training-Oriented Services and not as the principal purpose of the transaction. Such sales of Licensed Products by Licensor are subject to the one percent (1%) sales cap provisions of Section 2.22.

2.5 Special Provisions: Public Programs. The rights granted to Licensee in Section 2.1 include the right to sell Public Programs, subject to the following restrictions, limitations and qualifications.

(a) Definitions.

(i) "*Charter Flight*" means a Public Program that is organized by Licensee, that utilizes curriculum in the form previously established and used by Licensor, and that is delivered by a consultant of Licensor.

(ii) "*On-Site Training*" means any training seminar that takes place at the premises of an Organizational Client or at premises chosen by the Organizational Client for the primary use of that organization's employees, agents, consultants or personnel.

(iii) "*Public Program*" means a curriculum-based training seminar with open enrollment that individuals, groups and companies may attend (in person or virtually) for a fee, but the term does not include On-Site Training.

(b) Each fiscal year, Licensee may sell up to nine (9) Public Program seats per bricks-and-mortar store to any Organizational Client so long as such seats are sold only through direct sales efforts at bricks-and-mortar stores owned, leased or franchised by Licensee and operating under a name that is a Licensed Trademark. Licensee shall sell each seat at a price not less than Licensor's then-current list price subject to Licensor's standard corporate discount structure for the relevant number of seats but not including preview pricing. For purposes of this Section 2.5(b), "fiscal year" means the fiscal calendar as practiced by Licensor, and "preview pricing" means the discounted prices available on a limited basis to individuals for marketing purposes. The following examples illustrate the calculation of limits in this Section 2.5(b).

(i) Example 1: An employee of Company A, which is an Organizational Client, enters Store 1, a qualified Licensee store, and requests to purchase nine (9) seats to a Public Program. On the same day, another employee from Company A enters Store 2, also a qualified Licensee store, and requests to purchase nine (9) seats to the same Public Program. Licensee may sell all 18 seats.

(ii) Example 2: Licensor is on a calendar fiscal year. In February, an employee from Company A purchases nine (9) seats to a Public Program from Store 1. In December, a different employee from Company A enters Store 1 and requests to purchase nine (9) seats to a different Public Program. Licensee may not sell the second set of nine (9) seats.

(iii) Example 3: Licensor is on a calendar fiscal year. In December, an employee from Company A purchases nine (9) seats to a Public Program from Store 1 for the first time that year. In the following January, an employee from Company A enters Store 1 and requests to purchase nine (9) seats to the same Public Program. Licensee may sell all 18 seats.

(c) Notwithstanding anything in Section 2.5(b), Licensee shall have no right to sell seats to any Public Program that takes place outside the United States.

(d) Licensee shall use information obtained from Organizational Clients as a result of the sale of Public Programs only for the purpose of selling additional Public Program seats and only so long as seats are available for sale to such Organizational Client under the nine (9) seat cap set forth in Section 2.5(b). Licensee shall promptly provide all relevant information obtained from such Organizational Clients to Licensor, unless such disclosure would violate state or federal laws. All rights to such information not granted to Licensee shall vest in Licensor. Without limiting the generality of the previous sentence, Licensor shall have the exclusive right to make direct sales calls on Organizational Clients that have attended or will attend a Public Program for the purpose of selling additional Training-Oriented Services or Training-Oriented Products.

(e) Other than a Charter Flight, Licensor retains all rights (i) to appoint any facilitator, consultant, coordinator or other group leader for any Public Program and (ii) to manage and control all administrative matters relating to enrollment in any Public Program.

(f) For each seat to a Public Program that it sells, Licensee shall pay Licensor the Public Program Cost Of Goods. If Licensor in its sole discretion converts any Public Program into On-Site Training and cancels the sale of such seats to the Public Program, Licensor shall pay Licensee the Public Program Gross Margin per cancelled seat.

(g) Licensee may operate a Charter Flight if such Charter Flight is not within sixty (60) days of and not within sixty (60) miles of a Public Program scheduled by Licensor covering the same curriculum. Licensee may designate a facilitator for any Charter Flight subject to the consent of Licensor, whose consent shall not be unreasonably withheld. Licensee shall bear all risks relating to any Charter Flight, including all costs, and shall be entitled to retain all revenues therefrom.

(h) The parties agree to work together in good faith to identify additional marketing opportunities to promote and sell Public Programs.

2.6 Special Provisions: Back of Room Sales. The rights granted to Licensee in Section 2.1 include the right to conduct Back of Room Sales at Public Programs and at certain On-Site Trainings, subject to the following restrictions, limitations and qualifications.

(a) Definitions.

(i) "*Back of Room Sales*" means any sales operation conducted at a Public Program (other than a virtual Public Program) or On-Site Training where participants in the training event may purchase Licensed Products.

(b) Licensee shall have the right but not the obligation to operate Back of Room Sales at any Public Program (other than a virtual Public Program) and, if so requested by Licensor or the Organizational Client, at any On-Site Training. Licensor shall consult with Licensee to set the time, location and merchandise selections for such Back of Room Sales. Licensee, its employees, representatives and agents shall conduct any Back of Room Sales operation in a professional manner.

(c) If Licensee declines to provide the Back of Room Sales for any Public Program or On-Site Training, Licensor shall have the right (i) to manage such Back of Room Sale or to engage a third-party to do so and (ii) if inventory is available, to purchase any requested products from Licensee at Standard Spread.

(d) If Licensor outsources any Public Program to a third party, Licensor shall use its best efforts to require the sale of Licensed Products at any back-of-room sale conducted by such third party. To the extent that Licensed Products are permitted or required at such outsourced event, Licensee shall have the right to supply such products at prices it sets in its own discretion.

(e) Licensee shall have the right to operate Back of Room Sales only in the United States and in countries, other than the Excluded Countries, which Licensor covers with a direct sales office.

2.7 Special Provisions: Content-Rich Media. The rights granted to Licensee in Section 2.1 include the right to sell Content-Rich Media, subject to the following restrictions, limitations and qualifications.

(a) Definitions.

(i) "*Content-Rich Media*" means content created, prepared, commissioned or licensed by Licensor and presented in books, audio books, videos, audiotapes, CDs, DVDs and similar media (other than Software), including each of the foregoing that is delivered in downloadable format, not including the 7 Habits Interactive product.

(b) Licensee shall have the right to sell Content-Rich Media that is available to Licensee as of the Effective Date, as set forth on Exhibit R, through the Proprietary Consumer Channels, through International Licensees of Licensee but only to consumers, and through other channels through which Licensee is selling Content-Rich Media as of the Effective Date; provided, however, that Licensee may sell downloadable Content-Rich Media

permitted under this Section 2.7(b) only in the Proprietary Consumer Channels and only so long as Licensor sells such downloadable title on a non-exclusive basis through third-party wholesale channels targeting consumers. Subject to the terms and conditions of the Supply Agreement, Licensor shall supply Content-Rich Media available under this Section 2.7(b), other than downloadable Content-Rich Media, to Licensee at Standard Spread.

(c) Licensee shall have the right to sell the 7 Habits Interactive product through the Proprietary Consumer Channels. Subject to the terms and conditions of the Supply Agreement, Licensor shall supply the 7 Habits Interactive product to Licensee at MFN Pricing.

(d) If Licensor determines after the Effective Date that it intends to offer a new item of Content-Rich Media for sale in Wholesale Channels through non-exclusive distribution agreements, then Licensee shall have the exclusive right to promote and sell that item of Content-Rich Media through the Proprietary Consumer Channels other than Licensee's e-commerce affiliate partners. Nothing in this Section 2.7 shall limit Licensee's rights under any written agreement to which Licensee is a party as of the Effective Date and that is listed on Exhibit N. Subject to the terms and conditions of the Supply Agreement, to the extent Licensee chooses to be supplied by Licensor, Licensor shall supply Content-Rich Media available under this Section 2.7(c) to Licensee at MFN Pricing.

(e) Licensee may request the right to sell items of Content-Rich Media that are not otherwise available to Licensee under this Section 2.7, subject to the terms and conditions of this Agreement. Licensor shall consider in good faith and shall not unreasonably deny any such request. If Licensor permits the sale of additional Content-Rich Media under this Section 2.7(e), such products will be treated according to the terms of Section 2.7(d).

(f) Licensee shall pay MFN Pricing for each downloaded copy of Content-Rich Media. Licensor acknowledges that as of the Effective Date, Licensee purchases existing Content-Rich Media through certain distributors, and nothing in this Section 2.7 shall be deemed to limit its right to source such products through vendors other than Licensor.

(g) Other than the grant to Licensee in Section 2.7(b), (c) and (d), Licensor retains and reserves all rights to market, distribute and sell Content-Rich Media. Without limiting the generality of the previous sentence, Licensor has the exclusive right to sell Content-Rich Media worldwide in the Wholesale Channel and through online channels, other than the Licensee Websites as provided in this Section 2.7.

2.8 Special Provisions: Software. During the term of the Agreement, Licensee shall have the right to sell the Software products described below, subject to the following conditions, restrictions, limitations and qualifications.

(a) Definitions.

(i) "*Assigned Software*" means the Software assigned or otherwise transferred by Licensor to Licensee pursuant to the Asset Purchase Agreement and includes Forms Wizard, Address/Phone Software and Confidant.

(ii) "*Boxed PlanPlus Software*" means the planning and organizational Software currently known as PlanPlus for Outlook, PlanPlus for Windows, PlanOne, TasksPlus and ProjectsPlus.

(iii) "*Current Version*" means the version of Software as it exists as of the Effective Date.

(iv) "*Licensee Software Modification*" means a modification to the Software code of any PlanPlus Software commissioned and paid for by Licensee and approved by Licensor pursuant to Section 2.8(c)(i).

(v) "*Licensor Software Modification*" means a modification to the Software code of any PlanPlus Software commissioned and paid for by Licensor.

(vi) "*Mobile PlanPlus Software*" means the planning and organizational Software for use by customers through cellular telephones or similar personal device and currently known as Mobile PlanPlus.

(vii) "*Online PlanPlus Software*" means the planning and organizational Software currently known as the Basic, Sales, Business and Project editions of PlanPlus Online.

(viii) "*PlanPlus Software*" means Boxed PlanPlus Software, Online PlanPlus Software, and Mobile PlanPlus Software.

(ix) "*Software Modification*" means any Licensor Software Modification or Licensee Software Modification.

(x) "*Substantial Distribution*" means that, through Licensee's agreements, the Software in question is available for retail sale on the store shelves of at least 30 percent of the retail stores in a geographic region or organizational subdivision of a retail chain, as those geographic regions or organizational subdivisions are defined by such retail chain.

(b) Licensee acknowledges that Licensor's ability to grant to Licensee the rights to resell PlanPlus Software called for in this Section 2.8 is contingent upon obtaining the consents of certain third-party software developers of the PlanPlus Software and/or amending the agreements with such developers. Licensor agrees to use commercially reasonable efforts to obtain such consents and negotiate such amendments on reasonably acceptable terms as soon as practicable, and Licensee agrees to cooperate with Licensor for this purpose. No rights shall be granted to Licensee under this Section 2.8 except as permitted pursuant to such consents and/or amendments.

(c) Software Modifications.

(i) Within sixty (60) days after the Effective Date and thereafter within thirty (30) days of the commencement of each fiscal year of Licensee, Licensee shall prepare and deliver to Licensor a written plan that outlines all Licensee Software Modifications to any PlanPlus Software that Licensee proposes during the next fiscal year (or,

as the case may be, during the remaining portion of the 2008 fiscal year), including general descriptions of the functionality and estimated completion dates. Licensor shall have ten (10) Business Days to approve any or all of the proposed Licensee Software Modifications, which approval shall not be unreasonably withheld. If Licensor fails to respond within such ten (10) day period, the plan as written shall be deemed approved. Licensee shall have the right to make all Licensee Software Modification approved pursuant to this 2.8(c)(i) without further approval.

(ii) Licensee shall, on reasonable notice by Licensor, assist in the continued development and support of PlanPlus Software and Licensor Software Modifications for use by Licensor so long as (A) Licensor funds the development of the features so commissioned, (B) Licensor reimburses Licensee for the time spent by Licensee employees in providing such assistance and (C) Licensor's demands for such assistance are not excessive in view of the time which Licensee can reasonably make available without detracting from Licensee's conduct of its Business.

(d) Boxed PlanPlus Software.

(i) Licensee shall have the right to sell, directly or through distributors, Boxed PlanPlus Software as follows:

(1) the exclusive right to sell such Software in its Current Version and in versions incorporating Licensee Software Modifications in the Proprietary Consumer Channels during the term of this Agreement; and

(2) the exclusive right to sell such Software in its Current Version and in versions incorporating Licensee Software Modifications in the Wholesale Channels for a period of five years from the Effective Date, with the option to renew such rights on a non-exclusive basis thereafter for additional periods of five years.

(ii) Licensor shall have the right to sell, directly or through distributors, Boxed PlanPlus Software as follows:

(1) the exclusive right to sell such Software in its Current Version or in versions incorporating any Software Modification outside the Licensed Channels;

(2) the exclusive right to sell such Software in the Wholesale Channels if such Software includes a significant training component or includes a new and significantly different functionality not present in the version sold by Licensee under Subsection (d)(i) above; and

(3) beginning five years after the Effective Date, the non-exclusive right to sell such Software in its Current Version or in versions incorporating any Software Modification in the Wholesale Channels (without limiting

the exclusive rights granted under Subsection (d)(ii)(2) above).

(e) Online PlanPlus Software and Mobile PlanPlus Software.

(i) Licensee shall have the right to sell, directly or through distributors, Online PlanPlus Software and Mobile PlanPlus Software as follows:

(1) the exclusive right to sell such Software in its Current Version and in versions incorporating Licensee Software Modifications in the Proprietary Consumer Channels during the term of this Agreement;

(2) the exclusive right to sell such Software in its Current Version and in versions incorporating Licensee Software Modifications in the Wholesale Channels for a period of three years from the Effective Date, with the option to renew such rights thereafter only on an exclusive basis for additional periods of three years only in those specific accounts (or geographic regions or organizational subdivisions within accounts) in which Licensee achieved Substantial Distribution in the last year of the initial three-year period after the Effective Date and the last year of any subsequent additional three-year periods for which Licensee achieves exclusive rights under this Subsection (e)(i)(2);

(3) beginning three years after the Effective Date, the exclusive right to sell such Software in its Current Version and in versions incorporating Licensee Software Modifications in order to service renewals by parties who were customers of Licensee as of the end of the three-year exclusivity period and who were acquired through accounts (or geographic regions or organizational subdivisions within accounts) where Licensee did not achieve Substantial Distribution in the last year of the initial three-year period after the Effective Date or the last year of any subsequent additional three-year period for which Licensee achieves exclusive rights under Subsection (e)(i)(2); and

(4) the exclusive right to sell such Software in versions incorporating Licensor Software Modifications in the Proprietary Consumer Channels if Licensor offers such modified Software on a non-exclusive basis through consumer-oriented channels.

(ii) Licensor shall have the right to sell, directly or through distributors, Online PlanPlus Software and Mobile PlanPlus Software as follows:

(1) the exclusive right to sell such Software in its Current Version or in versions incorporating any Software Modification outside the Licensed Channels;

(2) the exclusive right to sell such Software in the Wholesale Channels if such Software includes a significant training component or includes a new and significantly different functionality not present in the version sold by Licensee under Subsections (e)(i)(1) through (e)(i)(3) above; and

(3) beginning three years after the Effective Date, the exclusive right to sell such Software in its Current Version or in versions incorporating any Software Modification in the Wholesale Channels, but excluding any account (or any geographic region or organizational subdivision within any account) where Licensee has achieved Substantial Distribution.

(iii) Licensor shall have the non-exclusive right to sell, directly or through distributors, the Assigned Software in its Current Version and in versions incorporating any Software Modification outside the Licensed Channels.

(f) Subject to the terms and conditions of the Supply Agreement, PlanPlus Software shall be made available to the other party, as applicable, as set forth below:

(i) Licensee shall supply Licensor with requested copies of Boxed PlanPlus Software at Standard Spread if such Software is used in connection with Licensor's Training-Oriented Services or Training-Oriented Products and at MFN Pricing if such Software is sold to Licensor for any any other purpose. Licensee shall have no obligation to make any payment to Licensor for any Boxed PlanPlus Software sold.

(ii) For each unit of Online PlanPlus Software and Mobile PlanPlus Software sold by Licensee in the three-year period following the Effective Date, Licensee shall pay to Licensor the Standard Spread for so long as Licensee has received, in the then-current fiscal year, EBITDA contribution from such sales of less than $3,020,000; and Licensee shall pay MFN Pricing for each unit sold thereafter for the remainder of such fiscal year. For each unit of Online PlanPlus Software and Mobile PlanPlus Software sold by Licensee after the initial three-year period following the Effective Date, Licensee shall pay to Licensor MFN Pricing.

(iii) Licensee agrees to supply Licensor with requested copies of Assigned Software at MFN Pricing.

(g) If either party collects proceeds of sales of any PlanPlus Software for the other party, the party receiving the payment shall deliver it to the other party as provided

in Section 2.24. Licensee shall be credited with any sale of PlanPlus Software that began with a lead from the Proprietary Consumer Channels.

(h) The parties shall use commercially reasonable efforts to cooperate to use branding strategies for the Software products described in this Section 2.8 to avoid confusion in the marketplace between their respective versions.

(i) Other Provisions.

(i) Licensee shall promptly provide to Licensor all relevant information regarding customers who purchase more than fifty (50) copies of any PlanPlus Software in a single order, unless such disclosure would violate any applicable law.

(ii) Licensee shall not develop internally or contract externally with a dedicated sales force to promote and sell PlanPlus Software to Organizational Clients, provided, however, that Licensee may follow up all leads received in the Licensed Channels by telephone or electronic means or in person so long as the person is an employee of a bricks-and-mortar store of Licensee.

2.9 Special Provisions: Education Channels. The rights granted to Licensee in Section 2.1 include the conditional right to sell Education Planners, subject to the following restrictions, limitations and qualifications. Licensee acknowledges that the education channel is outside of the Licensee Field and further acknowledges that Licensor is subject to agreements with School Specialty, Inc. that may permit sales of certain sales of Licensed Products in the Licensed Channels. Nothing in Section 2.1 shall be deemed to derogate from the rights already granted to School Specialty, Inc.

(a) Definitions.

(i) "*Education Planner*" means a Planner that is designed to be used by educators or students and that contains training or Execution-Related Materials.

(b) Except as provided in this Section 2.9, Licensor shall retain all rights to manufacture, distribute and sell Education Planners worldwide.

(c) If Licensor sells or agrees to sell any Education Planners as a stand-alone product through a Wholesale Channel on a non-exclusive basis, Licensee shall have:

(i) the right to sell the same Education Planners through the Proprietary Consumer Channels other than Licensee's e-commerce affiliate partners; and

(ii) a right of first offer to be a distributor of such Education Planners into the Wholesale Channel unless Licensor enters into an exclusive distribution agreement with School Specialty, Inc.

2.10 Special Provisions: Motivational Artwork and Corporate Gift Items. Subject to all of the terms and conditions of this Agreement, the rights granted to Licensee in Section 2.1 as they relate to Motivational Artwork and Corporate Gift Items shall be exclusive in the Proprietary Consumer Channels and non-exclusive in the Wholesale

Channels. "*Motivational Artwork*" means any print, artwork or other display-worthy media created, prepared, commissioned or licensed by Licensor. "*Corporate Gift Items*" means any objects typically given as gifts in a corporate setting, including, without limitation, paperweights, desk sets and similar items.

2.11 Sublicenses.

(a) Definitions.

(i) "*Licensee Qualified Entity*" means any entity other than a Competitor or Prohibited Party that is (a) wholly-owned by Licensee, but only for so long as such entity is wholly-owned by Licensee, (b) listed on Exhibit J (including as such Exhibit may be amended in the future), but only for so long as (I) Licensee (or a wholly-owned subsidiary of Licensee) maintains the ownership interest that it has in such entity as of the Effective Date as set forth on Exhibit J (or as of the date on which Exhibit J was amended to add such Licensee Qualified Entity) and (II) any other equity holder in such entity continues to maintain the ownership interest that it has in such entity as of the Effective Date as set forth on Exhibit J or, if it transfers any equity interests, it transfers those equity interests to Licensee or a wholly-owned subsidiary of Licensee, or (c) a franchisee of Licensee or a franchisee of a wholly-owned entity of Licensee but only so long as such franchisee is subject to a valid, written franchise agreement with Licensee or Licensee's wholly-owned entity.

(ii) "*Licensee Qualified Vendor*" means any third-party distributor, manufacturer, sales organization or similar service provider, other than a Competitor, Prohibited Party or International Licensee of Licensee, that is engaged by Licensee in the Ordinary Course of Business to design, manufacture, distribute and/or sell Licensed Products in the Licensee Field or, subject to Article V, to create New Products or New Campaign Materials.

(iii) "*Licensor Qualified Entity*" means any entity other than a Prohibited Party that is (a) wholly-owned by Licensor, but only for so long as such entity is wholly-owned by Licensor, or (b) listed on Exhibit J, but only for so long as (I) Licensor (or a wholly-owned subsidiary of Licensor) maintains the ownership interest that it has in such entity as of the Effective Date as set forth on Exhibit J (or as of the date on which Exhibit J was amended to add such Licensor Qualified Entity) and (II) any other equity holder in such entity continues to maintain the ownership interest that it has in such entity as of the Effective Date as set forth on Exhibit J or, if it transfers any equity interests, it transfers those equity interests to Licensor or a wholly-owned subsidiary of Licensor.

(iv) "*Licensor Qualified Vendor*" means any third-party distributor, manufacturer, sales organization or similar service provider, other than a Prohibited Party or International Licensee of Licensor, that is engaged by Licensor in the Ordinary Course of Licensor's business to design, manufacture, distribute and/or sell products using the Assigned Trademarks.

(v) "*Qualified Entity*" means any Licensee Qualified Entity or Licensor Qualified Entity.

(vi) "*Qualified Vendor*" means any Licensee Qualified Vendor or Licensor Qualified Vendor.

(b) Licensee shall have the right to grant sublicenses of its rights under Section 2.1 only to Licensee Qualified Entities, Licensee Qualified Vendors and International Licensees of Licensee, subject to the restrictions of this Section 2.11. Other than permitted sublicenses to Licensee Qualified Entities, Licensee Qualified Vendors or International Licensees of Licensee, any attempted sublicense by Licensee shall be prohibited and void. Licensor shall have the right to grant sublicenses of its rights under Section 2.12 only to Licensor Qualified Entities, Licensor Qualified Vendors and International Licensees of Licensor, subject to the restrictions of this Section 2.11. Other than permitted sublicenses to Licensor Qualified Entities, Licensor Qualified Vendors and International Licensees of Licensor, any attempted sublicense by Licensor shall be prohibited and void.

(c) Prior to, and as a condition to the effectiveness of, any sublicense permitted under this Section 2.11, Licensor or Licensee, as the case may be, shall enter into a Sublicense Agreement with the intended Sublicensed Entity. Licensor and Licensee shall each promptly notify the other party of the execution of any Sublicense Agreement and shall provide a brief description of the purpose of the sublicense and any services to be provided by the Sublicensed Entity. If Licensor has a legitimate reason to be concerned and so requests, Licensee shall provide Licensor with a copy of any Sublicense Agreement relating to the Licensed Materials; and if Licensee has a legitimate reason to be concerned and so requests, Licensor shall provide Licensee with a copy of any Sublicense Agreement relating to the Assigned Trademarks; provided, however, that each party may redact confidential financial information from such agreements.

(d) If Licensee enters into any Sublicense Agreement with an International Licensee of Licensee, Licensee will use its best efforts to structure the agreement so that the International Licensee purchases the Licensed Products at the Standard Spread plus the cost of the International Licensee's royalty payment.

2.12 Grant-Back License to Assigned Trademarks. Subject to all of the terms and conditions of this Agreement, Licensee hereby grants to Licensor a non-exclusive, worldwide, transferable, sublicensable (subject to Section 2.11), fully paid-up, royalty-free license, during the term set forth below, to use the Assigned Trademarks in connection with the design, development, manufacture, marketing, promotion, advertisement, distribution, lease and sale of products and services in any medium and format that are both outside the Licensee Field and in the Ordinary Course of Business as conducted by Licensor at the Effective Date or thereafter.

2.13 Restrictions. As an express condition to, and in material consideration for, the licenses hereunder, Licensee and Licensor each expressly agrees to the following restrictions as to its use of, respectively, the Licensed Trademarks and Assigned Trademarks:

(a) Neither party shall do anything inconsistent with the other party's ownership of the Licensed Trademarks or Assigned Trademarks, as applicable. Without limiting the generality of the foregoing, neither party shall challenge the validity, ownership or enforceability of any Licensed Trademark or Assigned Trademark, as applicable.

(b) Licensee shall not use, reproduce or display (or authorize the use, reproduction or display of) the Licensed Trademarks, and Licensor shall not use, reproduce or display (or authorize the use, reproduction or display of) the Assigned Trademarks in any manner whatsoever other than as expressly authorized by this Agreement.

(c) During the term and after any termination of this Agreement, neither party shall use any service mark, service name, trade name, trademark, design or logo that is confusingly similar to (i) any Licensed Trademark or Assigned Trademark, as applicable, or any element thereof or (ii) any other service mark, service name, trade name, trademark, design, or logo of the other party without the prior written consent of such party.

(d) Licensee shall not use any of the Licensed Trademarks together, or use any Licensed Trademark in combination with any other trademark, service mark, trade name, trading style, fictitious business name, name, word, character, symbol, design, likeness or literary or artistic material. Notwithstanding the foregoing, Licensee may use any Assigned Trademark with the Licensed Trademarks, but not in a manner that might create a composite or combined mark, except that Licensee may use any Licensed Trademark in combination with "FranklinCovey" without restriction.

(e) Licensor shall not use any of the Assigned Trademarks together, or use any Assigned Trademark in combination with any other trademark, service mark, trade name, trading style, fictitious business name, name, character, symbol, design, likeness or literary or artistic material. Notwithstanding the foregoing, Licensor may use any Assigned Trademark in combination with "FranklinCovey" without restriction.

(f) Licensee shall not register any Licensed Trademark or any Trademark confusingly similar thereto, and Licensor shall not register any Assigned Trademark or any Trademark confusingly similar thereto. Licensor shall retain the exclusive right to apply for and obtain registrations for each Licensed Trademark, and Licensee shall retain the exclusive right to apply for and obtain registrations for each Assigned Trademark, each throughout the world, except as expressly provided otherwise in this Agreement.

(g) Licensee shall not assert any adverse claim against Licensor based upon Licensee's use of any Licensed Trademark, and Licensor shall not assert any adverse claim against Licensee based upon Licensor's use of any Assigned Trademark (other than a claim for breach of the exclusivity provisions of this Agreement).

(h) From time to time after the Effective Date, upon request of one party and without further consideration, the other party will take all appropriate action and execute and deliver any documents, instruments or conveyances of any kind that may be reasonably requested by such party to assign to or vest in such party all right, title and interest in and to any and all assets of Licensor or Licensee, as applicable, including the Licensed Trademarks (as to Licensor) and Assigned Trademarks (as to Licensee), that are not expressly granted hereunder.

2.14 Due Diligence by Licensee. During the term of this Agreement, Licensee shall at all times use commercially reasonable efforts to promote Licensed Products in all Licensed Channels throughout the Licensed Territory, including expansion of sales in the Licensed

Territory outside the United States. Licensee shall provide Licensor with plans regarding annual sales, marketing and product development by Licensed Channel for all initiatives affecting sales of Licensed Products, and shall provide periodic updates thereto as reasonably requested by Licensor. If Licensee notifies Licensor in writing that Licensee does not intend to promote and sell Licensed Products in (i) any country that is part of the Licensed Territory or (ii) into any sales channel that is one of the Licensed Channels, then Licensor shall have the right to re-enter such country or channel to sell or to permit a third party to sell Licensed Products into that country or channel.

2.15 Trade Secret and Know-How License. Unless expressly provided otherwise in this Agreement, the license granted hereunder to Licensee includes a license, subject to the same terms and conditions as are provided herein, to all trade secrets and know-how of Licensor that were utilized in the operations of the Business of Licensee as conducted on or prior to the Effective Date.

2.16 Trademark Notice; Licensed Trademarks.

(a) In connection with the use of the Licensed Trademarks, Licensee shall (i) include a trademark notice in a form reading, "[Licensed Trademark] is a trademark of Franklin Covey Co.," or (ii) place an asterisk immediately after and slightly above the use of each Licensed Trademark referring to a footnote reading "Trademark of Franklin Covey Co." Further, Licensee shall indicate when using a Licensed Trademark that the "Use of the Licensed Trademark _____ by [Licensee] is pursuant to a trademark license from Franklin Covey Co." or similar wording. If a Licensed Trademark is used multiple times on or in a particular Licensed Product, document, advertisement or other material, the notice and statement regarding licensed use need only be used for the first prominent use of the Licensed Trademark on or in such Licensed Product, document, advertisement or other material. Licensee shall comply with reasonable requests of Licensor to use the "TM," ® and © symbols in connection with the Licensed Materials.

(b) In connection with the use of the Assigned Trademarks, Licensor shall (i) include a trademark notice in a form reading, "[Assigned Trademark] is a trademark of Franklin Covey Products, LLC," or (ii) place an asterisk immediately after and slightly above the use of each Assigned Trademark referring to a footnote reading "Trademark of Franklin Covey Products, LLC" Further, Licensee shall indicate when using an Assigned Trademark that the "Use of the Assigned Trademark _____ by [Licensor] is pursuant to a trademark license from Franklin Covey Products, LLC" or similar wording. If an Assigned Trademark is used multiple times on or in a particular product, document, advertisement or other material, the notice and statement regarding licensed use need only be used for the first prominent use of the Assigned Trademark on or in such product, document, advertisement or other material. Licensor shall comply with reasonable requests of Licensee to use the "TM" and ® symbols in connection with the Assigned Trademarks.

2.17 Maintenance, Renewal and Enforcement.

(a) Cooperation. The parties agree to cooperate with regard to the preparation and filing of any applications, renewals or other documentation necessary or

useful to protect a party's Intellectual Property Rights in the Licensed Trademarks or the Assigned Trademarks, as applicable.

(b) Filings. Licensor shall have the primary right to determine whether to file or maintain registrations for any Licensed Trademarks. Licensee may request that Licensor file or maintain registrations for a Licensed Trademark for a country or class, and Licensor shall either take such action at Licensor's expense or, if Licensor does not wish to do so, permit Licensee to do so; provided, however, that Licensee shall make all such filings and registrations solely in the name of Licensor or Licensor's designee. Licensee may deduct the reasonable out-of-pocket costs actually incurred by Licensee in making any such filings from Royalties or other amounts payable to Licensor under this Agreement.

(c) Recorded Licensee Filings. Should local counsel of either party reasonably recommend that Licensee be appointed as a recorded licensee of Licensor for the Licensed Trademarks in the Licensed Territory because (i) Licensor reasonably determines that such license should be recorded with the appropriate trademark or customs office as reasonably necessary to protect Licensor's rights in the Licensed Trademarks, then Licensor shall prepare and file the necessary documents subject to Licensee's approval, which shall not be unreasonably withheld or delayed; or (ii) Licensee reasonably determines that such license should be recorded with the appropriate trademark or customs office as reasonably necessary to protect Licensee's ability to enforce its rights in the applicable Territory, Licensor, on behalf of Licensee, shall prepare and file the necessary documents. Licensee agrees to sign any documents reasonably necessary for Licensor to cause any recordals to be terminated as to any Licensed Products upon the expiration or termination of the license applicable to such Licensed Product hereunder. Licensee may deduct the reasonable out-of-pocket costs actually incurred by Licensee in making any such filings from Royalties or other amounts payable to Licensor under this Agreement.

2.18 Enforcement and Defense of Infringement Claims.

(a) Notification. The parties shall reasonably cooperate in providing notice to each other in writing (a "*Notice of Alleged Infringement*") if a party becomes aware of any use of a Licensed Trademark in the Licensed Territory or of an Assigned Trademark, as applicable, or any element thereof, or of any Trademark on a Licensed Product, which may be confusingly similar to any Licensed Trademark or Assigned Trademark, as applicable, or element thereof, by any Person.

(b) Action by Licensor to Enforce. Licensor shall have the primary right, but not the obligation, to determine whether to institute and/or pursue any proceedings to enforce any rights in the Licensed Trademarks, as well as the right to select counsel. Licensee shall cooperate, in a commercially reasonable manner, with Licensor in any such suit, including being joined as a party with respect to such infringement (and execute any documents necessary to effectuate the same) if necessary under the applicable rules of civil procedure to effect standing, and Licensee shall be reimbursed for reasonably incurred expenses. Licensor will be solely responsible for the costs of such action and will retain all recoveries and awards necessary to reimburse Licensor for any costs and expenses. Any recoveries and awards in excess of Licensor's costs and expenses, to the extent that such recoveries and awards are related to Licensed Products, shall be allocated equally between the parties. Notwithstanding any other provision to the contrary, in no event shall Licensee

be required to satisfy or comply with any settlement or other agreement concerning its use of the Licensed Trademarks to which Licensee has not consented (such consent not to be unreasonably withheld or delayed).

(c) Action by Licensee to Enforce. If applicable law in any jurisdiction in the Licensed Territory requires that Licensee enforce rights in the Licensed Trademarks against alleged infringers, or Licensor declines in writing to enforce its rights in the Licensed Trademarks with respect to the alleged confusingly similar use set forth in the Notice of Alleged Infringement, Licensee shall have the right, but not an obligation, to enforce such rights with respect to Licensed Products subject to any direction that Licensor provides. Licensor shall cooperate, in a commercially reasonable manner, with Licensee in any such suit, including granting Licensee the right to bring suit in Licensor's name (and execute any documents necessary to effectuate the same) if necessary under the applicable rules of civil procedure to effect standing, and Licensor shall be reimbursed for reasonably incurred expenses. Licensee will be solely responsible for the costs of such action and will retain all recoveries and awards necessary to reimburse Licensee for any costs and expenses. Any recoveries and awards in excess of Licensee's costs and expenses, to the extent that such recoveries and awards are related to Licensed Products, shall be allocated equally between the parties.

(d) Licensor Defense of Third-Party Claims. Licensor shall have the sole right to defend the Licensed Trademarks against imitation, infringement or any claim of prior use. Licensee shall cooperate, in a commercially reasonable manner, with Licensor, at Licensor's reasonable request and Licensor's expense, in connection with the defense of any such claim.

(e) Licensee Defense of Third-Party Claims. Licensee shall have the sole right to defend the Assigned Trademarks against imitation, infringement or any claim of prior use. Licensor shall cooperate, in a commercially reasonable manner, with Licensee, at Licensee's reasonable request and Licensee's expense, in connection with the defense of any such claim.

(f) Updates and Consultation. With respect to any enforcement actions taken pursuant to this Section 2.18, the party handling such enforcement action shall, upon request, provide periodic updates to and request consultation from the parties not handling the action and each party not handling the action may hire its own counsel at its expense.

2.19 Reservation of Rights. Licensee acknowledges that, as between the parties, Licensor is the sole owner of all right, title and interest in and to the Licensed Materials, and Licensor acknowledges that, as between the parties, Licensee is the sole owner of all right, title and interest in and to the Assigned Trademarks. Each party acknowledges that it has not acquired, and shall not acquire, any right, title or interest in or to any intellectual property of the other party, except the limited rights granted in Sections 2.1 and 2.11, respectively, under this Agreement. Licensor shall retain all goodwill associated with the Licensed Materials, and any and all goodwill associated with Licensee's use of the Licensed Materials shall inure to the benefit of Licensor. Licensee shall retain all goodwill associated with the Assigned Trademarks, and any and all goodwill associated with Licensor's use of the Assigned Trademarks shall inure to the benefit of Licensee.

2.20 Removing Licensed Materials from License.

(a) At any time during the term of this Agreement, Licensor shall have the right to remove any particular Licensed Trademark from the scope of the license granted under this Agreement, upon written notice to Licensee, if Licensor receives written notice of a cause of action or threat thereof or advice of counsel on the basis of which Licensor reasonably determines that use of such Licensed Trademark hereunder could infringe any intellectual property rights of any third party that are not derived from Licensor. Licensor shall consult with Licensee in advance of such removal. If and only to the extent that Licensor and Licensee mutually agree, the parties shall cooperate to resolve any infringement in a commercially reasonable manner. If the proposed removal of the Licensed Trademark(s) would reasonably be expected to reduce the economic value of the license rights granted to Licensee under this Agreement materially, the parties shall negotiate in good faith prior to the removal of such Licensed Trademark(s) in order to adjust the Royalties in an equitable manner to reflect such reduction in economic value.

(b) At any time during the term of this Agreement, Licensee shall have the right to remove any particular Assigned Trademark from the scope of the license granted under this Agreement, upon written notice to Licensor, if Licensee receives written notice of a cause of action or threat thereof or advice of counsel on the basis of which Licensee reasonably determines that use of such Assigned Trademark hereunder could infringe any intellectual property rights of any third party that are not derived from Licensee. Licensee shall consult with Licensor in advance of such removal. If and only to the extent that Licensee and Licensor mutually agree, the parties shall cooperate to resolve any infringement in a commercially reasonable manner.

2.21 Additional Commitments of Licensee. Licensee agrees to cause each Sublicensed Entity to comply with all of its respective obligations under this Agreement and under any other agreement executed in connection herewith (including the applicable Sublicense Agreement). Licensee shall be directly liable for (a) any act of any Existing Sublicensed Entity in breach of any such obligation if the act is reasonably foreseeable, and (b) any act of any New Sublicensed Entity in breach of any such obligation (without regard to whether it was foreseeable); for the avoidance of doubt, subject to the terms and conditions of this Section 2.21, Licensee shall be liable for any act by any Sublicensed Entity that would be a breach of this Agreement if committed by Licensee. Licensor may pursue claims for any such breach against Licensee in accordance with the terms hereof, regardless of whether such breach was committed by Licensee, or another party, and regardless of whether Licensor chooses to include any other party in the dispute resolution process applicable to the claim. In the event of any claim by Licensor, Licensee expressly waives any defense based on the absence of or failure to join any other party in the dispute resolution process or any other aspect of the claim.

2.22 Licensor Noncompetition.

(a) Except as expressly provided in this Agreement, Licensor shall have no right to sell Licensed Products in the Licensee Field.

(b) Except as expressly permitted in this Agreement and this Section 2.22, Licensor agrees that, for the period beginning on the Effective Date and continuing until one year after the date on which this Agreement is terminated, Licensor shall not (i) sell Licensed Products through stores, websites or call centers except in a manner incidental to Licensor's Training-Oriented Services, (ii) sell Licensed Products to wholesalers for the purpose of distributing Licensed Products to individual consumers through consumer retail channels, (iii) promote a competing paper-based planner system owned by a third party competitor of Licensee, including without limitation Day Runner or Day-Timer, or (iv) sell Licensed Products (other than Training Planners, Educational Planners, Motivational Artwork and Corporate Gift Items, as provided herein) to Organizational Clients except in connection with Licensor's Training-Oriented Services. Licensor shall not directly or indirectly assist or permit any Affiliate of Licensor in engaging in activity that would be prohibited under this Section 2.22 if carried out by Licensor.

(c) Subject to all of the terms and conditions of this Agreement and the Supply Agreement, Licensor shall have the right to purchase and sell Licensed Products in any quantity for use in connection with Training-Oriented Services or Training-Oriented Products. Licensor's sales of Licensed Products not used in connection with Training-Oriented Services or Training-Oriented Products shall be subject to the following limitations:

(i) If from the Effective Date total cumulative revenues from Licensor's sales of Tailored Planners not used in connection with Training-Oriented Services or Training-Oriented Products exceed one percent (1%) of Licensor's worldwide cumulative revenues on a consolidated basis, Licensor shall pay to Licensee an amount equal to Licensor's Gross Profit Margin from the sale of such Planners that exceed that 1% limit.

(ii) If from the Effective Date total cumulative revenues from Licensor's sales of Licensed Products not used in connection with Training-Oriented Services or Training-Oriented Products, other than (A) Tailored Planners not used in connection with Training-Oriented Services or Training-Oriented Products and (B) Training Planners exceed one percent (1%) of Licensor's worldwide cumulative revenues on a consolidated basis, Licensor shall pay to Licensee an amount equal to Licensor's Gross Profit Margin from the sale of such Licensed Products that exceed that 1% limit.

(iii) Sales by Licensor in excess of the applicable 1% caps shall not give rise to any claim or cause of action other than for payment of the Gross Profit Margin amounts set forth above, except that a material, persistent and willful pattern of nonpayment by Licensor under this Section 2.22(c) shall be deemed a breach of Section 2.22(a).

(iv) For purposes of clarity, the following transactions are not included in the calculations of Section 2.22(c)(ii): sales of Licensed Products by International Licensees of Licensor as permitted in this Agreement; sales of Licensed Products by Licensor or its agents as part of Back of Room Sales when Licensee declines to manage such Back of Room Sales; sales of Content-Rich Media; sales of PlanPlus Software permitted under Section 2.8, and sales of Education Planners.

(v) The parties shall determine whether payments are due under (i) and (ii) above based on revenue determined at the end of each fiscal quarter. Promptly after the closing of each fiscal quarter, Licensor shall calculate Licensor's total cumulative revenues from (A) the relevant Tailored Planners (in the case of (i) above) and (B) the relevant Licensed Products (in the case of (ii) above), starting at the Effective Date and continuing through the end of such fiscal quarter. The results of each of the two calculations under (A) and (B) of this subparagraph shall each be divided by the total cumulative, consolidated revenues of Licensor, starting at the Effective Date and continuing through the end of the same fiscal quarter. If the result of either calculation is greater than 1% (or, stated as a decimal, 0.01), Licensor shall pay to Licensee, according to the provisions of Section 2.24, the Gross Profit Margin associated with the sales of the relevant products in excess of such threshold. After Licensor makes a payment pursuant to (i) or (ii) above, the revenues for the sales with regard to which Licensor made such payment shall be deducted from the numerator in the calculations set forth above for all subsequent fiscal quarters in order to ensure that Licensor is not required to pay Gross Profit Margin amounts to Licensee twice for the same sales.

(d) Licensor shall not be deemed to have violated this Section 2.22:

(i) solely as a result of Licensor's ownership as a passive investment of less than 2% of the outstanding shares of capital stock or other equity interest of any corporation on a national securities exchange or public traded on an automated quotation system; or

(ii) if Licensor enters a country or channel where Licensee has substantially discontinued its operations in such country or channel pursuant to Section 2.14 of this Agreement or after exercising its rights to partial termination pursuant to Section 8.3.

(e) Because Licensee's current and planned sales activities are worldwide, the geographic scope of this covenant is worldwide. Licensor acknowledges that it has agreed to adopt this covenant as material consideration for the transactions contemplated in the Asset Purchase Agreement and this Agreement.

(f) If so requested by Licensor in writing, Licensee may in its sole discretion waive the restrictions of this Section 2.22 with respect to any product, service, agreement or undertaking, provided that no such waiver shall be construed to reduce the scope of this Section 2.22 Nothing in this Section 2.22 shall limit Licensor's rights under any written agreement to which Licensor is a party as of the Effective Date.

2.23 Licensee Noncompetition.

(a) Licensee agrees and covenants that for the period beginning on the Effective Date and continuing for a period of one year after the date on which this Agreement is terminated, Licensee shall not, except as may be permitted in this Agreement, in any manner, directly or indirectly, design, develop, manufacture, market, promote, advertise, distribute, lease, license or sell (i) any Training-Oriented Product or Training-Oriented Service in any country, region or territory, or (ii) any product that is competitively similar to any Content-Rich Media or to any new product created by Licensor after the Effective Date

that would reasonably be included in Content-Rich Media if created prior to the Effective Date. Licensee shall not directly or indirectly assist or permit any Affiliate of Licensee to engage in activity that would be prohibited under this Section 2.23 if carried out by Licensee.

(b) Licensee shall not be deemed to violate this Section 2.23 of the Agreement:

(i) as a result of any agreement by Licensee on the Effective Date and listed on Exhibit U, or

(ii) solely as a result of Licensee's ownership as a passive investment of less than 2% of the outstanding shares of capital stock or other equity interest of any corporation on a national securities exchange or public traded on an automated quotation system.

(c) Because Licensor's current and planned training activities are worldwide, the geographic scope of this covenant is worldwide. Licensee acknowledges that it has agreed to adopt this covenant as material consideration for the transactions contemplated in the Asset Purchase Agreement and this Agreement.

(d) If so requested by Licensee in writing, Licensor may in its sole discretion waive the restrictions of this Section 2.23 with respect to any product, provided that no such waiver shall be construed to reduce the scope of this Section 2.23 or any other non-competition covenant of Licensee.

2.24 Licensor Payments. Licensor shall pay to Licensee (a) any amount due pursuant to Section 2.2(b) as a result of certain sales by International Licensees of Licensor within 45 days of the end of the fiscal quarter in which the royalty payment is received by Licensor; (b) any amount collected from sales of PlanPlus Software pursuant to Section 2.8 that is credited to Licensee within 45 days of the end of the fiscal quarter in which the sale occurred; and (c) any amount owed pursuant to Section 2.22(c) within 45 days of the end of the fiscal quarter in which sales exceeded the relevant 1% threshold.

ARTICLE III.
WEBSITE AND DATABASE MANAGEMENT AGREEMENT

3.1 Website Linking Agreement. Licensor will provide a hypertext reference link (a "*Link*") from the initial, top level display of each of the Domains listed in Section 3.1(b) below, (such websites, any related pages and any successor websites, the "*Licensor Websites*"), to one or more websites to be established and maintained by Licensee (the "*Licensee Websites*"), and Licensee will in turn provide a Link from the initial, top level display of the principal Licensee Websites to one or more Licensor Websites, all as provided below and subject to the following restrictions and limitations:

(a) If Licensee desires to register a domain name for a Licensee Website that incorporates a Licensed Trademark or any variation of a Licensed Trademark, Licensee shall first obtain Licensor's written consent, which will not be unreasonably withheld or delayed. During the term of the Agreement and subject to the requirements of the previous sentence, Licensor grants to Licensee a non-transferable, non-sublicensable (except as set forth

in Section 2.11 and as provided in this Section 3.1(a)), worldwide, exclusive and restricted license (i) to use each such Licensed Trademark in the domain name of the corresponding Licensee Website, and (ii) to refer to each such domain name on Licensed Products and on their packaging or New Campaign Materials. Licensee may sublicense the rights granted in this Section 3.1(a) to any International Licensee of Licensee solely for the purpose of registering a domain name in that International Licensee's territory. Licensee at its own expense will register and maintain a registration for the domain names for the Licensee Websites.

(b) Licensor shall maintain the registrations of the following top-level domains (the "*Domains*") for at least twelve (12) months from the Effective Date: franklincovey.com, franklincovey.ca; franklincovey.com.au; franklincovey.co.nz; franklincoveyeurope.com and e-franklincovey.com.mx. If Licensor notifies Licensee in writing that it intends to cease the use and registration of any Domain, Licensee shall have the option to assume and maintain that Domain.

(c) Licensee shall maintain the full functionality of the websites located at the Domains as they exist as of the Effective Date from the Effective Date until the first to occur of (i) the date on which EDS or another vendor agrees to provide such services pursuant to a written agreement between Licensor and such party, or (ii) the date on which Licensor demonstrates to the satisfaction of Licensee, which shall not be unreasonably withheld, Licensor's ability to provide such services itself.

(d) The Links from the Licensor Websites to the Licensee Websites shall be no less prominent than the Links connecting a user of the Licensor Websites to any other products, services and solutions presented on the Licensor Websites. For a period beginning on the Effective Date and continuing until March 1, 2010, Licensor shall maintain a home page located at each of the Domains described in Section 3.1(b) with two buttons of equal size that will direct customers to a Licensee Website designated by Licensee and a Licensor Website. Final decisions regarding the design of the home pages of the Licensor Websites shall rest with Licensor. The parties will use best efforts to make current and future customers aware that Licensed Products are available through Licensee Websites. After the Effective Date, Licensor and Licensee shall create a transition plan to identify technical and marketing solutions to encourage Licensee's customers to use the Licensee Website and shall use their best efforts to complete the transition by March 1, 2010. If at that time Licensee reasonably believes that ending the transition plan and removing the two-button home page would cause irreparable harm to the Business of Licensee, the parties shall extend the transition for subsequent one-year terms, during which Licensee shall continue to use its best efforts to complete the transition plan by the end of the then-current one-year term. As part of such transition plan, a joint committee consisting of at least two representatives from each of the parties shall meet on a regular basis.

(e) The home page and each page of the Licensee Website that contains other legal notices shall contain the following statement: "The [Franklin Covey] trademark is used under a trademark license from Franklin Covey Co." The home page and each prominent page of the site shall either identify Licensee or display Licensee's standard copyright notice in Licensee's name.

(f) Licensee shall maintain the Licensee Website (including maintaining the servers for such sites) at its own expense. Subject to Licensor's rights to take actions necessary to require Licensee to comply with this Agreement or the Quality Guidelines, Licensor shall not impede, deny, or otherwise restrict Licensee's access to or ability to maintain the Licensee Websites or corresponding email addresses. The "About [Licensee]," "Contact Us" or equivalent section of the Licensee Websites shall be reasonably prominent and shall identify Licensee as the contact and shall contain the following statement: "The products described on this site are made by or on behalf of [Licensee] and use of the [Franklin Covey] trademarks is pursuant to a trademark license from Franklin Covey Co."

(g) Licensee shall (i) not display or use a Link to any Prohibited Party or Competitor; (ii) not display or use a Link in a manner that could cause confusion, mistake, or deception; (iii) display disclaimers on the Licensee Website pursuant to the Quality Guidelines; and (iv) maintain and enforce terms of use and other policies applicable to the Licensee Website that are commercially reasonable.

(h) Licensor shall retain the bulk email domain of "franklincoveymail.com." Licensee shall create and register its own bulk email domain, subject to Licensor's prior written consent. After the Effective Date, Licensor and Licensee shall create a transition plan to identify technical solutions to issues that may arise with respect to bulk email, provided that the transition plan shall end as provided for in the transition plan described in Section 3.1(d) above.

3.2 Internet Sales of Licensed Products. The rights granted to Licensee in Section 2.1, as those rights may apply to the marketing and sale of Licensed Products through the Internet, are subject to the following restrictions, limitations and qualifications, in addition to any and all restrictions provided elsewhere in this Agreement.

(a) Licensee shall have the right to sell Licensed Products worldwide through the Licensee Websites, provided that Licensee shall not actively promote Licensed Products into the Excluded Countries.

(b) Licensee shall transfer to Licensor the Gross Profit Margin associated with any Licensed Product that is sold through the Licensee Websites and is shipped to any Excluded Country.

3.3 Internet Search Marketing Terms. Licensor and Licensee shall have the right to bid on any of the Internet Search Terms set forth on Exhibit O, subject to the terms and conditions of this Section 3.3 and the Search Terms Use Guideline set forth on Exhibit P. Each of Exhibit O and Exhibit P may be amended from time to time by mutual written agreement of the parties. To the extent any Internet Search Term is a Trademark owned by Licensor, Licensor hereby grants to Licensee a limited, non-exclusive, non-sublicenseable, non-transferable, worldwide and royalty-free license to use any Internet Search Term that is a Trademark or other form of intellectual property of Licensor expressly for the limited purpose of managing and controlling web searches through search engines. All rights not granted by Licensor in this Section 3.3 are retained and reserved to Licensor.

(a) Subject to any additional restrictions in the Search Terms Use Guidelines, the parties agree that:

(i) the Internet Search Terms shall be divided into three categories: (A) those terms under the exclusive control of Licensor, (B) those terms under the exclusive control of Licensee, and (C) those terms that are shared by Licensee and Licensor; and

(ii) each party shall bear all costs of bidding on and controlling those terms that are under that party's exclusive control, and the parties shall allocate the costs of bidding on shared terms.

(b) For a period of six (6) months from the Effective Date, Licensee shall manage Internet searches using the Internet Search Terms with the same personnel who performed this function immediately prior to the Effective Date. Each party shall bear its own costs for payments made for Internet Search Terms, and each party shall reimburse the other for all reasonable related expenses.

3.4 Database Management. Licensor and Licensee shall each manage, maintain and control its own databases of customer information, subject to the terms and conditions of this Section 3.4 and the Database Use Guidelines set forth on Exhibit Q-1 and according to the hygiene requirements of Exhibit Q-2. Exhibit Q may be amended from time to time by mutual written agreement of the parties.

(a) Subject to any additional restrictions in the Database Use Guidelines, the parties agree that:

(i) each shall have the right to collect, manage and maintain information about customers and potential customers in their respective databases and to use such information to communicate with customers and potential customers; and

(ii) each shall adhere to database hygiene standards that meet the commercial standards set by Internet Service Providers, which rules shall become effective on the Effective Date.

(b) All database hygiene rules referenced herein shall become binding on the Parties immediately on the Effective Date.

ARTICLE IV.
QUALITY CONTROL

As an express condition to, and in material consideration for, the licenses granted to each of the parties hereunder, Licensee expressly agrees to the following restrictions as to its use of the Licensed Trademarks, and Licensor expressly agrees to the following restrictions as to its use of the Assigned Trademarks.

4.1 Quality Guidelines. Licensee shall not use, reproduce or display any Licensed Trademark, and Licensor shall not use, reproduce or display any Assigned Trademark, in any manner whatsoever other than as expressly authorized in the quality control guidelines for the

Licensed Trademarks or Assigned Trademarks, as applicable ("*Quality Guidelines*"). Licensor shall not manufacture, distribute, market or sell, directly or through third parties, any product or service using the Licensed Trademarks that does not comply with the applicable Quality Guidelines. Licensee shall not manufacture, distribute, market or sell, directly or through third parties, any product or service using the Assigned Trademarks that does not comply with the applicable Quality Guidelines. The Quality Guidelines may consist of two elements: (i) guidelines regarding the nature and quality of products and services associated with the Licensed Trademarks or Assigned Trademarks, as applicable, may be contained in "*Product Guidelines*"; and (ii) guidelines related to how each Licensed Trademark or Assigned Trademark, as applicable, is used, presented and displayed ("*Display*") may be contained in "*Branding Guidelines*." The initial Product Guidelines are attached as Exhibit H-1, and H-2. The initial Branding Guidelines for the Licensed Trademarks are attached as Exhibit I-1. The initial Branding Guidelines for the Assigned Trademarks shall be developed by Licensee within six (6) months after the Effective Date and upon the mutual agreement of the parties shall be attached as Exhibit I-2.

4.2 Breach of Quality Guidelines; Updates. Each party shall promptly cure any breach of the Quality Guidelines upon notice from the other party. Except as provided in this Section 4.2 and subject to all of the terms and conditions herein, each party shall have the right, from time to time to modify its respective Branding Guidelines after providing ninety (90) days' written notice. Neither party shall modify its respective Branding Guidelines with regard to Top-Level Logos before six (6) months after the Effective Date without the written consent of the other party.

(a) Definitions.

(i) "*New Branding Effort*" means a decision by Licensor to revise, modify or otherwise change its Top-Level Logos in a unified effort across all or substantially all of its business units, divisions or channels.

(ii) "*Top-Level Logos*" means the following Licensed Trademarks and the associated design elements as of the Effective Date: FranklinCovey, FranklinCovey and design, Compass logo, The 7 Habits of Highly Effective People, and PlanPlus.

(iii) "*Update*" means any change to the Quality Guidelines.

(b) Licensor shall have the right to modify or amend the Branding Guidelines to change Top-Level Logos as part of a New Branding Effort after providing Licensee with six (6) months' written notice. Licensee shall have a reasonable time to comply with any such Update. The parties agree that Licensee shall have acted reasonably if:

(i) with respect to printed materials in its own inventory, Licensee complies with such Updates when Licensee, in the Ordinary Course of Business, would re-order such printed materials from its vendors;

(ii) with respect to point of sale materials, collateral sale materials, signage and similar materials on the premises of third parties such as mass-market retailers,

Licensee complies with such Updates when Licensee, in the Ordinary Course of Business, would be able to replace such materials; and

(iii) with respect to fixtures, signs and other materials that are part of any retail store operated by Licensee (including franchised stores) and that represent capital expenses, Licensee complies with such Updates when Licensee, in the Ordinary Course of Business, would replace such materials.

(c) Licensee shall be responsible for all of the costs of complying with any Updates under Section 4.2(b).

(d) Licensor may, at its option, accelerate Licensee's timetable under Section 4.2(b)(iii) if Licensor agrees to pay for the costs that would be incurred by Licensee to comply with such Updates.

(e) The parties may make any other Update to the Quality Guidelines by agreeing in writing to such Update. If either party believes an Update is needed or useful and the parties cannot agree, the matter may be referred to the Strategic Relationship Committee.

4.3 Conduct of Business.

(a) Licensee shall conduct its business in a manner that will reflect positively on the Licensed Materials, and Licensor shall conduct its business in a manner that will reflect positively on the Assigned Trademarks. Licensee and Licensor, respectively, shall use the Licensed Materials and Assigned Trademarks in a manner that does not derogate from the other's rights in such materials or the value of such materials. Neither party shall take any action that would interfere with, diminish or tarnish those rights or that value.

(b) It shall be a nonmaterial breach of this Agreement if either party, through the conduct or statements of its executive leaders, acts in a manner that does not constitute a Material Breach but that would reasonably be expected to place the parties in a public controversy that offends large segments of the general public or brings scorn and ridicule on either party.

4.4 Quality of Products. In addition to, and not in lieu of, any other requirements under this Agreement, (a) all Licensed Products that use Licensed Materials shall be of such quality as will, in Licensor's reasonable judgment, protect and enhance the goodwill, image and reputation adhering to the Licensed Materials, and (b) all products of Licensor that use the Assigned Trademarks shall be of such quality as will, in Licensee's reasonable judgment, protect and enhance the goodwill, image and reputation adhering to the Assigned Trademarks.

4.5 Cooperation. Licensee and Licensor shall each cooperate with the other, in a commercially reasonable manner, to permit the other to ascertain that the Licensed Products that use Licensed Materials or products of Licensor that use the Assigned Trademarks, as applicable, meet the applicable quality standards. Such cooperation shall include, without limitation: promptly providing the other party, upon request, with all material communications from third parties regarding the quality of the Licensed Products or products using the Assigned Trademarks, as applicable; providing the other party, as applicable, with

names and addresses of vendors and suppliers producing Licensed Products or components thereof to be sold under a Licensed Trademark or producing products or components thereof to be sold under an Assigned Trademark; and providing the other party, as applicable, with access to product packaging and distribution facilities for such Licensed Products or products for reasonable inspection by Licensor or Licensee.

4.6 Cessation of Licensed Product Sales; Recall.

(a) Licensor shall have the right to request that Licensee immediately cease selling a Licensed Product that uses Licensed Materials or Specialty Product or to revise or cease use of any or all New Campaign Materials, and Licensee shall promptly comply, upon written notice to Licensee if the condition of such Licensed Product, Specialty Product or New Campaign Materials could reasonably be expected to materially and adversely affect Licensor's business or reputation or if there is a reasonable basis for believing that the affected product or category of products poses a danger to person or property. If Licensee has a reasonable basis for disagreeing that the recall of such product or material is necessary or prudent, Licensee shall promptly notify Licensor in writing, and the parties shall submit the product or products to an independent third party for testing, analysis or review.

(b) Licensee shall have the right to request that Licensor immediately cease selling any product that uses the Assigned Trademarks, and Licensor shall promptly comply, upon written notice to Licensor if the condition of such product could reasonably be expected to materially and adversely affect the Business of Licensee or Licensee's reputation or if there is a reasonable basis for believing that the affected product or category of products poses a danger to person or property. If Licensor has a reasonable basis for disagreeing that the recall of such product or material is necessary or prudent, Licensor shall promptly notify Licensee in writing, and the parties shall submit the product or products to an independent third party for testing, analysis or review.

(c) If either party, as applicable, wishes to resume sale of a recalled product, the other party shall have the right to approve such resumption.

4.7 Samples. Upon request by the other party, Licensee shall submit to Licensor specimens of any and all New Products and New Campaign Materials, and Licensor shall submit to Licensee specimens of any and all products using the Assigned Trademarks. If Licensor or Licensee discovers any improper use of the Licensed Materials or Assigned Trademarks, respectively, in any such submission, Licensee or Licensor, as applicable, shall remedy its improper use immediately upon written notice.

4.8 Inspections. Licensee and Licensor shall cooperate, in a commercially reasonable manner, to ensure that the quality standards applicable to Licensed Products or products using the Assigned Trademarks are met by permitting the party requesting access and its agents, subject to a mutually acceptable confidentiality agreement, to inspect all manufacturing and other facilities related to the manufacture of such products, no more than once per calendar year, during normal working hours, upon reasonable written notice to the other party of no less than five (5) Business Days, and then, only to the extent that Licensee

or Licensor, as applicable, is authorized to provide such access and subject to all applicable safety rules and regulations governing such manufacturing and other facilities.

4.9 Standards Compliance. If Licensee or Licensor publicly states that any Licensed Product or product using the Assigned Trademarks, respectively, is compliant with any applicable industry standard, the party making the public statement shall ensure that such product is fully compliant with all mandatory requirements of such standard.

ARTICLE V.
NEW PRODUCTS AND CAMPAIGNS

5.1 Right to Create New Products. Licensee shall have the right to create, design, manufacture, distribute and sell New Products and Specialty Products subject to the restrictions and procedures set forth in this Article V.

(a) Definitions.

(i) "*New Campaign Materials*" means any catalog, advertising or other marketing material in any media or format that uses the Licensed Materials or promotes Licensed Products to the general public, but not including web pages that are part of the Licensee Websites.

(ii) "*New Licensed Product*" means a new product that is not substantially similar to an existing Licensed Product and that uses Licensed Materials.

(iii) "*New Non-Licensed Product*" means a new product that is not substantially the same as an existing Licensed Product and that does not use Licensed Materials.

(iv) "*New Product*" means any New Licensed Product, New Non-Licensed Product or an extension of a Specialty Product that differs significantly from the Specialty Product.

(v) "*Specialty Products*" means those categories of products listed on Exhibit K that are sold by Licensee as of the Effective Date so long as they do not use the Licensed Materials.

(b) Licensee shall have the right, without notice to Licensor, to create, design, manufacture, distribute and sell Specialty Products and extensions thereof that do not differ significantly therefrom and that are not associated in any way with any Competitor or Prohibited Activity. A Specialty Product that is sold through the Proprietary Consumer Channels shall be subject to the Quality Guidelines. Subject to the terms and conditions of this Article V, Licensee shall have the right to create, design, manufacture, distribute and sell New Products and New Campaign Materials so long as such product or material is not competitive and does not involve any Prohibited Activity. For purposes of this Article V, a product is "competitive" if it (i) could reasonably be deemed a Training-Oriented Product or Training-Oriented Service, (ii) uses any Trademarks of Day Runner or Day-Timer, or (iii) uses the Intellectual Property of a Competitor. The parties agree that the written agreement with Jean Chatzky effective May 22, 2008 that is to be assigned to Licensee

pursuant to the Asset Purchase Agreement and further described on Exhibit U shall not be deemed to violate this Agreement.

5.2 Notice of Plans to Release New Products. When Licensee has developed reasonably definite plans to introduce or release any New Product, Licensee shall notify Licensor of such plans in writing. Such notice shall include (a) a complete description of the product, (b) whether the product is a New Licensed Product, New Non-Licensed Product, or an extension of a Specialty Product that differs significantly from the Specialty Product, (c) the expected time frame for the release of the New Product, and (d) if Licensee in good faith believes that the parties may differ on whether the New Product would be deemed competitive or would involve any Prohibited Activity, then also a complete description of why Licensee believes the New Product is not competitive and would not involve any Prohibited Activity. Once released by Licensee, a New Licensed Product shall be deemed a Licensed Product for all purposes.

5.3 Comment Rights for New Campaign Materials. When Licensee has developed reasonably definite plans to release any New Campaign Materials, Licensee shall provide Licensor a version of such materials in substantially final form. Licensor shall have the right to make comments about and recommend changes to all New Campaign Materials, which comments and recommendations Licensee shall consider in good faith. Licensor shall promptly provide its comments and recommendations.

5.4 Approval Rights. If, after reviewing Licensee's plans for New Products as required in Section 5.2, Licensor decides that a proposed New Product may be competitive or may be inconsistent with the values promoted by Licensor and its brands, Licensor may at its option request additional information, including the information required in Section 5.2, about such New Product prior to release. If Licensor determines in good faith that any New Product or New Campaign Material is competitive or is inconsistent with the values promoted by Licensor and its brands, Licensor may refuse to approve the release of such New Product in its sole discretion.

5.5 Licensor Access to New Products. Licensee shall supply Licensor with all approved New Products subject to the terms and conditions of the Supply Agreement. Unless limited by an agreement between Licensee and its vendors, Licensor may market, distribute and sell any approved New Product to any customer and in any channel other than the Licensed Channels. Without limiting the generality of the previous sentence, Licensor may sell such products to its Organizational Clients, to corporate customers in the corporate training market and through its International Licensees according to the terms and conditions of this Agreement and subject to Licensee's agreements.

5.6 Licensee Approval of Assigned Trademark Use. Prior to any use or exploitation by Licensor of any products bearing one or more Assigned Trademarks, Licensor shall submit to Licensee at least one representative specimen of such product for approval by Licensee, which approval shall not be unreasonably withheld. Unless the parties agree to a shorter period based upon exceptional circumstances, Licensee shall have ten (10) Business Days to review and approve any such product specimen. If Licensee fails to respond within such ten (10) Business Day period, such product specimen shall be deemed to have been approved.

ARTICLE VI.
ROYALTIES

6.1 Royalty Rate. Commencing on the Effective Date and expiring on the ninety-ninth (99th) year anniversary thereof, Licensee shall pay Licensor as a royalty the following amount ("*Royalties*") for each fiscal year of Licensee: 30% of the amount of EBITDA of Licensee in excess of $13,000,000 each year, up to a maximum per year of $1,250,000.

(a) If Licensee sells or otherwise divests a portion of the business to which this Agreement relates, the Royalties shall be recalculated as follows:

(i) The parties shall calculate a reset ratio (the "*Reset Ratio*") equal to 1.00 minus the quotient of (A) the EBITDA of the portion of the business that is being sold or divested over the trailing 12-month period divided by (B) the total EBITDA of Licensee for the same trailing 12-month period.

(ii) The parties shall determine the minimum sales threshold (the "*Reset EBITDA Threshold*") by multiplying the Reset Ratio by $13,000,000.

(iii) The parties shall determine the maximum royalties (the "*Reset Royalties Maximum*") by multiplying the Reset Ratio by $1,250,000.

(b) Beginning on the date on which the sale or divestiture is completed or such other date as the parties may agree, Licensee shall pay Royalties equal to 30 percent of EBITDA of Licensee in excess of the Reset EBITDA Threshold each year, up to a maximum of the Reset Royalties Maximum.

6.2 Royalty Payments and Reports. Royalty payments shall be due and payable within forty-five (45) days after the closing of Licensee's books for the immediately preceding fiscal year in which the Royalties are earned. All payments of Royalties shall be made to Licensor in United States dollars, with all amounts converted to dollars as provided by GAAP consolidation standards. Such Royalty payment shall be accompanied by a written report setting forth the calculation of EBITDA for the fiscal year then ended and certified by the Chief Financial Officer or Chief Executive Officer of Licensee as being accurate and in compliance with GAAP consistently applied. The receipt and acceptance by Licensor of any such report or of any Royalties paid shall not preclude Licensor from questioning the correctness thereof and in the event any uncontested mistakes or inconsistencies are discovered in such statements or payments, they shall immediately be rectified and the appropriate payment made by Licensee.

6.3 Records; Audit. To assure compliance with the payment and reporting requirements of this Agreement, Licensor or Licensee, as applicable, through their independent auditors or agents, and subject to a non-disclosure agreement, may, upon no less than five (5) Business Days' written notice, inspect the other party's applicable records at their own expense from time to time, and no more frequently than annually. In the event any inspection of such party's records indicates an underpayment by an amount equal to or greater than five percent (5%) of any amounts due hereunder, such party shall promptly reimburse the other party for all reasonable expenses associated with such inspection along with the deficient amounts and interest calculated thereon at a simple annual rate of ten percent (10%).

Each party shall also undertake, at its own expense, an annual audit of such applicable records by a certified public accounting firm of national reputation satisfactory to the other party and shall provide such other party with the findings thereof within thirty (30) days after the closing of such party's books upon fiscal year end. Each party shall maintain, or cause to be maintained, all records necessary to confirm that payments and reporting requirements under this Agreement were properly made.

6.4 Licensee Option.

(a) If Licensee enters into and completes a Licensee Change of Control transaction as provided in Section 7.3, Licensee shall have the right but not the obligation as provided in this Section 6.4 to convert the license granted in Section 2.1 into a fully-paid up license, provided that all other terms and conditions relating to the rights granted in Section 2.1 shall continue in full force and effect (the "*Royalty Buy-Out Option*"). Licensee may exercise the Royalty Buy-Out Option by providing written notice of its intent to do so at least five (5) Business Days prior to the closing of a Licensee Change of Control transaction and by paying the fee as provided herein (the "*Option Fee*") at the time of the closing of the Licensee Change of Control transaction. The Option Fee shall be the sum of: (i) the Royalties payable by Licensee for the prorated portion of the then-current fiscal year and (ii) the product of the Royalties paid by Licensee for the trailing 12-month period multiplied by the multiple of EBITDA used by the purchaser to value Licensee.

(b) If Licensee enters into and completes a transaction that would constitute a Licensee Change of Control but for the fact that the transaction involves only a division or other portion of Licensee which is smaller than the size specified for a Licensee Change of Control, and that fully complies with all of the terms and conditions of this Agreement, Licensee shall have the right but not the obligation as provided in this Section 6.4 to reduce permanently the payments required by Licensee under this Article VI, provided that all other terms and conditions relating to the rights granted in Section 2.1 shall continue in full force and effect (the "*Partial Royalty Buy-Out Option*"). Licensee may exercise a Partial Royalty Buy-Out Option with respect to a division or other portion of Licensee by: (i) obtaining written consent from Licensor to assign or sublicense a portion of the rights granted under this Agreement, which consent shall not be unreasonably withheld; (ii) providing written notice of its intent to exercise the Partial Royalty Buy-Out Option at least five (5) Business Days prior to the closing of such transaction; and (iii) paying the fee as provided herein (the "*Partial Option Fee*") at the time of the closing of the transaction. The Partial Option Fee shall be the sum of: (A) the Royalties payable by Licensee for the prorated portion of the division or portion of Licensee to be sold for the then-current fiscal year and (B) the product of the Royalties paid by Licensee for the trailing 12-month period that are attributable to the division or portion of Licensee which is subject to the transaction multiplied by the multiple of EBITDA used by the purchaser to value the division or portion of Licensee which is subject to the transaction. If Licensee elects not to exercise the Partial Royalty Buyout Option, Licensor may require, as a condition to consenting to the assignment or sublicense of rights under this Agreement, that the purchaser of the division or other portion of Licensee exercise the Partial Royalty Buy-Out Option or enter into a royalty agreement with Licensor with respect to the acquired division or portion on terms comparable to the terms contained in this Agreement.

(c) For purposes of calculating the multiple of EBITDA used by the purchaser to value Licensee or a division or portion of Licensee in 6.4(a) and 6.4(b), the parties shall use the multiple used by the purchaser to value Licensee or the division or portion of Licensee; provided, however, that if the purchaser uses a valuation method that does not state a multiple of EBITDA, the parties shall calculate the multiple by dividing the purchase price by EBITDA in the corresponding trailing 12-month period. If the transaction involves consideration other than cash paid to Licensee, including without limitation any option, grant, earn-out, future payment or assumption of debt, the multiple shall include the fair market value of all such consideration in addition to all cash consideration.

(d) Licensor agrees that it shall accept the Option Fee or Partial Option Fee in the same form of consideration as the consideration received by Licensee in the Licensee Change of Control transaction or in the transaction for the division or portion of Licensee, as applicable, so long as the forms of consideration contain substantially identical rights and are provided in substantially identical proportion to the consideration received by Licensee. Licensee agrees that, as an express condition to the right to exercise the Royalty Buy-Out Option or Partial Royalty Buy-Out Option, Licensee shall have the obligation to deliver to Licensor the Option Fee or Partial Option Fee in substantially identical forms of consideration and in substantially identical proportion to the consideration received by Licensee in the transaction giving rise to the Licensee's option under this Section 6.4.

ARTICLE VII.
GOVERNANCE, LICENSEE CHANGE OF CONTROL

7.1 Relationship Managers. For a period of two (2) years after the Effective Date, each of Licensee and Licensor shall appoint a relationship manager who shall serve as its primary point of contact for the other in all matters relating to this Agreement (a "*Relationship Manager*"). The Relationship Managers shall participate in regular meetings to review the parties' performance hereunder, to review the product plan of Licensee and other Licensed Entities for Licensed Products, to resolve any issues arising out of the rights granted to, and obligations undertaken by, the parties hereunder, including any issues relating to Quality Guidelines, and to otherwise manage the parties' relationship under this Agreement.

7.2 Strategic Relationship Committee. For a period of two (2) years after the Effective Date, which period may be extended by mutual consent of the parties for additional one-year periods, each of Licensor and Licensee shall appoint at least two senior executives to a joint strategic relationship committee (the "*Strategic Relationship Committee*"). The Strategic Relationship Committee shall meet at least twice a year, in person, once at Licensor's offices in Utah and once at Licensee's offices to be designated by Licensee, or by videoconference. Among other things, as mutually agreed by the parties, the Strategic Relationship Committee shall be responsible for resolving disputes on an informal basis.

7.3 Licensor Right of First Negotiation. As soon as practicable and in any event within five (5) days after Licensee is notified of or learns that it has received a serious expression of interest to consider a Licensee Change of Control transaction from any third party other than a Competitor or Prohibited Party (a "*Permitted Offeror*"), Licensee shall notify Licensor in writing of such indication of interest. Licensor shall have fifteen (15)

Business Days from the date of such notice to notify Licensee in writing that it will enter into exclusive negotiations with Licensee for a Licensee Change of Control transaction with Licensee. Upon receipt of such written notice from Licensor, the parties shall engage in exclusive, good faith discussions regarding a possible Licensee Change of Control transaction by Licensor for a period of at least forty-five (45) days unless, as a result of a bona fide requirement imposed on Licensee by the Permitted Offeror, a shorter period is necessary, in which case for the period of time required to comply with the condition of the Permitted Offeror's offer but in no event shorter than fifteen (15) Business Days (the "*Negotiation Period*"). If Licensor fails to provide written notice to Licensee within the required fifteen (15) day response period or if the parties fail to agree in principle to a Licensee Change of Control transaction within the Negotiation Period, Licensee may thereafter negotiate and/or enter into a final, binding agreement with respect to a Change in Control transaction with the Permitted Offeror or a wholly owned subsidiary of the Permitted Offeror, provided, however, the Licensee shall not enter into any agreement for a Licensee Change of Control transaction on terms equal to or less favorable to Licensee than the final written offer, if any, made by Licensor. If Licensee is notified of or learns that it has received a serious expression of interest to consider a Licensee Change of Control transaction from any additional third party other than a Competitor or Prohibited Party or if the Permitted Offeror materially alters the terms of its offer to the detriment of Licensee, Licensee shall notify Licensor as provided in the first sentence of this Section 7.3 and shall follow all the procedures set forth herein.

ARTICLE VIII.
EFFECTIVENESS, TERM AND TERMINATION

8.1 Effectiveness; Term. This Agreement shall become effective immediately upon the closing of the transactions contemplated in the Asset Purchase Agreement, which shall be the date first set forth above (the "*Effective Date*"), and shall continue in full force and effect unless and until terminated as provided in this Article VIII.

8.2 Termination for Cause.

(a) Each party shall have the right to terminate this Agreement in the event of a Material Breach that is not cured within ninety (90) days after the non-breaching party provides written notice to the other party of the breach, provided, however, that the running of the ninety (90) day period shall stop if, during such ninety (90) day period, either party elects to commence non-binding arbitration as provided in Section 12.7(d) with respect to whether (i) a Material Breach has occurred under this Agreement or (ii) any Material Breach that has occurred has been cured. Immediately upon the delivery of the written opinion of the arbitrator, if unfavorable to the breaching party, the running of the ninety (90) day cure period shall resume and shall expire at the end of the 90th day so counted or at the end of the 10th Business Day after the ninety (90) day cure period resumed, whichever is later. A party may exercise its option to use non-binding arbitration only once for each alleged Material Breach.

(b) Licensor may terminate this Agreement effective immediately upon written notice by Licensor if Licensee enters into a binding agreement for a Licensee Change of Control transaction that is (i) in breach of Sections 7.3 or 12.1, or (ii) to a Competitor or a Prohibited Party.

8.3 Partial Termination. If Licensee releases any product or marketing material that, as a result of Licensee's involvement with any Prohibited Party, has a material adverse effect on the Business of Licensee or on the business of Licensor in any particular geographic area, product category or channel partner, Licensor shall have the right to amend Exhibits A, C, E and F to terminate Licensee's rights under this Agreement with respect to the particular geographic area, product category or channel partner thus affected, provided that Licensor shall have no rights to amend such exhibits under this Section 8.3 for the effect of any New Products or New Campaign Materials released in compliance with all of the terms and conditions of Article V. Licensor shall provide Licensee with ninety (90) days' written notice of its intent to exercise its rights under this Section 8.3. The amended Exhibit or Exhibits shall become effective at the end of such ninety (90) day period unless the material adverse effect is cured prior to that date. At any time during the ninety (90) day period, a party may elect to commence non-binding arbitration as provided in Section 12.7(d) with respect to whether (i) the alleged breach by Licensee gives rise to the right of partial termination or (ii) the material adverse affect has been cured. The running of the ninety (90) day period shall stop if and when a party elects to commence non-binding arbitration. Immediately upon the delivery of the written opinion of the arbitrator, if unfavorable to Licensee, the running of the ninety (90) day cure period shall resume and shall expire at the end of the 90th day so counted or at the end of the 10th Business Day after the ninety (90) day cure period resumed, whichever is later. A party may exercise its option to use non-binding arbitration only once for each incident or series of related incidents giving rise to a claim for partial termination.

8.4 Effects of Termination.

(a) For Cause by Licensor**.** Upon termination of this Agreement by Licensor in accordance with Section 8.2 or otherwise upon expiration of this Agreement, all rights and licenses granted to Licensee hereunder (including any Sublicense Agreements executed pursuant hereto) shall immediately terminate, and Licensee and any Licensed Entities, as applicable, subject to the rights granted in Sections 8.5 and 8.6, shall cease all use of the Licensed Materials, including any variations used in domain names and Internet Search Terms that are confusingly similar to the Licensed Trademarks or are derivative works of the Licensed Copyrights. Notwithstanding the foregoing, Licensee may use the Licensed Materials or Assigned Trademarks, as applicable, for historical reference, including to keep records and other historical or archived documents (including customer contracts and marketing materials) containing or referencing the Licensed Trademarks. Termination of this Agreement by Licensor in accordance with Section 8.2 shall be without prejudice to any other right or remedy under this Agreement or applicable law. The license granted to Licensor in Section 2.12 shall convert to a fully paid-up, perpetual license upon termination of this Agreement for cause by Licensor in accordance with Section 8.2.

(b) For Cause by Licensee. Upon termination of this Agreement by Licensee in accordance with Section 8.2 or otherwise upon expiration of this Agreement, all rights and licenses granted to Licensor hereunder (including any Sublicense Agreements executed pursuant hereto) shall immediately terminate, and Licensor shall cease all use of the Assigned Trademarks. Notwithstanding the foregoing, Licensor may use the Assigned Trademarks for historical reference, including to keep records and other historical or archived documents (including customer contracts and marketing materials) containing or referencing

the Assigned Trademarks. Termination of this Agreement by Licensee in accordance with Section 8.2 shall be without prejudice to any other right or remedy under this Agreement or applicable law. The license granted to Licensee in Section 2.1 shall convert to a royalty-free, perpetual license upon termination of this Agreement for cause by Licensee in accordance with Section 8.2.

8.5 Termination Inventory.

(a) Within thirty (30) days after the expiration or termination of this Agreement which is not the subject of a dispute resolution process of the parties, Licensee shall prepare and deliver to Licensor a written summary of Licensed Products remaining in inventory, including a complete and accurate schedule as of the date of expiration or termination of all completed Licensee Products on hand, work in process; and all packaging materials, advertising and promotional materials and other documents or items that bear the Licensed Materials in Licensee's possession or control or in the process of manufacture for Licensee.

(b) Within thirty (30) days after the expiration or termination of this Agreement, Licensor shall prepare and deliver to Licensee a written summary of products using the Assigned Materials remaining in inventory, including a complete and accurate schedule as of the date of expiration or termination of all such completed products on hand, work in process; and all packaging materials, advertising and promotional materials and other documents or items that bear the Assigned Trademarks in Licensor's possession or control or in the process of manufacture for Licensor.

(c) Each party shall have the option, exercisable within ten (10) days after receipt of the written inventory received from Licensee or Licensor, as applicable, to purchase all or any portion of the items in the inventory of the other party for a purchase price equal to the other party's cost. Such party shall deliver to the other party the items in the inventory to be purchased, within five (5) days after receipt of notice exercising its option to purchase, and the purchasing party shall pay the purchase price within thirty (30) days after receipt of all items purchased.

8.6 Termination Inventory Sales. For a period of six (6) months after the expiration of a party's option to purchase inventory under Section 8.5, the other party may sell finished Licensed Products and products using the Assigned Trademarks, as applicable, remaining in inventory or finished work in process in the remaining inventory, on a non-exclusive basis, in accordance with all of the terms of this Agreement, including compliance with the Quality Guidelines. Any items in the inventory not sold and remaining after the selling period provided for in this Section 8.5 shall be delivered to the other party, disposed of, or destroyed in accordance with the other party's written instructions.

8.7 Survival. The following provisions of this Agreement shall survive termination of this Agreement for any reason: Articles I, VIII, IX, X, XI, and XII and Sections 2.22 and 2.23. Termination of this Agreement by a party shall be without prejudice to any other right or remedy of such party under this Agreement or applicable law.

ARTICLE IX.
INDEMNIFICATION

9.1 Indemnification by Licensee. Subject to the limitations set forth in Section 10.2, Licensee shall, at its own expense, indemnify, defend, and hold harmless Licensor and its Affiliates, and their respective officers, directors, employees and representatives from and against any claim, demand, cause of action, liability, expense (including attorney's fees and costs), or damages to the extent arising from a third-party claim with respect to:

(a) Licensed Products, including any claim alleging product liability, injury to property or Person or infringement of Intellectual Property Rights (except to the extent that Licensor is obligated to provide indemnification for such infringement claim under Section 9.2(a));

(b) use of any Licensed Trademark by Licensee or any Sublicensed Entity (except (i) to the extent that Licensor is obligated to provide indemnification for such claim under Section 9.2(a) and (ii) to the extent the Sublicensed Entity is an Existing Sublicensed Entity and the act or acts giving rise to indemnification were not reasonably foreseeable);

(c) any breach of this Agreement (or any applicable Sublicense Agreement) by Licensee or by any New Sublicensed Entity;

(d) any breach of this Agreement (or any applicable Sublicense Agreement) by any Existing Sublicensed Entity if such breach is reasonably foreseeable; and

(e) any material violation by Licensee of a domestic or international law or regulation relating to relating to consumer privacy or communication with consumers through e-mail.

9.2 Indemnification by Licensor. Subject to the limitations set forth in Section 10.2, Licensor shall, at its own expense, indemnify, defend, and hold harmless Licensee and its Affiliates, and their respective officers, directors, employees and representatives, from and against any claim, demand, cause of action, liability, expense (including attorney's fees and costs), or damages to the extent arising from a third-party claim with respect to:

(a) Licensee's alleged infringement of third-party copyright or trademark rights arising from Licensee's Display or other commercial exploitation of registered Licensed Trademarks or Licensed Copyrights in the Licensed Territory except to the extent that such infringement arises from Licensee's non-compliance with Licensor's requirements for Display of the Licensed Trademarks or from any Licensed Trademark or Licensed Copyright that is licensed to Licensor by a third party;

(b) use of any Assigned Trademark or Licensed Copyright by Licensor or any Sublicensed Entity (except to the extent that Licensee is obligated to provide indemnification for such claim under Section 9.1(a));

(c) any breach by Licensor of this Agreement; and

(d) any material violation by Licensor of a domestic or international law or regulation relating to relating to consumer privacy or communication with consumers through e-mail.

9.3 Procedures. The party seeking to be indemnified pursuant to this Article IX (as applicable, the "*Indemnified Party*") shall be entitled to indemnification hereunder only (a) if it gives written notice to the party obligated to provide such indemnification hereunder (the "*Indemnifying Party*") of any claims, suits or proceedings by third parties which may give rise to a claim for indemnification with reasonable promptness after receiving written notice of such claim (or, in the case of a proceeding, is served in such proceeding); provided, however, that failure to give such notice shall not relieve the Indemnifying Party of its obligation to provide indemnification, except if and to the extent that the Indemnifying Party is actually and materially prejudiced thereby, and (b) once the Indemnifying Party confirms in writing to the Indemnified Party that it is prepared to assume its indemnification obligations hereunder, the Indemnifying Party has sole control over the defense of the claim, at its own cost and expense; provided, however, that the Indemnified Party shall have the right to be represented by its own counsel at its own cost in such matters. Notwithstanding the foregoing, the Indemnifying Party shall not settle or dispose of any such matter in any manner which would require the Indemnified Party to make any admission, or to take any action without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld or delayed. Each party shall reasonably cooperate with the other party and its counsel in the course of the defense of any such suit, claim or demand, such cooperation to include using reasonable efforts to provide or make available documents, information and witnesses and to mitigate damages.

ARTICLE X.
REPRESENTATIONS, LIMITATION OF WARRANTY AND LIABILITY

10.1 Warranties.

(a) Exhibit A sets forth, as of the date hereof, an accurate and complete list of the Licensed Trademarks.

(b) Except as set forth in Exhibit S, to Licensor's Knowledge, the registered Licensed Trademarks are valid and enforceable. To Licensor's Knowledge, Licensor has received no notice or claim challenging or questioning the validity or enforceability of the Licensed Trademarks.

(c) Except as set forth in Exhibit S, Licensor has timely paid all filing, examination, issuance, post registration and maintenance fees, annuities and the like associated with or required with respect to the material registered Licensed Trademarks.

(d) Except as set forth in Exhibit S, to Licensor's Knowledge, none of the registered Licensed Trademarks infringes upon, misappropriates, violates, dilutes or constitutes the unauthorized use of any Intellectual Property Rights of any third party which could reasonably be expected to have a material adverse effect, and, except as set forth in Exhibit S, to Licensor's Knowledge, Licensor has not received any notice or claim asserting that any such infringement, misappropriation, violation, dilution or unauthorized use is

occurring or has occurred, nor is there any reasonable basis therefor, which could reasonably be expected to have a material adverse effect. No Licensed Materials is subject to any outstanding order, judgment, decree or stipulation restricting the use thereof by Licensor. To Licensor's Knowledge, no third party is misappropriating, infringing, diluting or violating any Licensed Trademark which could reasonably be expected to have a material adverse effect.

(e) EXCEPT AS SET FORTH IN THIS SECTION 10.1, LICENSOR HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, VALIDITY, ENFORCEABILITY, TITLE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND ANY WARRANTIES THAT MAY ARISE DUE TO COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, WHETHER RELATED TO THE LICENSED MATERIALS OR OTHERWISE.

10.2 Damages.

(a) NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, LICENSORS, SUPPLIERS OR OTHER REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE LIABILITY, OR LIABILITY FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, DIMINUTION IN VALUE, OR LOSS OF GOODWILL ARISING FROM OR RELATING TO THIS AGREEMENT OR THE LICENSED MATERIALS, EVEN IF THE OTHER PARTY IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IF LICENSOR OR ANY OF ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND REPRESENTATIVES (EACH A "LICENSOR PARTY" AND COLLECTIVELY THE "LICENSOR PARTIES"), IS HELD OR FOUND TO BE LIABLE TO LICENSEE OR ANY OF ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND REPRESENTATIVES (EACH A "LICENSEE PARTY" AND COLLECTIVELY THE "LICENSEE PARTIES"), FOR ANY MATTER RELATING TO OR ARISING FROM A BREACH OF ANY REPRESENTATION OR WARRANTY CONTAINED IN THIS AGREEMENT (A "GLOBAL CAP LOSS"), WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, NEGLIGENCE, TORT OR OTHERWISE, THE AMOUNT OF DAMAGES RECOVERABLE, IN THE AGGREGATE, FROM THE LICENSOR PARTIES WILL NOT EXCEED $3,200,000 MINUS THE SUM OF (I) THE AGGREGATE AMOUNT OF GLOBAL CAP LOSSES ARISING UNDER THIS AGREEMENT AND PAID BY ANY LICENSOR PARTY TO ANY LICENSEE PARTY, AND (II) THE AGGREGATE AMOUNT OF ANY LIABILITIES FOR DAMAGES ARISING FROM A BREACH OF ANY REPRESENTATION OR WARRANTY CONTAINED IN ANY ANCILLARY AGREEMENT PAID BY ANY LICENSOR PARTY TO ANY LICENSEE PARTY.

(c) IF ANY LICENSOR PARTY IS HELD OR FOUND TO BE LIABLE TO ANY LICENSEE PARTY FOR ANY MATTER RELATING TO OR ARISING FROM A BREACH OF ANY COVENANT OR AGREEMENT CONTAINED IN THIS

AGREEMENT, OTHER THAN A BREACH OF REPRESENTATION OR WARRANTY OR A PROMISE TO PAY FOR SERVICES DELIVERED AND SUBJECT TO SECTION 10.2(f) (A "COMMERCIAL LOSS") WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, NEGLIGENCE, TORT OR OTHERWISE, THE AMOUNT OF DAMAGES RECOVERABLE FROM THE LICENSOR PARTIES WILL NOT EXCEED $500,000 FOR EACH INCIDENT OR SERIES OF RELATED INCIDENTS GIVING RISE TO SUCH LIABILITY, PROVIDED THAT THIS SECTION 10.2(c) SHALL NOT APPLY TO ANY CLAIM ARISING FROM A BREACH OF SECTION 2.22 OF THIS AGREEMENT.

(d) IF ANY LICENSEE PARTY IS HELD OR FOUND TO BE LIABLE TO ANY LICENSOR PARTY FOR ANY MATTER RELATING TO OR ARISING FROM A COMMERCIAL LOSS, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, NEGLIGENCE, TORT OR OTHERWISE, THE AMOUNT OF DAMAGES RECOVERABLE FROM THE LICENSEE PARTIES WILL NOT EXCEED $500,000 FOR EACH INCIDENT OR SERIES OF RELATED INCIDENTS GIVING RISE TO SUCH LIABILITY, PROVIDED THAT THIS SECTION 10.2(d) SHALL NOT APPLY TO ANY CLAIM ARISING FROM A BREACH OF SECTION 2.23 OF THIS AGREEMENT.

(e) NEITHER PARTY SHALL HOLD THE OTHER PARTY LIABLE FOR ANY COMMERCIAL LOSS THAT ARISES AS A RESULT OF THE PERFORMANCE OF A THIRD PARTY TO WHOM A PARTY HAS REASONABLY DELEGATED ITS DUTIES UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY LOSS RESULTING FROM THE HOSTING OR MAINTENANCE OF THE LICENSOR WEBSITE BY A THIRD PARTY, UNLESS SUCH LOSS ARISES AS A RESULT OF THE DELEGATING PARTY'S WILLFUL MISCONDUCT OR FRAUD. EACH PARTY HEREBY WAIVES ANY CLAIM AGAINST THE OTHER PARTY ARISING FROM SUCH A COMMERCIAL LOSS, AND AGREES TO COOPERATE IN GOOD FAITH TO SEEK RECOVERY AGAINST THE THIRD PARTY.

(f) THE PROVISIONS OF SECTIONS 10.2(b), (c) AND (d) SHALL NOT APPLY TO ANY CLAIM BY ONE PARTY TO ENFORCE A PROMISE BY THE OTHER PARTY TO PAY FOR SERVICES OR RIGHTS PROVIDED PURSUANT TO THIS AGREEMENT OR PURSUANT TO ANY ANCILLARY AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROMISE TO PAY ROYALTIES PURSUANT TO ARTICLE VI OF THIS AGREEMENT, THE PROMISE TO MAKE PAYMENTS IN EXCESS OF THE 1% CAPS IN SECTION 2.22 OF THIS AGREEMENT, THE PROMISES OF EACH PARTY TO MAKE PAYMENTS TO THE OTHER PARTY FOR GOODS PROVIDED PURSUANT TO THE SUPPLY AGREEMENT, AND THE PROMISE BY LICENSEE TO MAKE PAYMENTS TO LICENSOR FOR SERVICES PROVIDED UNDER THE SHARED SERVICES AGREEMENT.

ARTICLE XI.
CONFIDENTIAL INFORMATION

11.1 Definition. "*Confidential Information*" means all information disclosed by one party (the "*Discloser*") to any other party (the "*Recipient*") (in writing, orally or in any other form) that is designated, at or before the time of disclosure, as confidential. Confidential

Information does not include information or material that (a) is now, or hereafter becomes, through no act or failure to act on the part of the Recipient, generally known or available; (b) is or was known by the Recipient at or before the time such information or material was received from the Discloser, as evidenced by a contemporaneous writing; (c) is furnished to the Recipient by a third party that is not under an obligation of confidentiality to the Discloser with respect to such information or material; or (d) is independently developed by the Recipient, as evidenced by a contemporaneous writing.

11.2 Restrictions on Use. The Recipient shall hold Confidential Information in confidence and shall not disclose to third parties or use such information for any purpose whatsoever other than as necessary in order to fulfill its obligations or exercise its rights under this Agreement. The Recipient shall take all reasonable measures to protect the confidentiality of the other party's Confidential Information in a manner that is at least protective as the measures it uses to maintain the confidentiality of its own Confidential Information of similar importance. Notwithstanding the foregoing, the Recipient may disclose the other party's Confidential Information (a) to employees and consultants that have a need to know such information, provided that each such employee and consultant is under a duty of nondisclosure that is consistent with the confidentiality and nondisclosure provisions herein, and (b) to the extent the Recipient is legally compelled to disclose such Confidential Information, provided that the Recipient shall give advance notice of such compelled disclosure to the other party, and shall cooperate with the other party in connection with any efforts to prevent or limit the scope of such disclosure or use of the Confidential Information.

11.3 Nonsolicitation. During the term of this Agreement, neither party shall, directly or indirectly, (a) solicit or hire, or assist any other Person in soliciting or hiring (i) any Person who is then, or within the previous twelve (12) month period was, employed by the other party or (ii) any Person who is then in the process of being recruited by Licensor, or (b) induce any such employee to terminate his or her employment with the other party.

ARTICLE XII.
MISCELLANEOUS

12.1 Assignment. Subject to all of the terms and conditions of this Agreement, Licensee may assign this Agreement only as part of a Licensee Change of Control transaction permitted under Section 7.3, provided that Licensee shall not assign this Agreement to any Person that is a Competitor or a Prohibited Party. Subject to all of the terms and conditions of this Agreement, Licensor may assign this Agreement (a) to a wholly owned subsidiary of Licensor, the parent corporation of Licensor, or an entity wholly owned by Licensor's parent corporation or (b) to any entity that, as a result of a Licensor Change of Control transaction, is a successor in interest to Licensor, to Licensor's parent corporation or to a wholly owned subsidiary of Licensor's parent. No attempted assignment of the Agreement by either party shall be effective unless and until the assignee expressly agrees in writing that it will assume all of the obligations of this Agreement and all of the material provisions of the Ancillary Agreements then in effect. Except as provided herein, any purported assignment, sale, transfer, sublicense, delegation or other disposition by either party shall be null and void. Any attempt by Licensee to assign this Agreement except as provided herein shall be void and shall be deemed a Licensee Change of Control.

12.2 Injunctive Relief. The parties acknowledge that a breach of their obligations under this Agreement, would cause the non-breaching party irreparable damage. Accordingly, each party agrees that in the event of such breach or threatened breach, in addition to remedies at law, the non-breaching party shall have the right to injunctive or other equitable relief, without the necessity of posting any bond or other security, to prevent breaching party's violations of its obligations hereunder, in addition to any other remedy to which they may be entitled, at law or in equity.

12.3 Severability. If any provision of this Agreement, or the application thereof to any Person, place or circumstance, are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, and the remainder of this Agreement and such provisions as applied to other Persons, places and circumstances shall remain in full force and effect.

12.4 Interpretation. Unless otherwise indicated to the contrary in this Agreement by the context or use thereof: (a) the words "herein," "hereto," "hereof" and words of similar import refer to this Agreement as a whole and not to any particular Section, Article or paragraph hereof; (b) references in this Agreement to Sections, Articles or paragraphs refer to sections, articles or paragraphs of this Agreement; (c) headings of Sections are provided for convenience only and shall not affect the construction or interpretation of this Agreement; (d) words importing the masculine gender shall also include the feminine and neutral genders, and vice versa; (e) words importing the singular shall also include the plural, and vice versa; (f) the words "include", "includes" and "including" shall be deemed to be followed in each case by the phrase "without limitation"; (g) any reference to a statute refers to the statute, any amendments or successor legislation, and all regulations promulgated under or implementing the statute, as in effect from time to time; (h) any reference to an agreement, contract or other document as of a given date means the agreement, contract or other document as amended, supplemented and modified from time to time through such date; (i) "$" and "Dollars" mean the lawful currency of the United States of America and any threshold set in Dollars herein shall be deemed to refer to the equivalent amount in any other currency, as the context may require; and (j) "or" shall include the meanings "either" or "both."

12.5 Amendment and Waiver. This Agreement may not be amended, a provision of this Agreement or any default, misrepresentation or breach of warranty or agreement under this Agreement may not be waived, and a consent may not be rendered, except in a writing executed by the party against which such action is sought to be enforced. Neither the failure nor any delay by any Person in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. In addition, no course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify or amend any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement. The rights and remedies of the parties to this Agreement are cumulative and not alternative.

12.6 Governing Law. The domestic law, without regard to conflicts of laws principles, of the State of Utah will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement.

12.7 Consent to Jurisdiction.

(a) Each of the parties submits (and Licensee shall cause all Licensed Entities sublicensed hereunder irrevocably to submit on or prior to the execution of the relevant Sublicense Agreement) to the exclusive jurisdiction of any state or federal court sitting in Salt Lake City, Utah, in any action or proceeding arising out of or relating to this Agreement or any Sublicense Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect to any such action or proceeding.

(b) Licensee further agrees, and Licensee agrees to cause the Licensed Entities to agree, and Licensor further agrees, that service of any process, summons, notice or document by U.S. registered mail to such Person's respective address set forth above shall be effective service of process for any action, suit or proceeding in the state and federal courts located in the State Utah with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding clause (a). In addition, Licensee irrevocably and unconditionally waives, and Licensee agrees to cause the Licensed Entities irrevocably and unconditionally to waive, and Licensor irrevocably and unconditionally waives, application of the procedures for service of process pursuant to the Hague Convention for Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY SUBLICENSE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION.

(d) Either party may refer any of the disputes described in Section 8.2(a) and Section 8.3 as subject to possible arbitration to non-binding arbitration by a single

arbitrator in accordance with the CPR Rules for Non-Administered Arbitration then currently in effect. The arbitrator shall deliver a written ruling on the disputed question or questions within one hundred twenty (120) days from the date on which the arbitration is commenced. If either party disagrees with the opinion delivered by the arbitrator, such party may initiate litigation subject to all of the terms and conditions of this Agreement. Notwithstanding the foregoing, nothing in this Section 12.7(d) shall limit a party's right to bring any action for injunctive relief under Section 12.2 at any time.

12.8 Independent Contractors. Each party is an independent contractor and neither party's personnel are employees or agents of the other party for federal, state or other taxes or any other purposes whatsoever, and are not entitled to compensation or benefits of the other. Except for the specific obligations set forth in this Agreement, nothing hereunder shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership or business entity of any kind, nor shall anything in this Agreement be deemed to constitute either party the agent or representative of the other.

12.9 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (a) when delivered if personally delivered by hand, (b) when received if sent by a nationally recognized overnight courier service (receipt requested), (c) five business days after being mailed, if sent by first class mail, return receipt requested, or (d) when receipt is acknowledged by an affirmative act of the party receiving notice, if sent by facsimile, telecopy or other electronic transmission device (provided that such an acknowledgement does not include an acknowledgment generated automatically by a facsimile or telecopy machine or other electronic transmission device). Notices, demands and communications to Licensee and Licensor will, unless another address is specified in writing, be sent to the address indicated below:

If to Licensor:

Franklin Covey Co.
2200 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Bob Whitman
Facsimile No.: (801) 817-8069

With a copy to (which shall not constitute notice):

Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84010
Attn: Nolan S. Taylor
Facsimile No. (801) 933-7373

If to Licensee:

Franklin Covey Products, LLC
2250 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Sarah Merz
Facsimile No.: (801) 817-8069

With a copy to (which shall not constitute notice):

Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Attn: John G. Weston
Facsimile No. (801) 257-1800

12.10 Publicity. The parties shall use reasonable efforts to cooperate in issuing a joint press release upon execution of this Agreement and in issuing further press releases related to this Agreement. If at any time disclosure regarding this Agreement is required under public reporting requirements of applicable securities laws and the parties are not able to agree on the content and manner of issuing such disclosure, Licensor will be authorized to issue a sole release. Prior to issuing such a sole release, Licensor shall provide Licensee with an opportunity to review and comment on a draft of such release and will consider in good faith any comments that Licensee communicates in a timely fashion on such draft press release.

12.11 Complete Agreement. This Agreement and all Exhibits and Schedules attached hereto and, when executed and delivered, the Ancillary Agreements, contain the complete agreement between the parties and supersede any prior understandings, agreements or representations by or between the parties, written or oral. Licensee acknowledges that Licensor has made no representations, warranties, agreements, undertakings or promises except for those expressly set forth in this Agreement or in agreements referred to herein that survive the execution and delivery of this Agreement.

12.12 Signatures, Counterparts. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument. A facsimile signature will be considered an original signature.

12.13 Construction. The parties and their respective counsel have participated jointly in the negotiation and drafting of this Agreement. In addition, each of the parties acknowledges that it is sophisticated and has been advised by experienced counsel and, to the extent it deemed necessary, other advisors in connection with the negotiation and drafting of this Agreement. The parties intend that each representation, warranty and agreement contained in this Agreement will have independent significance. If any party has breached any representation, warranty or agreement in any respect, the fact that there exists another representation, warranty or agreement relating to the same subject matter (regardless of the relative levels of specificity) that the party has not breached will not detract from or mitigate the fact that the party is in breach of the first representation, warranty or agreement. The headings preceding the text of articles and sections included in this Agreement and the headings to the schedules and exhibits are for convenience only and are not be deemed part of this Agreement or given effect in interpreting this Agreement. References to sections, articles, schedules or exhibits are to the sections, articles, schedules and exhibits contained in, referred to or attached to this Agreement, unless otherwise specified. The word “including” means “including without limitation.” A statement that an action has not occurred in the past means that it is also not presently occurring. When any party may take any permissive action, including the granting of a consent, the waiver of any provision of this Agreement or

otherwise, whether to take such action is in its sole and absolute discretion. The use of the masculine, feminine or neuter gender or the singular or plural form of words will not limit any provisions of this Agreement. A statement that an item is listed, disclosed or described means that it is correctly listed, disclosed or described, and a statement that a copy of an item has been delivered means a true and correct copy of the item has been delivered.

[*Remainder of page left intentionally blank.*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first set forth above.

FRANKLIN COVEY CO.		**FRANKLIN COVEY PRODUCTS, LLC**	
By:	/s/ Robert A. Whitman	By:	/s/ Sarah Merz
Name:	Robert A. Whitman	Name	Sarah Merz
Title:	Chairman and Chief Executive Officer	Title:	Chief Executive Officer and President

Exhibit 10.2

SUPPLY AGREEMENT

BETWEEN

FRANKLIN COVEY PRODUCTS, LLC

AND

FRANKLIN COVEY PRODUCT SALES, INC.

MADE EFFECTIVE AS OF

JULY 5, 2008, 11:59 P.M., MOUNTAIN DAYLIGHT TIME

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SUPPLY AGREEMENT

This **SUPPLY AGREEMENT** (this "*Agreement*") between Franklin Covey Products, LLC, a Utah limited liability company ("*FC Products LLC*"), and Franklin Covey Product Sales, Inc., a Utah corporation ("*FC Sales Inc.*"), dated July 7, 2008 is made effective as of July 5, 2008, 11:59 P.M. Mountain Daylight Time.

Recitals

WHEREAS, Franklin Covey Co., a Utah corporation ("*Franklin Covey Co.*"), certain Affiliates of Franklin Covey Co., FC Sales Inc., and FC Products LLC are parties to a Master Asset Purchase Agreement dated as of May 22, 2008, as amended (the "*Asset Purchase Agreement*"), a Master License Agreement made effective as of July 5, 2008, 11:59 P.M. Mountain Daylight Time (the "*License Agreement*"), a Master Shared Services Agreement made effective as of July 5, 2008, 11:59 P.M. Mountain Daylight Time (the "*Shared Services Agreement*"), a Sublease Agreement between Franklin Development Corporation and FC Products LLC (the "*Lease Agreement*") and a Sub-sublease Agreement between FC Products LLC and Franklin Covey Co. (the "*Sub-sublease Agreement*") (collectively the "*Ancillary Agreements*"); and

WHEREAS, the parties wish to supply Products and to receive Products to fulfill the purposes of the License Agreement, subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS

1.1 Definitions. All capitalized terms used in this Agreement have the meanings set forth below, unless the context clearly indicates otherwise.

"*Affiliate*" means, when used with reference to any Person, any other Person that directly, or indirectly through one or more intermediaries, has control of the first Person, or of which the first Person has control, or which is under common control with the first Person.

"*Agreement*" has the meaning set forth in the Preamble.

"*Ancillary Agreements*" has the meaning set forth in the Recitals.

"*Asset Purchase Agreement*" has the meaning set forth in the Recitals.

"*Assigned Software*" means the Software assigned to FC Products LLC pursuant to the Asset Purchase Agreement and includes the Forms Wizard, Address/Phone and Confidant software products.

"*Assigned Trademarks*" means the Trademarks listed on Exhibit B of the License Agreement.

"*Binders And Totes*" means those products sold by FC Products LLC (i) that can be used to organize and manage Planners and other Paper-Based Products or (ii) that are used to carry materials, including bags, cases and satchels.

"*Boxed PlanPlus Software*" means the planning and organizational Software currently known as PlanPlus for Outlook, PlanPlus for Windows, PlanOne, TasksPlus and ProjectsPlus.

"*Business Day*" means any day, other than Saturday or Sunday, on which commercial banks in the United States of America are open for business.

"*Confidential Information*" has the meaning set forth in Section 11.1.

"*Content-Rich Media*" means content created, prepared, commissioned or licensed by Licensor and presented in books, audio books, videos, audiotapes, CDs, DVDs and similar media (other than Software), including each of the foregoing that is delivered in downloadable format, not including the 7 Habits Interactive Product.

"*Corporate Gift Items*" means those objects typically given as gifts in a corporate setting, including, without limitation, paperweights, desk sets and similar items.

"*Delivery Date*" means the date on which the parties agree to deliver any Product subject to a Purchase Order.

"*Discloser*" has the meaning set forth in Section 11.1.

"*EBITDA*" means earnings before interest, taxes, depreciation and amortization. Depreciation expense generated in the production of inventory shall be included in inventory's standard cost and the amortization of certain costs directly associated with the generation of revenue may be included in the EBITDA calculation (i.e. will lower EBITDA). Examples of these costs include the depreciation of equipment specifically used for the production of inventory or the amortization of a prepaid author royalty.

"*Education Planner*" means a Planner that is designed to be used by educators or students and that contains training or Execution-Related Materials.

"*Effective Date*" has the meaning set forth in Section 8.1.

"*Execution-Related Materials*" means information included in a Planner that assists an individual in performing tasks required or recommended by an employer, client or similar entity. As an example and without limitation, execution-related materials include information in a Planner for a retail manager that sets out steps to be followed in preparation for the peak retail selling season.

"*FC Sales Inc. Change of Control*" means (i) the acquisition of FC Sales Inc. by a third party by means of any transaction or series of transactions (including, without limitation, any acquisitions, recapitalization, conversion, reorganization, stock purchase, merger or consolidation); (ii) a sale or other disposition of all or substantially all the assets of FC Sales Inc.; (iii) any of the foregoing transactions involving the parent corporation of FC Sales Inc.; or (iv) the acquisition of equity securities by a Person or Persons acting as a

group, which together with equity securities already held by such Person or Persons, constitutes more than 50% of the total voting power of the parent corporation of FC Sales Inc.

"*Indemnified Party*" has the meaning set forth in Section 9.3.

"*Indemnifying Party*" has the meaning set forth in Section 9.3.

"*Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills*" means any and all organizational, management, leadership or personal effectiveness skills and the techniques and strategies for attaining such skills including, without limitation, executive coaching, management coaching, performance review, trust-building (in or out of an organizational setting), execution-related skills, personal time management, personal performance, personal goal-setting (including personal time-management, performance and goal setting in any academic or educational environment), family effectiveness, family organization, family goal-setting, family values, personal fitness, wellness and life balance, and any other form of training.

"*Lease Agreement*" has the meaning set forth in the Recitals.

"*License Agreement*" has the meaning set forth in the Recitals.

"*Licensed Copyrights*" means the copyrights and copyrighted materials, whether registered or not, that are listed on Exhibit C of the License Agreement.

"*Licensed Materials*" means the Licensed Trademarks and the Licensed Copyrights as set forth and defined in the License Agreement.

"*Licensed Products*" means those products listed on Exhibit D of the License Agreement.

"*Licensed Trademarks*" means those trademarks listed on Exhibit A of the License Agreement.

"*MFN Pricing*" means the party purchasing the good shall receive a price no less favorable than the price available to other similarly situated purchasers for the same good at the time of the sale.

"*Mobile PlanPlus Software*" means the planning and organizational Software for use by customers through cellular telephones or similar personal device and currently known as Mobile PlanPlus.

"*Motivational Artwork*" means any print, artwork or other display-worthy media that incorporates Licensed Trademarks and/or Licensed Copyrights.

"*New Licensed Product*" means a new product that is not substantially similar to an existing Licensed Product and that uses Licensed Materials.

"*New Non-Licensed Product*" means a new product that is not substantially the same as an existing Licensed Product and that does not use Licensed Materials.

"*New Product*" means any New Licensed Product, New Non-Licensed Product or an extension of a Specialty Product that differs significantly from the Specialty Product.

"*Online PlanPlus Software*" means the planning and organizational Software currently known as the Basic, Sales, Business and Project editions of PlanPlus Online.

"*Ordering Party*" has the meaning given in Section 2.1.

"*Paper-Based Products*" means all Planners and any additional paper-based Products produced by FC Products LLC, including forms, tabs, journals, loose paper, fillers and like products.

"*Person*" means an individual, corporation, partnership, limited partnership, limited liability company, unincorporated association, trust, joint venture, union or other organization or entity, including a governmental entity.

"*Planner*" means any paper-based product (i) bearing Trademarks of Franklin Covey Co. or its Affiliates and (ii) organized consecutively by date so that its user may organize, plan and schedule events and tasks, along with ancillary pages that serve a related purpose, including, by way of example, pages to organize addresses and phone numbers and pages to take notes at meetings.

"*Price Competitive*" has the meaning set forth in Section 3.2.

"*Price List*" has the meaning set forth in Section 5.1(a).

"*Products*" means the goods available for supply under this Agreement and, with respect to FC Products LLC, means any Licensed Product available to FC Sales Inc. pursuant to the License Agreement (including without limitation all Planners), New Products, Assigned Software and Boxed PlanPlus Software and, with respect to FC Sales Inc., means Content-Rich Media, the 7 Habits Interactive Product, Supplied Software and Training-Oriented Products.

"*Prohibited Activity*" means (i) publishing or promoting indecent or pornographic materials, (ii) deriving a substantial portion of revenue from gaming activities or the promotion or sale of alcoholic beverages, tobacco products or firearms, (iii) having as a primary purpose the advocacy of a particular political or moral position or (iv) illegal activities.

"*Prohibited Party*" means any Person that, directly or indirectly through Affiliates, engages in a Prohibited Activity.

"*Purchase Order*" has the meaning given in Section 2.2.

"*Recipient*" has the meaning set forth in Section 11.1.

"*Revised Purchase Order*" has the meaning set forth in Section 2.4.

"*Shared Services Agreement*" has the meaning set forth in the Recitals.

"*Software*" means computer programs or data, whether in object code or source code, regardless of the media format of such Software, and all documentation relating thereto.

"*Specialty Products*" means those categories of products listed on Exhibit K of the License Agreement that are sold by FC Products LLC as of the Effective Date so long as they do not use the Licensed Materials.

"*Specifications*" means any specific requirements included in a Purchase Order placed by FC Sales Inc. for the purchase of any Training Planner, Education Planner, or any other Product where special instructions are required.

"*Standard Planner*" means a Planner in the general form available to the general public in retail channels as of the Effective Date and not including training or Execution-Related Materials. For the avoidance of doubt, the content contained in Planners available to the general public in retail channels as of the Effective Date shall not be deemed "training or Execution-Related Materials."

"*Standard Spread*" has the meaning set forth in Exhibit A.

"*Strategic Relationship Committee*" means the committee established pursuant to the License Agreement.

"*Sub-sublease Agreement*" has the meaning set forth in the Recitals.

"*Supply Relationship Manager*" has the meaning given in Section 7.1.

"*Supplying Party*" has the meaning given in Section 2.1.

"*Supplied Software*" means Online PlanPlus Software and Mobile PlanPlus Software.

"*Tailored Planner*" means a Planner that has been customized according to the specifications of an Organizational Client or other organizational customer to contain logos, employee directory information, a listing of company holidays and any other information approved by Franklin Covey or its Affiliates not including and training or Execution-Related Materials.

"*Testing Period*" has the meaning set forth in Section 4.3.

"*Trademark*" means rights in trademarks, trade names, service marks, service names, design marks, logos, trade dress, or similar rights with respect to identification of origin, whether registered or unregistered, as well as rights in internet domain names, uniform resource locators and e-mail addresses.

"*Training-Oriented Product*" means any good, product or thing in any tangible form (including Software) that is designed to teach individuals or organizations Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills.

"*Training-Oriented Service*" means any seminar, session, online course, webinar, consultation or similar interaction, whether or not for a fee, where the subject matter of such service relates to or includes Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills.

"*Training Planner*" means a Planner that has been customized according to the specifications of an Organizational Client or other organizational customer and that does contain training and/or Execution-Related Materials. A Training Planner may include logos, employee director information, a listing of company holidays and other information supplied by the Organizational Client or other organizational customer.

ARTICLE II. MANUFACTURE AND SUPPLY

2.1 **Manufacture and Supply.** The Supplying Party agrees that it will manufacture and supply, directly or through Affiliates or other third parties, the Products that the Ordering Party may order hereunder, in accordance with all of terms and conditions of this agreement. "*Supplying Party*" means the party supplying Products pursuant to this Agreement. "*Ordering Party*" means a party to this Agreement or any of its Affiliates that orders Products pursuant to this Agreement.

2.2 **Purchase Orders.** The Ordering Party may order Products by submitting a Purchase Order (as further described in Section 2.2(c), a "*Purchase Order*") from time to time to the Supplying Party by means of a mailed, couriered, electronic or facsimile communication. The Supplying Party shall be deemed to have received a Purchase Order on the date of its electronic or electronically confirmed facsimile receipt or upon its delivery to the Supplying Party by mail or courier service.

(a) Purchase Orders for Products supplied by FC Products LLC in small quantities that are intended as a special accommodation for FC Sales Inc.'s or its Affiliates' customers shall be placed at least five (5) Business Days prior to the Delivery Date, subject to the FC Products LLC's inventory. FC Products LLC agrees to use commercial best efforts to accept Purchase Orders on a shorter time frame for such accommodation orders. Purchase Orders for Products supplied by FC Products LLC in large quantities shall be submitted prior to the required Delivery Date as follows:

(i) The Purchase Order for Paper-Based Products shall be placed at least sixty (60) calendar days prior to the Delivery Date.

(ii) The Purchase Order for Binders And Totes shall be placed at least one hundred twenty (120) calendar days prior to the Delivery Date.

(iii) The Purchase Order for Boxed PlanPlus Software shall be placed at least thirty (30) calendar days prior to the Delivery Date.

(iv) The Purchase Order for Specialty Products shall be placed at least thirty (30) calendar days prior to the Delivery Date.

(b) Purchase Orders for Products supplied by FC Sales Inc. shall be placed at least thirty (30) Business Days prior to the Delivery Date, subject to FC Sales Inc.'s inventory.

(c) Each Purchase Order shall include:

(i) a unique Purchase Order number;

(ii) the delivery address;

(iii) the bill-to address;

(iv) the date of the Purchase Order;

(v) terms for payment;

(vi) mode of shipment;

(vii) terms for title transfer of shipment (e.g. FOB [Location]);

(viii) a description of the Products;

(ix) Specifications, if applicable; and

(x) the Delivery Date(s).

(d) This Agreement shall govern each Purchase Order, and any conflict or inconsistency between the terms of this Agreement and a Purchase Order shall be resolved in favor of this Agreement. No additional or conflicting terms in any acknowledgement or acceptance from the Supplying Party shall govern.

(e) Except as provided in Sections 2.7, 3.2 and 3.3, nothing in this Agreement shall restrict a Supplying Party from procuring the Products from any third party.

2.3 Acceptance of Purchase Orders.

(a) The Supplying Party shall notify the Ordering Party within five (5) Business Days of receipt of any Purchase Order setting forth either (i) its acceptance of the Purchase Order; or (ii) any proposed amendments to the Delivery Date(s), quantities and/or Specifications for the Products ordered. Failure by the Supplying Party to notify the Ordering Party within five (5) Business Days of receipt of a Purchase Order shall be deemed a rejection of the Purchase Order.

(b) If the Supplying Party responds pursuant to 2.3(a)*(ii)* above, the Ordering Party and the Supplying shall negotiate in good faith and in a timely manner such Delivery Dates, quantities and Specifications, if applicable. Upon agreement of the parties, an authorized representative of each party shall execute the Purchase Order and upon the date of the Supplying Party's execution the Purchase Order shall be deemed accepted.

(c) If FC Products LLC is the Supplying Party and the price of any Product ordered as calculated according to the terms of this Agreement is higher than the price of such Product on the Price List, FC Products LLC shall include the current price in its notification under Section 2.3(a), after which notice FC Sales Inc. shall have an additional two (2) Business Days to reject the Purchase Order by giving FC Products LLC written notice of its intent to reject the Purchase Order. Failure by FC Sales Inc. to provide such written notice after a price change notification shall be deemed acceptance of all the terms of the Purchase Order, including price.

(d) Each Purchase Order shall become binding upon the parties upon acceptance.

2.4 Purchase Order Adjustments. The Ordering Party may at any time request a change in a Purchase Order (including in any Specifications), by submitting written notice by means of a mailed, couriered, electronic or facsimile communication to the Supplying Party detailing the nature, extent and proposed manner of performance of the proposed change, and estimated scheduling, pricing and cost information relating thereto. The Supplying Party shall evaluate each such request, and submit to the Ordering Party a written response, unless otherwise agreed by the parties, to each such request within five (5) Business Days following receipt thereof. The Supplying Party's written response shall address any impact the proposed changes will have on the Purchase Order. The parties shall negotiate the desired changes in good faith. If the parties agree to the changes, the Ordering Party shall prepare a written description of the agreed changes (a "*Revised Purchase Order*"), which will become effective when accepted in writing by the Supplying Party. Upon acceptance by the Supplying Party, the Revised Purchase Order will replace the original Purchase Order and will prevail over any inconsistent terms of the original Purchase Order. The Supplying Party agrees to implement such agreed changes in an expeditious and commercially prudent manner. If the parties do not agree to the changes requested via the Revised Purchase Order within five (5) Business Days of first receipt by the Supplying Party of written notice of the changes, the Ordering Party may terminate the Purchase Order to which the changes relate, in whole or in part, with written notice to Supplying Party. The Ordering Party shall reimburse the Supplying Party for the actual costs incurred by the Supplying Party that are directly related to the cancelled Purchase Order and that cannot be mitigated by the Supplying Party through returns, reuse or other commercially reasonable measures.

2.5 Cancellations. A Purchase Order may be canceled, in whole or in part, upon written notice by Ordering Party at any time prior to thirty (30) days before the applicable Delivery Date(s), provided that Purchase Orders for Binders and Totes must be cancelled at least sixty (60) days prior to the applicable Delivery Date(s). The Ordering Party shall reimburse the Supplying Party for the actual costs incurred by the Supplying Party that are directly related to the cancelled Purchase Order and that cannot be mitigated by the Supplying Party through returns, reuse or other commercially reasonable measures. In no event shall an Ordering Party be liable for any incidental, special, consequential or punitive damages for cancellation of any Purchase Orders submitted under this Agreement.

2.6 Forecasts. FC Sales Inc. shall provide FC Products LLC with a written forecast setting forth estimated orders FC Sales Inc. expects to place for all Planners at least twelve (12) months prior to the start date of such Planners. Eight (8) months prior to the

start date for any January 1 Planner and six (6) months prior to the start date of any other Planner, FC Sales Inc. shall confirm its estimated orders, as adjusted, in a written confirmation. FC Sales Inc. commits to purchase, and shall submit Purchase Orders for, at least 75 percent of the estimated orders of each type of Planner stated in such written confirmations. As used in this Section 2.6, "start date" means the first dated page contained in the Planner.

2.7 **Vendor Quality Standards.** The Supplying Party shall not engage any third party to manufacture or supply Products pursuant to this Agreement that is a Prohibited Party or that would damage or derogate from the goodwill, image and reputation of FC Products LLC, FC Sales Inc. or any Licensed Trademarks or Assigned Trademarks.

2.8 **Quality Standards.** In addition to all the terms and conditions of the License Agreement, Products delivered by the Supplying Party pursuant to this Agreement shall be of the same quality as like products sold by the Supplying Party in its usual channels of commerce.

ARTICLE III. SUPPLY OF PRODUCTS

3.1 **Products Supplied.** Subject to the terms and conditions of this Agreement and the License Agreement, each party shall manufacture, directly or indirectly, and supply the other party with its Products as set forth in any Purchase Order.

3.2 **Exclusivity.**

(a) FC Sales Inc. shall purchase all Products available for supply from FC Products LLC under this Agreement exclusively from FC Products LLC so long as the prices of such Products are price competitive (as described in the next sentence, "*Price Competitive*"). A price will be deemed Price Competitive if the invoice price prepared by FC Products LLC for such Product (excluding delivery and overhead costs such as freight and warehouse expenses) is at least as good as the invoice price FC Sales Inc. could obtain by sourcing the same product at the same quality and quantity levels and under the same time constraints in other channels, taking into account the totality of the business relationship provided by FC Sales Inc.; provided that prices supplied by a prospective vendor that are below the actual cost of production of the product (a loss leader) shall not be used for comparison.

(b) If FC Sales Inc. determines that any Product supplied by FC Products LLC subject to this Section 3.2 is no longer Price Competitive, FC Sales Inc. shall have the right to purchase such Product from a third party, subject to the restrictions of Section 2.7. If at any time FC Sales Inc. determines in good faith that FC Products LLC is no longer Price Competitive in the aggregate, FC Sales Inc. may solicit a bid or bids from third parties for all of the business it conducts under this Agreement or a substantial portion thereof. FC Products LLC shall have the right to match the bid and retain the business.

3.3 **Right of First Offer.**

(a) FC Sales Inc. agrees that it will purchase the Products listed in this Section 3.3 subject to a right of first offer to FC Products LLC to manufacture such Products. FC Products LLC shall have the exclusive right to manufacture any product subject to this

Section 3.3 if FC Products LLC meets FC Sales Inc.'s cost, quality and timeliness requirements as contained in the Purchase Order issued by FC Sales Inc. (including any Specifications).

(b) The following Products are subject to the right of first offer of this Section 3.3:

(i) Tailored Planners;

(ii) Training Planners;

(iii) Education Planners; and

(iv) Training-Oriented Products.

(c) If FC Products LLC declines to provide the Products listed in Section 3.3(b) on the terms and conditions provided by FC Sales Inc., FC Sales Inc. shall not source the same Product or Products from any third party on terms more favorable to such third party.

ARTICLE IV. DELIVERY AND ACCEPTANCE

4.1 **Shipment.** The Supplying Party shall ship Products in accordance with each binding Purchase Order. Products shall be marked for shipment to the Ordering Party, and delivered to a carrier designated by Ordering Party, F.O.B. the Supplying Party's facility.

4.2 Timely Delivery.

(a) Delivery of all shipments to the Ordering Party shall be at a minimum 95% on time on the Delivery Date (up to two days late). At its option, the Ordering Party (i) may, by notice to Manufacturer, cancel a Purchase Order, in whole or in part, for any Products which are not timely delivered, or (ii) may require a late shipment discount, as set forth in Section 4.2(b).

(b) Ordering Party's late shipment discounts are as follows:

(i) If the date on which the Ordering Party takes delivery of a Product is between three (3) and five (5) Business Days after the Delivery Date on the Purchase Order, the Ordering Party may take a five percent (5%) discount off the invoice price of such Product.

(ii) If the date on which the Ordering Party takes delivery of a Product is between six (6) and ten (10) Business Days after the Delivery Date on the Purchase Order, the Ordering Party may take a seven percent (7%) discount off the invoice price of such Product.

(iii) If the date on which the Ordering Party takes delivery of a Product is eleven (11) or more Business Days after the Delivery Date on the Purchase Order, the Ordering Party may take a ten percent (10%) discount off the invoice price of such Product.

4.3 **Acceptance.** Notwithstanding any written confirmation from the Supplying Party, any Product manufactured or supplied hereunder shall be received by the Ordering Party subject to inspection and performance testing in a commercially reasonable manner. The Ordering Party shall have five (5) Business Days from the date of receipt of each shipment of Products to determine to its reasonable satisfaction whether the Products are of the correct count and conform in all material respects to the applicable Specifications (the "*Testing Period*"). The Ordering Party's failure to provide notice of acceptance or rejection (pursuant to Section 4.4 below) to the Supplying Party prior to the end of the applicable Testing Period shall be deemed acceptance. The acceptance of any Product shall in no way limit the Ordering Party's rights under any warranty or for indemnification hereunder.

4.4 **Rejection.** If the Ordering Party reasonably determines that the Products (or any of them) are not of the correct count or do not conform to the Specifications, if applicable, or, to the quality standards set forth in Section 2.8, the Ordering Party may, at its option, reject the same by giving the Supplying Party written notice thereof by no later than the close of business on the last day of the applicable Testing Period. The Ordering Party may hold for the Supplying Party or return any rejected Products to the Supplying Party for credit for the full price of the rejected Products. Any exceptions to the foregoing sentence, in the form of replacement of rejected Products with reworked or new Products, will be negotiated by both parties. At the mutual agreement of the parties, the Supplying Party may recommend a remedy or workaround to cure any faults in the Products so that such Products are acceptable to the Ordering Party. All costs of return or destruction of rejected Products shall be borne by the Supplying Party.

ARTICLE V. PRICE AND PAYMENT

5.1 **Prices of Products Supplied by FC Products LLC.** FC Products LLC shall supply its Products to FC Sales Inc. at the prices set forth in this Section 5.1.

(a) At least once a year, FC Products LLC shall provide FC Sales Inc. with a list of prices applicable to all Products under this Agreement (the "*Price List*"), which FC Products LLC may, at its option, update from time to time. Prices on the Price List will apply to Products ordered pursuant to a Purchase Order, provided that FC Products LLC may indicate that a price has increased as provided in Section 2.3.

(b) Products purchased pursuant to the right of first offer in Section 3.3 of this Agreement shall be supplied at the price agreed upon by the parties.

(c) Products that are special orders because the requested Delivery Date does not comply with Section 2.2 or for some other reason shall be supplied at the price agreed upon by the parties.

(d) Assigned Software shall be supplied at MFN Pricing.

(e) Boxed PlanPlus Software shall be supplied at Standard Spread if to be used in connection with the Training-Oriented Products or Training-Oriented Services of an Affiliate of FC Sales Inc. and at MFN Pricing for all other uses.

(f) Except as otherwise provided in this Section 5.1, all Products supplied by FC Products LLC shall be supplied at Standard Spread.

5.2 Prices of Products Supplied by FC Sales Inc. FC Sales Inc. shall supply its Products to FC Products LLC at the prices set forth in this Section 5.2.

(a) Content-Rich Media that is available to FC Products LLC as of the Effective Date and that is listed on Exhibit R of the License Agreement, other than downloadable versions of such Content-Rich Media, shall be supplied to FC Products LLC at Standard Spread.

(b) There shall be no direct charge to FC Products LLC by FC Sales Inc. for sales of Boxed PlanPlus Software, and the parties agree that all charges payable by FC Products LLC shall be made directly to the software developer.

(c) For each unit of Online PlanPlus Software and Mobile PlanPlus Software sold by FC Products LLC in the three-year period following the Effective Date, FC Products LLC shall pay to FC Sales Inc. the Standard Spread for so long as FC Products LLC has received, in the then-current fiscal year, EBITDA contribution from such sales of less than $3,020,000; and FC Products LLC shall pay MFN Pricing for each unit sold thereafter for the remainder of such fiscal year. For each unit of Online PlanPlus Software and Mobile PlanPlus Software sold by FC Products LLC after the initial three-year period following the Effective Date, FC Products LLC shall pay to FC Sales Inc. MFN Pricing.

(d) Except as otherwise provided in Section 5.2 and subject to the terms and conditions of the License Agreement, all Products supplied by FC Sales Inc., including, for the avoidance of doubt, the 7 Habits Interactive Product, all downloadable versions of Content-Rich Media, and all Content-Rich Media created after the Effective Date, shall be supplied at MFN Pricing.

5.3 Invoices. The Supplying Party shall invoice the Ordering Party for the Product price upon shipment of Products under each Purchase Order. The Supplying Party shall invoice the Ordering Party for any other amounts due hereunder within five (5) days of the end of the month in which such amounts arose.

5.4 Payment. Undisputed payment for Products shall be due forty five (45) days from the date of receipt by the Ordering Party of invoice; provided, that if the Ordering Party rejects such Products pursuant to Section 4.4, and the parties agree to delivery of replacement products therefore, then payment shall be due for such replacement Products within forty five (45) days after receipt by the Ordering Party of invoice for replacement Products.

5.5 Taxes. All amounts due hereunder are inclusive of all taxes, duties, sales taxes, value added taxes, assessments, and similar taxes and duties relating to the Products.

ARTICLE VI. RECORD-KEEPING; AUDITS; RECALLS

6.1 Record-Keeping. The Supplying Party shall maintain adequate records concerning the manufacturing, packaging and labeling of Products supplied pursuant to this Agreement. The Supplying Party agrees that Ordering Party may review and obtain copies of

such records from the Supplying Party upon reasonable notice for the purposes of: (a) confirming that Products were manufactured in compliance with this Agreement and the License Agreement, and (b) that the prices charged to the Ordering Party pursuant to Article VI were calculated correctly.

6.2 **Inspections.** FC Products LLC and FC Sales Inc. shall cooperate, in a commercially reasonable manner, to ensure that the quality standards applicable to the Products are met by permitting the party requesting access and its agents, subject to a mutually acceptable confidentiality agreement, to inspect all manufacturing and other facilities related to the manufacture of such Products, no more than once per calendar year, during normal working hours, upon reasonable written notice to the other party of no less than five (5) Business Days, and then, only to the extent that FC Products LLC or FC Sales Inc., as applicable, is authorized to provide such access and subject to all applicable safety rules and regulations governing such manufacturing and other facilities.

6.3 **Records; Audit.** To assure compliance with the payment requirements of this Agreement, each of FC Products LLC and FC Sales Inc., through its independent auditors or agents, and subject to a confidentiality agreement, may, upon no less than five (5) Business Days' written notice, inspect the other party's applicable records at the requesting party's expense from time to time, and no more frequently than annually. If any inspection of the other party's records indicates an underpayment by an amount equal to or greater than five percent (5%) of any amounts due hereunder, such party shall promptly reimburse the other party for all reasonable expenses associated with such inspection along with the deficient amounts and interest calculated thereon at a simple annual rate of ten percent (10%). At the reasonable request of the other party, each party shall also undertake, at its own expense, an annual audit of such applicable records by a certified public accounting firm of national reputation reasonably satisfactory to the other party and shall provide such party with the findings thereof within thirty (30) days after the closing of FC Products LLC's or FC Sales Inc.'s books, as applicable, upon fiscal year end. Each of FC Products LLC and FC Sales Inc. shall maintain, or cause to be maintained, all records necessary to confirm that the prices charged by such party as Supplying Party pursuant to this Agreement were correctly calculated.

6.4 **Recalls.** If either party is required (or voluntarily decides) to initiate a recall of any Products, whether or not such recall has been requested or ordered by any federal, state or foreign agency, the parties shall cooperate in good faith to manage the recall and to allocate the costs of the recall.

ARTICLE VII. GOVERNANCE

7.1 **Supply Relationship Managers.** For a two-year period after the Effective Date, each of FC Sales Inc. and FC Products LLC shall appoint a relationship manager who shall serve as its primary point of contact for the other in all matters relating to this Agreement (each, a "*Supply Relationship Manager*"). Any Supply Relationship Manager may be removed by the party appointing such person by providing two (2) Business Days written notice to the other party. The Supply Relationship Managers shall participate in regular meetings to review the parties' performance hereunder, to resolve any issues arising out of the Agreement, and to otherwise manage the parties' relationship under this Agreement.

7.2 **Strategic Relationship Committee.** Issues arising under this Agreement may be referred to the Strategic Relationship Committee. Among other things, as mutually agreed by the parties, the Strategic Relationship Committee shall be responsible for resolving disputes on an informal basis.

ARTICLE VIII. EFFECTIVENESS, TERM AND TERMINATION

8.1 **Effectiveness; Term.** This Agreement shall become effective immediately upon the closing of the transactions contemplated in the Asset Purchase Agreement, which shall be the date first set forth above (the "*Effective Date*"), and shall continue in full force and effect unless and until terminated as provided in this Article VIII.

8.2 **Termination.**

(a) Each party shall have the right to terminate this Agreement effective immediately upon the termination of the License Agreement.

(b) FC Sales Inc. shall have the right to terminate this Agreement if FC Sales Inc. or any Affiliate agrees to purchase FC Products LLC or any Affiliate pursuant to the Right of First Negotiation contained in the License Agreement, which termination shall be effective as of the effective date of the transaction.

(c) Each party shall have the right to terminate this Agreement effective immediately upon:

(i) the filing by the other party of a petition in bankruptcy or insolvency;

(ii) any adjudication that the other party is bankrupt or insolvent;

(iii) the filing by the other party of any legal action or document seeking reorganization, readjustment or arrangement of such party's business under any law relating to bankruptcy or insolvency;

(iv) the appointment of a receiver for all or substantially all of the property of the other party;

(v) the making by the other party of any assignment for the benefit of creditors; or

(vi) sixty (60) days after the institution of any proceedings for the liquidation or winding up of the business of, or for the termination of the corporate charter of, the other party if such proceedings are not dismissed such sixty (60) day period.

8.3 Termination of a Purchase Order; Partial Termination.

(a) A Purchase Order may be terminated early by a non-breaching party with notice to the other party if the other party is in breach of any of its material obligations under a Purchase Order and fails to remedy that breach within thirty (30) days after receipt of written notice of such breach from the non-breaching party.

(b) Upon a material breach of this Agreement by FC Products LLC that is not cured within ninety (90) days after FC Sales Inc. provides written notice to FC Products LLC of the breach, FC Sales Inc. shall be released of its obligations under Sections 3.2 and 3.3. At any time during the ninety (90)-day period, FC Products LLC may elect to commence non-binding arbitration as provided in Section 12.7(d) with respect to question of whether either (i) the alleged breach by FC Products LLC gives rise to the right of partial termination or (ii) whether the material breach has been cured. The running of the ninety (90) day period shall stop if and when FC Products LLC elects to commence non-binding arbitration. Immediately upon the delivery of the written opinion of the arbitrator, if unfavorable to FC Products LLC, the running of the ninety (90) day cure period shall resume and shall expire at the end of the 90th day so counted or at the end of the 10th Business Day after the ninety (90) day cure period resumed, whichever is later. FC Products LLC may exercise its option to use non-binding arbitration only once for each incident or series of related incidents giving rise to a claim for partial termination.

8.4 Effect of Termination.

(a) Upon any termination of this Agreement, in addition to the parties' other rights and remedies at law and in equity, the parties shall have the following rights and obligations:

(i) the parties shall negotiate in good faith the delivery and payment of any Products under any outstanding binding Purchase Orders; and

(ii) except to the extent necessary to complete performance pursuant to Section 8.4(a) of this Agreement and to exercise the rights to sell termination inventory as set forth in Sections 8.5 and 8.6 in the License Agreement: (A) any license granted hereunder shall immediately terminate; and (B) each party shall return to the other party any of the other party's Confidential Information in such party's possession or control.

(b) Upon any termination of a Purchase Order pursuant to Section 8.3, the Ordering Party may return any Products purchased under such Purchase Order in return for reimbursement by the Supplying Party for all amounts paid for such Products. If the Ordering Party exercises its rights pursuant to the previous sentence, the Supplying Party shall refund any amounts paid by the Ordering Party for which no Products have been received by the Ordering Party, and the Ordering Party shall have no further obligations under the terminated Purchase Order. The Supplying Party shall pay for all costs of delivering Products returned pursuant to this Section 8.4(b).

8.5 Survival. The following provisions of this Agreement shall survive termination of this Agreement for any reason: Articles I, VIII, IX, X, XI and XII.

Termination of this Agreement by a party shall be without prejudice to any other right or remedy of such party under this Agreement or applicable law.

ARTICLE IX. INDEMNIFICATION

9.1 **Indemnification by FC Products LLC.** FC Products LLC shall, at its own expense, indemnify, defend, and hold harmless FC Sales Inc. and its Affiliates, and their respective officers, directors, employees and representatives, from and against any claim, demand, cause of action, liability, expense (including attorney's fees and costs), or damages to the extent arising from a third-party claim with respect to:

(a) Products supplied by FC Products LLC, including any claim alleging product liability, injury to property or person or infringement of intellectual property rights (except to the extent that FC Sales Inc. is obligated to provide indemnification for such infringement claim under the License Agreement or Asset Purchase Agreement);

(b) any breach by FC Products LLC of this Agreement;

(c) any material violation by FC Products LLC of a domestic or international law or regulation relating to relating to the manufacturing, import or export of Products; and

(d) any negligence or willful misconduct of FC Products LLC or its agents, employees, directors or officers.

9.2 **Indemnification by FC Sales Inc.** FC Sales Inc. shall, at its own expense, indemnify, defend, and hold harmless FC Products LLC and its Affiliates, and their respective officers, directors, employees and representatives, from and against any claim, demand, cause of action, liability, expense (including attorney's fees and costs), or damages to the extent arising from a third-party claim with respect to:

(a) Products supplied by FC Sales Inc., including any claim alleging product liability, injury to property or person or infringement of intellectual property rights;

(b) any breach by FC Sales Inc. of this Agreement;

(c) any material violation by FC Sales Inc. of a domestic or international law or regulation relating to relating to the manufacturing, import or export of Products; and

(d) any negligence or willful misconduct of FC Sales Inc. or its agents, employees, directors or officers.

9.3 **Procedures.** The party seeking to be indemnified pursuant to this Article IX (as applicable, the "*Indemnified Party*") shall be entitled to indemnification hereunder only (i) if it gives written notice to the party obligated to provide such indemnification hereunder (the "*Indemnifying Party*") of any claims, suits or proceedings by third parties which may give rise to a claim for indemnification with reasonable promptness after receiving written notice of such claim (or, in the case of a proceeding, is served in such proceeding); provided, however, that failure to give such notice shall not relieve the Indemnifying Party of its

obligation to provide indemnification, except if and to the extent that the Indemnifying Party is actually and materially prejudiced thereby, and (ii) once the Indemnifying Party confirms in writing to the Indemnified Party that it is prepared to assume its indemnification obligations hereunder, the Indemnifying Party has sole control over the defense of the claim, at its own cost and expense; provided, however, that the Indemnified Party shall have the right to be represented by its own counsel at its own cost in such matters. Notwithstanding the foregoing, the Indemnifying Party shall not settle or dispose of any such matter in any manner which would require the Indemnified Party to make any admission, or to take any action (except for ceasing use or distribution of the items subject to the claim) without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld or delayed. Each party shall reasonably cooperate with the other party and its counsel in the course of the defense of any such suit, claim or demand, such cooperation to include using reasonable efforts to provide or make available documents, information and witnesses and to mitigate damages.

ARTICLE X. WARRANTIES, LIMITATION OF WARRANTIES AND LIABILITY

10.1 Warranties.

(a) FC Products LLC warrants to FC Sales Inc. that the Products supplied by FC Products LLC shall (i) conform to the Specifications, if applicable, and to the quality standards set forth in Section 2.8; (ii) meet and be manufactured in conformity with the License Agreement and Section 2.7 of this Agreement; (iii) be free and clear of any lien or encumbrance; (iv) be merchantable; and (v) be new.

(b) FC Sales Inc. warrants to FC Products LLC that the Products supplied by FC Sales Inc. shall (i) conform to the quality standards set forth in Section 2.8; (ii) be manufactured in conformity with Section 2.7 of this Agreement; (iii) be free and clear of any lien or encumbrance; (iv) be merchantable; and (v) be new.

(c) EXCEPT AS SET FORTH IN SECTION 10.1(a) AND (b), THE PARTIES HEREBY SPECIFICALLY DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, VALIDITY, ENFORCEABILITY, TITLE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND ANY WARRANTIES THAT MAY ARISE DUE TO COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, WHETHER RELATED TO THE LICENSED MATERIALS OR OTHERWISE.

10.2 Damages. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, IN NO EVENT SHALL FC PRODUCTS LLC, FC SALES INC., THEIR AFFILIATES, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, LICENSORS, LICENSEES, SUPPLIERS OR OTHER REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE LIABILITY, OR LIABILITY FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, DIMINUTION IN VALUE, OR LOSS OF GOODWILL ARISING FROM OR RELATING TO THIS AGREEMENT, THE LICENSED

MATERIALS OR THE ASSIGNED TRADEMARKS, EVEN IF THE OTHER PARTY IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE XI. CONFIDENTIAL INFORMATION

11.1 **Definition.** "*Confidential Information*" means all information disclosed by one party (the "*Discloser*") to any other party (the "*Recipient*") (in writing, orally or in any other form) that is designated, at or before the time of disclosure, as confidential. Confidential Information does not include information or material that (a) is now, or hereafter becomes, through no act or failure to act on the part of the Recipient, generally known or available; (b) is or was known by the Recipient at or before the time such information or material was received from the Discloser, as evidenced by a contemporaneous writing; (c) is furnished to the Recipient by a third party that is not under an obligation of confidentiality to the Discloser with respect to such information or material; or (d) is independently developed by the Recipient, as evidenced by a contemporaneous writing.

11.2 **Restrictions on Use.** The Recipient shall hold Confidential Information in confidence and shall not disclose to third parties or use such information for any purpose whatsoever other than as necessary in order to fulfill its obligations or exercise its rights under this Agreement. The Recipient shall take all reasonable measures to protect the confidentiality of the other party's Confidential Information in a manner that is at least protective as the measures it uses to maintain the confidentiality of its own Confidential Information of similar importance. Notwithstanding the foregoing, the Recipient may disclose the other party's Confidential Information (a) to employees and consultants that have a need to know such information, provided that each such employee and consultant is under a duty of nondisclosure that is consistent with the confidentiality and nondisclosure provisions herein, and (b) to the extent the Recipient is legally compelled to disclose such Confidential Information, provided that the Recipient shall give advance notice of such compelled disclosure to the other party, and shall cooperate with the other party in connection with any efforts to prevent or limit the scope of such disclosure or use of the Confidential Information.

11.3 **Nonsolicitation.** During the term of this Agreement, neither party shall, directly or indirectly, (a) solicit or hire, or assist any other Person in soliciting or hiring (i) any person who is then, or within the previous twelve (12) month period was, employed by the other party or (ii) any person who is then in the process of being recruited by FC Sales Inc., or (b) induce any such employee to terminate his or her employment with the other party.

ARTICLE XII. MISCELLANEOUS

12.1 **Assignment.**

(a) FC Products LLC shall have no right to assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement, in whole or in part, except to (i) a wholly owned subsidiary of FC Products LLC or (ii) a Person who jointly and concurrently receives a valid assignment of the License Agreement as a valid assignee subject to all of the terms and conditions of the License

Agreement and any such assignee receiving the assignment (whether under clause (i) or (ii)) expressly agrees in writing to assume all of the obligations of FC Products LLC under this Agreement.

(b) FC Sales Inc. may assign this Agreement without FC Products LLC's consent to (i) a wholly owned subsidiary of FC Sales Inc., the parent corporation of FC Sales Inc., or a wholly owned subsidiary of the parent corporation of FC Sales Inc., or (ii) pursuant to an FC Sales Inc. Change of Control transaction, provided that that any such assignee receiving the assignment (whether under clause (i) or (ii)) expressly agrees in writing to assume all of the obligations of FC Sales Inc. under this Agreement.

(c) Except as provided herein, any purported assignment, sale, transfer, delegation or other disposition hereunder shall be null and void.

12.2 Injunctive Relief. Each party acknowledges that a breach by it of its obligations under this Agreement, including its obligations set forth in Article XI would cause the other party irreparable damage. Accordingly, each party agrees that in the event of such breach or threatened breach, in addition to remedies at law, the other party shall have the right to injunctive or other equitable relief, without the necessity of posting any bond or other security, to prevent the other's violations of its obligations hereunder, in addition to any other remedy to which they may be entitled, at law or in equity.

12.3 Severability. If any provision of this Agreement, or the application thereof to any Person, place or circumstance, are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, and the remainder of this Agreement and such provisions as applied to other Persons, places and circumstances shall remain in full force and effect.

12.4 Interpretation. Unless otherwise indicated to the contrary in this Agreement by the context or use thereof: (a) the words "herein," "hereto," "hereof" and words of similar import refer to this Agreement as a whole and not to any particular Section, Article or paragraph hereof; (b) references in this Agreement to Sections, Articles or paragraphs refer to sections, articles or paragraphs of this Agreement; (c) headings of Sections are provided for convenience only and shall not affect the construction or interpretation of this Agreement; (d) words importing the masculine gender shall also include the feminine and neutral genders, and vice versa; (e) words importing the singular shall also include the plural, and vice versa; (f) the words "include", "includes" and "including" shall be deemed to be followed in each case by the phrase "without limitation"; (g) any reference to a statute refers to the statute, any amendments or successor legislation, and all regulations promulgated under or implementing the statute, as in effect from time to time; (h) any reference to an agreement, contract or other document as of a given date means the agreement, contract or other document as amended, supplemented and modified from time to time through such date; (i) "$" and "Dollars" mean the lawful currency of the United States of America and any threshold set in Dollars herein shall be deemed to refer to the equivalent amount in any other currency, as the context may require; and (j) "or" shall include the meanings "either" or "both."

12.5 **Amendment and Waiver.** This Agreement may not be amended, a provision of this Agreement or any default, misrepresentation or breach of warranty or agreement under this Agreement may not be waived, and a consent may not be rendered, except in a writing executed by the party against which such action is sought to be enforced. Neither the failure nor any delay by any Person in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. In addition, no course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify or amend any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement. The rights and remedies of the parties to this Agreement are cumulative and not alternative.

12.6 **Governing Law.** The domestic law, without regard to conflicts of laws principles, of the State of Utah will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement.

12.7 **Consent to Jurisdiction.**

(a) Each of the parties and all their Affiliates submit to the exclusive jurisdiction of any state or federal court sitting in Salt Lake City, Utah, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party and all of their Affiliates also agree not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the parties and all of their Affiliates waive any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect to any such action or proceeding.

(b) Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such person's respective address set forth above shall be effective service of process for any action, suit or proceeding in the state and federal courts located in the State Utah with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding clause (a). In addition, each party irrevocably and unconditionally waives application of the procedures for service of process pursuant to the Hague Convention for Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT

SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION.

(d) Either party may refer any of the disputes described in Section 8.3(b) as subject to possible arbitration to non-binding arbitration by a single arbitrator in accordance with the CPR Rules for Non-Administered Arbitration then currently in effect. The arbitrator shall deliver a written ruling on the disputed question or questions within one hundred twenty (120) days from the date on which the arbitration is commenced. If either party disagrees with the opinion delivered by the arbitrator, such party may initiate litigation subject to all of the terms and conditions of this Agreement. Notwithstanding the foregoing, nothing in this Section 12.7 shall limit a party's right to bring any action for injunctive relief under Section 12.2 at any time.

12.8 Independent Contractors. Each party is an independent contractor and neither party's personnel are employees or agents of the other party for federal, state or other taxes or any other purposes whatsoever, and are not entitled to compensation or benefits of the other. Except for the specific obligations set forth in this Agreement, nothing hereunder shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership or business entity of any kind, nor shall anything in this Agreement be deemed to constitute either party the agent or representative of the other.

12.9 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered if personally delivered by hand, (ii) when received if sent by a nationally recognized overnight courier service (receipt requested), (iii) five (5) business days after being mailed, if sent by first class mail, return receipt requested, or (iv) when receipt is acknowledged by an affirmative act of the party receiving notice, if sent by facsimile, telecopy or other electronic transmission device (provided that such an acknowledgement does not include an acknowledgment generated automatically by a facsimile or telecopy machine or other electronic transmission device). Notices, demands and communications to FC Products LLC and FC Sales Inc. will, unless another address is specified in writing, be sent to the address indicated below:

If to Franklin Covey Product Sales Inc.:

Franklin Covey Product Sales Inc.
2200 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Bill Bennett
Facsimile No.: (801) 817-8069

With a copy to (which shall not constitute notice):

Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84010
Attn: Nolan S. Taylor
Facsimile No.: (801) 933-7373

If to Franklin Covey Products, LLC:

Franklin Covey Products, LLC
2250 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Jeff Anderson
Facsimile No.: (801) 817-0280

With a copy to (which shall not constitute notice):

Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Attn: John G. Weston
Facsimile No.: (801) 257-1800

12.10 **Publicity.** The parties shall use reasonable efforts to cooperate in issuing a joint press release upon execution of this Agreement and in issuing further press releases related to this Agreement. If at any time disclosure regarding this Agreement is required under public reporting requirements of applicable securities laws and the parties are not able to agree on the content and manner of issuing such disclosure, FC Sales Inc. will be authorized to issue a sole release. Prior to issuing such a sole release, FC Sales Inc. shall provide FC Products LLC with an opportunity to review and comment on a draft of such release and will consider in good faith any comments that FC Products LLC communicates in a timely fashion on such draft press release.

12.11 **Complete Agreement.** This Agreement and all Exhibits attached hereto and, when executed and delivered, the Ancillary Agreements, contain the complete agreement between the parties and supersede any prior understandings, agreements or representations by or between the parties, written or oral. FC Products LLC acknowledges that FC Sales Inc. has made no representations, warranties, agreements, undertakings or promises except for those expressly set forth in this Agreement or in agreements referred to herein that survive the execution and delivery of this Agreement.

12.12 **Signatures, Counterparts.** This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument. A facsimile signature will be considered an original signature.

12.13 **Construction.** The parties and their respective counsel have participated jointly in the negotiation and drafting of this Agreement. In addition, each of the parties acknowledges that it is sophisticated and has been advised by experienced counsel and, to the extent it deemed necessary, other advisors in connection with the negotiation and drafting of this Agreement. The parties intend that each representation, warranty and agreement contained in this Agreement will have independent significance. If any party has breached any representation, warranty or agreement in any respect, the fact that there exists another representation, warranty or agreement relating to the same subject matter (regardless of the relative levels of specificity) that the party has not breached will not detract from or mitigate the fact that the party is in breach of the first representation, warranty or agreement. The headings preceding the text of articles and sections included in this Agreement and the headings to the schedules and exhibits are for convenience only and are not be deemed part of this Agreement or given effect in interpreting this Agreement. References to sections, articles, schedules or exhibits are to the sections, articles, schedules and exhibits contained in, referred to or attached to this Agreement, unless otherwise specified. The word "including" means "including without limitation." A statement that an action has not occurred in the past means that it is also not presently occurring. The use of the masculine, feminine or neuter gender or the singular or plural form of words will not limit any provisions of this Agreement. A statement that an item is listed, disclosed or described means that it is correctly listed, disclosed or described, and a statement that a copy of an item has been delivered means a true and correct copy of the item has been delivered.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first set forth above.

FRANKLIN COVEY PRODUCT SALES, INC.		**FRANKLIN COVEY PRODUCTS, LLC**	
By:	/s/ Steve Young	By:	/s/ Sarah Merz
Name:	Steve Young	Name:	Sarah Merz
Title:	Chief Financial Officer	Title:	Chief Executive Officer and President

Exhibit A Standard Spread

EXHIBIT A

STANDARD SPREAD

1. Standard Spread shall be calculated in the following manner.

2. Definitions

(a) "*Paper-Based Products*" means any paper-based Product manufactured or supplied by FC Products LLC, including without limitation all Planners.

(b) "*Non-Paper Products*" means (i) with respect to FC Products LLC, any Product other than a Paper-Based Product that is sourced or purchased by FC Products LLC and supplied to FC Sales Inc., including binders, specialty products, technology and other categories, and (ii) with respect to FC Sales Inc., any Content-Rich Media that is listed on Exhibit R of the License Agreement other than downloadable versions of such Content-Rich Media, any Online PlanPlus Software, and any Mobile PlanPlus Software supplied by FC Sales Inc.

(c) "*Direct Acquisition Cost*" means (i) for a Paper-Based Product directly manufactured by FC Products LLC, the allocated cost of the materials to manufacture such Product; (ii) for a Paper-Based Product supplied by FC Products LLC through a third-party manufacturer, the price listed on the invoice and paid by FC Products LLC plus the cost of shipping the Product to FC Sales Inc.'s facilities; and (iii) for Non-Paper Products, the price listed on the invoice and paid by the Supplying Party for the Product plus the cost of shipping the Product to the Supplying Party's facilities.

(d) "*Paper Production Margin*" means the Direct Acquisition Cost of the Paper-Based Product multiplied by 21.8 percent.

(e) "*Overhead Charge*" means (i) for Paper-Based Products, the product of 5 percent multiplied by the sum of (A) the Direct Acquisition Cost and (B) the Paper Production Margin, and (ii) for Non-Paper Products, the product of 8 percent multiplied by the Direct Acquisition Cost.

(f) "*Surcharge*" means an International Surcharge (as defined below) and/or a Back of Room Sales Surcharge (as defined below).

3. Base Formulas

(a) For Paper-Based Products, Standard Spread equals the sum of (i) Direct Acquisition Cost, (ii) the Paper Production Margin, (iii) the Overhead Charge and (iv) any applicable Surcharge.

(b) For Non-Paper Products, Standard Spread equals the sum of (i) the Direct Acquisition Cost, (ii) the Overhead Charge and (iii) any applicable Surcharge.

4. Surcharges

(a) Surcharges shall be applied to the result of the formulas set forth above if FC Products LLC must (i) ship the Product outside of the United States (an "*International Surcharge*") or (ii) provide the Product for Back of Room Sales (a "*Back of Room Sales Surcharge*").

(b) For all Products supplied at Standard Spread, the International Surcharge is the product of the base formula multiplied by 15 percent.

(c) For all Products supplied at Standard Spread, the Back of Room Sales Surcharge is the product of the base formula multiplied by fifty percent (50%). If a Product is supplied to a Back of Room Sale outside the United States, the Back of Room Surcharge is calculated after adding in the International Surcharge.

Exhibit 10.3

MASTER SHARED SERVICES AGREEMENT

BETWEEN

THE FCP COMPANIES IDENTIFIED HEREIN

AND

THE SHARED SERVICES COMPANIES IDENTIFIED HEREIN

MADE EFFECTIVE AS OF

JULY 5, 2008, 11:59 P.M., MOUNTAIN DAYLIGHT TIME

MASTER SHARED SERVICES AGREEMENT

This **MASTER SHARED SERVICES AGREEMENT** (this "*Agreement*"), dated as of July 7, 2008, and effective as of July 5, 2008, at 11:59 P.M. Mountain Daylight Time, is made by and among Franklin Covey Products, LLC, a Utah limited liability company ("*FCP*"), Franklin Covey Products Canada ULC, a Canadian corporation ("*FCP Canada*"), Franklin Covey Products Europe Limited, a company registered in the United Kingdom ("*FCP Europe*"), and FC Products de Mexico S. de R.L. de C.V. ("*FCP Mexico*" and, together with FCP, FCP Canada and FCP Europe, the "*FCP Companies*"), and Franklin Covey Co., a Utah corporation (the "*Company*"), Franklin Covey Client Sales, Inc., a Utah corporation ("*Client Sales*"), Franklin Covey Product Sales, Inc., a Utah corporation ("*Product Sales*"), Franklin Development Corp., a Utah corporation ("*Development*"), Franklin Covey de Mexico S. de R.L. de C.V. ("*FC Mexico*"), Franklin Covey Canada, Ltd. ("*Canada*"), and Franklin Covey Europe, Ltd. ("*Europe*" and together with the Company, Client Sales, Product Sales, FC Mexico and Canada, the "*Shared Services Companies*").

Recitals

WHEREAS, the Shared Services Companies and FCP, together with the other Selling Companies named therein, are parties to a Master Asset Purchase Agreement dated as of May 22, 2008, as amended (the "*Master Asset Purchase Agreement*") and the Ancillary Agreements contemplated therein (collectively, the "*Transaction Agreements*"), including the Master License Agreement effective as of July 5, 2008 at 11:59 P.M. Mountain Daylight Time (the "*Master License Agreement*"), pursuant to which the Selling Companies have agreed to sell and license to FCP or the other FCP Companies, and FCP has agreed to buy and license, or cause the other FCP Companies to buy and license, from the Selling Companies, certain assets relating to the Company's Consumer Solution Business Unit (the "*Business*") as identified therein; and

WHEREAS, in connection with the transactions contemplated by the Transaction Agreements, the Shared Services Companies, FCP and the other FCP Companies have agreed to enter into this Agreement to provide for the provision of certain shared services on the terms and conditions and for the time periods set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Definitions. Any term used herein that is not defined in this Agreement but is defined in the Transaction Agreements has the meaning ascribed to it in the Transaction Agreements.

2. Shared Services.

(a) Services. On the terms and subject to the conditions of this Agreement, from and after the Closing Date, the Shared Services Companies will provide to the FCP Companies the services described on the Schedules attached to this Agreement (the "*Shared Services*") and other services described in this Agreement. A list of the Schedules is attached to this Agreement as Exhibit 1. Unless otherwise provided in any Schedule, the term

"*Consistent With Past Practice*" means substantially in the same scope, nature and manner as such services were provided immediately prior to the Closing Date.

(b) Pricing. In consideration of the provision of each of the Shared Services, the applicable FCP Companies will pay the amounts set forth on each of the Schedules attached hereto (as such schedules may be amended from time to time, the "*Schedules*"). Except as provided on the Schedules, on or before the first day of each month, the applicable FCP Companies will pay to the Company, in advance, any fixed fee amounts for Shared Services to be provided by the Shared Services Companies to any FCP Companies in each month, as set forth on the Schedules. Unless otherwise set forth on the Schedules, the Company will invoice FCP monthly for all other Shared Services rendered through the end of each month, or as otherwise provided in the Schedules or agreed by the parties in writing, and FCP will pay, or will cause the other FCP Companies to pay, as applicable, all invoices in full within forty-five (45) days of receipt. The parties agree that (i) the amounts set forth in the Schedules (including, but not limited to, the fixed fees set forth in Schedule A and Schedule B) are based upon historical allocations of costs attributable to the Business prior to the Closing Date, and (ii) none of such amounts set forth in the Schedules represent a premium or mark-up above the Company's historical allocated or estimated costs to provide such Shared Services.

(c) Third-Party Services.

(i) On the terms and subject to the conditions of this Agreement, the Company will use commercially reasonable efforts to cause the services set forth on the Schedules attached hereto, which prior to the Closing Date were provided to the Business by third parties ("*Third-Party Services*"), to be provided to the FCP Companies as set forth on the Schedules attached hereto. If any additional services are provided to the Business by third parties and such services have not been assigned to FCP pursuant to the Master Asset Purchase Agreement or have not otherwise been provided for in this Agreement or in the Ancillary Agreements, the Company and FCP will, in good faith, seek to enter into any additional Schedules pursuant to Section 2(d) of this Agreement so that such services may be provided to the FCP Companies.

(ii) If the Company has not obtained all Required Consents pursuant to the Master Asset Purchase Agreement, and irrespective of such failure, the Closing occurs, then, in accordance with Section 2.9 of the Master Asset Purchase Agreement, the Company will use commercially reasonable efforts to obtain all such Required Consents as promptly as reasonably practicable following Closing. Prior to obtaining such unobtained Required Consents, the Shared Services Companies will (1) as requested by FCP, (A) use commercially reasonable efforts to provide the benefits of the Restricted Assets to the FCP Companies in substantially the same manner as such benefits were provided to the Business immediately prior to the Closing Date, or (B) cooperate in good faith with the FCP Companies to pursue and effectuate any reasonable and lawful alternative arrangement to provide the benefits of the Restricted Assets to the FCP Companies including, with respect to unobtained Required Consents relating to leases of real property, entering into subleases to the extent permitted under the terms of the applicable lease agreements; and (2) as reasonably requested by any FCP Company, enforce any rights of the Shared Services Companies under any

Restricted Asset or, to the extent permitted under any agreement that is the subject of an unobtained Required Consent, assign the right to enforce such rights to the FCP Companies.

(iii) FCP shall reimburse the Company for any actual costs, expenses or other obligations to third parties that the Company incurs in performing services related to the Restricted Assets or enforcing any rights under the Restricted Assets pursuant to Section 2(c)(ii). Pursuant to Section 2(b), the Company will provide FCP an invoice containing a reasonably detailed description of the services provided by the Company under this Section 2(c)(iii), and FCP shall pay the Company, for such actual costs, expenses or other obligations for which it is entitled to reimbursement pursuant to this Section 2(c)(iii) as set forth in the invoice. Notwithstanding anything to the contrary contained in this Agreement, in no event shall any FCP Company be obligated to reimburse the Company for any costs, expenses or other obligations incurred by the Company in connection with obtaining any Required Consent.

(iv) If the Company successfully obtains a Required Consent following the Closing Date, the Restricted Assets related to such Required Consent will be transferred to the FCP Companies pursuant to the terms of the Master Asset Purchase Agreement and will no longer be subject to the terms of this Agreement.

(d) Other Shared Services. During the term of this Agreement, the Shared Services Companies may provide additional services to the FCP Companies pursuant to the terms of this Agreement that are not specifically referenced in this Section 2 or on the Schedules, provided that such additional services are requested by FCP in writing, are consistent with the types of services provided by the Shared Services Companies to the Business prior to the Closing Date, and are described in a Schedule executed by the parties and attached to and incorporated into this Agreement.

3. Standard of Performance. For Shared Services provided directly by the Shared Services Companies, the Shared Services Companies will perform such Shared Services in a timely, competent and workmanlike manner and in a nature and at levels Consistent With Past Practice; provided, however, that if the Shared Services are of a kind that the Shared Services Companies provide internally or to other Shared Services Companies, and, following the Closing Date, the Shared Services Companies provide such Shared Services in a manner or at a level higher than such Shared Services were provided prior to the Closing Date, such Shared Services Companies will in good faith provide such Shared Services consistent with the manner or level at which they are then providing such Shared Services.

4. Relationship Managers**.** Each of the Company and FCP shall appoint a relationship manager who shall serve as its primary point of contact in all matters relating to this Agreement (a "*Relationship Manager*"). The Relationship Managers shall participate in regular meetings to review the parties' performance hereunder, to resolve any issues arising out of the rights granted to and obligations undertaken by, the parties hereunder, to prepare and execute revised and/or additional Schedules for Shared Services, and otherwise to manage the parties' relationship under this Agreement.

5. Confidentiality.

(a) Definition. "*Confidential Information*" means all information disclosed by a FCP Company or a Shared Services Company (the "*Discloser*") to a Shared Services Company or a FCP Company, respectively (the "*Recipient*") (in writing, orally or in any other form) that is designated, at or before the time of disclosure, as confidential. Confidential Information does not include information or material that (i) is now, or hereafter becomes, through no act or failure to act on the part of the Recipient, generally known or available; (ii) is or was known by the Recipient at or before the time such information or material was received from the Discloser; (iii) is furnished to the Recipient by a third party that is not under an obligation of confidentiality to the Discloser with respect to such information or material; or (iv) is independently developed by the Recipient.

(b) Restrictions on Use. The Recipient shall hold Confidential Information in confidence and shall not disclose to third parties or use such information for any purpose whatsoever other than as necessary in order to fulfill its obligations or exercise its rights under this Agreement. The Recipient shall take all reasonable measures to protect the confidentiality of the Discloser's Confidential Information in a manner that is at least protective as the measures it uses to maintain the confidentiality of its own Confidential Information of similar importance. Notwithstanding the foregoing, the Recipient may disclose the Discloser's Confidential Information (i) to employees and consultants that have a need to know such information, provided that each such employee and consultant is under a duty of nondisclosure that is consistent with the confidentiality and nondisclosure provisions herein, and (ii) to the extent the Recipient is legally compelled to disclose such Confidential Information, provided that the Recipient shall give advance notice of such compelled disclosure to the Discloser, and shall cooperate with the Discloser in connection with any efforts to prevent or limit the scope of such disclosure or use of the Confidential Information.

6. Term and Termination.

(a) Term. The term of this Agreement will commence on the date hereof and continue until the termination of the last to terminate of the Schedules attached hereto, unless earlier terminated in accordance with this Section 6, provided that in no event shall the provisions of Sections 2(c)(ii), (iii) and (iv) terminate unless and until all Required Consents have been obtained.

(b) Termination. Except as otherwise provided in any Schedule, either the Company or FCP may terminate any of the Shared Services contemplated in any Schedule at any time without cause by providing the number of days advance written notice as is specified in such Schedule for the Shared Services to be terminated. Such termination will not affect FCP's obligation to make full payment for all services actually rendered under this Agreement prior to such termination or the parties' obligations with regard to other Schedules still in force.

(c) Bankruptcy. If either the Company or FCP hereto becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors, or if a receiver is appointed to take charge of its property and such proceeding is not vacated or terminated within ninety (90) days after its commencement or institution, the other may immediately terminate this Agreement by written notice. Any such termination will be without prejudice to accrued rights of the terminating party, and to other rights and remedies for default.

7. Miscellaneous.

(a) Assignment. Unless this Agreement is (i) assigned by any FCP Company to another FCP Company or (ii) assigned jointly and concurrently with the Master License Agreement to the same assignee as the valid assignee of the Master License Agreement subject to all of the terms and conditions of the Master License Agreement, and any such assignee (whether under clause (i) or (ii)) expressly agrees in writing to assume all of the obligations of the FCP Companies or the applicable assigning FCP Company under this Agreement, no FCP Companies shall, and shall have the right to, assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any of their rights or obligations under this Agreement without the prior written consent of the Company in its sole discretion. Unless this Agreement is assigned by any Shared Services Company to another Shared Services Company, by operation of law or pursuant to a Change in Control (as defined below), such Shared Services Company shall not have the right to, assign, sell, transfer, delegate or otherwise dispose of this Agreement or any of their rights or obligations under this Agreement to any third-party without the prior written consent of FCP in its sole discretion; provided that any Shared Services Company may assign the performance of any Shared Services to another Shared Services Company without the consent of FCP. Except as expressly provided herein, any purported assignment, sale, transfer, delegation or other disposition hereunder shall be null and void. The term "*Change in Control*" means (i) a merger, consolidation or reorganization of a Shared Services Company other than a merger, consolidation or reorganization resulting in the voting securities of such Shared Services Company outstanding immediately prior thereto continuing to represent at least 50% of the combined voting power of the securities of such Shared Services Company or the surviving entity or any parent thereof outstanding immediately thereafter, (ii) the acquisition by a person or persons acting as a group of equity securities,

which together with equity securities already held by such person or persons, constitutes more than 50% of the total voting power of such Shared Services Company or (iii) any transfer or other disposition of all or substantially all such Shared Services Company's assets.

(b) Severability. If any provision of this Agreement, or the application thereof to any person, place or circumstance, are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, and the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(c) Interpretation.

(i) Unless otherwise indicated to the contrary in this Agreement by the context or use thereof: (a) the words "herein," "hereto," "hereof" and words of similar import refer to this Agreement as a whole and not to any particular Section, Article or paragraph hereof; (b) references in this Agreement to Sections or paragraphs refer to sections, articles or paragraphs of this Agreement; (c) headings of Sections are provided for convenience only and shall not affect the construction or interpretation of this Agreement; (d) words importing the masculine gender shall also include the feminine and neutral genders, and vice versa; (e) words importing the singular shall also include the plural, and vice versa; (f) the words "include", "includes" and "including" shall be deemed to be followed in each case by the phrase "without limitation"; (g) any reference to a statute refers to the statute, any amendments or successor legislation, and all regulations promulgated under or implementing the statute, as in effect from time to time; (h) any reference to an agreement, contract or other document as of a given date means the agreement, contract or other document as amended, supplemented and modified from time to time through such date; (i) "$" and "Dollars" mean the lawful currency of the United States of America and any threshold set in Dollars herein shall be deemed to refer to the equivalent amount in any other currency, as the context may require; and (j) "or" shall include the meanings "either" or "both;" (k) any statements that an action has not occurred in the past means that it is also not presently occurring; and (l) any statement that an item is listed, disclosed or described means that it is correctly listed, disclosed or described, and a statement that a copy of an item has been delivered means a true and correct copy of the item has been delivered.

(ii) The parties and their respective counsel have participated jointly in the negotiation and drafting of this Agreement. In addition, each of the parties acknowledges that it is sophisticated and has been advised by experienced counsel and, to the extent it deemed necessary, other advisors in connection with the negotiation and drafting of this Agreement. The parties intend that each representation, warranty and agreement contained in this Agreement will have independent significance. Except as otherwise provided in this Agreement or any Transaction Agreement, when any party may take any permissive action, including the granting of a consent, the waiver of any provision of this Agreement or otherwise, whether to take such action is in its sole and absolute discretion.

(d) Amendment and Waiver. Except as otherwise provided herein, including the addition or revision of Schedules pursuant to Sections 2(d) and 4, this Agreement may not be amended, a provision of this Agreement or any default, misrepresentation or breach of warranty or agreement under this Agreement may not be waived, and a consent may not be rendered, except in a writing executed by the party against which such action is sought to be enforced. Neither the failure nor any delay by any party in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. In addition, no course of dealing between or among any parties having any interest in this Agreement will be deemed effective to modify or amend any part of this Agreement or any rights or obligations of any party under or by reason of this Agreement. The rights and remedies of the parties to this Agreement are cumulative and not alternative.

(e) Governing Law. The domestic law, without regard to conflicts of laws principles, of the State of Utah will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement.

(f) Consent to Jurisdiction.

(i) Each of the parties submits to the exclusive jurisdiction of any state or federal court sitting in Salt Lake City, Utah, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect to any such action or proceeding.

(ii) The parties further agree that service of any process, summons, notice or document by U.S. registered mail to such person's respective address set forth above shall be effective service of process for any action, suit or proceeding in the state and federal courts located in the State of Utah with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding clause (i).

(iii) EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER

INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION.

(iv) The parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly by confidential mediation under the CPR Mediation Procedure in effect on the Effective Date, before resorting to litigation. If such dispute or claim is not settled by the parties through mediation within forty-five (45) days after the first meeting of the parties with the mediator to discuss the matter, or if the parties agree to terminate mediation sooner, then either party may initiate a litigation action subject to all of the terms and conditions of this Agreement.

(g) Limitation on Liability.

(i) Except as otherwise set forth in any Schedule, if any of the Shared Services Companies, on the one hand, or any of the FCP Companies, on the other (in either case, the "*Liable Party Group*"), is held or found to be liable to any of the FCP Companies, on the one hand, or any of the Shared Services Companies, on the other (the "*Recipient Party Group*"), for any claim, liability, loss or expense (a "*Loss*") relating to or arising from a breach of any representation or warranty contained in this Agreement, whether based on an action or claim in contract, negligence, tort or otherwise, the amount of damages recoverable for such Loss by the Recipient Party Group from the Liable Party Group will not exceed $3,200,000 minus the sum of (A) the aggregate amount of Losses arising under this Agreement and paid by the Liable Party Group to the Recipient Party Group, and (B) the aggregate amount of any liabilities for damages arising from a breach of any representation or warranty contained in any Transaction Agreement paid by the Liable Party Group to the Recipient Party Group.

(ii) Except as otherwise set forth in any Schedule, the Shared Services Companies shall have no liability to any FCP Company for any Loss arising from or relating to (A) the Shared Services except to the extent such Loss is caused by the willful misconduct or fraud of a Shared Services Company or (B) any services provided by a third party in connection with the Shared Services, provided, however, that, as reasonably requested by FCP, the Company will use commercially reasonable efforts to enforce any rights the Shared Services Companies may have against any such third party or, to the extent permitted under any agreement with such third party, use commercially reasonable efforts to assign the right to enforce such rights to FCP. FCP shall bear the costs of any enforcement action taken by any Shared Services Company as contemplated in clause (B) in accordance with the provisions of Section 2(c)(iii) of this Agreement.

(iii) Except as otherwise set forth in any Schedule, nothing in this Agreement shall limit the Shared Services Companies from pursuing all rights and remedies that may be available to them relating to all amounts due and payable to the Shared Services Companies by any FCP Company pursuant to this Agreement or any of the Schedules.

(h) Independent Contractors. Each party is an independent contractor and neither party's personnel are employees or agents of the other party for federal, state or other taxes or any other purposes whatsoever, and are not entitled to compensation or benefits of the other.

Except for the specific obligations set forth in this Agreement, nothing hereunder shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership or business entity of any kind, nor shall anything in this Agreement be deemed to constitute either party the agent or representative of the other.

(i) Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered if personally delivered by hand, (ii) when received if sent by a nationally recognized overnight courier service (receipt requested), (iii) five business days after being mailed, if sent by first class mail, return receipt requested, or (iv) when receipt is acknowledged by an affirmative act of the party receiving notice, if sent by facsimile, telecopy or other electronic transmission device (provided that such an acknowledgement does not include an acknowledgment generated automatically by a facsimile or telecopy machine or other electronic transmission device). Notices, demands and communications to the FCP Companies and the Shared Services Companies will, unless another address is specified in writing, be sent to the address indicated below:

If to the Shared Services Companies:

Franklin Covey Co.
2200 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Lori Smith
Facsimile No. (801) 817-8747

With a copy to:

Dorsey & Whitney LLP
136 South Main Street, Suite 1000
Salt Lake City, Utah 84010
Attn: Nolan S. Taylor
Facsimile No. (801) 933-7373

If to the FCP Companies:

Franklin Covey Products, LLC
2250 West Parkway Blvd.
Salt Lake City, Utah 84119
Attn: Robert Sumbot
Facsimile No.

With a copy to:

Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Attn: John G. Weston
Facsimile No. (801) 257-1800

(j) Complete Agreement. This Agreement and the Schedules and Exhibits attached hereto and, when executed and delivered, the Master Asset Purchase Agreement and the Ancillary Agreements, contain the complete agreement between the parties and supersede any prior understandings, agreements or representations by or between the parties, written or oral. FCP acknowledges that the Company has made no representations, warranties, agreements, undertakings or promises except for those expressly set forth in this Agreement or in agreements referred to herein that survive the execution and delivery of this Agreement.

(k) Signatures, Counterparts**.** This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument. A facsimile signature will be considered an original signature.

[*signature page follows*]

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

FRANKLIN COVEY PRODUCTS, LLC

By: /s/ Sarah Merz
Name: Sarah Merz
Title: Chief Executive Officer and President

FRANKLIN COVEY PRODUCTS CANADA ULC

By: /s/ Sarah Merz
Name: Sarah Merz
Title: Chief Executive Officer and President

FRANKLIN COVEY PRODUCTS EUROPE LIMITED

By: /s/ Sarah Merz
Name: Sarah Merz
Title: Chief Executive Officer and President

FC PRODUCTS DE MEXICO, S. DE R.L. DE C.V.

By: /s/ Sarah Merz
Name: Sarah Merz
Title: Chief Executive Officer and President

FRANKLIN COVEY CO.

By: /s/ Robert A. Whitman
Name: Robert A. Whitman
Title: Chairman and Chief Executive Officer

FRANKLIN COVEY CLIENT SALES, INC.

By: /s/ Steve Young
Name: Steve Young
Title: Chief Financial Officer

FRANKLIN COVEY PRODUCT SALES, INC.

By: /s/ Steve Young
Name: Steve Young
Title: Chief Financial Officer

FRANKLIN DEVELOPMENT CORP.

By: /s/ Robert A. Whitman
Name: Robert A. Whitman
Title: President

FRANKLIN COVEY CANADA, LTD.

By: /s/ Robert A. Whitman
Name: Robert A. Whitman
Title: President

FRANKLIN COVEY EUROPE, LTD.

By: /s/ Robert A. Whitman

Name: Robert A. Whitman

Title: President

FRANKLIN COVEY DE MEXICO S. DE R.L. DE C.V.

By: /s/ Robert A. Whitman

Name: Robert A. Whitman

Title: President

Exhibit 10.4

AMENDED AND RESTATED OPERATING AGREEMENT

OF

FRANKLIN COVEY PRODUCTS, LLC

AMENDED AND RESTATED OPERATING AGREEMENT

OF

FRANKLIN COVEY PRODUCTS, LLC

THIS AMENDED AND RESTATED OPERATING AGREEMENT (this "Agreement"), is dated as of July 7, 2008 but effective as of July 5, 2008 at 11:59 pm Mountain Daylight Time (the "Effective Date"), by and among FRANKLIN COVEY PRODUCTS, LLC, a Utah limited liability company ("Franklin Covey Products"), PETERSON PARTNERS V, L.P., a Delaware limited partnership ("Peterson"), FRANKLIN COVEY CLIENT SALES, INC., a Utah corporation ("FC"), SARAH MERZ, an individual, GORDON WILSON, an individual, RICK WOODEN, an individual, JEFF ANDERSON, an individual, BOB SUMBOT, an individual, KENT FROGLEY, an individual, MIKE CONNELLY, an individual, BRYAN WILDE, an individual and ERIC BRIGHT, an individual, as members of the Company (the "Members") and JORDAN CLEMENTS, an individual, JAMES B. NELSON, an individual, ROBERT A. WHITMAN, an individual, and SARAH MERZ, an individual, as managers of the Company (the "Managers").

For the consideration of their mutual covenants hereinafter set forth, the Company and the Members and Managers hereby agree as follows:

RECITALS

WHEREAS, the Company was formed upon the filing of Articles of Organization on May 22, 2008 and entered into that certain Operating Agreement of the Company dated May 22, 2008 (the "Original Operating Agreement");

WHEREAS, the Company entered into the Asset Purchase Agreement and the Ancillary Agreements to purchase and otherwise acquire the Business;

WHEREAS, in connection with the Closing, Peterson and certain other Members are contributing certain amounts to the Company in exchange for Class A Units, as further described in this Agreement;

WHEREAS, in connection with the Closing, FC is contributing a certain amount to the Company in exchange for Class B Units, as further described in this Agreement;

WHEREAS, in connection with the Closing, FC is also contributing one million dollars ($1,000,000) for which no additional Units will be issued to FC but with respect to which FC shall be entitled to the FC Preferred Return and a priority distribution as set forth in this Agreement;

WHEREAS, the Company desires to issue the Profits Interest Units as further described in this Agreement to certain key executives of the Company, and the key executive desire to receive such Profits Interest Units; and

WHEREAS, on the date hereof or soon thereafter, the Company shall file amended and restated Articles of Organization with the Division to reflect the current Managers.

NOW, THEREFORE, in consideration of mutual representations, warranties, and agreements contained in this Amended and Restated Operating Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties amend and restate the Original Agreement, and agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. Appendix 1 hereof sets forth the definitions of certain terms relating to the maintenance of Capital Accounts and accounting rules. In addition, the following terms used in this Agreement shall have the following meanings:

"Acquired Assets" is defined in the Asset Purchase Agreement.

"Act" means the Utah Revised Limited Liability Company Act, Utah Code Ann. § 48-2c-101, *et seq*., as amended from time to time.

"Affiliate" means any Person directly or indirectly controlling, controlled by, or under common control with another Person. "Control," "controlled" and "controlling" means the power to direct or cause the direction of the management and policies of a Person and shall be deemed to exist if any Person directly or indirectly owns, controls, or holds the power to vote fifty percent (50%) or more of the voting securities of such other Person.

"Agreement" means the Amended and Restated Operating Agreement as set forth in paragraph one of this Agreement, as amended from time to time.

"Ancillary Agreements" means as defined in the Asset Purchase Agreement, provided that for the purpose of this Agreement the term shall not include this Agreement.

"Asset Purchase Agreement" means the Asset Purchase Agreement, dated as of May 22, 2008, among the Company and Franklin Covey Co., a Utah corporation, Franklin Covey Canada, Ltd., a Canadian corporation, Franklin Covey de Mexico S. de R.L. de C.V., a Mexican company, Franklin Covey Europe, Ltd., a UK registered company, FC, Franklin Covey Catalog Sales, Inc., a Utah corporation, Franklin Covey Product Sales, Inc., a Utah corporation, and Franklin Covey Printing, Inc., a Utah corporation, as the same may be amended from time to time in accordance with its terms.

"Assumed Liabilities" means as defined in the Asset Purchase Agreement.

"Business" is defined in the Asset Purchase Agreement.

"Capital Contribution" means any contribution to the capital of the Company whenever made. The initial Capital Contribution of each Member is listed in Exhibit A.

"Cause" shall mean any one or more of the following: (A) a Restricted Member or Manager's continued willful failure, neglect, or refusal to perform his duties with respect to the Company which continues beyond thirty (30) days after a written demand for substantial performance is delivered to such Restricted Member or Manager by the Company; (B) conduct by a Restricted Member or Manager involving fraud, material dishonesty or breach of trust in connection with such Restricted Member or Manager's performance of his duties to the Company as reasonably determined by the Management Board; (C) the conviction of a Restricted Member or Manager of a crime involving theft, dishonesty or moral turpitude (or upon such Restricted Member or Manager's entry of a guilty plea to or entry of a nolo contendere plea to a criminal charge involving theft, dishonesty or moral turpitude); (D) a Restricted Member or Manager's willful and continued failure or refusal to follow lawful and material directions of the Management Board or any other substantial and continued acts of insubordination by such Restricted Member or Manager as reasonably determined by the Management Board; or (E) any other act or omission that (in the reasonable determination by the Management Board) has caused or is likely to cause detrimental notoriety or other comparable material harm to the Company, monetarily or otherwise.

"Change of Control" means (i) the acquisition of the Company by a successor entity by means of any transaction or series of transactions (including, without limitation, any acquisition, recapitalization, conversion, reorganization, merger or consolidation) other than a transaction or series of related transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction retain, immediately after such transaction or series of transactions, at least a majority of the total voting power represented by the outstanding voting securities of the Company or such other surviving or resulting entity (or if the Company or such other surviving or resulting entity is a wholly owned subsidiary immediately following such acquisition, its parent); or (ii) a sale or other disposition of all or substantially all of the assets of the Company and its subsidiaries taken as a whole by means of any transaction or series of related transactions, except where such sale or other disposition is to a wholly owned subsidiary of the Company.

"Class A Member" means a Member holding Class A Units.

"Class A Preferred Return" means a sum equal to eight percent (8%) per annum, determined on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days occurring in the period for which the Class A Preferred Return is being determined, cumulative and compounded annually to the extent not distributed in any Fiscal Year pursuant to Section 5.1(c) or Section 12.2(d), of the average daily balance of a Class A Members' Class A Unreturned Contribution Balances, from to time, during the period to which the Class A Preferred Return relates, commencing on the date each Class A Member first makes a Capital Contribution.

"Class A Unit" means a Class A Unit of the Company having the rights described herein and otherwise governed by the terms and conditions of this Agreement and any other Equity Securities into which such Class A Units may be exchanged or converted in accordance with this Agreement.

"Class A Unreturned Contribution Balance" means the total amount of Capital Contributions made to the Company by a Class A Member less the amount of distributions made to such Class A Member in accordance with Section 5.1(d) and Section 12.2(e) of this Agreement.

"Class B Member" means a Member holding Class B Units.

"Class B Unit" means a Class B of the Company having the rights described herein and otherwise governed by the terms and conditions of this Agreement and any other Equity Securities into which such Class B Units may be exchanged or converted in accordance with this Agreement.

"Class B Unreturned Contribution Balance" means the total amount of Capital Contributions made to the Company by the Class B Member other than the FC Priority Contribution less the amount of distributions made to such Member in accordance with Section 5.1(e) and Section 12.2(f) of this Agreement.

"Class C Member" means a Member holding Class C Units.

"Class C Unit" means a Class C Unit of the Company having the rights described herein and otherwise governed by the terms and conditions of this Agreement and any other Equity Securities into which such Class C Units may be exchanged or converted in accordance with this Agreement.

"Closing" means the "Closing" under the Asset Purchase Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time. All references herein to sections of the Code shall include any corresponding provision or provisions of succeeding law.

"Company" means Franklin Covey Products, LLC, a Utah limited liability company.

"Covered Person" means (i) a Member, a Manager or an Officer, (ii) an Affiliate of a Member, a Manager or an Officer, and, (iii) directly or indirectly, the respective officers, directors, shareholders, partners, managers, members, trustees, beneficiaries, employees, representatives or agents of a Member, a Manager or an Officer, or an Affiliate of a Member, a Manager or an Officer.

"Disabling Conduct" means an admission in writing or conviction of fraud, a willful violation of this Agreement after notice and an opportunity to cure, commission of a felony or other crime involving moral turpitude, or gross negligence or willful misconduct in the performance of duties.

"Division" means the Utah Department of Commerce, Division of Corporations and Commercial Code.

"Equity Securities" means (i) any Units, (ii) any options, warrants or other rights to acquire any Units and any other securities convertible into or exercisable or exchangeable for (or entitling the holder thereof to subscribe for) Units, (iii) any equity securities distributed in respect of the Units pursuant to dissolution of the Company or otherwise, and (iv) any securities issued directly or indirectly with respect to the foregoing securities by way of a split, dividend, or other division of securities, or in connection with an exchange or combination of securities, recapitalization, merger, consolidation or other reorganization.

"FC Preferred Return" means a sum equal to ten percent (10%) per annum, determined on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days occurring in the period for which the FC Preferred Return is being determined cumulative and compounded to the extent not distributed in any Fiscal Year pursuant to Section 5.1(a) or Section 12.2(c) of the average daily balance of the FC Unreturned Priority Contribution, commencing on the date FC first makes the FC Priority Contribution.

"FC Priority Contribution" means the amount of one million dollars ($1,000,000) contributed by FC to the Company on the Effective Date with respect to which FC shall not receive any additional Units from the Company, but with respect to which FC shall be entitled to the FC Preferred Return and a priority distribution as set forth in this Agreement.

"FC Unreturned Priority Contribution" means the FC Priority Contribution less any amounts distributed to FC by the Company that is designated by the Management Board as a return of the FC Priority Contribution in accordance with Section 3.12 and Section 4.2(bb) hereof, including, but not limited to, any distributions made to FC in accordance with Section 5.1(b).

"Fiscal Year" means the Company's taxable year, which shall be a calendar year except as otherwise required by law.

"Governmental Body" means any government, any governmental or quasi-governmental entity or authority, including any department, commission, board, bureau, branch, agency or instrumentality thereof, any administrative or regulatory body obtaining authority from any of the foregoing, any contractor acting on behalf of any of the foregoing, and any court, tribunal, judicial or arbitral body, mediation or conciliation or self-regulatory authority, in each case whether federal, state, regional, county, city or of any other political subdivision, whether domestic or foreign.

"Initial Capital Contributions" means any Capital Contributions made pursuant to Section 3.1 upon the formation of the Company.

"Initial Members" means Peterson, FC, Sarah Merz, Gordon Wilson, Rick Wooden, Jeff Anderson, Bob Sumbot, Kent Frogley, Mike Connelly, Bryan Wilde and Eric Bright.

"Law" means any treaty, code, statute, law (including common law), rule, regulation, convention, ordinance, Order, legally binding regulatory policy statement or similar legally binding guidance, binding directive or decree of any kind of any Governmental Body, as well as any common law.

"Liquidity Event" means (i) the acquisition of the Company by a successor entity by means of any transaction or series of transactions (including, without limitation, any acquisition, recapitalization, conversion, reorganization, merger or consolidation but excluding any sale of equity securities for capital raising purposes) other than a transaction or series of related transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction retain, immediately after such transaction or series of transactions, at least ten percent (10%) of the total voting power represented by the outstanding voting securities of the Company or such other surviving or resulting entity (or if the Company or such other surviving or resulting entity is a wholly owned subsidiary immediately following such acquisition, its parent); or (ii) a sale or other disposition of all or substantially all of the assets of the Company and its subsidiaries taken as a whole by means of any transaction or series of related transactions, except where such sale or other disposition is to a wholly owned subsidiary of the Company.

"Majority Vote" means the written consent or affirmative vote of (i) Members holding more than fifty percent (50%) of the outstanding Units entitled to vote held by all Members, in connection with action by the Members; or (ii) more than fifty percent (50%) of the Managers then in office in connection with action by the Management Board, each Manager being entitled to one vote.

"Management Board" means the five (5) individuals appointed in accordance with the provisions of Section 4.1. The initial Managers shall be JORDAN CLEMENTS, JAMES B. NELSON, ROBERT A. WHITMAN, SARAH MERZ and a Manager to be appointed by Peterson.

"Manager" shall be any individual serving on the Management Board. The initial Managers shall be JORDAN CLEMENTS, JAMES B. NELSON, ROBERT A. WHITMAN, SARAH MERZ and a Manager to be appointed by Peterson.

"Master License Agreement" is defined in the Asset Purchase Agreement.

"Material Competitor" means any Person that, directly or indirectly through Affiliates, is engaged in the marketing, distribution or sale of Training-Oriented Products or Training-Oriented Services. The following terms used in this definition of "Material Competitor" shall have the following meanings: (i) "Training-Oriented Product" means any good, product or thing in any tangible form (including software) that is designed to teach individuals or organizations Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills; (ii) "Training-Oriented Service" means any seminar, session, online course, webinar, consultation or similar interaction, whether or not for a fee, where the subject matter of such service relates to or includes Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills; and (iii) "Individual Effectiveness, Management/Leadership and/or Organizational Execution Skills" means any and all organizational, management, leadership or personal effectiveness skills and the techniques and strategies for attaining such skills including, without limitation, executive coaching, management coaching, performance review, trust-building (in or out of an organizational setting), execution-related skills, personal time management, personal performance, personal goal-setting (including personal time-management, performance and goal setting in any academic or educational environment), family

effectiveness, family organization, family goal-setting, family values, personal fitness, wellness and life balance, and any other form of training.

"Member" means (a) each Initial Member until such time, if any, that any such Person becomes a Withdrawn Member, (b) any Person acquiring Units directly from the Company in accordance with this Agreement until such time, if any, that any such Person becomes a Withdrawn Member, and (c) any Person who acquires Units in the Company in a Permitted Transfer and who is deemed, or is admitted as, a Substitute Member until such time, if any, that such Person becomes a Withdrawn Member.

"Net Available Cash Flow" means, with respect to any period, the Company's gross cash receipts derived from any source whatsoever, excluding Capital Contributions, reduced by the portion thereof used to pay or establish reasonable reserves for all Company expenses, debt payments and accrued interest (including principal and interest payments on loans made to the Company by non-Members and by the Members), contingencies, and proposed acquisitions, as determined by the Management Board. "Net Available Cash Flow" shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances.

"Officer" means as set forth in Section 4.10. The initial Officers of the Company are as follows:

Chairman of the Management Board: Robert A. Whitman

Chief Executive Officer and President: Sarah Merz

Chief Financial Officer: Robert Sumbot

"Order" means any judgment, writ, decree, directive, decision, injunction, ruling, stipulation, award, order (including any consent decree or cease and desist order) or determination of kind issued, promulgated or entered by or with any Governmental Body.

"Original Operating Agreement" is defined in the Recitals.

"Percentage Interest" means, at any particular time, the percentage interest of each Member or Unit Holder of the Company and determined with respect to a particular Member or Unit Holder at any particular time by dividing the number of Units owned by such Member or Unit Holder by the aggregate number of outstanding Units.

"Person" means any individual, firm, corporation, partnership, limited liability company, trust, estate, association or other legal entity.

"Priority Members" means the Class A Members and the Class B Members.

"Profits" means the profits of the Company as defined in Section A1 of Appendix 1.

"Public Offering" means any underwritten sale of any Equity Securities pursuant to an effective registration statement under the Securities Act filed with the SEC on Form S-1 (or a successor form) after which such Equity Securities are (i) listed on a national securities

exchange and (ii) registered under the Securities Exchange Act; provided that the following shall not be considered a Public Offering: (A) any issuance of Equity Securities as consideration or financing for a merger or acquisition and (B) any issuance of Equity Securities or rights to acquire Equity Securities to employees as part of an incentive or compensation plan.

"Quorum" shall mean (i) at least fifty percent (50%) of the Managers then in office, in the case of a meeting of the Management Board; or (ii) Members who own, in the aggregate, a majority of the outstanding Units held by all Members entitled to vote at the meeting, in the case of a meeting of the Members.

"Regulations" mean the Income Tax Treasury Regulations promulgated under the Code as such Regulations may be amended and in effect from time to time (including corresponding provisions of succeeding Regulations).

"Reset Ratio" is defined in the Master License Agreement.

"SEC" means the U.S. Securities and Exchange Commission and any Governmental Body or agency succeeding to the functions thereof.

"Securities Act" means the Securities Act of 1933.

"Securities Exchange Act" means the Securities Exchange Act of 1934.

"Selling Companies" is defined in the Asset Purchase Agreement.

"Substitute Member" means a Person who acquires Units from a Member and who satisfies all of the conditions of Section 11.5.

"Taxing Jurisdiction" means any state, local, or foreign government that collects tax, interest, and penalties, however designated, on any Member's share of income or gain attributable to the Company.

"Tax Matters Partner" means the Person so designated in Section 9.4(b).

"Transfer" means, when used as a noun, any voluntary or involuntary sale, assignment, gift, transfer, or other disposition and, when used as a verb, voluntarily or involuntarily to sell, assign, gift, dispose, or otherwise transfer.

"Unanimous Consent" means the written consent of all of the Members.

"Unit" means the economic interest in the Company acquired by a Member or Unit Holder representing the economic rights of a Member or Unit Holder and the Member's or Unit Holder's permitted assignees and successors to share in distributions of cash and other property from the Company pursuant to the Act and this Agreement, together with the Member's or Unit Holder's distributive share of the Company's Profits and Losses and shall include the Class A Units, the Class B Units, and the Class C Units.

"Unit Holder" means a Person who owns Units of the Company but who is not a Member including, except as otherwise provided herein, a Member who becomes a Withdrawn Member.

"Unsuitable Transferee" means any Person that, directly or indirectly through Affiliates, engages in any of the following activities: (i) publishing or promoting indecent or pornographic materials, (ii) deriving a substantial portion of revenue from gaming activities or the promotion or sale of alcoholic beverages, tobacco products or firearms, (iii) having as a primary purpose the advocacy of a particular political or moral position or (iv) illegal activities.

"Withdrawal Notice" means as set forth in Section 10.4(a).

"Withdrawal Event" means the occurrence of any of the following events: (1) the Member voluntarily withdraws from the Company; (2) the Member is expelled as a member, as provided in the Act; (3) the Member does any of the following: (a) makes an assignment for the benefit of creditors; (b) files a voluntary petition in bankruptcy; (c) is adjudicated as bankrupt or insolvent; (d) files a petition or answer seeking for itself or himself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or rule; (e) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it or him in a bankruptcy, insolvency, reorganization or similar proceeding; (f) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Member or of all or any substantial part of its or his property; (4) if a Member is a natural person: (a) his death; (b) the entry of an order or judgment by a court of competent jurisdiction adjudicating him incompetent to manage his person or his estate; (5) if a Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust but not merely the substitution of a new trustee; (6) if a Member is a general or limited partnership, the dissolution and commencement of winding up of the partnership; (7) if a Member is a corporation, the filing of a certificate of dissolution or its equivalent for the corporation or revocation of its charter; (8) if a Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company; (9) if a Member is another foreign or domestic limited liability company, the filing of articles of dissolution or termination or their equivalent for the foreign or domestic limited liability company and (10) the Member ceases to be a member of the Company for any other reason pursuant to Section 708 of the Act.

"Withdrawn Member" means a Member following the occurrence of a Withdrawal Event with respect to such Member.

The following terms not defined above are defined in the sections indicated below:

Definition	Defined
Additional Capital Shortfall	3.2(b)
Capital Account	Sec. A1, App. 1
Claims	8.2(a)
Contributing Member	3.2(b)
CPR Institute	13.2

Damages	8.2(a)
Depreciation	Sec. A1, App. 1
Designated Office	2.4
Disposing Member	11.4(b)
Disposition Notice	11.4(b)
Dispute Notice	3.10(a)
Drag-Along Notice	11.8(a)
Drag-Along Right	11.8
Expenses	14.14
FC Manager	4.1(b)
Gross Asset Value	Sec. A1, App. 1
Losses	Sec. A1, App. 1
Management Services Agreements	4.15
Noncontributing Member	3.2(b)
Non-Disposing Members	11.4(b)
Notice Period	11.4(b)
Offered Units	11.9(a)
Performance-Based Restricted Units	3.9(c)(ii)
Permitted Transfer	11.2
Peterson Managers	4.1(b)
Peterson/FC Manager	4.1(b)
Presumed Tax Liability	5.7
Proceeding	8.2(a)
Profits Interest Grant Letter	3.4(e)(i)
Profits Interest Pool	3.4(e)(i)
Profits Interest Units	3.9
Proposed Transfer	11.9(a)
Purchase Option	10.4(b)
Purchase Option Notice	10.4(c)
Redemption Date	3.9(b)
Remaining Member	11.9
Repurchase Notice	3.10(a)
Repurchase Price	3.10(a)
Restricted Member	3.4(e)(ii)
Restricted Unit	3.4(e)(ii)
Safe Harbor	3.4(v)(A.2)
Safe Harbor Election	3.4(v)(A.2)
Successor Corporation	2.9
Tag-Along Demand	11.9(c)
Tag-Along Rights	11.9(a)
Tax Advances	5.8
Tax Distribution	5.7
Time Vested Restricted Units	3.9(c)(i)
Transferring Member	11.8
Withdrawal Notice	10.4(a)
Withdrawn Member	10.4(e)

ARTICLE II

FORMATION OF THE LIMITED LIABILITY COMPANY

2.1 General. The Company has been formed pursuant to the Act and the terms of the Original Operating Agreement, effective upon the filing of the Articles of Organization on May 22, 2008. The Members shall execute and acknowledge any and all certificates and instruments and do all filing, recording, and other acts as may be necessary or appropriate to comply with the requirements of the Act relating to the formation, operation, and maintenance of the Company in accordance with the terms of this Agreement.

2.2 Name. The name of the Company is "Franklin Covey Products, LLC," and the business of the Company shall be carried on in this name with such variations and changes as the Management Board deems necessary or appropriate to comply with requirements of the jurisdiction(s) in which the Company's operations shall be conducted.

2.3 Purposes and Powers. The business purpose of the Company shall be to transact any lawful business as may be authorized under the Act. Without limiting the foregoing, the purposes for which the Company is formed are (i) to operate the Business, directly or indirectly through subsidiaries, and in connection therewith to enter into the Ancillary Agreements, and (ii) such other purposes as may be approved by the Majority Vote of the Managers consistent with the Company's Articles of Organization.

2.4 Designated Office. The designated office of the Company (the "Designated Office") shall be located at 2250 West Parkway Blvd., Salt Lake City, Utah 84119. The Management Board shall be authorized to change the location of the designated office of the Company; provided, however, that such change is authorized under the Act, the Management Board provides written notice of such change to all of the Members, and the Managers deliver a statement of change to the Division.

2.5 Registered Agent; Registered Office. The registered agent for service of process on the Company in the State of Utah is Robert Sumbot and the registered office of the Company shall be located at the same address as the Designated Office.

2.6 Term. The term of the Company commenced on the filing of the Articles of Organization for the Company and shall not expire except in accordance with the provisions of Article XII hereof or in accordance with the Act.

2.7 Company Classification. The Members intend that, until such time, if any, as the Company is converted to a corporation in accordance with this Agreement, the Company always be operated in a manner consistent with its treatment as a "partnership" for federal and state income tax purposes. The Members also intend that the Company not be operated or treated as a "partnership" for purposes of Section 303 of the Federal Bankruptcy Code. None of the Management Board, the Managers, or the Members may take any action inconsistent with the express intent of the parties hereto. The Company is not a "partnership" for purposes of the Utah General and Limited Liability Partnerships (Utah Code Ann. § 48-1-1 et seq.) or the Utah

Revised Uniform Limited Partnership Act (Utah Code Ann. § 48-2a-101 et seq.) and the Members are not partners for the purposes of such provisions.

2.8 Qualification in Other Jurisdictions. The Management Board, or any employee of the Company designated by the Management Board as an officer of the Company, shall cause the Company to be qualified or registered under foreign entity or assumed or fictitious name statutes or similar Laws in any jurisdiction in which the Company owns property or transacts business to the extent such qualification or registration is necessary or advisable in order to protect the limited liability of the Members or to permit the Company lawfully to own property or transact business. In connection with the foregoing, any Manager or any such officer, acting alone, may execute, deliver and file any certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business.

2.9 Conversion to Corporation. The Management Board may elect to cause the Company to be converted from a limited liability company to a corporation (the "Successor Corporation"). All of the rights, privileges, and powers of the Company and all property and assets of the Company shall remain vested in the Successor Corporation, and all debts, liabilities, and duties of the Company shall remain attached to the Successor Corporation, all as more provided by applicable Law. Upon consummation of the conversion: (a) all Members shall be issued such class or series and amount of preferred or common stock or other securities in the Successor Corporation which reflects their relative economic interests in the Company with respect to the class or series of Equity Securities owned by them prior to the conversion and whose terms best preserve the rights, privileges, preferences, restrictions and limitations of such applicable class or series of Equity Securities as provided under this Agreement, including but, not limited to, the rights to receive those dollar amounts that would be allocated to each class or series of Equity Securities if the Company were to be liquidated in accordance with this Agreement at the time of such conversion, and (b) the Members shall enter into, and cause the Successor Corporation to enter into, a shareholders agreement with respect to the equity securities of the Successor Corporation setting forth rights and obligations of the parties equivalent to those set forth in this Agreement. Any such shareholders agreement shall also include substantially equivalent demand and piggy back registration rights for the benefit of the Priority Members (and excluding the Members holding Class C Units) on customary terms and conditions.

2.10 Statutory Compliance. The Members shall make all filings and disclosures required by, and shall otherwise comply with, all Laws in connection with this Agreement or the Business. The Members shall execute, file and record in the appropriate records any assumed or fictitious name certificate required by Law to be filed or recorded in connection with the formation of the Company and shall execute, file and record such other documents and instruments as may be necessary or appropriate with respect to the formation of, and conduct of business by, the Company. Each Member shall, and shall cause its Affiliates to, cooperate reasonably with the other Member with respect to all filings that the Company or a Member is required or otherwise elects to make under Law in connection with this Agreement or the Business.

ARTICLE III

CAPITAL CONTRIBUTIONS

3.1 Initial Capital Contributions. As of the Effective Date, the Initial Members of the Company shall contribute property as set forth in Exhibit A to the Company in exchange for their Units. In addition, FC shall contribute the FC Priority Contribution with respect to which FC shall not be issued any additional Units.

3.2 Additional Capital Contributions by the Members.

(a) The Management Board may, from time to time, determine that Capital Contributions in addition to the Members' prior Capital Contributions are needed to enable the Company to conduct its business. Upon making such a determination, notice shall be given to all Members in writing at least thirty (30) days before the date on which the Members may make such additional Capital Contributions. The notice shall set forth the amount of additional Capital Contribution needed, the purpose for which it is needed, and the date by which the Members may contribute such additional amounts. No Member shall be required to make an additional Capital Contribution. However, each Member shall be given the opportunity to make such additional Capital Contribution in proportion to such Member's Percentage Interest in relation to Units then held by all Members. Upon payment of the additional Capital Contribution, the Company shall issue a new Class of Units to each contributing Member, each new Unit having a value as determined by the Management Board, provided, however, that the Company shall not issue any Units with superior rights to the Class A Units or the Class B Units without the written consent of a majority of the issued and outstanding Class A Units and the Class B Units, voting together as a single class and not as a separate class. The value of the Units shall be reasonably determined by the Management Board after consultation with knowledgeable professionals based on the then current value of the Company; provided, however, that unless required by the Management Board, the Company shall not be required to obtain an appraisal of the Company.

(b) If a Member fails to make an additional Capital Contribution, which such Member has an option to make under Section 3.2(a), at the time specified in the notice (a "Noncontributing Member"), the Management Board shall, within five (5) days after said failure, notify each other Member which has made its additional Capital Contribution in full (a "Contributing Member") in writing of the total amount of Noncontributing Member Capital Contributions not made (the "Additional Capital Shortfall"), and shall specify a number of days within which each Contributing Member may make an additional Capital Contribution, which Capital Contribution shall not be less than an amount bearing the same ratio to the amount of Additional Capital Shortfall as the Contributing Member's Units bear to the total Units of all Contributing Members. If the total amount of Additional Capital Shortfall is not contributed, the Management Board may use any reasonable method to provide Members the opportunity to make additional Capital Contributions until the Additional Capital Shortfall is as fully contributed as possible.

(c) Immediately before the issuance of additional Units, the Company shall adjust the Capital Accounts of the Members who own Units in the Company before the issuance of the additional Units in Section 1.704-1(b)(2)(iv)(f) of the Regulations. Further, following the

issuance of the additional Units, if necessary, the Management Board shall re-compute the Percentage Interests of the Members based on the total number of Units held by each Member after the issuance of the additional Units.

3.3 Additional Funding; Borrowing. Before or after the expenditure or commitment of Company capital, the Management Board may, but shall not be obligated to, obtain or provide additional financing for Company activities by any method which it believes to be appropriate under the circumstances, including issuance of additional Units or borrowing funds for or loaning funds to the Company, provided, however, that the Company shall not issue any Units with superior rights to the Class A Units or the Class B Units without the written consent, respectively, of a majority of the Class A Members with respect to the Class A Units and a majority in interest of the Class B Members with respect to the Class B Units. The Company may borrow, at the discretion of the Management Board, from banks, lending institutions, or other unrelated third parties, or from Affiliates of the Company or any Member, Manager or Officer, and may pledge Company properties or any income therefrom to secure or provide for the repayment of any such loans. In the event the Company elects to borrow funds from one or more Members, each Priority Member shall have the right, but not the obligation, to loan to the Company his or its proportionate share of the aggregate principal amount of funds borrowed from the Member or Members, which amount shall be based upon such Member's Percentage Interest (taking into account only the Percentage Interests of the Priority Members).

3.4 Units.

(a) *General*. The total number of outstanding Units of the Company as of the Effective Date is one hundred thousand (100,000) Units. The name and address of each Initial Member and the initial number of Units and the class of Units held by each Initial Member is set forth on Exhibit A. Exhibit A shall reflect any additional Units issued by the Company, any Units transferred in accordance with this Agreement, and any Person admitted as a Member. Members or Unit Holders who change their addresses following the issuance of Units shall advise the Company of any such change of address. Any reference to Exhibit A in this Agreement means Exhibit A as amended to reflect any changes in the information specified herein. The Managers shall be authorized, but not obligated, to issue certificates reflecting the number of Units held by each Member of the Company.

(b) *Class A Units*. There shall be a class of Units that shall be designated as "Class A Units" that shall have the respective voting and economic rights set forth in this Agreement, including the right to receive distributions pursuant to Section 5.1(c), Section 12.2(d), and Section 12.2(e). As of the date hereof, the Company has issued and outstanding 64,357.73 Class A Units, the number of which are held by certain Members in exchange for a cash Capital Contribution as follows:

No. of Class A Units	Member	Capital Contributions
60,804.49	Peterson	$6,845,000
1,776.61	Sarah Merz	$200,000
888.31	Rick Wooden	$100,000
222.08	Gordon Wilson	$25,000
222.08	Jeff Anderson	$25,000

222.08	Bob Sumbot	$25,000
222.08	Kent Frogley	$25,000

(c) *Class B Units*. There shall be a class of Units that shall be designated as "Class B Units" that shall have the respective voting and economic rights set forth in this Agreement, including the right to receive distributions pursuant to Section 12.2(f). As of the date hereof, the Company has issued and outstanding 15,600 Class B Units held by FC in exchange for a Capital Contribution in the amount of $1,755,000 by FC.

(d) *Additional Units*. Subject to the other terms and conditions of this Agreement, including Section 3.2 of this Agreement, the Management Board may from time to time by its Majority Vote cause the Company to issue Additional Units to existing Members or new Members, provided, however, that the Company shall not issue any Additional Units with superior rights to the Class A Units or the Class B Units without the written consent of a majority of the issued and outstanding Class A Units and the Class B Units, voting together as a single class and not as a separate class.

(e) *Class C Units/Profits Interest Pool*.

i. The Company is authorized to issue up to 20,000 profits interest units ("Profits Interest Units") in the form of Class C Units (the "Profits Interest Pool"), of which 18,400 shall be issued as of the Effective Date to the individuals identified in Exhibit A, and 1,600 of which shall be issued after the Effective Date. The Profits Interest Units in the Profits Interest Pool shall be issued pursuant to a profits interest grant letter in substantially the form attached hereto as Exhibit B (with such modifications as the Management Board may determine, the "Profits Interest Grant Letter"). The Company intends that the Profits Interest Units be treated as "profits interests" under Revenue Procedure 93-27, 1993-2 CB 343, and, if applicable, Revenue Procedure 2001-43, 2001-2 CB 191, or any similar provisions of any future IRS guidance or applicable law, including Treasury Regulations under Code §83.

ii. Each Member who receives Profits Interest Units (each such Member, a "Restricted Member" and such Profits Interest Units, the "Restricted Units") is willing to subject the Restricted Units to the terms and conditions of this Agreement, including Section 3.9 and Section 3.10 and the Profits Interest Grant Letter.

iii. Unless otherwise set forth in this Agreement or the Profits Interest Grant Letter, each holder of Profits Interest Units shall be treated as a Member and shall be subject to all of the rights and obligations of a Member under this Agreement. Without limiting the generality of the foregoing, the holder of a Profits Interest Unit shall be entitled to receive all allocations of Profits and Loss with respect to any holder of Profits Interest Units pursuant to this Agreement, and shall be entitled to all distributions with respect to any holder of Profits Interest Units in accordance with this Agreement, until such time as such holder of Profits Interest Units ceases to be a Member pursuant to this Agreement.

iv. The Company shall adjust the Capital Accounts of all Members effective immediately before any issuance of Profits Interest Units contemplated in this Section 3.4(e) pursuant to Treas. Reg. §1.704-1(b)(iv)(f) to reflect the fair market value of the Company's

assets at the time of such adjustment. In addition, following the issuance of Profits Interest Units, if necessary, the Management Board shall re-compute the Percentage Interests of the Members based on the total number of Units held by each Member after the issuance of such additional Units.

v. The IRS has issued proposed Treasury Regulations Section 1.83-3(l) providing that subject to such additional conditions, rules, and procedures that the IRS may prescribe, a partnership and all of its partners may elect a safe harbor under which the fair market value of a partnership interest that is transferred in connection with the performance of services will be treated as being equal to the liquidation value of that interest (the "Safe Harbor"). Such proposed Treasury Regulations may become effective on the date the final Treasury Regulations are published in the federal register. Each Member, by executing this Agreement, hereby agrees to the following:

A.1 The Company and each Member shall report the fair market value of each Profits Interest Unit that is transferred in connection with the performance of services as being equal to the liquidation value of that interest.

A.2 The Company is authorized and directed to elect the Safe Harbor, in accordance with proposed Treasury Regulations Section 1.83-3(l) and the proposed revenue procedure thereunder (once such regulations and revenue procedure become effective and, in such case, immediately before issuing any Profits Interest Units) (the "Safe Harbor Election"), provided that if the final Treasury Regulations issued pursuant to Section 1.83-3(l) and the proposed revenue procedure thereunder are different in any material way than the current proposed regulations, then the Management Board shall determine whether to make such election.

A.3 The Company and each Member (including any Person to whom a Profits Interest Unit is transferred in connection with the performance of services) agree to comply with all requirements of the Safe Harbor Election with respect to all Profits Interest Units transferred in connection with the performance of services while the Safe Harbor Election remains in effect, including the requirement that all relevant U.S. federal income tax items be reported consistently with the Safe Harbor Election as in effect at the time of the election.

A.4 The effective date of the Safe Harbor Election shall be the earliest date that a Profits Interest Unit is issued by the Company after such election is permitted under the applicable regulations and revenue procedure, once effective, and the Safe Harbor Election shall continue to apply until such time (if ever) as the Board agree, and cause the Company, to terminate the Safe Harbor Election.

A.5 To the extent required under then-applicable law, the Tax Matters Partner, at the discretion of the Management Board, shall cause the Company to file all such forms and documents that are required to have the Safe Harbor Election apply irrevocably with respect to all Profits Interest Units transferred in connection with the performance of services while the Safe Harbor Election is in effect.

A.6 The Company shall comply with any applicable record keeping requirements for the Safe Harbor Election, and the Company and the Members shall take all other actions, if any, required to comply with the requirements of such Safe Harbor Election as ultimately promulgated, to the extent practicable.

A.7 The Members authorize the Management Board to amend this Agreement, in a manner reasonably determined by the Board to be necessary to meet the requirements of the final Treasury Regulations, provided, however, that no amendment pursuant to this Section 3.4(e)(v) shall be effective if such amendment adversely affects the economic interest of Units held by any Member. For purposes of the preceding sentence, the reduction in or minimization of a compensation deduction of the Company as a result of such amendment will not be treated as adversely affecting the economic interest of Units held by any Member.

vi. Each Member acknowledges that any applicable transfer restrictions under this Agreement with respect to certain Restricted Members may result in adverse tax consequences to such Members that may be avoided or mitigated by filing an election under Code §83(b). Such election must be filed within the timing requirements of Code §83(b), which generally requires that such election be made within 30 days from the issuance of the Profits Interest Units subject to the transfer restrictions. Each Member receiving any Profits Interest Unit(s) acknowledges and agrees (i) that a Code Section 83(b) election shall be timely made by such Person, and (ii) that the making of such election is such Person's sole responsibility, and not the Company's, even if such Person requests the Company or its representatives to make this filing on such Person's behalf.

vii. This Section 3.4(e) shall constitute a written compensation plan and agreement within the meaning of Rule 701 under the Securities Act and under Utah law with respect to the issuance of Profits Interest Units.

3.5 Use of Capital Contributions. All Capital Contributions shall be expended only in furtherance of the business purpose of the Company as set forth in Section 2.3 hereof.

3.6 No Unauthorized Withdrawals of Capital Contributions. No Member or Unit Holder shall have the right to withdraw or to be repaid any of such Member or Unit Holder's Capital Contributions, except as specifically provided in this Agreement.

3.7 Return of Capital. Except as otherwise provided in this Agreement, no Member or Unit Holder shall be entitled to the return of the Member or the Unit Holder's Capital Contributions to the Company.

3.8 Third Party Rights. Nothing contained in this Agreement is intended or will be deemed to benefit any creditor of the Company, nor will any creditor of the Company be entitled to require the Management Board to solicit or demand Capital Contributions from any Member.

3.9 Automatic Redemption.

(a) Each Restricted Member is willing to subject his Restricted Units to the automatic redemption provisions of this Section 3.9.

(b) In the event that a Restricted Member voluntarily terminates his services to the Company or the Company terminates such Restricted Member's services to the Company for any or no reason, with or without Cause, the Restricted Units held by such Restricted Member shall, upon the date of such termination (the "Redemption Date"), be automatically redeemed by the Company for no consideration (other than any Tax Distribution to which such Restricted Member is entitled with respect to the Restricted Units in accordance with Section 5.7 following the allocation of Profits and Losses through the Redemption Date). Upon the automatic redemption of any Restricted Units, the Company shall become the legal and beneficial owner of the Restricted Units so redeemed and all rights and interest therein or related thereto without further action by the Restricted Member.

(c) The Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b) in the following manner:

i. One third (1/3rd) of the Restricted Units shall be considered "Time Vested Restricted Units". One third (1/3rd) of the Time Vested Restricted Units shall be automatically released from automatic redemption pursuant to Section 3.9(b), and shall no longer be treated as Restricted Units for purposes of this Section 3.9, on each of the first three annual anniversaries of the date of the grant of such Profits Interest Units.

ii. Two thirds (2/3rd) of the Restricted Units shall be considered "Performance-Based Restricted Units".

A.1 All of the Performance-Based Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b), and shall no longer be treated as Restricted Units for purposes of this Section 3.9, if (x) the Company's average 12-month EBITDA for the 24 months preceding a Liquidity Event is above $19 million; and (y) the Company's 12-month EBITDA for the second 12 months preceding a Liquidity Event is at least 95% of the 12-month EBITDA for the first 12 months preceding the Liquidity Event.

A.2 Only three fourths (3/4th) of the Performance-Based Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b), and shall no longer be treated as Restricted Units for purposes of this Section 3.9, if (x) the Company's average 12-month EBITDA for the 24 months preceding a Liquidity Event is above $18 million and up to $19 million; and (y) the Company's 12-month EBITDA for the second 12 months preceding a Liquidity Event is at least 95% of the 12-month EBITDA for the first 12 months preceding the Liquidity Event.

A.3 Only one half (1/2) of the Performance-Based Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b), and shall no longer be treated as Restricted Units for purposes of this Section 3.9, if (x) the Company's average 12-month EBITDA for the 24 months preceding a Liquidity Event is above $14 million and up to $18 million; and (y) the Company's 12-month EBITDA for the second 12 months preceding a Liquidity Event is at least 95% of the 12-month EBITDA for the first 12 months preceding the Liquidity Event.

A.4 Only one fourth ($1/4^{th}$) of the Performance-Based Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b), and shall no longer be treated as Restricted Units for purposes of this Section 3.9, if (x) the Company's average 12-month EBITDA for the 24 months preceding a Liquidity Event is above $13 million and up to $14 million; and (y) the Company's 12-month EBITDA for the second 12 months preceding a Liquidity Event is at least 95% of the 12-month EBITDA for the first 12 months preceding the Liquidity Event.

A.5 None of the Performance-Based Restricted Units shall be released from automatic redemption pursuant to Section 3.9(b) if he Company's average 12-month EBITDA for the 24 months preceding a Liquidity Event is $13 million or less.

A.6 If the Company sells or otherwise divests a portion of the Business, then "average 12-month EBITDA" and the "12-month EBITDA" used to determine the percentage of the Performance-Based Restricted Units that shall be released under Section 3.9(b) shall be automatically adjusted downwards based on the same Reset Ratio as used in Section 6.1(a) of the Master License Agreement.

Any Restricted Units released from the automatic redemption provisions of this Section 3.9 shall continue to be subject to the other restrictions on transfer and the other provisions set forth in this Agreement.

(d) In the event of a recapitalization or a similar transaction affecting the Company's outstanding securities without receipt of consideration, any new, substituted or additional securities or other property that by reason of such transaction are distributed with respect to any Restricted Units or into which such Restricted Units thereby become convertible shall immediately be subject to the provisions of this Section 3.9. Appropriate adjustments to reflect the distribution of such securities or property shall be made to the Restricted Units.

(e) Upon the automatic redemption of any Restricted Units pursuant to the provisions of this Section 3.9, the Restricted Member shall no longer have any rights as a holder of the Restricted Units so redeemed and Exhibit A shall be restated to reflect the Restricted Units, if any, held by such Restricted Member.

3.10 Company Repurchase Right.

(a) *Termination without Cause or Voluntary Termination by the Restricted Member*. In the event that the Company terminates a Restricted Member's services to the Company without Cause or a Restricted Member voluntarily terminates his services to the Company, the Company shall have the right to repurchase such Restricted Member's Restricted Units that are not subject to the automatic redemption set forth above in Section 3.9 for a period of 270 days following such termination upon at least ten (10) days prior written notice to such Restricted Member (the "Repurchase Notice"). Subject to Article 3.10(b), the repurchase price for such Restricted Units shall be a cash amount equal to the fair market value (as determined by the Company's Management Board) of such Restricted Units, taking into account discounts for lack of marketability and lack of control, to the extent applicable (the "Repurchase Price"). The Repurchase Notice shall include the proposed Repurchase Price. If the Restricted Member

disputes the proposed Repurchase Price, such Restricted Member shall deliver written notice of such dispute to the Company within twenty (20) days of receipt of the Repurchase Notice (the "Dispute Notice"). If such Restricted Member fails to deliver a Dispute Notice to the Company within such 20-day period, such Restricted Member shall be deemed to have agreed with and shall be bound by the Repurchase Price proposed in the Repurchase Notice. If such Restricted Member delivers a Dispute Notice to the Company within such 20-day period, the Company and such Restricted Member shall select a reputable valuation firm to determine the fair market value of such Restricted Units. In the event that the Company and such Restricted Member do not agree upon a valuation firm within sixty (60) days of the date the Company delivered the Repurchase Notice to such Restricted Member, the Company and such Restricted Member shall each select a reputable valuation firm and instruct the valuation firms to select a third reputable valuation firm. The fair market value of such Restricted Units shall then be determined by such third valuation firm. The fees and costs of the valuation firms engaged pursuant to this Article 3.9 shall be borne equally between the Company and such Restricted Member.

(b) *Termination for Cause*. Notwithstanding anything herein to the contrary, in the event that the Company terminates a Restricted Member's services to the Company for Cause, all of such Restricted Member's Restricted Units, including those Restricted Units previously released from automatic redemption pursuant to Section 3.9(c), shall, upon the date of such termination, be automatically redeemed by the Company for no consideration (other than any Tax Distribution to which such Restricted Member is entitled with respect to the Restricted Units in accordance with Section 5.7 following the allocation of Profits and Losses through the Redemption Date). Upon the redemption of any Restricted Units, the Company shall become the legal and beneficial owner of such Restricted Units so redeemed and all rights and interest therein or related thereto without further action by the Restricted Member.

3.11 Purchase of Assets by the Company. Effective as of the Closing, in exchange for cash in the amount of $32,000,000 (as adjusted pursuant to Section 2.10 of the Asset Purchase Agreement) and the assumption of the Assumed Liabilities, the Company shall purchase from the Selling Companies the Acquired Assets. The cash that is to be used to purchase the Acquired Assets may include funds borrowed by the Company, as described in the Purchase Agreement, and the parties agree that they shall not apply Treasury Regulation section 1.707-5(b)(1) or 1.707-4(d) to reduce the portion of the assets treated as sold to the Company for the consideration identified in this 3.11.

3.12 The FC Preferred Return and the FC Priority Contribution. As of the Effective Date, FC shall contribute the FC Priority Contribution with respect to which FC shall not be issued any additional Units, but with respect to which FC shall be entitled to the FC Preferred Return and the FC Priority Contribution in accordance with Section 5.1(a), Section 5.1(b) and Section 12.2(c), provided, however, that the Company may, with unanimous consent of the Management Board, determine to make a distribution of part or all of the FC Preferred Return or the FC Priority Contribution before the dissolution and liquidation of the Company.

ARTICLE IV

MANAGEMENT

4.1 Management by Management Board.

(a) The Managers shall collectively comprise the Management Board. The Management Board shall function substantially the same manner as a board of directors of a Utah corporation. In addition to those actions set forth in Section 4.2 and otherwise in this Agreement, all actions by the Company that would require board of directors or stockholder approval or for which it would be customary, using good corporate practice, to obtain board of director or stockholder approval if the Company were a Utah corporation shall require Management Board approval.

(b) The number of Managers to serve on the Management Board shall be five (5) and may be increased from time to time by the Management Board by Majority Vote. The initial members of the Management Board are: (i) three individuals appointed by Peterson (or Peterson's transferee in the event of a Transfer of Units by Peterson) (the "Peterson Managers"), who shall initially be (A) JORDAN CLEMENTS, (B) JAMES B. NELSON, and (C) a Manager to be appointed by Peterson; (ii) one individual appointed by FC (the "FC Manager"), who shall initially be ROBERT A. WHITMAN; and (iii) one individual appointed by the unanimous consent of the Peterson Managers and the FC Manager (the "Peterson/FC Manager"), who shall initially be SARAH MERZ.

(c) Robert A. Whitman shall serve as the Chairman of the Management Board and serve in that capacity for a minimum of three (3) years unless earlier (A) he resigns as the FC Manager; (B) he is removed for Cause; (C) he is no longer the Chief Executive Officer of Franklin Covey Co., a Utah corporation; or (D) the Percentage Interest held by FC (or an Affiliate of FC) is 50% or less than the Percentage Interest held by FC as of the Effective Date. If Mr. Whitman's service as the FC Manager and the Chairman terminates for any reason prior to the termination of such three-year period, then, as long as the Percentage Interest held by FC (or an Affiliate of FC) is greater than 50% of the Percentage Interest held by FC as of the Effective Date, the person who replaces Mr. Whitman as the FC Manager shall serve as the Chairman of the Management Board and serve in that capacity until the expiration of such three-year period. Any successor Chairman thereafter shall be appointed by the Management Board and shall serve in that capacity until his successor shall have been appointed by the Management Board or until his earlier resignation.

(d) Each Manager shall sign a counterpart to this Agreement in his capacity as a Manager.

(e) Each Manager shall hold office until his successor shall have been appointed or until his earlier resignation.

(f) The Management Board may hold regular meetings at a time and place determined by the Management Board. Any Manager may call a special meeting of the Management Board by giving at least forty-eight (48) hours notice of the special meeting and the time, place, and purpose for such meeting. Managers may waive the forty eight (48)-hour notice requirement by attending the meeting or by waiving the notice requirement in writing. Any Manager may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Managers participating may simultaneously

hear each other during the meeting, in which case, any required notice of the meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. A Manager participating in a meeting by this means is deemed to be present in person at this meeting. At any meeting of the Management Board, a Quorum of the Managers must exist in order to transact business at such meeting.

(g) Unless otherwise required by the Act or otherwise specified in this Agreement, any and all actions taken by the Management Board shall require the approval of at least a Majority Vote of the Managers. Any action which may be taken by the Management Board at a special or regularly scheduled meeting may be taken without a meeting if the Managers then in office unanimously consent to the action in writing. The Managers may not vote by proxy.

4.2 Authority of Officers. The business and affairs of the Company shall be managed by its Officers. Subject to Section 4.1, the Management Board hereby delegates to the Officers full, exclusive, and complete discretion, power, and authority, to manage, control, administer, and operate the day-to-day business and affairs of the Company for the purposes herein stated. The Officers have full and complete authority, power and discretion to make any and all decisions affecting such day-to-day business and affairs, and to do any and all things that the Officers shall deem to be necessary or appropriate to accomplish the business objectives of the Company, except as otherwise (i) provided in this Agreement, (ii) specifically required by the non-waivable provisions of the Act, (iii) directed by the Management Board; or (iv) provided in this Section 4.2. Notwithstanding anything to the contrary in this Agreement, the following actions shall require the consent of the Management Board:

(a) acquire by purchase, lease, or otherwise, any real or personal property, tangible or intangible in excess of $500,000;

(b) construct, operate, maintain, finance, and improve, and to own, sell, convey, assign, mortgage, or lease any real estate and any personal property in excess of $250,000;

(c) sell, dispose, trade, or exchange Company assets in the ordinary course of the Company's business in excess of $250,000;

(d) sell, dispose, trade, or exchange any of the Company subsidiaries;

(e) enter into agreements and contracts and to give receipts, releases, and discharges for products and/or services in excess of $1,000,000;

(f) purchase liability and other insurance to protect the Company's properties and business;

(g) borrow money in excess of $250,000 for and on behalf of the Company, and, in connection therewith, execute and deliver instruments authorizing the confession of judgment against the Company;

(h) execute or modify leases, with respect to any part of all of the assets of the Company, in excess of $250,000;

(i) increase, modify, accelerate, refinance or extend any existing loan or existing indebtedness of the Company;

(j) pledge, mortgage, grant a security interest in or encumber or otherwise encumber any asset or property of the Company other than in the ordinary course of business;

(k) prepay, in whole or in part, refinance, amend, modify, or extend any mortgages or deeds of trust which may affect any asset of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals, or modifications of such mortgages or deeds of trust;

(l) invest and reinvest Company reserves in anything other than short-term instruments or money market funds;

(m) take any action which would make it impossible to carry on the ordinary business or accomplish the purposes of the Company, except as otherwise provided in this Agreement;

(n) take any action which would cause the termination of the Company for federal income tax purposes or the dissolution of the Company under the Act or this Agreement or cause the Company to be classified as an "association" taxable as a corporation under the Code;

(o) change or reorganize the Company into any other legal form;

(p) amend or terminate any agreement or arrangement that was required to be approved by the consent of the Management Board at the time such agreement or arrangement was entered into;

(q) authorize or approve the sale, transfer, assignment, exchange or other disposition of all or substantially all of the assets of the Company;

(r) initiate any lawsuit or other judicial proceeding or arbitration in the name of the Company;

(s) commence bankruptcy, insolvency, liquidation or similar proceedings with respect to the Company or any of its subsidiaries;

(t) lend any money to a Member, Manager or Officer or a Affiliate thereof;

(u) confess a judgment against the Company or settle any proceeding brought against the Company in an amount in excess of $250,000;

(v) change the nature of the business of the Company or enter into any business other than or in addition to that contemplated by this Agreement;

(w) make any investment in an entity (other than in short-term temporary investments of working capital);

(x) cause the formation of any entity to be owned or controlled by the Company;

(y) authorize or approve the merger, consolidation or other combination of the Company with or into another entity;

(z) convert the Company into a corporation or otherwise change the form of the entity in which the Company does business;

(aa) issue any additional Units or Equity Securities of the Company;

(bb) make a distribution of the FC Preferred Return or the FC Priority Contribution except as set forth in Section 5.1(a) and Section 5.1(b) before the dissolution and liquidation of the Company in accordance with Section 12.2, which action shall require the unanimous consent of the Management Board;

(cc) enter into any agreement, arrangement or understanding, written or oral, to do any of the foregoing; or

(dd) take actions which, pursuant to this Agreement, specifically require action by, or the consent of, the Management Board.

4.3 Independent Activities. Except to the extent otherwise provided in this Article IV and the Act, (i) a Member, a Manager, or any Affiliate of a Member or Manager may engage in whatever activities such Person chooses without having or incurring any obligation to offer any interest in such activities to the Company or to any other Member or Manager; and (ii) neither this Agreement nor any obligation undertaken pursuant hereto shall prevent a Member, a Manager, or any Affiliate of a Member or Manager from engaging in such activities, or require a Member, Manager, or any Affiliate of a Member or Manager to permit the Company or any other Member or Manager to participate in any such activities, and as a material part of the consideration for the execution of this Agreement by the Members and the Managers and the admission of each Member, each Member and each Manager hereby waives, relinquishes, and renounces any such right or claim of participation.

4.4 Fiduciary Responsibilities. Notwithstanding Section 4.3, each Manager and Member shall, in all events, account to the Company and to the Members for any benefit, and hold, as trustee for the Company and the Members, any benefit or profits derived by such Manager or Member without the prior consent of the Members, by Majority Vote, from any transaction connected with the formation, conduct or liquidation and winding up of the Company or from any use by such Manager or Member of Company property, including, but not limited to, confidential or proprietary information of the Company or other matters entrusted to such Person in his or its capacity as a Manager or a Member, and such duty extends to the personal representatives of any deceased Manager or Member involved in the liquidation and winding up of the Company. All management, investments, accountings, and distributions shall be conducted by the Managers or Members, as the case may be, subject to good faith and

fiduciary responsibility. However, no Manager or Member shall be liable for any loss or depreciation in the value of the Company or any of its assets or business occurring by reason of error of judgment in making any sale, any investment or reinvestment, or any management, investment or business decision whatsoever, provided such loss or depreciation in value has not occurred through the Disabling Conduct of such Manager or Member. Good faith and fiduciary responsibility shall be required of the Managers and Members.

4.5 Permitted Transactions. Except as otherwise provided in this Article IV including, but not limited, to Section 4.4, the fact that any Manager or Member, or any Affiliate of a Manager or a Member, or any employee, partner, officer, or officer of either an Manager or Member or an Affiliate of a Manager or Member, is employed by, or is directly or indirectly interested in or connected with, any person employed by the Company or any Affiliate of the Company to render or perform a service, or from or through whom the Company or any Affiliate of the Company may make any sale or purchase, or from whom the Company or any Affiliate of the Company may borrow, shall not prohibit the Company or any Affiliate of the Company from engaging in any transaction with such person, or create any duty of legal justification additional to that which would exist if such person were not so related to the Company, and neither the Company nor any other Manager or Member shall have any right in or to any benefits derived from such transaction by such Manager or Member or Person.

4.6 Time and Attention Required of Managers or Members. The parties understand that the Managers and Members may have other business activities that take a substantial portion of their time and attention. Accordingly, the Managers and Members are required to devote to the business of the Company only the time and attention that they in their sole discretion shall deem necessary.

4.7 No Guaranty of Return of Capital or Distribution of Cash. The Company does not in any way guarantee the return of the Members' capital contributions or the realization of a profit from their investment in the Company. There is no guarantee of the distribution of any particular amount of cash to Members at any particular time.

4.8 Prohibited Acts. The Officers and Managers shall not knowingly perform any act that contravenes the provisions of this Agreement.

4.9 Reliance Upon Actions by the Managers. Any Person dealing with the Company may rely without any duty of inquiry upon any action taken by the Managers on behalf of the Company. Any and all deeds, bills of sale, assignments, mortgages, deeds of trust, security agreements, promissory notes, leases, and other contracts, agreements or instruments executed by at least two (2) Managers on behalf of the Company pursuant to the requirements of this Agreement, shall be binding upon the Company, and all Members agree that a copy of this provision may be shown to the appropriate parties in order to confirm the same. Without limiting the generality of the foregoing, any Person dealing with the Company may rely upon a certificate or written statement signed by at least two (2) Managers as to:

(a) The identity of any Manager, Officer or Member;

(b) The existence or nonexistence of any fact or facts that constitute a condition precedent to acts by the Managers or that are in any other manner germane to the affairs of the Company;

(c) The Persons who are authorized to execute and deliver any instrument or documents on behalf of the Company; or

(d) Any act or failure to act by the Company on any other matter whatsoever involving the Company or any Member.

4.10 Officers. The Company may have such officers as are appointed from time to time by the Management Board (each, an "Officer"). Without limiting the generality of the foregoing, the Company may have a Chairman, a President, a Chief Executive Officer, and a Chief Financial Officer, each of whom shall, unless otherwise directed by the Management Board, have the powers normally associated with such officers of a Utah corporation, provided the Chairman shall preside at all meetings of the Management Board. Any number of offices may be held by the same person, as the Management Board may determine. Sarah Merz shall serve as the initial President and Chief Executive Officer, and Robert Sumbot shall serve as the initial Chief Financial Officer. In addition, Robert A. Whitman or his successor as the FC Manager shall serve as the Chairman of the Management Board for a minimum of three (3) years as more specifically set forth in Section 4.1(c). Unless otherwise provided in this Agreement regarding the appointment of any Officer, each Officer shall be chosen for a term which shall continue until such Officer's successor shall have been chosen and qualified or such Officer's earlier resignation or removal by a Majority Vote of the Management Board.

4.11 Resignation. A Manager may resign at any time by delivering written notice to the Management Board. The resignation of a Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Such resignation shall not affect the Manager's rights and liabilities as a Member, if applicable, except to the extent otherwise specifically provided in this Agreement.

4.12 Removal. A Manager may be removed for Cause by the Company upon a determination that Cause exists. Further, (i) the Peterson Managers may be removed with or without Cause by Peterson, (ii) the FC Manager may be removed with or without Cause by FC, and (iii) the Peterson/FC Manager may be removed with the unanimous consent of the Peterson Managers and the FC Manager.

4.13 Vacancies. Any vacancy occurring for any reason in the office of (i) the Peterson Managers may be filled by Peterson, (ii) the FC Manager may be filled by FC, and (iii) the Peterson/FC Manager may be filled with the unanimous consent of the Peterson Managers and the FC Manager.

4.14 Manager Compensation. Peterson and FC shall be compensated for making their employees available to the Company to serve as Managers. Further, the Managers shall be reimbursed for expenses reasonably incurred in carrying out such role. The total management fee payable to Peterson and FC shall be $125,000, which shall be paid (i) $101,250 to Peterson, and

(ii) $23,750 to FC. In addition, the Peterson/FC Manager shall be entitled to compensation as reasonably determined by the Management Board in the event that such Peterson/FC Manager is not an employee of the Company. Each Manager who is an employee of the Company shall be compensated only in accordance with an employment agreement with the Company containing terms and conditions acceptable to such Manager and a Majority Vote of the Managers.

ARTICLE V

PAYMENTS AND DISTRIBUTIONS

5.1 Distributions of Net Available Cash Flow. Except as provided in Article XII in connection with the dissolution of the Company, after any Tax Distributions to be made pursuant to Section 5.7, Net Available Cash Flow shall be distributed on a quarterly basis, or more frequently as determined by a Majority Vote of the Management Board, to the Members in the following order and priority:

(a) First, to FC an amount equal to the FC Preferred Return until FC has received cumulative distributions pursuant to this Section 5.1(a) equal to the FC Preferred Return;

(b) Second, to FC an amount equal to the FC Unreturned Priority Contribution until FC has received cumulative distributions pursuant to this Section 5.1(b) equal to the FC Priority Contribution;

(c) Third, to the Class A Members in proportion to each Class A Member's unpaid Class A Preferred Return, until each Class A Member has received cumulative distributions pursuant to this Section 5.1(c) equal to such Class A Member's Class A Preferred Return;

(d) Fourth, to the Class A Members, pro rata based on the Class A Unreturned Contribution Balance of each Class A Member, an amount equal to the Class A Unreturned Contribution Balance;

(e) Fifth, to the Class B Member, an amount equal to the Class B Unreturned Contribution Balance; and

(f) Thereafter, to the Members in proportion to their respective Percentage Interests.

5.2 Distributions in Kind. The Company, at the discretion of and by the Majority Vote of the Management Board, may make distributions in kind. All Members must accept distributions in kind. At the time of any distribution in kind, the Gross Asset Value of the Company's assets will be adjusted pursuant to Appendix 1.

5.3 Distributions in Liquidation. Following the dissolution of the Company and the commencement of winding up and the liquidation of its assets, distributions to the Members shall be governed by Section 12.2.

5.4 Amounts Withheld. All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Members from the Company shall be treated as amounts distributed to the relevant Member(s) for all purposes of this Agreement.

5.5 State Law Limitation on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to any Member on account of such Member's Units if such distribution would violate the Act or other applicable law.

5.6 Liability For Repayment of Distributions. The Members acknowledge and agree that pursuant to Section 1006 of the Act, a member of a limited liability company who receives a distribution from a limited liability company by mistake or in violation of the articles of organization, the operating agreement or the Act, is liable for a period of five (5) years following such distribution to return the wrongful distribution to the limited liability company if an action to recover such distribution is commenced prior to the expiration of such five (5)-year period, and an adjudication of liability is made against such member in such action. The Management Board does not intend to make a distribution of Net Available Cash Flow to the Members if any such distribution would be required to be returned by the Members in accordance with the foregoing. However, there may be circumstances in which claims of creditors might have been unanticipated or the extent of such claims may have been difficult to calculate and, accordingly, the Members are aware that there may be circumstances in which distributions from the Company may be required to be repaid to the Company by the distributee Members.

5.7 Tax Distributions.

(a) For each Fiscal Year, the Company will during such Fiscal Year use its reasonable efforts to distribute to each Member, with respect to such Fiscal Year, a distribution in an amount equal to such Member's Presumed Tax Liability for such Fiscal Year (a "Tax Distribution"), which Tax Distribution will be offset by the amount of Tax Advances for such Member for such Fiscal Year, as provided in Section 5.8. Such Tax Distributions shall be made to the Members on a quarterly basis in the manner set forth in Section 5.7(c).

(b) For purposes of this Section 5.7, "Presumed Tax Liability" for any Member for a Fiscal Year shall mean an amount equal to the product of (i) the amount of taxable income (including any items required to be separately stated under Section 703 of the Code and taking into account any allocations under Section 704(c)) allocated to such Member for that Fiscal Year, and (ii) the combined effective federal and state income tax rate, adjusted for the federal deduction for state income taxes, applicable during a Fiscal Year for computing regular ordinary income tax liabilities (without reference to minimum taxes, alternative minimum taxes, or income tax surcharges) of a natural person residing in Utah in the highest bracket of taxable income.

(c) The Company shall reasonably estimate the Presumed Tax Liability of each Member with respect to each quarter of the applicable Fiscal Year, and shall make a Tax Distribution to each Member no less than ten (10) days prior to the quarterly federal estimated income tax payment due dates for individual taxpayers.

(d) The amount to be distributed to a Member as a Tax Distribution pursuant to this Section 5.7 shall be computed as if any distributions made pursuant to Section 5.1(f) during such quarter were a Tax Distribution in respect of such quarter. Further, any Tax Distribution made pursuant to this Section 5.7 shall be considered an advance against the next distribution(s) payable to the applicable Member pursuant to Section 5.1(f) and Section 12.2, and shall reduce such distribution(s) on a dollar-for-dollar basis.

5.8 Withholding and Tax Advances. To the extent the Company is required by any Laws of any Taxing Jurisdiction to withhold or to make tax payments on behalf of or with respect to a Member (e.g., (i) backup withholding, (ii) withholding with respect to Members who are neither citizens nor residents of the United States, or (iii) withholding with respect to Members who are not residents of any state requiring withholding) ("Tax Advances"), the Company may withhold such amounts and make such tax payments to the appropriate taxing jurisdiction as may be required. Further, all amounts withheld or required to be withheld pursuant to the Code or any provision of any state, local, or foreign tax law with respect to any payment, distribution, or allocation to the Company or Members and treated by the Code (whether or not withheld pursuant to the Code) or any such tax law as amounts payable by or in respect of any Member or any Person owning an interest, directly or indirectly, in such Member shall be treated as an advance to the Member and shall be credited against the Tax Distribution such Member would otherwise receive for the applicable period pursuant to Section 5.7. The Company is authorized to withhold from distributions, or with respect to allocations, to the Members and to pay over to any federal, state, local or foreign government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, local, or foreign law and shall allocate any such amounts to the Members with respect to which such amount was withheld. If the amount of the Tax Advances with respect to any Fiscal Year payable to the Member are not sufficient to offset the Tax Advances with respect to such Fiscal Year, then the Company shall reduce the amount of any other distributions payable to the Member or, at the discretion of the Managers, require the Member to immediately repay the Company any remaining balance until the Tax Advances amount is repaid by the Member.

5.9 Inclusion of Unit Holder. Except as otherwise provided herein, the term "Member" for purposes of this Article V shall include a Unit Holder.

ARTICLE VI

ALLOCATION OF PROFITS AND LOSSES

6.1 Profit Allocations. After making any special allocations required under Appendix 1, Profits for each Fiscal Year (and each item of income and gain entering into the computation thereof) shall be allocated among the Members (and credited to their respective Capital Accounts) in the following order and priority:

(a) First, to FC until the cumulative Profits allocated pursuant to this Section 6.1(a) are equal to the cumulative Losses, if any, previously allocated to FC pursuant to Section 6.2(f) for all prior periods;

(b) Second, to FC until the cumulative Profits allocated pursuant to this

Section 6.1(b) are equal to the cumulative Losses, if any, previously allocated to FC pursuant to Section 6.2(e) for all prior periods;

(c) Third, to FC, an amount equal to the cumulative accrued FC Preferred Return for the current taxable year and all prior taxable years until the cumulative Profits allocated pursuant to this Section 6.1(c) are equal to the cumulative accrued FC Preferred Return for the current taxable year and all prior taxable years;

(d) Fourth, to the Class A Members, pro rata based on the amount of Losses being offset, until the cumulative Profits allocated pursuant to this Section 6.1(d) are equal to the cumulative Losses, if any, previously allocated to the Class A Members pursuant to Section 6.2(d) for all prior periods;

(e) Fifth, to the Class A Members, pro rata based on the accrued Class A Preferred Return of the Class A Members, an amount equal to the cumulative accrued Class A Preferred Return for the current taxable year and all prior taxable years;

(f) Sixth, to each Class A Members, pro rata based on the amount of Losses being offset, until the cumulative Profits allocated pursuant to this Section 6.1(f) are equal to the cumulative Losses, if any, previously allocated to the Class A Members pursuant to Section 6.2(c) for all prior periods;

(g) Seventh, to the Class B Members, until the cumulative Profits allocated pursuant to this Section 6.1(g) are equal to the cumulative Losses, if any, previously allocated to the Members pursuant to Section 6.2(b) for all prior periods;

(h) Eighth, to the Members, pro rata based on the amount of Losses being offset, until the cumulative Profits allocated pursuant to this Section 6.1(h) are equal to the cumulative Losses, if any, previously allocated to the Members pursuant to Section 6.2(h) for all prior periods in proportion to the Members' respective shares of the Losses being offset;

(i) Ninth, to the Members, pro rata based on the amount of Losses being offset, until the cumulative Profits allocated pursuant to this Section 6.1(i) are equal to the cumulative Losses, if any, previously allocated to the Members pursuant to Section 6.2(g) for all prior periods; and

(j) Tenth, to the Members in accordance with their Percentage Interests.

6.2 Loss Allocations. After making any special allocations required under Appendix 1, Losses for each fiscal year (and each item of loss and deduction entering into the computation thereof) shall be allocated among the Members (and charged to their respective Capital Accounts) in the following order and priority:

(a) First, to the Members, pro rata based on the amount of Profits being offset, until the cumulative Losses allocated pursuant to this Section 6.2(a) are equal to the cumulative Profits, if any, previously allocated to the Members pursuant to Section 6.1(i) and Section 6.1(j) for all prior periods in proportion to the Members' respective shares of the Profits being offset;

(b) Second, to the Class B Members, pro rata in accordance with its Class B Unreturned Contribution Balance as of the end of the period to which the allocation of Losses under this Section 6.2(b) relates reduced by any Losses previously allocated to such Class B Member pursuant to this Section 6.2(b), until the cumulative Losses allocated pursuant to this Section 6.2(b) to each Class B Member equal the Unreturned Contribution Balance of each such Class B Member as of the end of the period to which the allocation of Losses under this Section 6.2(b) relates plus the total Profits allocated to each Class B Member pursuant to Section 6.1(g).

(c) Third, to the Class A Members, pro rata based upon the Profits being offset, until the cumulative Losses allocated pursuant to this Section 6.2(c) are equal to the cumulative Profits, if any, previously allocated to the Class A Member pursuant to Section 6.1(e) and Section 6.1(f) for all prior periods;

(d) Fourth, to the Class A Members, pro rata based upon the Class A Unreturned Contribution Balances of the Class A Members as of the end of the period to which the allocation of Losses under this Section 6.2(d) relates reduced by any Losses previously allocated to such Class A Members pursuant to this Section 6.2(d), until the cumulative Losses allocated pursuant to this Section 6.2(d) to each Class A Member equals the Class A Unreturned Contribution Balance of such Class A Member as of the end of the period to which the allocation of Losses under this Section 6.2(d) relates plus the total Profits allocated to each Class A Member pursuant to Section 6.1(d);

(e) Fifth, to FC until the cumulative Losses allocated pursuant to this Section 6.2(e) are equal to the cumulative Profits, if any, previously allocated to FC pursuant to Section 6.1(b) and Section 6.1(c) for all prior periods;

(f) Sixth, to FC until the cumulative Losses allocated pursuant to this Section 6.2(f) to FC equals the FC Unreturned Priority Contribution as of the end of the period to which the allocation of Losses under this Section 6.2(f) relates plus the total Profits allocated to FC pursuant to Section 6.1(a);

(g) Seventh, to the Members in accordance with their Percentage Interests.

(h) Losses allocated in accordance with subparagraphs (a) through (g) of this Section 6.2 to the Capital Account of any Member shall not exceed the maximum amount of Losses that can be so allocated without creating an Adjusted Capital Account Balance deficit with respect to such Capital Account. This limitation shall be applied individually with respect to each Member in order to permit the allocation pursuant to this Section 6.2(h) of the maximum amount of Losses permissible under Regulations Section 1.704-1(b)(2)(ii)(d). All Losses in excess of the limitations set forth in this Section 6.2(h) shall be allocated solely to those Members that bear the economic risk for such additional Losses within the meaning of Code Section 704(b) and the Regulations thereunder. If it is necessary to allocate Losses under the preceding sentence, the Managers shall, in accordance with the Regulations promulgated under Code Section 704(b), determine those Members that bear the economic risk for such additional Losses.

6.3 Tax Allocations.

(a) Except as otherwise provided in Section 6.2(b) hereof, for income tax purposes, all items of income, gain, loss, deduction and credit of the Company for any tax period shall be allocated among the Members in accordance with the allocation of Profits and Losses prescribed in this Article VI and Appendix 1 hereto.

(b) In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder; provided, however, that unless otherwise determined by Management Board, the Company shall not adopt the Traditional Method with Curative Allocations as defined under Regulations Section 1.704-3(c) or the Remedial Allocation Method as defined in Regulations Section 1.704-3(d) that would require any Member to report any item of income or gain for Code Section 704(c) purposes that differs in amount or timing from the taxable income that the Company allocates to such Member under Code Section 704(b). In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section A1 of Appendix 1 hereto, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder; provided, however, that unless otherwise determined by Management Board, the Company shall not adopt the Traditional Method with Curative Allocations as defined under Regulations Section 1.704-3(c) or the Remedial Allocation Method as defined in Regulations Section 1.704-3(d) that would require any Member to report any item of income or gain for Code Section 704(c) purposes that differs in amount or timing from the taxable income that the Company allocates to such Member under Code Section 704(b). Allocations pursuant to this Section 6.2 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses or other items or distributions pursuant to any provision of this Agreement.

(c) The Members are aware of the income tax consequences of the allocations made by this Article VI and Appendix 1 hereto and hereby agree to be bound by the provisions of this Article VI and Appendix 1 hereto in reporting their distributive shares of the Company's taxable income and loss for income tax purposes.

6.4 Transferor – Transferee Allocations. Income, gain, loss, deduction or credit attributable to any Units which have been transferred shall be allocated between the transferor and the transferee under any method allowed under Code Section 706 and the Regulations thereunder as agreed by the transferor and the transferee.

6.5 Rights of Unit Holders. If any Person who is not a Member acquires ownership of one or more Units, the term "Member" shall be construed to include such Unit Holder for purposes of this Article VI.

ARTICLE VII

LIABILITIES, RIGHTS AND OBLIGATIONS OF MEMBERS

7.1 Limitation of Liability. Each Member's liability for Company debts and obligations shall be limited as set forth in the Act and other applicable law. This Section 7.1 shall not be deemed to limit in any way the Member's liabilities to the Company and to the other Members arising from a breach of this Agreement.

7.2 Access to Company Records. Upon a Member's written request, the Managers shall permit such Member, at a reasonable time to both the Managers and the Member, to inspect and copy the Company records required to be maintained pursuant to Section 9.1, as more specifically provided in Section 9.1.

7.3 Waiver of Action for Partition. Each Member irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to Company property or other Company assets.

7.4 Cooperation With Tax Matters Partner. Each Member agrees to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably required by the Tax Matters Partner in connection with the conduct of any proceedings involving the Tax Matters Partner.

7.5 Acknowledgment of Liability for State and Local Taxes. To the extent that the laws of any Taxing Jurisdiction require, each Member requested to do so by any other Member shall submit an agreement indicating that the Member shall make timely income tax payments to the Taxing Jurisdiction and that the Member accepts personal jurisdiction of the Taxing Jurisdiction regarding the collection of income taxes, interest, and penalties attributable to the Member's income. If a Member fails to provide such agreement upon request, the Company may withhold or pay over to such Taxing Jurisdiction the amount of tax, penalty, and interest determined under the laws of the Taxing Jurisdiction with respect to such income. Any such payments shall be treated as distributions for purposes of Article V.

7.6 Limitation On Bankruptcy Proceedings. No Member, without the Majority Vote of the Members, shall file or cause to be filed any action in bankruptcy involving the Company.

7.7 Voting Rights. The Priority Members shall have the right to vote on the matters specifically reserved for their approval or consent set forth in this Agreement. The Class C Units are non-voting and shall have no right to vote under this Agreement.

7.8 Annual Member Meeting. The Members shall not be required to hold an annual meeting. Notwithstanding the foregoing sentence, an annual meeting of the Members may be held each year on the date, at the time, and at the place, fixed by the Management Board for the purpose of electing Managers for vacant Manager positions, if any, and for the transaction of such other business as may come before the meeting.

7.9 Special Member Meetings. Special meetings of the Members may be called, for any purposes described in the notice of the meeting, by the Management Board, and shall be

called by the Management Board promptly upon the request of Members holding not less than fifteen percent (15%) of the outstanding Units entitled to vote at the meeting.

7.10 Notice of Member Meeting.

(a) Required Notice. Written notice stating the place, day, and hour of any annual or special Member meeting shall be delivered not less than five (5) nor more than sixty (60) days before the date of the meeting, either personally, orally, by mail or by electronic mail, by or at the direction of the person or group calling the meeting, to each Member of record entitled to vote at such meeting. Notice shall be deemed to be effective as provided in Section 14.1, or when received if delivered orally.

(b) Adjourned Meeting. If any Member meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if the new date, time, or place is announced at the meeting before adjournment.

(c) Contents of Notice. Notice of any special meeting of the Members shall include a description of the purpose or purposes for which the meeting is called. Notice of an annual meeting of the Members need not include a description of the purpose or purposes for which the meeting is called.

(d) Waiver of Notice of Meeting. Any Member may waive notice of a meeting by a writing signed by the Member which is delivered to the Company (either before or after the date and time stated in the notice as the date or time when any action will occur or has occurred) for inclusion in the minutes or filing with the Company's records.

(e) Effect of Attendance at Meeting. A Member's attendance at a meeting:

i. Waives objection to lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

ii. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

7.11 Member Voting Requirements.

(a) Approval of Actions. If a Quorum of the Members exists at a meeting of the Members, action on a matter is approved if the votes required by this Agreement, unless a greater number of affirmative votes are required under the Act, are voted in favor of such matter. Except as otherwise provided in this Agreement, or as otherwise required by the Act, the Priority Members shall vote together as a single class on any matter requiring the approval or consent of the Members. If less than a Quorum of the Members exists, the meeting may be adjourned by the Chairman to a later date, time and place, and the meeting may be held as adjourned without further notice.

(b) Effect of Representation. Once a Unit is represented for any purpose at a meeting, including the purpose of determining that a Quorum of the Members exists, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or must be set for that adjourned meeting.

7.12 Proxies. At all meetings of the Members, a Member may vote the Units the Member is entitled to vote in person or by a proxy executed in any lawful manner under the Act. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy.

7.13 Voting of Units. Unless otherwise provided in the Articles of Organization or this Agreement, each outstanding Unit entitled to vote shall be entitled to one vote, and each fractional share shall be entitled to a corresponding fractional vote, upon each matter submitted to a vote at a meeting of Members.

7.14 Informal Action by Members.

(a) Written Consent. Any action which may be taken at any annual or special meeting of Members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by the holders of outstanding Units having not less than the minimum number of votes necessary to authorize or take the action under this Agreement (unless a greater number of affirmative votes are required under the Act). Unless the written consents of all Members entitled to vote have been obtained, notice of any Member approval without a meeting shall be given at least five (5) days before the consummation of the transaction, action, or event authorized by the Member action to those Members entitled to vote who have not consented in writing. The notice must contain or be accompanied by a description of the transaction, action or event. If the Company has received written consents as contemplated by this Section 7.14(a) signed by all Members entitled to vote with respect to the action, the effective date of the action may be any date that is specified in all of the written consents. Any consent or writing may be received by the Company by any electronically transmitted or other form of communication that provides the Company with a complete copy thereof, including the signature thereto. Any Member or an authorized representative of that Member may revoke a consent by a signed writing describing the action and stating that the Member's prior consent is revoked, if the writing is received by the Company prior to the effective date and time of the action. A member action taken pursuant to this Section 7.14(a) is not effective unless all written consents on which the Company relies for taking an action pursuant to this Section 7.14(a) are received by the Company within a 60-day period and not revoked pursuant to this Section 7.14(a).

(b) Effect of Action Without a Meeting. Action taken under this Section 7.14 has the same effect as action taken at a meeting of Members and may be so described in any document.

ARTICLE VIII

LIABILITY, EXCULPATION AND INDEMNIFICATION

8.1 Liability. Except as otherwise provided by the Act or pursuant to any agreement, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Covered Person shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Covered Person.

8.2 Exculpation. No Covered Person shall be liable to the Company or any Member for any act or omission taken or suffered by such Covered Person in good faith and in the reasonable belief that such act or omission is in or is not contrary to the best interest of the Company and is within the scope of authority granted to such Covered Person by this Agreement; provided, however, that such act or omission is not in violation of this Agreement and does not constitute Disabling Conduct by the Covered Person.

8.3 Indemnification.

(a) The Company shall, to the fullest extent permitted by applicable Law (but subject to the limitations set forth in this Article VIII), indemnify, hold harmless and release each Covered Person from and against all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings and actions, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the business and affairs of, or activities undertaken in connection with, the Company, including, but not limited to, amounts paid in satisfaction of judgments, in compromise, or as fines or penalties and counsel fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims and amounts covered by this Section 8.3 and all expenses referred to in Section 8.3(e), are referred to as "Damages"), except to the extent that it is ultimately determined that such Damages arose from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement shall not, of itself, create a presumption that any Damages relating to such settlement arose from a material violation of this Agreement by, or Disabling Conduct of, any Covered Person. Members shall not indemnify any Covered Person.

(b) Notwithstanding anything to the contrary in this Section 8.3, and as provided in Section 1802(1) of the Act, the Company shall not indemnify a Covered Person made a party to a Proceeding against liability incurred in the Proceeding unless:

i. the Covered Person's conduct was in good faith;

ii. the Covered Person reasonably believed that such Covered Person's conduct was in, or not opposed to, the Company's best interests; and

iii. in the case of any criminal proceeding, the Covered Person had no reasonable cause to believe such Covered Person's conduct was unlawful.

The termination of a Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Covered Person did not meet the standard of conduct described in this Section 8.3(b).

(c) Notwithstanding anything to the contrary in this Section 8.3, and as provided in Section 1802(4) of the Act, the Company shall not indemnify a Covered Person under this Section 8.3:

i. in connection with a Proceeding by or in the right of the Company in which the Covered Person was adjudged liable to the Company; or

ii. in connection with any other Proceeding charging that the Covered Person derived an improper personal benefit, whether or not involving action in such Covered Person's official capacity, in which proceeding such Covered Person was adjudged liable on the basis that such Covered Person derived an improper personal benefit.

(d) The determination regarding whether the Covered Person has met the standards and requirements set forth in this Section 8.3, and is therefore entitled to indemnification and the advancement of expenses pursuant to Section 8.3(e), shall be made in accordance with Section 1806 of the Act.

(e) Expenses incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder shall be advanced by the Company prior to the final disposition thereof if (i) the Covered Person furnishes the Company a written affirmation of such Covered Person's good faith belief that such Covered Person has met the applicable standard of conduct described in this Section 8.3, (ii) upon receipt of a written undertaking by or on behalf of the Covered Person to repay such amount if it is ultimately determined that the Covered Person is not entitled to be indemnified hereunder, and (iii) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Section 8.3, as provided in the Act.

(f) The right of any Covered Person to the indemnification provided herein shall be cumulative with, and in addition to, any and all rights to which such Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall extend to such Covered Person's heirs, personal representatives, successors and assigns.

(g) Promptly after receipt by a Covered Person of notice of the commencement of any Proceeding, such Covered Person shall, if a claim for indemnification in respect thereof is to be made against the Company, give written notice to the Company of the commencement of such Proceeding, provided that the failure of any Covered Person to give notice as provided herein shall not relieve the Company of its obligations under this Section 8.3 except to the extent that the Company is actually prejudiced by such failure to give notice. In case any such Proceeding is brought against a Covered Person (other than a derivative suit in right of the Company), the Company will be entitled to participate in and to assume the defense thereof to the extent that the Company may wish, with counsel reasonably satisfactory to such Covered Person. After notice from the Company to such Covered Person of the Company's election to assume the defense thereof, the Company will not be liable for expenses subsequently

incurred by such Covered Person in connection with the defense thereof. The Company will not consent to entry of any judgment or enter into any settlement that (i) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Covered Person a release from all liability in respect to such Claim, or (ii) requires any action (or inaction) by the Covered Person other than the payment of money, but only to the extent that the Company is required to indemnify the Covered Person for such payment.

ARTICLE IX

BOOKS AND RECORDS, REPORTS, TAX ACCOUNTING, BANKING

9.1 Books and Records. The Managers, at the Company's expense, shall keep or cause to be kept adequate books and records for the Company, which contain an accurate account of all business transactions arising out of and in connection with the conduct of the Company, as required by the Act. After first giving the Company written notice of the demand at least five (5) business days before the inspection is to occur, any current or former Member or Manager, or his or its designated representative, shall have the right, at any reasonable time, to have access to and may inspect and copy the contents of such books or records for any proper purpose, as defined by the Act. The cost of such inspection and copying shall be borne by the Member or Manager seeking such inspection. The following records are those that the Managers shall cause to be maintained at the Company's Designated Office:

(a) An alphabetical list of the full name and last known business, residence, or mailing address of each Member, each Manager and each Officer, both past and present;

(b) A copy of the stamped Articles of Organization for the Company, and all certificates of amendment thereto, together with a copy of all signed powers of attorney pursuant to which the Company's Articles of Organization or any amendment has been signed;

(c) A copy of the writing required of an organizer under Section 401(2) of the Act setting forth the name and address of each Member of the Company and each Manager;

(d) A copy of the Company's currently effective Agreement and all amendments thereto, copies of any prior operating agreements no longer in effect, and copies of any writings permitted or required with respect to a Member's obligation to contribute cash, property, or services;

(e) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(f) Copies of Company financial statements, if any, for the three (3) most recent years;

(g) Copies of the minutes, if any, of every meeting of the Members and any written consents obtained from the Members;

(h) Copies of minutes, if any, of every meeting of the Management Board, and any written consents obtained from the Managers;

(i) Copies of any consents or approvals for actions by the Managers; and

(j) Except to the extent already set forth in this Agreement, a written statement setting forth: (i) the amount of cash and a description and statement of the agreed value of the other property or services contributed and agreed to be contributed by each Member; (ii) the times at which, or events on the happening of which, any additional contributions agreed to be made by each Member are to be made; (iii) any right of a Member to receive distributions; (iv) any date or event upon the happening of which a Member is entitled to payment in redemption of the Member's interests in the Company; and (v) any date or event upon the happening of which the Company is to be dissolved and its affairs wound up.

9.2 Reports to Members. Within twenty (20) days after the end of each Fiscal Year, within fifteen (15) days after the end of each of the first three fiscal quarters thereof, and within fifteen (15) days after the end of each calendar month other than March, June, September and December, the Chief Executive Officer shall cause the Management Board and the Members to be furnished with a copy of the balance sheet of the Company as of the last day of the applicable period and a statement of income or loss for the Company for such period. Quarterly and annual statements shall also include a statement of the Members' Capital Accounts and changes therein for such Fiscal quarter or Fiscal Year, as applicable. Annual statements shall be audited by the Company's accountants, and shall be in such form as shall enable the Members to comply with all reporting requirements applicable to either of them or their Affiliates under the Securities Exchange Act of 1934, as amended. The audited financial statements of the Company shall be furnished to the Members within fifty (50) days after the end of each Fiscal Year.

9.3 Tax Matters. The Members intend that the Company shall be operated in a manner consistent with its treatment as a partnership for federal and state income tax purposes. The Members shall not take any action inconsistent with this expressed intent. The Tax Matters Partner shall take no action to cause the Company to elect to be taxed as a corporation pursuant to Regulations Section 301.7701-3(a) or any counterpart under state law. Each Member agrees not to make any election for the Company to be excluded from the application of the provisions of Subchapter K of the Code.

9.4 Tax Returns. The Management Board shall cause the Company accountants to prepare and timely file all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. The Management Board shall instruct Company accountants to use commercially reasonable efforts to prepare and deliver all Forms K-1 (and similar forms under state and local law) to each Member by March 1 of each Fiscal Year.

(a) The Management Board may, where permitted by the rules of any Taxing Jurisdiction, file a composite, combined, or aggregate tax return reflecting Company income, and pay the tax, interest, and penalties of some or all Members on such income to the Taxing Jurisdiction. In such case the Company shall inform the Members of the amount of such tax, interest, and penalties so paid.

(b) The Management Board shall designate one Manager that is a Member to be the Company's "tax matters partner" pursuant to Code Section 6231(a)(a)(7) (the "Tax

Matters Partner"), provided, however, that if there is only one Manager that is a Member, such Manager shall be the Tax Matters Partner, and provided further that, if there is no Manager that is a Member, the Tax Matters Partner shall be a Member that is designated as such by a Majority Vote of the Members. Any Person so designated as the Tax Matters Partner shall receive no compensation (other than compensation, if any, otherwise specified in this Agreement) from the Company or its Members for its services in that capacity. Sarah Merz is hereby designated as the initial Tax Matters Partner of the Company and shall be authorized and required to represent the Company in connection with all examinations of the Company's affairs by tax authorities (Federal, State and local), including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. To the extent permitted by the Code, the Tax Matters Partner may be removed by the Management Board. The Tax Matters Partner shall, on a timely basis, keep all Members fully informed of the progress of any examinations, audits or other proceedings, and all Priority Members shall have the right to participate in any such examinations, audits or other proceedings. Notwithstanding the foregoing, the Tax Matters Partner shall not settle or otherwise compromise any issue in any such examination, audit or other proceeding without first obtaining the approval of the Management Board.

(c) At the request of a Majority Vote of the Members, the Managers may make the election provided under Code Section 754 and any corresponding provision of applicable state law.

(d) If a Member reports a Company item on the Member's income tax return in a manner inconsistent with the Company income tax return, the Member shall notify the Management Board of such treatment before filing the Member's income tax return. If a Member fails to report such inconsistent reporting, the Member shall be liable to the Company and the other Members for any expenses, including professionals' fees, tax, interest, penalties, or litigation costs, that may arise as a consequence of such inconsistent reporting, such as an audit by a Taxing Jurisdiction.

9.5 Bank Accounts. The Company shall maintain checking or other accounts in such bank or banks as the Managers shall determine and all funds received by the Company shall be deposited therein and withdrawn therefrom under such general or specific authority as this Agreement, the Act, or the Management Board shall grant to the Managers. Company funds shall not be commingled with the funds of any other Person. Checks shall be drawn upon the Company account or accounts only for Company purposes and shall be signed by authorized Persons on the Company's behalf.

ARTICLE X

ADMISSIONS AND WITHDRAWALS

10.1 Admission of Member. Persons may be admitted as Members as a result of the issuance of Units only with a Majority Vote of the Members, provided, however, that a third party may become a Member through conversion rights granted to such third party by an instrument approved by the Management Board. Except as specifically set forth herein, no

Person shall be admitted as a Member of the Company after the date of formation of the Company as a result of a Transfer of Units, except in accordance with Section 11.5.

10.2 Right to Withdraw. A Member may withdraw from the Company at any time by mailing or delivering a written notice of withdrawal to the Managers. If the withdrawing Member is a Manager, such Member may withdraw by mailing or delivering a written notice of withdrawal to the Company and to the other Members at their last known addresses set forth in Exhibit A.

10.3 Rights of Withdrawn Member. Except to the extent set forth in this Agreement with respect to a Restricted Member, upon the occurrence of a Withdrawal Event with respect to a Member, the Withdrawn Member (or the Withdrawn Member's personal representative or other successor if applicable) shall cease to have any rights of a Member, except the right to receive distributions and allocations of Profits and Losses occurring at the times and equal in amounts to those distributions and allocations of Profits and Losses the Withdrawn Member would otherwise have received if a Withdrawal Event had not occurred. In addition, the Units held by the Withdrawn Member shall be subject to the Purchase Option. If there are no remaining Members, distributions to any Withdrawn Member shall be governed by Section 12.2.

10.4 Option to Purchase the Interest of a Member upon a Withdrawal Event.

(a) Within thirty (30) days from the occurrence of a Withdrawal Event with respect to a Member, the Withdrawn Member (or the Withdrawn Member's personal representative or other successor if applicable) shall provide the Company with written notice of the Withdrawal Event ("Withdrawal Notice").

(b) Following a Withdrawal Event, the Company shall then have the option to purchase all of the Withdrawn Member's Units ("Purchase Option") in the place of making distributions to the Withdrawn Member (or the Withdrawn Member's personal representative or other successor if applicable) as set forth in Section 10.3.

(c) The Purchase Option shall be exercisable at any time during the thirty (30) day period following the Company's receipt of the Withdrawal Notice (or if no Withdrawal Notice is delivered, within the thirty (30)-day period following the date on which the Company becomes aware of the Withdrawal Event) by delivery of written notice (the "Purchase Option Notice") to the Withdrawn Member (or the Withdrawn Member's personal representative or other successor if applicable).

(d) The Purchase Option Notice shall indicate the date the purchase is to be effected (such date to be not less than five (5) business days, nor more than ten (10) business days, after the date of the Purchase Option Notice).

(e) The purchase price for the Withdrawn Member's Units shall be an amount equal to the fair market value (as determined by the Company's Management Board) of such Units, taking into account discounts for lack of marketability and lack of control, to the extent applicable. The Purchase Option Notice shall include the proposed purchase price. If the Withdrawn Member disputes the proposed purchase price, such Withdrawn Member shall deliver written notice of such dispute to the Company within twenty (20) days of receipt of the

repurchase notice (the "Withdrawn Member Notice"). If such Withdrawn Member fails to deliver a Withdrawn Member Notice to the Company within such 20-day period, such Withdrawn Member shall be deemed to have agreed with and shall be bound by the purchase price proposed in the Purchase Option Notice. If such Withdrawn Member delivers a Withdrawn Member Notice to the Company within such 20-day period, the Company and such Withdrawn Member shall select a reputable valuation firm to determine the fair market value of the Withdrawn Member's Units. In the event that the Company and such Withdrawn Member do not agree upon a valuation firm within sixty (60) days of the date the Company delivered the Purchase Option Notice to such Withdrawn Member, the Company and such Withdrawn Member shall each select a reputable valuation firm and instruct the valuation firms to select a third reputable valuation firm. The fair market value of the Withdrawn Member's Units shall then be determined by such third valuation firm. The fees and costs of the valuation firms engaged pursuant to this Section 10.4(e) shall be borne by the Withdrawn Member, provided, however, that the Company shall bear the fees and costs of the valuation firm if the fair market value of the Withdrawn Member's Units determined by the valuation firm is more than ten percent (10%) below the fair market value determined by the Management Board.

(f) The purchase price for the Withdrawn Member's interests shall be payable in cash or a promissory note with mutually agreeable terms.

(g) In the case of a Restricted Member, Section 3.9 and Section 3.10 shall apply in place of this Section 10.4 with respect to Restricted Units only.

ARTICLE XI

TRANSFERABILITY

11.1 General. No Member shall be authorized to Transfer all or a portion of such Member's Units unless the Transfer constitutes a Permitted Transfer.

11.2 Permitted Transfers. Subject to the conditions and restrictions set forth in Section 11.3, a Transfer of a Member's Units shall constitute a Permitted Transfer provided that:

(a) The Transfer is made to another Member or an Affiliate of any Member (provided, however, that if such transferee ceases to be an Affiliate of the Member, then such event shall constitute a Withdrawal Event unless the Affiliate first Transfers all of the Units held by such Person to the transferor); or

(b) To the extent applicable, the Transfer is made following compliance with the terms of the (A) right of first refusal set forth in Section 11.4; and (B) the Tag-Along Rights set forth in Section 11.9.

11.3 Conditions to Permitted Transfer. A Transfer shall not be treated as a Permitted Transfer unless all of the following conditions are satisfied:

(a) The Members consent to the Transfer by a Majority Vote of the Members, (A) which consent will not be unreasonably withheld, conditioned, or delayed with respect to the Class B Units, (B) which consent may be granted or withheld, conditioned, or delayed, for any

or no reason with respect to any Class C Units, and (C) which consent requirement under this Section 11.3(a) shall not apply to a Priority Member holding a majority of the Class A Units;

(b) Unless otherwise determined by a Majority Vote of the Management Board, the Units are not Profits Interest Units;

(c) The Transfer is not to a Material Competitor or Unsuitable Transferee;

(d) The Transfer does not cause the Company to become a "publicly traded partnership" within the meaning of Code Section 7704(b);

(e) The Units which are the subject of the Transfer are registered under the Securities Act as amended, and any applicable state securities laws; or, alternatively, Company counsel furnishes an opinion that such Transfer is exempt from all applicable registration requirements or that such Transfer will not violate any applicable securities laws; and

(f) The transferor and the transferee agree to execute such documents and instruments necessary or appropriate in the Managers' discretion to confirm such Transfer.

11.4 Right of First Refusal. At any time it holds a majority of the Class A Units, Peterson shall not be subject to the obligations of a Disposing Member (as defined below) set forth in Sections 11(a) – 11(g).

(a) General. If any Member (other than a Priority Member holding a majority of the Class A Units) desires to Transfer all or a portion of the Member's Units to any Person, such Transfer shall not constitute a Permitted Transfer unless such Member shall afford the Company and the Priority Members a right of first refusal pursuant to this Section 11.4.

(b) Notice. A Member desiring to Transfer Units shall first provide to the Company and the Priority Members at least one hundred twenty (120) days' prior written notice of the Member's intention to make a Transfer of Units (the "Disposition Notice"), provided, however, that a Disposition Notice may be issued to the Company and the Priority Members by a Member only after such Member has received a bona-fide offer from an unrelated third-party relating to the Transfer of the Units that the Member desires to Transfer. The one hundred twenty (120) day time frame following the Company and the Priority Members' receipt of the Disposition Notice shall be termed the "Notice Period". The Member desiring to Transfer Units shall be known as the "Disposing Member" and the Priority Members (other than the Disposing Member) shall be known as the "Non-Disposing Members" for purposes of this Agreement. In the Disposition Notice, the Disposing Member shall specify the price at which the Units are proposed to be purchased in the bona-fide offer, the portion of the Disposing Member's Units to be sold or transferred, the identity of the proposed purchaser or transferee, and the terms and conditions of the proposed Transfer as set forth in the bona-fide offer.

(c) Option to Company. The Company may elect with Majority Vote of the Managers within the first sixty (60) days of the Notice Period, to purchase some or all of the Units proposed to be transferred by the Disposing Member at the proposed price as contained in the Disposition Notice. The terms and conditions of the purchase by the Company shall be the terms and conditions of the proposed Transfer as set forth in the Disposition Notice. Any

purchase by the Company shall be made in cash any day between and including the ninety-first (91st) and including the one hundredth (100th) day of the Notice Period.

(d) Options to Members. If the Company does not purchase all of the Disposing Member's Units covered by the Disposition Notice, the remaining Units may be purchased by the Non-Disposing Members on the same terms and at the same price available to the Company. Each Non-Disposing Member shall have the option to purchase that portion of the Disposing Member's Units that is necessary to maintain the Member's Percentage Interest vis-à-vis the other Non-Disposing Members (not taking into account the Percentage Interest of the Class C Members). If any Non-Disposing Member does not purchase the portion of the Units available to such Member within the time frame stated in Section 11.4(e), the remaining Units will then be available for purchase by the other Non-Disposing Members in proportion to their respective Percentage Interests.

(e) Timing. If the Company decides to purchase less than all of the Units offered by the Disposing Member (including a decision to purchase none of such Units), within thirty (30) days after the Company reaches such decision, and, in any event, by the end of the first sixty (60) days of the Notice Period, the Company shall so notify each Non-Disposing Member. The notice shall state that the Company did not exercise its option to purchase all of the Disposing Member's Units offered pursuant to the Disposition Notice and shall contain appropriate information concerning each Non-Disposing Member's option to purchase all remaining Units offered by the Disposing Member. Each Non-Disposing Member must give written notice to the Disposing Member and the other Non-Disposing Members of the exercise of such Member's option to acquire the Member's portion of such Units within the first eighty (80) days of the Notice Period. Such Member must then pay for such Units in cash by the end of the first ninety (90) days of the Notice Period. If any Non-Disposing Member does not elect to purchase, and pay the purchase price for, all of the Units available to such Member within the required time period, the remaining Non-Disposing Members shall be entitled to purchase any remaining Units vis-à-vis such Non-Disposing Members' Percentage Interests (not taking into account the Percentage Interest of the Class C Members) by giving written notice to the Disposing Member and the other Non-Disposing Members within the first ninety (90) days of the Notice Period. Any purchase by the remaining Non-Disposing Members shall be made in cash within the first one hundred (100) days of the Notice Period.

(f) Transfer to Third Party. If the Company and the Non-Disposing Members have not collectively purchased all of the Disposing Members' Units covered by the Disposition Notice within the first one hundred (100) days of the Notice Period, the Disposing Member may, provided the conditions of Section 11.3 are satisfied, sell its or his remaining Units to Persons other than the Company and the Non-Disposing Members, provided that any disposition must be made on the terms and conditions and to the party specified in the Disposition Notice and must be consummated within the one hundred twenty (120) day Notice Period, but after any time provided above for the Company and/or Non-Disposing Members to elect to purchase and consummate the purchase of such Units.

(g) Transfer of Rights to Assignee. If the Transfer entails the Transfer of all of Disposing Member's Units and there shall be only one Non-Disposing Member, such Member

shall have the right to assign to any Person the rights otherwise available to the Non-Disposing Member pursuant to this Section 11.4.

(h) Transfer by Peterson of Class A Units. In the event that Peterson desires to Transfer all or a portion of its Class A Units, such Transfer shall not constitute a Permitted Transfer unless Peterson shall afford the Class B Member a right of first refusal pursuant to this Section 11.4(h). If Peterson desires to Transfer Class A Units, it shall first provide to the Class B Member written notice of Peterson's intention to make a Transfer of its Class A Units (the "Peterson Notice"), which notice shall specify (i) the estimated price at which Peterson proposes to Transfer the Class A Units, and (ii) the terms and conditions of the proposed Transfer. The Class B Member may elect to purchase all (but not less than all) of the Class A Units proposed to be transferred by Peterson at the estimated purchase price contained in the Peterson Notice. Within fifteen (15) days following the Class B Member's receipt of the Peterson Notice, the Class B Member must provide written notice to Peterson of its election to acquire Peterson's Class A Units on the terms and conditions of the proposed Transfer set forth in the Peterson Notice. Upon receipt of such notice from the Class B Member, Peterson and the Class B Member will enter into exclusive negotiations for the purchase of the Class A Units proposed to be transferred on terms and conditions substantially similar to those terms and conditions set forth in the Peterson Notice. If within thirty (30) days of Peterson's receipt of the Class B Member's election notice Peterson and the Class B Member have not entered into a definitive agreement for the purchase of the Class A Units proposed to be Transferred, then Peterson's obligations to exclusively negotiate with the Class B Member will automatically terminate and Peterson may negotiate the Transfer of its Class A Units to one or more third-parties on the terms and conditions substantially similar to those set forth in the Peterson Notice; provided, however, that no Transfer of any of Peterson's Class A Units shall be made to any third-party at a purchase price of less than 90% of the estimated purchase price contained in the Peterson Notice without a new notice of intention to Transfer to the Class B Member and full compliance with the requirements of this Section 11.4(h).

11.5 Admission as Substitute Member.

(a) A transferee of Units who is not a Member shall be admitted to the Company as a Substitute Member only upon satisfaction of the following conditions:

i. The Units with respect to which the transferee is being admitted were acquired by means of a Permitted Transfer;

ii. The transferee becomes a party to this Agreement and executes such documents and instruments as the Management Board determines are necessary or appropriate to confirm such transferee as a Member and such transferee's agreement to be bound by the terms of this Agreement; and

iii. The Members (defined for this purpose by excluding the Disposing Member) consent to the admission of the transferee as a Substitute Member by a Majority Vote of such Members, provided, however, that the consent requirement under this Section 11.5(a)(iii) shall not apply to any transferee of Units from a Priority Member.

(b) A transferee of Units in a Permitted Transfer under Sections 11.2(a) shall automatically become a Substitute Member with regard to the Transferred Units unless the transferor directs in writing to the contrary.

(c) If the transferee of Units in a Permitted Transfer shall not become a Substitute Member, the transferee shall have only the rights set forth in Section 11.6 hereof.

11.6 Rights as Assignee. A non-Member who acquires Units (and any Member if the transferor directs in writing to the contrary as provided in Section 11.5(b)) and who is not admitted to the Company as a Substitute Member shall have only the right to receive the distributions and allocations of Profits and Losses to which such Person would have been entitled under this Agreement with respect to the transferred Units, but shall have no right to participate in Company management, no right to inspect Company books and records, and no other rights accorded Members under this Agreement. Any distributions to such purported transferee may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee may have to the Company.

11.7 Prohibited Transfers. Any purported Transfer of Units that is not a Permitted Transfer shall be null and void and of no force and effect whatsoever. In the case of an attempted Transfer that is not a Permitted Transfer, the Persons engaging in or attempting to engage in such Transfer shall be liable to and shall indemnify and hold harmless the Company from all loss, cost, liability and damages that the Company and/or any Member incurs as a result of such attempted Transfer.

11.8 Drag-Along Right. If a Class A Member ("Transferring Member") intends to sell Class A Units to a third party purchaser that would result in such third party purchaser acquiring control over more than fifty percent (50%) of all outstanding Class A Units and otherwise result in a Change of Control, after taking into account the sale of Units by the Members pursuant to the provisions of this Section 11.8, in which the Transferring Member (together with any affiliates of the Transferring Member) would not retain a controlling interest in the Company, then the Transferring Member shall have the right (the "Drag-Along Right") to require each remaining Members to sell some or all of its or his or her Units to the third party in a proportionate amount and on the same terms and conditions as the Transferring Member (taking into account Section 11.8(f)) in accordance with the terms and conditions of this Section 11.8 and otherwise in accordance with the following provisions:

(a) The Drag-Along Right may only be exercised by written notice (the "Drag-Along Notice") from the Transferring Member and the third party purchaser to the remaining Members.

(b) The Drag-Along Notice shall:

i. state the name of the third party purchaser, the purchase price for the Units of the Transferring Member(s) and the purchase price proposed to be paid for the Units of the remaining Members (in accordance with Section 11.8(f)) and the time, date and place of completion of such sale and purchase; and

ii. be given no later than fifteen (15) business days before the date fixed for completion of the sale by the Transferring Member of its or his or her Units to the third party.

(c) The delivery of the Drag-Along Notice to a Member shall constitute an irrevocable and binding obligation of the Member to sell, and the third party to purchase, some or all of the Member's Units in a proportionate amount and on the same terms and conditions, taking into account Section 11.8(f) and subject to Section 11.8(e), as are applicable to the sale by the Transferring Member of its Units to the third party as set forth in the Drag-Along Notice (subject to such terms being accurately reflected in the Drag-Along Notice).

(d) At or before the time of completion of the sale of the Units of each Member to the third party purchaser, each such Member shall (i) use its best efforts to cause to be discharged any and all encumbrances of, and security interests in, its or his or her Units and provide written evidence of such discharges to the third party purchaser, and (ii) execute and deliver to the third party purchaser, against payment for such Units, all certificates or other documents representing such Units, duly endorsed for transfer or with duly executed assignment forms attached.

(e) Notwithstanding any provision of this Section 11.8, (i) no Member shall be under any obligation to sell any Units unless (A) such sale occurs concurrently with or subsequent to the sale of Units by the Transferring Member in a proportionate amount on the same terms and conditions (taking into account Section 11.8(f)), (B) the sale of Units by the Transferring Member shall qualify as a Permitted Transfer under Section 11.2 and meets the conditions to a Permitted Transfer set forth in Section 11.3 to the extent applicable, and (C) such sale results in a third party purchaser acquiring control over more than fifty percent (50%) of all outstanding Class A Units and otherwise result in a Change of Control, after taking into account the sale of Units by the Members pursuant to the provisions of this Section 11.8, in which the Transferring Member (together with any affiliates of the Transferring Member) would not retain a controlling interest in the Company and (ii) nothing in such sale of Units shall require a Member subject to this Section 11.8 to do any of the following, unless all Members similarly situated (e.g., of a similar class or Series of Units) and the Transferring Member are required to do the same: (w) enter into any agreement or make any covenant, (x) make any representation, or warranty other than related to authority, ownership and the ability to convey title to such Units, (y) be liable for the inaccuracy of any representation or warranty made by any person or entity in connection with the sale other than himself or itself and the Company, or (z) be liable in any way other than severally in proportion to the amount of consideration paid to such Member in connection with such sale and such liability not exceed the aggregate consideration received by such Member in such sale.

(f) Notwithstanding that a sale pursuant to this Section 11.8 may provide for, or result in, different per Unit consideration for different classes or series of Units, such sale shall be deemed to be for the same terms and conditions regarding consideration if the proceeds of such sale are allocated in the manner that would result if such consideration were distributed to the Members as if the Company were hypothetically liquidated pursuant to the rights and preferences set forth in Section 12.2 (taking into account Section 12.3) as in effect immediately prior to such sale as long as the nature of that consideration (e.g., cash, promissory notes, or other

property) is received among the various classes or series of Units in the same proportionate amounts received by the Transferring Member.

11.9 Tag-Along Right.

(a) If any Disposing Member desires to Transfer all or a portion of the Member's Units to any Person (the "Offered Units"), such Transfer (a "Proposed Transfer") shall not constitute a Permitted Transfer unless such Member shall afford the Priority Members the tag-along rights set forth in this Section 11.9 (the "Tag-Along Rights").

(b) Any Disposition Notice delivered to a Priority Member pursuant to Section 11.4(b) shall also serve as notice of such Priority Member's Tag-Along Rights under this Section 11.9.

(c) Each Priority Member that is not the Disposing Member (a "Remaining Member") shall have forty-five (45) days after receipt of the Disposition Notice to deliver to the Disposing Member a demand (a "Tag-Along Demand") invoking the provisions of this Section 11.9. The Tag-Along Demand shall indicate the maximum number of Units that each Remaining Member wishes to sell (including the number of such Units he or she or it would sell if one or more Remaining Members do not elect to participate in the sale).

(d) The Disposing Member and each Remaining Member shall have the right to sell a portion of his or her or its Units pursuant to the Proposed Transfer which is equal to or less than the product obtained by multiplying (i) the total number of Offered Units by (ii) a fraction, the numerator of which is (x) the total number of Units held by such Disposing Member or Remaining Member on the date of the Tag-Along Demand and the denominator of which is (y) the total number of Units then held by the Disposing Member and by the Remaining Members on the date of the Tag-Along Demand. To the extent one or more Remaining Members elect not to exercise their Tag-Along Rights or the transferee agrees to purchase a number of Units greater than the Offered Units, then the rights of the Disposing Member and the rest of the Remaining Members (who exercise their Tag-Along Rights) to sell Units shall be increased proportionately based on their relative holdings by the full amount of (A) Units which the non-electing Remaining Members were entitled to sell pursuant to this Section 11.9(d); and/or (B) the additional number of Units that the transferee is willing to purchase, if any.

(e) Within five (5) days of receiving a notice from the Company or, as applicable, the Non-Disposing Members as set forth in Section 11.4(e), the Disposing Member shall notify each Remaining Member in writing (i) whether the Company or, as applicable, any Non-Disposing Member, has elected to purchase none, some or all of the Offered Units in accordance with Section 11.4(c) or Section 11.4(d) and (ii) if the Company or any Non-Disposing Member has elected to purchase some or all of the Offered Units, the number of Units held by such Remaining Member that may be included in the sale, subject to the revocation rights set forth below in this Section 11.4(e). If the Company and the Non-Disposing Members have elected to purchase none or some but not all of the Offered Units, then, only if a Remaining Member elects to exercise his or her or its rights to purchase his or her or its allocated portion of the remaining Offered Units in accordance with Sections 11.4(d) and (e), then such Remaining Member may, concurrently with delivering the required notice of such election pursuant to

Section 11.4(e), deliver written notice to the Disposing Member, the other Remaining Members and the Company that such Remaining Member has revoked his or her or its prior election to exercise his or her or its Tag-Along Rights pursuant to this Section 11.9. By the ninetieth (90th) day of the Notice Period, the Disposing Member shall notify each Remaining Member in writing if there has been any change in the number of Units that will be included in the sale and the date on which the Proposed Sale with the purchasing party(ies) (whether a third party, the Company, or the Remaining Members) is anticipated to be consummated in accordance with the provisions of Section 11.4.

(f) Notwithstanding the provisions of Sections 11.9(d) and (e), if the Disposing Member is a Class A Member and the Proposed Transfer would result in a third party purchaser acquiring control over more than fifty percent (50%) of all outstanding Class A Units and otherwise result in a Change of Control, after taking into account the sale of Units by the Members pursuant to the provisions of this Section 11.9, then the third party purchaser shall purchase a proportionate amount of the Units (in the same percentage of the number of Class A Units that the Class A Member is proposing to transfer as compared to the overall number of Class A Units held by the Class A Member) requested to be purchased by any Remaining Member pursuant to a Tag-Along Demand.

(g) The delivery of a Tag-Along Demand by a Remaining Member, subject to the revocation rights set forth in Section 11.9(e), shall constitute an irrevocable and binding obligation of such Remaining Member to sell the specified number of Units in such Remaining Member's Tag-Along Demand, as such number may be adjusted as set froth in Section 11.9(e), to the third party on the same terms and conditions, taking into account Section 11.9(j), as set forth in the Disposition Notice (subject to such terms being accurately reflected in the Disposition Notice) and on such other applicable terms and conditions as are set forth in this Section 11.9.

(h) The Disposing Member shall not complete the sale of his or her or its Units to the third party unless he or she or it has fully complied with its obligations set forth in Section 11.4 and this Section 11.9 and the third party purchaser (and any other purchasing parties pursuant to Section 11.4 and this Section 11.9) has completed the purchase of all Units in respect of which each applicable Tag-Along Demand has been delivered within the prescribed time.

(i) The completion of the sale to the third party purchaser of the Units of each Remaining Member that provides a Tag-Along Demand within the prescribed time shall take place no later than concurrently with the sale of the Disposing Member(s)' Units to the third party.

(j) At or before the time of completion of the sale of his or her or its Units, each Remaining Member that provided a Tag-Along Demand within the prescribed time shall (i) cause to be discharged any and all encumbrances of, and security interests in, its Units and provide written evidence of such discharges, and (ii) execute and deliver to the purchasing party(ies), against payment for such Units, all certificates or other documents representing such Units, duly endorsed for transfer or with duly executed assignment forms attached.

(k) Notwithstanding that a sale pursuant to this Section 11.9 may provide for, or result in, different per Unit consideration for different classes or series of Units, such sale shall be deemed to be for the same terms and conditions regarding consideration if the proceeds of such sale are allocated in the manner that would result if such consideration were distributed to the Members as if the Company were hypothetically liquidated pursuant to the rights and preferences set forth in Section 12.2 (taking into account Section 12.3) as in effect immediately prior to such sale as long as the nature of that consideration (e.g., cash, promissory notes, or other property) is received among the various classes or series of Units in the same proportionate amounts received by the Disposing Member.

11.10 Change of Control. Notwithstanding any other provision of this Agreement, the Company is prohibited from completing a Change of Control (a) without a prior Majority Vote of the Members and (b) in which any party to the Change of Control is a Material Competitor or Unsuitable Transferee.

11.11 Legends. Each Member agrees that the following legend shall be placed upon any counterpart of this Agreement or any other instrument or document evidencing ownership of a Unit:

> THE UNITS REPRESENTED BY THIS DOCUMENT HAVE NOT BEEN REGISTERED UNDER ANY SECURITIES LAWS AND THE TRANSFERABILITY OF SUCH UNITS IS RESTRICTED. SUCH UNITS MAY NOT BE SOLD, ASSIGNED, GIFTED, TRANSFERRED OR OTHERWISE DISPOSED, NOR WILL THE VENDEE, ASSIGNEE, BENEFICIARY, OR TRANSFEREE BE RECOGNIZED AS HAVING ACQUIRED SUCH UNITS FOR ANY PURPOSES, UNLESS (A) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT AS AMENDED, WITH RESPECT TO SUCH UNITS SHALL THEN BE IN EFFECT AND SUCH HAS BEEN QUALIFIED UNDER ALL APPLICABLE STATE SECURITIES LAWS, OR (B) THE AVAILABILITY OF AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION SHALL BE ESTABLISHED TO THE SATISFACTION OF COUNSEL FOR THE COMPANY.
>
> THE UNITS REPRESENTED BY THIS DOCUMENT ARE SUBJECT TO FURTHER RESTRICTION AS TO THEIR SALE, TRANSFER, HYPOTHECATION, OR ASSIGNMENT AS SET FORTH IN THE AMENDED AND RESTATED OPERATING AGREEMENT OF THE COMPANY AND AGREED TO BY EACH MEMBER OF THE COMPANY. SAID RESTRICTION PROVIDES, AMONG OTHER THINGS, THAT GENERALLY NO UNITS MAY BE TRANSFERRED TO ANY PERSON WHO IS NOT A MEMBER WITHOUT FIRST OFFERING SUCH UNITS TO THE COMPANY AND THE PRIORITY MEMBERS, AND THAT GENERALLY NO BENEFICIARY,

TRANSFEREE, OR ASSIGNEE SHALL HAVE THE RIGHT TO BECOME A "SUBSTITUTE MEMBER" WITHOUT THE CONSENT OF ALL OTHER MEMBERS.

11.12 Distributions in Respect of Transferred Units. If any Units are transferred in compliance with this Article XI, all distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee.

ARTICLE XII

DISSOLUTION AND TERMINATION

12.1 Dissolution. The Company shall be dissolved upon the first to occur of any of the following events:

(a) The Majority Vote of the Members;

(b) The entry of a decree of judicial dissolution under Section 1213 of the Act;

(c) The sale, exchange, or other disposition of all or substantially all Company assets;

(d) Failure by the Company to have at least one (1) Member;

(e) When the Company is not the successor company in the merger or consolidation of the Company with or into any other entity or entities; or

(f) Upon administrative dissolution under Section 1207 of the Act, subject to the right of reinstatement under Section 1208 of the Act.

The Company shall not be dissolved upon the occurrence of a Withdrawal Event with respect to any Manager or Member unless there is no remaining Member, taking into consideration for this purpose Sections 402(2)(c) and 1201(2) of the Act. Provided, however, that the Company shall be dissolved at the expiration of the Company's period of duration, as set forth in the Company's Articles of Organization or, if no period of duration is set forth in the Company's Articles of Organization, the date which is 99 years from the date the Articles of Organization were filed with the Division.

12.2 Liquidation, Winding Up and Distribution of Assets. The Managers shall, upon the Company's dissolution, proceed to liquidate Company assets and properties, discharge Company obligations, and wind up the Company's business and affairs as promptly as is consistent with obtaining the fair value thereof. The proceeds from liquidating Company assets, to the extent available, shall be applied and distributed as follows:

(a) First, to the payment and discharge of all Company debts and liabilities (other than debts and liabilities owing to the Members) or to the establishment of any reasonable

reserves for contingent or unliquidated debts and liabilities, in the order of priority as provided by law;

(b) Second, to the payment of any liabilities to Members in their capacities as creditors, in the order of priority as provided by law;

(c) Third, to FC an amount equal to the FC Unreturned Priority Contribution and the FC Preferred Return;

(d) Fourth, to the Class A Members, pro rata based on the unpaid Class A Preferred Return payable to each Class A Member, an amount equal to the Class A Members' unpaid Class A Preferred Return;

(e) Fifth, to the Class A Members, pro rata based on the Class A Unreturned Contribution Balance of each Class A Member, an amount equal to the Class A Unreturned Contribution Balance;

(f) Sixth, to the Class B Member, an amount equal to the Class B Unreturned Contribution Balance; and

(g) Thereafter, in accordance with the positive balance of each Member's Capital Account as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs, including any distributions pursuant to Sections 12.2(c) through (f) and any Capital Account adjustments associated with the allocation of Profits and Losses with respect to any sale, transfer or other taxable disposition of any Company property. Any such distributions to the Members in respect of their Capital Accounts shall be made within the time requirements of Regulations Section 1.704-1(b)(2)(ii)(b)(2). If for any reason the amount distributable pursuant to this Section 12.2(g) shall be more than or less than the sum of all the positive balances of the Members' Capital Accounts, then the proceeds distributable pursuant to this Section 12.2(g) shall be distributed among the Members in accordance with the ratio by which the positive Capital Account balance of each Member bears to the sum of all positive Capital Account balances. Distributions required by this Section 12.2(g) may be distributed to a trust established for the benefit of the Members for the purposes of liquidating Company property, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Managers arising out of or in connection with the Company. In such case, the assets of such trust shall be distributed to the Members from time to time, in the discretion of the Managers, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to this Agreement.

12.3 Allocations Relating to Last Fiscal Year.

(a) Notwithstanding Section 6.1 and Section 6.2, if upon the dissolution and termination of the Company pursuant to Article XII and after all other allocations provided for in Section 6.1 and Section 6.2 have been tentatively made as if this Section 12.3 were not in this Agreement, a distribution to the Company under Section 12.2 would be different from a distribution pursuant to the distribution priorities set forth in Section 12.3(b), then Profits (and items thereof) and Losses (and items thereof) for the Fiscal Year in which the Company dissolves

and terminates pursuant to Article XII shall be allocated among the Members in a manner such the Capital Account of each Member, immediately after giving effect to such allocation, is, as near as possible, equal (proportionately) to the amount of the distributions that would be made to such Member during such Fiscal Year if the Company was making its distributions pursuant to Section 12.3(b). The Management Board, may, in its discretion, (A) apply the principles of this Section 12.3 to any Fiscal Year preceding the Fiscal Year in which the Company dissolves and terminates if delaying the application of the principles of this Section 12.3 would likely result in distributions under Article XII that are materially different from distributions under Section 12.3(b) in the Fiscal Year in which the Company dissolves and terminates, or (B) allocate items of gross income, gain, deduction, loss, or credit with respect to any Fiscal Years that are open for tax purposes (i.e., Fiscal Years for which either tax returns have not yet been filed or, if filed, an amended tax return may still be timely filed), if the Management Board determines, in the Fiscal Year in which the Company dissolves and terminates, that allocation of Profits and Losses will result in distributions under Article XII that are materially different from distributions under Section 12.3(b).

(b) The distribution priority under this Section 12.3(b) is as follows:

i. First, to FC an amount equal to the FC Unreturned Priority Contribution and the unpaid FC Preferred Return;

ii. Second, to the Class A Members, pro rata based on the unpaid Class A Preferred Return payable to each Class A Member, an amount equal to each Class A Member's unpaid Class A Preferred Return;

iii. Third, to the Class A Member, pro rata based on the Class A Unreturned Contribution Balance of each Class A Member, an amount equal to each Class A Member's Class A Unreturned Contribution Balance;

iv. Fourth, to the Class B Member, an amount equal to the Class B Unreturned Contribution Balance; and

v. Thereafter, to the Members in according with the Members' Percentage Interest in the Company, *provided, however,* that, in order to comply with the Profit Interest Revenue Procedures, liquidating distributions pursuant to Section 12.3(b)(iv) shall be made in a manner that accounts for the differences in Capital Accounts of the Profits Interest Unit holders versus the other Members resulting from the adjustments made to the Capital Accounts of the Members pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations at the time that any Profits Interest Unit is granted.

12.4 Deficit Capital Accounts. No Member shall have any obligation to contribute or advance any funds or other property to the Company by reason of any negative or deficit balance in such Member's Capital Account during or upon completion of winding up or at any other time except to the extent that a deficit balance is directly attributable to a distribution of cash or other property in violation of this Agreement.

12.5 Certificate of Cancellation. When all the remaining property and assets have been applied and distributed in accordance with Section 12.2 hereof, the Managers (or such other

Person designated by the Members) shall cause a Certificate of Cancellation to be filed with the Division in accordance with Section 1202 of the Act.

12.6 Return of Contribution Non-Recourse to Other Members. Except as provided by law, upon dissolution, each Member shall look solely to the Company assets for the return of the Member's Capital Contributions. If any Company property remaining after payment or discharge of Company debts and liabilities is insufficient to return the cash or other property contribution of one or more Member(s), such Member(s) shall have no recourse against the Managers, the Management Board or any other Member.

12.7 In Kind Distributions. A Member shall have no right to demand and receive any distribution from the Company in any form other than cash. However, a Member may be compelled to accept a distribution of an asset in kind if the Company is unable to dispose of all of its assets for cash.

12.8 Inclusion of Unit Holder. Except as otherwise provided herein, the term "Member" for purposes of this Article XII shall include a Unit Holder.

ARTICLE XIII

DISPUTE RESOLUTION; BUY-SELL

13.1 Good Faith Negotiations. Subject to Section 13.4, any dispute between the Members arising out of or relating to this Agreement that the Members cannot resolve through good faith negotiations between their respective representatives within forty-five (45) days after written notice of such dispute is first given by one Member to the other Member(s) shall be resolved in accordance with the procedures described in this Article XIII, which shall be the sole and exclusive procedures for resolution of any such dispute.

13.2 Non-Binding Mediation. The Members shall use reasonable, good faith efforts to settle any dispute through non-binding mediation before a mutually acceptable, neutral, third-party mediator. The mediation shall be held in Salt Lake City, Utah and administered by the CPR Institute for Dispute Resolution (the "CPR Institute") under the CPR Mediation Procedure then in effect. Unless otherwise agreed, the parties shall jointly select a single mediator from the CPR Panels of Distinguished Neutrals based on a list of mediator candidates supplied by the CPR Institute. If, within fourteen (14) days after any Member makes a written request for mediation under this Section 13.2, the Members have not reached agreement on the selection of a mediator, the mediator shall be selected in accordance with the CPR Mediation Procedure currently in effect. A good faith attempt at mediation shall be a condition precedent to the commencement of arbitration, but is not a condition precedent to any court action for injunction or other interim relief pending the outcome of mediation.

13.3 Binding Arbitration. If the Members who are parties to a dispute are unable to resolve the dispute by mediation in a timely manner (which, in any case, shall not exceed sixty (60) days from the first notice of mediation), the dispute shall be resolved through final, binding arbitration held in Salt Lake City, Utah in accordance with the CPR Rules for Non-Administered Arbitration then in effect by three arbitrators of whom the Member or Members, as applicable, on

each side of the dispute shall appoint one in accordance with the "screened" appointment procedure provided by the CPR Rules for Non-Administered Arbitration currently in effect, and of whom the third arbitrator shall be selected by mutual agreement of the two arbitrators selected by the Members. The Arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The Members shall cause the arbitrators to render their decision within one hundred twenty (120) days after the designation of the arbitrators, and the Members shall cooperate with each other and the arbitrators in the conduct of the arbitration to permit such timing. Any award of the arbitrators shall be final, conclusive and binding on the Members; provided, however, that any Members to the dispute may seek to vacate, modify or correct the arbitrators' decision or award as provided under Section 10 and Section 11 of the Federal Arbitration Act. The arbitrators shall be bound to follow the laws of the State of Utah, decisional and statutory, in reaching any decision and making any award and shall deliver a written award, including written findings of fact and conclusions of law, with respect to the dispute to each of the Members who are parties to the dispute, who shall promptly act in accordance therewith. In no event shall the arbitrators have the power to award damages in connection with any dispute in excess of actual compensatory damages. In particular, the arbitrators may not multiply actual damages or award consequential, indirect, special or punitive damages, including damages for lost profits or loss of business opportunity. Any Member who is a party to the dispute may enforce any award rendered pursuant to the arbitration provisions of this Section 13.3 by bringing suit in any court of competent jurisdiction. All costs and expenses attributable to the arbitrators shall be allocated between the Members who are parties to the dispute in such manner as the arbitrators determine to be appropriate under the circumstances. Any Member who is a party to the dispute may file a copy of this Section 13.3 with any arbitrator or court as written evidence of the knowing, voluntary and bargained agreement among the Members with respect to the subject matter of this Section 13.3.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

14.1 Notices. Except as otherwise provided herein, any notice, demand, or communication required or permitted to be given to a Member by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if (i) delivered personally to the Member, (ii) sent by facsimile or electronic mail transmission or (iii) sent by registered or certified mail, postage prepaid, addressed to the Member's address set forth in Exhibit A. Except as otherwise provided herein, any such notice shall be deemed to be given on the date on which the same was personally delivered, on the date on which it was transmitted by facsimile or electronic transmission if confirmation thereof is obtained or, if sent by registered or certified mail, on the third (3rd) day after such notice was deposited in the United States mail addressed as aforesaid.

14.2 Governing Law. This Agreement and the rights of the parties hereunder will be governed by, interpreted, and enforced in accordance with the laws of the State of Utah.

14.3 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Members concerning the matters set forth herein, and may not be

amended except by Majority Vote of the Members provided, however, any amendment that adversely affects the rights (economic or otherwise) set forth in this Agreement of any Priority Member shall not be effective without the prior written consent of such Priority Member. Notwithstanding the foregoing, the Managers shall be authorized to make any amendments to this Agreement that are approved by the Management Board and that counsel to the Company opines are necessary to maintain the Company's status as a partnership for federal and state income tax purposes provided, however, that no such amendment shall be effective if such amendment adversely affects the economic interest of Units held by any Member. If any conflict exists between the provisions of this Agreement, any employment or repurchase agreement with any Member, Manager or Officer, or the provisions of any oral or prior agreement between the Members, Managers or Officers, the provisions of this Agreement shall prevail.

14.4 Additional Documents and Acts. Each Member agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement and the transactions contemplated hereby.

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

14.6 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under the present or future laws effective during the term of this Agreement, such provision will be fully severable and the remaining provisions of this Agreement will remain in full force and effect.

14.7 Heirs, Successors, and Assigns. Each and all of the covenants, terms, provisions, and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement and by applicable law, the parties' respective heirs, legal representatives, successors, and assigns.

14.8 Creditors and Other Third Parties. None of the provisions of this Agreement shall be for the benefit of, or enforceable, by any Company creditors or any other third parties.

14.9 Section, Other References. Except to the extent provided to the contrary, references to the terms "Section," "Schedule," "Exhibit," or "Appendix" mean to the corresponding Sections, Schedules, Exhibits, or Appendices attached to or referred to in this Agreement. Any reference to an Exhibit to this Agreement contained herein shall be deemed to include any Schedule(s) to such Exhibit. Each Appendix, Exhibit and Schedule referred to in this Agreement is hereby incorporated by reference in this Agreement as if such Appendix, Exhibit or Schedule were set out in full in the text of this Agreement. Any reference in this Agreement to a statute shall be to such statute, as amended from time to time, and to the rules and regulations promulgated thereunder. Any reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with its terms. Unless the context otherwise requires, (i) all references made in this Agreement to an Article, Section, Clause, Schedule or an Exhibit are to an Article, Section, Clause, Schedule or an Exhibit of or to this Agreement, (ii) "or" is disjunctive

but not necessarily exclusive, (iii) "will" shall be deemed to have the same meaning as the word "shall", (iv) words in the singular include the plural and vice versa and (v) use of the masculine, feminine or neutral gender herein shall not limit any provision of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not so followed. All references to "$" or dollar amounts are to lawful currency of the United States of America, unless otherwise expressly stated.

14.10 Authority to Adopt Agreement. By execution hereof, each Member represents and covenants as follows:

(a) The Member has full legal right, power, and authority to deliver this Agreement and to perform the Member's obligations hereunder;

(b) This Agreement constitutes the legal, valid, and binding obligation of the Member enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy and other laws of general application relating to creditors' rights or general principles of equity;

(c) This Agreement does not violate, conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default or an event of default under any other agreement of which the Member is a party; and

(d) The Member's investment in Units is made for the Member's own account for investment purposes only and not with a view to the resale or distribution of such Units.

14.11 No Encumbrances. No Member or Unit Holder may pledge, lien or otherwise encumber such Member's or Unit Holder's interest or Units for any purpose unless approved by a Majority Vote of the Members.

14.12 Independent Counsel. Each Member, Officer and Manager acknowledges that each of them has had the opportunity to review this Agreement with independent legal counsel.

14.13 Counterparts. This Agreement may be executed in one or more counterparts each of which shall for all purposes be deemed an original, and all of such counterparts, taken together, shall constitute one and the same Agreement.

14.14 Expenses. Except as otherwise expressly provided for herein or in the Asset Purchase Agreement or the Ancillary Agreements, each of the parties hereto shall be responsible for all expenses directly incurred by them in connection with the transactions contemplated by such agreements; provided that the Company will reimburse Peterson for its reasonable documented expenses.

By execution below, each of the undersigned agrees to the terms and provisions of this Amended and Restated Operating Agreement for Franklin Covey Products, LLC.

MEMBERS

PETERSON PARTNERS V, L.P., a Delaware
limited partnership

By: Peterson Partners V, LLC
Its: General Partner

By: /s/ James B. Nelson
James B. Nelson, Partner

FRANKLIN COVEY CLIENT SALES, INC.,
a Utah corporation

/s/ Steve Young
By: Steve Young
Its: Chief Financial Officer

/s/ Sarah Merz
SARAH MERZ

/s/ Gordon Wilson
GORDON WILSON

/s/ Rick Wooden
RICK WOODEN

/s/ Jeff Anderson
JEFF ANDERSON

/s/ Bob Sumbot
BOB SUMBOT

/s/ Kent Frogley
KENT FROGLEY

/s/ Mike Connelly
MIKE CONNELLY

/s/ Bryan Wilde
BRYAN WILDE

/s/ Eric Bright
ERIC BRIGHT

COMPANY

FRANKLIN COVEY PRODUCTS, LLC

/s/ James B. Nelson
By: James B. Nelson
Its: Manager

MANAGERS

/s/ Sarah Merz
SARAH MERZ

/s/ Jordan Clements
JORDAN CLEMENTS

/s/ James B. Nelson
JAMES B. NELSON

/s/ Robert A. Whitman
ROBERT A. WHITMAN

Exhibit 10.5

Sublease Agreement

Between

FRANKLIN DEVELOPMENT CORPORATION

as Sublandlord

and

FRANKLIN COVEY PRODUCTS, LLC

as Tenant

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SCHEDULE OF EXHIBITS

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (the "Lease" or "Agreement") is entered into as of the 7th day of July, 2008, to be effective as of July 5, 2008, 11:59 P.M., Mountain Standard Time, by and between FRANKLIN DEVELOPMENT CORPORATION, a Utah corporation ("Sublandlord"), and FRANKLIN COVEY PRODUCTS, a Utah limited liability company ("Tenant").

Sublandlord is the tenant under that certain Lease Agreement by and between Sublandlord and Franklin SaltLake, LLC, a Utah limited liability company ("Prime Landlord") dated June 12, 2005 (the "Master Lease"). Pursuant to the rights granted to Sublandlord under the Master Lease, Sublandlord hereby leases to Tenant and Tenant hereby rents from Sublandlord the Premises (as defined in Section 1.2). This Lease has been executed and delivered pursuant to the Master Asset Purchase Agreement dated May 22, 2008 among Franklin Covey Canada, Ltd., a Canadian corporation, Franklin Covey de Mexico S. de R.L. de C.V., a Mexican company, Franklin Covey Europe, Ltd., a UK registered company, Franklin Covey Client Sales, Inc., a Utah corporation, Franklin Covey Catalog Sales, Inc., a Utah corporation, Franklin Covey Product Sales, Inc., a Utah corporation, and Franklin Covey Printing, Inc., a Utah corporation (collectively, the "Selling Parties"), and Tenant, as amended (the "Purchase Agreement"). Sublandlord is a related entity to the Selling Parties and will receive a real and material benefit as a result of this Sublease. Capitalized terms used but not defined herein have the meanings ascribed to them in the Purchase Agreement. Intending to be legally bound under this Lease and in consideration of the agreements herein made, and other good and valuable consideration, Sublandlord and Tenant hereby agree as follows:

ARTICLE I

BASIC LEASE PROVISIONS AND DEFINITIONS

1.1 Building and the Properties. The premises leased hereunder are comprised of portions of the following buildings: Franklin, Washington, Jefferson, Patrick Henry and Adams buildings located in the office park commonly known as 2650 South Decker Lake Boulevard, Salt Lake City, Utah (collectively, the "Building"). As used herein, the term "Properties" shall mean and refer to that certain real property upon which each of the buildings identified in the foregoing sentence are located, and as further defined in the Master Lease.

1.2 Premises. The "Premises" are depicted on attached Exhibit A and incorporated by reference and are deemed to consist of approximately 54,676 square feet of Net Rentable Area (defined in Section 2.4). The parties acknowledge that the Net Rentable Area is broken down into the following areas, which areas are further depicted in Exhibit A: (a) 53,701 rentable square feet ("Office Space"); (b) 975 rentable square feet ("Computer Room"); and (c) 23,280 rentable square feet ("Shared Space"). As to the Office Space and the Computer Room, Tenant shall have the exclusive right to these areas. With respect to the Shared Space, Tenant and Sublandlord shall have equal access and rights to such space and shall use such space in common (but to the exclusion of any other persons). With respect to the Shared Space, Tenant shall only be responsible for rent on 11,640 rentable square feet (or 50%) thereof, as further specified herein. The following areas shall not be included as Net Rentable Area; however, Tenant and its employees shall have the right to use (i) the wellness center serving the Premises, pursuant to the same arrangement (including but not limited to, fees, membership qualifications, and limitations on use) to which Sublandlord is a party; and (ii) any corridors, elevator lobbies, ground floor lobbies, vestibules, service and freight areas, restrooms, elevator and mechanical rooms, telephone and electrical closets, and other similar

facilities provided for the benefit of all tenants of the Building, visitors to the Building, or Sublandlord (such areas collectively defined as "Common Areas"). Tenant and Tenant's Agents rights in the Common Areas shall be only to the same extent as those of Sublandlord under the Master Lease.

1.3 Lease Term. The "Lease Term" shall commence on the Closing Date (as defined under the Purchase Agreement) (the "Commencement Date"), and shall end at midnight on June 30, 2025 (the "Termination Date"), unless terminated earlier in accordance with the terms of this Lease. The Lease Term may be extended, at Tenant's option, in accordance with the Lease Extension Addendum attached as Exhibit D.

1.4 Base Rent. "Base Rent" is collectively the Office Space Base Rent, the Computer Room Base Rent and the Shared Space Base Rent. Base Rent is to be paid from the Commencement Date through the Termination Date, and is payable on the first day of each month in advance in the amounts set forth below and subject to adjustment as provided in Section 1.6. Base Rent for any partial month shall be prorated based on the number of days in that month.

1.4.1 "Office Space Base Rent" is $9.00 per rentable square foot, $40,275.75 per month, and $483,309 per year;

1.4.2 "Computer Room Base Rent" is $12.00 per rentable square foot, $975.00 per month, and $11,700.00 per year; and

1.4.3 "Shared Space Base Rent" is $9.00 per rentable square foot for shared space in the Adams, Jefferson, Washington and Patrick Henry buildings, and $12.00 per rentable square foot in the Franklin Building, $10,003.75 per month, and $120,045.00 per year.

1.5 Tenant's Share of Other Charges and Property Taxes. (a) "Tenant's Share" of "Other Charges" (defined in Section 4.3) is 21.27% of such costs as further specified in Section 4.3 below, and (b) "Tenant's Share" of "Property Taxes" (defined in Section 4.4) is 17.8% of such taxes. Tenant's Share is subject to adjustment due to re-measurement of the Net Rentable Area, provided such re-measurement is performed in accordance with the ANSI/BOMA Z65.1-1996 Standard, if any be performed, and documentation evidencing the same is provided to Tenant.

1.6 Adjustment to Base Rent. Commencing on July 1, 2010 and each July 1 thereafter, Base Rent shall be increased by two percent (2%) of the Base Rent in effect immediately prior to the date of increase. If Tenant exercises any of the options to extend this Lease, Base Rent shall be increased by the same percentages set forth in the Master Lease.

1.7 Permitted Uses. The parties acknowledge and agree that Tenant is acquiring this leasehold interest in accordance with the Purchase Agreement, and that as such, Tenant's predecessor-in-interest has been using the Premises to effectuate the goals and purposes of Tenant's business. Tenant may use the Premises in any manner that is consistent with the historical use of the Premises for a period of twenty-four months prior to the Commencement Date, including without limitation, general office use, a photo lab, graphics art production, and a call center (the "Permitted Use"). Tenant shall not use the Premises for any purpose other than the Permitted Use. Except as expressly allowed as a Permitted Use, Tenant's use of the Premises shall be subject to all terms and provisions of the Master Lease, including but not limited to, the obligation to comply with any restrictive covenants applicable to the Premises. Tenant's and Sublandlord's use of the

Premises are subject to the "Rules and Regulations" set forth on attached Exhibit B, as modified and enforced in accordance with Section 13.1.

1.8 Definition of Sublandlord's Agents and Tenant's Agents. "Sublandlord's Agents" includes any asset manager, property manager, agent, managing agent, affiliate, contractor, employee, director, officer, partner, or servant of Sublandlord, or any corporate or other legal entity affiliated with Sublandlord or third party operator and owner of the Building, and "Tenant's Agents" includes any agent, officer, employee, servant, partner, independent contractor, licensee, invitee, or visitor of Tenant.

ARTICLE II

PREMISES

2.1 Lease of the Premises; Work Letter. Sublandlord leases the Premises to Tenant, and Tenant leases the Premises from Sublandlord complete with any improvements thereto, together with the right-in-common to the use of any of the Common Areas (which shall include the wellness center) within the Properties. Sublandlord agrees to provide the tenant improvement allowance described in Exhibit C (the "Tenant Improvement Allowance"), but has no obligation to construct any improvements in the Premises.

2.2 Condition of the Premises. Except as otherwise provided in this Lease, by occupying the Premises, Tenant: (a) acknowledges that it has had full opportunity to examine the Building, including the Premises, and accepts the same in its as-is, where-is condition, without representation or warranty of any kind, and (b) accepts the Premises and acknowledges that the Premises must comply with all requirements imposed upon Sublandlord under the Master Lease. This Lease does not grant any right to light or air over or about the Premises or Building.

2.3 Signs. Without the prior written consent of Sublandlord, Tenant shall not erect or install on the exterior of the Building, on any window, or in any lobby, hallway or door therein located, any sign or other type display. Notwithstanding the foregoing, Sublandlord will provide and install identification letters or numerals on doors of the Premises in the building standard fonts at Tenant's expense. Tenant may not use any other signage or lettering without Sublandlord's prior written consent. Sublandlord has provided a location in the lobby of the Building a directory of tenant names and locations. At Tenant's cost, Sublandlord will provide and install directory strips.

2.4 Net Rentable Area. The term "Net Rentable Area" means the sum of the net useable area, which is computed by measuring to the inside finish of the Building's exterior glass line, to the exterior side of partitions that separate the Premises from the Building's interior non-rentable areas not within the Premises, and to the center of partitions that separate the Premises from adjoining rentable areas. The parties stipulate that the Net Rentable Area of the Premises is that stated in Section 1.2.

2.5 Relocation. [INTENTIONALLY DELETED.]

ARTICLE III

COMMENCEMENT DATE

3.1 Commencement Date. Sublandlord shall make the Premises available for occupancy on the Commencement Date.

3.2 Holding Over. If Tenant remains in possession of the Premises after the expiration or earlier termination of the Lease Term without the execution of a new lease or an extension hereof, Tenant's occupancy will be from month-to-month at 110% of the Base Rent due for the last full calendar month during the holdover period plus all other sums due under this Lease and subject to all other provisions and obligations of this Lease that are applicable to a month-to-month tenancy. The holdover period may be canceled by Sublandlord upon seven (7) days notice to Tenant, and such holdover is a material default hereunder.

ARTICLE IV

RENT

4.1 Payment. Tenant shall pay Rent to Sublandlord in advance in legal tender of the United States of America, without any notice, demand, set-off or deduction, at the following address: Franklin Development Corporation, 2200 West Parkway Boulevard, Salt Lake City, Utah 84119, Attn: Accounts Receivable, or at such place or to such of Sublandlord's Agents as Sublandlord from time to time designates in writing. Any Rent payment due hereunder is delinquent if not received by Sublandlord by the due date. Sublandlord may accept any partial payment of Rent without prejudice to any of Sublandlord's rights or remedies. The term "Rent" includes, without limitation, (a) Base Rent, (b) Tenant's Share of Other Charges, (c) Tenant's Share of Property Taxes, and (d) other charges and reimbursable costs payable by Tenant in accordance with this Lease. Items (b), (c) and (d) above may sometimes herein be referred to collectively as "Additional Rent." Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to Sublandlord as Rent, shall constitute rent for the purpose of Section 502(b)(7), as it may be amended, of the Bankruptcy Code, 11 U.S.C. §§101 et seq. (the "Bankruptcy Code").

4.2 Base Rent. Tenant shall pay (with or without receipt of a written statement from Sublandlord) the Base Rent in advance, promptly upon the first day of every month of the Lease Term. If the initial or final month is less than a full calendar month, the Base Rent for such month will be reduced proportionately. It is the intent of both parties that the Base Rent herein shall be absolutely net to Sublandlord throughout the Lease Term, and that all costs, expenses and obligations relating to the Building and/or the Premises which may arise or become due during the Lease Term shall be paid by Tenant as hereafter provided.

4.3 Tenant's Share of Other Charges. Except for calendar year 2008, Tenant shall pay Tenant's Share of Other Charges (as defined under the Master Lease). For the avoidance of doubt, "Other Charges" shall include, without limitation, all management office expenses; all applicable sales and use taxes; expenses incurred for heat, cooling and other utilities; cost of insurance; cost of janitorial and cleaning services, trash collection services, pest control and security services; salaries, wages and other personnel costs of engineers, superintendents, watchpersons, and all other employees of the Building, including any sales tax imposed upon their service; charges under maintenance and service contracts for elevators, chillers, boilers (if applicable) and controls; window cleaning; building and grounds maintenance; management fees; permits and licenses; all

maintenance and repair expenses and supplies, including replacement of light bulbs and ballasts in lighting fixtures; costs (including finance charges) of improvements to the Building, equipment or capital items that are designed to increase safety, improve energy efficiency, accurately process date and/or time data or expand telecommunications service; amortization, depreciation and replacement costs, interest and other expenses incurred with respect to equipment purchased to replace existing equipment, systems or other capital expenditures purchased to comply with the directives of a governing body; costs of complying with all governmental regulations, including, without limitation, the disposal of chlorofluorocarbons and compliance with Title III of the Americans with Disabilities Act of 1990 ("ADA"), or any other similar laws of the State of Utah (the "Utah Act"); costs of independent contractors; fees; owner's association assessments; and all other costs and expenses properly incurred in the operation and maintenance of an office building, to the extent that any of the foregoing are Sublandlord's responsibility pursuant to the Master Lease. During the calendar year 2008 (the "Initial Year"), Tenant's Share of Other Charges shall be deemed to be five dollars and two cents ($5.02) per rentable square foot in the Premises ("Initial Basic Other Charges"), and such amount shall not be subject to adjustment. Notwithstanding the Master Lease to the contrary, for purposes of this Lease, "Other Charges" shall exclude the cost of any alterations to any portion of the Building not leased by Tenant (except for Common Areas); lease commissions; payment of principal and interest on mortgages of Sublandlord; and costs of Sublandlord of any work or service performed for any tenant at the cost of such tenant.

(a) Except for the Initial Year, prior to the last day of each calendar year during the Lease Term, Sublandlord will provide Tenant with a statement of estimated Other Charges for the upcoming calendar year (based on Sublandlord's reasonable estimate of anticipated costs). Beginning January 1 of the upcoming calendar year, Tenant shall pay in twelve (12) equal monthly installments, based on Sublandlord's estimate, Tenant's Share of Other Charges. If Sublandlord reasonably determines that the Other Charges are greater than the estimate, then Sublandlord may deliver to Tenant on the first day of March, June, September or December, the revised amount of Tenant's Share of Other Charges. Tenant shall pay to Sublandlord within twenty (20) days of notification of the revised amount, the difference between the previous estimate and the revised estimate for the expired portion of the current calendar year. Monthly installments of Tenant's Share of Other Charges will be increased for the months following Tenant's receipt of the revised estimate to one-twelfth (1/12) of the revised estimate of Tenant's Share of Other Charges.

(b) Not more than one hundred eighty (180) days following the last day of each calendar year, Sublandlord will provide Tenant with a written comparison of the amount of the estimated Tenant's Share of Other Charges paid for the calendar year (or partial calendar year) just ended to Tenant's Share of Other Charges actually incurred for such calendar year, along with back-up documentation supporting and verifying the actual Other Charges, to the extent the same is in Sublandlord's possession or control. If Tenant inquires regarding back-up documentation, Sublandlord shall reasonably cooperate with Tenant in obtaining any further back-up documentation requested by Tenant. If the amount of the estimated Tenant's Share of Other Charges charged to Tenant for such prior calendar year (or partial calendar year): (A) exceeds the amount Tenant should have been charged, Sublandlord shall give Tenant a credit toward the next Base Rent and Additional Rent (applicable to Other Charges) (or if in the last year of the Lease Term, refund the excess) due, and such credit shall continue until such time as it has been used in its entirety, (B) is less than the amount Tenant should have been charged, Tenant shall pay Sublandlord, as Additional Rent, the difference (provided, however, that such amount shall not exceed the cap provided under subsection (c) below) within twenty (20) days following Tenant's receipt of such written comparison and back-up documentation, to the extent the same is in Sublandlord's possession or control. If Tenant inquires regarding back-up documentation,

Sublandlord shall reasonably cooperate with Tenant in obtaining any further back-up documentation requested by Tenant. For purposes of determining the adequacy of the back-up documentation submitted by Sublandlord, for any Other Charges that are the result of a charge under the Master Lease, then the extent of documentation received by Sublandlord from Prime Landlord shall be deemed sufficient to satisfy such requirement. Any delay or failure of Sublandlord in billing any Other Charge escalation is not a waiver of and does not impair the continuing obligation of Tenant to pay such escalation. Tenant is not entitled to a refund or credit if Other Charges for any calendar year are less than the Initial Basic Other Charges.

(c) Notwithstanding anything to the contrary in this Section 4.3, (i) the percentage increase in Tenant's Share of Other Charges from one calendar year to the next shall be limited to the lesser of the Other Charges incurred by Sublandlord or the percentage increase in "CPI" (as defined below), during the same period, and (ii) under no circumstances shall Tenant be required or obligated to pay for any Other Charges that are not a pass-through expense being charged by Prime Landlord under the Master Lease or a direct monetary obligation imposed against Sublandlord pursuant to the Master Lease for which Tenant is responsible under this Lease. Sublandlord and Tenant acknowledge and agree that it is the intent of the parties and this Sublease that Tenant shall only be liable for Tenant's Share of actual costs incurred by Sublandlord in connection with the Master Lease and that there shall be no mark-up or profit relative to Rent charged under this Lease. For the purposes of calculating the cap in Other Charges increase, the parties shall use the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, by expenditure category and commodity and service group, 1982-84=100, All items ("CPI").

4.4 Tenant's Share of Property Taxes. Tenant shall pay Tenant's Share of Property Taxes (as defined under the Master Lease). Notwithstanding the foregoing, "Property Taxes" does not include any interest or penalties paid by Sublandlord as a result of Sublandlord's failure to pay Property Taxes when due and payable, any net income, franchise or capital gains tax, inheritance tax or estate tax imposed or constituting a lien upon Sublandlord or all or any part of the Properties.

(a) Prior to the last day of each calendar year during the Lease Term, Sublandlord will provide Tenant with a statement of estimated Property Taxes for the upcoming calendar year (based upon Sublandlord's reasonable estimate of anticipated Property Taxes). Beginning January 1 of the upcoming calendar year, Tenant shall pay in twelve (12) equal monthly installments, based on Sublandlord's estimate, Tenant's Share of Property Taxes. If, at any time during the calendar year, Sublandlord determines in its reasonable discretion that the Property Taxes are greater than the estimate, then Sublandlord may deliver to Tenant the revised amount of Tenant's Share of Property Taxes. Tenant shall pay to Sublandlord within twenty (20) days of notification of the revised amount, the difference between the previous estimate and the revised estimate for the expired portion of the current calendar year. Monthly installments of Tenant's Share of Property Taxes will be increased for the months following Tenant's receipt of the revised estimate to one-twelfth (1/12) of the revised estimate of Tenant's Share of Property Taxes.

(b) Not more than one hundred eighty (180) days following the last day of each calendar year, Sublandlord will provide Tenant with a written comparison of the amount of the estimated Tenant's Share of Property Taxes paid for the calendar year (or partial calendar year) just ended to Tenant's Share of Property Taxes actually incurred for such calendar year. If the amount of the estimated Tenant's Share of Property Taxes charged to Tenant for such prior calendar year (or partial calendar year): (A) exceeds the amount Tenant should have been charged, Sublandlord will give Tenant a credit toward the next Base Rent and Additional Rent (or if in the last year of the

Lease Term, refund the excess within twenty (20) days following preparation of the written comparison) due, whichever is sooner due, and such credit shall continue until such time as it has been extinguished or used in its entirety, (B) is less than the amount Tenant should have been charged, Tenant shall pay Sublandlord, as Additional Rent, the difference within twenty (20) days following Tenant's receipt of such written comparison. Any delay or failure of Sublandlord in billing any excess Property Taxes escalation is not a waiver of and does not impair the continuing obligation of Tenant to pay such escalation.

(c) Notwithstanding any provision of this Section 4.4 to the contrary, under no circumstances shall Tenant be required or obligated to pay all or any portion of Tenant's Share of Property Taxes that are not a pass-through being charged by Prime Landlord under the Master Lease or a direct monetary obligation imposed against Sublandlord pursuant to the Master Lease for which Tenant is responsible under this Lease.

4.5 Other Impositions. Together with related interest and penalties, Tenant shall: (a) reimburse Sublandlord for any increase in ad valorem taxes that Sublandlord becomes obligated to pay where such ad valorem tax pertains directly to the Premises, (b) pay all license and permit fees and all taxes levied or assessed by governmental authorities by virtue of: (i) any leasehold improvements to the Premises made at Tenant's direction or which Sublandlord is required to make (either hereunder or under the Master Lease) and during Tenant's occupancy of the Premises (excluding improvements identified in the Work Letter), (ii) Tenant conducting business or operating the Premises, (iii) Tenant's Agents or Tenant's employees or contractors, (iv) Tenant's personal property, and (v) Tenant's assets or sales, and (c) pay the cost of any additional electronic security badges requested by Tenant, as the same are required for access to the Building. Notwithstanding the foregoing to the contrary, Tenant shall not be responsible for the payment of any expenses or costs where such expenses or costs arose as the result of Sublandlord's failure to pay a tax, fee, assessment or similar expense when due and payable, or any net income, franchise or capital gains tax, inheritance tax or estate tax imposed or constituting a lien upon Sublandlord or all or any part of the Properties.

4.6 Tax Protest. To the extent permitted by law: (a) Tenant hereby waives any right it may have under Utah law to protest or appeal Property Taxes or the value of the Building; and (b) Tenant hereby assigns to Sublandlord any rights of Tenant to appeal or protest Property Taxes or the value of the Building. Notwithstanding the foregoing, Sublandlord shall provide Tenant with written notice of any application, filing or other written protest Sublandlord makes or submits relating to Property Taxes prior to the filing or submission of such notice and, upon a successful outcome of such protest, Sublandlord will reimburse Tenant's Share of such refund, less any reasonable costs or expenses incurred in connection with such protest. Sublandlord shall not suffer or permit any action in protesting the Property Taxes to result in Tenant's loss of its right to quiet enjoyment of the Premises.

ARTICLE V

SUBLANDLORD'S SERVICES

5.1 Electricity. So long as Tenant is not in Default, Sublandlord will furnish or cause to be furnished electricity for normal business usage. Tenant's use of electricity in the Premises may not at any time exceed the capacity of the electrical conductors and equipment serving the Premises. In addition, Tenant shall not, without the prior written consent of Sublandlord, use any apparatus or device which causes a material increase in the amount of electricity usually furnished

above and beyond the Permitted Use. Without Sublandlord's prior written consent, Tenant may not: (i) connect electrical equipment that consumes more than that permitted by the building standard specifications or (ii) make any material alteration or addition to the electrical system of the Premises. If Sublandlord grants consent, Tenant shall be responsible for the cost of additional risers or other required equipment. For any electricity used by Tenant that is not separately metered and is in excess of the average monthly use for the twelve (12) month period immediately prior to the Commencement Date (the "Baseline Period"), Tenant shall be responsible for the cost of such excess usage where Tenant is the sole cause of such excess usage and Sublandlord has reasonably determined the cost of such excess usage based on a comparison relating to the Baseline Period. If the electricity is separately metered, then in such event Tenant shall be responsible for payment of any excess usage over and above the average monthly use for the Baseline Period.

5.2 Air-Conditioning. So long as Tenant is not in Default, Sublandlord will furnish or cause to be furnished to the Premises Monday through Friday from 7:30 a.m. to 6:00 p.m. (but, not on Saturdays, Sundays, or federal or state holidays) ("Business Hours") air-conditioning at reasonable temperatures to provide reasonably comfortable occupancy of the Premises under Normal Business Conditions (defined below) (excepting any areas that develop excessive heat from machines, lights, sun, overcrowding or other sources). "Normal Business Conditions" for maintaining reasonably comfortable temperatures are those conditions in existence during the twelve (12) month period immediately prior to the Commencement Date. Tenant shall be allowed to access the controls to turn on the air-conditioning to the Premises outside of Business Hours to the extent of Sublandlord's access to such controls in accordance with the Master Lease.

5.3 Heat. So long as Tenant is not in Default, Sublandlord will furnish or cause to be furnished to the Premises during Business Hours during times of the year that heating is necessary to heat the Premises at reasonable temperatures to provide reasonably comfortable occupancy of the Premises under Normal Business Conditions. Tenant shall be allowed access to the controls to turn on the heating to the Premises outside of Business Hours to the extent of Sublandlord's access to such controls in accordance with the Master Lease.

5.4 Janitorial Services. So long as Tenant is not in Default, Sublandlord will furnish or cause to be furnished to the Premises janitorial services adequate to keep the Premises, including the Common Areas, in a neat, clean and orderly fashion at the same standard as during the twelve (12) month period immediately prior to the Commencement Date. Tenant shall pay Sublandlord for the actual cost incurred by Landlord for janitorial services to the Premises (so long as such costs are not being charged in connection with the Other Charges).

5.5 Water. So long as Tenant is not in Default, Sublandlord will furnish or cause to be furnished to the Common Areas and the Premises water for drinking, lavatory (including warm water at reasonable temperatures) and toilet purposes. Tenant will not install any equipment that uses water without Sublandlord's prior written consent. Tenant shall not use any water above and beyond what would be reasonably expected considering the Permitted Use of the Premises. Sublandlord reserves the right to install a water meter for the Premises, and thereafter Tenant shall pay for water based upon its usage. Tenant shall reimburse Sublandlord the actual cost of installation of the water meter within twenty (20) days after demand and receipt of back-up documentation.

5.6 No Liability. Unless caused by the negligence of Sublandlord, no interruption or malfunction of any utility or telephone service is a breach by Sublandlord, an eviction or disturbance of Tenant, release Tenant from any obligation, or grant Tenant any right to offset or

rent abatement, and neither Sublandlord nor Sublandlord's Agents shall be liable for damages (consequential or otherwise) in such event.

5.7 Utility Deregulation. Sublandlord has advised Tenant that presently PacifiCorp, d/b/a Utah Power ("Electric Service Provider") is the utility company selected by Sublandlord to provide electric service for the Building. Notwithstanding the foregoing, if permitted by law, Sublandlord has the right at any time and from time to time during the Lease Term to either contract for service from a different company or companies providing electric service (each such company is hereinafter referred to as an "Alternate Service Provider") or continue to contract for service from the Electric Service Provider.

(a) Tenant will cooperate with Sublandlord, the Electric Service Provider, and any Alternate Service Provider at all times, and, as reasonably necessary, shall allow Sublandlord, Electric Service Provider and any Alternate Service Provider reasonable access to the electric lines, feeders, risers, wiring, and any other machinery within the Premises; provided, however, that such access shall not unreasonably interfere with Tenant's business operations or shall be conducted in such a way as to minimize interference with Tenant's business operations.

(b) Sublandlord is in no way liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished to the Premises, unless caused by Sublandlord's gross negligence or willful misconduct, or if the quantity or character of the electric energy supplied by the Electric Service Provider or any Alternate Service Provider is no longer available or suitable for Tenant's requirements (collectively, an "Electrical Disruption"), and no such Electrical Disruption will constitute an actual or constructive eviction, in whole or in part, nor will it entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under the Lease unless such Electrical Disruption is caused by Sublandlord's willful misconduct or gross negligence.

5.8 Utility Costs. Except as otherwise provided herein, all utility costs provided for in this Section 5 shall be considered part of the Other Charges and passed through to Tenant as part of Tenant's Share.

ARTICLE VI

TENANT'S CARE OF PREMISES

6.1 Waste. Neither Tenant nor Tenant's Agents will commit waste, and Tenant will keep the Premises and the fixtures therein in good repair. Tenant shall be responsible for maintenance and repair of appliances and shall pay for unstopping any drains or water closets in the Premises. If: (a) Tenant fails to make repairs to the Premises, or (b) any act or neglect of Tenant or Tenant's Agents results in damage to the Premises or the Building, Sublandlord may repair such damage, and within ten (10) days of receipt of Sublandlord's invoice, Tenant shall reimburse Sublandlord for the actual cost thereof. Neither Tenant nor Tenant's Agents will deface or injure the Building, and Tenant will pay the cost of repairing any damage or injury done to the Building or any part thereof by Tenant or Tenant's Agents. Tenant will participate in any Sublandlord required recycling program; provided, however, that Sublandlord shall credit Tenant's Share of any receipts or income from the recycling program against Tenant's Share of Other Charges.

6.2 Alterations, Additions or Improvements. Tenant may not make any alterations, improvements, door lock changes or other modifications to the Premises or move Tenant's furnishings, equipment or other property into or out of the Premises or Building without the prior written consent of Sublandlord, which consent shall not be unreasonably withheld, conditioned or delayed. Any requests by Tenant to alter the Premises shall be in writing and in sufficient detail to allow Sublandlord to determine the extent of the alteration to be made. Tenant shall give Sublandlord notice sufficient to allow Sublandlord to file a Notice of Non-responsibility or to take any other similar action in advance of the commencement of any alterations. All alterations, additions or improvements (including, but not limited to carpets, drapes and anything bolted, nailed or otherwise secured in a manner customarily deemed to be permanent) are fixtures, not subject to attachment of a mechanic's or materialman's lien, and will become the property of Sublandlord and remain in the Premises at the end of the Lease Term, unless such alterations, additions or improvements constitute Trade Fixtures. As used herein, "Trade Fixtures" shall mean and refer to property placed on or annexed to rented real estate by Tenant for the purpose of the conduct of Tenant's business particular to its Permitted Use. To the extent required by law, Tenant shall use union labor to perform Tenant's construction or repair work, and comply with any collective bargaining or labor agreement to which Sublandlord is a party. If Sublandlord shall be damaged as a result of any breach by Tenant of this covenant, Tenant agrees to pay to Sublandlord the amount of such damage. Except for Trade Fixtures, all alterations, additions or improvements made in or upon the Premises, either by Sublandlord or Tenant in order to comply with Title III of the Americans with Disabilities Act of 1990 ("ADA"), or any other similar laws of the State of Utah (the "Utah Act") are Sublandlord's property on termination of this Lease and shall remain on the Premises without compensation to Tenant. Sublandlord may require Tenant to remove any Trade Fixtures upon the termination or expiration of this Lease. If Sublandlord requires removal of a Trade Fixture in accordance with the foregoing sentence, and Tenant fails to comply with such request within twenty (20) days after written notice from Sublandlord, Sublandlord may remove the Trade Fixture at Tenant's cost, and Tenant shall pay Sublandlord upon demand all costs incurred by Sublandlord in removing the Trade Fixture.

Notwithstanding anything to the contrary herein, with respect to the portion of the Premises located in the Adams building and used for retail purposes as of the Commencement Date (the "Retail Portion"), upon the expiration or sooner termination of this Lease, Tenant shall remove all of its equipment, fixtures, and Trade Fixtures therefrom, together with any personal property of Tenant, and shall repair all damage caused by such removal, all at Tenant's sole cost and expense. Such repairs shall include, but not be limited to, repairing damage to walls and floors resulting from the removal of shelving, and repainting the walls and resurfacing the floors. In addition to the required removal and repairs, the Retail Portion shall otherwise be surrendered in as good a condition as it currently exists, reasonable wear and tear excepted.

Tenant's performance of its obligations to maintain, repair and remove the Tenant's furnishings, equipment or other property may be conducted only by contractors and subcontractors approved in writing by Sublandlord, and Sublandlord shall not unreasonably withhold its approval of such contractors and subcontractors. The contractors and/or subcontractors shall carry insurance in amounts and with companies as customarily required in connection with the work to be performed by such contractors or subcontractors. Such contractors and subcontractors must provide Sublandlord with certificates of insurance prior to commencement of work, and such certificates shall list Sublandlord and its asset manager, property manager, managing agent and any other designee of Sublandlord as additional insureds.

6.3 No Overloading. Tenant will not overload the floors of the Premises. Tenant shall not place a load upon the floor of the Premises exceeding the load per square foot that such floor was designed to carry, as determined by Sublandlord or its structural engineer. Partitions shall be considered as part of the load. Sublandlord may prescribe the weight and position of all safes, files and heavy equipment that Tenant desires to place in the Premises, so as to distribute their weight properly. Tenant's business machines and mechanical equipment shall be installed and maintained so as not to transmit noise or vibration to the Building structure or to any other space in the Building. Tenant shall be responsible for the cost of all structural engineering required to determine structural load and all acoustical engineering required to address any noise or vibration caused by Tenant.

6.4 No Liens. Sublandlord's title is and always will be paramount to the title of Tenant, and Tenant will not do any act which encumbers Sublandlord's title or subjects the Premises or the Building or any part of either to any lien, unless Tenant is making an alteration, improvement or modification as permitted in connection with Section 6.2. Tenant must immediately remove any and all liens or encumbrances which are filed against the Premises or the Building as a result of any act or omission of Tenant or Tenant's Agents. If Tenant fails to remove any such lien within thirty (30) days of receipt of notice thereof, then Sublandlord may, but is not obligated to, remove such lien, and Tenant shall pay all reasonable costs of removal or bonding the lien, plus interest at the Default Rate, to Sublandlord upon demand.

6.5 Property and Improvements at Tenant's Risk. All personal property, betterments and improvements in the Premises, the Building, parking areas or related facilities, whether owned, leased or installed by Sublandlord, Tenant or any other person, are at Tenant's sole risk, and neither Sublandlord nor Sublandlord's Agents will be liable for any damage thereto or loss thereof from any cause, including but not limited to theft, misappropriation, casualty, overflowing or leaking of the roof, the bursting or leaking of water, sewer or steam pipes, or from heating or plumbing fixtures, unless caused by Sublandlord's or Sublandlord's Agent's negligence.

6.6 Flammables, Explosives or Toxic Substances. Except for household cleaners in quantities typically used in connection with office use, Tenant will not use or permit in the Premises or the Building any flammable or explosive material, toxic substances, environmentally hazardous materials (as defined below) or other items hazardous to persons or property. Tenant will not use the Premises in a manner that (a) invalidates or is in conflict with fire, insurance, life safety or other policies covering the Building or the Premises, or (b) increases the rate of fire or other insurance on the Building or the Premises. If any insurance premium is higher than it otherwise would be due to Tenant's failure to comply with this section, Tenant shall reimburse Sublandlord as Additional Rent, that part of Sublandlord's insurance premiums that are charged because of Tenant's failure.

6.7 Hazardous Materials Defined. "Hazardous Materials" means: (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) ("RCRA"), as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" being "released" in "reportable quantity" as such terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) ("CERCLA"), as amended from time to time, and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) urea formaldehyde insulation; (f) "hazardous chemicals" or "extremely hazardous substances", in quantities sufficient to require reporting, registration, notification or special treatment or handling under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 11001, et seq.) ("EPCRA"), as amended from time to time and regulations promulgated thereunder; (g) any "hazardous chemicals" in levels

that would result in exposures greater than those allowed by permissible exposure limits established pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.) ("OSHA"), as amended from time to time and regulations promulgated thereunder; (h) any substance which requires reporting, registration, notification, removal, abatement or special treatment, storage, handling or disposal under Section 6, 7 or 8 of the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.) ("TSCA") as amended from time to time and regulations promulgated thereunder; (i) any toxic or hazardous chemicals described in the Occupational Safety and Health Standards (29 C.F.R. 1910.1000-1047) in levels which would result in exposures greater than those allowed by the permissible exposure limits pursuant to such regulations; (j) the contents of any storage tanks, whether above or below ground; (k) medical wastes; (l) materials related to those described in subparagraphs (a) through (k) hereof; and (m) anything defined as hazardous or toxic under any now existing or hereinafter enacted statute.

6.8 Environmental Regulations Defined. "Environmental Regulations" means any law, statute, regulation, order or rule now or hereafter promulgated by any Governmental Authority, whether local, state or federal, relating to air pollution, water pollution, noise control or transporting, storing, handling, discharge, disposal or recovery of on-site or off-site hazardous substances or materials, as same may be amended from time to time, including without limitation, the following: (a) the Clean Air Act (42 U.S.C. §§ 7401 et seq.); (b) Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401-1445); (c) the Clean Water Act (33 U.S.C. §§ 1251 et seq.); (d) RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. § 6901 et seq.); (e) CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.); (f) TSCA; (g) the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. §§ 136 et seq.); (h) the Safe Drinking Water Act (42 U.S.C. §§ 300(f) et seq.); (i) OSHA; (j) the Hazardous Liquid Pipeline Safety Act (49 U.S.C. §§ 2001 et seq.); (k) the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.); (l) the Noise Control Act of 1972 (42 U.S.C. §§ 4901 et seq.); (m) EPCRA; (n) National Environmental Policy Act (42 U.S.C. §§ 4321-4347); and (o) Medical Waste Tracking Act of 1988 (42 U.S.C. §6992).

6.9 Compliance; Environmental Compliance. Tenant will observe and comply promptly with all present and future legal requirements of governmental authorities and insurance requirements relating to or affecting the Premises, any Tenant sign, or the use and occupancy of the Premises or incident to Tenant's occupancy of the Building and its use thereof. Nothing contained in this Lease is intended to prevent or prohibit compliance by either party with ADA or the Utah Act, nor is any provision of this Lease intended to violate ADA, and any provision that does so is hereby modified to allow compliance or deleted as necessary. Tenant will not use or permit the Premises to be used in violation of any Environmental Regulations. Tenant assumes sole and full responsibility for, and will remedy at its cost, all such violations, provided that Tenant must first obtain Sublandlord's written approval of any remedial actions, which approval Sublandlord may not unreasonably withhold. Except for household cleaners in quantities typically used in connection with office use, Tenant will not use, generate, release, store, treat, dispose of, or otherwise deposit, in, on, under or about the Premises, any Hazardous Materials, nor will Tenant permit or allow any third party to do so, without Sublandlord's prior written consent. Sublandlord's election to conduct inspections of the Premises is not approval of Tenant's use of the Premises or any activities conducted thereon, and is not an assumption by Sublandlord of any responsibility regarding Tenant's use of the Premises or Hazardous Materials. Tenant's compliance with the terms of this Section 6.9 and with all Environmental Regulations is at Tenant's sole cost. Tenant will pay or reimburse Sublandlord for any costs or expenses incurred by Sublandlord, including reasonable attorneys', engineers', consultants' and other experts' fees and disbursements incurred or payable

to determine, review, approve, consent to or monitor the requirements for compliance with Environmental Regulations, including, without limitation, above and below ground testing. Sublandlord and Sublandlord's Agents are hereby authorized to enter upon the Premises for such purposes. Tenant will supply Sublandlord with historical and operational information regarding the Premises, including without limitation, all reports required to be filed with governmental agencies, as may be reasonably requested by Sublandlord to facilitate site assessment, and will make available for meetings with Sublandlord or Sublandlord's Agents, appropriate personnel having knowledge of such matters. If Tenant fails to comply with the provisions of this Section 6.9, or if Sublandlord receives notice or information asserting the existence of any Hazardous Materials, Sublandlord has the right, but not the obligation, without in any way limiting Sublandlord's other rights and remedies, to enter upon the Premises or to take such other actions Sublandlord deems necessary or advisable to clean up, remove, resolve, or minimize the impact of any Hazardous Materials on or affecting the Premises. Tenant shall pay to Sublandlord on demand as Additional Rent all reasonable costs and expenses paid or incurred by Sublandlord in the exercise of any such rights. Tenant will notify Sublandlord in writing, immediately upon the discovery, notice (from a governmental authority or other entity) or reasonable grounds to suspect, by Tenant, Tenant's Agents, its successors or assigns the presence in the Premises or the Building of any Hazardous Materials or conditions that result in a violation of or could reasonably be expected to violate this Section 6.9, together with a full description thereof. Breach of this Section 6.9 is a Default under this Lease.

6.10 Termination and Surrender. Upon termination of this Lease, Tenant must: (a) surrender any keys, electronic ID cards, and other access devices to Sublandlord at the place then fixed for the payment of rent, (b) remove all Trade Fixtures from the Premises, unless Tenant elects to leave a Trade Fixture(s) and Sublandlord consents to the non-removal of the Trade Fixture, (c) surrender the Premises in "broom clean" condition, (d) except for reasonable wear and tear resulting from normal use in light of the Permitted Use, surrender the Premises and fixtures in the condition in which Tenant received them, and (e) deliver the Premises to Sublandlord free of any and all Hazardous Materials not delivered or brought to the Premises by Tenant or Tenant's Agents. Tenant shall surrender the Premises free and clear of all mechanic's or materialmen's liens, and this obligation shall survive the termination of the Lease.

6.11 Tenant's Supplemental Security Measures. Subject to the terms of Section 6.2 above and this Section 6.11, Tenant shall be permitted to install its own supplemental security measures at the Premises.

(a) Tenant agrees that all of its supplemental security measures shall be subject to Sublandlord's prior written approval, which approval shall not be unreasonably withheld. Sublandlord shall not grant approval to any supplemental security measures that interfere or are incompatible with Sublandlord's security measures for the Building or consist of armed guards.

(b) If Tenant elects to install any supplemental security measures at the Premises, Tenant agrees to use reasonable efforts to coordinate its security functions with Sublandlord and cooperate to develop procedures with Sublandlord to implement Tenant's supplemental security measures in an efficient and effective manner.

(c) Tenant will keep and maintain, in good working order, condition, and repair, its supplemental security measures, and will make all repairs and replacements thereto. Tenant agrees to pay all costs and expenses of its supplemental security measures, including, but not limited to, installation, maintenance, repair, and replacement costs.

(d) Tenant agrees that in no event shall Sublandlord, or its agents and employees, have any liability or responsibility for the effectiveness of any of Tenant's supplemental security measures.

ARTICLE VII

TRANSFER OF INTEREST, PRIORITY OF LIEN

7.1 Assignment and Sublease. Tenant may assign this Lease or sublet all or a portion of the Premises without the prior written consent of Sublandlord in the following instances: (i) the assignment or sublease is to an affiliate or subsidiary of Tenant; (ii) the assignment or sublease occurs jointly and concurrently with or to the same assignee or affiliate of the assignee under or in connection with that certain Master License Agreement dated as of the Commencement Date, to which Tenant and Sublandlord are parties (the "Master License Agreement"), and such assignee or sublessee expressly agrees in writing to assume all of the obligations of Tenant hereunder; or (iii) Tenant has obtained the consent of Landlord to a sublease of all or a portion of the Premises. Notwithstanding that Sublandlord's consent is not required for transfers pursuant to clauses (i)-(iii) above, each such assignment or sublease shall only be made upon the obtaining of the prior written consent of Landlord as required in connection with the Master Lease (and Sublandlord agrees to cooperate to obtain such consents, if required, from Landlord). Except as provided in the foregoing sentence, Tenant shall not, and shall not have the right to, assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Lease or any of its rights or obligations under this Lease without the prior written consent of Sublandlord, which consent shall not be unreasonably conditioned, withheld or delayed.

7.2 Right of First Refusal. Unless such assignment or subletting is being made in accordance with items (i), (ii) or (iii) above, if Tenant shall desire to assign this Lease or to further sublet all or any portion of the Premises, Tenant shall give Sublandlord notice thereof (the "Marketing Notice"), which shall be accompanied by:

(a) If a sublease of an entire floor or floors, a notice identifying such floor or floors and if a sublease of less than an entire floor or floors, a description of the portion of the Premises that Tenant proposes to sublet, together with a floor plan thereof; and

(b) A notice of all of the material and economic terms and conditions of the proposed assignment or sublease (other than the identity of the proposed assignee or subtenant if not yet known to Tenant), including:

(i) The proposed commencement date;

(ii) The term of the proposed sublease;

(iii) The fixed rent;

(iv) All regularly scheduled items of additional rent;

(v) The base year for all escalations;

(vi) Any rental concession;

(vii) The amount of any tenant improvement allowance in connection with the sublease;

(viii) Any work to be performed by Tenant to prepare the Premises for occupancy by the proposed subtenant or assignee;

(ix) Any consideration to be paid for the acquisition of the Premises by reason of such assignment or sublease, or for the acquisition of the leasehold improvements, fixtures or Tenant's furniture or equipment;

(x) Any takeover obligation;

(xi) Any options to be granted to the proposed subtenant;

(xii) The nature and character of the business of the proposed assignee or subtenant and its proposed use of the Premises; and

(xiii) Any banking, financial, or other credit information with respect to the proposed assignee or subtenant reasonably sufficient to determine the financial responsibility of the proposed assignee or subtenant.

(c) Such Marketing Notice shall be deemed an offer from Tenant to Sublandlord whereby Sublandlord shall then have the option (the "Recapture Option"), which may be exercised by notice (the "Recapture Notice") given to Tenant within fifteen (15) days after Sublandlord's receipt of the Marketing Notice.

If Sublandlord does not timely deliver the Recapture Notice to Tenant, Tenant shall be free to sublease the Premises or assign this Lease to any third party, subject to the restrictions set forth in Section 7.1 above.

7.3 Subordination. Tenant agrees to be bound by the provisions of Section 21.1, 21.2 and 21.3 ("Subordination Provisions") of the Master Lease; provided, however, that Sublandlord agrees to afford to Tenant any of the rights provided to Sublandlord in connection with the Subordination Provisions. The parties acknowledge that in connection with the Purchase Agreement, certain consents, estoppels and non-disturbance agreements are being sought from Landlord and Landlord's lender(s).

7.4 Sublandlord's Lien. In addition to any statutory lien and security interest, in consideration of the mutual benefits arising under this Lease, Tenant hereby grants to Sublandlord a lien and security interest ("Sublandlord's Lien") in all of Tenant's personal property and all Trade Fixtures now or hereafter placed in the Premises ("Tenant's Property") to secure payment of Rent and other sums that become due under this Lease. The provisions of this section constitute a security agreement under the Uniform Commercial Code (the "Code") so that Sublandlord has and may enforce a security interest on Tenant's Property. Tenant authorizes Sublandlord to file a financing statement describing the above collateral. In addition to any other remedies provided by law or under this Lease, Sublandlord is entitled to all the rights and remedies afforded a secured party under the Code with respect to Tenant's Property. Sublandlord's Lien shall terminate upon (i) the termination of this Lease, or (ii) the assignment or sublease of all or a portion of the Premises, provided that any assignee or sublessee shall have first agreed to subject its personal property located or to be located on the Premises to Sublandlord's Lien and the provisions of this Section 7.4. With respect to any sublease of a portion of the Premises, Sublandlord's Lien shall only be

released with respect to Tenant's Property located in that portion of the Premises being subleased. Sublandlord agrees to execute any documentation reasonably requested by Tenant within five (5) business days thereof to evidence the termination or partial termination of Sublandlord's Lien in accordance with the provisions of this Section 7.4. Tenant shall not be deemed to be in violation of this Section 7.4 or Section 6.2 for any of Tenant's Property that is moved, sold or transferred from the Premises in the ordinary course of business.

ARTICLE VIII

DAMAGE AND DESTRUCTION; EMINENT DOMAIN

8.1 Damage and Destruction. If the Building is totally destroyed by fire, tornado or other casualty or if the Premises or the Building are so damaged that rebuilding or repairs cannot be completed within ninety (90) days after the date of such damage, Sublandlord may at their option terminate this Lease, and Rent will abate for the unexpired portion of the Lease Term effective as of the date of such damage. If the Building or the Premises are damaged by fire, tornado or other casualty covered by Sublandlord's insurance, and rebuilding or repairs can be completed within ninety (90) days after the date of such damage, or if the damage is more serious and Sublandlord do not elect to terminate this Lease, within sixty (60) days after the date of such damage, Sublandlord will commence to rebuild or repair the Building and the Premises and will proceed with reasonable diligence to restore the Building and Premises to substantially the same condition that existed immediately prior to the casualty; provided, however, Sublandlord will not rebuild, repair or replace Tenant's furniture, fixtures, equipment or the improvements where Sublandlord is not entitled to receipt of insurance proceeds allocated for such furniture, fixtures, equipment or improvements. Sublandlord will allow Tenant a fair diminution of Base Rent during the time and to the extent that the Premises are unfit for Tenant's use in the ordinary conduct of Tenant's business, which abatement will continue only until the earlier of (a) thirty (30) days following the completion of Sublandlord's restoration of the Building and Premises as herein provided and receipt of a certificate of occupancy for the Premises or (b) the completion of Tenant's repairs. Any insurance carried by Sublandlord or Tenant against loss or damage to the Building or to the Premises is for the sole benefit of the party carrying such insurance and under its sole control, and Sublandlord's obligation to rebuild or restore hereunder is limited to the extent of recoverable insurance proceeds available therefor. If any mortgagee under a deed of trust, security agreement or mortgage on the Building requires the insurance proceeds to be used to retire debt, Sublandlord will have no obligation to rebuild, and this Lease will terminate upon notice to Tenant.

8.2 Eminent Domain. If the whole Premises are taken or condemned, or purchased in lieu thereof, by any government authority for any public or quasi-public use or purpose, then, this Lease will terminate from the time when the possession is required for such use or purpose. The Rent will be prorated to the date when the possession is required. If any part of the Premises, including the Common Areas, are taken, Sublandlord will notify Tenant in writing, and Tenant will have the option to cancel this Lease, by giving Sublandlord written notice within twenty (20) days after receipt of such notice from Sublandlord. If Tenant exercises the option, then cancellation will be effective and the Rent will be pro-rated to the date when Tenant vacates the Premises. If Tenant is not entitled to cancel the Lease or, if it is entitled to do so, but does not exercise its option, as of the date when possession is required, the Rent will be reduced in the proportion that the Net Rentable Area contained in the remaining Premises bears to the Net Rentable Area contained in the

Premises before the taking. Any award of proceeds resulting from a condemnation or sale in lieu thereof of the whole or part of the Premises will belong solely to Sublandlord and Tenant hereby waives any right to make any claim therefor as the result of this Lease. Provided, however, that Sublandlord is not entitled to any award for relocation expenses and the taking Tenant's Property specifically awarded to Tenant.

ARTICLE IX

LIABILITY; INDEMNIFICATION; INSURANCE

9.1 Waiver of Claims. To the extent permitted by law, Sublandlord will not be liable for, and Tenant releases Sublandlord and Sublandlord's Agents from and waives all claims for, damage to person or property that Tenant or any occupant of the Building or Premises sustains resulting from: (a) any part of the Building or Premises or any equipment or appurtenances becoming out of repair which is not required to be maintained by Sublandlord, (b) any accident in or about the Building which is not the result of Sublandlord's negligence, or (c) directly or indirectly any act or neglect of Tenant, Tenant's Agents, any occupant of the Building or of any other person, including Sublandlord and Sublandlord's Agents. Subject to the foregoing sentence and subject to Section 6.5, the liability of Sublandlord and Sublandlord's Agents for any injury, loss or damage to any person or property on or about the Premises will be limited to those directly and solely caused by the negligence, gross negligence or willful misconduct of Sublandlord or Sublandlord's Agents. To the extent permitted by law, Tenant will not be liable for, and Sublandlord releases Tenant and Tenant's Agents from and waives all claims for, damage to person or property that Sublandlord or any occupant of the Building or Premises sustains resulting from: (a) any part of the Building or Premises or any equipment or appurtenances becoming out of repair which is not required to be maintained by Tenant, (b) any accident in or about the Building which is not the result of Tenant's negligence, or (c) directly or indirectly any act or neglect of Sublandlord, Sublandlord's Agents, any occupant of the Building or of any other person, including Tenant and Tenant's Agents. Subject to the foregoing sentence and subject to Section 6.5, the liability of Tenant and Tenant's Agents for any injury, loss or damage to any person or property on or about the Premises will be limited to those directly and solely caused by the negligence, gross negligence or willful misconduct of Tenant or Tenant's Agents.

9.2 Indemnification.

(a) Tenant indemnifies Sublandlord and Sublandlord's Agents from any loss, cost or expense: (i) due to injury to or destruction of life or property directly or indirectly arising out of Tenant's use and occupancy of the Building, (ii) due to damage to or destruction of the Building structure, or any part thereof, or of any abutting real property caused by or attributable to the act, omission or negligence of Tenant or Tenant's Agents, or (iii) caused by or attributable to Tenant's failure to perform its obligations under this Lease. Tenant will employ counsel reasonably satisfactory to Sublandlord, or at Sublandlord's option, Sublandlord may retain its own counsel at the expense of Tenant, to prosecute, negotiate and defend any such claim, action or cause of action; provided, however, that Tenant shall only be required to reimburse the foregoing expenses so long as they are reasonable. Sublandlord has the right to compromise or settle any such claim, action or cause of action without admitting liability; provided, however, that Tenant's consent shall first be obtained, such consent not to be unreasonably withheld, conditioned, or delayed. Tenant shall pay any indebtedness arising under the indemnity to Sublandlord together with interest thereon at the Default Rate, from the date such indebtedness arises until paid.

(b) Sublandlord indemnifies Tenant and Tenant's Agents from any loss, cost or expense from any matter or thing arising from any breach or default in the performance of any obligation on Sublandlord's part or to be performed under the terms of this Sublease or the Master Lease. Sublandlord will employ counsel reasonably satisfactory to Tenant, or at Tenant's option, Tenant may retain its own counsel at the expense of Sublandlord, to prosecute, negotiate and defend any such claim, action or cause of action; provided, however, that Sublandlord shall only be required to reimburse the foregoing expenses so long as they are reasonable. Tenant has the right to compromise or settle any such claim, action or cause of action without admitting liability and without Tenant's consent; provided, however, that Tenant's consent shall first be obtained, such consent not to be unreasonably withheld, conditioned or delayed. Sublandlord shall pay any indebtedness arising under the indemnity to Sublandlord together with interest thereon at the Default Rate, from the date such indebtedness arises until paid.

(c) The foregoing indemnities of Sublandlord and Tenant shall survive termination of this Lease.

9.3 Insurance Requirements. Tenant will provide and maintain a Commercial General Liability Policy of insurance (occurrence form) with respect to the Premises with a minimum per occurrence coverage limit of One Million and No/100 Dollars ($1,000,000.00), with a minimum General Aggregate of Two Million and No/100 Dollars ($2,000,000.00), including bodily injury, property damage, personal and advertising injury, products and completed operations and professional liability (when and where applicable), and with deductible or self-insured retention, if any, not to exceed Five Thousand and No/100 Dollars ($5,000.00) per occurrence without Sublandlord's approval. The policy shall name Sublandlord as an additional insured. The coverage of such policy will extend beyond the Premises to portions of the Common Area which Tenant or Tenant's Agents use from time to time for promotional or other exclusive uses.

(a) If it becomes customary for a significant number of tenants of office buildings of similar size in the area in which the Building is located to be required to provide liability insurance policies with limits higher than the foregoing limits, within thirty (30) days after Sublandlord's request therefor Tenant will provide Sublandlord with an insurance policy whose limits are not less than the then customary limits.

(b) Tenant will carry "All Risk" or "Special Form" coverage (or other comparable coverage), including vandalism and malicious mischief insurance covering the Improvements and all other improvements (whether existing or installed by Tenant or Sublandlord), stock in trade, fixtures, furniture, furnishings, removable floor coverings, trade equipment, signs and all other decorations in the Premises for one hundred percent (100%) of their full replacement cost.

(c) Tenant will also carry adequate worker's compensation insurance in no less than statutorily required amounts, covering its employees in the Premises containing a waiver of subrogation in favor of Sublandlord, Sublandlord's Agents and any designee of Sublandlord, and Tenant hereby indemnifies, agrees to hold harmless, and at Sublandlord's option defend, Sublandlord, Sublandlord's Agents and any designee of Sublandlord from and against all claims arising out of any loss suffered by any of Tenant's Agents at the Building which would have been or is covered by an appropriate worker's compensation insurance policy.

9.4 Sublandlord's Insurance. Sublandlord covenants to Tenant that on or before the Commencement Date Sublandlord will name Tenant as an additional insured on the commercial general liability policy maintained by Sublandlord pursuant to Subsection 17 of the Master Lease,

provide Tenant with reasonable evidence thereof, and shall at all time throughout the Lease Term maintain such insurance and Tenant's additional insured status.

9.5 General Provisions with Respect to Tenant's Insurance. On or before Tenant or Tenant's Agents enter the Premises for any reason, and again before any insurance policy expires, Tenant will deliver to Sublandlord an original certificate of insurance. Any insurance required to be carried under this Lease may be carried under a blanket policy covering the Premises and other locations of Tenant.

(a) All insurance policies required to be carried under this Lease by or on behalf of Tenant will provide (and any certificate evidencing the existence of any insurance policies, will certify) that unless Sublandlord is given ten (10) days written notice: (i) the insurance will not be canceled, and (ii) no material change may be made in the insurance policies.

(b) If Tenant fails to comply with any of the Insurance Requirements stated in this Lease, Sublandlord may obtain such insurance and keep the same in effect and Tenant shall pay to Sublandlord the premium cost thereof upon demand.

(c) All policies of insurance required to be carried by Tenant under this Lease shall (i) be written by good and solvent insurance companies satisfactory to Sublandlord with minimum ratings in Best's Key Rating Guide published by A.M. Best Company of A\XII, (ii) include Cross Liability coverage, and (iii) be primary and non-contributing with any other insurance available to, or carried by, Sublandlord or Sublandlord's Agents.

9.6 Waiver of Subrogation. Each party hereby waives every right or cause of action for the events which occur or accrue during the Lease Term for any and all loss of, or damage to, any of its property (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible), which loss or damage is covered by valid and collectible fire, extended coverage, "All Risk" or similar policies covering real property, personal property or business interruption insurance policies, to the extent that such loss or damage is recovered under said insurance policies. Said waivers are in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss or damage to property of the parties hereto. Each party will give its insurance carrier written notice of the terms of such mutual waiver, and the insurance policies will be properly endorsed, if necessary, to prevent the invalidation of coverage by reason of said waiver.

9.7 Notice. Tenant shall give immediate notice to Sublandlord in case of fire or any accident in the Premises or in the Building and of any defects therein or in any fixtures or equipment.

ARTICLE X

ACCESS TO THE PREMISES

10.1 Access to the Premises. Sublandlord and Sublandlord's Agents shall have the right to enter the Premises upon the same terms and conditions provided for in connection with Section 17 of the Master Lease and as otherwise permitted under the Master Lease.

ARTICLE XI

FAILURE TO PERFORM, DEFAULTS, REMEDIES

11.1 Defaults. Each of the following is a "Default" by Tenant under this Lease:

(i) Tenant fails to pay any installment of Rent or other amount due more than five (5) days after such Rent is due (provided however, that Tenant shall be entitled to at least one written notice during a twelve month period if such Rent is not timely paid).

(ii) Tenant fails to comply with any provision of this Lease (including the Rules and Regulations), other than the payment of Rent, and does not cure or commence to cure such failure within twenty (20) days after written notice to Tenant. If such default is reasonably expected to take more than twenty (20) days to cure, Tenant must diligently proceed to cure the default through completion. The notice of default will specify the provision of this Lease that has been breached or allegedly breached.

(iii) The filing or execution or occurrence of: a petition in bankruptcy or other insolvency proceeding by or against Tenant or any guarantor of Tenant's obligations; an assignment for the benefit of creditors; a petition or other proceeding by or against Tenant or any guarantor of Tenant's obligations for the appointment of a trustee, receiver or liquidator of Tenant or any guarantor of Tenant's obligations or any of Tenant's or such guarantor's property; or a proceeding by any governmental authority for the dissolution or liquidation of Tenant or any guarantor of Tenant's obligations.

(iv) Tenant abandons or vacates any substantial portion of the Premises.

(v) Tenant petitions for or suffers its interest under this Lease to be taken under a writ of execution.

(vi) Tenant defaults under any other lease with Sublandlord, now existing or hereafter entered into.

(b) If a Default occurs, Tenant's liability under all of the provisions of this Lease will continue notwithstanding any expiration and surrender, and notwithstanding any re-entry or repossession or dispossession under the terms of this Lease. Further, Tenant shall pay any reasonable legal fees and costs and expenses incurred by Sublandlord as a result of Tenant's Default to Sublandlord upon demand.

11.2 Remedies. If a Default by Tenant occurs, Sublandlord may, at its option and without waiving any other right or remedy available to it:

(a) Terminate this Lease by providing written notice of such termination to Tenant, in which case neither Sublandlord nor Tenant shall have any further rights or obligations under this Lease as of the date of termination, except with respect to those amounts Tenant was obligated to pay to Sublandlord prior to the date of such termination; or terminate Tenant's possessory rights, without terminating this Lease, in which case Sublandlord shall have the rights described below. If Sublandlord elects to terminate the Lease, Sublandlord shall have the immediate right, after complying with all applicable legal requirements or with Tenant's consent in lieu thereof, to enter and take possession of the Property, and remove all persons, furniture,

fixtures and equipment from the Property, at Tenant's sole expense, in order to recover at once, full and exclusive possession of the Property. Regardless of whether Sublandlord elects to terminate this Lease or terminate Tenant's possessory rights, Tenant shall pay to Sublandlord all costs and damages arising out of Tenant's Default, including, without limitation, costs of recovering possession, costs of reletting, and attorneys' fees.

(b) If Sublandlord elects to terminate Tenant's possessory rights without terminating this Lease, Sublandlord shall have the right, after complying with all applicable legal requirements or with Tenant's consent in lieu thereof, to enter and take possession of the Property and remove all persons, furniture, fixtures and equipment from the Property, at Tenant's sole expense, in order to recover at once, full and exclusive possession of the Property. Should Sublandlord elect to terminate Tenant's possessory rights without terminating this Lease, Sublandlord shall undertake to relet the Property or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as are reasonable under the circumstances, and Sublandlord shall have the right to remodel or make alterations and repairs to the Premises as part of the reletting process. Any rentals received by Sublandlord from any such reletting shall be applied as follows: first, to the payment of any remodeling of, or alterations and repairs to, the Property; second, to the payment of any other costs associated with the reletting, including but not limited to brokerage commissions; third, to the payment of the Base Rent, Additional Rent, and other charges under this Lease; and the residue, if any, shall be held by Sublandlord and applied in payment of future Base Rent, Additional Rent, and other charges under this Lease. Should such rentals received from such reletting by Sublandlord (after deducting all costs of associated with the reletting of the Property) during any month be less than the Base Rent, Additional Rent, and other charges under this Lease, including but not limited to increases in operating expenses, then Tenant shall, upon receipt of a statement from Sublandlord specifying the amount, pay the difference to Sublandlord. Such difference shall be calculated and paid monthly.

(c) Cure the Default at the expense of Tenant, in which event Tenant shall reimburse Sublandlord for any amount expended by Sublandlord in connection with the cure, plus interest at the Default Rate (defined in Section 11.4).

Sublandlord may remove and store in any warehouse, at Tenant's cost, or, in Sublandlord's sole discretion, Sublandlord may deem abandoned by Tenant and dispose of accordingly, any property belonging to Tenant, or otherwise found upon the Premises at the time of re-entry, termination of this Lease or termination of Tenant's right to the Premises. Pursuit of any of the foregoing remedies is not a forfeiture or waiver of any Rent due to Sublandlord hereunder or of any damages accruing to Sublandlord by reason of the violation of any of the provisions herein contained. Tenant shall pay all Rent and Additional Rent to Sublandlord without any set-off or counterclaim.

The foregoing rights and remedies are cumulative and in addition to any other rights granted to Sublandlord by law, and the exercise of any of them is not an election excluding the exercise by Sublandlord at any time of a different or inconsistent remedy. The failure of Sublandlord at any time to exercise any right or remedy is not a waiver of its right to exercise such right or remedy at any other future time.

11.3 Breach by Tenant or Sublandlord. In the event of any breach or threatened breach by either party of any covenants, agreements, terms or conditions in this Lease, the non-breaching party shall be entitled to enjoin such breach or threatened breach and, in addition to the rights and remedies provided hereunder, will have any other right or remedy allowed at law or equity, by

statute or otherwise. The provisions of this article will be construed consistent with Utah law, so that remedies of either party herein described are available to the full extent but only to the extent that they are not invalid or unenforceable under Utah law.

11.4 Sublandord's Default; Tenant's Remedies. Sublandlord's failure to perform any of its covenants, agreements or obligations hereunder or under the Master Lease within twenty (20) days after receipt of written notice thereof from Tenant shall be deemed an event of default of Sublandlord. If such default is reasonably expected to take more than twenty (20) days to cure, Sublandlord must diligently proceed to cure the default through completion. If Sublandlord does not cure or does not commence to cure such default, Tenant may effect such a cure at Sublandlord's expense. Any sums incurred by Tenant in effecting such a cure shall be paid by Sublandlord within thirty (30) days after receipt of demand therefor, together with documentation evidencing such expense(s), to the reasonable satisfaction of Sublandlord. The foregoing shall not limit any rights or remedies available to Tenant at law or in equity.

11.5 Payments. Except as elsewhere provided herein, including, without limitation, as provided in Section 1.4 regarding the payment of Base Rent, all amounts Tenant owes to Sublandlord are due and payable within five business (5) days from the date that Tenant receives a statement therefor. If any payment of Base Rent or any other sum due from Tenant to Sublandlord under this Lease is not received within five business (5) days of when due, Tenant shall pay to Sublandlord on demand a late charge of One Hundred and No/100 Dollars ($100.00) plus Ten and No/100 Dollars ($10.00) for each day elapsing thereafter prior to Sublandlord's receipt of such payment, to cover Sublandlord's cost for administration fees and expenses incurred in conjunction with the collection of late payments. All amounts (including Rent) not paid when due will bear interest from the date originally due until the date fully paid at the lesser of (i) the "prime rate" published in the Wall Street Journal on the date as of which the interest in question commences to accrue plus two percent (2%), or, if the name publication is not then in print, that financial news publication (if any) with the largest U.S. circulation, or (ii) the highest lawful rate (the "Default Rate"). If Tenant fails to timely pay three (3) installments of Rent during any consecutive twelve-month period, Sublandlord may terminate this Lease.

11.6 Mediation. The parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Lease promptly by confidential mediation under the CPR Mediation Procedure in effect on the Commencement Date, before resorting to litigation. If such dispute or claim is not settled by the parties through mediation within forty-five (45) days after the first meeting of the parties with the mediator to discuss the matter, or if the parties agree to terminate mediation sooner, then either party may initiate a litigation action subject to all of the terms and conditions of this Lease.

ARTICLE XII

QUIET ENJOYMENT; RESERVATIONS BY SUBLANDLORD; NO CONSTRUCTIVE EVICTION; REPRESENTATIONS AND WARRANTIES OF SUBLANDLORD

12.1 Quiet Enjoyment. So long as Tenant is not in Default, Tenant will have peaceful and quiet possession of the Premises against all parties claiming adversely thereto by or under Sublandlord.

12.2 Reservations by Sublandlord. In addition to other rights conferred by this Lease or by law, Sublandlord reserves the right, to be exercised in Sublandlord's reasonable discretion, to: (a) change the name of the Building; (b) change entrances and exits to the Building and to the parking structure adjacent to the Building; (c) install and maintain a sign or signs on the exterior or interior of the Building; (d) change the street address of the Building; (e) designate all sources furnishing signs, sign painting and lettering; (f) take all measures as may be necessary or desirable for the safety and protection of the Premises or of the Building; (g) have pass keys to the Premises; (h) repair, alter, add to, improve, build additional stories on, or build adjacent to the Building; (i) run necessary pipes, conduits and ducts through the Premises; (j) carry on any work, repairs, alterations or improvements in, on or about the Building or in the vicinity thereof and, during the continuance of any such work, to temporarily close doors, entryways, public space and corridors in the Building; (k) interrupt or temporarily suspend Building services and facilities; (l) change the arrangement and location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets, or other public parts of the Building; and (m) grant to anyone the exclusive right to conduct any business or render any service in or to the Building, provided such exclusive right shall not operate to exclude Tenant from the Permitted Use. Tenant hereby waives any claim to damage or inconvenience caused by such work. This paragraph is not to be construed to diminish the obligations of Tenant provided herein, nor to create or increase any obligation on the part of Sublandlord with respect to repairs or improvements. Neither Sublandlord nor Sublandlord's Agents will be liable to Tenant or Tenant's Agents for any inconvenience, interference or annoyance resulting from work done in or upon the Premises or any portion of the Building or adjacent grounds. Notwithstanding anything in this Section 12.2 to the contrary, the exercise of any of the rights set forth in this Section 12.2 by Sublandlord shall be conducted so as to minimize any interference with Tenant's business operations at the Premises, shall be subject to compliance with Tenant's reasonable instructions and security requirements, and shall not materially alter or adversely affect the rights or obligations of Tenant under this Lease.

12.3 Attornment. Any sale, assignment, or transfer of Sublandlord's interest under this Lease, or in the Premises shall be subject to this Lease, and Tenant shall attorn to Sublandlord's successor and assigns and shall recognize such successor or assigns as Sublandlord under this Lease, regardless of any rule of law to the contrary or absence of contractual privity, and Sublandlord shall ensure that in the event of such sale, assignment, or transfer, the party attorned to has been given notice of the Lease and the terms hereof and that such party agrees to abide by the terms of this Lease.

12.4 Surrender of the Premises. No agreement to accept surrender of the Premises is valid unless in writing signed by Sublandlord, and no employee of Sublandlord or Sublandlord's Agents has any power to accept such surrender prior to the termination of the Lease. Tenant's delivery of keys to any employee of Sublandlord or Sublandlord's Agents is not a termination of the Lease or a surrender of the Premises.

12.5 Master Lease. Sublandlord and Tenant acknowledge and agree that Tenant shall, to the fullest extent possible, be entitled to the rights, benefits and protections afforded to Sublandlord under the Master Lease to the extent that such rights, benefits and protections relate to the occupancy or possession of the Premises, notwithstanding the failure of Sublandlord and Tenant to

enumerate in this Lease all of such obligations, rights, benefits and protections and to specifically allocate as between Sublandlord and Tenant such obligations. Sublandlord covenants and agrees that it shall:

(a) promptly and completely fulfill all of its obligations to Prime Landlord under the Master Lease;

(b) use reasonable efforts to cause Prime Landlord, under the Master Lease, to perform all of the obligations of Prime Landlord thereunder to the extent the obligations apply to the Premises and Tenant's use thereof and of the Common Areas; and

(c) in the event of any default or failure by Prime Landlord to perform its obligations as contemplated by the immediately preceding subparagraph (b), Sublandlord shall, upon notice from Tenant, make demand upon Prime Landlord to perform its obligations under the Master Lease within ten days of notice from Tenant and/or enter into negotiations with Prime Landlord regarding the event of default or failure by Prime Landlord; provided, however, that Sublandlord shall have no obligation to commence litigation against Prime Landlord.

12.6 Representation and Warranties of Sublandlord. Sublandlord represents and warrants to Tenant that, to its knowledge, (i) a true and correct copy of the Master Lease is attached as Exhibit E, and that there are no other agreements, letter agreements, side agreements, amendments, modifications, waivers, writings or other matters amending, modifying, waiving, changing or otherwise affecting the Lease or any term or provision thereof; (ii) the Master Lease is, as of the date of this Lease, in full force and effect; (iii) any information provided regarding actual or estimated Other Charges or that has been provided or delivered to Tenant is true and accurate and does not fail to disclose any material fact relating to the Other Charges; (iv) as of the date of this Lease, there exists no Event of Default (as defined in the Master Lease); (v) except as otherwise disclosed in writing to Tenant, Sublandlord has not received any written notice from a governmental entity of a claim that the Building or the Common Areas do not comply with all laws applicable thereto; (vi) Sublandlord is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, with all requisite power and authority to enter into and carry out its obligations under this Lease and such other agreements and instruments to be executed and delivered by Sublandlord in connection herewith; (vii) each officer who executes this Lease and such other agreements and instruments has been duly authorized to so act by all requisite action on its part; (viii) Sublandlord has caused no mortgages, trust deeds or contracts for sale to encumber the leasehold interest in the Premises other than those that have been disclosed in writing to Tenant; and (ix) no proceedings are presently pending or, to the knowledge of Sublandlord, threatened, for the taking by exercise of the power of eminent domain, or in any other manner for a public or quasi-public purpose, of all or any part of the Building. All of the representations and warranties made in this subsection shall survive the execution of this Lease for the Term.

12.7 Representations and Warranties of Tenant. Tenant represents and warrants to Sublandlord that (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, with all requisite power and authority to enter into and carry out its obligations under this Lease and such other agreements and instruments to be executed and delivered by Tenant in connection herewith; and (ii) each officer who executes this Lease and such other agreements and instruments has been duly authorized to so act by all requisite action on its part.

ARTICLE XIII

RULES AND REGULATIONS

13.1 Rules and Regulations. Tenant shall observe and abide by the Rules and Regulations set forth on Exhibit B. Sublandlord may revise the Rules and Regulations or adopt new ones for the reputation, safety, care or cleanliness of the Building or Premises, or the operations and maintenance thereof and the equipment therein, or for the comfort of Tenant and the other tenants of the Building; provided, however, that any revisions to the Rules and Regulations or the adoption of any new Rules and Regulations shall not alter any of Tenant's rights or increase its obligations under this Lease. Notwithstanding any provision herein to the contrary, Tenant shall not be bound by the Rules and Regulations unless Sublandlord and any other tenants within the Properties are bound by the Rules and Regulations (including that Tenant shall have the right to enforce such Rules and Regulations against Sublandlord) and such Rules and Regulations are not arbitrarily enforced.

ARTICLE XIV

COMMUNICATIONS

14.1 Communications. No notice, request, consent, approval, waiver or other communication under this Lease is effective unless the same is in writing and is hand delivered, sent via nationally recognized overnight courier or mailed by registered or certified mail, postage prepaid, or sent via facsimile (with electronic or telephonic verification of receipt and copy by regular mail, certified mail or overnight courier) addressed as follows:

(a) If intended for Sublandlord, a communication is effective if mailed to the address designated as Sublandlord's Notice Address in Section 14.2 or to such other address as Sublandlord designates by giving notice to Tenant (or sent via facsimile to the facsimile number with verification as provided above), with a copy to the address designated as Sublandlord's Notice Copy Address in Section 14.2 (or sent via facsimile to the facsimile number with verification as provided above), or to such other person or party as Sublandlord shall designate by notice to Tenant.

(b) If intended for Tenant, a communication is effective if mailed to the address designated as Tenant's Notice Address in Section 14.2 or to such other address as Tenant designates by notice to Sublandlord (or sent via facsimile to the facsimile number with verification as provided above) with a copy to the address designated as Tenant's Notice Copy Address in Section 14.2 (or sent via facsimile to the facsimile number with verification as provided above), or to such other person or party as Tenant designates by notice to Sublandlord. Notice may be given to Tenant by Sublandlord or Sublandlord's attorney acting as Sublandlord's authorized agent.

Any notice given by certified mail is effective when the return receipt is signed or refusal to accept the notice is noted thereon. Any notice given by overnight courier or hand delivery is effective upon receipt or refusal to accept. Any notice given by facsimile is effective upon electronic or telephonic verification so long as a copy is also sent via regular mail, certified mail or overnight courier.

14.2 Notice Addresses.

(a) Sublandlord's Notice Address:

Franklin Development Corporation
2200 West Parkway Boulevard
Salt Lake City, Utah 84119
Attn: Stephen D. Young
facsimile: (801) 817-8747

(b) Tenant's Notice Address:

Franklin Covey Products, LLC
2250 West Parkway Boulevard
Salt Lake City, Utah 84119
Attn: Sarah Merz
facsimile: (801) 817-8069
telephone: (801) 801-817-4022

(c) Tenant's Notice Copy Address:

Snell & Wilmer, LLP
15 West South Temple, Suite 1200
Beneficial Tower
Salt Lake City, UT 84101
Attn: John Weston, Esq.
facsimile: (801)257-1900
telephone: (801)257-1800

ARTICLE XV

MISCELLANEOUS PROVISIONS

15.1 Tenant Estoppel Certificates. Tenant agrees, at any time and from time to time, upon not less than five (5) days prior written notice by Sublandlord, to execute, acknowledge and deliver to Sublandlord a written statement containing the following information: (a) certification that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (b) a statement regarding the dates to which Tenant has paid the rent and other charges hereunder, (c) a statement as to whether to the best of Tenant's knowledge, Sublandlord is in Default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, a specification of each such Default of which Tenant may have knowledge, (d) a statement of the amount of monthly rent plus rent increases, if any, (e) a statement of the amount of the security deposit, if any, (f) a statement of the address to which notices to Tenant should be sent; and (g) any other information reasonably requested by Sublandlord. Any such statement delivered pursuant hereto may be relied upon by any owner of the Building, any prospective purchaser of the Building, and any present or prospective mortgagee, deed of trust holder or trustee for bond holders with respect to the Building or of Sublandlord's interest. If Tenant fails to furnish an Estoppel Certificate within ten business days (10) days after request therefor, such failure shall be deemed a default hereunder and, moreover, it shall be conclusively presumed that: (a) this Lease is in full force and effect without modification in accordance with the terms set forth in the request; (b) that there are no breaches or defaults on the part of Sublandlord; and (c) no more than one month's rent has been paid in advance.

15.2 Termination Option. Tenant may, at its option, terminate this Lease with respect to the Call Center Space. For the purposes of this Section 15.2, the "Call Center Space" consists of approximately 15,426 rentable square feet on the first floor and 4,914 rentable square feet on the second floor of the Patrick Henry building. In order to exercise this option, Tenant shall deliver written notice of its exercise at least six (6) months prior to the desired termination date, which notice shall be accompanied by a termination fee equal to six (6) months' Base Rent at the rates that would be in effect for the Call Center Space had the option not been exercised. Such termination fee is in consideration for Tenant's right to partially terminate this Lease and is not an advance payment of Rent. Tenant shall continue to pay Rent for the Call Center Space until the effective date of such termination, which date shall be specified in the notice of exercise. Upon the effective date of such termination, the Net Rentable Area shall be deemed reduced by 20,340 square feet, Tenant's Share shall be deemed reduced accordingly, and Tenant shall have no further liability or obligation with respect to the Call Center Space under this Lease or otherwise. Tenant shall remove all fixtures and equipment from the Call Center Space upon termination. The parties agree to execute an amendment to this Lease to effectuate the intent of this Subsection 15.2 upon Tenant's notice of exercise.

15.3 Telecommunications. Subject to applicable law, Sublandlord reserves to itself the exclusive right to (a) place antennae and related facilities and other equipment for the provision of telecommunications services (the "Telecommunications Equipment") on the rooftop or in other portions of the Building designated by Sublandlord for such use, and (b) enter into license agreements or leases for the use of such areas by commercial and other providers of telecommunications services (the "Telecommunications Agreements"). As used in this Article XV, "telecommunications services" shall mean the implementation, provision, facilitation and maintenance of voice, data, video or other communication services (or any combination of the foregoing) including, without limitation: (a) the provision and resale of point-to-point telephone communications (including dedicated long distance service), (b) video communications service, (c) 800-number service, (d) telephone credit or debit card service, (e) audio or video conferencing, paging, voice mail and message centers, (f) data transmission service, (g) access to computer "internet" or other networked computer-based communications, (h) satellite or cable television, (i) wideband digital networks, (j) security services, and (k) provision of telephone, video communication or other telecommunication equipment to consumers of such services; whether now existing or subsequently developed and however provided, including, without limitation, wireless transmission and reception of communication signals. Sublandlord shall be entitled to any and all fees or other charges payable by any such provider of telecommunications services on account of any Telecommunications Agreements.

15.4 Brokerage Fees. Except as listed below, Tenant and Sublandlord represent and warrant that neither has incurred any liability for commissions or similar compensation to third parties in connection with this Lease, and each party indemnifies the other against any liability arising from any claims for a breach of the foregoing representation and warranty.

15.5 Attorney's and Professional's Fees. Tenant and Sublandlord agree to reimburse each other upon demand for reasonable attorney's fees incurred related to a Tenant or Sublandlord Default. In the event of litigation concerning this Lease, the prevailing party is entitled to reimbursement of its costs respecting such suit, or settlement thereof, including reasonable attorney's fees, expert fees, and fees of consultants, auditors, appraisers and other similar professionals, such reimbursement to be paid by the unsuccessful party.

15.6 Liability of Sublandlord and Tenant. If Sublandlord, on the one hand, or Tenant, on the other (in either case, the "Liable Party"), is held or found to be liable to Tenant, on the one hand, or Sublandlord, on the other (the "Recipient Party"), for any claim, liability, loss or expense (a "Loss") relating to or arising from a breach of any representation or warranty contained in this Lease, whether based on an action or claim in contract, negligence, tort or otherwise, the amount of damages recoverable for such Loss by the Recipient Party from the Liable Party will not exceed $3,200,000 minus the sum of (A) the aggregate amount of Losses arising under this Agreement and paid by the Liable Party to the Recipient Party, and (B) the aggregate amount of any liabilities for damages arising from a breach of any representation or warranty contained in any Transaction Agreement paid by the Liable Party to the Recipient Party. "Transaction Agreements" means the Purchase Agreement and the Ancillary Agreements identified in the Purchase Agreement.

15.7 Tenant's Authority. Tenant agrees that if Tenant is a corporation (including any form of professional association or corporation) or partnership (general or limited): (i) the individual executing this Lease is duly authorized to execute and deliver this Lease on behalf of Tenant in accordance with Tenant's organizational documents; (ii) this Lease is binding upon Tenant; (iii) Tenant is duly organized and legally existing in the state of its organization and is qualified to do business in the state in which the Building is located; and (iv) upon Sublandlord's request Tenant will provide Sublandlord satisfactory evidence of such authority.

15.8 Parking. Tenant shall have the non-exclusive right to use a proportionate share of the number of parking spaces serving the Building equal to Tenant's Share as set forth in Section 1.5 above. Sublandlord may adopt reasonable rules and regulations applicable to all parking areas from time to time, which Tenant shall follow and cause its employees, guests, agents and invitees to follow.

15.9 Sublandlord Approval. Sublandlord's approval when required under the Lease is non-technical and non-legal in nature, and Tenant remains responsible for all technical and legal aspects of any item requiring Sublandlord's approval.

15.10 Unenforceability/Joint and Several Liability. The invalidity or unenforceability of any provision hereof will not affect or impair any other provision. If Tenant consists of more than one person or entity, the obligations of each are joint and several.

15.11 Headings, Miscellaneous. The headings of the several articles, paragraphs and sections contained herein are for convenience only and do not define, limit or construe the contents of such articles, paragraphs and sections. All negotiations, considerations, representations and understandings between the parties are incorporated herein and are superseded hereby. There are no terms, obligations, covenants, statements, representations, warranties or conditions relating to the subject matters hereof other than those specifically contained herein. This Lease may not be amended or modified by any act or conduct of the parties or by oral agreements unless reduced and agreed to in writing signed by both Sublandlord and Tenant. No waiver of any of the terms of this Lease is binding upon Sublandlord unless reduced to writing and signed by Sublandlord.

15.12 Force Majeure. If Sublandlord or Tenant are prevented or delayed in the performance of any of their covenants or obligations hereunder by circumstances beyond their control (including, but not limited to governmental regulations or prohibitions) such delay or nonperformance will not be a default hereunder and will be deemed waived and accepted by the other party.

15.13 Entire Agreement. This Lease, the exhibits and any addendum attached hereto (which are hereby incorporated into this Lease by this reference) set forth the entire agreement between Sublandlord and Tenant, and there are no other oral or written agreements between them. All prior oral or written agreements are merged herein and superseded by this Lease.

15.14 Governing Law. This Lease is governed by the laws of the State of Utah.

15.15 Forum Selection; Jury Trial Waiver. Tenant hereby knowingly, intentionally, and irrevocably agrees that Sublandlord may bring any action or claim to enforce or interpret the provisions of this Lease in the State and County where the Property is located, and that Tenant irrevocably consents to personal jurisdiction in such State for the purposes of any such action or claim. Nothing in this Section 15.14 shall be deemed to preclude or prevent Sublandlord from bringing any action or claim to enforce or interpret the provisions of this Lease in any other appropriate place or forum. Tenant further agrees that any action or claim brought by Tenant to enforce or interpret the provisions of this Lease, or otherwise arising out of or related to this Lease or to Tenant's use and occupancy of the Property, regardless of the theory of relief or recovery and regardless of whether third parties are involved in the action, may only be brought in the State and County where the Property is located, unless otherwise agreed in writing by Sublandlord prior to the commencement of any such action.

IN THE INTEREST OF OBTAINING A SPEEDIER AND LESS COSTLY ADJUDICATION OF ANY DISPUTE, SUBLANDLORD AND TENANT HEREBY KNOWINGLY, INTENTIONALLY, AND IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CLAIM, OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER ON ALL MATTERS ARISING OUT OF OR RELATED TO THIS LEASE OR THE USE AND OCCUPANCY OF THE PROPERTY.

15.16 Memorandum of Lease. Tenant may not record this Lease without Sublandlord's prior written consent.

15.17 Not Binding Lease. The submission of this Lease to Tenant is not an offer. This instrument is not effective as a Lease or otherwise unless and until executed by and distributed to both Sublandlord and Tenant.

15.18 Successors and Assigns. This Lease is binding upon and inure to the respective parties herein, their heirs, executors, administrators, successors and permitted assigns whomever.

15.19 Non-Waiver. Neither Sublandlord's failure to enforce or require strict performance of any provision of this Lease, nor Sublandlord's acceptance of Rent with knowledge of a breach is a waiver of such breach or any future breach.

15.20 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same Lease.

15.21 Time is of the Essence. Time is of the essence in both Sublandlord's and Tenant's performance of their obligations under this Lease.

15.22 Survival of Obligations. Any obligations of the parties specified to survive the termination of this Lease shall so survive.

(Signature page to follow)

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective representatives thereunto duly authorized, as of the date first above written.

SUBLANDLORD:

FRANKLIN DEVELOPMENT CORPORATION,
a Utah corporation

By: /s/ Robert A. Whitman
Its: President

TENANT:

FRANKLIN COVEY PRODUCTS, LLC
a Utah limited liability company

By: /s/ Sarah Merz
Name: Sarah Merz
Title: Chief Executive Officer and President

SUB-SUBLEASE

THIS SUB-SUBLEASE is made and entered into July 7, 2008, to be effective as of July 5, 2008, 11:59 P.M., Mountain Daylight Time, between FRANKLIN COVEY CO., a Utah corporation ("FCC"), and FRANKLIN COVEY PRODUCTS, LLC, a Utah limited liability company ("FC Products").

RECITALS:

A. Cole ED Salt Lake City UT, LLC, a Delaware limited liability company ("Landlord"), and EDS Information Services L.L.C., a Delaware limited liability company ("Sublandlord"), are parties to that certain Lease Agreement, entered into as of June 30, 2001, for the lease of certain real property and improvements located generally at 2620 and 2580 South Decker Lake Boulevard, Salt Lake City, Utah and more particularly described therein (the "Premises"), which Lease Agreement was amended by that certain First Modification of Lease Agreement effective as of July 30, 2001, and later amended by that certain Second Modification of Lease Agreement effective as of August 7, 2001 (collectively, the Lease Agreement and subsequent amendments shall be referred to as the "Master Lease"), a copy of which Master Lease is attached as Exhibit A.

B. Sublandlord and FCC entered into that certain Standard Sublease Agreement on June 30, 2001, as amended by that certain First Amendment to Standard Sublease Agreement, entered into in March of 2007 and made effective February 1, 2007 (as so amended, the "Sublease"), pursuant to which FCC subleases approximately 152,655 rentable square feet of the Premises as more particularly described in the Sublease (the "Subleased Premises"). A copy of the Sublease is attached as Exhibit B.

C. FCC desires to sub-sublease a portion of the Premises to FC Products, and FC Products desires to sub-sublease a portion of the Subleased Premises from FCC. The sub-subleased portion shall be comprised of approximately 96,255 rentable square feet as depicted on attached as Exhibit C (the "Sub-subleased Premises").

D. This Sub-sublease has been executed and delivered pursuant to the Master Asset Purchase Agreement dated May 22, 2008 among FCC and the other Selling Companies identified therein and FC Products, as amended (the "Purchase Agreement"). Capitalized terms used but not defined herein have the meanings ascribed to them in the Purchase Agreement.

Upon the terms and conditions hereinafter set forth, FCC and FC Products agree as follows:

AGREEMENT

1. Lease of Sub-subleased Premises. FCC leases to FC Products, and FC Products leases from FCC, the Sub-subleased Premises, together with the right in common with others to use any portions of the Common Areas (as defined below). The Sub-subleased Premises is leased by FC Products in its "as-is, where is" condition, without warranty by FCC of any kind, except as otherwise expressly set forth herein. "Common Areas" means areas designated for non-exclusive use between FCC and FC Products, as further depicted and identified in Exhibit C, and those interior and exterior common and public areas, including without limitation, any

corridors, elevator lobbies, ground floor lobbies, vestibules, service and freight areas, restrooms, elevator and mechanical rooms, telephone and electrical closets, parking facilities, and other similar facilities provided for the benefit of all tenants of the Premises, visitors to the Premises, or other tenants and occupants, and their employees, agents and invitees. FC Products' access to and use of the Common Areas is expressly conditioned upon the continuation of FCC's rights to such Common Areas pursuant to the terms of the Master Lease and the Sublease.

2. Term. The term of this Sub-sublease shall commence on the date of closing of the transaction contemplated under the Purchase Agreement (the "Commencement Date") and shall expire on June 30, 2016 (the "Expiration Date").

3. Rent. FC Products shall pay to FCC base rent ("Base Rent") for the Sub-subleased Premises in accordance with the rent schedule attached as Exhibit D. Base Rent shall be due and payable on the last day of each month (payable in arrears) during the entire term of this Sub-sublease, without invoice, demand, deduction or offset. Rent (defined below) shall be paid to FCC at the address set forth in Section 12 hereof or at such other address and/or to such other party as FCC may from time to time elect by giving not less than ten (10) days advance written notice thereof to FC Products. The Base Rent, together with the following, shall be considered "Rent" hereunder:

A. *Utilities*. FC Products shall pay its Proportionate Share (defined below) of any utilities serving the Sub-subleased Premises and not separately metered to the Sub-subleased Premises. As used in this Sub-sublease, the term "Proportionate Share" shall mean and refer to a fraction, the numerator which is the total number of the rentable square feet of the Sub-subleased Premises and the denominator which is the total number of rentable square feet of the Subleased Premises; it being agreed that the rentable square footage of the Sub-subleased Premises is 96,255, and the rentable square footage of the Subleased Premises is 152,655; and that FC Products' Proportionate Share is therefore sixty-three percent (63%). Notwithstanding the foregoing, FC Products shall benefit from a utility subsidy as reflected on current financial statements; therefore, all utility payments and any other payments based on a proportionate share shall, during the Subsidized Period (defined below), be calculated on a Sub-subleased Premises area of 82,393 rentable square feet, for a subsidized proportionate share of Fifty-four Percent (54%) (the "Subsidized Proportionate Share"). For the purposes of this Sub-sublease, the "Subsidized Period" is the period of time between the Commencement Date and any transfer of FC Products' ownership (including a merger, consolidation or change in control with through or by a third-party unaffiliated entity of FC Products) or assignment of this Sub-sublease or further subletting of the Sub-subleased Premises other than a Permitted Assignment (as defined below). FC Products shall pay any utilities separately metered to the Sub-subleased Premises directly to the utility provider. Each month FCC shall prepare and submit to FC Products (i) an invoice identifying FC Products' Subsidized Proportionate Share, or Proportionate Share, as the case may be, for any utilities incurred serving the Sub-subleased Premises which have not yet been paid, and (ii) reasonable back-up documentation pertaining to the charge(s) identified in the invoice (e.g., copies of billing statements or invoices from the utility provider), to the extent it has received the same from the service provider, Sublandlord, or Master Landlord, or such back-up documentation in its possession or subject to its control. FCC's failure to

provide back-up documentation shall not relieve FC Products of its obligation to make any payment under this Sub-sublease if FCC has provided evidence that it made a payment to Sublandlord, Master Landlord, or a third party service provider for utility services that directly benefited FC Products in whole or in part. In the event that FC Products inquires regarding back-up documentation, FCC shall cooperate with FC Products in locating and obtaining such back-up documentation from any third-parties who may possess or control such documentation. FC Products shall pay the amount identified in such conforming invoices to FCC in full within twenty (20) days after the receipt thereof.

B. *Operating Expenses*. In addition to those utility charges provided for above, and garbage and recycling charges provided for below, beginning on the fourth anniversary of the Commencement Date, FC Products shall be responsible for Operating Expenses (as defined in the Master Lease) as follows:

Calendar Year	Operating Expenses Per Square Foot
2008	$0
2009	$0
2010	$0
2011	$0.50
2012	$1.00
2013	$1.50
2014	$2.00
2015	$2.00
2016	$2.00

Within sixty (60) days after the end of each calendar year for which Operating Expenses are to be paid, FCC shall provide a statement to FC Products showing the actual cost of the Operating Expenses incurred by FCC and reasonable documentation evidencing the same. FCC shall remit the difference between the amount actually paid by FC Products during the prior calendar year and the actual Operating Expenses incurred by FCC based on FC Products' Subsidized Proportionate Share (if during the Subsidized Period), or based on FC Products' Proportionate Share (if after the Subsidized Period) within thirty (30) days after delivery of such statement and documentation. Notwithstanding anything herein to the contrary, as used in this Sub-sublease, Operating Expenses shall not include any utilities that are the subject of subsection A above, and shall consist only of Operating Expenses which FCC incurs as its Proportionate Share of Operating Expenses under the Sublease. Under no circumstances shall FC Products be responsible for any Operating Expenses in excess of the amounts set forth in the foregoing table.

C. *Garbage and Recycling.* FC Products shall pay its Subsidized Proportionate Share of the cost of all garbage and recycling services incurred by FCC during the Subsidized Period, and shall pay its Proportionate Share of such costs after the Subsidized Period. FCC shall deliver copies of all garbage and recycling service invoices to FC Products, and FC Products shall remit payment for its Proportionate Share of the

same within twenty (20) days after its receipt of such invoice. FCC shall have the right to all income resulting from recycling that occurs from the printing operations located on the Sub-subleased Premises and FC Products shall have the right to all income resulting from recycling that occurs from the warehouse operations located on the Sub-subleased Premises. The parties shall use their best efforts to fairly determine the apportionment of the recycling income in accordance with the foregoing, and shall further make arrangements for timely payments to each other in the event that one party is collecting recycling income that belongs to the other.

D. *Real Estate Taxes*. FC Products shall pay its Subsidized Proportionate Share of any Real Estate Taxes (as that term is defined in the Master Lease) during the Subsidized Period and shall pay its Proportionate Share of Real Estate Taxes after the Subsidized Period. Notwithstanding anything herein to the contrary, as used in this Sub-sublease, Real Estate Taxes shall consist only of Real Estate Taxes which FCC incurs as its proportionate share of Real Estate Taxes under the Sublease. Each month FCC shall prepare and submit to FC Products (i) an invoice identifying FC Products' Subsidized Proportionate Share, or Proportionate Share, as the case may be, for any Real Estate Taxes pertaining to the Sub-subleased Premises, and (ii) reasonable back-up documentation pertaining to the charge(s) identified in the invoice, to the extent it has received the same from Sublandlord, or Master Landlord, or such back-up documentation is in its possession or subject to its control. In the event that FC Products inquires regarding back-up documentation, FCC shall cooperate with FC Products in locating and obtaining such back-up documentation from any third-parties who may possess or control such documentation. FCC's failure to provide back-up documentation shall not relieve FC Products of its obligation to make any payment under this Sub-sublease if FCC has provided evidence that it made a payment to Sublandlord, Master Landlord, or to the relevant taxing authority and the payment directly benefited FC Products in whole or in part. FC Products shall pay the amount identified in such conforming invoices to FCC in full within twenty (20) days after the receipt thereof.

4. Permitted Use. FC Products may use the Sub-subleased Premises for the purpose for which it is currently being used as of the date of this Sub-sublease, including without limitation, the operation of printing presses and operations related thereto, general business use, and storage space. Except as provided in the foregoing sentence, FC Products agrees that the Sub-subleased Premises shall not be used for any other purpose whatsoever without the prior consent of FCC, Sublandlord and Landlord, and that it will not use the Sub-subleased Premises or permit the Sub-subleased Premises or any part of the Building (as defined in the Sublease) of which it is a part, to be used in violation of any of the terms, covenants or conditions of the Sublease or the Master Lease.

5. Assignment. FC Products may assign this Sub-sublease or sublet all or a portion of the Sub-subleased Premises without the prior written consent of FCC in the following instances: (i) the assignment or sublease is to an affiliate or subsidiary of FC Products; (ii) the assignment or sublease occurs jointly and concurrently with or to the same assignee or affiliate of the assignee under or in connection with that certain Master License Agreement dated as of the Commencement Date, to which FC Products and FCC are parties (the "Master License Agreement"), and such assignee or sublessee expressly agrees in writing to assume all of the

obligations of FC Products hereunder; or (iii) FC Products has obtained the consent of Master Landlord and Sublandlord to a sublease of all or a portion of the Premises. Notwithstanding that Sublandlord's consent is not required for transfers pursuant to clauses (i)-(iii) above, each such assignment or sublease shall only be made upon the obtaining of the prior written consent of Master Landlord as required in connection with the Master Lease, and Sublandlord as required in connection with the Sublease (and FCC agrees to cooperate to obtain such consents, if required, from Landlord). Except as provided in the foregoing sentence, FC Products shall not, and shall not have the right to, assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Sub-sublease or any of its rights or obligations under this Sub-sublease without the prior written consent of FCC, which consent shall not be unreasonably withheld, conditioned, or delayed. FC Products and FCC acknowledge and agree that FC Products is not obligated to pay Base Rent for 13,862 square feet of the rentable square footage of the Sub-subleased Premises (as further described in the attached Exhibit E). Except as provided in (i) of this Section 5, if FC Products assigns or subleases any portion of the Sub-subleased Premises, whether in conformity with the provisions of Section 15 of the Sublease or not, all rent subsidies set forth on Exhibit E, in addition to the utility subsidy described above and any other subsidies benefiting FC Products, shall automatically terminate, and FC Products shall be fully liable for the Base Rent applicable to the 13,862 square feet as such rent amount is specified in Exhibit E, from and after the effective date of such sublease or assignment. FCC may collect rent from any assignee or subtenant of FC Products without waiving any remedies it may have in the event FC Products has violated this Section 5.

6. Compliance with Master Lease and Sublease. FC Products and FCC agree to keep and perform promptly each of the terms, covenants and conditions of the Master Lease relating to the Sub-subleased Premises, except as otherwise set forth herein, including without limitation the obligation to pay Rent, which is governed by this Sub-sublease.

7. Termination; Trade Fixtures. Without the further act or deed of Landlord, Sublandlord, or of either party hereto, the term of this Sub-sublease shall terminate and be of no further force or effect on the Expiration Date, and upon such termination FC Products shall forthwith vacate the Sub-subleased Premises leaving it in the same condition as it was received upon occupancy or such better condition which, under the terms of the Master Lease or the Sublease, as the case may be, Sublandlord or FCC is obligated to leave the same. Notwithstanding anything herein to the contrary, and Trade Fixtures shall be the sole property of FC Products and FC Products shall be entitled to keep such Trade Fixtures. As used herein, "Trade Fixtures" shall mean and refer to any property located within the Sub-subleased Premises or in the future placed on the Sub-subleased Premises by FC Products or its agents for the purpose of the conduct of FC Products' business.

8. Notice of Default. FC Products will notify Landlord and Sublandlord forthwith in the event of any default of FCC that occurs under the provisions of this Sub-sublease which comes to the attention of FC Products, such notice to be given to the Landlord and Sublandlord by United States Mail, registered or certified, postage prepaid, at the addresses provided below, or such other address as may be provided to FC Products in writing from time to time.

9. Notice. Any notice provided for herein shall be deemed to be duly given if made in writing and delivered in person to an office of such party, by nationally recognized over-night courier or mailed by first class registered or certified mail, postage prepaid, addressed as follows:

If to FCC:

Franklin Covey Co.
2200 W. Parkway Boulevard
Salt Lake City, UT 84119
Attn: Legal Department

If to FC Products:

FC Products
2250 W. Parkway Boulevard
Salt Lake City, UT 84119
Attn: Sarah Merz

If to Sublandlord:

EDS Information Services, L.L.C.
5400 Legacy Drive, H3-2F-53
Plano, Texas 75024-3105
Attn: Real Estate Leasing

If to Landlord:

Cole ED Salt Lake City UT, LLC
2555 East Camelback Road, Suite 400
Phoenix, AZ 85016

or to such other address with respect to either party hereto as such party shall notify the other party hereto in writing. Any notice so given, if mailed as aforesaid, shall be deemed received the second (2nd) business day after it is deposited in the United States Mail.

10. Indemnifications.

A. *Indemnity of FC Products*. FC Products shall indemnify, defend with counsel reasonably acceptable to FCC, and hold FCC, and its officers, directors, employees and agents, harmless from and against any and all liabilities, penalties, losses, damages, costs and expenses, demands, causes of action, claims or judgments (including, without limitation, attorneys' fees and expenses) (collectively referred to as the "Claims") arising, claimed or incurred against or by FCC, or its officers, directors, employees or agents, from any matter or thing arising from (i) the use or occupancy of the Sub-subleased Premises by FC Products or any of its partners, employees, agents, licensees and invitees, the conduct of FC Products' business, or from any activity, work or other thing done, permitted or suffered by FC Products in or about the Sub-subleased Premises; (ii) any accident, injury to or death of FC Products or its partners,

employees, agents, invitees or licensees or any other person or loss of or damage to property of FC Products or any such persons occurring on or about the Sub-subleased Premises or any part thereof during the term hereof; or (iii) any breach or default in the performance of any obligation on FC Products' part or to be performed under the terms of this Sublease. FC Products shall have no obligation to indemnify, defend or hold FCC harmless from and against any Claims resulting solely from FCC's breach of this Sub-sublease or from the negligence or willful misconduct of FCC. FC Products shall give prompt notice to FCC in case of casualty or accidents known to FC Products on or about the Sub-subleased Premises.

B. *Indemnity of FCC*. FCC shall indemnify, defend with counsel reasonably acceptable to FC Products, and hold FC Products, and its officers, directors, employees and agents, harmless from and against any and all Claims arising, claimed or incurred against or by FC Products, or its officers, directors, employees or agents, from any matter or thing arising from any breach or default in the performance of any obligation on FCC's part or to be performed under the terms of this Sub-sublease, the Sublease or the Master Lease. FCC shall have no obligation to indemnify, defend and hold FC Products harmless from and against any Claims resulting solely from FC Products' breach of this Sub-sublease or from the negligence or willful misconduct of FC Products.

C. *Survival of Indemnities*. Notwithstanding any provision hereof to the contrary, the indemnifications provided in this section shall survive any termination of this Sub-sublease or expiration of the Term hereof.

11. Insurance. Without limiting the generality of Section 6 hereof, FC Products shall procure and maintain the insurance required under Section 16 of the Sublease, naming FCC, Sublandlord and Landlord as additional insureds. No policy of insurance obtained by FC Products under the provisions of Section 11 may be canceled or terminated except upon not less than twenty (20) days written notice to FCC, Sublandlord and Landlord, and each policy shall contain a provision to that effect that the rights of FCC, Sublandlord and Landlord thereunder will not be affected by any defense which the insurer may have against FC Products or any other party. Certificates of each policy of insurance, and renewals thereof obtained by FC Products shall be promptly delivered to FCC, Sublandlord and Landlord.

12. Representations and Warranties.

A. *FCC Representations and Warranties*. FCC represents and warrants to FC Products that, to its knowledge and as of the Commencement Date: (i) a true and correct copy of the Master Lease and Sublease are attached as Exhibits A and B respectively, and that there are no other agreements, letter agreements, side agreements, amendments, modifications, waivers, writings or other matters amending, modifying, waiving, changing or otherwise affecting the Sub-sublease or any term or provision thereof; (ii) the Master Lease and Sublease are, as of the date of this Sub-sublease, in full force and effect; (iii) any information provided regarding actual or estimated Operating Expenses or that has been provided or delivered to FC Products is true and accurate and does not fail to disclose any material fact relating to the Operating Expenses; (iv) as of the date of this Sub-sublease, there exists no event of default, breach or infraction of any obligations set forth in the Master Lease or the Sublease; (v) except as otherwise disclosed in writing to

FC Products, FCC has not received any written notice from a governmental entity of a claim that the Building or the Common Areas do not comply with all laws applicable thereto; (vi) FCC is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, with all requisite power and authority to enter into and carry out its obligations under this Sub-sublease and such other agreements and instruments to be executed and delivered by FCC in connection herewith; (vii) each officer who executes this Sub-sublease and such other agreements and instruments has been duly authorized to so act by all requisite action on its part; (viii) FCC has not created any mortgages, trust deeds or contracts for sale that encumber the leasehold interests in the Premises (including the Sub-subleased Premises) other than those that have been disclosed in writing to FC Products; and (ix) no proceedings are presently pending or, to the knowledge of FCC, threatened, for the taking by exercise of the power of eminent domain, or in any other manner for a public or quasi-public purpose, of all or any part of the Building or the Property (as that term is defined in the Sublease).

B. *FC Products Representations and Warranties*. FC Products represents and warrants to FCC that (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, with all requisite power and authority to enter into and carry out its obligations under this Sub-sublease and such other agreements and instruments to be executed and delivered by FC Products in connection herewith; and (ii) each officer who executes this Sub-sublease and such other agreements and instruments has been duly authorized to so act by all requisite action on its part.

C. *Duration of Representations and Warranties*. The representations andwarranties provided for in this Section 12 shall not expire prior to the termination of thisSub-sublease.

13. Compliance with Terms of Master Lease and Sublease. Except as otherwise provided herein, this Sub-sublease is subject to all the terms of the Master Lease and Sublease. FCC and FC Products acknowledge and agree that FC Products shall, to the fullest extent possible, be entitled to the rights, benefits and protections afforded to FCC under the Sublease, notwithstanding the failure of FCC and FC Products to enumerate in this Sub-sublease all of the obligations, rights, benefits and protections and to specifically allocate as between Sublandlord and Subtenant such obligations, rights, benefits and protections. FCC covenants and agrees that it shall: (i) promptly and completely fulfill all of its obligations to Sublandlord under the Sublease; (ii) use commercially reasonable efforts to cause Sublandlord, under the Sublease, to perform all of the obligations of Sublandlord thereunder to the extent the obligations apply to the Sub-subleased Premises and FC Products' use thereof and of the Common Areas; and (iii) in the event of any default or failure by Sublandlord to perform its obligations as contemplated by the immediately preceding subparagraph (ii), FCC shall, upon notice from FC Products, make demand upon Sublandlord to perform its obligations under the Sublease, and take timely and appropriate legal action to enforce the obligations of the Sublease as to which any such default or failure exists, but shall have no obligation to commence litigation. To the extent of any conflict between this Sub-sublease and the Master Lease and/or the Sublease, as between FC Products and FCC, this Sub-sublease shall control.

14. Quiet Enjoyment. Subject to FCC's receipt of the required consents from Landlord and Sublandlord, FCC covenants and agrees with FC Products that upon FC Products' paying the Rent pursuant to this Sub-sublease and observing and performing all of the other obligations, terms, covenants and conditions of this Sub-sublease on FC Products' part to be observed and performed, FC Products may peaceably and quietly enjoy the Subleased Premises during the term of this Lease. Each party covenants and agrees that it shall not do anything which would constitute a default under the Master Lease or the Sublease, or would cause the Master Lease or the Sublease to be canceled, terminated or forfeited by virtue of any rights of cancellation, termination, or forfeiture reserved or vested in Landlord or Sublandord under the Master Lease and the Sublease respectively.

15. No Amendment to Master Lease or Sublease. FCC covenants that it will not, without FC Products' prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, (i) amend the Master Lease or Sublease in a manner that will increase or alter (to the detriment of FC Products) FC Products' obligations or decrease or materially impair FC Products' rights under the Sublease, or (ii) voluntarily terminate the Master Lease or Sublease.

16. Entrance onto Sub-subleased Premises. FCC, Sublandlord and Landlord, may enter upon the Sub-subleased Premises in accordance with the entry and/or inspection provisions of the Master Lease and Sublease. FCC shall further have the right to enter upon the Sub-subleased Premises at any time to cure any default under the Master Lease or the Sublease, where such default is being caused by FC Products and FC Products is not otherwise entitled to a cure period as provided for in Section 17 below.

17. Default.

A. *Default by FC Products; Remedies*. In addition to those specific defaults listed below, any failure by FC Products to comply with the terms and provisions of the Sublease, the Master Lease or any provision of this Sublease shall be a default hereunder; provided, however, that if the Sublease or Master Lease provides for a notice and cure period, then notwithstanding any provision herein to the contrary, FC Products shall not be deemed to be in default if it has not first been given written notice specifying the alleged default, including the provision hereof violated, and a reasonable opportunity to cure such default (such reasonable period not to exceed the time period for cure provided in the Sublease, less five (5) days). Upon prior written notice and a reasonable opportunity to cure (which shall be deemed to be twenty (20) days, (unless such cure would reasonably require more than twenty (20) days, in which event the cure period shall extend to the date that would be reasonably required to cure such default, but in no event in excess of forty-five (45) days, so long as FC Products is in diligent pursuit of a cure), and in conformity with the foregoing sentence, if FC Products defaults in the observance or performance of any of FC Products' covenants, agreements or obligations hereunder wherein the default can be cured by the expenditure of money, either FCC, Sublandlord or Landlord may, but without obligation to do so, and without waiving any other remedies which they may have by reason of such default, cure the default, and charge the reasonable cost thereof to FC Products and FC Products shall pay the same forthwith upon demand, together with interest at the lesser of the rate of 10% per annum or the highest permissible rate allowed in the State of

Utah. In addition to those specific defaults in the Master Lease and Sublease, the following shall be considered events of default, subject to a right to cure as provided in the foregoing sentence: (i) FC Products shall default in the payment of any installment of Rent (FC Products shall pay Rent within five (5) days after the date that the Rent is due or FC Products shall be deemed in default) or in the observance or performance of any of FC Products' covenants, agreements or obligations hereunder; (ii) any proceeding is commenced by or against FC Products for the purpose of subjecting the assets of FC Products to any law relating to bankruptcy or insolvency or for an appointment of a receiver of FC Products or of any of FC Products' assets; or (iii) if FC Products makes a general assignment of FC Products' assets for the benefit of creditors. FC Products expressly waives the service of any notice in writing of intention to re-enter as aforesaid and also all right of restoration to possession of the Sub-subleased Premises after re-entry or after judgment for possession thereof. In any event of default, FCC may re-enter immediately into the Sub-subleased Premises and remove all persons and property therefrom, and at its option, nullify and cancel this Sub-sublease with respect to all future rights of FC Products and have, regain, repossess and enjoy the Sub-subleased Premises. In the case of any such termination, FC Products will indemnify FCC against all loss of rents and other damages which it may incur by reason of such termination (provided, however, that FC Products shall not be liable for any special, consequential or incidental damages), and also against all reasonable attorneys' fees and expenses incurred in enforcing any of the terms of this Sub-sublease.

B. *Default by FCC; Remedies*. FCC's failure to perform any of its covenants, agreements or obligations hereunder or under the Sublease or Master Lease within twenty (20) days after receipt of written notice thereof from FC Products shall be deemed an event of default of FCC (unless such cure would reasonably require more than twenty (20) days, in which event the cure period shall extend to the date that would be reasonably required to cure such default, but in no event in excess of forty-five (45) days, so long as FCC is in diligent pursuit of a cure). If such default is reasonably expected to take more than twenty (20) days to cure, FCC must diligently proceed to cure the default through completion. Notwithstanding anything herein to the contrary, if FCC does not cure or commence to cure a default as provided in this subsection, or if an emergency situation arises that would cause substantial harm or injury to FC Products or FC Products' business operations, then in any of the foregoing instances, FC Products shall have the right to remedy such emergency situation or cure such default. Any expenses incurred by FC Products in effecting such a cure shall be paid by FCC within thirty (30) days of receipt of demand therefor, together with documentation evidencing such expenses, provided such documentation is adequate to evidence such expenses to the reasonable satisfaction of FCC. This subsection shall not limit any rights or remedies available to FC Products at law or in equity.

18. Mediation. The parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Sublease promptly by confidential mediation under the CPR Mediation Procedure in effect on the Commencement Date, before resorting to litigation. If such dispute or claim is not settled by the parties through mediation within forty-five (45) days after the first meeting of the parties with the mediator to discuss the matter, or if the parties agree to terminate mediation sooner, then either party may initiate a litigation action subject to all of the terms and conditions of this Sublease.

19. Responsibilities to Sublandlord. Notwithstanding anything in this Sub-sublease to the contrary, nothing herein shall relieve FCC of its responsibilities to Sublandlord, or Sublandlord of its responsibilities to Landlord and the responsibilities derived from the Master Lease.

20. Obligation to Provide Services. FC Products acknowledges and agrees that FCC has no obligation to provide services to be provided by Landlord or Sublandlord under the Sublease or the Master Lease. Notwithstanding the foregoing, FCC shall use commercially reasonable efforts to ensure that all parties are complying with their obligations under the Sublease and the Master Lease, and that all services reasonably necessary to the operation of FC Products' business in the Sub-subleased Premises are timely provided.

21. Reduction in Base Rent. FC Products acknowledges that it is receiving a reduction in Base Rent, as shown on the attached Exhibit D. If FC Products surrenders any portion of the Sub-subleased Premises, any reduction in Base Rent which would otherwise be attributable to a reduction in space leased shall be postponed until such time as Sublandlord and FCC have recouped the entire subsidy granted prior to the date of surrender.

22. Limitation of FCC's Liability. If FCC, on the one hand, or FC Products, on the other (in either case, the "Liable Party"), is held or found to be liable to FC Products, on the one hand, or FCC, on the other (the "Recipient Party"), for any claim, liability, loss or expense (a "Loss") relating to or arising from a breach of any representation or warranty contained in this Sub-sublease, whether based on an action or claim in contract, negligence, tort or otherwise, the amount of damages recoverable for such Loss by the Recipient Party from the Liable Party will not exceed $3,200,000 minus the sum of (A) the aggregate amount of Losses arising under this Sub-sublease and paid by the Liable Party to the Recipient Party, and (B) the aggregate amount of any liabilities for damages arising from a breach of any representation or warranty contained in any Transaction Agreement paid by the Liable Party to the Recipient Party. "Transaction Agreements" means the Purchase Agreement and the Ancillary Agreements identified in the Purchase Agreement.

23. Parking. FC Products shall have the non-exclusive right to use a proportionate share of the number of parking spaces serving the Premises equal to FC Products' Proportionate Share of the parking made available to FCC.

24. Counterparts. This Sub-sublease may be executed in multiple counterparts, and such counterparts, when taken together, shall constitute a complete agreement.

{Signatures follow on next page.}

FCC and FC Products are signing this Sub-sublease as of the date set forth in the introductory clause.

FRANKLIN COVEY CO.

/s/ Robert A. Whitman

By: Robert A. Whitman
Its: Chairman and Chief Executive Officer

FRANKLIN COVEY PRODUCTS, LLC

/s/ Sarah Merz

By: Sarah Merz
Its: Chief Executive Officer and President

MODIFICATION AGREEMENT

This **MODIFICATION AGREEMENT** (the "*Modification Agreement*") is made effective as of July 8, 2008, between **FRANKLIN COVEY CO.**, a Utah corporation ("*Borrower*"), whose address is 2200 West Parkway Blvd., Salt Lake City, Utah 84119, and **JPMORGAN CHASE BANK, N.A.**, a national banking association ("*Lender*"), whose address is 80 West Broadway, Suite 200, Salt Lake City, Utah 84101.

RECITALS:

A. Lender has previously extended to Borrower a revolving line of credit loan (the "*Loan*") in the original maximum principal amount of EIGHTEEN MILLION AND NO/100 DOLLARS ($18,000,000.00) pursuant to a Revolving Line of Credit Agreement dated as of March 14, 2007 (as amended and modified from time to time, the "*Loan Agreement*"), and evidenced by a Secured Promissory Note dated March 14, 2007 (as amended and modified from time to time, the "*Note*"). Capitalized terms used herein without definition shall have the meanings given to such terms in the Loan Agreement and Note.

B. Repayment of the Loan is guaranteed pursuant to the terms of a Repayment Guaranty dated as of March 14, 2007 (as amended and modified from time to time, the "*Guaranty*"), executed by **FRANKLIN COVEY PRINTING, INC.**, a Utah corporation, **FRANKLIN DEVELOPMENT CORPORATION**, a Utah corporation, **FRANKLIN COVEY TRAVEL, INC.**, a Utah corporation, **FRANKLIN COVEY CATALOG SALES, INC.**, a Utah corporation, **FRANKLIN COVEY CLIENT SALES, INC.**, a Utah corporation, **FRANKLIN COVEY PRODUCT SALES, INC.**, a Utah corporation, **FRANKLIN COVEY SERVICES, L.L.C.**, a Utah limited liability company, and **FRANKLIN COVEY MARKETING, LTD.**, a Utah limited partnership (individually and collectively, as the context requires, and jointly and severally, "*Guarantor*"), in favor of Lender.

C. The Loan is secured by, among other things, (i) a Security Agreement dated as of March 14, 2007 (as amended and modified from time to time, the "*Security Agreement*"), executed by Borrower and Guarantor, as "debtor," in favor of **JPMORGAN CHASE BANK, N.A.**, a national banking association, not in its individual capacity, but solely as collateral agent (in such capacity, the "*Collateral Agent*") for Lender and **ZIONS FIRST NATIONAL BANK**, a national banking association ("*Zions*"); (ii) a Pledge and Security Agreement dated as of March 14, 2007 (as amended and modified from time to time, the "*Pledge and Security Agreement*"), executed by Borrower, as "pledgor," in favor of Collateral Agent; and (iii) an Account Control Agreement dated as of March 14, 2007 (as amended and modified from time to time, the "*Account Control Agreement*"), executed by Borrower and Guarantor, as "debtor," Collateral Agent, Lender and Zions, as "creditor," and Zions, as "bank" (collectively, the "*Security Documents*").

D. Lender, Zions and Collateral Agent have entered into an Intercreditor Agreement dated as of March 14, 2007 (as amended or modified from time to time, the "*Intercreditor Agreement*"), the terms of which were acknowledged and agreed to by Borrower and Guarantor.

E. The Loan Agreement, the Note, the Guaranty, the Security Documents, the Intercreditor Agreement, and all other agreements, documents, and instruments governing, evidencing, securing, guaranteeing or otherwise relating to the Loan, as modified in this Modification Agreement, are sometimes referred to individually and collectively as the "*Loan Documents*." All capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Loan Agreement.

F. Borrower and/or one or more of the Guarantors have sold substantially all of the assets of Borrower's Consumer Solutions Business Unit (the "*Asset Sale*") to a third-party purchaser (the "*Purchaser*") pursuant to one or more written agreements (the "*Asset Sale Documents*"). None of the assets to be sold in the Asset Sale include any of the Pledged Securities. Borrower has acquired an approximately nineteen and one-half percent (19.5%) ownership interest in Purchaser, such that Purchaser will not be considered a Subsidiary of Borrower under the Loan Documents.

G. Upon or prior to the closing of the Asset Sale, the revolving line of credit loan made by Zions to Borrower in the maximum principal amount of up to $7,000,000.00 (the "*Zions Loan*") shall be irrevocably terminated (the "*Zions Loan Termination*").

H. As a result of the Asset Sale, Borrower has proposed to dissolve each of the following Subsidiaries: **FRANKLIN COVEY SERVICES, L.L.C.**, a Utah limited liability company, and **FRANKLIN COVEY MARKETING, LTD.**, a Utah limited partnership (collectively, the "*Dissolved Guarantors*").

I. Subject to the terms and conditions contained herein, Borrower, Guarantor, and Lender now desire to modify the Loan Documents to: (i) approve an increase to the maximum principal amount of the Loan, effective as of the date hereof, from $18,000,000.00 to $25,000,000.00 (the "*Loan Amount Increase*"); (ii) approve a subsequent reduction to the maximum principal amount of the Loan, effective as of June 30, 2009, from $25,000,000.00 to $15,000,000.00 (the "*Loan Amount Reduction*"); (iii) increase the interest rate applicable under the Loan Documents from the LIBO Rate in effect from time to time plus 1.10% per annum to LIBO Rate in effect from time to time plus 1.50% per annum (the "*Interest Rate Increase*"); (iv) consent to the dissolution of the Dissolved Guarantors and release the Dissolved Guarantors and any Collateral owned by the Dissolved Guarantors from the Security Documents; and (v) remove any references to Zions, the Zions Loan, and the Zions Loan Documents, except that Zions, as the depository bank, shall continue to be a party in such capacity to the Account Control Agreement.

AGREEMENT:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Guarantor and Lender agree as follows:

1. **ACCURACY OF RECITALS**. Each of Borrower and each Guarantor acknowledges the accuracy of the Recitals which are incorporated herein by reference.

2. **MODIFICATION OF LOAN DOCUMENTS**. The Loan Documents are modified as follows:

(a) Loan Amount Increase and Subsequent Reduction.

(1) Loan Agreement. The definition of "Loan Amount" set forth in Section 1.1 of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

> "**Loan Amount**" means the amount of up to TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000.00), plus any sum in addition thereto advanced by Lender in its sole and absolute discretion in accordance with the Loan Documents, to be disbursed pursuant to the terms and conditions of this Agreement; *provided, however*, that effective as of June 30, 2009, the aforementioned amount shall be reduced to FIFTEEN MILLION AND NO/100 DOLLARS ($15,000,000.00).

(2) Note. The reference to "$18,000,000.00" in the heading of the Note is hereby amended to read "$25,000,000.00"; *provided however*, that effective as of June 30, 2009, the aforementioned amount shall be reduced to "$15,000,000.00". In addition, the reference in Section 1 of the Note to "EIGHTEEN MILLION AND NO/100 DOLLARS ($18,000,000.00)" is hereby amended to read "TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000.00)"; *provided, however*, that effective as of June 30, 2009, the aforementioned amount shall be reduced to "FIFTEEN MILLION AND NO/100 DOLLARS ($15,000,000.00)".

An original of this Modification Agreement may be attached to the original Note as an allonge and made a part of the Note, *provided, however*, that failure to attach an original of this

Modification Agreement as an allonge to the Note shall not impact the effectiveness of this Modification Agreement and this Modification Agreement shall nonetheless be valid, binding and enforceable.

(b) Interest Rate Increase. The definition of "Interest Rate" set forth in Section 1.1 of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

> "**Interest Rate**" means a variable rate equal to the LIBO Rate in effect from time to time plus One and One-Half Percent (1.50%) per annum.

(c) Dissolved Guarantors. Lender and Collateral Agent hereby consent to the dissolution of the Dissolved Guarantors and hereby release the Dissolved Guarantors and any Collateral owned by the Dissolved Guarantors from the Guaranty and the Security Documents, and all references in the Loan Documents to any of the Dissolved Guarantors are hereby deleted and of no further force or effect.

(d) Zions Loan Termination. Provided that Borrower has delivered to Lender the information required by **Section 7(d)** hereof, all references in the Loan Documents to Zions as a "Creditor" or a "Lender", the Zions Loan, or the Zions Loan Documents are hereby deleted and of no further force or effect. Notwithstanding the foregoing, Zions, as the depository bank, shall continue to be a party in such capacity to the Account Control Agreement.

(e) Intercreditor Agreement; References to Collateral Agent. The Intercreditor Agreement shall remain in effect solely to preserve the appointment of Collateral Agent as collateral agent for Lender, but any agreements, representations, or other provisions made by Zions to or for the benefit of Lender or Collateral Agent, or by Lender to or for the benefit of Zions, are hereby deleted and of no further force or effect. In addition, any reference in the Loan Documents to the Collateral Agent are hereby deleted and of no further force or effect.

(f) Conforming Modifications. Each of the Loan Documents is modified to be consistent herewith and to provide that it shall be a default or an Event of Default thereunder if Borrower shall fail to comply with any of the covenants of Borrower herein or if any representation or warranty by Borrower herein or by any guarantor in any related Consent and Agreement of Guarantor(s) is materially incomplete, incorrect, or misleading as of the date hereof. In order to further effect certain of the foregoing modifications, Borrower and Guarantor agree to execute and deliver such other documents or instruments as Lender reasonably determines are necessary or desirable.

(g) References. Each reference in the Loan Documents to any of the Loan Documents shall be a reference to such document as modified herein or as modified on or about the date hereof.

3. **RATIFICATION OF LOAN DOCUMENTS AND COLLATERAL**. The Loan Documents are ratified and affirmed by Borrower and shall remain in full force and effect as modified herein. Any property or rights to or interests in property granted as security in the Loan Documents shall remain as security for the Loan and the obligations of Borrower in the Loan Documents.

4. **FEES AND EXPENSES**.

(a) Fees and Expenses. In consideration of Lender's agreement to amend the Loan Documents as set forth herein, and in addition to any other fees or amounts payable by Borrower hereunder, Borrower has agreed to pay to Lender (i) all legal fees and expenses incurred by Lender in connection herewith; and (ii) all other costs and expenses incurred by Lender in connection with executing this Modification Agreement and otherwise modifying the Loan Documents. Borrower acknowledges and agrees that such fees are fully earned and nonrefundable as of the date this Modification Agreement is executed and delivered by the parties hereto.

(b) Method of Payment. Such fees shall be paid by Borrower to Lender on the date hereof or at such later date as such fees, costs and expenses are incurred by Lender. Borrower and Lender agree and acknowledge that the foregoing shall not relieve Borrower of its obligation to make future monthly payments of interest and other amounts as required under the terms of the Loan.

5. **BORROWER REPRESENTATIONS AND WARRANTIES**. Each of Borrower and Guarantor represents and warrants to Lender: (a) No default or event of default under any of the Loan Documents as modified herein, nor any event, that, with the giving of notice or the passage of time or both, would be a default or an event of default under the Loan Documents as modified herein has occurred and is continuing; (b) There has been no material adverse change in the financial condition of Borrower or Guarantor or any other person whose financial statement has been delivered to Lender in connection with the Loan from the most recent financial statement received by Lender; (c) Each and all representations and warranties of Borrower and Guarantor in the Loan Documents are accurate on the date hereof; (d) Neither Borrower nor Guarantor has any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein; (e) The Loan Documents as modified herein are the legal, valid, and binding obligation of Borrower, enforceable against Borrower in accordance with their terms; (f) Borrower is validly existing under the laws of the State of its formation or organization, has not changed its legal name as set forth above, and has the requisite power and authority to execute and deliver this Modification Agreement and to perform the Loan Documents as modified herein; (g) The execution and delivery of this Modification Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower; and (h) This Modification Agreement has been duly executed and delivered on behalf of Borrower.

6. **BORROWER COVENANTS**. Borrower and Guarantor covenant with Lender:

(a) Each of Borrower and Guarantor shall execute, deliver, and provide to Lender such additional agreements, documents, and instruments as reasonably required by Lender to effectuate the intent of this Modification Agreement.

(b) Each of Borrower and Guarantor fully, finally, and forever releases and discharges Lender and its successors, assigns, directors, officers, employees, agents, and representatives from any and all actions, causes of action, claims, debts, demands, liabilities, obligations, and suits, of whatever kind or nature, in law or equity, that either Borrower or Guarantor has or in the future may have, whether known or unknown, (i) in respect of the Loan, the Loan Documents, or the actions or omissions of Lender in respect of the Loan or the Loan Documents and (ii) arising from events occurring prior to the date of this Modification Agreement.

(c) Contemporaneously with the execution and delivery of this Modification Agreement, Borrower has paid to Lender all of the internal and external costs and expenses incurred by Lender in connection with this Modification Agreement (including, without limitation, inside and outside attorneys, appraisal, appraisal review, processing, title, filing, and recording costs, expenses, and fees).

(d) On or prior to the execution and delivery of this Modification Agreement, each of Borrower and Guarantor shall have executed and delivered, or caused to be executed and delivered, to Lender, each in form and substance satisfactory to Lender, such other documents, instruments, resolutions, subordinations, and other agreements as Lender may require in its sole discretion.

7. **EXECUTION AND DELIVERY OF AGREEMENT BY LENDER**. Lender shall not be bound by this Modification Agreement until (a) Lender has executed and delivered this Modification Agreement to Borrower and Guarantor, (b) each of Borrower and Guarantor has performed all of the obligations of Borrower and Guarantor, respectively, under this Modification Agreement to be performed contemporaneously with the execution and delivery of this Modification Agreement, if any, (c) Borrower has paid all fees and costs required under **Section 4** hereof, and (d) the Zions Loan Termination shall have been completed and Lender shall have received evidence of the same which is reasonably acceptable to Lender.

8. **INTEGRATION, ENTIRE AGREEMENT, CHANGE, DISCHARGE, TERMINATION, OR WAIVER**. The Loan Documents as modified herein contain the complete understanding and agreement of Borrower, Guarantor and Lender in respect of the Loan and supersede all prior representations, warranties, agreements, arrangements, understandings, and negotiations. No provision of the Loan Documents as modified herein may be changed, discharged, supplemented, terminated, or waived except in a writing signed by the parties thereto.

9. **BINDING EFFECT**. The Loan Documents, as modified herein, shall be binding upon and shall inure to the benefit of Borrower, Guarantor and Lender and their successors and assigns; *provided*, *however*, neither Borrower nor Guarantor may assign any of its rights or delegate any of its obligations under the Loan Documents and any purported assignment or delegation shall be void.

10. **CHOICE OF LAW**. THIS MODIFICATION AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF SALT LAKE, STATE OF UTAH OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. EACH OF BORROWER AND LENDER WAIVES, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS **SECTION 10**.

11. **COUNTERPART EXECUTION**. This Modification Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Modification Agreement to physically form one document. Receipt by the Lender of an executed copy of this Modification Agreement by facsimile shall constitute conclusive evidence of execution and delivery of the Modification by the signatory thereto.

[Remainder of Page Intentionally Left Blank]

DATED as of the date first above stated.

FRANKLIN COVEY CO.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

"*Borrower***"**

FRANKLIN COVEY PRINTING, INC.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN DEVELOPMENT CORPORATION
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY TRAVEL, INC.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY CATALOG SALES, INC.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY CLIENT SALES, INC.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY PRODUCT SALES, INC.
a Utah corporation

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY SERVICES, L.L.C.
a Utah limited liability company

By: **FRANKLIN COVEY CLIENT SALES, INC.**
a Utah corporation, its member

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

By: **FRANKLIN DEVELOPMENT CORPORATION**
a Utah corporation, its member

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

FRANKLIN COVEY MARKETING, LTD.
a Utah limited partnership

By: **FRANKLIN DEVELOPMENT CORPORATION**
a Utah corporation, its general partner

By: /s/ Stephen D. Young
Name: Stephen D. Young
Title: Chief Financial Officer

"*Guarantor*"

JPMORGAN CHASE BANK, N.A.
a national banking association

By: /s/ Tony C. Nielsen
Name: Tony C. Nielsen
Title: Senior Vice President

"*Lender*"

Exhibit 99.1

FranklinCovey Announces Completion of the Sale of its Consumer Solutions Business Unit and an Investor Webinar to be held on July 11, 2008

FranklinCovey to Use Proceeds From Sale to Repurchase Common Stock

SALT LAKE CITY, July 7, 2008, — FranklinCovey (NYSE: FC) today announced that it has completed its previously announced sale of substantially all of the assets of its Consumer Solutions Business Unit (CSBU) to Franklin Covey Products, LLC. Franklin Covey Products, LLC, which is controlled by Peterson Partners, a private equity firm, purchased the CSBU assets for $32.0 million in cash subject to adjustments for net working capital. FranklinCovey invested $1.755 million to purchase a 19.5% voting interest in the new company and made a $1.0 million preferred capital contribution with a 10 percent priority return. The Company also has the opportunity to earn contingent license fees as Franklin Covey Products, LLC achieves certain performance objectives.

FranklinCovey currently intends to utilize the net sale proceeds to repurchase shares of its common stock pursuant to a Dutch auction tender offer, which it anticipates will commence in the fourth quarter of fiscal 2008.

Investor Webinar

The Company also announced that it will host an investor webinar to discuss with shareholders and the financial community the Company's financial results for its fiscal quarter and three quarters ended May 31, 2008, the recent sale of the CSBU assets, and to the extent applicable, the proposed self tender offer. The discussion will be held on Friday, July 11, 2008 at 11:00 a.m. Eastern Daylight time (9:00 a.m. Mountain Daylight time).

Interested persons can participate by calling 1-888-396-2356, access code: 88095150 and by logging on to http://phx.corporate-ir.net/phoenix.zhtml?p=irol-eventDetails&c=102601&eventID=1895357.

About FranklinCovey

FranklinCovey (NYSE: FC) is the global consulting and training leader in the areas of strategy execution, customer loyalty, leadership and individual effectiveness. Clients include 90 percent of the Fortune 100, more than 75 percent of the Fortune 500, thousands of small- and mid-sized businesses, as well as numerous government entities and educational institutions. FranklinCovey (www.franklincovey.com) has 46 direct and licensee offices providing professional services in 147 countries.

About Peterson Partners

Peterson Partners, a leading Intermountain West investment firm based in Salt Lake City, Utah, specializes in investing in small- to mid-sized companies, and has a track record of successful investments including JetBlue, Making Memories, EnergySolutions, 3form, Cranium, Asurion, Instashred, Winder Farms, MITY Enterprises, and Diamond Rental. Founded in 1995, Peterson Partners has managed over $400 million in committed capital through five funds.

Forward-Looking Statements

This press release contains forward-looking statements related to, among other things, a proposed tender offer. These statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Investors are cautioned that forward-looking statements inherently involve risks and uncertainties that could cause actual results to differ materially from those contemplated in the forward-looking statements. Such risks and uncertainties include, but are not limited to, the Company may decide, for any number of reasons, not to pursue the tender offer, the conditions to any such tender offer may not be satisfied, market conditions and the price of the Company's stock may not be favorable, general economic conditions, the Company's cash needs, shareholders may not tender shares in response to the offer in sufficient numbers to make the tender offer advisable and other risks and uncertainties outlined in the Company's documents filed with the SEC, including the Company's most recent annual report on Form 10-K for the fiscal year ended August 31, 2007 as filed with the Securities and Exchange Commission. All forward-looking statements and other information in this press release are based upon information available as of the date of this press release. Such information may change or become invalid after the date of this press release, and, by making these forward-looking statements, the Company undertakes no obligation to update these statements after the date of this press release, except as required by law.

Tender Offer Statement

This press release is for informational purposes only and is not an offer to buy, or the solicitation of an offer to sell, any shares. The full details of any tender offer, including complete instructions on how to tender shares, will be included in the offer to purchase, the letter of transmittal and related materials, which would be mailed to shareholders promptly following commencement of the offer. Shareholders should read carefully the offer to purchase, the letter of transmittal and other related materials when they are available because they will contain important information. Shareholders may obtain free copies, when available, of the offer to purchase and other related materials that will be filed by FranklinCovey with the Securities and Exchange Commission at the Commission's website at www.sec.gov. When available, shareholders also may obtain a copy of these documents, free of charge, from FranklinCovey's information agent to be appointed in connection with the offer.

Investor Contact:
FranklinCovey
Steve Young
801-817-1776
Steve.Young@franklincovey.com

Media Contact:
FranklinCovey
Debra Lund
801-244-4474
Debra.Lund@franklincovey.com

Exhibit 99.2

UNAUDITED PRO FORMA FINANCIAL DATA

On May 22, 2008, Franklin Covey Co. (the Company) announced that it would join with Peterson Partners to create a new limited liability company, Franklin Covey Products, LLC (Franklin Covey Products), to pursue the strategic objective of expanding the sales of Franklin Covey branded consumer products throughout the world. In connection with the creation of Franklin Covey Products, on May 22, 2008, the Company entered into a definitive agreement to sell substantially all of the assets of its Consumer Solutions Business Unit (CSBU) to Franklin Covey Products (the Sale Agreement). On July 7, 2008, the sale of the CSBU assets was closed (the Closing Date). The sale price was $32.0 million in cash plus adjustments for working capital on the Closing Date. In addition, certain costs incurred in the completion of the sale transaction will be reimbursed to the Company by Franklin Covey Products.

Pursuant to the terms of the Sale Agreement, the Company contributed (i) approximately $1.8 million on the Closing Date as consideration for a 19.5 percent voting interest in Franklin Covey Products, plus (ii) made a $1.0 million capital contribution with a 10 percent priority return that provides no additional ownership or voting rights. The remaining interest in Franklin Covey Products is primarily held by Peterson Partners V, L.P., an affiliate of Peterson Partners, Inc., a Salt Lake City, Utah based investment firm that specializes in small- to mid-size companies. Certain Franklin Covey Products management personnel were granted ownership shares that do not have voting rights, but may subsequently dilute the Company's equity interest in Franklin Covey Products to approximately 15.6 percent if the ownership shares fully vest. Due to the structure of the new entity and the remaining influence over the new entity, the Company believes that its investment in Franklin Covey Products will be accounted for using the equity method of accounting for an unconsolidated subsidiary.

The following unaudited pro forma consolidated balance sheets for Franklin Covey as of May 31, 2008 give effect to the sale of the CSBU assets as if the sale transaction occurred on May 31, 2008. The following unaudited pro forma consolidated statements of income for the fiscal year ended August 31, 2007 and for the three quarters ended May 31, 2008 give effect to the sale of the CSBU assets as if the sale transaction occurred at the beginning of the period presented.

The pro forma information is not necessarily indicative of the financial position or results of operations of future periods or indicative of results that would have actually occurred had the transactions been completed as of the date thereof or as of the beginning of the periods presented therein. The pro forma adjustments, as described in the accompanying notes to the pro forma consolidated balance sheet and statements of operations, are based upon available information and certain assumptions we believe are reasonable. The pro forma financial information should be read in conjunction with the consolidated financial statements and notes to the consolidated financial statements included in our report on Form 10-K for the fiscal year ended August 31, 2007 and our quarterly report on Form 10-Q for the period ended May 31, 2008.

FRANKLIN COVEY CO.
PRO FORMA CONDENSED CONSOLIDATED BALANCE SHEET (UNAUDITED)
AS OF MAY 31, 2008
(Dollars in Thousands)

	Franklin Covey Co.	Pro Forma Adjustments		Pro Forma
ASSETS				
Current assets:				
Cash and cash equivalents	$ 4,815	$ 29,245	(b)	$ 34,060
Accounts receivable, net	24,597	-		24,597
Inventories	7,034	-		7,034
Deferred income taxes	3,697	-		3,697
Prepaid expenses and other assets	4,837	3,069	(b)	7,906
Assets held for sale	30,754	(30,754)	(a)	-
Total current assets	75,734	1,560		77,294
Property and equipment, net	25,807	-		25,807
Intangible assets, net	73,223	-		73,223
Deferred income taxes	105	-		105
Investment in unconsolidated subsidiary	-	2,755	(b)	2,755
Other assets	16,934	(1,977)	(b)	14,957
	$ 191,803	$ 2,338		$ 194,141
LIABILITIES AND SHAREHOLDERS' EQUITY				
Current liabilities:				
Current portion of long-term debt and financing obligation	$ 667	$ -		$ 667
Line of credit	8,223	-		8,223
Accounts payable	8,341	1,500	(b)	9,841
Income taxes payable	57	-		57
Accrued liabilities	21,145	-		21,145
Liabilities held for sale	10,415	(10,415)	(a)	-
Total current liabilities	48,848	(8,915)		39,933
Long-term debt and financing obligation, less current portion	32,504	-		32,504
Deferred income tax liabilities	4,455	4,242	(c)	8,697
Other liabilities	1,652	-		1,652
Total liabilities	87,459	(4,673)		82,786
Shareholders' equity:				
Common stock	1,353	-		1,353
Additional paid-in capital	183,836	-		183,836
Common stock warrants	7,602	-		7,602
Retained earnings	23,119	6,362	(c)	29,481
Accumulated other comprehensive income	2,039	-		2,039
Treasury stock at cost, 7,249 shares	(112,956)	-		(112,956)
Other comprehensive loss held for sale	(649)	649	(a)	-
Total shareholders' equity	104,344	7,011		111,355
	$ 191,803	$ 2,338		$ 194,141

(a) Reflects the disposition of the Consumer Solutions Business Unit assets, liabilities, and other comprehensive loss, which is comprised of cumulative translation adjustments.

(b) Reflects the consideration received from the sale of the Consumer Solutions Business Unit assets and the adjustment of assets and liabilities based upon the master asset purchase agreement.

(c) Amount represents the preliminary gain (net of tax) and corresponding income taxes, as applicable, on the preliminary gain from the sale of Consumer Solutions Business Unit assets. This amount is based upon May 31, 2008 working capital balances and will be revised based upon working capital balances on the sale closing date.

FRANKLIN COVEY CO.
PRO FORMA CONDENSED CONSOLIDATED INCOME STATEMENTS (UNAUDITED)
FOR THE FISCAL YEAR ENDED AUGUST 31, 2007
(Dollars in Thousands)

	Franklin Covey Co.	Pro Forma Adjustments		Pro Forma
Sales	$ 284,125	$ (131,003)	(a)	$ 153,122
Cost of sales	109,748	(56,561)	(a)	53,187
Gross profit	174,377	(74,442)		99,935
Selling, general, and administrative	149,220	(61,913)	(a)	87,307
Gain on sale of manufacturing facility	(1,227)	-		(1,227)
Depreciation	4,693	(1,446)	(a)	3,247
Amortization	3,607	-		3,607
Income from operations	18,084	(11,083)		7,001
Equity in earnings of unconsolidated subsidiary	-	2,161	(b)	2,161
Interest income	717	-		717
Interest expense	(3,136)	-		(3,136)
Income before provision for income taxes	15,665	(8,922)		6,743
Provision for income taxes	(8,036)	3,835	(c)	(4,201)
Net income	7,629	(5,087)		2,542
Preferred stock dividends	(2,215)	-		(2,215)
Net income available to common shareholders	$ 5,414	$ (5,087)		$ 327
Diluted earnings per common share	$ 0.27	$ 0.26		$ 0.02

(a) Reflects disposition of Consumer Solutions Business Unit pursuant to the sale of CSBU assets.

(b) Represents 19.5 percent of the earnings of the CSBU as the Company's equity in Franklin Covey Products' earnings. This amount may be subsequently diluted to approximately 15.6 percent by the vesting of Class C ownership shares, which have no voting rights, to certain members of Franklin Covey Products management team.

(c) Represents the tax effect of pro forma adjustments.

NOTE: The above pro forma income statement does not reflect the expected gain on the sale of the CSBU assets or any reduction of interest from the use of the sale proceeds thereon.

FRANKLIN COVEY CO.
PRO FORMA CONDENSED CONSOLIDATED INCOME STATEMENTS (UNAUDITED)
FOR THE THREE QUARTERS ENDED MAY 31, 2008
(Dollars in Thousands)

	Franklin Covey Co.	Pro Forma Adjustments		Pro Forma
Sales	$ 207,763	$ (94,920)	(a)	$ 112,843
Cost of sales	79,372	(40,137)	(a)	39,235
Gross profit	128,391	(54,783)		73,608
Selling, general, and administrative	110,634	(47,193)	(a)	63,441
Depreciation	4,044	(1,163)	(a)	2,881
Amortization	2,702	-		2,702
Income from operations	11,011	(6,427)		4,584
Equity in earnings of unconsolidated subsidiary	-	1,253	(b)	1,253
Interest income	78	-		78
Interest expense	(2,396)	-		(2,396)
Income before provision for income taxes	8,693	(5,174)		3,519
Provision for income taxes	(5,063)	2,308	(c)	(2,755)
Net income	$ 3,630	$ (2,866)		$ 764
Diluted earnings per common share	$ 0.18	$ 0.14		$ 0.04

(a) Reflects disposition of Consumer Solutions Business Unit pursuant to the sale of CSBU assets.

(b) Represents 19.5 percent of the earnings of the CSBU as the Company's equity in Franklin Covey Products' earnings. This amount may be subsequently diluted to approximately 15.6 percent by the vesting of Class C ownership shares, which have no voting rights, to certain members of Franklin Covey Products management team.

(c) Represents the tax effect of pro forma adjustments.

NOTE: The above pro forma income statement does not reflect the expected gain on the sale of the CSBU assets or any reduction of interest from the use of the sale proceeds thereon.