

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL CIVIL DIVISION

CASE NO.

KRESSE & ASSOCIATES, LLC, a Florida  
limited liability company; OFFICIAL  
REPORTING SERVICES, LLC, a Florida  
limited liability company; SUNBELT  
DIVERSIFIED ENTERPRISES, LLC, a Florida  
limited liability company; JOHN SICILIAN,  
an individual; JOSEPH DAGROSA, JR., an  
individual; and JAMES R. TOLZIEN, an  
individual;

Plaintiffs,

v.

THOMAS J. KRESSE, an individual;  
KRESSE & ASSOCIATES, INC., a Florida  
Corporation; and TOKR CONSULTING, LLC,  
a Florida limited liability company,

Defendants.

**VERIFIED COMPLAINT**

Plaintiffs, KRESSE & ASSOCIATES, LLC, a Florida limited liability company (“K&A  
LLC”); OFFICIAL REPORTING SERVICES, LLC, a Florida limited liability company  
(“ORS”); SUNBELT DIVERSIFIED ENTERPRISES, LLC, a Florida limited liability company  
(“Sunbelt”); JOHN SICILIAN (“Sicilian”), JOSEPH DAGROSA, JR. (“Dagrosa”) and JAMES  
R.TOLZIEN (“Tolzien”) (collectively, “Plaintiffs”) hereby sue THOMAS J. KRESSE, an  
individual, (“Kresse”); KRESSE & ASSOCIATES, INC. (“K&A INC.”), a Florida corporation  
and TOKR CONSULTING, LLC, a Florida limited liability company (“TOKR”) (collectively,  
“Defendants”) seeking injunctive relief and damages, and in support hereof allege as follows:

**INTRODUCTION**

1. This Complaint seeks injunctive relief to enjoin Defendants’ unlawful use and  
threatened use of Plaintiffs’ confidential data, as well as Defendants’ breach of myriad  
agreements executed in connection with the sale of a court reporting business to Plaintiffs for

which Defendants were paid in excess of \$1 million, as well as Defendants' tortious interference with Plaintiffs' advantageous business relationships. Upon information and belief, Defendants -- K&A Inc., the seller of a legal support services business in South Florida; Kresse, K&A Inc.'s sole shareholder, and TOKR, Kresse's consulting business that was engaged by Plaintiffs K&A LLC and ORS -- misappropriated K&A LLC's confidential information including, but not limited to, client lists and are presently, or are intending to solicit K&A LLC and ORS's clients and/or compete with K&A LLC and ORS in violation of contractual obligations entered into by and between the parties, as well as violations of federal and state law. Plaintiffs also seek actual damages for Defendants' breach of the Parties' various agreements, as well as for Defendants' tortious interference with Plaintiffs' advantageous business relations with prospective partners ("Prospective Partners") aimed at achieving a business combination.

#### **JURISDICTION AND VENUE**

2. This is an action for injunctive relief and for damages, in which the matter in controversy exceeds the sum of fifteen thousand dollars (\$15,000.00), exclusive of interest, costs, and attorney's fees.

3. Venue is proper in Miami-Dade County, Florida because it is the place where the causes of action complained of herein occurred and accrued. Additionally, the agreements that give rise to this action expressly provide for venue in Miami-Dade County, Florida in the event of a dispute.

#### **PARTIES**

4. Plaintiff K&A LLC is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.

5. Plaintiff ORS is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.

6. Plaintiff Sunbelt is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.

7. Plaintiff Sicilian is a resident of the State of Florida who is over the age of 18 and otherwise *sui juris*.

8. Plaintiff Dargosa is a resident of the State of Florida who is over the age of 18 and otherwise *sui juris*.

9. Plaintiff Tolzien is a resident of the State of Florida who is over the age of 18 and otherwise *sui juris*.

10. Defendant Kresse is a resident of the State of Florida who is over the age of 18 and otherwise *sui juris*.

11. Defendant K&A Inc. is a Florida corporation with its principal place of business in Miami-Dade County, Florida.

12. Defendant TOKR is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida.

13. All conditions precedent to the bringing of this action have been performed, waived, cured and/or excused.

14. Plaintiffs have retained the law firm of Buchanan Ingersoll & Rooney, PC to represent them in this action and have obligated themselves to pay the firm a reasonable fee for its services.

### **GENERAL ALLEGATIONS**

15. For several decades, Kresse operated a court reporting and legal support services business that serviced Miami-Dade, Broward and Palm Beach Counties in Florida (the “Kresse Business”). During relevant times, including September of 2008, the Kresse Business operated as K&A Inc. with Kresse as its sole shareholder and key revenue generating principal.

16. In an effort to enhance its presence and market share in the court reporting and legal support services industry in South Florida, ORS approached K&A Inc. and Kresse to

discuss the possibility of purchasing the Kresse Business and retaining Kresse as the key revenue generator and consultant given the goodwill and name recognition associated with his experience.

17. After substantial negotiation, in late 2008, K&A Inc. and Kresse, as its sole shareholder, sold to K&A LLC all right, title and interest in the Kresse Business and related assets identified specifically as the Purchased Assets, as that term is defined and identified in the attached Asset Purchase Agreement, that included, among other things, accounts receivables, leasehold interests, equipment, tools, furniture, computer equipment, proprietary rights to use names presently and previously used, customer and vendor lists, and computer licenses and software. (See Exhibit "A" attached hereto at 33-34.)

18. Simultaneously with the sale of the Kresse Business, K&A LLC retained Kresse as a consultant and, therefore, executed separate agreements – an Asset Purchase Agreement and two Consulting Agreements -- that governed the relationship between K&A LLC, ORS on the one hand and Kresse's consulting business, TOKR.

### **The Asset Purchase Agreement**

19. On or about September 25, 2008, K&A LLC, K&A Inc. and Kresse entered into that certain Asset Purchase Agreement (the "APA") whereby K&A LLC, as buyer, purchased a court reporting and legal support services business and related assets including, but not limited to, customer lists, pricing strategies, contract rights and other intangibles, as specifically identified in the APA (the "Business"), from K&A Inc., as seller, and its sole shareholder, Kresse. A true and correct copy of the APA is attached hereto as Exhibit "A" and by this reference is incorporated herein.<sup>1</sup>

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<sup>1</sup> The exhibits to the APA have been omitted for purposes of protecting the trade secret and other confidential information contained therein. Plaintiffs will endeavor to file a complete copy of the APA, including all exhibits under seal pursuant to the applicable rules of court and judicial administration.

20. Pursuant to the APA, K&A LLC agreed to pay to K&A Inc. and Kresse the Purchase Price, as that term is defined in the APA, as follows:

- (a) A wire transfer of the majority of the Purchase Price deliverable at Closing; and
- (b) The remainder of the Purchase Price via an unsecured promissory note payable in forty-seven (47) equal monthly installments commencing on October 25, 2008 (the "Original Note") that was executed contemporaneous with the APA. A true and correct copy of the Original Note is attached hereto as Exhibit "B" and by this reference is incorporated herein.

21. The Original Note was secured by a Guaranty executed by ORS (the "ORS Guaranty"). A true and correct copy of the ORS Guaranty is attached hereto as Exhibit "C" and by this reference is incorporated herein.

22. In exchange for the purchase price paid by K&A LLC for the purchase of the Business, K&A Inc. and Kresse agreed, among other things, to be bound by certain restrictive covenants set forth in Section 6.5 of the APA including certain nondisclosure, nonsolicitation and noncompetition covenants that prohibit K&A Inc. and Kresse from, among other things: a) disclosing confidential information to third parties; b) using confidential information for any purpose other than to further the Business; and c) soliciting K&A Inc. and ORS's clients. In addition, the APA contains an express consent to the issuance of an injunction to enforce the foregoing covenants.

23. Section 6.5 of the Asset Purchase Agreement sets forth the following restrictive covenants that limit K&A Inc. and Kresse's ability to compete with K&A LLC (the "APA Restrictive Covenants") as follows:

- (a) Section 6.5(a) restricts K&A Inc. and Kresse from "*directly or indirectly*, owning, managing, operating, controlling or financing, or participating in the ownership, management, operation, control or financing of, or being connected with or having any interest

in, or otherwise taking any part as a stockholder, partner, director, officer, employee, consultant, independent contractor, or otherwise in, any court reporting business (the “Restricted Business”) within Palm Beach, Broward or Miami-Dade Counties, Florida (the “Restricted Territory”)” for a period of 4 years following the date of the APA (the “Restricted Period”) (the “APA Non-Compete Provision”). (See APA at 16)(emphasis added.)

(b) Section 6.5(b) requires K&A Inc. and Kresse, at all times subsequent to the date of the APA, to maintain the Confidential Information, as defined therein, strictly confidential and prohibits K&A Inc. and Kresse from *directly or indirectly* disclosing, communicating, divulging to any person or entity or using or causing or authorizing any person or entity to use Confidential Information without the express prior written approval of the Manager/Board of Managers of K&A LLC (the “APA Nondisclosure Provision”). (See *id.*) (emphasis added.)

(c) Section 6.5(c) prohibits K&A Inc. and Kresse, during the Restricted Period, from *directly or indirectly* soliciting (i) any employee, independent contractor, subcontractor or agent of K&A LLC that served in that capacity for K&A LLC during the prior 12 months and (ii) any customer or otherwise diverting or alienating the business of such customer away from K&A LLC (the “APA Nonsolicitation Provision”). (See *id.* at 17.) (emphasis added.)

(d) Section 6.5(c) also prohibits K&A Inc. and Kresse from using any name which is *similar* to any corporate name of, or any trade name, service mark, trademark, logo or insignia used by Buyer, Seller or the Business. (See *id.*)(emphasis added.)

24. The APA provides that the restrictive covenants set forth in Section 6.5 “*shall* be construed as agreements independent of any other provision” in the APA. (See *id.* at §6.5(e))(emphasis added.)

25. Moreover, the APA specifically states that Kresse and K&A Inc. agree that “any breach or violation, or threat of breach or violation, of any provision of this Section 6.5 will entitle [K&A LLC], in addition to any other legal remedies available to it, to a temporary and permanent injunction or any other appropriate decree of specific performance in order to enjoy such breach or violation.” (*Id.* at §6.5(d).)

26. The APA states that “[i]t is the desire and intent of the parties that the provisions of this Section 6.5 be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought.” (*Id.*)

**The September 25, 2008 Consulting Agreement**

27. Contemporaneous with the execution of the APA, K&A LLC and ORS entered into that certain Consulting Agreement with TOKR (the “Original Consulting Agreement” or “OCA”). A true and correct copy of the Original Consulting Agreement is attached hereto as Exhibit “D” and by this reference is incorporated herein<sup>2</sup>.

28. The OCA provided for an initial 2-year term commencing September 25, 2008 (the “Initial Term”). (*See* OCA at ¶ 3.)

29. Upon expiration of the Initial Term, the OCA automatically renew for two additional 1-year terms, unless ninety (90) days prior to the expiration of the then current term, either party provided written notice of its desire not to renew the then current term (the Initial Term and all subsequent renewal terms were identified as the “Term” of the OCA). (*Id.*) Thus, unless terminated by either party, the OCA was scheduled to expire on September 24, 2012.

30. Separate and apart from the APA Restrictive Covenants that were related to K&A LLC’s purchase of the Business, the OCA contained separate restrictive covenants governing the

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<sup>2</sup> Exhibit “A” to the Consulting Agreement titled “Good Faith Compilation of Existing Clients” has been omitted for purposes of protecting the trade secret and other confidential information contained therein. Plaintiffs will endeavor to file a complete copy of the Consulting Agreement, including the Exhibit A Good Faith Compilation of Existing Clients under seal pursuant to the applicable rules of court and judicial administration.

consulting relationship between K&A LLC, ORS, TOKR and Kresse (the “OCA Restrictive Covenants”). (Id. at ¶7.)

31. In exchange for the consideration recited in the OCA, TOKR and Kresse agreed, among other things, to be bound by the OCA Restrictive Covenants set forth therein in paragraphs 7 and 8.

32. The OCA Restrictive Covenants include certain nondisclosure, nonsolicitation and noncompetition provisions that prohibit TOKR, and Kresse from, among other things: a) disclosing confidential information to third parties; b) using confidential information for any purpose other than to further the Business; and c) soliciting K&A Inc. and ORS’s clients. In addition, the OCA contains an express consent to the issuance of an injunction to enforce the foregoing covenants.

33. The OCA Restrictive Covenants constitute an integral and essential part of the OCA. The OCA recites that each of TOKR and Kresse “acknowledges that it/he has induced [K&A LLC] to enter into this Agreement by stating that it/he will unconditionally abide by the terms and conditions of this paragraph 7.” (OCA at ¶7.)

34. The OCA specifically outlined the scope of the Restrictive Covenants:

(a) Paragraph 7(a) restricts TOKR and Kresse, individually, from engaging, directly or indirectly, in the court reporting business in Palm Beach, Broward or Miami-Dade County or any other county where K&A LLC conducts business as of the date of termination (the “Restricted Territory”) for a period including the Term of the OCA and “for the one (1) year period immediately following the date of termination of [TOKR’s] engagement with [K&A LLC] for any reason whatsoever (the “Restricted Period”)” (the “OCA Non-Compete Provision”) (Id. at ¶7(a).)



(b) Recognizing the need of Kresse and TOKR to work post-termination of the consulting relationship with K&A LLC, the OCA provides that Kresse and TOKR “shall have the right to work as an individual court reporter for compensation within or without the Restricted Territory; provided that the foregoing exception shall be narrowly construed and shall not be deemed to permit Kresse and/or [TOKR] to, directly or indirectly,, in whole or in part, own, manage, finance or otherwise control a Restricted Business.” (Id.)

(c) Paragraph 7(b) restricts TOKR and Kresse, during the Restricted Period, from directly or indirectly hiring or soliciting any employee, agent or representative of K&A LLC who was an employee, agent or representative of K&A LLC during the 1-year period immediately preceding the hire or attempted solicitation (the “OCA Employee Non-Solicitation Provision”). (Id. at ¶7(b)(i).) Paragraph 7(b) also restricts TOKR and Kresse, during the Restricted Period, from directly or indirectly soliciting or attempting to solicit “for the benefit of any party other than [K&A LLC and/or ORS], any client of [K&A LLC and/or ORS]” (the “OCA Client Non-Solicitation Provision”). (Id. at ¶7(b)(ii).)

(d) Paragraph 8 mandates that “any information received by [TOKR] during the performance of its services under this Agreement which concerns the financial, marketing or business affairs of [K&A LLC] will be treated by [TOKR] in full confidence and will not be revealed to any other persons, firms or organizations, except to the extent reasonably necessary for [TOKR] to carry out its marketing and new business development efforts on behalf of [K&A LLC]” (the “OCA Nondisclosure Provision”).

35. Consistent with the APA, the OCA provides that the OCA Restrictive Covenants “shall be construed as agreements independent of any other provision in this Agreement[.]” (Id. at ¶7.)

**The March 25, 2009 Amendment to the APA**

36. Thereafter, K&A LLC, K&A Inc. and Kresse executed an Amendment to the Purchase Agreement dated as of March 25, 2009 (“APA Amendment”). A true and correct copy of the APA Amendment is attached hereto as Exhibit “E” and by this reference is incorporated herein.

37. Pursuant to its terms, the APA Amendment “reaffirmed and ratified in all respects” the APA, except with regards to a modification of the Adjustment Formula referenced in paragraph 2.5 of the APA. (APA Amendment at ¶ 2(a); see also APA at ¶2.5)

**The September 25, 2010 Second Amendment to the APA**

38. Thereafter, K&A LLC, K&A Inc. and Kresse executed a Second Amendment to Asset Purchase Agreement dated as of September 25, 2010 (the “Second APA Amendment”). A true and correct copy of the Second APA Amendment is attached hereto as Exhibit “F” and by this reference is incorporated herein.

39. Pursuant to its terms, the Second APA Amendment, among other things, modified the APA as follows:

- (a) Provided for execution of a Renewal Promissory Note that, according to the Second APA, deemed the Original Note “cancelled and replaced” upon delivery of the Renewal Promissory Note (the “Renewal Note”). A true and correct copy of the Renewal Note is attached hereto as Exhibit “G” and by this reference is incorporated herein.
- (b) Provided for the additional guarantees of certain individuals associated with Plaintiffs (the “Second Guaranty”) as consideration for the Renewal Note. A true and correct copy of the Second Guaranty is attached hereto as Exhibit “H” and by this reference is incorporated herein.
- (c) Provided for the reaffirmation of the ORS Guaranty (the “Reaffirmation of ORS Guaranty”). A true and correct copy of the Reaffirmation of ORS Guaranty is attached hereto as Exhibit “I” and by this reference is incorporated herein.
- (d) Deleted Section 6.5(f) of the APA in its entirety and replaced with the following provision:  
“In the event that either [K&A LLC or ORS] fails to make any payment required under the Note or Guaranty within 60 days of the due date for such payment, then the restrictions set forth in Section

6.5 shall immediately become void, of no further force or effect and shall thereafter no longer be enforceable against Consultant (as defined in the Consultant Agreement) or [Kresse].”

**The January 1, 2013 Consulting Agreement**

40. K&A LLC, ORS, TOKR and Kresse maintained their consulting relationship substantially performing under the terms and provisions of the OCA until they executed a new Consulting Agreement with an effective date of January 1, 2013 (the “Amended Consulting Agreement” or “ACA”) (the APA, OCA and ACA shall collectively be referred to herein as the “Agreements”). A true and correct copy of the Amended Consulting Agreement is attached hereto as Exhibit “J” and by this reference is incorporated herein.

41. The ACA is commenced on January 1, 2013 (the “ACA Term”) and continue for a period of 2 years

42. Either party, however, had the right to terminate the ACA “for any reason (or no reason) upon ninety (90) days prior written notice to the other party.” (ACA at ¶4.)

43. The ACA provides, among other things, that it was entered into “as of” January 1, 2013. (ACA at 1.)

44. By its terms, the ACA deemed the OCA “terminated, effective as of January 1, 2013” (Id. at ¶2.) which in turn controls the duration of the OCA Restrictive Covenants. Given that the ACA terminate the OCA as of January 1, 2013, pursuant to paragraph 7 of the OCA, the OCA Restrictive Covenants therefore expire on December 31, 2013 – one year from January 1, 2013.

45. In exchange for consideration delineated in the ACA, TOKR and Kresse agreed to be bound by paragraph 7 of the ACA. In paragraph 7 of the ACA, the parties reiterated and reaffirmed that “information received by [TOKR] during the performance of its services under [the ACA] which concerns the financial, marketing or business affairs of [K&A LLC] will be

treated by [TOKR] in full confidence and will not be revealed to any other persons, firms or organizations, except to the extent reasonably necessary for [TOKR] to carry out its marketing and new business development efforts on behalf of [K&A LLC].” (the “ACA Nondisclosure Provision”) (Id. at ¶7.)

**Kresse’s Resignation**

46. Notwithstanding Kresse’s periodic complaints, expressions of dissatisfaction and an expressed sense he was not valued, the Parties continued working and maintained a consulting relationship pursuant to the terms of the OCA and subsequently the ACA.

47. Commencing in 2012, Plaintiffs began discussions with Prospective Partners who sought to, among other matters, acquire an interest K&A LLC and ORS (the “Combination Discussions”).

48. On July 29, 2013, in direct violation of the ACA, Kresse delivered his notice of resignation effective August 1, 2013 (the “Notice of Resignation”). A true and correct copy of the Notice of Resignation is attached hereto as Exhibit “K” and by this reference is incorporated herein.

49. Leading up to his resignation and while still contractually obligated to and engaged by K&A LLC and ORS, Kresse and TOKR initiated discussion and thereafter established plans to terminate their relationship with K&A LLC and ORS and to enter the employ of a competitive court reporting and legal services business that directly competes with K&A LLC and ORS within the Restricted Territory defined by the Agreements.

50. In furtherance of this wrongful scheme and for their own benefit as well as the benefit of K&A LLC and ORS’s competitor, Kresse and TOKR, upon information and belief, misappropriated documents, information and trade secrets that constitute protected Confidential Information under the terms of the Agreements.

51. Upon information and belief, Kresse and TOKR have possession of and are utilizing K&A LLC and ORS's Confidential Information to the detriment of K&A LLC and ORS.

52. During the Combination Discussions, but prior to his tender of the Notice of Resignation, Kresse met with key executive employees of the Prospective Partners to discuss growth plans and future opportunities for himself in the event of a successful consummation of a combination transaction.

53. At the time Kresse tendered his Notice of Resignation, he had full knowledge of the Combination Discussions.

54. Subsequent to the Notice of Resignation, Kresse met with certain of the Prospective Partners, threatened to compete with Plaintiffs and divert business and clients away from the Business and disparaged certain Plaintiffs and their senior executives.

55. Defendants have taken the foregoing actions with the intention of causing Plaintiffs irreparable harm.

56. Defendants' actions threaten to injure, undermine and potentially destroy, among other things: (1) the competitive advantage K&A LLC and ORS obtained through their considerable efforts and evidenced by the substantial injection of money in connection with the purchase and enhanced development of the Business acquired from K&A Inc. and Kresse; (2) client relationships and goodwill K&A LLC and ORS purchased from K&A Inc. and Kresse and subsequently nurtured and developed by K&A LLC and ORS, (3) the value of the Business by soliciting the employment of K&A LLC's office manager and key employees and (4) Combination Discussions and opportunities associated therewith.

**COUNT I**  
**Anticipatory Breach of the APA**  
**(Against K&A Inc. and Kresse)**

Plaintiff K&A LLC hereby realleges and incorporates the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

57. On September 25, 2008, K&A LLC, K&A Inc. and Kresse entered into the APA for the sale of K&A Inc. and Kresse's right, title and interest in the Business and the Purchased Assets.

58. Pursuant to the APA, K&A LLC agreed to pay to K&A Inc. and Kresse the Purchase Price, as that term is defined in the APA, as follows:

- (a) A wire transfer of the majority of the Purchase Price deliverable at Closing; and
- (b) The remainder of the Purchase Price via an unsecured promissory note payable in forty-seven (47) equal monthly installments commencing on October 5, 2008 (the "Note").

59. In exchange for payment of the Purchase Price, K&A Inc. and Kresse also agreed to be bound by the APA Restrictive Covenants, which were an integral part of the APA.

60. K&A LLC has fully performed and complied with all of its obligations pursuant to the terms of the APA.

61. By threatening to compete with the Business and informing the Prospective Partners of their intent to compete with Plaintiffs and divert business and clients away from the Business, K&A Inc. and Kresse anticipatorily breached the APA Restrictive Covenants.

62. As a proximate result of such breach, the Combination Discussions have been jeopardized and K&A LLC has suffered, and continues to suffer, damages.

63. K&A LLC is entitled to recover its reasonable attorney's fees and costs in the event it is the prevailing party in the instant action.

WHEREFORE, Plaintiff K&A LLC hereby demands judgment in its favor and against Defendants K&A Inc. and Kresse, jointly and severally, for damages caused by their breach of the APA, together with interest, attorney's fees and such further relief as this Court may deem just and proper.

**COUNT II**  
**Breach of the ACA**  
**(Against TOKR and Kresse)**

Plaintiffs K&A LLC and ORS hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

64. K&A LLC, ORS, TOKR and Kresse entered into the ACA with an effective date of January 1, 2013 in exchange for the consideration specifically delineated therein.

65. The ACA was set to expire on December 31, 2014.

66. Any party to the ACA, however, could terminate the ACA prior to December 31, 2014, upon 90 days prior written notice to the other party.

67. TOKR and Kresse breached the ACA by, among other things, tendering their Notice of Resignation on July 29, 2013 with an effective date of August 1, 2013.

68. The Notice of Resignation violates the provision of the ACA that requires 90 days prior written notice of termination.

69. In addition, by threatening to compete with the Business and informing the Prospective Partners of their intent to compete with Plaintiffs, divert business and clients away from the Business and otherwise avail themselves trade secrets and assets sold pursuant to the APA, TOKR and Kresse anticipatorily breached the ACA Confidentiality Provision.

70. K&A LLC and ORS have fully performed and complied with all of their obligations pursuant to the terms of the ACA.

71. As a proximate result of such breach, the Combination Discussions have been jeopardized and K&A LLC and ORS have suffered, and continue to suffer, damages.

72. K&A LLC and ORS are entitled to recover their reasonable attorney's fees and costs in the event they are the prevailing party in the instant action.

WHEREFORE, Plaintiffs K&A LLC and ORS hereby demand judgment in their favor and against Defendants TOKR and Kresse, jointly and severally, for damages caused by their breach of the ACA, together with interest, attorney's fees and such further relief as this Court may deem just and proper.

**COUNT III**  
**Breach of the OCA**  
**(Against TOKR and Kresse)**

Plaintiffs K&A LLC and ORS hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

73. K&A LLC, ORS, TOKR and Kresse entered into the OCA on September 28, 2008.

74. In exchange for the consideration specifically delineated in the OCA, TOKR and Kresse agreed to be bound by the OCA Restrictive Covenants, which were an integral part of the OCA.

75. The OCA was terminated, pursuant to the terms of the ACA, "effective, as of" January 1, 2013.

76. Given that the ACA terminates the OCA as of January 1, 2013, pursuant to the explicit language of paragraph 7 of the OCA, the OCA Restrictive Covenants therefore expire on December 31, 2013 – one year from January 1, 2013.



77. By threatening to compete with the Business and informing the Prospective Partners of their intent to compete with Plaintiffs and divert business and clients away from the Business, TOKR and Kresse anticipatorily breached the OCA Restrictive Covenants.

78. K&A LLC and ORS have fully performed and complied with all of their obligations pursuant to the terms of the OCA.

79. As a proximate result of such breach, the Combination Discussions have been jeopardized and K&A LLC and ORS have suffered, and continue to suffer, damages.

80. K&A LLC and ORS are entitled to recover their reasonable attorney's fees and costs in the event they are the prevailing party in the instant action.

WHEREFORE, Plaintiffs K&A LLC and ORS hereby demand judgment in their favor and against Defendants TOKR and Kresse, jointly and severally, for damages caused by their breach of the OCA, together with interest, attorney's fees and such further relief as this Court may deem just and proper.

**COUNT IV**  
**Misappropriation of Trade Secrets pursuant to F.S. 688.001**  
**(Against all Defendants)**

Plaintiffs K&A LLC and ORS hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

81. Plaintiffs K&A LLC and ORS's Confidential Information, as that term is defined in the Agreements, constitute trade secrets because they derive independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain value from disclosure and use.

82. Plaintiffs K&A LLC and ORS took all reasonable steps under the circumstances to maintain the secrecy of its Confidential Information which includes, among other things, its trade secrets.

83. Plaintiffs K&A LLC and ORS's Confidential Information and included trade secrets were misappropriated by Defendants in violation of Fla. Stat. § 688.001 *et seq.*

84. Defendants used improper means to obtain Plaintiffs Confidential Information and included trade secrets.

85. Defendants' misappropriation of K&A LLC and ORS's Confidential Information and included trade secrets was willful and malicious; thus, K&A LLC and ORS are entitled to recover their attorney's fees pursuant to Fla. Stat. § 688.005.

**WHEREFORE**, Plaintiffs K&A LLC and ORS demand judgment against Defendants TOKR, K&A Inc. and Kresse, jointly and severally, for all remedies available under Fla. Stat. §§ 688.001 *et seq.*, including, but not limited to damages including both actual loss and unjust enrichment, exemplary damages, costs, interest, and attorney's fees, and such other relief in law or equity which this Court deems just and proper.

**COUNT V**  
**Tortious Interference with Contractual and Prospective Business Relations**  
**Relating to the Business**  
**(Against all Defendants)**

Plaintiffs K&A LLC and ORS hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

86. As part of the Business, K&A LLC and ORS provide court reporting and legal services to their clients and maintain Confidential Information that include their clients' names, addresses and phone numbers for their clients, as well as pricing strategies and other protectable information related to their legitimate business interests.

87. K&A LLC and ORS have advantageous business relationships with their clients.

88. Defendants have knowledge of K&A LLC and ORS's advantageous business relationships with their clients.

89. Defendants have intentionally and unjustifiably interfered with K&A LLC and ORS's business relationships with their clients by misappropriating and using the Confidential Information made available to them during the scope of their engagement.

90. Upon information and belief, Defendants are misappropriating and using Confidential Information that includes, among other things, confidential and private information about K&A LLC and ORS's clients, pricing and business strategies to solicit such clients to leave K&A LLC and ORS and receive competing court reporting and other legal services from Defendants and other competitors.

91. Defendants knew or should have known that advantageous business relationships exist between K&A LLC and ORS.

92. Defendants knew or should have known that their Agreements prohibited them from using the Confidential Information to solicit K&A LLC and ORS's clients or otherwise compete with the Business.

93. Defendants knew or should have known that their use of the Confidential Information and solicitation of K&A LLC and ORS's clients violated federal and state law concerning the improper use of Confidential Information.

94. Defendants' conduct has caused K&A LLC and ORS to suffer damages.

**WHEREFORE**, Plaintiffs K&A LLC and ORS demand judgment against Defendants K&A Inc., TOKR and Kresse, jointly and severally, for damages, costs, interest and such other relief in law or equity that this Court deems just and proper.

**COUNT VI**  
**Tortious Interference with Prospective Business Relations Relating to the**  
**Prospective Partners and related Combination Discussions**  
**(Against all Defendants)**

Plaintiffs Sunbelt, K&A LLC and ORS hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

95. In 2012, Plaintiffs began Combination Discussions with the Prospective Partners concerning a business combination transaction involving K&A LLC and ORS. The Business, its client base and existing personnel are central to valuing the transaction..

96. Plaintiffs have an advantageous business relationship with the Prospective Partners.

97. Defendants intentionally and unjustifiably interfered with Plaintiffs' relationship with the Prospective Partners by, among other things, tendering their improper Notice of Resignation; seeking to terminate their relationship and compete with K&A LLC and ORS in violation of the various restrictive covenants set forth in the Agreements; misappropriating documents, information and trade secrets that constitute protected Confidential Information under the terms of the Agreements; and meeting with certain of the Prospective Partners and threatening to compete with Plaintiffs and divert business and clients away from the Business.

98. Upon information and belief, Defendants have possession of and are utilizing K&A LLC and ORS's Confidential Information to the detriment of K&A LLC and ORS.

99. Defendants had full knowledge of the Combination Discussions at the time they tendered their improper Notice of Resignation; sought to terminate their relationship and compete with K&A LLC and ORS in violation of the various restrictive covenants set forth in the Agreements; misappropriated documents, information and trade secrets that constitute protected Confidential Information under the terms of the Agreements; and met with certain of the Prospective Partners and threatened to compete with Plaintiffs and divert business and clients away from the Business.

100. Defendants have taken the foregoing actions with the intention of causing Plaintiffs irreparable harm.

101. Defendants' actions threaten to completely injure, and potentially destroy, the Combination Discussions by destroying, among other things, (1) the competitive advantage K&A LLC and ORS obtained through their considerable efforts and substantial expenditures of money related to the purchase, and further development, of the Business they acquired from K&A Inc. and Kresse and (2) completely undermining the client relationships and good will K&A LLC and ORS purchased from K&A Inc. and Kresse and subsequently nurtured and developed by K&A LLC and ORS.

102. Plaintiffs have advantageous business relationships with their Prospective Partners.

103. Defendants have knowledge of Plaintiffs' advantageous business relationships with their Prospective Partners.

104. By taking the foregoing actions, Defendants have intentionally and unjustifiably interfered with Plaintiffs' business relationships with their Prospective Partners.

105. Defendants knew or should have known that their Agreements prohibited them from tendering their improper Notice of Resignation; terminating their relationship and competing with K&A LLC and ORS in violation of the various restrictive covenants set forth in the Agreements; misappropriating documents, information and trade secrets that constitute protected Confidential Information under the terms of the Agreements; and meeting with certain of the Prospective Partners and threatening to compete with Plaintiffs and divert business and clients away from the Business.

106. Defendants knew or should have known that their foregoing actions violated federal and state law concerning, among other things, their improper use of Confidential Information and violation of the restrictive covenants.

107. Defendants' conduct has caused Plaintiffs to suffer damages.

**WHEREFORE**, Plaintiffs Sunbelt, K&A LLC and ORS demand judgment against Defendants K&A Inc., TOKR and Kresse, jointly and severally, for damages, costs, interest and such other relief in law or equity that this Court deems just and proper.

**COUNT VII**  
**Declaratory Relief regarding the Renewal Note**  
**(Against Kresse and K&A Inc.)**

Plaintiff K&A LLC hereby realleges and incorporates the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

108. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.

109. There exists a bona fide dispute between K&A LLC and Kresse with respect to their rights and obligations under the Renewal Note as a result of, among other things, Defendants' actions as set forth more fully above in paragraphs 1 through 106 ("Defendants' Bad Acts").

110. Defendants' Bad Acts have impaired, altered and otherwise diminished Plaintiffs' rights under the Agreements and, as a result, impacted K&A LLC's obligations under the Renewal Note.

111. There is an actual and present need for the declaration sought herein by K&A LLC. K&A LLC is unsure whether its obligations under the Renewal Note survive and are enforceable in light of Defendants' Bad Acts.

112. The declaration sought deals with a present, ascertained or ascertainable state of facts including, but not limited to, K&A LLC's obligations under the Renewal Note in light of Defendants' Bad Acts and the conflicting language contained in the Renewal Note and the Second Amendment to the APA regarding the effect of the Renewal Note on the Original Note.

113. The rights and privileges of Plaintiffs in and to the Agreements and K&A LLC's liability under the Renewal Note are dependent upon the facts or the law applicable to the allegations asserted herein.

114. Plaintiffs and Defendants reasonably may have, an active, present, adverse and antagonistic interest, either in law or fact, in the Agreements and the Renewal Note.

115. K&A LLC is in doubt as to the existence of its rights and obligations under the Renewal Note given Defendants' Bad Acts.

116. K&A LLC is entitled to have its doubts resolved.

117. K&A LLC seeks a declaration of the Court delineating its rights and obligations under the Renewal Note.

118. The relief sought is not merely the giving of legal advice by the Court or answers to questions propounded by curiosity.

119. The antagonistic and adverse interests of the Parties are all before the Court by proper process.

WHEREFORE, Plaintiffs K&A LLC seeks an Order of the Court delineating its rights and obligations under the Renewal Note, together with such other and further relief as this Court deems just and proper.

**COUNT VIII**  
**Declaratory Relief regarding the ORS Guaranty**  
**(Against K&A Inc. and Kresse)**

Plaintiff ORS hereby realleges and incorporates the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

120. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.

121. There exists a bona fide dispute between ORS and K&A Inc. with respect to their rights and obligations under the ORS Guaranty as a result of, among other things, Defendants' actions as set forth more fully above in paragraphs 1 through 106 ("Defendants' Bad Acts").

122. Defendants' Bad Acts have impaired, altered and otherwise diminished Plaintiffs' rights under the Agreements and, as a result, impacted ORS's obligations under the ORS Guaranty.

123. There is an actual and present need for the declaration sought herein by ORS. ORS is unsure whether its obligations under the ORS Guaranty survive and are enforceable in light of Defendants' Bad Acts.

124. The declaration sought deals with a present, ascertained or ascertainable state of facts including, but not limited to, ORS's obligations under the ORS Guaranty in light of Defendants' Bad Acts.

125. The rights and privileges of Plaintiffs in and to the Agreements and ORS's liability under the ORS Guaranty are dependent upon the facts or the law applicable to the allegations asserted herein.

126. Plaintiffs and Defendants reasonably may have, an active, present, adverse and antagonistic interest, either in law or fact, in the Agreements and the ORS Guaranty.

127. ORS is in doubt as to the existence of its rights and obligations under the ORS Guaranty given Defendants' Bad Acts.

128. ORS is entitled to have its doubts resolved.

129. ORS seeks a declaration of the Court delineating its rights and obligations under the ORS Guaranty.

130. The relief sought is not merely the giving of legal advice by the Court or answers to questions propounded by curiosity.



131. The antagonistic and adverse interests of the Parties are all before the Court by proper process.

WHEREFORE, Plaintiff ORS seeks an Order of the Court delineating its rights and obligations under the ORS Guaranty, together with such other and further relief as this Court deems just and proper.

**COUNT IX**  
**Declaratory Relief regarding the Reaffirmation of ORS Guaranty**  
**(Against K&A Inc. and Kresse)**

Plaintiff ORS hereby realleges and incorporates the allegations set forth in paragraphs 1 through 55 as if fully set forth herein.

132. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.

133. There exists a bona fide dispute between ORS and K&A Inc. and Kresse with respect to their rights and obligations under the Reaffirmation of ORS Guaranty as a result of, among other things, Defendants' actions as set forth more fully above in paragraphs 1 through 106 ("Defendants' Bad Acts").

134. Defendants' Bad Acts have impaired, altered and otherwise diminished Plaintiffs' rights under the Agreements and, as a result, impacted ORS's obligations under the Reaffirmation of ORS Guaranty.

135. There is an actual and present need for the declaration sought herein by ORS. ORS is unsure whether its obligations under the Reaffirmation of ORS Guaranty survive and are enforceable in light of Defendants' Bad Acts.

136. The declaration sought deals with a present, ascertained or ascertainable state of facts including, but not limited to, ORS's obligations under the Reaffirmation of ORS Guaranty in light of Defendants' Bad Acts.

137. The rights and privileges of Plaintiffs in and to the Agreements and ORS's liability under the Reaffirmation of ORS Guaranty are dependent upon the facts or the law applicable to the allegations asserted herein.

138. Plaintiffs and Defendants reasonably may have, an active, present, adverse and antagonistic interest, either in law or fact, in the Agreements and the Reaffirmation of ORS Guaranty.

139. ORS is in doubt as to the existence of its rights and obligations under the Reaffirmation of ORS Guaranty given Defendants' Bad Acts.

140. ORS is entitled to have its doubts resolved.

141. ORS seeks a declaration of the Court delineating its rights and obligations under the Reaffirmation of ORS Guaranty.

142. The relief sought is not merely the giving of legal advice by the Court or answers to questions propounded by curiosity.

143. The antagonistic and adverse interests of the Parties are all before the Court by proper process.

WHEREFORE, Plaintiff ORS seeks an Order of the Court delineating its rights and obligations under the Reaffirmation of ORS Guaranty, together with such other and further relief as this Court deems just and proper.

**COUNT X**  
**Declaratory Relief regarding the Second Guaranty**  
**(Against K&A Inc. and Kresse)**

Plaintiffs Sicilian, Dagrosa and Tolzien (the "Individual Plaintiffs") hereby reallege and incorporate the allegations set forth in paragraphs 1 through 56 as if fully set forth herein.

144. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.

145. There exists a bona fide dispute between the Individual Plaintiffs and Kresse with respect to their rights and obligations under the Second Guaranty as a result of, among other things, Defendants' actions as set forth more fully above in paragraphs 1 through 106 ("Defendants' Bad Acts").

146. Defendants' Bad Acts have impaired, altered and otherwise diminished Plaintiffs' rights under the Agreements and, as a result, impacted the Individual Plaintiffs' obligations under the Second Guaranty.

147. There is an actual and present need for the declaration sought herein by the Individual Plaintiffs. The Individual Plaintiffs are unsure whether their obligations under the Second Guaranty survive and are enforceable in light of Defendants' Bad Acts.

148. The declaration sought deals with a present, ascertained or ascertainable state of facts including, but not limited to, the Individual Plaintiffs' obligations under the Second Guaranty in light of Defendants' Bad Acts.

149. The rights and privileges of Plaintiffs in and to the Agreements and the Individual Plaintiffs' liability under the Second Guaranty are dependent upon the facts or the law applicable to the allegations asserted herein.

150. Plaintiffs and Defendants reasonably may have, an active, present, adverse and antagonistic interest, either in law or fact, in the Agreements and the Second Guaranty.

151. The Individual Plaintiffs are in doubt as to the existence of their rights and obligations under the Second Guaranty given Defendants' Bad Acts.

152. The Individual Plaintiffs are entitled to have their doubts resolved.

153. The Individual Plaintiffs seek a declaration of the Court delineating their rights and obligations under the Second Guaranty.

154. The relief sought is not merely the giving of legal advice by the Court or answers to questions propounded by curiosity.

155. The antagonistic and adverse interests of the Parties are all before the Court by proper process.

WHEREFORE, the Individual Plaintiffs seek an Order of the Court delineating their rights and obligations under the Second Guaranty, together with such other and further relief as this Court deems just and proper.

**COUNT XI**  
**Unfair Trade Practices pursuant to F.S. 501.201**  
**(Against all Defendants)**

Plaintiffs K&A LLC and ORS incorporate the factual allegations set forth in paragraphs 1 through 56 above as if fully set forth herein.

156. This is an action for damages against Defendants for unfair trade practices in contravention of Florida Statutes Section 501.201, *et seq.*

157. Defendants engaged in unfair methods of competition and unconscionable acts or practices by (a) tendering their improper Notice of Resignation in order to disrupt the Combination Discussions; (b) terminating their relationship and competing with K&A LLC and ORS in violation of the various restrictive covenants set forth in the Agreements; (c) misappropriating documents, information and trade secrets that constitute protected Confidential Information under the terms of the Agreements; and (d) meeting with certain of the Prospective Partners and threatening to compete with Plaintiffs and divert business and clients away from the Business.

158. Section 501.2105, Florida Statutes, authorizes attorney's fees and costs to be awarded to the prevailing party pursuant to a violation of the Florida Deceptive and Unfair Trade Practices Act.

159. As a result of the actions of Defendants, Plaintiffs have suffered damages.

**WHEREFORE**, Plaintiffs Sunbelt, K&A LLC and ORS demand that the Court enter judgment in favor of Plaintiffs and against Defendants; enter an injunction against Defendants K&A Inc., Kresse and TOKR to enjoin their continued breaches of the restrictive covenants in the Agreement attached hereto, including but not limited to enjoining Defendants' unlawful use of Confidential Information, solicitation of K&A LLC and ORS' clients, and competition against K&A LLC and ORS within the Restricted Period until December 31, 2013; award Plaintiffs their reasonable attorney's fees under Section 501.2105, Florida Statutes; award Plaintiffs its costs incurred in prosecuting this action; and grant such other relief in equity which this Court deems just and proper.

**COUNT XII**  
**Injunctive Relief**

Plaintiffs K&A LLC and ORS incorporate the factual allegations set forth in paragraphs 1 through 56 above as if fully set forth herein.

160. K&A LLC and ORS will suffer irreparable harm if Defendants continue to compete against K&A LLC and ORS within the Restricted Territory and misappropriate and use Confidential Information that includes, among other things, confidential and private information about K&A LLC and ORS's clients, pricing and business strategies to solicit such clients to leave K&A LLC and ORS and receive competing court reporting and other legal services from Defendants and other competitors.

161. K&A LLC and ORS have no adequate remedy at law that would serve to immediately enjoin Defendants continued and unlawful use of the Confidential Information or competition in violation of the Agreement.

162. K&A LLC and ORS have a substantial likelihood of success on the merits on its claims set forth in the instant Complaint for breach of contract, misappropriation of trade secrets and tortious interference with business relationships, among others.

163. The entry of a temporary injunction will serve the public interest by preserving the integrity of the Confidential Information and upholding and enforcing the Restrictive Covenants set forth in the Agreements.

164. K&A LLC and ORS have a clear legal relief to the relief sought herein.

**WHEREFORE**, Plaintiffs K&A LLC and ORS demand that the Court enter an injunction against Defendants K&A Inc., Kresse and TOKR to enjoin their continued breaches of the restrictive covenants in the Agreement attached hereto, including but not limited to enjoining Defendants' unlawful use of Confidential Information, solicitation of K&A LLC and ORS' clients, and competition against K&A LLC and ORS within the Restricted Period until December 31, 2013, and pray for such other relief in equity which this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a jury trial of all issues so triable.

September 4, 2013

Respectfully submitted,

**BUCHANAN INGERSOLL & ROONEY PC**  
*Attorneys for Plaintiffs*

Miami Tower, Suite 3500  
100 Southeast Second Street  
Miami, Florida 33131  
Telephone: (305) 347-4080  
Facsimile: (305) 347-4089

/s Richard A. Morgan\_\_\_\_\_

Richard A. Morgan

Florida Bar No. 836869

[richard.morgan@bipc.com](mailto:richard.morgan@bipc.com)

Jennifer Olmedo-Rodriguez


Florida Bar No. 605158

[jennifer.olmedo-rodriguez@bipc.com](mailto:jennifer.olmedo-rodriguez@bipc.com)

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Verified Complaint and that the facts included therein are true to the best of my knowledge and belief.

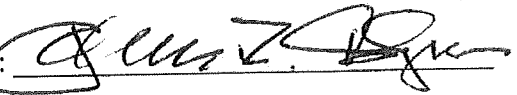
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LLC, a Florida limited liability company;

By: 

Its: CEO

Print Name: JAMES R. TOLZIEN

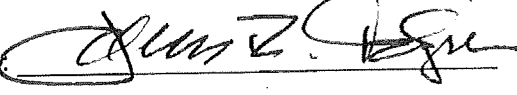
OFFICIAL REPORTING SERVICES,  
LLC, a Florida limited liability company;

By: 

Its: MANAGER

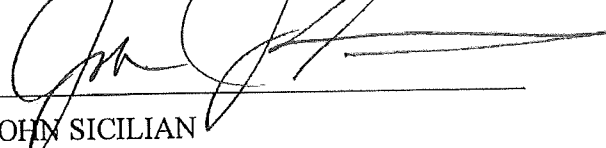
Print Name: JAMES R. TOLZIEN

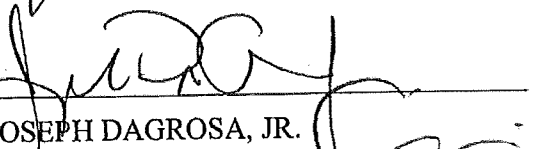
KRESSE & ASSOCIATES, LLC,  
LLC, a Florida limited liability company;

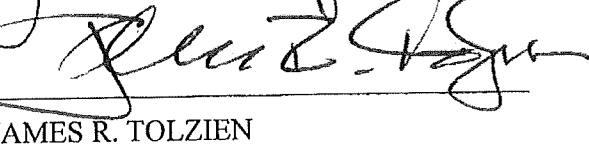
By: 

Its: MANAGER

Print Name: JAMES R. TOLZIEN

  
\_\_\_\_\_  
JOHN SICILIAN

  
\_\_\_\_\_  
JOSEPH DAGROSA, JR.

  
\_\_\_\_\_  
JAMES R. TOLZIEN



# **EXHIBIT “A”**

**ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT ("Agreement") is entered into as of September 25, 2008, by and between Kresse & Associates, LLC, a Florida limited liability company ("Buyer"), Kresse & Associates, Inc., a Florida corporation ("Seller") and Thomas J. Kresse, an individual resident of the State of Florida and the sole shareholder of Seller (the "Shareholder").

**RECITALS; AND TERMS OF AGREEMENT**

Seller owns and operates a business that provides court reporting and legal support services (the "Business"). Buyer desires to purchase and Seller desires to sell the Purchased Assets, on the terms and subject to the conditions set forth in this Agreement. Capitalized terms used herein without definition have the meanings set forth in Section 10.7 of the Disclosure Schedule attached hereto ("Disclosure Schedule"). In consideration of the mutual representations and agreements herein, the parties hereto agree as follows:

**ARTICLE I**  
**PURCHASE AND SALE OF ASSETS;**  
**ASSUMPTION OF LIABILITIES**

**1.1 Purchased Assets.** Seller agrees to sell, convey, transfer, assign and deliver to Buyer, on the terms and subject to the conditions set forth in this Agreement, all of its right, title and interest in and to all of the Purchased Assets (including, without limitation, Seller's rights under the Leases), free and clear of all Liens other than Permitted Liens.

**1.2 [Intentionally Omitted].**

**1.3 Asset Transfer.**

(a) At the Closing, Seller shall convey and assign to Buyer all of its rights to and interest in the Purchased Assets. In furtherance of the foregoing, Seller shall deliver to Buyer possession of all of its Purchased Assets, and shall further deliver to Buyer proper assignments, conveyances and bills of sale sufficient to convey to Buyer good and marketable title to its Purchased Assets free and clear of all Liens (other than Permitted Liens), as well as such other instruments of conveyance necessary or desirable to effect or evidence the transfers contemplated hereby.

(b) To the extent that any of the Contracts or Permits included in the Purchased Assets or any claim, right or benefit arising under or resulting from such Contracts or Permits included in the Purchased Assets (collectively, the "Rights") are not capable of being transferred without the approval, consent or waiver of any third person, or if the transfer of a Right would constitute a breach of any obligation under, or violation of, any applicable Law unless the approval, consent or waiver of such third person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of Buyer contained elsewhere in this Agreement, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent or waiver has been obtained (which approval, consent or waiver shall be obtained at Seller's cost). In the event any such approval, consent or waiver is not obtained prior to the Closing, after the Closing Date and until all such Rights are transferred to Buyer, Seller shall use its best efforts to: obtain such approvals, consents and waivers with respect to all Rights; maintain its existence and hold the Rights in trust for Buyer; comply with the terms and provisions of the Rights as agent for Buyer for Buyer's benefit; cooperate with Buyer in any lawful arrangements designed to provide the benefits of such Rights solely and exclusively to Buyer; enforce, at the request of Buyer and for the account of Buyer, any rights of Seller arising from

such Rights against any third person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of Buyer; and not waive, alter or amend any obligations of third parties with respect to such Rights, whether expressly or impliedly, without the written consent of Buyer. In order that the full value of the Rights may be realized for the benefit of Buyer, Seller shall, at the request and under the direction of Buyer, in the name of Seller or otherwise as Buyer may specify, take all such actions and do or cause to be done all such things in order that the obligations of Seller under such Rights may be performed in such manner that the value of such Rights is preserved and inures to the benefit of Buyer; and Seller shall not take any action which would be inconsistent with, or diminishing the value of, the Rights to Buyer. At the end of each month after the Closing Date, Seller shall supply Buyer with written reports regarding all monies collected by or paid to Seller in respect of every such Right and shall promptly pay to Buyer all such monies collected. With respect to the Rights, Seller hereby hires and authorizes Buyer to perform the services specified in the Rights on Seller's behalf, pursuant to the terms of such Rights. In addition, Seller hereby authorizes and directs Buyer to collect payment for services rendered pursuant to the Rights for Buyer's own account.

**1.4 Assumed Liabilities.** At the Closing, Buyer hereby agrees to assume, pay, discharge and perform when required and lawfully due without offset, counterclaim or other defense or plea, the Assumed Liabilities. "Assumed Liabilities" means all obligations of Seller that are to be paid or performed after the Closing Date solely with regard to:

(a) the Contracts listed in Section 1.4(a) of the Disclosure Schedule (in each case, in no event to include any obligations of Seller or its Affiliates that relate to any (i) period prior to the Closing Date or (ii) breach of representation, warranty, covenant or agreement that arose on or prior to the Closing Date under any such Contract);

(b) commissions payable to the independent contractors of Seller, and in the amounts and on the payment dates, set forth in Section 1.4(b) of the Disclosure Schedule (the "Accrued Commissions"); provided, however, that Buyer acknowledges that a portion of the Accrued Commissions payable on November 1, 2008 has not been finally determined and represents Shareholder's best estimation of the Accrued Commissions payable on November 1, 2008; and

(c) the liabilities set forth in Section 1.4(c) of the Disclosure Schedule; and

(d) any other liabilities or obligations which the Buyer has expressly agreed to assume or undertake pursuant to this Agreement.

**1.5 Excluded Liabilities.** Except to the extent included as Assumed Liabilities, the parties expressly agree that Buyer shall not assume or otherwise become liable for any Excluded Liabilities.

## **ARTICLE II** **PURCHASE PRICE**

**2.1 Purchase Price.** In full consideration of Buyer's purchase of the Purchased Assets, Buyer shall pay to, or on behalf of, Seller an aggregate amount (the "Purchase Price") equal to One Million Four Hundred Seventy Thousand Dollars (\$1,470,000).

**2.2 Closing Date Payment.**

(a) At Closing, Buyer shall make the following payments/deliver the following instruments in payment of the Purchase Price to Seller, (i) \$955,000 payable by wire transfer of

immediately available funds to the account(s) specified by Seller, and (ii) an unsecured promissory note in the principal amount of \$515,000 in the form attached hereto as Exhibit A (the "Note");

(b) At Closing, Seller shall pay to Buyer \$15,000 in immediately available funds to the account(s) specified by Buyer; and

(c) At Closing, Seller shall deliver to Buyer a cashier's check or other immediately available funds equal to (i) the total of payments received by Seller between 9:00 am on Monday September 8, 2008 and the Closing (whether or not such payments have been deposited in Seller's account and whether or not such payments have cleared, and which total Seller represents and warrants to be no less than \$111,886.91) minus (ii) \$74,567.96.

**2.3 Post-Closing Payment of Excluded Liabilities.** Seller shall pay and discharge promptly as they become due all Excluded Liabilities. To the extent that Seller so fails to pay and discharge any Excluded Liabilities on a timely basis as they come due, Buyer shall have the right to pay and discharge such liabilities and, notwithstanding anything to the contrary set forth in this Agreement, Buyer shall be entitled to setoff such amounts against any amounts owed by Buyer under the Note. The exercise of any right of setoff by Buyer pursuant to this Section 2.3 below will not constitute an event of default or "Default" under the Note or any instrument securing the Note.

**2.4 Allocation of Purchase Price; Tax Treatment.** At the Closing, there shall be attached hereto as Exhibit C an allocation of the Purchase Price, together with the allocable portion of the Assumed Liabilities and any other relevant items (and all other capitalized costs), among the Purchased Assets in accordance with Section 1060 of the Code and the Treasury regulations thereunder (and any similar provision of state, local or foreign law, as appropriate) (such allocation the "Allocation Schedule"). Each of Buyer and Seller agree (i) to file Internal Revenue Service Form 8594, and all federal, state, local and foreign Tax Returns, in accordance with the Allocation Schedule and (ii) to provide the other promptly with any other information required to complete Form 8594. Neither Buyer nor Seller shall take any position (whether in audits, tax returns or otherwise) that is inconsistent with the Allocation Schedule unless required to do so by applicable law. The parties hereto intend that the transaction contemplated hereby be treated for tax purposes as taxable under Section 1001 of the Code.

**2.5 Adjustments To Note Payment(s).** The final payments under the Note may be reduced by Buyer to account for any lost revenues as calculated by comparing (a) the Seller's gross cash revenues from the Business over the twelve month period immediately prior to Closing (the "Pre-Closing Revenues") with (b) the Buyer's gross cash revenues from the Business over the twelve month period subsequent to Closing (the "Post Closing Revenues"). For each dollar that the Post-Closing Revenues are less than ninety-five percent (95%) of the Pre-closing Revenues, the final Note payments may be reduced by the ratio that the Purchase Price bears to the Pre-Closing Revenues (the "Adjustment Formula"). By way of example, if the Pre-Closing Revenues are \$2.3 million, and the Post-Closing Revenues are \$2.1 million, the lost revenue calculation will result in \$85,000.00 (\$2.185 million (95% of \$2.3 million) less \$2.1 million). The Adjustment Formula would be calculated as \$1.47 million divided by \$2.3 million, which equals 63.9%. The actual amount of adjustment to the final Note payments would be 63.9% of \$85,000.00, which equals \$54,315.00. The \$54,315.00 would be deducted by Buyer from the last payments of principal and interest due under the Note. If the Buyer believes it is entitled to reduce the Note payments pursuant to this Section 2.5, it shall provide written notice to Shareholder within sixty (60) days after the first anniversary of the Closing Date stating the amount of the reduction Buyer believes it is entitled to and the method of calculating such amount, copies of all documentation relied upon by Buyer in calculating the reduction, and such other records of the Buyer as Shareholder may reasonably request. No reduction may be made against the Note payments until Buyer has fully complied with this disclosure requirement. If Buyer and Shareholder do not agree to the amount of the reduction Buyer believes it is

entitled to, then the matter shall be resolved by binding arbitration by a certified public accountant mutually acceptable to Buyer and Seller. Each party shall pay its own costs and fees with regard to any such arbitration. To the extent that the calculation of Post-Closing Revenues hereunder includes any New Business Revenues (as such term is defined in the Consulting Agreement) and Consultant (as defined in the Consulting Agreement) is paid a commission on the portion of New Business Revenues so included in the calculation of Post-Closing Revenues (the "Specified Commissions"), then within five (5) days of the final determination of the Post-Closing Revenues, Shareholder shall cause Consultant to pay to Buyer the amount of the Specified Commissions.

### **ARTICLE III CLOSING**

**3.1 Time and Place.** Subject to the terms and conditions set forth in this Agreement, the consummation of the transactions contemplated hereby (the "Closing") shall take place contemporaneously with the execution of this Agreement, provided that the closing deliveries and conditions set forth in Article VII have been previously, or are contemporaneously, satisfied (or waived by the party for the benefit of whom such closing delivery or condition exists). The date of the Closing is referred to herein as the "Closing Date." The Closing shall be effective for economic and accounting purposes as of 5 pm EST on the Closing Date.

**3.2 Procedure at the Closing.** At or prior to the Closing, Seller and the Shareholder, as applicable (a) shall have performed each of their respective covenants and agreements set forth in this Agreement required to be performed by them at or prior to the Closing and (b) shall execute and deliver to Buyer all of the documents and agreements required to be executed and delivered by them pursuant to Article VI and Article VII. At the Closing, Buyer (i) shall have performed each of the covenants and agreements set forth in this Agreement required to be performed by it prior to the Closing, (ii) shall execute and deliver to Seller, as applicable, all of the documents and agreements required to be executed and delivered by it pursuant to Article VI and Article VII and (iii) shall pay the purchase price amounts due under Section 2.2.

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

As a material inducement to Seller and the Shareholder to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer makes the following representations and warranties:

**4.1 Status.** Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida and has the requisite power and authority to own or lease its properties and to carry on its business as now being conducted. Buyer is duly qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such qualification necessary.

**4.2 Power and Authority.** Buyer has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby to be consummated by it. Buyer has taken all action necessary (including obtaining Manager and member approval, if necessary) to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby to be consummated by it.

**4.3 Enforceability.** This Agreement has been duly executed and delivered by Buyer and constitutes a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles.

**4.4 No Commissions.** Except for fees or commissions payable solely by Buyer, Buyer has not incurred any obligation for any finders', brokers' or agents' fees or commissions or similar compensation in connection with the transactions contemplated hereby.

**ARTICLE V**  
**REPRESENTATIONS AND WARRANTIES**  
**OF SELLER AND THE SHAREHOLDER**

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, Seller and the Shareholder, jointly and severally, make the following representations and warranties:

**5.1 Corporate Status.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and has the requisite power and authority to own or lease its properties and to carry on its business as now being conducted. Seller is duly qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such qualification necessary. A complete and accurate copy of Seller's minute book has been provided to Buyer.

**5.2 Power and Authority.** Seller has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby to be consummated by it. Seller has taken all action necessary (including obtaining board of director and shareholder approval in accordance with Section 607.1202 of the Florida Business Corporation Act) to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby to be consummated by it. The Shareholder has the requisite competence, power and authority to execute and deliver this Agreement, to perform his obligations hereunder and to consummate the transactions contemplated hereby.

**5.3 Enforceability.** This Agreement has been duly executed and delivered by each of Seller and the Shareholder and constitutes the legal, valid and binding obligation of each, enforceable against each in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles.

**5.4 Capitalization; Subsidiaries.**

(a) The authorized capital stock of Seller consists of 600 shares of common stock, par value \$1.00 per share, of which 180 shares are issued and outstanding and owned by the Shareholder. No person or entity other than the Shareholder owns or holds any capital stock, option, warrant or convertible security exercisable or convertible therefor, or other equity interest in Seller.

(b) Except for TOKR, LLC (a Florida limited liability company of which Shareholder is the sole member), Seller has no Affiliates.

**5.5 No Violation.** The execution and delivery of this Agreement by Seller, the performance by Seller of its obligations hereunder and the consummation by each of the transactions contemplated by this Agreement will not, except as set forth in Section 5.5 of the Disclosure Schedule: (a) contravene any provision of the articles of incorporation or bylaws of Seller; (b) violate or conflict with any law, statute, ordinance, rule, regulation, decree, writ, injunction, judgment or order of any Governmental Authority or of any arbitration award which is either applicable to, binding upon or enforceable against Seller or the Purchased Assets; (c) conflict with, result in any breach of, or constitute a default (or an event which would, with the passage of time or the giving of notice or both, constitute a default) under, or give rise to a right to terminate, amend, modify, abandon or accelerate, any Contract or Permit which is applicable to, binding upon or enforceable against Seller or the Purchased Assets; (d) result in or require the creation or imposition of any Lien upon or with respect to any of the Purchased Assets; (e) give to any Person a right or claim affecting the Purchased Assets or the Business; (f) cause Buyer to lose the benefit or privilege of any Purchased Asset or (g) except as set forth in Section 5.5 of the Disclosure Schedule, require the consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, any court or tribunal or any other Person (except for consents already obtained).

**5.6 No Commissions.** Except as set forth in Section 5.6 of the Disclosure Schedule, neither Seller nor any of its Affiliates has incurred any obligation for any finders,' brokers' or agents' fees or commissions or similar compensation in connection with the transactions contemplated hereby; and all amounts so scheduled are payable solely by Seller.

**5.7 Financial Information.**

(a) Set forth in Section 5.7(a) of the Disclosure Schedule are (i) copies of Seller's Tax Returns for the years ended December 31, 2007, 2006 and 2005, (ii) accounting summarizations (Trend Reports) for the (a) twelve (12) month period ended December 31, 2007 and (b) the seven (7) month period ended July 31, 2008 (the "Current Financial Information Report" and July 31, 2008 the "Current Financial Information Date"), and (iii) accounts receivable reports dated as of August, 26, 2008, June 3, 2008, November 19, 2007, June 28, 2007, and January 3, 2007 (collectively, the "Financial Information"). The Financial Information of Seller has been prepared in accordance with the books and records of Seller which have been maintained in a consistent manner, fairly present, and are true, correct and complete statements of the financial condition, assets, liabilities, equity, income, expenses, results of operations, changes in equity and cash flow of Seller for the periods covered thereby or as of their respective dates.

(b) Except as set forth in Section 5.7(b) of the Disclosure Schedule, there are no extraordinary or material non-recurring items of income or expense of Seller during the periods covered by the Financial Statements.

(c) Attached as Section 5.7(c) of the Disclosure Schedule is a true and complete list of all capital expenditures made by Seller since January 1, 2008.

(d) [intentionally omitted].

**5.8 No Changes.** Except as set forth on Section 5.8 of the Disclosure Schedule, since the Current Financial Information Date, (1) Seller has been operated only in the ordinary course of business consistent with past practice, and has not suffered any Material Adverse Effect, and no condition or event, change or development has occurred which, individually or in the aggregate, could reasonably be expected to result in such a Material Adverse Effect, and (2) Seller has not entered into or committed to enter into any transaction directly or indirectly related to or impacting Seller, outside the ordinary course

of business consistent with past practices; and, in particular and without limitation, Seller during such period has not:

(a) (i) granted to any Business Employee, officer, director or independent contractor any increase in compensation, severance or termination pay or paid any bonus thereto; (ii) entered into or modified any collective bargaining Contract or any employment, severance or termination agreement with any such Person; (iii) increased or established any bonus, insurance, deferred compensation, pension, retirement, profit-sharing, option (including the granting of options, appreciation rights, performance awards or restricted awards or the amendment of any existing options, appreciation rights, performance awards or restricted awards), purchase or other employee benefit plan or agreement or arrangement; (iv) suffered or received threats of any labor strike, dispute, slowdown or work stoppage; or (v) amended any other terms of employment or engagement of such Persons;

(b) sold, leased or transferred any of its properties or assets except for inventory in the ordinary course of business consistent with past practice, or licensed, sold, transferred, pledged, modified, disclosed, disposed of or permitted to lapse any Intangible Property rights, except in the ordinary course of business consistent with past practice, or permitted or allowed any of its properties or other assets to be subjected to any Liens other than Permitted Liens, or discharged or satisfied any Lien on any of its assets or paid any other liability except for trade or business obligations in the ordinary course of business consistent with past practice;

(c) made any payments (or delayed any payments) in respect of its liabilities or received or attempted to collect (or accelerated the collection of) any accounts receivable or revenues except in the ordinary course of business consistent with past practice;

(d) incurred any obligations or liabilities (including any indebtedness) or entered into any transaction or series of transactions except in the ordinary course of business consistent with past practice and except for this Agreement and the transactions contemplated hereby;

(e) suffered any theft, damage, destruction or casualty loss, or extraordinary losses (whether or not covered by insurance);

(f) waived, cancelled, compromised, released or suffered the termination of any rights or contracts having value;

(g) made or adopted any change in its methodologies, accounting practices or policies, or made any adjustment to its books and records, or revalued any asset;

(h) entered into, modified or terminated any transaction or arrangement with (or for the benefit of) any Affiliate (or Associate thereof), or made any payment or transferred any assets to any Affiliate; or made any loan to, or entered into any other transaction with, any of its directors, officers, and/or employees or any of their Affiliates or "Associates" (as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended) (whether or not in the ordinary course of business consistent with past practice);

(i) amended, renegotiated or terminated (other than by completion thereof) any Contract (nor has any other Person amended, renegotiated or terminated any Contract), or failed to comply with any Contract or any Permit or other authorization from any Governmental Authority or other laws to which Seller is subject;

(j) permitted the imposition of any Lien on any asset other than Permitted Liens;



(k) suffered or been subject to any event, condition or circumstance, or entered into any transaction, which could reasonably be expected to result in a Material Adverse Effect on Seller or any Contracts, or performed any services other than in accordance with its Contracts or in a manner which could give rise to any claim under any Contracts;

(l) amended any of its organizational documents (including, but not limited to, articles of incorporation or bylaws); or altered through merger, liquidation, reorganization, restructuring or in any other fashion its organizational structure or ownership;

(m) made any capital expenditure or series of capital expenditures in excess of \$10,000 individually or \$50,000 in the aggregate;

(n) acquired or agreed to acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, joint venture, association or other business organization or division, operating unit or product line thereof or made a capital investment in or a loan to such entity;

(o) entered into any agreement, contract, lease, or licenses either (A) involving more than \$10,000 individually or \$50,000 in the aggregate, (B) having a term greater than 12 months or (C) outside the ordinary course of business consistent with past practice;

(p) canceled, compromised, waived, or released any right or claim either involving more than \$50,000 in the aggregate;

(q) received notice of or has reason to believe that any key employee of Seller is, or is contemplating, terminating or re-negotiating such employee's employment with Seller;

(r) made any tax election, changed any annual tax accounting period, amended any tax return, settled or compromised any income tax liability, entered into any closing agreement, settled any tax claim or assessment, surrendered any right to claim a tax refund or failed to make the payments or consent to any extension or waiver of the limitations period applicable to any tax claim or assessment;

(s) pursuant to, or within the meaning of, any bankruptcy or creditors' rights or similar law, (i) commenced a voluntary case, (ii) consented to the entry of an order for relief against it in an involuntary case, (iii) consented to the appointment of a custodian of it or for all or substantially all of its property, or (iv) made a general assignment for the benefit of its creditors;

(t) altered in any material way the nature or extent (by revenue generated or costs incurred) of any relationship with Seller's customers or its independent contractors;

(u) (i) granted to any independent contractor any increase in compensation, severance or termination pay or paid any bonus thereto, (ii) had any of its independent contractors enter into any collective bargaining Contract, or (iii) had any independent contractor suffer or receive threats of any labor strike, dispute, slowdown or work stoppage; or

(v) agreed to do or authorized any of the foregoing.

**5.9 Undisclosed Liabilities of Seller.** Seller has no current or long-term liabilities or obligations, whether accrued, absolute, unasserted contingent or otherwise except to the extent (a) reflected on the Current Financial Information Report (and none of which relates to breach of contract, breach of warranty, tort, infringement or violation of law, or arose out of any action, suit, claim,

governmental investigation or arbitration proceeding) or (b) owed to Persons other than Affiliates and incurred in the ordinary course of business consistent with past practices since the Current Financial Information Date.

**5.10 Litigation.** Except as set forth on Section 5.10 of the Disclosure Schedule, there is no (and during the past two years there has been no) action, suit, or other legal or administrative proceeding or governmental investigation pending, or, to the Knowledge of Seller, threatened against, by or affecting Seller, the Business, or the Purchased Assets, or which questions the validity or enforceability of this Agreement or the transactions contemplated hereby, and, to the Knowledge of Seller, there is no reasonable basis for any of the foregoing. There are no outstanding orders, decrees, judgments, settlements, stipulations or agreements issued or enforceable by any Governmental Authority in any proceeding (or agreed to by Seller or the Shareholder) to which Seller was a party which have not been complied with in full or which continue to impose any obligations on Seller, the Purchased Assets or the Business, and neither Seller nor Shareholder has received any opinion or memorandum or legal advice from counsel to the effect that it is or may be exposed, from a legal standpoint, to any liability or disadvantage. All reports of inspection of Seller and its properties and records during the past three (3) years have been provided to Buyer. Except as set forth in Section 5.10 of the Disclosure Schedule, there exists no reasonable basis for any material claim by or dispute with any customer of Seller or any correspondence or documentation indicating that there may be any such basis.

**5.11 Rebates.** Seller has not entered into, or offered to enter into, any agreement, contract commitment or other arrangement (whether written or oral) pursuant to which Seller or Buyer is or will be obligated to make any rebates, discounts, promotional allowances or similar payments or arrangements to or with any customer in any way, directly or indirectly, related to Seller or any Purchased Asset.

**5.12 Real Estate.** Seller does not own any parcel of real estate. Section 5.12(a) of the Disclosure Schedule sets forth the following information regarding the only lease, sublease, right to occupy or use, licenses or other arrangements with respect to the use or occupancy of any real property to which Seller is a party, together with all amendments, modifications, side letters, estoppel letters and other agreements relating thereto (the "Lease"): (a) the lessor and lessee (and/or sublessor and sublessee, as the case may be) thereof and the date and term (including any extension options) of the Lease, and (b) the street address of each property covered thereby (the "Leased Premises"). Seller is now in possession of the Leased Premises and there is no pending or threatened proceeding which might interfere with the quiet enjoyment of Seller under the Lease. The Lease is not subject to any pledge, lien, sublease, assignment, license or other agreement granting to any third party any interest in the Lease or any rights to the use or occupancy of any Leased Premises. A true and complete copy of the Lease has been previously delivered to Buyer.

**5.13 Assets.** Seller has good and marketable title to the Purchased Assets and is selling the same free and clear of any Lien other than Permitted Liens. Section 5.13 of the Disclosure Schedule sets forth a true and correct list of all equipment, furniture and other tangible personal property of Seller with a purchase price greater than \$1,000. The Purchased Assets are in good operating condition. The Purchased Assets constitute all assets used or necessary to conduct the Business in the same manner as it was conducted immediately prior to the Closing and as it is proposed to be conducted after the Closing. Seller is not retaining any Intangible Property necessary or desirable for the operation of the Business. Except for Purchased Assets which are reflected in Section 5.13 of the Disclosure Schedule as leased or licensed, and except for any Permitted Liens, no Person other than Seller owns any right, title or interest in any Purchased Assets or any part of Seller. There exists no default under any such lease or license, and no default will occur by reason of the transaction contemplated hereby.

**5.14 Compliance with Laws.** Seller is in compliance with all Laws applicable to it, the Business, and/or the Purchased Assets. Seller has conducted its business and corporate affairs in compliance with its Articles of Incorporation and Bylaws. Seller has not been cited, fined or otherwise notified of any asserted failure to comply with any Laws, and no proceeding with respect to any such violation is pending or, to the Knowledge of Seller, threatened. Neither Seller nor any of its employees or agents has made any payment of funds which is prohibited by law, and no funds have been set aside to be used for any payment prohibited by law. Except as set forth in Section 5.14 of the Disclosure Schedule, Seller is not subject to any Contract, decree or injunction that restricts the continued operation of the Business or the expansion thereof to other geographical areas, customers or suppliers, or to other lines of business. No investigation or review by any Governmental Authority with respect to Seller, the Shareholder or the Business is pending or, to the Knowledge of Seller, threatened, nor, to the Knowledge of Seller, has any Governmental Authority indicated an intention to conduct any such investigation or review.

**5.15 Labor and Employment Matters.** Section 5.15 of the Disclosure Schedule sets forth the name, title, address, and tenure of each employee or independent contractor of Seller (collectively, the "Business Employees"). All Business Employees rendering services in connection with the Seller's operation of the Business are engaged or employed by Seller. With respect to each such Business Employee, Section 5.15 of the Disclosure Schedule also sets forth the current base and total compensation for each Business Employee for the most recently completed fiscal year, any change in the rate or manner of compensation since the end of the most-recently completed fiscal year, any non-base salary compensation or remuneration arrangements (including detail as to option, restricted stock, phantom stock and profit participation grants and arrangements), whether full-time or part-time, and detail as to whether such Business Employee is involved solely in the Business or other activities for Seller as well. With respect to Seller: (a) there is no collective bargaining agreement or relationship with any labor organization, nor does any labor union or association or collective bargaining agent represent any Business Employee; (b) no pending or, to Seller's Knowledge, threatened unfair labor practice charge exists; (c) to Seller's Knowledge, no Business Employee has any intention of terminating employment or engagement with Seller or not becoming employed or engaged by Buyer; (d) no labor organization, Business Employee has filed any representation petition or made any written or oral demand for recognition and none of same is pending or, to Seller's Knowledge, threatened; (e) no union organizing or decertification efforts are underway or, to the Knowledge of Seller, threatened, and no other question concerning representation exists and none of same is pending or, to Seller's Knowledge, threatened; (f) no labor strike, work stoppage, slowdown, or other labor dispute has occurred, and none is underway or, to Seller's Knowledge, threatened; (g) with respect to any Business Employee, there is no worker's compensation liability; (h) there is no employment-related charge, complaint, grievance, investigation, audit, lawsuit or inquiry of any kind, pending or, to Seller's Knowledge, threatened in any forum, relating to an alleged violation or breach by Seller (or its officers, managers, co-workers, supervisors, or directors) of any law, regulation, administrative or executive order or Contract, including, without limitation, federal or state civil rights or discrimination claims, FLSA, OSHA, or similar claims, and any work-related claim or administrative proceeding, and none of same has ever existed; (i) no employee or agent of Seller, has committed any act or omission giving rise to liability for any violation identified in subsection (h) above; and (j) no term or condition of employment exists through arbitration awards, settlement agreements, side agreements, or other understandings that is inconsistent with the express terms of any applicable collective bargaining agreement with respect to (i) hours of work; (ii) scheduling and assignment of work; or (iii) layoffs or other workforce reductions (including but not limited to severance or notice requirements arising therefrom). Each independent contractor or leased employee of Seller is properly classified as an independent contractor, and Seller has no liability for any misclassification of any employee as an independent contractor. All Business Employees who reside and/or work in the United States are residing and/or working in the United States (i) free of any restrictions or limitations on their ability to accept employment lawfully in the United States and (ii) in compliance with all applicable laws,

rules and regulations relating to immigration and naturalization, including but not limited to, the Immigration Act of 1997, as amended, and the Labor Condition Application requirements and regulations of the U.S. Department of Labor. Except as set forth on Section 5.15 of the Disclosure Schedule, no action, suit, proceeding, hearing, investigation, charge, complaint or claim has been filed or commenced against Seller or, to Seller's Knowledge, any Business Employees, that (a) alleges any failure so to comply or (b) seeks removal, exclusion or other restrictions on (i) such Business Employee's ability to reside and/or accept employment lawfully in the United States and/or (ii) Seller's continued ability to sponsor employees for immigration benefits and, to the Knowledge of Seller, there is no reasonable basis for any of the foregoing. To the Knowledge of Seller, there is no reasonable basis to believe that any Business Employees will not be able to continue to so reside and/or accept employment lawfully in the United States in accordance with all such laws, rules and regulations. To Seller's Knowledge, none of the employees, consultants or independent contractors of Seller who may become employed or engaged by Buyer or its Affiliates is not in good health, uses controlled substances (other than the use of medications prescribed by a medical doctor in a manner which does not adversely impact job performance) or consumes alcohol in a manner which may impact job performance.

**5.16 Employee Benefit Plans.** Section 5.16 of the Disclosure Schedule contains a complete list of all "employee benefit plans" within the meaning of Section 4(4) of ERISA and any other written or oral employee benefit plan, arrangement, practice, contract, policy, or program (other than arrangements merely involving the payment of wages) which are or at any time have been established, maintained, or contributed to by Seller or any ERISA affiliate for the benefit of current or former employees or leased employees, with respect to which Seller or an ERISA affiliate has or may in the future have any liability or obligation of any kind (the "Plans"). To Seller's Knowledge, each Plan and related trust, annuity, or other funding agreement complies and has been maintained in compliance with all applicable legal requirements. All material obligations required to be performed by Seller and any other person under the terms of each Plan and applicable legal requirement have been performed. The Buyer will not suffer any loss, cost or other liability with respect to any Plan.

**5.17 Tax Matters.** All Tax Returns required to be filed prior to the date hereof with respect to Seller or its income, properties, franchises or operations have been timely filed, each such Tax Return has been prepared in compliance with all applicable laws and regulations, and, to the Seller's Knowledge, all such Tax Returns are true and accurate in all respects. All Taxes due and payable by or with respect to Seller have been paid or will be paid immediately after the Closing by Seller. Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party. With respect to each taxable period of Seller prior to the Closing Date: (a) no deficiency or proposed adjustment which has not been settled or otherwise resolved for any amount of Taxes has been asserted or assessed by any taxing authority against Seller; (b) Seller has not consented to extend the time in which any Taxes may be assessed or collected by any taxing authority; (c) Seller has not requested or been granted an extension of the time for filing any Tax Return, except with respect to Tax Returns filed on or prior to the Closing Date; (d) there is no action, suit, taxing authority proceeding, or audit or claim now in progress, pending or, to the Knowledge of Seller, threatened against or with respect to Seller regarding Taxes; (e) there are no Liens for Taxes (other than for current Taxes not yet due and payable) upon the Purchased Assets or Seller; and (f) Buyer will not become liable for any obligations of Seller relating to Taxes as a result of the transactions contemplated hereby. No sales or use tax, non-recurring intangible tax, documentary stamp tax or other excise tax (or comparable tax imposed by any Governmental Authority) will be payable by Seller or Buyer by virtue of the transactions contemplated in this Agreement. True, correct and complete copies of all Tax Returns filed by or with respect to Seller for the past three years have been furnished to Buyer.

**5.18 Insurance.** Section 5.18 of the Disclosure Schedule sets forth a list of insurance policies maintained by Seller ("Insurance Policies") and sets forth all claims in excess of \$5,000 made under the Insurance Policies (other than Insurance Policies with respect to Employee Benefit Plans) during the past three years. Except as set forth in Section 5.18 of the Disclosure Schedule, the Insurance Policies: (a) are in full force and effect; (b) insure Seller in reasonably sufficient amounts against all risks usually insured against by Persons operating similar businesses or properties in the localities where such businesses or properties are located; and (c) are sufficient for compliance with all requirements of laws, Permits and Contracts. Seller is current in all premiums or other payments due thereunder and has otherwise performed all of its obligations under each Insurance Policy. Seller has complied with the provisions of such Insurance Policies. Seller has not failed to give, in a timely manner, any notice required under any of the Insurance Policies to preserve its rights thereunder. Seller has not received (i) any refusal of coverage or any notice that a defense will be afforded with reservation of rights or (ii) any notice of cancellation or any other indication that any Insurance Policy is no longer in full force or effect or will not be renewed or that the issuer of any policy is not willing or able to perform its obligations thereunder. Each of Seller's independent contractors maintains worker's compensation insurance for its employees to the extent required by applicable Law.

**5.19 Receivables.** Section 5.19 of the Disclosure Schedule (which will be delivered at Closing) contains a true and correct list of Seller's accounts receivables (and the aging for all such receivables) as of the Closing Date. All of such receivables are valid and legally binding, represent bona fide transactions and arose in the ordinary course of business of Seller on or before the Closing Date. To Seller's Knowledge, (i) all of such receivables are good and collectible receivables and (ii) no Person has asserted any counterclaims, claims of set-off or other defenses to the collection of such receivables.

**5.20 Licenses and Permits.** Section 5.20 of the Disclosure Schedule sets forth a complete list of all Permits currently issued to Seller and required for Seller to conduct the Business as presently conducted. Seller is in full compliance with all of the terms and requirements of each Permit identified or required to be identified in Section 5.20 of the Disclosure Schedule.

**5.21 Relationships with Customers and Suppliers; Affiliated Transactions.**

(a) Section 5.21(a) of the Disclosure Schedule sets forth a list of all customers of Seller to which Seller has billed more than \$10,000 during the twelve-month period ended December 31, 2007, and for the period January 1, 2008 through the month ending immediately prior to the date hereof (the "Significant Customers") showing the approximate total revenues of Seller from each such Significant Customer during the periods then ended. Except to the extent set forth in Section 5.21(a) of the Disclosure Schedule since January 1, 2008, no Significant Customer has terminated or threatened to terminate or adversely modify its business relationship with Seller, and to the Seller's Knowledge there is no basis for any of the foregoing. To Seller's Knowledge, there is no reasonable basis to believe that the transactions contemplated in connection herewith will have an adverse impact on the relationship between the Business as operated by Buyer and any of the Significant Customers.

(b) Section 5.21(b) of the Disclosure Schedule lists any suppliers of services, supplies, merchandise or other goods to the Seller (other than court reporters) the loss of which could reasonably be expected to have a material adverse impact on the Business. Except as disclosed in Section 5.21(b) of the Disclosure Schedule, since January 1, 2008, to its Knowledge, no material supplier has advised Seller that it will not sell supplies, merchandise and other goods to Seller following the Closing on substantially the same terms and conditions as those used in its sales to Seller prior to the Closing, subject only to general and customary price increases.

(c) Except as set forth on Section 5.21(c) of the Disclosure Schedule, no Affiliate of Seller (or any Associate thereof) has any business relationship with, or ownership interest in, any customer of Seller. Except as set forth on Section 5.21(c) of the Disclosure Schedule, neither Seller nor any of its Affiliates has any direct or indirect ownership interest in any customer, supplier or competitor of Seller. No officer, director or Affiliate of the Seller, nor any person related by blood or marriage to any such Person, nor any entity in which any such Person owns any beneficial interest, is a party to any Contract or transaction related to Seller or has any interest in any property used by Seller.

**5.22 Accuracy of Information Furnished.** No statement or information made or furnished by Seller or the Shareholder to Buyer or any of Buyer's representatives including those contained in this Agreement and the various schedules attached hereto and the other information and statements referred to herein and/or previously furnished by Seller, contains or shall contain any untrue statement of a material fact or omits or shall omit any fact necessary to make the information contained therein not misleading. Seller has provided Buyer with true, accurate and complete copies of all documents listed or described in this Agreement or the various schedules attached hereto.

**5.23 Material Agreements.**

(a) Section 5.23(a) of the Disclosure Schedule sets forth (i) with respect to all written Contracts, a list of such Contracts (true, complete and correct copies of which Seller has previously furnished to Buyer) along with the exact title of such Contract, the parties thereto, the date thereof, and the date of any amendment or modification thereto and (ii) with respect to all non-written Contracts, a description of the current material terms of such Contracts. Except for any amendments that are included or described in Section 5.23(a) of the Disclosure Schedule, no written Contract has been modified or amended by course of conduct or verbally. No verbal representations, warranties or assurances binding on Seller have been given with respect to any written Contract and, other than as described in Section 5.23(a) of the Disclosure Schedule, no such verbal representations, warranties or assurances binding on Seller has been given with respect to any non-written Contract. Except as set forth in Section 5.23(a) of the Disclosure Schedule, all such non-written Contracts may be terminated by Seller without penalty upon thirty (30) days or less notice provided to the other party. No Contract was entered into outside the ordinary course of business of Seller. Each of the Contracts is in full force and effect and is the valid and legally binding obligation of Seller and the other parties thereto, enforceable in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles. Neither Seller nor, to the Knowledge of Seller, any other party is in default under any of the Contracts and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default thereunder. Seller has no Knowledge of any pending or threatened cancellation, revocation or termination of any of the Contracts, nor, to Seller's Knowledge, are there any facts or circumstances which could reasonably be expected to lead to any such cancellation, revocation or termination.

(b) Except as set forth in Section 5.23(b) of the Disclosure Schedule, each of the Contracts being transferred to Buyer pursuant to this Agreement will continue in full force and effect under the current terms thereof, in each case without breaching the terms thereof or resulting in the forfeiture or impairment of any right thereunder and without any further consent, approval or act of, or the making of any filing with any Person (other than those required consents set forth in Section 5.5 of the Disclosure Schedule) and without permitting any other party to a Contract to accelerate, modify or terminate such Contract. Neither Seller nor any of its Affiliates, nor any of their respective employees or consultants is a party to any agreement which would restrict or inhibit Buyer or any of such employees or consultants from engaging in the Business after the Closing, including, but not limited to, secrecy, confidentiality, non-competition or non-solicitation agreements. Seller is not a party to any joint venture, partnership or similar arrangement. To Seller's Knowledge, Seller has not provided any services or failed

to provide any services under any Contracts in any manner which could lead to any claim under any Contract.

(c) Seller is not a party to any Contract which was awarded in whole or in part due to any minority or female set-aside program or because of minority, female or foreign nationality ownership of Seller. None of Seller's revenues or orders by customers have ever been or are subject to any small business, female, foreign nationality, disadvantaged or minority ownership, or similar set-aside, business program or arrangement.

**5.24 Intangible Property.** The Intangible Property owned and/or used by Seller, including all registrations and other legal rights of Seller to use the Intangible Property is set forth in Section 5.24 of the Disclosure Schedule. No other Intangible Property is used or necessary in the conduct of the Business. Seller has full legal right, title and interest to or a valid and binding right under contract to use the Intangible Property, has not granted any rights in or to the same to any third party and has full and complete authority to sell, convey, transfer and assign all such Intangible Property. The Business as presently conducted, and the unrestricted conduct and the unrestricted use and exploitation of the Intangible Property, does not infringe or misappropriate any rights held or asserted by any Person, and no Person is infringing on the Intangible Property. Seller is not, nor has it received notice that it is, infringing any Intangible Property of any other Person, and no claim is pending or has been made to such effect that has not been resolved. Seller is not required to make any royalty or other payments for the continued use of the Intangible Property. None of the Intangible Property has ever been declared invalid or unenforceable, or is the subject of any pending or threatened action for opposition, cancellation, declaration, infringement, or invalidity, unenforceability or misappropriation or like claim, action or proceeding. Except as disclosed in Section 5.24 of the Disclosure Schedule, (a) all registrations with and applications to any Governmental Authority in respect of such Intangible Property are valid and in full force and effect and are not subject to the payment of any Taxes or maintenance fees or the taking of any other actions by Seller to maintain their validity or effectiveness, (c) there are no restrictions on the direct or indirect transfer of any Contract, or any interest therein, held by Seller in respect of such Intangible Property, (c) Seller has delivered to Buyer prior to the execution hereof documentation with respect to any invention, process, design, computer program or other know-how or trade secret included in such Intangible Property, which documentation is accurate and reasonably sufficient in detail and content to identify and explain such invention, process, design, computer program or other know-how or trade secret and to facilitate its full and proper use without reliance on the special knowledge or memory of any Person, (d) Seller has taken reasonable security measures to protect the secrecy, confidentiality and value of its trade secrets, or (e) Seller is not, nor has it received any notice that it is, in default (or with the giving of notice or lapse of time or both, would be in default) under any Contract to use such Intangible Property. Each of the employees, agents, consultants or contractors of Seller who have contributed to or participated in the creation or development of any copyrightable, patentable or trade secret material owned by Seller has entered into a covenant not to compete with Seller and either: (i) is a party to a "work-for-hire" agreement under which Seller is deemed to be the original owner/author of all property rights therein; or (ii) has assigned in favor of Seller all right, title and interest in such material.

**5.25 Environmental Matters.** Seller has no liability under any applicable environmental law or under any Contract with respect to or as a result of (a) the storage, handling or removal by or at the request of Seller or any predecessor or Affiliate thereof of any Hazardous Substance at or from such real property or the premises demised under any such Contract, (b) the disposition of such removed Hazardous Substances at any other locations, (c) the release or presence of Hazardous Substances at any location or (d) the discontinuance, sale or transfer of operations of any business conducted at such real property.

**5.26 Business Locations.** All locations where the equipment, employees, consultants and books and records of Seller are located as of the date hereof are fully identified on Section 5.12 of the Disclosure Schedule.

**5.27 Names.** All names under which (i) Seller does, and has during the past five years done, business and (ii) the Business operates, and has during the past five years operated, are specified in Section 5.27 of the Disclosure Schedule.

**5.28 Solvency.** At the Closing, after giving effect to the consummation of this Agreement and the transactions contemplated hereby, Seller is Solvent.

## **ARTICLE VI**

### **CERTAIN AGREEMENTS AND COVENANTS OF THE PARTIES**

**6.1 Further Assurances; Buyer Access to Information; Cooperation.** Each party hereto shall execute and deliver such additional instruments and other documents and shall take such further actions as may be necessary or appropriate to effectuate, carry out and comply with all of the terms of this Agreement and the transactions contemplated hereby. Each party hereto shall comply with all of the covenants and agreements under this Agreement. Seller shall, and shall cause its Affiliates, employees, consultants and agents to, use its commercially reasonable efforts to facilitate the orderly transition of the ownership of the Business from Seller to Buyer, and the maintenance of all relationships in connection therewith including, without limitation, (i) Seller affording to Buyer and its employees, consultants and agents at reasonable times with at least forty-eight hours notice, reasonable access to Seller's key employees, sites, properties, computer systems (to perform any necessary conversion of data to effect the transfer of the Business and Purchased Assets to Buyer) and other infrastructure, books and records, (ii) Seller cooperating with Buyer and its employees, consultants and agents in the preparation of any documents or other material that may be required in connection with the transfer of the Purchased Assets and the Business from Seller to Buyer, and (iii) Seller's agreement that any and all payments received by Seller after the Closing in respect of accounts receivable or any other Purchased Asset shall be held in trust for the benefit of Buyer and delivered to Buyer as soon as practicable; provided, however, that Seller will not be obligated to collect any accounts receivable on behalf of Buyer. In the event of any litigation or claim under any Contract, Seller shall, and shall cause its Affiliates, employees and consultants to fully cooperate with Buyer in resolving same.

**6.2 [Intentionally Omitted].**

**6.3 Certain Tax Returns and Indemnity.** Seller shall be liable for the payment of all Taxes of Seller. The Seller shall also be liable for the payment of all Taxes applicable to the Purchased Assets for all taxable periods on or before the Closing Date, regardless of when assessed, and including any interest or penalties thereon. Notwithstanding anything to the contrary set forth herein, any Tax (including, without limitation, sales Tax, use Tax, or income Tax) attributable to the sale or transfer of the Purchased Assets shall be paid by Seller, except documentary stamp Taxes on the Note which will be paid by Buyer. For the purpose hereof, any taxable period which ends after the Closing Date, but includes a period of time before the Closing Date, shall be deemed to be two taxable periods, the first ending on the Closing Date and the second beginning the next day. Seller files its income Tax returns on a cash basis and as such its liability for Taxes shall be determined under that method of accounting.

**6.4 Publicity; Disclosure.** Except as required by applicable Law or any Governmental Authority, no press release or other public announcement related to this Agreement or the transactions contemplated hereby shall be issued by Seller or the Shareholder without the prior approval of Buyer, which shall not be unreasonably withheld. If such announcement or disclosure is required by Law or any



Governmental Authority, Seller will give Buyer prompt written notice of the information such Persons propose to disclose (which shall be limited to that information which such Persons are required to disclose) and will take into account any reasonable comments Buyer may have in relation to the content, timing and manner of release of the disclosure. Following the Closing, Buyer has the right to inform clients and prospective clients that it has purchased the Business from Seller.

**6.5 Restrictive Covenants.** Except in connection with Shareholder's employment or engagement as a consultant by Buyer, each of Seller and Shareholder agrees:

(a) for a period of four (4) years following the date hereof (this period being referred to as the "Restricted Period"), to refrain from, directly or indirectly, owning, managing, operating, controlling or financing, or participating in the ownership, management, operation, control or financing of, or being connected with or having any interest in, or otherwise taking any part as a stockholder, partner, director, officer, employee, consultant, independent contractor, or otherwise in, any court reporting business (the "Restricted Business") within Palm Beach, Broward or Miami-Dade Counties, Florida (the "Restricted Territory"), provided, however, that, immediately following the date of termination of Shareholder's engagement as a consultant by Buyer for any reason, Shareholder shall have the right to work as an individual court reporter for compensation within or without the Restricted Territory; provided that the foregoing exception shall be narrowly construed and shall not be deemed to permit Seller or Shareholder to, directly or indirectly, in whole or in part, own, manage, finance or otherwise control a Restricted Business. This Section 6.5(a) shall not apply to the passive ownership of 2% or less of a publicly traded company or the employment of Shareholder by Buyer.

(b) that the Confidential Information (as defined below) is (and/or will be after Closing) a valuable, special, sensitive, proprietary and unique asset of the business of Buyer, the continued confidentiality of which is essential to the continuation of its businesses, and the improper disclosure or use of which could severely damage Buyer, especially in light of the severe competitiveness, proprietary pricing techniques, valuable customer and vendor relationships. Seller agrees that, at all times after the date of this Agreement, it/he (a) will keep all Confidential Information strictly confidential and (b) will not, without the express prior written approval of the Manager/Board of Managers of Buyer, at any time subsequent to the date hereof, directly or indirectly, disclose, communicate or divulge to any person or entity, or use or cause or authorize any person or entity to use any Confidential Information. "Confidential Information" means all information, data and items relating to Buyer, Seller or the Business (which, for purposes of this Section, shall include both the Business as operated by Seller for all periods prior to the Closing Date and the Business as operated by Buyer for all periods following the Closing Date), or any of their respective customers or suppliers which Buyer deems valuable, confidential or proprietary (whether or not the same is actually unique, valuable, confidential or proprietary) including, without limitation, the following information relating to Buyer or the Business: accounts, receivables, customers and customer lists and data, prospective customers and prospective customer lists and data, vendors and vendor lists and data, others currently or formerly having business relationships with Buyer, Seller or the Business, business methods and procedures, pricing techniques, business leads, budgets, memoranda, correspondence, reports, records, processes, pricing, costs, products, services, margins, systems, software, service data, inventions, analyses, plans, business leads, Intangible Property, proprietary information, writings, trade secrets, manuals, training materials, sales and marketing materials and compilations of and other items derived (in whole or in part) from the foregoing; it being understood that for the purposes of this Section 6.5, Confidential Information may be in any form, including without limitation, verbal, electronic or computer readable form, including, but not limited to, software, source code, hex code, or any other form. Notwithstanding the foregoing, the term "Confidential Information" shall not include information which (i) is or becomes generally available to the public other than as a result of disclosure by Seller, Shareholder or their respective Affiliates, (ii) may be published or otherwise made available to the public by the Buyer, or (iii) which is disclosed pursuant to a requirement of a

government agency or court proceeding provided that notice is given to the disclosing party before disclosure and provided that this exception shall only apply to the disclosure to the government agency or under the court proceeding.

(c) that it/he/she will not (and will cause its/his/her current and future Affiliates not to) during the Restricted Period, solicit or cause or authorize, directly or indirectly, to be solicited for employment or engagement or employ or cause or authorize, directly or indirectly, to be employed or engaged as an employee, independent contractor, subcontractor or agent, for or on behalf of Seller or any other person or entity, any person who was a subcontractor of Seller or was an employee, independent contractor or agent of Buyer, Seller or the Business within the prior twelve (12) months. Seller agrees that it shall not, during the Restricted Period, solicit or cause or authorize, directly or indirectly, to be solicited for any Restricted Business, for or on behalf of Seller or any other person or entity, any person or customer (irrespective of whether such person or customer had any dealings with Seller or the Business as operated by Seller prior to the date hereof) or otherwise take any action that might divert the business or patronage of any such customer away from Buyer or otherwise damage or alienate the relationship between Buyer and any such customer. Seller agrees that it will not, directly or indirectly, use any name which is similar to any corporate name of, or any trade name, service mark, trademark, logo or insignia used by Buyer, Seller or the Business. Seller agrees that it shall not make or publish any statement or communication which is disparaging, negative or unflattering with respect to Buyer, the Business and/or their officers, directors, employees, agents or Affiliates.

(d) Seller and Shareholder acknowledges that it would be very difficult or impossible to measure the damages resulting from the breach of any provision of this Section 6.5, which the parties agree would be substantial. Seller and Shareholder further acknowledges that the restrictions in this Section 6.5 are reasonable and reasonably necessary for the protection of the legitimate business interests and goodwill of Buyer and that any violation by Seller or any shareholder of Seller of this Section 6.5 will cause irreparable damage to Buyer. Seller and Shareholder acknowledges that the Confidential Information has substantial competitive value to Buyer and that Buyer has a legitimate business interest in protecting the Confidential Information and enforcing each of the agreements set forth in this Section 6.5. Seller and Shareholder acknowledges that it/he has induced Buyer to acquire the Purchased Assets of Seller by stating that it/he will unconditionally abide by the terms and conditions of this Section 6.5. Seller and Shareholder hereby agrees that any breach or violation, or threat of breach or violation, of any provision of this Section 6.5 will entitle Buyer, in addition to any other legal remedies available to it, to a temporary and permanent injunction or any other appropriate decree of specific performance in order to enjoin such breach or violation. It is the desire and intent of the parties that the provisions of this Section 6.5 be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought.

(e) These restrictive covenants shall be construed as agreements independent of any other provision in this Agreement, and the existence of any claim or cause of action of Seller or Shareholder against the Buyer, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the enforcement by Buyer of any restrictive covenant. As of the Closing, Buyer has fully performed all obligations entitling it to the restrictive covenants, and the restrictive covenants therefore are not executory or otherwise subject to rejection under the Bankruptcy Code. It is specifically agreed that the Restricted Period shall be computed for Seller and Shareholder, as applicable, by excluding from that computation any time during which Seller or Shareholder, as applicable, is in violation of any provisions of this Section 6.5. These restrictive covenants may be assigned without the knowledge or consent of Seller or Shareholder, and they may be enforced by any assignee of, or successor to, the rights set forth in this Agreement.

(f) In the event that either the Company or ORS fails to make any payment required under the Note or Guaranty within 60 days of the due date for such payment, then the restrictions set forth in Section 6.5(a) shall immediately become void, of no further force or effect and shall thereafter no longer be enforceable against the Consultant (as defined in the Consulting Agreement) or Shareholder. For the avoidance of doubt, subsections (b) – (f) of Section 6.5 shall continue in full force and effect.

**6.6 [Intentionally Omitted].**

**6.7 Consents.** At the Closing, Seller shall use its commercially reasonable efforts to deliver to Buyer (i) all consents, waivers and approvals disclosed under Section 5.5 of the Disclosure Schedule or otherwise necessary to consummate the transactions contemplated hereby, including, but not limited to, the consent of all Persons having any Lien on any of the Purchased Assets (collectively, the "Required Consents") and (ii) evidence of satisfaction and release of all Liens encumbering any of the Purchased Assets, except for Permitted Liens. Buyer will cooperate with Seller in its efforts to obtain the Required Consents and agrees to provide and to cause its Affiliates to provide whatever information, documents and agreements may be reasonably requested by the parties providing such Required Consents.

**6.8 Employee Matters.** Except as otherwise expressly assumed by Buyer hereunder, Seller shall retain responsibility for, and liability in connection with, the payment of any and all employee benefits or entitlements including, but not limited to, all obligations under any Employee Benefit Plan. The parties acknowledge that the transactions provided for in this Agreement may result in obligations on the part of Seller and one or more of the Employee Benefit Plans to comply with COBRA. The parties expressly agree that Buyer and Buyer's benefit plans shall have no responsibility for compliance with such health care continuation requirements, (a) for qualified beneficiaries who previously elected to receive continued coverage under Seller's Employee Benefit Plans or who elect to receive continued coverage or (b) with respect to those employees or former employees of Seller who may become eligible to receive such continued coverage as a result of the transactions provided for in this Agreement. Buyer shall not be obligated to assume, continue or maintain any of the Employee Benefit Plans; no assets or liabilities of the Employee Benefit Plans shall be transferred to, or assumed by, Buyer or its benefit plans; and Seller shall be responsible solely for funding and/or paying any benefits under any and all of such Employee Benefit Plans. Nothing in this Agreement, express or implied, shall confer upon any employee or independent contractor of Seller any rights or remedies, including any right to employment or engagement (or the continuation thereof) for any period, of any nature whatsoever. Immediately prior to the Closing Date, Seller shall have paid all amounts which are due or may thereafter become due under any Employee Benefit Plan, and will make all other payments thereunder that may be required after the Closing Date (unless the parties hereafter expressly agree otherwise in writing). Notwithstanding anything to the contrary set forth in this Section 6.8, in the event that any former employee of Seller that is covered by COBRA as of the Closing sends a check to Seller for a COBRA payment in accordance with COBRA regulations, Seller shall cause such payment to be properly applied so that COBRA coverage is properly continued.

**6.9 Employees.** Prior to the Closing Date, Buyer shall have agreed to engage certain employees and/or consultants of Seller to perform services in connection with the Business on such terms and conditions as such employees and/or consultants and Buyer shall have agreed. Prior to Closing, Buyer shall provide Seller with a list of such employees and/or consultants. Effective as of the Closing Date, Seller shall terminate such employees and shall release and consent to the employment and/or engagement by Buyer of such employees and/or consultants on such terms and conditions as may be mutually agreeable between Buyer and each such employee and/or consultant. Notwithstanding the foregoing, Buyer shall have no obligation to continue the engagement or employment of any such individual after the Closing and, except as otherwise expressly agreed to by such individuals and Buyer, such engagement or employment shall be on an at-will basis. Except as otherwise expressly provided

herein, Seller shall retain responsibility for the payment of any employee benefits or entitlements, including severance pay (if any is legally due or required), accrued vacation, sick or holiday pay, to any employee and/or consultant pursuant to any Employee Benefit Plan, fund, program, contract, policy or arrangement of Seller or applicable law or regulation relating to such Person's employment or engagement by Seller. The parties acknowledge that the transactions provided for in this Agreement may result in obligations on the part of Seller and one or more of the Employee Benefit Plans to comply with the health care continuation requirements of Part 6 of Title 1 of ERISA and Code Section 4980B, as applicable. Seller shall cause each of the Employee Benefit Plans to comply with the requirements of such laws. It is expressly agreed that (i) Buyer shall not be obligated to assume, continue or maintain any of the Employee Benefit Plans; (ii) no assets or liabilities of the Employee Benefit Plans shall be transferred to, or assumed by, Buyer or Buyer's benefit plans; and (iii) Seller shall be responsible solely for funding and/or paying any benefits under any of the Employee Benefit Plans.

**6.10 [Intentionally Omitted].**

**6.11 Termination of Restrictive Covenant Agreements.** All non-compete, non-solicitation and restrictive covenant agreements and arrangements between Seller and any of its personnel who are hired by Buyer or its Affiliates, shall be terminated at the Closing.

**6.12 Use of Name.** From and after the Closing Date, without the prior written consent of Buyer, Seller shall not use (nor shall it permit its Affiliates to) use the name trade name used by Seller (or any similar name or any logo, trade dress, trade name, trademark, service mark or the like similar to or confusing therewith) for any business purpose. At Buyer's request, Seller shall amend its articles of incorporation to change its name accordingly.

**6.13 Transition.** Seller shall refrain from taking any action that is designed or intended or could reasonably be expected to have the effect of discouraging any lessor, licensor, customer, subcontractor, supplier, or other business associate of Seller from maintaining the same business relationships with Buyer after the Closing as it maintained with Seller prior to the Closing. During the first year following the Closing Date, Buyer shall use commercially reasonable efforts to operate the Business in substantially the same manner as the Business was operated in the year immediately preceding the Closing Date.

**6.14 Audit Rights; Cooperation on Certain Regulatory Matters.** For the period of time commencing on the date of execution of this Agreement and continuing through the first anniversary of the Closing, and without limitation of the other document production otherwise required by Seller hereunder, Seller shall, from time to time, at no out-of-pocket cost to Seller, upon reasonable advance written notice from Buyer, provide to Buyer and its representatives: (i) access to all financial and other information pertaining to the ownership and operation of Seller, which information is in Seller's possession and relevant and reasonably necessary, in the opinion of Buyer's accountants, to enable Buyer and its accountants to prepare financial statements in compliance with any and all of (a) any rule issued by the SEC and applicable to Buyer; and (b) any registration statement, report or disclosure statement filed with the SEC by, or on behalf of Buyer; and (ii) a representation letter, in form specified by, or otherwise satisfactory to Buyer's accountants, signed by the individual(s) responsible for Seller's financial reporting, as prescribed by generally accepted auditing standards promulgated by the Auditing Standards Division of the American Institute of Certified Public Accountants, which representation letter may be required by Buyer's accountants in order to render an opinion concerning the Business. For the period of time commencing on the date of execution of this Agreement and continuing through the first anniversary of the Closing, Seller will, upon the request of Buyer, take any actions reasonably necessary (including, the provision of any information and the execution of any documents) in order for Buyer to (i) file any documents with the SEC (including, but not limited to, any registration statement or report, or any

amendments thereto), (ii) respond to any requests for information from the SEC, (iii) comply with the Sarbanes-Oxley Act of 2002, or (iv) satisfy the listing requirements, of any securities exchange.

## **ARTICLE VII** **CONDITIONS TO CLOSING**

**7.1 Conditions of Buyer's Obligations to Close.** The obligation of Buyer to close is subject to the satisfaction of the following conditions at or prior to Closing:

(a) all of Seller's and Shareholder's representations and warranties set forth in this Agreement must have been true and correct as of the date of this Agreement and must be true and correct as of the Closing as though made on the Closing in all material respects;

(b) all of the covenants and obligations that Seller and Shareholder are required to perform or comply with under this Agreement on or before the Closing must have been duly performed and complied with in all respects;

(c) since the date of this Agreement, there must not have been any change or event that has had or would reasonably be expected to have a Material Adverse Effect on Seller, the Business or the Purchased Assets;

(d) no preliminary or permanent injunction or other order or decree, statute, rule or regulation shall have been entered by any Governmental Authority which prevents the consummation of this Agreement and the transactions contemplated hereby;

(e) all Required Consents will have been obtained and be in full force and effect, in a form acceptable to Buyer;

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

(i) [intentionally omitted];

(ii) the legal opinion of counsel to Seller in the form attached hereto as Exhibit I;

(iii) evidence reasonably satisfactory to Buyer to the effect that there are no Liens (other than Permitted Liens) on the Purchased Assets;

(iv) (A) a copy of Seller's articles of incorporation and bylaws, (B) a copy of resolutions duly and validly adopted by Seller's Board of Directors and the Shareholder authorizing the transactions contemplated by this Agreement, and (C) a certificate of good standing of Seller issued by the Florida Secretary of State, certified in the case of subsections (A) and (B) of this Section as of the Closing Date by the President of Seller as being true, correct and complete;

(v) an executed counterpart of a Bill of Sale, Assignment and Assumption in the form attached hereto as Exhibit B ("Bill of Sale");

(vi) an executed counterpart of the consulting agreement in the form attached hereto as Exhibit H (the "Consulting Agreement"); and

(vii) an executed counterpart of the Subordination Agreement in the form attached hereto as Exhibit D (the "Subordination Agreement").

(g) Seller shall (and shall have caused TOKR, LLC to) execute and deliver to Buyer the Lease Termination Agreement in the form attached hereto as Exhibit E;

(h) TOKR, LLC shall have executed and delivered to Buyer the Lease Agreement in the form attached hereto as Exhibit F (the "New Lease").

**7.2 Conditions of Seller's Obligations to Close.** The obligation of Seller to close is subject to the satisfaction of the following conditions at or prior to Closing:

(a) all of Buyer's representations and warranties set forth in this Agreement must have been true and correct as of the date of this Agreement and must be true and correct as of the Closing as though made on the Closing in all material respects;

(b) all of the covenants and obligations that Buyer is required to perform or comply with under this Agreement on or before the Closing must have been duly performed and complied with in all respects;

(c) Buyer's payments of all purchase price amounts payable under Section 2.2;

(d) no preliminary or permanent injunction or other order or decree, statute, rule or regulation shall have been entered by any Governmental Authority which prevents the consummation of this Agreement and the transactions contemplated hereby;

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

(i) [intentionally omitted];

(ii) (A) copies of Buyer's articles of organization, (B) copies of resolutions duly and validly adopted by the Buyer's Manager authorizing the transactions contemplated by this Agreement, (C) an incumbency certificate, and (D) a certificate of good standing of Buyer issued by the Florida Secretary of State, certified in the case of subsections (A) and (B) of this Section as of the Closing Date by the Manager of Buyer as being true, correct and complete;

(iii) an executed counterpart of the Bill of Sale;

(iv) an executed counterpart of the Consulting Agreement;

(v) an executed Note;

(vi) a guarantee in the form attached hereto as Exhibit G (the "Guarantee") executed by Official Reporting Services, LLC;

(vii) an executed counterpart of the New Lease;

(viii) the legal opinion of counsel to Buyer in the form attached hereto as Exhibit J

**ARTICLE VIII**  
**INDEMNIFICATION**

**8.1 Indemnification by Seller and Shareholder.** Seller and Shareholder, jointly and severally, agrees to indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates and agents (collectively, the "Buyer Indemnified Parties") from, against and in respect of, any and all actual documented liabilities, damages, claims, deficiencies, fines, assessments, losses, taxes, penalties, interest, costs and expenses, including, without limitation, reasonable fees and disbursements of counsel (collectively, "Losses"), arising from, relating to, caused from (whether in whole or in part), in connection with, or incident to:

(a) any breach, inaccuracy or violation of any of the representations, warranties, covenants or agreements of Seller, Shareholder or an Affiliate thereof contained in this Agreement, in any schedule or exhibit to this Agreement or in any document or certificate delivered by Seller, Shareholder or any Affiliate thereof in connection with the Closing at or prior to the Closing;

(b) any and all obligations or liabilities of Seller, whether known or unknown, asserted or unasserted, absolute, contingent or otherwise, not expressly included in the Assumed Liabilities (including, but not limited to, all losses and liabilities arising by reason of Seller's failure to satisfy and discharge, as same become due, all such unassumed obligations or liabilities) and any Excluded Liabilities which Buyer discharges;

(c) any claims, causes of actions, arbitration, and/or litigation (i) currently pending or arising out of conduct occurring or action taken on or prior to the Closing Date; (ii) relating to the Excluded Assets or Excluded Liabilities; and/or (iii) with respect to any actions or proceedings brought by any shareholder of Seller or any dissenters' rights or appraisal claims brought by any such shareholder; and

(d) any and all actions, suits, proceedings, demands, assessments or judgments, costs and expenses incidental to any of the foregoing.

**8.2 Indemnification by Buyer.** Buyer agrees to indemnify and hold harmless Seller, the Shareholder and each of their respective directors, officers, employees, Affiliates and agents (collectively, the "Seller Indemnified Parties") from, against and in respect of, the full amount of any and all Losses arising from, in connection with, or incident to:

(a) any breach, inaccuracy or violation of any of the representations, warranties, covenants or agreements of Buyer contained in this Agreement, in any schedule or exhibit to this Agreement or in any document or certificate delivered by Buyer in connection with the Closing at or prior to the Closing; and

(b) any and all obligations or liabilities of Buyer, whether known or unknown, asserted or unasserted, absolute, contingent or otherwise, included in the Assumed Liabilities.

**8.3 Survival; Purchase Price Adjustments.** The representations and warranties of Buyer, Seller and Shareholder contained herein shall survive the Closing of this Agreement until the Third (3rd) anniversary of the Closing Date. Notwithstanding the foregoing, the following representations and warranties shall survive the Closing as follows: (a) the representations and warranties contained in Sections 4.1, 4.2, 4.3, 5.1, 5.2 and 5.3, shall survive the Closing without limitation as to time, and (b) the representations and warranties contained in Sections 5.16, 5.17 and 5.25, shall survive the Closing until thirty days after the expiration of the statutes of limitations, if any, applicable to the matters addressed

therein; provided, however, that, with respect to the foregoing clause (b), the statute of limitations applicable to any claim made by an Indemnified Party against an Indemnitor pursuant to this Article VIII shall not expire prior to any statute of limitations applicable to any claim made by a third party against any Indemnified Party (i.e., a claim by the IRS against a Buyer Indemnified Party). Notice of any claim for indemnification under Sections 8.1(a) or 8.2(a) with respect to any representation and warranty must be given to the party against whom indemnification is sought prior to the termination of the relevant survival period. All payments under Sections 8.1 or 8.2 shall be treated as adjustments to the Purchase Price.

**8.4 Indemnification Procedure.** A party or parties responsible for indemnifying another party against any matter pursuant to this Agreement is referred to herein as the "Indemnifying Party," and a party or parties entitled to indemnity is referred to as the "Indemnified Party." An Indemnified Party under this Agreement shall, with respect to claims asserted against such party by any third party, give written notice to each Indemnifying Party of any liability which might give rise to a claim for indemnity under this Agreement within 10 business days of the receipt of any written claim from any such third party, and with respect to other matters for which the Indemnified Party may seek indemnification, give prompt written notice to each Indemnifying Party of any liability which might give rise to a claim for indemnity; *provided, however*, that any failure to give such notice will not waive any rights of the Indemnified Party except to the extent the rights of the Indemnifying Party are materially prejudiced. As to any claim, action, suit or proceeding by a third party, (a) the Indemnifying Party shall be entitled, together with the Indemnified Party, to participate in the defense, compromise or settlement of any such matter through the Indemnifying Party's own attorneys and at its own expense and (b) at the Indemnifying Party's expense, the parties shall provide such cooperation and such access to their books, records and properties as any party shall reasonably request with respect to such matter; and the parties hereto agree to cooperate with each other in order to ensure the proper and adequate defense thereof (it being understood that the Indemnified Party shall control any such defense, including any settlement thereof, through its own counsel, all at the Indemnifying Party's expense. An Indemnifying Party shall not make any settlement of any claims without the written consent of the Indemnified Party. Without limiting the generality of the foregoing, it shall not be deemed unreasonable to withhold consent to a settlement involving injunctive or other equitable relief against the Indemnified Party or its assets, employees or business. With regard to third-party claims for which indemnification is payable hereunder, such indemnification shall be paid by the Indemnifying Party upon the earliest to occur of: (i) the entry of a judgment against the Indemnified Party and the expiration of any applicable appeal period, or if earlier, 10 days prior to the date that the judgment creditor has the right to execute the judgment; (ii) the entry of an unappealable judgment or final appellate decision against the Indemnified Party; (iii) a settlement of the claim; or (iv) with respect to indemnities for Tax liabilities, upon the issuance of any binding resolution by a taxation authority. Notwithstanding the foregoing, expenses of counsel to the Indemnified Party shall be reimbursed on a current basis by the Indemnifying Party. With regard to other claims for which indemnification is payable hereunder, such indemnification shall be paid promptly by the Indemnifying Party upon demand by the Indemnified Party. All indemnification claims not paid when due shall bear interest at a rate equal to 18% per annum.

**8.5 Set-off Rights; Recovery Against.**

(a) In the event that Seller or Shareholder fails to pay any amounts due to any Buyer Indemnified Party under (i) any settlement agreement between the parties or (ii) any judgment or order from a court of competent jurisdiction (which judgment or order is final and either non-appealable or the deadline to make appeal therefrom shall have passed) regarding any claims, actions or suits arising hereunder by a Buyer Indemnified Party against Seller and/or Shareholder, then Buyer shall be entitled to setoff such amounts against any amounts owed by Buyer under the Note. The exercise of any right of



setoff by Buyer pursuant to this Section 8.5(a) or Section 8.5(b) below will not constitute an event of default or "Default" under the Note or any instrument securing the Note.

(b) As used herein, the term "Pending Claim" shall mean any claim for Losses made by any Buyer Indemnified Party under Section 8.1 or any action or suit filed by a Buyer Indemnified Party against Seller or Shareholder under this Agreement, which claim, action or suit shall not have been fully resolved either by (i) settlement agreement between the parties or (ii) any judgment or order from a court of competent jurisdiction (which judgment or order is final and either non-appealable or the deadline to make appeal therefrom shall have passed). In the event a Pending Claim is outstanding at the time any payment under the Note is due, Buyer shall be entitled to place in escrow with a disinterested escrow agent such payment, when and as such payment becomes due and payable. Such escrowed funds shall be held in escrow and disbursed to Buyer or Seller in accordance with the mutual agreement of the parties or pursuant to a judgment or order from a court of competent jurisdiction (which judgment or order is final and either non-appealable or the deadline to make appeal therefrom shall have passed). Fees of the escrow agent shall be paid from the escrowed funds.

(c) In the event Buyer elects to set-off against the amounts payable under the Note and such amounts are insufficient to satisfy all claims, then Buyer may take any action or exercise any remedy available to it by appropriate legal proceedings to collect same. Neither the exercise of nor the failure to exercise such right of setoff or right to escrow will constitute an election of remedies or limit Buyer in any manner in the enforcement of any other remedies that may be available to it.

**8.6 Indemnification Exclusive Remedy.** After the Closing, any claim for breach of this Agreement (other than equitable claims and claims of fraud or willful misconduct) shall be governed exclusively by the provisions of this Article VIII.

**8.7 Right to Indemnification Not Affected by Knowledge or Waiver.** The right to indemnification, payment of Losses or other remedy based upon breach of representations, warranties, covenants, agreements or obligations will not be affected by any investigation conducted with respect to, or knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty, covenant, agreement or obligation. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant, agreement or obligation, will not affect the right to indemnification, payment of Losses or other remedy based on such representations, warranties, covenants, agreements and obligations.

**8.8 Limitation of Liability.** Except for fraud, intentional misrepresentation or omission and intentional misconduct, no Indemnifying Party shall be required to indemnify an Indemnified Party under this Article VIII with respect to claims arising from a breach of a representation or warranty until the aggregate amount of all such claims for indemnification under this Article VIII exceeds Ten Thousand Dollars and No/100s (\$10,000.00) (the "Basket") (determined without giving effect to any "material" or Material Adverse Effect qualifiers, whether or not capitalized, in any such representations or warranties), in which event the Indemnifying Party's obligations in respect of such claims shall only include the amount of Losses in excess of the amount of the Basket; *provided, however*, that the Basket shall not apply to any Losses arising out of the breach of representation or warranty under Sections 4.1 – 4.4, 5.1 – 5.3, 5.6, or 5.10.

**ARTICLE IX**  
**[INTENTIONALLY OMITTED]**

**ARTICLE X**  
**GENERAL PROVISIONS**

**10.1 Entire Agreement; No Third Party Beneficiaries; Amendment; Waiver.** This Agreement (including the exhibits and schedules attached hereto) and other documents executed and delivered at the Closing pursuant hereto, contain the entire understanding of the parties in respect of the subject matter hereof and supersede all prior agreements, representations, warranties, covenants and understandings (oral or written) between or among the parties with respect to such subject matter. The parties agree that prior drafts of this Agreement shall not be deemed to provide any evidence as to the meaning of any provision hereof or the intent of the parties with respect thereto. The exhibits and schedules constitute a part hereof as though set forth in full above. Official Reporting Services, LLC and its Affiliates shall be third-party beneficiaries hereof and shall be entitled to enforce this Agreement. This Agreement is not intended to confer upon any Person, other than the parties hereto any rights or remedies hereunder. This Agreement may not be modified, amended, supplemented, canceled or discharged and no waiver hereunder may be granted, except by written instrument executed by all of the parties hereto. No failure to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude the exercise of any other right, power or privilege. No waiver of any breach of any provision shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, nor shall any waiver be implied from any course of dealing between the parties. No extension of time for performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts. The rights and remedies of the parties under this Agreement are in addition to all other rights and remedies, at Law or in equity, that they may have against each other.

**10.2 Notices.** All notices, requests, demands, claims, and other communications hereunder shall be in writing, shall be delivered in person or by a nationally recognized overnight delivery and shall be deemed given when delivered in person or, if not delivered in person, the business day after delivered to a nationally recognized overnight courier (postage pre-paid) for next business day delivery, at the following addresses (or at such other addresses as a party shall designate by written notice to the other party pursuant to this Section):

<b>if to Buyer:</b>	<b>with a copy to:</b>
Kresse & Associates, LLC c/o Official Reporting Services, LLC 524 South Andrews Avenue, Suite 302N Fort Lauderdale, Florida 33301 Attention: Arthur Kushner Facsimile: (954) 467-8214	Sunbelt Diversified Enterprises, LLC 2525 Ponce de Leon Boulevard Suite 1080 Coral Gables, Florida 33134 Attn: Chief Executive Officer Facsimile: (786) 552-5655  <u>and</u>  Akerman Senterfitt One SE Third Avenue Miami, Florida 33131 Attn: Jahan S. Islami, Esq. Facsimile: 305-349-4799

<p><b>if to Seller or Shareholder:</b></p> <p>Thomas J. Kresse  1415 20<sup>th</sup> Street, Apt. 401  Miami Beach, Florida 33139  Facsimile: (305) 371-3525</p>	<p><b>with a copy to:</b></p> <p>Kyle R. Saxon, Esq.  Catlin Saxon Fink &amp; Kolski, LLP  2600 Douglas Road, Suite 1109  Coral Gables, Florida 33134  Facsimile: (305) 371-8011</p>
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**10.3 Expenses; Legal Fees.** In connection with this Agreement or any transaction contemplated hereby, each party shall pay its respective expenses, including, but not limited to, legal, accounting, brokers' and investment banking fees and expenses. No fees or costs referenced in this Section incurred by Seller or Shareholder shall be Assumed Liabilities. In the event of any dispute relating to this Agreement, the non-prevailing party shall pay the expenses and costs of the prevailing party, including but not limited to reasonable legal fees and costs.

**10.4 Binding Effect; Assignment.** The rights and obligations of this Agreement shall bind and inure to the benefit of the parties and their respective successors, assigns, heirs, devisees, legatees and beneficiaries, as applicable, and shall be enforceable by any such successors, assigns or other Persons. The rights and obligations of this Agreement may be assigned by Buyer to any of its Affiliates, to any purchaser of or successor to all or substantially all of Buyer's assets or equity securities, by operation of law or to any lender to Buyer or its Affiliates, and such assignee shall have the right to enforce the terms of this Agreement including, without limitation, any non-competition or other restrictive covenants set forth herein. The rights and obligations of this Agreement may not be assigned by Seller without the prior written consent of Buyer.

**10.5 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument. A telecopy signature of any party shall be considered to have the same binding legal effect as an original signature.

**10.6 Severability.** If any word, phrase, sentence, clause, section, subsection or provision of this Agreement as applied to a party or to any circumstance is adjudged by a court to be invalid or unenforceable, the same will in no way affect any other circumstance or the validity or enforceability of any other word, phrase, sentence, clause, section, subsection or provision of this Agreement. If any provision of this Agreement, or any part thereof, is held to be unenforceable because of the duration of such provision or the area covered thereby, the parties agree that the court making such determination shall have the power to reduce the duration and/or area of such provision, and/or to delete specific words or phrases, and in its reduced form, such provision shall then be enforceable and shall be enforced.

**10.7 Interpretation; Time is of the Essence.** When a reference is made in this Agreement to an article, section, paragraph, clause, schedule or exhibit, such reference shall be deemed to be to this Agreement unless otherwise indicated. The text of all schedules, including Section 10.7 of the Disclosure Schedule, is incorporated herein by reference. The headings contained herein and on the schedules are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the schedules. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." As used herein, words in the singular will be held to include the plural and *vice versa* (unless the context otherwise requires), words of one gender shall be held to include the other gender (or the neuter) as the context requires, and the terms "hereof", "herein", and "herewith" and words of similar import will, unless otherwise stated, be construed

to refer to this Agreement as a whole and not to any particular provision of this Agreement. Notwithstanding anything to the contrary set forth in this Agreement, it is the express agreement of the parties that no representation, warranty, covenant or agreement set forth in this Agreement shall in any way be diminished or affected in any way by any investigation (or failure to investigate) of any party; and this Agreement is intended to be enforced as written notwithstanding any knowledge or information learned by any party during the course of such investigation, including, but not limited to, any knowledge or information that any representation, warranty, covenant or agreement of any other party may be false or may have been breached. Time shall be of the essence in this Agreement.

**10.8 Arm's Length Negotiations.** Each party herein expressly represents and warrants to all other parties hereto that (a) before executing this Agreement, said party has fully informed itself of the terms, contents, conditions and effects of this Agreement; (b) said party has relied solely and completely upon its own judgment in executing this Agreement; (c) said party has had the opportunity to seek and has obtained the advice of its own legal, tax and business advisors before executing this Agreement; (d) said party has acted voluntarily and of its own free will in executing this Agreement; (e) said party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's length negotiations conducted by and among the parties and their respective counsel.

**10.9 Construction.** The parties agree and acknowledge that they have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

**10.10 Disclosure Schedule.** The Disclosure Schedule will be arranged to correspond to the numbered paragraphs contained herein. Nothing contained in the Disclosure Schedule is intended to broaden the scope of any representation or warranty contained in this Agreement or to create any covenant on the part of Seller or the Shareholder. Inclusion of any item in the Disclosure Schedule shall not constitute, or be deemed to be, an admission that such matter is required to be disclosed or requested for disclosure, in order for any representation or warranty in this Agreement to be true and correct. Items disclosed in the Disclosure Schedule for any one section shall be deemed to be disclosed for all other sections in the Disclosure Schedule to the extent that it is reasonably apparent that such disclosure is applicable to such other sections.

**10.11 Governing Law and Venue; Waiver of Jury Trial.**

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF FLORIDA, WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of Florida and the federal courts of the United States of America located in the State of Florida solely in respect of the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a Florida state or federal court. The parties

hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided herein or in such other manner as may be permitted by applicable Law, shall be valid and sufficient service thereof.

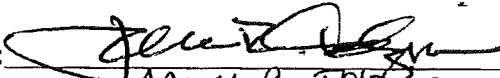
(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY 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) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

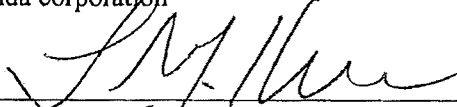
**BUYER:**

**KRESSE & ASSOCIATES, LLC,**  
a Florida limited liability company

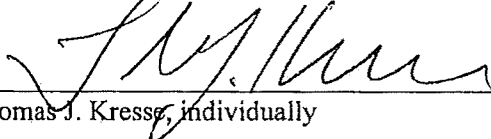
By:   
Name: James R. Tolzman  
Title: Authorized signer

**SELLER:**

**KRESSE & ASSOCIATES, INC.,**  
a Florida corporation

By:   
Name: Thomas J. Kresse  
Title: President

**SHAREHOLDER:**

  
Thomas J. Kresse, individually

**LIST OF EXHIBITS AND SECTIONS OF DISCLOSURE SCHEDULE**

Exhibit A	Note
Exhibit B	Bill of Sale
Exhibit C	Allocation of Purchase Price
Exhibit D	Subordination Agreement
Exhibit E	Lease Termination Agreement
Exhibit F	New Lease
Exhibit G	Guarantee
Exhibit H	Consulting Agreement
Exhibit I	Legal Opinion of Counsel to Seller
Exhibit J	Legal Opinion of Counsel to Buyer
Section 10.7	Definitions

## SECTION 10.7 OF DISCLOSURE SCHEDULE

### DEFINITIONS

"Affiliate," with respect to (i) a Person, means any Person which, directly or indirectly, through one or more intermediaries, controls the subject Person or any Person which is controlled by or is under common control with a Controlling Person or (ii) Seller, means any shareholder or any Family Member of Shareholder. For purposes of this definition, "control" (including the correlative terms "controlling", "controlled by" and "under common control with"), with respect to any Person, means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Code" means the Internal Revenue Code of 1986, as amended, and treasury regulations promulgated thereunder.

"Contract" means any agreement, contract, lease, note, mortgage, indenture, loan agreement, franchise agreement, covenant, employment agreement, license, instrument, purchase and sales order, commitment, undertaking, obligation, whether written or oral, express or implied, related to the Business to which Seller is a party.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"Excluded Liabilities" shall mean any and all obligations and/or liabilities of Seller other than the Assumed Liabilities and, notwithstanding anything to the contrary in Section 1.4 hereof, none of the following shall be Assumed Liabilities for purposes of this Agreement: (a) any liability or obligation of Seller or any other person or entity, of any nature whatsoever, absolute or contingent, known or unknown, or otherwise, not expressly agreed to be assumed pursuant to the provisions of Section 1.4 hereof; (b) any liability or obligation relating to Taxes of or with the respect to Seller or any other Person or relating to or in respect of the Purchased Assets, including any interest or penalties related thereto, (c) any liability or obligation of Seller with respect to or arising out of any Employee Benefit Plan; (d) any and all expenses, costs, damages, liabilities, or obligations (including, without limitation, fees and expenses of counsel) incurred by, under or pursuant to any environmental laws or related to the discharge, handling, presence or clean-up of Hazardous Substances; (e) any liability arising under any litigation or claim (including any governmental proceeding) against Seller as a result of events occurring or facts or circumstances arising or existing in whole prior to the Closing Date; (f) any costs and expenses incurred incident to the negotiation and execution of this Agreement and the consummation of the transactions contemplated hereby; (g) any liabilities in respect of or relating to any Excluded Asset; (h) all liabilities and obligations arising from or in connection with errors and omissions or malpractice by Seller on or prior to the Closing Date; (i) any and all liabilities and obligations relating to any breach or default by Seller of any contract, agreement, arrangement or commitment or law; (j) any severance benefits or payments; (k) any amounts payable as a result of or in connection with the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby; (l) any and all liabilities and obligations relating to indebtedness for borrowed money or capitalized lease obligations; and (m) any accounts payable, trade payables, payroll payables, other payables, sales and payroll Tax payables, accrued commissions and vacation pay.

"Family Member" means any spouse, lineal descendant or antecedent, brother or sister or adopted child of a Person.



"GAAP" means generally accepted accounting principles in effect in the United States of America from time to time.

"Governmental Authority" means any nation or government, any state, regional, local or other political subdivision thereof, and any entity or official exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Hazardous Substances" shall be construed broadly to include any toxic or hazardous substance, material, or waste, and any other contaminant, pollutant or constituent thereof, including without limitation, chemicals, compounds, by-products, petroleum or petroleum products, and polychlorinated biphenyls, the presence of which requires investigation or remediation under any environmental laws or which are or become regulated, listed or controlled by, under or pursuant to any environmental laws.

"Indebtedness" means, without duplication, (i) any indebtedness for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money, (ii) any indebtedness evidenced by any note, bond, mortgage, debenture or other debt security, (iii) any indebtedness for the deferred purchase price of property or services with respect to which a Person is liable, contingently or otherwise, as obligor or otherwise (other than trade payables), (iv) any commitment by which a Person assures a creditor against loss (including contingent reimbursement obligations with respect to letters of credit), (v) any indebtedness guaranteed in any manner by a Person (including guarantees in the form of an agreement to repurchase or reimburse), (vi) any indebtedness secured by a Lien on a Person's assets, (vii) any obligations of a Person under capitalized leases according to GAAP, (viii) any payment to be made pursuant to sale-leaseback transactions, and (ix) any amounts outstanding under any letters of credit, bankers acceptance or similar instrument, in each case, including interest, fees and prepayment premiums or penalties thereon.

"Intangible Property" means any and all patents, applications for patents and patent rights, or copyrights and applications for copyrights (foreign or domestic) acquired, owned, held or used by Seller, in each case, whether registered, unregistered or under pending registration; any and all trademarks and service marks and any applications therefor, trade names, corporate names, business names, fictitious names, assumed names, trade styles, elements of package or trade dress, designs, logos, Internet domain names, customer lists and customer information, customer and vendor databases, software developed or owned by Seller, software licenses used by Seller and other business indicia or general intangibles of like nature owned, held or used by Seller which have been adopted, acquired, owned, held or used by Seller, its products and/or services, regardless of whether the rights of Seller to the foregoing arise under federal law, state law, common law, foreign law or otherwise, together with the goodwill connected with and symbolized by the foregoing; any and all data gathered in connection with the provision of services and the mechanism by which Seller acquired such data, and the right to disseminate such data any and all agreements or rights relating to the technology, product formulations, know-how or processes utilized by Seller and any licenses relating to any of the foregoing; any and all Internet domain names owned or held by Seller; and any and all information, text, designs and/or artwork featured on Seller web sites or web pages dedicated to the Business or Seller.

"Knowledge" means the actual knowledge (after reasonable inquiry) of a Person. In the case of Seller, "Knowledge" shall be limited to the "Knowledge" of Thomas J. Kresse.

"Law" shall mean any foreign, federal, state or local law, statute, regulation, code, ordinance, rule, order, decree, consent order or consent decree, judicial or administrative decision, or judgment or governmental requirement enacted, adopted, issued, promulgated or imposed by any Governmental Authority.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien, restriction on transfer, right of first refusal, pre-emptive right, claim, adverse claim or charge of any kind (including, but not limited to, any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of or agreement to give any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction in connection with such mortgage, pledge, security interest, encumbrance, lien or charge).

"Material Adverse Effect" means, (a) when used in connection with Seller, any change or effect (or any development that could reasonably be expected to result in any change or effect) that, individually or in the aggregate with any such other changes or effects, is materially adverse to the business, assets, financial condition, results of operations or prospects of Seller, or (b) when used in connection with Buyer, any change or effect (or any development that could reasonably be expected to result in any change or effect) that, individually or in the aggregate with any such other changes or effects, will materially adversely affect the ability of Buyer to perform its obligations under this Agreement or consummate the transactions contemplated hereby.

"Party" or "Parties" shall mean any Person or the Persons executing this Agreement, as applicable.

"Permit" means any license, permit, certificate, declaration, validation, exemption, consent, franchise, accreditation, registration, or other authorization, issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any law.

"Permitted Liens" means Liens (i) for Taxes and assessments on any personal property not yet due and payable, (ii) for any Assumed Liabilities, or (iii) liens for Indebtedness of Seller related to the Business paid off by Seller on or prior to Closing.

"Person" means an individual, partnership, corporation, business trust, joint stock company, estate, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Purchased Assets" shall mean all right, title and interest in and to the Seller's leasehold interest in the Leases and the Leased Premises and all of Seller's assets, properties and business of every kind and description of any nature whatsoever, whether real, personal or mixed, tangible or intangible, contingent or otherwise, wherever located, as shall exist on the Closing Date, except the Excluded Assets. Without limiting the generality of the foregoing, the Purchased Assets shall include, but not be limited to, the following: (a) all machinery, equipment, tools, inventory, supplies, leasehold improvements, furniture and fixtures, trucks, automobiles, vehicles, containers, personal property, computer equipment, computer software and any other fixed assets owned by Seller, as more particularly described in Section 5.13 of the Disclosure Schedule; (b) all of the rights and benefits accruing to Seller under any and all Contracts (except to the extent the same are Excluded Assets); (c) all receivables and accounts receivable of Seller, including without limitation all trade accounts receivables, notes receivable, receivables arising as a result of contracts in transit and receivables from manufacturers, customers, networks, insurance companies, service contract providers and any other vendors or suppliers of Seller and all claims of Seller for money due and owing; (d) all prepaid items and deposits of Seller, including without limitation, prepaid rentals, insurance, taxes, unbilled charges and other prepaid expenses (except to the extent the same are Excluded Assets); (e) subject to the terms of Section 1.3, all of the proprietary rights of Seller, including without limitation, the rights to use the names presently and previously used by Seller and all Intangible Property; (f) subject to the terms of Section 1.3, all Permits that, by their terms, are assignable; (g) all assets reflected in Seller's Financial Information, except those disposed of in the ordinary course of business consistent with past practice; (h) all operating data and records of Seller, including without limitation,

customer lists and records, financial, accounting and credit records, correspondence, budgets and other similar documents and records, and all of Seller's telephone and post office boxes, and all books and records (including all data and other information stored on discs, tapes or other media) of Seller relating to its assets, properties, business and operations, except original corporate minute books and stock records; (i) all mailing lists, customer lists, vendor lists, rebates and rights to rebates, customer data, vendor data, subscriber lists, computer software, computer licenses, manuals and business procedures; (j) Seller's interest in and to all, domain names and addresses, Internet addresses, telephone, telex and telephone facsimile numbers and telephone, Internet and other directory listings utilized in connection with its business; (k) all of Seller's rights, claims, rights of offset or causes of action against third parties, including, without limitation, those arising under representations and/or warranties from vendors and others in connection with the Purchased Assets and those relating to any of the Assumed Liabilities; and (l) cash in an amount equal to \$15,000.

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

"Senior Creditor" means any holder of Senior Debt.

"Senior Debt" means all secured indebtedness of any kind (including all principal, premiums (if any), interest (including, without limitation, interest accruing or that would have accrued but for the filing of a bankruptcy, reorganization or other insolvency proceeding whether or not such interest constitutes an allowable claim in such proceeding), and any and all other fees, and expense reimbursement obligations now existing or hereafter contracted, together with all renewals, extensions, refundings, deferrals, restructurings, amendments and modifications thereof owing by Buyer to any Person, including commercial banks, investment banks, insurance companies, financial institutions, finance companies, mutual funds, mezzanine funds and other recognized lending institutions or entities but excluding any Affiliate of Buyer or any Affiliate of Sunbelt Diversified Enterprises, LLC.

"Solvent" means, that, with respect to any Person, as of a particular date (a) the fair value of the property of such Person is greater than the total amount of the liabilities, including, without limitation, contingent liabilities, of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the liabilities of such Person on its debts as they become due; (c) such Person is able to realize upon its assets and pay its debts, liabilities, contingent obligations and other commitments as they mature in the ordinary course of business; (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as such debts and liabilities mature; and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged.

"Taxes" means all taxes, fees, charges, or other assessments, including, but not limited to, income, excise, property, sales, use, payroll, franchise, intangible, withholding, social security and unemployment taxes imposed by any federal, state, local or foreign governmental agency, and any interest or penalties related thereto.

"Tax Return" means any tax return, disclosure, filing, information statement or other form required to be filed with any Government Authority in connection with or with respect to any Taxes.

Other Definitions. The following terms shall have the meanings indicated in the corresponding sections of this Agreement listed below:

<u>Term</u>	<u>Section</u>
Accrued Commissions.....	1.4(b)
Adjustment Formula.....	2.5
Agreement .....	Preamble
Allocation Schedule .....	2.4
Assumed Liabilities.....	1.4
Basket.....	8.8
Bill of Sale.....	7.1(f)(v)
Business.....	Recitals
Business Employees.....	5.15
Buyer .....	Preamble
Buyer Indemnified Parties.....	8.1
Closing .....	3.1
Closing Date.....	3.1
Confidential Information.....	6.5(b)
Current Financial Information Date .....	5.7(a)
Current Financial Information Report.....	5.7(a)
Default.....	2.3(c)
Disclosure Schedule .....	Preamble
Financial Information .....	5.7(a)
Guarantee .....	7.2(e)(vi)
Indemnified Party.....	8.4
Indemnifying Party.....	8.4
Insurance Policies.....	5.18
Lease.....	5.12
Leased Premises .....	5.12
Losses.....	8.1
Material Representations.....	8.3
New Lease .....	7.1(h)
Note .....	2.2(a)
Pending Claim .....	8.5(b)
Plans .....	5.16
Post-Closing Revenues.....	2.5
Pre-Closing Revenues .....	2.5
Purchase Price .....	2.1
Required Consents.....	6.7
Restricted Business.....	6.5(a)
Restricted Period .....	6.5(a)
Restricted Territory .....	6.5(a)
Rights .....	1.3(b)
Seller.....	Preamble
Seller Indemnified Parties .....	8.2
Shareholder.....	Preamble
Significant Customers .....	5.19
Specified Commissions.....	2.5
Subordination Agreement.....	7.1(f)(vii)

# **EXHIBIT “B”**

**PROMISSORY NOTE**

**\$515,000.00 U.S.**

Miami, Florida

September 25, 2008

**FOR VALUE RECEIVED**, the undersigned (hereinafter referred to as the "Borrower") promises to pay to the order of **KRESSE & ASSOCIATES, INC.**, a Florida corporation (hereinafter referred to as "K&A, Inc."), at 1415 20<sup>th</sup> Street, Apt. 401, Miami Beach, Florida 33139, or at such other location or address as K&A, Inc., may direct from time to time, the principal sum of **FIVE HUNDRED FIFTEEN THOUSAND AND NO/100THS DOLLARS (\$515,000.00)**, together with interest upon the principal balance outstanding from time to time, said principal and interest being payable as follows:

Principal and accrued interest shall be due and payable in forty-seven (47) equal monthly installments in the sum of Twelve Thousand Ninety-Four and 79/100ths Dollars (\$12,094.79) each, commencing on October 25, 2008, and a like sum shall be due and payable on the 25th day of each succeeding month thereafter, until and including August 25, 2012, and the entire principal sum then outstanding, together with all accrued interest then unpaid, shall be due and payable in full at maturity on September 25, 2012. All payments received by K&A, Inc., shall be applied first to pay accrued interest and late charges, if any, and then to reduce principal.

Accrued interest shall be calculated on the principal sum outstanding from time to time, computed on a 365-day year basis, and charged for the actual number of days elapsed during each interest period, at a rate equal to six percent (6.0%) per annum.

At the option of K&A, Inc., all sums advanced hereunder together with accrued interest thereon shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following events of default: (a) the Borrower's failure to promptly pay in full any payment of principal or interest due under this promissory note within five (5) days of the date when such payment of principal or interest becomes due; or (b) the dissolution, termination of existence, insolvency of, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency laws, by or against any Borrower or any endorser or guarantor hereof. Upon the occurrence of any event of default as defined herein, all sums outstanding under this promissory note shall thereupon immediately bear interest at eighteen percent (18%) per annum until paid in full, without notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration on the part of K&A, Inc.

No delay or omission on the part of K&A, Inc., in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this promissory note. A waiver by K&A, Inc., of any right or remedy conferred to him hereunder on any one occasion shall not be construed as a bar to, or waiver of, any such right and/or remedy as to any future occasion.

The Borrower agrees to pay the costs, charges and expenses incurred by K&A, Inc. in the enforcement of its rights hereunder, including, but not limited to, reasonable attorney's fees incurred or paid by K&A, Inc., whether or not suit is brought. As utilized herein, the term

“attorney’s fees” shall include, without limitation, all trial, appellate and bankruptcy attorney’s fees incurred or paid by K&A, Inc. in the enforcement of its rights hereunder.

The Borrower and all persons now or hereafter becoming obligated or liable for the payment hereof do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Borrower does not intend or expect to pay, nor does K&A, Inc., intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest that may be charged under any applicable law. Should the acceleration of the principal balance and accrued interest outstanding under this promissory note, or the imposition of any prepayment fees, default interest or any other charges due under this promissory note result in the computation or earning of interest in excess of the highest rate of interest permitted under applicable law, the amount of such excess interest or charges is hereby waived by K&A, Inc. and shall be credited by K&A, Inc. to the balance hereof.

Each Borrower, endorser, guarantor and any other person, firm or corporation now or hereafter becoming liable for the payment of the loan evidenced by this promissory note hereby consents to any renewals, extensions, modifications, or any indulgence shown to or any dealings between K&A, Inc. and any party now or hereafter obligated hereunder, without notice, and jointly and severally agree that they shall remain liable hereunder notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced hereby is fully paid.

The Borrower agrees to pay a late charge equal to 5% of each payment of principal and/or interest which is not paid within 5 days of the date on which it is due.

Principal may be prepaid in whole or in part at any time prior to the maturity of this promissory note. There is no prepayment fee or penalty. Each prepayment of principal shall be applied against the payments last due under this promissory note. No partial prepayment of principal shall act to suspend, postpone or waive any regularly scheduled payment of principal and/or interest due under this promissory note.

In the event the Borrower fails to pay the entire principal balance and accrued interest outstanding under this promissory note at the maturity hereof, the entire principal balance outstanding under this promissory note shall bear interest at eighteen percent (18%) per annum until paid in full, without any notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration by K&A, Inc.

This promissory note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. In the event of any litigation in any way arising out of the loan evidenced hereby, the Borrower and all other persons and entities now or hereafter becoming obligated for the payment of the indebtedness evidenced hereby consent to personal jurisdiction and venue in Miami-Dade County, Florida.

As utilized herein, the term “Borrower” shall refer to each person or entity executing this promissory note. As utilized herein, the term “K&A, Inc.” shall refer to the original payee identified above, and to any subsequent assignee or holder of this promissory note.

This promissory note may be assigned by K&A, Inc. without the prior consent of the Borrower.

Notwithstanding the provisions of this promissory note to the contrary, the Borrower shall have the right under Section 2.5 of that certain Asset Purchase Agreement, dated as of even date herewith, by and among the Borrower, Thomas J. Kresse and K&A, Inc. (the "Purchase Agreement"), to make deductions from the last payments of principal and interest due under this promissory note, if certain conditions as provided in the said Section 2.5 occur.

Notwithstanding anything to the contrary set forth herein, the payment and performance of the indebtedness evidenced by this promissory note may be offset by Borrower to the extent expressly permitted under the Purchase Agreement. Except as otherwise expressly agreed to in writing by K&A, Inc. and Borrower, any such offset shall be treated as a prepayment of the first amounts due under this promissory note. If, as of the maturity date, there remain unresolved any claims for Losses made by Borrower against K&A, Inc. or any affiliate of K&A, Inc. payment hereunder may be placed in escrow in accordance with the Purchase Agreement in an amount equal to a good faith estimate of such claim for losses and the amount by which the balance of any payment due hereunder exceeds the amount of such good faith estimate shall be paid to Kresse.

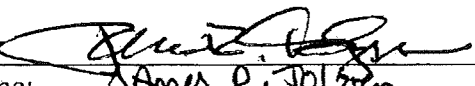
The terms of this promissory note may not be changed orally.

**K&A, INC. AND EACH BORROWER (MAKER), ENDORSER AND GUARANTOR OF THIS PROMISSORY NOTE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT WHICH HE, SHE OR IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS PROMISSORY NOTE, OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HEREWITH, OR THE FINANCING CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR K&A, INC. EXTENDING THE LOAN EVIDENCED BY THIS PROMISSORY NOTE.**

The indebtedness evidenced by this instrument is subordinated to the prior payment in full of the Obligations (as defined in the Subordination Agreement hereinafter referred to) pursuant to, and to the extent provided in, the Subordination Agreement dated September 25, 2008 by the maker hereof and payee named herein in favor of Chatham Credit Management III, LLC, as Agent.

**KRESSE & ASSOCIATES, LLC,**  
a Florida limited liability company

By: Official Reporting Services, LLC,  
a Florida limited liability company,  
its Manager

By:   
Name: James R. Dolan  
Title: Authorized Signer



# **EXHIBIT “C”**

## GUARANTY

**FOR AND IN CONSIDERATION** of **KRESSE & ASSOCIATES, INC.**, a Florida corporation (hereinafter "K&A, Inc."), whose address is 1415 20<sup>th</sup> Street, Apt. 401, Miami Beach, Florida 33139, providing **KRESSE & ASSOCIATES, LLC.**, a Florida limited liability company (hereinafter referred to as the "Debtor"), a \$515,000.00 loan (the "Loan"), for the acquisition of certain assets of K&A, Inc., the undersigned (hereinafter referred to as the "Guarantor"), for itself and its successors and assigns, hereby irrevocably, absolutely, and unconditionally guarantees to K&A, Inc., and its successors and assigns, the due performance of any and all obligations and full prompt payment, whether at maturity or by acceleration or otherwise, of the Loan, together with all interest and late charges thereon, all pursuant to that certain promissory note dated September 25, 2008, in the principal amount of \$515,000.00 (the "Note"), (all of such obligations under the Note, collectively, the "Obligations").

The guaranty of payment and performance of the Obligations by the undersigned is unlimited, and shall include all accrued interest, costs and reasonable attorneys' fees incurred by K&A, Inc. in the enforcement of this Guaranty.

This Guaranty is a primary obligation of the Guarantor and no invalidity, irregularity, or unenforceability of all or any part of the obligations and/or indebtedness of the Debtor hereby guaranteed shall affect, impair, or be a defense to this Guaranty.

Notwithstanding that the Guarantor may discharge any Obligations of the Debtor to K&A, Inc., under this Guaranty, any claim by the Guarantor against the Debtor, based on satisfaction or discharge of any Obligation of the Debtor to K&A, Inc., shall be inferior and subordinate to any and all outstanding and unsatisfied Obligations owed by the Debtor to K&A, Inc..

The Guarantor waives all presentments, demands for performance, notice of nonperformance, protests, notices of dishonor, and notices of acceptance of this Guaranty. The Guarantor covenants to cause the Debtor to maintain and preserve the enforceability of the Note, and to take no action of any kind which might be the basis for a claim that the Guarantor has any defense hereunder other than the full payment and performance of the Obligations. No delay on the part of K&A, Inc. in the exercise of any right, power, or privilege under the Note or under this Guaranty shall operate as a waiver of any such privilege, power, or right.

Upon the happening of any of the following events: the dissolution, or insolvency (however evidenced) of the Debtor, or the issuance of any warrant, process, or order of attachment, garnishment, or other lien and/or the filing of a lien as a result thereof against any of the property of the Debtor, or an assignment for the benefit of creditors, or a trustee or receiver being appointed for the Debtor for any property of the Debtor, or any proceeding being commenced by, or against, the Debtor under any bankruptcy, re-organization, arrangement of debt, insolvency, readjustment of debt, receivership, liquidation or dissolution law or statute, K&A, Inc. may, without notice to the Debtor, make the Obligations whether or not then due, immediately due and payable hereunder as to the Guarantor and K&A, Inc. shall be entitled to enforce the obligations of the Guarantor hereunder.

In the event of any bankruptcy proceeding commenced against the Debtor, if claim is ever made by a bankruptcy court or trustee or receiver upon K&A, Inc. for repayment or recovery of any amount or amounts received by K&A, Inc. in payment of the Obligations, and K&A, Inc. is required

to remit all or part of said payments to the bankruptcy court or trustee or receiver, then, and in such event, the Guarantor agrees that any such judgment, decree, order, settlement, or compromise shall be binding upon the Guarantor, notwithstanding any revocation hereof or the cancellation of any promissory note or other instrument evidencing any liability of the Debtor and/or Guarantor, and the Guarantor shall be liable to K&A, Inc. for the amount so remitted by K&A, Inc. to the bankruptcy court, trustee or receiver.

Any acknowledgment or new promise, whether by payment of principal or interest or otherwise and whether by the Debtor or others (including the Guarantor) with respect to any of the Obligations shall, if the Statute of Limitations in favor of the Guarantor against K&A, Inc. shall have commenced to run, toll the running of such Statute of Limitations and, if the period of such Statute of Limitations shall have expired, prevent the operation of such Statute of Limitations.

This Guaranty may be assigned by K&A, Inc. in whole or in part, as part of the sale, pledge, hypothecation, or assignment of all or part of the Note.

If K&A, Inc. shall assign any of his rights under this, this Guaranty, this Guaranty will inure to the benefit of K&A, Inc.'s assignee to the extent of such assignment, provided that such assignment will not operate to relieve the Guarantor from its obligations to K&A, Inc. hereunder with respect to any unassigned right to which K&A, Inc. is entitled hereunder.

The Guarantor agrees to pay to K&A, Inc. reasonable attorney's fees and all costs and expenses of collection in furtherance of the enforcement of Guarantor's obligations under this Guaranty, whether by suit or other means, including expenses and fees of all trial, appellate and bankruptcy proceedings.

This Guaranty constitutes the entire understanding and agreement of Guarantor and K&A, Inc. in respect of Guarantor's guarantee of the full payment and performance of the Obligations. No act, delay, omission, or course of dealing between K&A, Inc. and the Debtor or the Guarantor shall be a waiver of any of K&A, Inc.'s rights or remedies under this Guaranty, and no waiver, change, modification, or discharge of this Guaranty or any obligations created hereby (other than the full payment and performance of the Obligations and all of Guarantor's then outstanding obligations hereunder) shall be effective unless in writing signed by K&A, Inc.. Each waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of K&A, Inc. or the obligations of the Guarantor to K&A, Inc. hereunder in any other respect at any other time.

Notwithstanding any provisions herein or in any instrument now or hereafter covering said indebtedness, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the usury laws of the State of Florida; and, any payments in the nature of interest paid in excess of the limits imposed by said usury laws shall be deemed advance payments and applied to any outstanding indebtedness owed by the Debtor or the Guarantor to K&A, Inc. in its inverse order of maturity, or, if then required by law, shall be refunded to the Debtor or the Guarantor, as the case may be.

The Guarantor acknowledges that K&A, Inc. has been and will be induced by this Guaranty to provide to the Debtor the use of its Loan proceeds or other financial accommodations, and this

agreement shall, without further reference or assignment, pass to and may be relied upon and enforced by any successor or participant or assignee of K&A, Inc. against the Guarantor.

This Guaranty and the rights and obligations of K&A, Inc. and of the Guarantor hereunder shall be governed by and construed in accordance with the laws of the State of Florida, and this Guaranty is binding upon the Guarantor and its successors and assigns.

Each and every clause of the Guaranty herein shall be deemed to be severable; and in the event any portion of this Guaranty shall be ruled to be unenforceable by a court of competent jurisdiction, then in that event the remainder of the rights, duties, and obligations of the Guarantor shall remain in full force and effect without diminution.

**THE GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON THIS GUARANTY, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTY, OR ANY OTHER DOCUMENT EXECUTED BY THE GUARANTOR IN CONNECTION WITH ANY OF THE OBLIGATIONS ENCOMPASSED BY THIS GUARANTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR K&A, INC. ENTERING INTO THE LOAN TO BE EXTENDED TO THE DEBTOR WHICH IS GUARANTEED BY THE GUARANTOR.**

IN WITNESS WHEREOF, the undersigned Guarantor has caused this Guaranty to be duly executed by its authorized officer as of the 25<sup>th</sup> day of September, 2008.

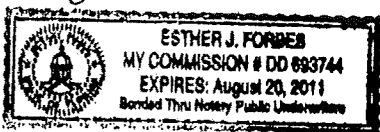
**OFFICIAL REPORTING SERVICES, LLC, a  
Florida limited liability company**

By: Sunbelt Diversified Enterprises, LLC,  
its Manager

By: [Signature]  
Name: James R. Tolzien  
Title: Authorized Signer

**STATE OF FLORIDA  
COUNTY OF MIAMI-DADE**

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of September, 2008, by James R. Tolzien as Authorized Signer of **OFFICIAL REPORTING SERVICES, LLC**, a Florida limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification and did not take an oath.



[Signature]  
Notary Public, State of Florida  
My Commission expires:

# **EXHIBIT “D”**

## CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into as of the 25<sup>th</sup> day of September, 2008 by and between TOKR CONSULTING, LLC, a Florida limited liability company (hereinafter "Consultant"), KRESSE & ASSOCIATES, LLC, a Florida limited liability company (the "Company") and OFFICIAL REPORTING SERVICES, LLC ("ORS").

### WITNESSETH THAT:

**WHEREAS**, the Company will acquire (the "Acquisition") substantially all of the assets of Kresse & Associates, Inc. ("K&A") pursuant to the terms of that certain Asset Purchase Agreement of even date herewith (the "Purchase Agreement"); and

**WHEREAS**, Thomas J. Kresse ("Kresse") is the founder, sole shareholder and President of K&A; and

**WHEREAS**, it is a condition precedent to closing the Acquisition that the Company, Consultant and Kresse enter into this Agreement; and

**WHEREAS**, the Company is desirous of retaining the services, expertise and experience of Consultant in the Company's operation of the assets and business to be purchased from K&A and in the development of new business for the Company and ORS (the court reporting business owned and operated by the Company, ORS or any of their respective affiliates, the "Court Reporting Business"); and

**WHEREAS**, the services of Consultant shall be provided exclusively by and through Kresse, as the sole member and manager of Consultant, and references herein to the Consultant shall be deemed to include Kresse where appropriate.

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto stipulate and agree as follows:

1. The foregoing recitals are true and correct and by this reference are incorporated herein.
2. During the term hereof, Consultant shall consult with the Company and ORS in an advisory capacity with respect to the marketing of the Court Reporting Business, new business development for the Court Reporting Business, and maintaining existing and new client relationships of the Court Reporting Business. Consultant shall also, if requested by the Company, provide services to the Company and its affiliates with regard to the development of marketing, new business and client relationships for the Company and its affiliates. Although Consultant shall, in Consultant's sole discretion, determine the precise manner in which its services are to be provided hereunder and the hours to be worked each week in connection therewith, Consultant shall provide such services substantially on a full-time basis and in a manner responsive to the needs of the Company and carried out in accordance with the policies and procedures of the Company (all as communicated to Consultant by the Manager or principal executive officer of the Company and/or ORS).

3. The term of this Agreement (the "Term") shall be for a two (2) year period commencing on the date hereof (the "Initial Term"); provided, however, that (i) the Term shall automatically renew for two additional one (1) year periods unless, at least ninety (90) days prior to the expiration of the then current Term, either Consultant or the Company provide written notice to the other that it does not wish to renew the Term, (ii) the Company shall not terminate this Agreement during the Initial Term without Cause (as defined below), and (iii) either the Company or Consultant may terminate this Agreement following the Initial Term for any reason (or no reason) upon ninety (90) days prior written notice to the other party. Notwithstanding the foregoing, each of the Company and the Consultant shall have the right to terminate this Agreement, effective immediately, if the other party breaches the terms of this Agreement and fails to cure such breach within five (5) days of receipt of written notice of such breach from the other party.

4. In consideration of the consulting services to be rendered hereunder during the Term (except as otherwise expressly provided in paragraph 5 below), the Company shall pay to Consultant the following compensation:

a. \$40,000.00 per year (prorated as appropriate for any partial year of the Term), payable in 12 equal monthly installments in arrears (the "Base Fee"); and

b. Subject to paragraph 5 of this Agreement, with respect to each New Client (defined below), the Company shall pay the Consultant commissions (the "Commissions") on cash revenues received by the Court Reporting Business from such New Client originated by Consultant for the benefit of the Court Reporting Business (the "New Business Revenues") as follows: (i) ten percent (10%) commission payable on New Business Revenues received during the first twelve month period immediately following the generation of such New Client; (ii) ten percent (10%) commission payable on New Business Revenues received during the second twelve month period immediately following the generation of such New Client; and (iii) five percent (5%) commission payable on New Business Revenues received during the third twelve month period immediately following the generation of such New Client (for the avoidance of doubt, there shall not be any commissions payable on the receipt of New Business Revenues received thereafter). The term "New Client(s)" shall mean any individual lawyer other than an Existing Client (as defined below) that is originated by Consultant during the Term. The term "Existing Client(s)" shall mean any client that has utilized the court reporting services of K&A or ORS as hiring attorney, exclusive of copy sales, ten (10) or more times during the one (1) year period immediately prior to the date of this Agreement (each party's good faith list of its Existing Clients is attached hereto as Exhibit A; provided, however, that each party hereto may confirm or challenge a client's inclusion on or exclusion from Exhibit A based on the books and records of K&A or ORS as the same existed as of the date hereof). Commissions shall be computed and paid to Consultant on a monthly basis, in arrears, by the 15<sup>th</sup> day of each month, and the Company shall provide Consultant with monthly statements reflecting the calculation of such commissions. Consultant and Consultant's agents shall have the right to audit the books and records of the Company and any affiliate thereof, as applicable, in order to verify the Company's calculation of New Business Revenues and the Commissions payable thereon.

c. The Company will pay or reimburse Consultant for its reasonable travel, entertainment or other expenses as it may incur on behalf of the Company during the Term in connection with the performance of its duties hereunder, but only to the extent that such expenses were either specifically authorized by the Company or incurred in accordance with written policies reasonably established by the Company, and provided that Consultant will furnish the Company with such evidence relating to such expenses as the Company may reasonably require to substantiate such expenses for tax purposes. The Company shall pay/reimburse such expenses within fifteen (15) days of its receipt of appropriate substantiation of such expenses.

5.

a. In the event that (i) the Company terminates this Agreement without Cause (as defined below), or (ii) the Consultant terminates this Agreement with Good Reason (as defined below) (and excluding any termination of this Agreement upon the death or permanent disability of Kresse), the Company shall pay Consultant (A) the Base Fee and (B) the Commissions, payable in accordance with paragraph 4, it otherwise would be entitled to receive as if the Term were to continue for another year after such termination.

b. In the event that either party chooses not to renew the Term at the expiration of the Initial Term or any subsequent renewal term, the Company shall pay the Consultant the Commissions, payable in accordance with paragraph 4, it otherwise would be entitled to receive as if the Term were to continue for another year after such expiration.

c. In the event of the death or permanent disability of Kresse, the Company shall pay the Consultant the Commissions, payable in accordance with paragraph 4, it otherwise would be entitled to receive as if the Term were to continue for another year after such expiration.

d. In the event that (i) the Company terminates this Agreement with Cause or (ii) the Consultant terminates this Agreement without Good Reason, the Company (A) shall only be obligated to pay the Consultant any Base Fee or Commissions accrued as of the date of termination and (B) shall not thereafter be obligated to make any payments in respect of the Base Fee or the Commissions.

For purposes of this Agreement, (i) "Cause" shall mean Consultant (1) committed an act of malfeasance or material dishonesty related to the provision of its duties hereunder, fraud, or breach of trust against the Company; (2) breached any of the terms of this Agreement and failed to cure such breach within five (5) days following written notice of same from the Company; (3) was convicted of, or plead guilty or no contest to, any felony or any crime involving moral turpitude; or (4) acted in a manner that caused material injury to the financial condition or business reputation of the Company; and (ii) "Good Reason" shall mean the Company breached any of the terms of this Agreement and failed to cure such breach within five (5) days following written notice of same from the Consultant.

6. ORS agrees that during the first year of this Agreement, it shall (i) not solicit business from any lawyer or other person or entity that was an Existing Client of K&A, and (ii)



cause the Company to operate its court reporting business in substantially the same manner as it was operated by K&A prior to the Acquisition.

7. Except for the benefit of the Court Reporting Business, each of the Consultant and Kresse agrees:

a. during the Term and for the one (1) year period immediately following the date of the termination of the Consultant's engagement with the Company for any reason whatsoever (the "Restricted Period"), that it/he will not engage, directly or indirectly, in the court reporting business (the "Restricted Business") within (i) Palm Beach, Broward or Miami-Dade Counties, Florida or (ii) any other county in which the Company conducted the Court Reporting Business as of the date of such termination (collectively, the "Restricted Territory"); provided, however, that, immediately following the date of termination of Consultant's engagement with the Company for any reason, Kresse and/or Consultant shall have the right to work as an individual court reporter for compensation within or without the Restricted Territory; provided that the foregoing exception shall be narrowly construed and shall not be deemed to permit Kresse and/or Consultant to, directly or indirectly, in whole or in part, own, manage, finance or otherwise control a Restricted Business. Furthermore, in the event that either the Company or ORS fails to make any payment required under the Note or Guaranty (as such terms are defined in the Purchase Agreement) within 60 days of the due date for such payment, then the restrictions set forth in this paragraph 7.a shall immediately become void, of no further force or effect and shall thereafter no longer be enforceable against the Consultant or Kresse (for the avoidance of doubt, subparagraph b. below and the other provisions of paragraph 7 shall continue in full force and effect). Notwithstanding anything to the contrary set forth herein, the terms of this paragraph shall not amend, modify, limit, or otherwise affect any of the restrictive covenants set forth in the Purchase Agreement.

b. during the Restricted Period, it will not directly or indirectly: (i) hire or solicit for hire for itself or any third party any of the employees, agents or representatives of the Company, or any person who was an employee, agent or representative of the Company in the one (1) year period preceding such hire or attempted solicitation, to leave the Company or to cease to be employed or engaged by the Company; or (ii) solicit or attempt to solicit for the benefit of any party other than Court Reporting Business, any client of the Court Reporting Business.

Each of the Consultant and Kresse agrees and acknowledges that (i) it would be very difficult or impossible to measure the damages resulting from the breach of this paragraph 7 and (ii) the restrictions in this paragraph 7 are reasonable and reasonably necessary for the protection of the legitimate business interests and goodwill of the Company and that any violation by the Consultant and/or Kresse will cause irreparable damage to the Company. Each of the Consultant and Kresse acknowledges that it/he has induced the Company to enter into this Agreement by stating that it/he will unconditionally abide by the terms and conditions of this paragraph 7. Each of the Consultant and Kresse hereby agrees that any breach or violation, or threat of breach or violation, of any provision of this paragraph 7 will entitle the Company, in addition to any other legal remedies available to it, to a temporary and permanent injunction or any other appropriate decree of specific performance in order to enjoin such breach or violation. It is the desire and intent of the parties that the provisions of this paragraph 7 be enforced to the fullest extent

permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. These restrictive covenants shall be construed as agreements independent of any other provision in this Agreement, and the existence of any claim or cause of action of the Consultant, Kresse or K&A against the Company, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of any restrictive covenant. It is specifically agreed that the Restricted Period shall be computed for the Consultant and Kresse, as applicable, by excluding from that computation any time during which the Consultant or Kresse, as applicable, is in violation of any provisions of this paragraph 7.

8. Consultant agrees that any information received by Consultant during the performance of its services under this Agreement which concerns the financial, marketing or business affairs of the Company will be treated by the Consultant in full confidence and will not be revealed to any other persons, firms or organizations, except to the extent reasonably necessary for Consultant to carry out its marketing and new business development efforts on behalf of the Company.

9. Neither this Agreement nor the obligations of the parties hereto under this Agreement shall be assignable without the prior written consent of all parties hereto; provided, however, that the rights and obligations of this Agreement may be assigned by the Company to any of its affiliates, to any purchaser of or successor to all or substantially all of the Company's assets or equity securities, by operation of law or to any lender to the Company or its affiliates, and such assignee shall have the right to enforce the terms of this Agreement including, without limitation, the restrictive covenants set forth in paragraph 7; provided further, however, that such assignment by the Company shall not release the Company from any of its obligations hereunder without the consent of Consultant.

10. This Agreement shall be binding upon and inure to the benefit of all parties hereto and their respective heirs, devisees, legatees, personal representatives, legal representatives, successors and assigns.

11. All parties hereto shall execute and deliver any and all instruments, documents and papers and shall do any and all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement.

12. Whenever in this Agreement notice is required or desired to be given, it shall be given in writing and personally delivered or mailed by U.S. Certified Mail, Return Receipt Requested. If such notice is given by Certified Mail, Return Receipt Requested, then notice shall be deemed to be given and effective on the day mailed and shall be deemed received on the third (3rd) day after the date of the postmark of the mailed notice or the date posted and marked upon the receipt at the time such notice is presented to a facility of the United States Postal Service for depositing and mailing. Alternatively, if such notice in writing is physically delivered to the person to whom notice is intended to be given, then notice is deemed to be given, effective and received at such time the notice is physically handed to such person. Delivery of notice in person may be given by anyone competent to certify to such action.

13. This Agreement may only be modified or amended if done so in writing and signed by all parties hereto. In the event one of the parties hereto does not execute a proposed amendment or modification it shall be not be binding upon it.

14. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without reference to principles of choice of law, conflict of laws or comity. Any suit, action or other legal proceeding arising out of this Agreement shall be brought in the courts of the State of Florida. The parties to this Agreement hereby consent to the jurisdiction of such court in any such suit, action or proceeding, and waive any objection which any of them may have to the laying of the venue of any such suit, action or proceeding other than in Miami-Dade County, Florida. Except that, in the event that any suit, or legal proceeding arising out of the Agreement is based on a claim over which exclusive jurisdiction is vested in the Courts of the United States such suit, action or legal proceeding shall be brought in the Courts of the United States for the State of Florida and venue shall lay only in the United States District Court for the Southern District of Florida.

15. The failure of any party to this Agreement to object to or to take any affirmative action with respect to any conduct of any other party which is in violation, breach, or default of the terms hereof, shall not be construed as a waiver thereof, nor of any future breach or subsequent violation, breach or default.

16. In the event that any suit is filed because of a dispute or disagreement under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and disbursements incurred in such suit or action from the other party.

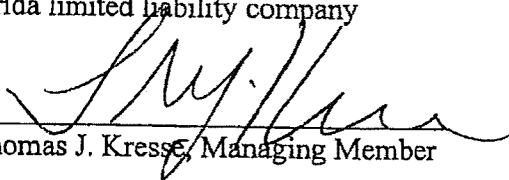
17. The Consultant shall at all times during the Term be and act as an independent contractor. This Agreement shall not be deemed to create an employer-employee relationship between the Company and the Consultant, nor any agency, joint venture or partnership relationship. The Consultant shall not be entitled to any benefit plans as made available by the Company to its employees, including but not limited to life and accident insurance, hospitalization, major medical insurance, worker compensation, retirement plans and disability insurance benefits. Neither party by virtue of this Agreement shall have the right or authority to act for or to bind the other in any way or to sign the name of the other or to represent that the other is in any way responsible for its acts or omissions.

18. This Agreement may be executed in any number of counterparts and each counterpart shall be deemed to be an original document for all purposes.

19. In the event any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is held to be illegal, invalid or unenforceable, there shall be added as a part of this Agreement a legal, valid and enforceable clause or provision as similar in terms of such illegal, invalid or unenforceable clause or provision as may be possible.

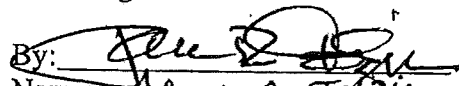
**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals as of the date first written above.

TOKR CONSULTING, LLC  
a Florida limited liability company

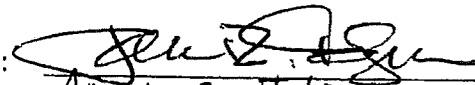
By:   
Thomas J. Kresse, Managing Member

KRESSE & ASSOCIATES, LLC  
a Florida limited liability company

By: Official Reporting Services, LLC,  
a Florida limited liability company  
its Manager

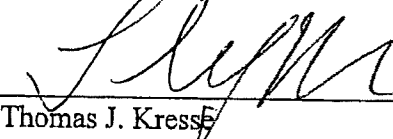
By:   
Name: Amy R. Tolzien  
Title: Authorized Signer

OFFICIAL REPORTING SERVICES, LLC,  
a Florida limited liability company

By:   
Name: James R. Tolzien  
Title: Authorized Signer

Joinder By Thomas J. Kresse

Thomas J. Kresse hereby executes this Agreement solely for the purpose of consenting and agreeing to the terms and conditions of paragraph 7 and all other paragraphs hereof necessary or desirable for the Company's enforcement of the terms of paragraph 7.

  
Thomas J. Kresse

**EXHIBIT A**

**Good Faith Compilation of Existing Clients**

# **EXHIBIT “E”**

## AMENDMENT TO PURCHASE AGREEMENT

THIS AMENDMENT TO PURCHASE AGREEMENT dated as of March 25, 2009 (the "Amendment"), is entered into by and among Kresse & Associates, LLC, a Florida limited liability company ("Buyer"), Kresse & Associates, Inc., a Florida corporation ("Seller") and Thomas J. Kresse, an individual resident of the State of Florida and the sole shareholder of Seller (the "Shareholder"). Capitalized terms used in this Amendment and not otherwise defined in this Amendment have the meanings assigned to them in the Asset Purchase Agreement (defined below).

### RECITALS

WHEREAS, Buyer, Seller and Shareholder entered into that certain Asset Purchase Agreement, dated as of September 25, 2008 (the "Asset Purchase Agreement"), whereby Buyer agreed to purchase and Seller agreed to sell, for an aggregate purchase price of \$1,470,000 (subject to adjustment as provided therein), the Purchased Assets (as defined in the Asset Purchase Agreement); and

WHEREAS, Buyer, Seller and Shareholder desire to amend the Asset Purchase Agreement on the terms set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### AGREEMENT

1. Adjustments to Note Payments. The second sentence of Section 2.5 of the Asset Purchase Agreement is hereby amended to replace the reference therein to ninety-five percent (95%) with ninety percent (90%).

2. Miscellaneous.

(a) The Asset Purchase Agreement is reaffirmed and ratified in all respects, except as expressly provided herein.

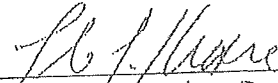
(b) The parties shall execute and deliver any other instruments or documents and take any further actions after the execution of this Amendment, which may be reasonably required for the implementation of this Amendment and the transactions contemplated hereby.

*[Remainder of Page Intentionally Left Blank]*

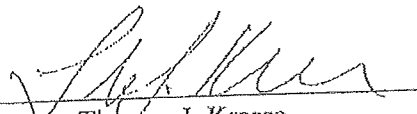
IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

**SELLER:**

**KRESSE & ASSOCIATES, INC.**

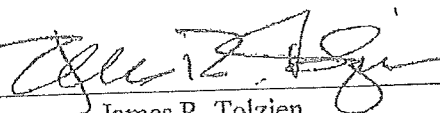
By:   
Name: THOMAS J. KRESSE  
Title: MEM.

**SHAREHOLDER:**

  
Thomas J. Kresse

**BUYER:**

**KRESSE & ASSOCIATES, LLC.**

By:   
Name: James R. Tolzien  
Title: Authorized Signatory



# **EXHIBIT “F”**

**SECOND AMENDMENT TO  
ASSET PURCHASE AGREEMENT**

This **SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT** ("the Second Amendment") is entered into as of September 25, 2010, by and between **Kresse & Associates, LLC**, a Florida limited liability company ("Buyer"), **Kresse & Associates, Inc.**, a Florida corporation ("Seller") and **Thomas J. Kresse**, an individual resident of the State of Florida and the sole shareholder of Seller (the "Shareholder").

**WITNESSETH THAT:**

**WHEREAS**, the Buyer, Seller and Shareholder entered into that certain Asset Purchase Agreement dated as of September 25, 2008 (the "Agreement"), and

**WHEREAS**, the Agreement provided for part of the purchase Price (as defined in the Agreement) to be paid by a \$515,000.00 promissory note from the Buyer to the Seller (the "Note"), and

**WHEREAS**, the Note was assigned by the Seller to the Shareholder, and

**WHEREAS**, the parties entered into an Amendment To Purchase Agreement dated as of March 25, 2009 (the "First Amendment"), which made certain amendments to the Agreement, and

**WHEREAS**, the Buyer, in order to reduce its monthly operating expenses and increase its cash flow, has requested that the Shareholder modify and extend the payment terms of the Note, in accordance with the terms of this Second Amendment, and

**WHEREAS**, the Shareholder agrees to the modification and extension of the Note in exchange for the additional guarantees of John Sicilian, Joseph Dagrosa, Jr., and James R. Tolzien, and the modification of the Agreement as provided in this Second Amendment,

**NOW, THEREFORE**, in consideration of the terms and conditions contained herein, the receipt and sufficiency of which are acknowledged, the Buyer and Shareholder agree as follows:

1. The foregoing recitals are true and correct and by this reference are incorporated herein.
2. The Buyer agrees to execute and deliver a Renewal Promissory Note payable to the Shareholder, with such Renewal Promissory Note to be in the principal sum of \$301,661.00, and be dated as of September 25, 2010, and with the Renewal Promissory Note to be in the form of **Exhibit "A"** attached hereto. Upon execution and delivery of the Renewal Promissory Note, the original Note shall be deemed cancelled and replaced by the Renewal Promissory Note.
3. The Buyer and Shareholder agree that Section 6.5 (f) of the Agreement is amended in its entirety to read as follows:

(f) In the event that either the Buyer or Official Reporting Services, LLC, fails to make any payment required under the Note or Guaranty within 60 days of the due date for such payment, then the restrictions set forth in Section 6.5 shall immediately become void, of no further force or effect and shall thereafter no longer be enforceable against the Consultant (as defined in the Consulting Agreement) or Shareholder.

4. The term Guaranty and Guarantee, as defined in the Agreement, is amended to mean the Guaranty executed by Official Reporting Services, LLC, and the Guaranty executed by John Sicilian, Joseph Dagrosa, Jr., and James R. Tolzien. Official Reporting Services, LLC, shall execute and deliver to the Shareholder a reaffirmation of guaranty to affirm that its guaranty of the Note continues as a guaranty of the Renewal Promissory Note.


5. Except as is amended by this Second Amendment and the First Amendment, the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of the First Amendment or the Agreement and the terms of this Second Amendment, the terms of this Second Amendment shall control.

**IN WITNESS WHEREOF**, the parties hereto have caused this Second Amendment to be duly executed and delivered as of the day and year first above written.

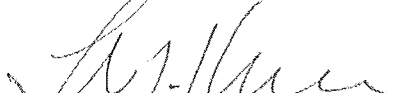
**BUYER:**

**KRESSE & ASSOCIATES, LLC,**  
a Florida limited liability company

By: Official Reporting Services, LLC, a  
Florida limited liability company, its  
Manager

By:   
Name: Arthur Kushner  
Title: CEO

**SHAREHOLDER:**

  
Thomas J. Kresse, individually

**EXHIBIT "A"**  
**RENEWAL PROMISSORY NOTE**

\$301,661.00 U.S.

Miami, Florida

September 25, 2010

**FOR VALUE RECEIVED**, the undersigned (hereinafter referred to as the "Borrower") promises to pay to the order of **THOMAS J. KRESSE** (hereinafter referred to as "Kresse"), at 1415 20<sup>th</sup> Street, Apt. 401, Miami Beach, Florida 33139, or at such other location or address as Kresse may direct from time to time, the principal sum of **THREE HUNDRED ONE THOUSAND SIX HUNDRED SIXTY ONE AND NO/100THS DOLLARS (\$301,661.00)**, together with interest upon the principal balance outstanding from time to time, said principal and interest being payable as follows:

Principal and accrued interest shall be due and payable in forty-seven (47) equal monthly installments in the sum of Seven Thousand Eighty Four and 52/100ths Dollars (\$7,084.52) each, commencing on January 20, 2011, and a like sum shall be due and payable on the 20th day of each succeeding month thereafter, until and including November 20, 2014, and the entire principal sum then outstanding, together with all accrued interest then unpaid, shall be due and payable in full at maturity on December 20, 2014. All payments received by Kresse, shall be applied first to pay accrued interest and late charges, if any, and then to reduce principal.

Accrued interest shall be calculated on the principal sum outstanding from time to time, computed on a 365-day year basis, and charged for the actual number of days elapsed during each interest period, at a rate equal to six percent (6.0%) per annum.

At the option of Kresse, all sums advanced hereunder together with accrued interest thereon shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following events of default: (a) the Borrower's failure to promptly pay in full any payment of principal or interest due under this promissory note within five (5) days of the date when such payment of principal or interest becomes due; or (b) the dissolution, termination of existence, insolvency of, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency laws, by or against any Borrower or any endorser hereof. Upon the occurrence of any event of default as defined herein, all sums outstanding under this promissory note shall thereupon immediately bear interest at eighteen percent (18%) per annum until paid in full, without notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration on the part of Kresse.

No delay or omission on the part of Kresse, in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this promissory note. A waiver by Kresse, of any right or remedy conferred to him hereunder on any one occasion shall not be construed as a bar to, or waiver of, any such right and/or remedy as to any future occasion.

The Borrower agrees to pay the costs, charges and expenses incurred by Kresse, in the enforcement of his rights hereunder, including, but not limited to, reasonable attorney's fees incurred or paid by Kresse, whether or not suit is brought. As utilized herein, the term "attorney's fees" shall include, without limitation, all trial, appellate and bankruptcy attorney's fees incurred or paid by Kresse, in the enforcement of his rights hereunder.

The Borrower and all persons now or hereafter becoming obligated or liable for the payment hereof do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Borrower does not intend or expect to pay, nor does Kresse, intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest that may be charged under any applicable law. Should the acceleration of the principal balance and accrued interest outstanding under this promissory note, or the imposition of any prepayment fees, default interest or any other charges due under this promissory note result in the computation or earning of interest in excess of the highest rate of interest permitted under applicable law, the amount of such excess interest or charges is hereby waived by Kresse, and shall be credited by Kresse, to the balance hereof.

Each Borrower, endorser, guarantor and any other person, firm or corporation now or hereafter becoming liable for the payment of the loan evidenced by this promissory note hereby consents to any renewals, extensions, modifications, or any indulgence shown to or any dealings between Kresse, and any party now or hereafter obligated hereunder, without notice, and jointly and severally agree that they shall remain liable hereunder notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced hereby is fully paid.

The Borrower agrees to pay a late charge equal to 5% of each payment of principal and/or interest which is not paid within 5 days of the date on which it is due.

Principal may be prepaid in whole or in part at any time prior to the maturity of this promissory note. There is no prepayment fee or penalty. Each prepayment of principal shall be applied against the payments last due under this promissory note. No partial prepayment of principal shall act to suspend, postpone or waive any regularly scheduled payment of principal and/or interest due under this promissory note.

In the event the Borrower fails to pay the entire principal balance and accrued interest outstanding under this promissory note at the maturity hereof, the entire principal balance outstanding under this promissory note shall bear interest at eighteen percent (18%) per annum until paid in full, without any notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration by Kresse.

This promissory note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. In the event of any litigation in any way arising out of the loan evidenced hereby, the Borrower and all other persons and entities now or hereafter becoming obligated for the payment of the indebtedness

evidenced hereby consent to personal jurisdiction and venue in Miami-Dade County, Florida.

As utilized herein, the term "Borrower" shall refer to each person or entity executing this promissory note. As utilized herein, the term "Kresse" shall refer to the original payee identified above, and to any subsequent assignee or holder of this promissory note.

This promissory note may be assigned by Kresse without the prior consent of the Borrower.

The terms of this promissory note may not be changed orally.

This promissory note is a modification, renewal and extension of that certain Promissory Note dated September 5, 2008, in the original principal sum of \$515,000.00, executed by the Borrower in favor of Kresse & Associates, Inc., which was assigned to Kresse. Documentary stamps in the full principal amount of the original Promissory Note were paid. No additional funds are being advanced under this Renewal Promissory Note, which modifies, renews and extends only the current principal balance outstanding under the original Promissory Note described hereinabove as of the effective date of this Renewal Promissory Note. There has been no change in the original obligor. Accordingly, no additional documentary stamps are due and payable on this Renewal Promissory Note.

**KRESSE AND EACH BORROWER (MAKER), ENDORSER AND GUARANTOR OF THIS PROMISSORY NOTE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT WHICH HE, SHE OR IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS RENEWAL PROMISSORY NOTE, OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HEREWITH, OR THE FINANCING CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR KRESSE MODIFYING AND EXTENDING THE LOAN EVIDENCED BY THIS RENEWAL PROMISSORY NOTE.**

**KRESSE & ASSOCIATES, LLC**, a Florida limited liability company

By: Official Reporting Services, LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
**Arthur Kushner**, Chief Executive Officer

# **EXHIBIT “G”**

RENEWAL  
PROMISSORY NOTE

\$301,661.00 U.S.

Miami, Florida

September 25, 2010

**FOR VALUE RECEIVED**, the undersigned (hereinafter referred to as the "Borrower") promises to pay to the order of **THOMAS J. KRESSE** (hereinafter referred to as "Kresse"), at 1415 20<sup>th</sup> Street, Apt. 401, Miami Beach, Florida 33139, or at such other location or address as Kresse may direct from time to time, the principal sum of **THREE HUNDRED ONE THOUSAND SIX HUNDRED SIXTY ONE AND NO/100THS DOLLARS (\$301,661.00)**, together with interest upon the principal balance outstanding from time to time, said principal and interest being payable as follows:

Principal and accrued interest shall be due and payable in forty-seven (47) equal monthly installments in the sum of Seven Thousand Eighty Four and 52/100ths Dollars (\$7,084.52) each, commencing on January 20, 2011, and a like sum shall be due and payable on the 20th day of each succeeding month thereafter, until and including November 20, 2014, and the entire principal sum then outstanding, together with all accrued interest then unpaid, shall be due and payable in full at maturity on December 20, 2014. All payments received by Kresse, shall be applied first to pay accrued interest and late charges, if any, and then to reduce principal.

Accrued interest shall be calculated on the principal sum outstanding from time to time, computed on a 365-day year basis, and charged for the actual number of days elapsed during each interest period, at a rate equal to six percent (6.0%) per annum.

At the option of Kresse, all sums advanced hereunder together with accrued interest thereon shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following events of default: (a) the Borrower's failure to promptly pay in full any payment of principal or interest due under this promissory note within five (5) days of the date when such payment of principal or interest becomes due; or (b) the dissolution, termination of existence, insolvency of, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency laws, by or against any Borrower or any endorser hereof. Upon the occurrence of any event of default as defined herein, all sums outstanding under this promissory note shall thereupon immediately bear interest at eighteen percent (18%) per annum until paid in full, without notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration on the part of Kresse.

No delay or omission on the part of Kresse, in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this promissory note. A waiver by Kresse, of any right or remedy conferred to him hereunder on any one occasion shall not be construed as a bar to, or waiver of, any such right and/or remedy as to any future occasion.

The Borrower agrees to pay the costs, charges and expenses incurred by Kresse, in the enforcement of his rights hereunder, including, but not limited to, reasonable attorney's fees incurred or paid by Kresse, whether or not suit is brought. As utilized herein, the term "attorney's



fees” shall include, without limitation, all trial, appellate and bankruptcy attorney's fees incurred or paid by Kresse, in the enforcement of his rights hereunder.

The Borrower and all persons now or hereafter becoming obligated or liable for the payment hereof do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Borrower does not intend or expect to pay, nor does Kresse, intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest that may be charged under any applicable law. Should the acceleration of the principal balance and accrued interest outstanding under this promissory note, or the imposition of any prepayment fees, default interest or any other charges due under this promissory note result in the computation or earning of interest in excess of the highest rate of interest permitted under applicable law, the amount of such excess interest or charges is hereby waived by Kresse, and shall be credited by Kresse, to the balance hereof.

Each Borrower, endorser, guarantor and any other person, firm or corporation now or hereafter becoming liable for the payment of the loan evidenced by this promissory note hereby consents to any renewals, extensions, modifications, or any indulgence shown to or any dealings between Kresse, and any party now or hereafter obligated hereunder, without notice, and jointly and severally agree that they shall remain liable hereunder notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced hereby is fully paid.

The Borrower agrees to pay a late charge equal to 5% of each payment of principal and/or interest which is not paid within 5 days of the date on which it is due.

Principal may be prepaid in whole or in part at any time prior to the maturity of this promissory note. There is no prepayment fee or penalty. Each prepayment of principal shall be applied against the payments last due under this promissory note. No partial prepayment of principal shall act to suspend, postpone or waive any regularly scheduled payment of principal and/or interest due under this promissory note.

In the event the Borrower fails to pay the entire principal balance and accrued interest outstanding under this promissory note at the maturity hereof, the entire principal balance outstanding under this promissory note shall bear interest at eighteen percent (18%) per annum until paid in full, without any notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration by Kresse.

This promissory note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. In the event of any litigation in any way arising out of the loan evidenced hereby, the Borrower and all other persons and entities now or hereafter becoming obligated for the payment of the indebtedness evidenced hereby consent to personal jurisdiction and venue in Miami-Dade County, Florida.

As utilized herein, the term “Borrower” shall refer to each person or entity executing this promissory note. As utilized herein, the term “Kresse” shall refer to the original payee identified above, and to any subsequent assignee or holder of this promissory note.

This promissory note may be assigned by Kresse without the prior consent of the Borrower.

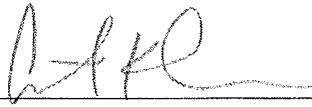
The terms of this promissory note may not be changed orally.

This promissory note is a modification, renewal and extension of that certain Promissory Note dated September 5, 2008, in the original principal sum of \$515,000.00, executed by the Borrower in favor of Kresse & Associates, Inc., which was assigned to Kresse. Documentary stamps in the full principal amount of the original Promissory Note were paid. No additional funds are being advanced under this Renewal Promissory Note, which modifies, renews and extends only the current principal balance outstanding under the original Promissory Note described hereinabove as of the effective date of this Renewal Promissory Note. There has been no change in the original obligor. Accordingly, no additional documentary stamps are due and payable on this Renewal Promissory Note.

**KRESSE AND EACH BORROWER (MAKER), ENDORSER AND GUARANTOR OF THIS PROMISSORY NOTE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT WHICH HE, SHE OR IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS RENEWAL PROMISSORY NOTE, OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HEREWITH, OR THE FINANCING CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR KRESSE MODIFYING AND EXTENDING THE LOAN EVIDENCED BY THIS RENEWAL PROMISSORY NOTE.**

KRESSE & ASSOCIATES, LLC, a Florida limited liability company

By: Official Reporting Services, LLC, a Florida limited liability company, its Manager

By:   
Arthur Kushner, Chief Executive Officer

# **EXHIBIT “H”**

## CONTINUING AND UNCONDITIONAL GUARANTY

**THIS CONTINUING AND UNCONDITIONAL GUARANTY** is given as of the 25<sup>th</sup> day of September, 2010 by **JOHN SICILIAN, JOSEPH DAGROSA, JR. and JAMES R. TOLZIEN** (hereinafter collectively called the "Guarantors" and individually a "Guarantor"), in order to induce **THOMAS J. KRESSE** (hereinafter the "Lender"), to enter into a Second Amendment To Asset Purchase Agreement which amends that certain Asset Purchase Agreement between Kresse & Associates, LLC, a Florida limited liability company (the Borrower"), Kresse & Associates, Inc., a Florida limited liability company (the "Seller"), and the Lender, and to accept a Renewal Promissory Note in the form of **Exhibit "A"** attached hereto (the "Renewal Note"), which evidences a modification, extension and renewal of that certain \$515,000.00 Promissory Note, dated September 25, 2008 (the "Original Note"), from the Borrower, in favor of the Seller, which Promissory Note was assigned by the Seller to the Lender. As of the date of the Renewal Promissory Note, the outstanding principal balance of the loan from the Lender to the Borrower, including accrued interest, was **THREE HUNDRED ONE THOUSAND, SIX HUNDRED SIXTY ONE AND NO/100'S DOLLARS (\$301,661.00)**. A condition precedent to the Lender agreeing to the Second Amendment To Asset Purchase Agreement and the Renewal Promissory Note is the guaranty of the Renewal Promissory Note by the Guarantors as provided herein. The Guarantors certify to the Lender that they have sufficient ownership interests in the Borrower that it is in their best interests to have the Second Amendment To Asset Purchase Agreement and the Renewal Note executed and delivered and for that and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Guarantors do hereby absolutely agree as follows:

1. **Unconditional Personal Guaranties.** The Guarantors do hereby irrevocably and unconditionally guarantee to Lender, jointly and severally as to each, the prompt and unconditional payment when due at the maturity date or any accelerated maturity date, of an amount equal to one-hundred (100%) of all monies due to Lender under the Renewal Note, including all principal and interest and other amounts payable thereunder. The Guarantors represent and warrant the Lender, that each Guarantor has the financial capability to repay the entire indebtedness set forth above in full in the event of a default under the Renewal Note, and while any amount of the indebtedness is outstanding, each Guarantor shall continue to have the financial capability to repay the same.

2. **Waiver of Rights by Guarantors.** The Guarantors hereby expressly waive presentment, demand for payment, notice of dishonor or non-payment, protest and notice of protest of the Renewal Note, notice of accommodations given to the maker of the Renewal Note, financial or otherwise, by Lender and giving of any notice of default or other notice to or the making of any other demand on the Guarantor; provided a notice of default is provided to the Manager of the Borrower in accordance with the terms of the loan documentation.

3. **Lender's Rights.** It is expressly understood and agreed that the Lender, at any time and from time to time, without the consent of or notice to the Guarantors and without impairing or releasing the obligations of the Guarantors hereunder, with or without any terms or conditions, and in whole or in part, may, provided any action taken below is approved by the Manager of the Borrower, as applicable:

- (i) Change the manner, place or terms of payment, or change or extend the time of payment of, renew, alter or exchange the Renewal Note and the guarantees herein made shall apply to the liabilities of Borrower under said Renewal Note, as changed, extended, renewed or altered in any manner;
- (ii) Exercise or refrain from exercising any rights against Borrower under the Renewal Note or other liabilities hereby guaranteed, or against the Guarantor under this Guaranty or otherwise act or refrain from acting;
- (iii) Settle or compromise the Renewal Note hereby guaranteed.

4. **Date Principal Sum Becomes Due and Payable.** The Guarantors agree that the principal sum evidenced by the Renewal Note and interest due thereon shall become due and payable at the option of the holder if the Guarantors shall fail to honor any of the obligations hereunder or on the happening of any default or event by which, under the terms of the Renewal Note, said principal sum may or shall become due and payable.

5. **Defects in Loan Documents Have No Effect on Guaranty.** No invalidity, irregularity or unenforceability of the Renewal Note hereby guaranteed shall effect, impair or be any defense to this Guaranty.

6. **Guarantors' Obligation to Pay.** This Guaranty is a guaranty of payment rather than a guaranty of collection, and the Guarantors promise that, upon any default by the maker in the payment of principal or interest of the Renewal Note or in the performance of any other obligation of the Renewal Note, and upon demand made by the holder of the Renewal Note upon the Guarantors, they will pay to the holder of the Renewal Note such principal and interest as provided in the Renewal Note, and any other sums then due under the terms of the Renewal Note.

7. **Guarantors Will Not Claim Defenses, Etc.** Other than as set forth in this Section 7, the Guarantors agrees that the Guarantors have not and will not set up or claim any defense, counterclaim, offset, setoff or other objection of any kind to any action, suit or other proceeding in law, equity of otherwise, or to any demand or claim that may instituted of made under and by virtue of the Guaranty.

8. **Guarantors' Rights Against Borrower.** By paying the Lender under this Guaranty, the Guarantors may acquire rights against the Borrower such as subrogation rights. The Guarantors agree not to exercise any of those rights until the Lender has received full payment of all principal, interest and other fees and costs due and payable under the Renewal Note.

9. **Guarantors' Assignment of Rights to Lender.** The Guarantors assign to the Lender all rights the Guarantors may have in any proceeding under the Federal Bankruptcy Act or any receivership or insolvency proceeding of the Borrower. This assignment includes all rights of the Guarantors to be paid by the Borrower. When the Lender has been fully paid all sums owed to the Lender under the Renewal Note, then and only then may the Guarantors enforce any of these rights. This assignment shall not prevent the Lender from enforcing this Guaranty in any way.

10. **Lender's Rights are Cumulative.** All remedies of the Lender under this Guaranty and the Renewal Note are separate and cumulative remedies and it is agreed that no one of such remedies, whether exercised by the Lender or not, shall be deemed to be in exclusion of any of the other remedies available to the Lender.

11. **Guaranty Binding Upon Guarantors' Heirs, Representatives, Successors and Assigns.** The guarantees herein set forth are binding upon the Guarantors and their respective legal representative, personal representatives, heirs, successors and assigns. This Guaranty shall without further reference, pass to and may be relied upon and enforced by any successor or assignee of the Lender.

12. **Modification and Termination.** This Guaranty may not be changed or terminated orally, but only by an agreement in writing signed by the Lender and the Guarantors.

13. **Attorney's Fees.** In the event that this Guaranty shall be placed in the hands of any attorney to enforce payment, or in the event that a suit shall be brought for the collection of monies due under this Guaranty, by reason of the provisions herein, or in the event of any litigation with respects to this Guaranty, the Guarantors agrees to pay reasonable attorneys' fees and all costs and charges in connection therewith, both for trial and appellate proceedings.

14. **Headings.** The headings of the paragraphs of this Guaranty are for convenience only, and are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

15. **Florida Law.** The terms and conditions of this Guaranty shall be governed by the laws of State of Florida. Venue for any legal proceedings under this Guaranty shall be in Miami-Dade County, Florida.

16. **Submission to Jurisdiction.** The Guarantors irrevocably and unconditionally (a) agree that any suit, action other legal proceeding arising out of or relating to this Guaranty may be brought, at the option of the Lender, in a court of competent jurisdiction of the State of Florida or any United States District Court; (b) consent to the jurisdiction of each court in any such suit, action or proceeding; (c) waive any and all personal rights under the laws of any state to object to the laying of venue of any such suit, action or proceeding in the State of Florida; and (d) agree that the service of any court paper may be affected on the Guarantors by mail, addressed and mailed as provided herein or in such other manner as may be provided under applicable

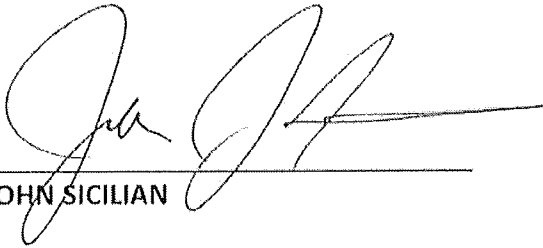
laws or court rules in the State of Florida. Nothing contained herein, however, shall prevent the Lender from bringing an action or exercising any rights against any security or against Guarantor personally, and against any property of Guarantors, within any other state. Initiating such proceeding or taking such action in any other state shall in no event constitute a waiver of the agreement contained herein that the law of State of Florida shall govern the rights and obligations of the Guarantors and the Lender hereunder or of the submission herein made by the Guarantors to personal jurisdiction within the State of Florida. The aforesaid means of obtaining personal jurisdiction and perfecting service of process are not intended to be exclusive but are cumulative and in addition to all other means of obtaining personal jurisdiction and perfecting service of process now or hereafter provided by the law of the State of Florida.

17. **Limitation On Guaranty.** Notwithstanding anything to the contrary contained herein, it is agreed that the maximum amount that each Guarantor shall be liable for shall be \$75,000.00. By way of example, if there is a default by the Borrower and at the time of the default the total amount owed on the Renewal Note is \$300,000.00, each Guarantor would be liable to Lender for the maximum amount of \$75,000.00, for a total of \$225,000.00.

**IN WITNESS WHEREOF**, the Guarantors have executed this Guaranty on the date and the year first above written.

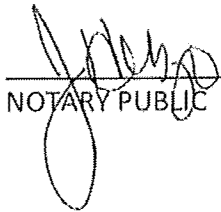
**[SIGNATURES ON FOLLOWING PAGES]**

GUARANTORS:

  
\_\_\_\_\_  
JOHN SICILIAN

STATE OF FLORIDA  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 3rd day of ~~January~~ February, 2011, by JOHN SICILIAN, who is personally known to me or has produced \_\_\_\_\_ as identification.

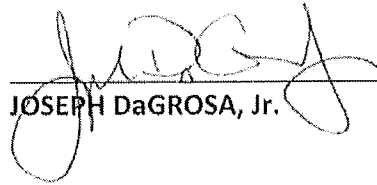
  
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NOTARY PUBLIC



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

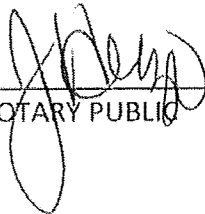


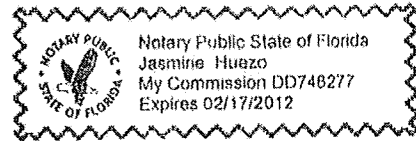
**GUARANTORS:**

  
\_\_\_\_\_  
JOSEPH DaGROSA, Jr.

STATE OF FLORIDA  
COUNTY OF Miami-Dade

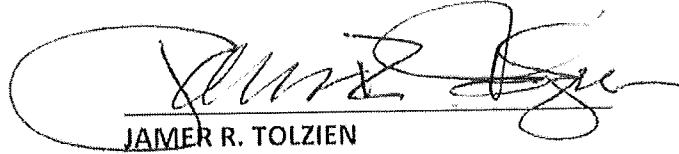
The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of ~~January~~ February, 2011, by JOSEPH DaGROSA, Jr., who is personally known to me or has produced \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
NOTARY PUBLIC



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

GUARANTORS:

  
JAMES R. TOLZIEN

STATE OF FLORIDA  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 18 day of January, 2011, by **JAMES R. TOLZIEN**, who is personally known to me or has produced \_\_\_\_\_ as identification.

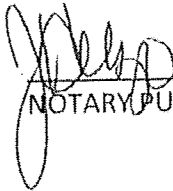
  
\_\_\_\_\_  
NOTARY PUBLIC



EXHIBIT "A"  
RENEWAL NOTE

\$301,661.00 U.S.

Miami, Florida

September 25, 2010

**FOR VALUE RECEIVED**, the undersigned (hereinafter referred to as the "Borrower") promises to pay to the order of **THOMAS J. KRESSE** (hereinafter referred to as "Kresse"), at 1415 20<sup>th</sup> Street, Apt. 401, Miami Beach, Florida 33139, or at such other location or address as Kresse may direct from time to time, the principal sum of **THREE HUNDRED ONE THOUSAND SIX HUNDRED SIXTY ONE AND NO/100THS DOLLARS (\$301,661.00)**, together with interest upon the principal balance outstanding from time to time, said principal and interest being payable as follows:

Principal and accrued interest shall be due and payable in forty-seven (47) equal monthly installments in the sum of Seven Thousand Eighty Four and 52/100ths Dollars (\$7,084.52) each, commencing on January 20, 2011, and a like sum shall be due and payable on the 20th day of each succeeding month thereafter, until and including November 20, 2014, and the entire principal sum then outstanding, together with all accrued interest then unpaid, shall be due and payable in full at maturity on December 20, 2014. All payments received by Kresse, shall be applied first to pay accrued interest and late charges, if any, and then to reduce principal.

Accrued interest shall be calculated on the principal sum outstanding from time to time, computed on a 365-day year basis, and charged for the actual number of days elapsed during each interest period, at a rate equal to six percent (6.0%) per annum.

At the option of Kresse, all sums advanced hereunder together with accrued interest thereon shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following events of default: (a) the Borrower's failure to promptly pay in full any payment of principal or interest due under this promissory note within five (5) days of the date when such payment of principal or interest becomes due; or (b) the dissolution, termination of existence, insolvency of, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency laws, by or against any Borrower or any endorser or guarantor hereof. Upon the occurrence of any event of default as defined herein, all sums outstanding under this promissory note shall thereupon immediately bear interest at eighteen percent (18%) per annum until paid in full, without notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration on the part of Kresse.

No delay or omission on the part of Kresse, in the exercise of any right hereunder shall operate as a waiver of such right or of any other right under this promissory note. A waiver by Kresse, of any right or remedy conferred to him hereunder on any one occasion shall not be

construed as a bar to, or waiver of, any such right and/or remedy as to any future occasion.

The Borrower agrees to pay the costs, charges and expenses incurred by Kresse, in the enforcement of his rights hereunder, including, but not limited to, reasonable attorney's fees incurred or paid by Kresse, whether or not suit is brought. As utilized herein, the term "attorney's fees" shall include, without limitation, all trial, appellate and bankruptcy attorney's fees incurred or paid by Kresse, in the enforcement of his rights hereunder.

The Borrower and all persons now or hereafter becoming obligated or liable for the payment hereof do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Borrower does not intend or expect to pay, nor does Kresse, intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest that may be charged under any applicable law. Should the acceleration of the principal balance and accrued interest outstanding under this promissory note, or the imposition of any prepayment fees, default interest or any other charges due under this promissory note result in the computation or earning of interest in excess of the highest rate of interest permitted under applicable law, the amount of such excess interest or charges is hereby waived by Kresse, and shall be credited by Kresse, to the balance hereof.

Each Borrower, endorser, guarantor and any other person, firm or corporation now or hereafter becoming liable for the payment of the loan evidenced by this promissory note hereby consents to any renewals, extensions, modifications, or any indulgence shown to or any dealings between Kresse, and any party now or hereafter obligated hereunder, without notice, and jointly and severally agree that they shall remain liable hereunder notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced hereby is fully paid.

The Borrower agrees to pay a late charge equal to 5% of each payment of principal and/or interest which is not paid within 5 days of the date on which it is due.

Principal may be prepaid in whole or in part at any time prior to the maturity of this promissory note. There is no prepayment fee or penalty. Each prepayment of principal shall be applied against the payments last due under this promissory note. No partial prepayment of principal shall act to suspend, postpone or waive any regularly scheduled payment of principal and/or interest due under this promissory note.

In the event the Borrower fails to pay the entire principal balance and accrued interest outstanding under this promissory note at the maturity hereof, the entire principal balance outstanding under this promissory note shall bear interest at eighteen percent (18%) per annum until paid in full, without any notice to the Borrower or any other party liable for the payment hereof, and without any affirmative action or declaration by Kresse.

This promissory note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. In the event of any litigation in any way arising out of the loan evidenced hereby, the Borrower and all other

persons and entities now or hereafter becoming obligated for the payment of the indebtedness evidenced hereby consent to personal jurisdiction and venue in Miami-Dade County, Florida.

As utilized herein, the term "Borrower" shall refer to each person or entity executing this promissory note. As utilized herein, the term "Kresse" shall refer to the original payee identified above, and to any subsequent assignee or holder of this promissory note.

This promissory note may be assigned by Kresse without the prior consent of the Borrower.

The terms of this promissory note may not be changed orally.

This promissory note is a modification, renewal and extension of that certain Promissory Note dated September 5, 2008, in the original principal sum of \$515,000.00, executed by the Borrower in favor of Kresse & Associates, Inc., which was assigned to Kresse. Documentary stamps in the full principal amount of the original Promissory Note were paid. No additional funds are being advanced under this Renewal Promissory Note, which modifies, renews and extends only the current principal balance outstanding under the original Promissory Note described hereinabove as of the effective date of this Renewal Promissory Note. There has been no change in the original obligor. Accordingly, no additional documentary stamps are due and payable on this Renewal Promissory Note.

**KRESSE AND EACH BORROWER (MAKER), ENDORSER AND GUARANTOR OF THIS PROMISSORY NOTE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT WHICH HE, SHE OR IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS RENEWAL PROMISSORY NOTE, OR ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HEREWITH, OR THE FINANCING CONTEMPLATED HEREBY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR THE ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR KRESSE MODIFYING AND EXTENDING THE LOAN EVIDENCED BY THIS RENEWAL PROMISSORY NOTE.**

**KRESSE & ASSOCIATES, LLC**, a Florida limited liability company

By: Official Reporting Services, LLC, a Florida limited liability company, its Manager

By: \_\_\_\_\_  
**Arthur Kushner**, Chief Executive Officer

# **EXHIBIT “I”**

## REAFFIRMATION OF GUARANTY

THIS REAFFIRMATION OF GUARANTY is executed as of the 25<sup>th</sup> day of September, 2010, by **OFFICIAL REPORTING SERVICES, LLC**, a Florida limited liability company (hereinafter referred to as the "Guarantor"), in favor of **THOMAS J. KRESSE** (hereinafter referred to as "Kresse");

### WITNESSETH, THAT:

WHEREAS, **KRESSE & ASSOCIATES, INC.**, a Florida corporation, previously extended a \$515,000.00 loan (the "Loan") to **KRESSE & ASSOCIATES, LLC**, a Florida limited liability company (hereinafter referred to as the "Borrower"), and

WHEREAS, the Loan was evidenced by that certain \$515,000.00 Promissory Note, dated September 25, 2010, from the Borrower to **KRESSE & ASSOCIATES, INC.** (the "Note"), and

WHEREAS, the Note and the Loan were guaranteed by the Guarantor, by that certain Guaranty executed by the Guarantor, dated as of the 25<sup>th</sup> day of September, 2008 (the "Guaranty"), and

WHEREAS, the Note was assigned by **KRESSE & ASSOCIATES, INC.** to Kresse, and

WHEREAS, the Loan has an outstanding principal balance, including accrued interest, as of September 25, 2010, in the amount of \$301,661.00, and

WHEREAS, the Borrower has requested Kresse to modify, extend and renew the Loan and accept a Renewal Promissory Note from the Borrower, and

WHEREAS, it is in the best interests of the Guarantor to facilitate the modification, extension and renewal of the Loan,

NOW, THEREFORE, for valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and to induce the Kresse to agree to modify, extend and renew the Loan, the Guarantor agrees as follows:

1. **Recitals**: The Guarantor acknowledges that each of the foregoing recitals is true and correct. The foregoing recitals are hereby incorporated into this Agreement and made a material part hereof by this express reference.

2. **Reaffirmation Of Guaranty**: The Guarantor hereby reaffirms, re-acknowledges and ratifies each and every of the terms, covenants and conditions of the Guaranty, and agrees to remain bound thereby. Guarantor agrees that the Loan, as modified, extended and renewed, and as evidenced by that certain \$301,661.00 Renewal Promissory Note dated September 25, 2010, from the Borrower to Kresse, is and shall remain encompassed by the Guaranty, and hereby reaffirms and ratifies the terms of the Guaranty with respect to the Loan, as so modified, extended and renewed.

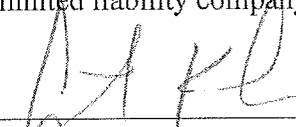
3. **No Defenses, Counterclaims Or Setoffs:** The Guarantor acknowledges that as of the date of this Agreement, the Guarantor has no defenses, counterclaims or claims to rights of offset with respect to the repayment of any obligations or indebtedness owed by the Borrower to Kresse. The Guarantor acknowledges consent to the assignment of the Loan and the Note to Kresse and agrees that the Guaranty applies to the Loan and Note and to the Renewal Promissory Note as if Kresse was the original lender.

4. **No Release:** The Guarantor acknowledges and agrees that no action taken by Kresse subsequent to the date hereof shall affect, impair or diminish the Guarantor's obligations under the Guaranty.

5. **Reliance:** The Guarantor acknowledges that Kresse is relying upon this Reaffirmation Of Guaranty in modifying, extending and renewing the Loan and accepting the Renewal Promissory Note, and the Guarantor intends that Kresse shall rely upon this Reaffirmation Of Guaranty. The Guarantor certifies to Kresse that the Guarantor is affiliated or associated with the Borrower such that the modification, extension and renewal of the Loan extended by Kresse to the Borrower shall inure to the benefit of the Guarantor, and constitute sufficient consideration for the Guarantor's execution of this Agreement.

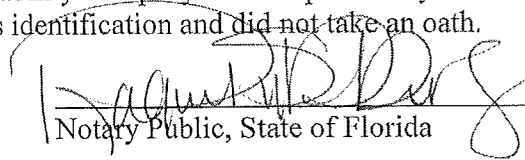
IN WITNESS WHEREOF, the Guarantor has caused this instrument to be duly executed as of the 25th day of September, 2010.

**OFFICIAL REPORTING SERVICES, LLC**, a  
Florida limited liability company

By:   
**ARTHUR KUSHNER**, Chief Executive  
Officer

**STATE OF FLORIDA**  
**COUNTY OF MIAMI-DADE**

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of January, 2011, by **ARTHUR KUSHNER**, as Chief Executive Officer of **OFFICIAL REPORTING SERVICES, LLC**, a Florida limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification and ~~did not take an oath.~~

  
Notary Public, State of Florida

My Commission expires:

 Raquel Silberberg  
COMMISSION # DD943769  
EXPIRES: DEC. 01, 2013  
WWW.AARONNOTARY.com



# **EXHIBIT “J”**

## CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into as of the 1st day of January, 2013 by and between TOKR CONSULTING, LLC, a Florida limited liability company (hereinafter "Consultant"), KRESSE & ASSOCIATES, LLC, a Florida limited liability company (the "Company") and OFFICIAL REPORTING SERVICES, LLC ("ORS").

### WITNESSETH THAT:

**WHEREAS**, the Company acquired substantially all of the assets of Kresse & Associates, Inc. ("K&A") pursuant to the terms of that certain Asset Purchase Agreement dated September 10, 2008 (the "Purchase Agreement"); and

**WHEREAS**, Thomas J. Kresse ("Kresse") was the founder, sole shareholder and President of K&A; and

**WHEREAS**, as a condition precedent to closing on the Purchase Agreement, the Company, Consultant and Kresse entered into that certain Consulting Agreement, dated as of the 10<sup>th</sup> day of September, 2008 (the "Original Agreement"); and

**WHEREAS**, the Consultant, Kresse, the Company and ORS desire to terminate the Original Agreement and to enter into this new consulting agreement (the "New Agreement"), and

**WHEREAS**, the Company is desirous of retaining the services, expertise and experience of Consultant in the Company's operation and in the development of new business for the Company (the court reporting business owned and operated by the Company or any of its affiliates, the "Court Reporting Business"); and

**WHEREAS**, the services of Consultant shall be provided exclusively by and through Kresse, as the sole member and manager of Consultant, and references herein to the Consultant shall be deemed to include Kresse where appropriate,

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto stipulate and agree as follows:

1. The foregoing recitals are true and correct and by this reference are incorporated herein.
2. The Original Agreement is deemed terminated, effective as of January 1, 2013.
3. During the term of this New Agreement, Consultant shall consult with the Company and ORS in an advisory capacity with respect to the marketing of the Court Reporting Business, new business development for the Company, and maintaining existing and new client relationships of the Company. Consultant shall also, if requested by the Company, provide services to the Company and its affiliates with regard to the development of marketing, new business and client relationships for the Company and its affiliates. Although Consultant shall,

in Consultant's sole discretion, determine the precise manner in which its services are to be provided hereunder and the hours to be worked each week in connection therewith, Consultant shall provide such services substantially on a full-time basis and in a manner responsive to the needs of the Company and carried out in accordance with the policies and procedures of the Company (all as communicated to Consultant by the Manager or principal executive officer of the Company).

4. The term of this New Agreement (the "Term") shall be for a two (2) year period<sup>1</sup> commencing on the date hereof (the "Initial Term"); provided, however, that either the Company or Consultant may terminate this Agreement for any reason (or no reason) upon ninety (90) days prior written notice to the other party. Notwithstanding the foregoing, each of the Company and the Consultant shall have the right to terminate this Agreement, effective immediately, if the other party breaches the terms of this Agreement and fails to cure such breach within five (5) days of receipt of written notice of such breach from the other party.

5. In consideration of the consulting services to be rendered hereunder during the Term, the Company shall pay to Consultant the following compensation:

a. \$28,000.00 per year (prorated as appropriate for any partial year of the Term), payable in 12 equal monthly installments in arrears (the "Base Fee"); and

b. Company shall pay Consultant commissions on business revenues ("New Business Revenues") from New Clients equal to ten percent (10%) of New Business Revenues received during the first thirty six (36) month period immediately following the generation of such New Client. Consultant shall prepare and submit to Company, on a quarterly basis, commission reports for commissions due and payable to Consultant for New Business Revenues from New Clients ("Commissions"), and Company shall pay the Commissions due to Consultant within fifteen (15) days from receipt thereof. Upon the end of the term of this Agreement, Company shall pay to Consultant all Commissions due and payable on New Business Revenues for a period of thirty six (36) months following the date each New Client was brought to the Company by Consultant. The term "New Clients" shall mean individual attorneys who have not utilized the services of the Company for court reporting business for any reason, exclusive of copy sales, for a period of at least one year prior to the date Consultant brings business from the New Client to the Company. Consultant will notify the Company in writing (which may include email) of a New Client and Company will promptly send written acknowledgement to Consultant if it approves the New Client or if it does not approve the New Client. If the Company does not approve the New Client, it shall document the reason for such disapproval and provide Consultant of copies of records and documentation that support such disapproval. Consultant and Consultant's agent will have the right to audit the records of the Company to determine if the proposed New Client meets the criteria for being treated as a New Client.

If Consultant disagrees with the Company as to whether a proposed New Client meets the New Client criteria, or whether Consultant is entitled to an Initial Commission with respect to an Initial New Client, Consultant shall meet with a designated representative of the Company to discuss and attempt to resolve the matter. If the parties are unable to

resolve the matter in a manner acceptable to both parties, Consultant shall have the right to initiate arbitration to resolve the matter. If Consultant gives notice of its desire to arbitrate the dispute within ninety (90) days following Consultant's receipt of the Company's disapproval of a proposed New Client, or any disagreement with regard to an Initial Commission, the dispute shall be settled by binding arbitration by the American Arbitration Association in accordance with its then prevailing rules. The non-prevailing party shall pay to the prevailing party the amount of the final arbitration award. If payment is not made within ten (10) days after the date the arbitration award is no longer appealable, then the prevailing party shall have the right to enforce the arbitration award in a court of competent jurisdiction, and the party prevailing in such lawsuit shall be entitled to recover costs and reasonable attorney's fees from the non-prevailing party.

c. If Company fails to pay any Initial Commissions or any Commissions due and owing to Consultant on a timely basis as provided herein, Consultant shall send written notice of such failure to Company, and Company shall have five (5) business days following receipt of such notice to pay the Commissions due and owing to Consultant. If Company fails to pay the Commissions due and owing to Consultant in full within the said five (5) business day cure period, Company shall be deemed to be in default of this Agreement and Consultant shall have the right to immediately terminate this Agreement by giving written notice to Company, provided, however, that if this Agreement is terminated as a result of such breach by Company, Consultant shall be entitled to the Commissions earned through the date of such termination and for the periods thereafter as are provided in this Section 5. The provisions of this Paragraph shall survive termination of this Agreement.

d. The Company will pay or reimburse Consultant for its reasonable travel, entertainment or other expenses as it may incur on behalf of the Company during the Term in connection with the performance of its duties hereunder, but only to the extent that such expenses were either specifically authorized by the Company or incurred in accordance with written policies reasonably established by the Company, and provided that Consultant will furnish the Company with such evidence relating to such expenses as the Company may reasonably require to substantiate such expenses for tax purposes. The Company shall pay/reimburse such expenses within fifteen (15) days of its receipt of appropriate substantiation of such expenses.

6. a. Either party may terminate this Agreement upon 90 day's prior written notice, in which event the Company shall continue to pay to Consultant the Base Fee through the effective date of the termination, and shall continue to pay the Commissions as provided in Section 5 above.

b. In the event of the death or permanent disability of Kresse, the Company shall pay the Consultant the Commissions, payable in accordance with Section 5 above.

7. Consultant agrees that any information received by Consultant during the performance of its services under this Agreement which concerns the financial, marketing or business affairs of the Company will be treated by the Consultant in full confidence and will not be revealed to any other persons, firms or organizations, except to the extent reasonably

necessary for Consultant to carry out its marketing and new business development efforts on behalf of the Company.

8. Neither this Agreement nor the obligations of the parties hereto under this Agreement shall be assignable without the prior written consent of all parties hereto; provided, however, that the rights and obligations of this Agreement may be assigned by the Company to any of its affiliates, to any purchaser of or successor to all or substantially all of the Company's assets or equity securities, by operation of law or to any lender to the Company or its affiliates, and such assignee shall have the right to enforce the terms of this Agreement; provided further, however, that such assignment by the Company shall not release the Company from any of its obligations hereunder without the consent of Consultant.

9. This Agreement shall be binding upon and inure to the benefit of all parties hereto and their respective heirs, devisees, legatees, personal representatives, legal representatives, successors and assigns.

10. All parties hereto shall execute and deliver any and all instruments, documents and papers and shall do any and all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement.

11. Whenever in this Agreement notice is required or desired to be given, it shall be given in writing and personally delivered or mailed by U.S. Certified Mail, Return Receipt Requested. If such notice is given by Certified Mail, Return Receipt Requested, then notice shall be deemed to be given and effective on the day mailed and shall be deemed received on the third (3rd) day after the date of the postmark of the mailed notice or the date posted and marked upon the receipt at the time such notice is presented to a facility of the United States Postal Service for depositing and mailing. Alternatively, if such notice in writing is physically delivered to the person to whom notice is intended to be given, then notice is deemed to be given, effective and received at such time the notice is physically handed to such person. Delivery of notice in person may be given by anyone competent to certify to such action.

12. This Agreement may only be modified or amended if done so in writing and signed by all parties hereto. In the event one of the parties hereto does not execute a proposed amendment or modification it shall be not be binding upon it.

13. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without reference to principles of choice of law, conflict of laws or comity. Any suit, action or other legal proceeding arising out of this Agreement shall be brought in the courts of the State of Florida. The parties to this Agreement hereby consent to the jurisdiction of such court in any such suit, action or proceeding, and waive any objection which any of them may have to the laying of the venue of any such suit, action or proceeding other than in Miami-Dade County, Florida. Except that, in the event that any suit, or legal proceeding arising out of the Agreement is based on a claim over which exclusive jurisdiction is vested in the Courts of the United States such suit, action or legal proceeding shall be brought in the Courts of the United States for the State of Florida and venue shall lay only in the United States District Court for the Southern District of Florida.

14. The failure of any party to this Agreement to object to or to take any affirmative action with respect to any conduct of any other party which is in violation, breach, or default of the terms hereof, shall not be construed as a waiver thereof, nor of any future breach or subsequent violation, breach or default.

15. In the event that any suit is filed because of a dispute or disagreement under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and disbursements incurred in such suit or action from the other party.

16. The Consultant shall at all times during the Term be and act as an independent contractor. This Agreement shall not be deemed to create an employer-employee relationship between the Company and the Consultant, nor any agency, joint venture or partnership relationship. The Consultant shall not be entitled to any benefit plans as made available by the Company to its employees, including but not limited to life and accident insurance, hospitalization, major medical insurance, worker compensation, retirement plans and disability insurance benefits. Neither party by virtue of this Agreement shall have the right or authority to act for or to bind the other in any way or to sign the name of the other or to represent that the other is in any way responsible for its acts or omissions.

17. This Agreement may be executed in any number of counterparts and each counterpart shall be deemed to be an original document for all purposes.

18. In the event any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is held to be illegal, invalid or unenforceable, there shall be added as a part of this Agreement a legal, valid and enforceable clause or provision as similar in terms of such illegal, invalid or unenforceable clause or provision as may be possible.

(Signatures are on the next page)

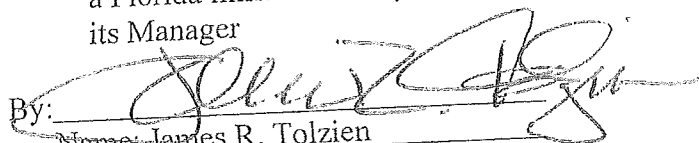
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date first written above.

TOKR CONSULTING, LLC  
a Florida limited liability company

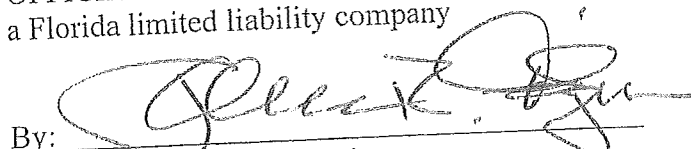
By: \_\_\_\_\_  
Thomas J. Kresse, Managing Member

KRESSE & ASSOCIATES, LLC  
a Florida limited liability company

By: Official Reporting Services, LLC,  
a Florida limited liability company  
its Manager

By:   
Name: James R. Tolzien  
Title: Authorized Signatory

OFFICIAL REPORTING SERVICES, LLC,  
a Florida limited liability company

By:   
Name: James R. Tolzien  
Title: Authorized Signatory

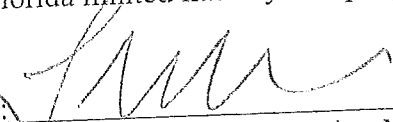
Joinder By Thomas J. Kresse

Thomas J. Kresse hereby executes this Agreement solely for the purpose of consenting and agreeing to the terms and conditions thereof.

\_\_\_\_\_  
Thomas J. Kresse

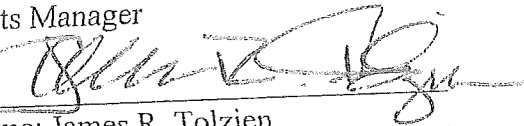
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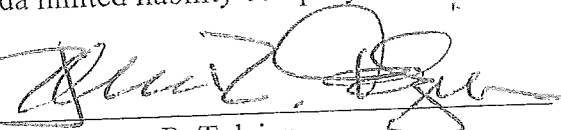
By:   
Thomas J. Kresse, Managing Member

KRESSE & ASSOCIATES, LLC  
a Florida limited liability company

By: Official Reporting Services, LLC,  
a Florida limited liability company  
its Manager

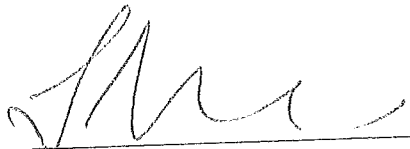
By:   
Name: James R. Tolzien  
Title: Authorized Signatory

OFFICIAL REPORTING SERVICES, LLC,  
a Florida limited liability company

By:   
Name: James R. Tolzien  
Title: Authorized Signatory

Joinder By Thomas J. Kresse

Thomas J. Kresse hereby executes this Agreement solely for the purpose of consenting and agreeing to the terms and conditions thereof.

  
Thomas J. Kresse



# **EXHIBIT “K”**

TOKR Consulting LLC  
1415 20th Street, 401  
Miami Beach, Florida 33139

July 29, 2013


James R. Tolzien  
Official Reporting Services LLC  
Kresse & Associates LLC  
1221 Brickell Avenue, Suite 2660  
Miami, FL 33131

Re: Consulting Agreement between TOKR LLC and Kresse &  
Associates LLC and Official Reporting Services

Dear Sirs,

This letter serves as termination notice, effective August 1,  
2013, of the consulting agreement dated June 1, 2012 between  
TOKR Consulting LLC and Kresse & Associates LLC and Official  
Reporting Services.

Sincerely,



Thomas J. Kresse  
TOKR Consulting LLC

cc. K. Saxon, Esq.