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Chicago, IL 60601-5212

Telephone 312 665 1000  
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March 20, 2008

Quebecor World (USA) Inc.  
c/o Ms. Louise Desjardins  
Senior Vice-President Taxation  
Quebecor World Inc.  
612 St-Jacques West  
Montreal, Quebec H3C 4M8  
Canada

Dear Ms. Desjardins:

### **Engagement Letter**

We are pleased you have engaged KPMG LLP (KPMG) to provide tax compliance and tax consulting services for Quebecor World (USA), Inc., its U.S. parent, and U.S. subsidiaries (collectively referred to herein as "Quebecor" or the "Company"). This letter confirms the scope and related terms of your engagement of KPMG.

#### **I. Tax Compliance Services**

We will perform the following services:

1. We will prepare federal, state and local corporate tax return(s), and supporting schedules for Quebecor's 2007 tax year unless you notify us to the contrary. Attached, in Appendix A, is the listing of returns to be prepared by KPMG.
2. We will calculate the Company's required tax depreciation for the 2007 tax year. We will compute current tax depreciation for regular tax, alternative minimum tax, ACE, state tax, and for earnings and profits (Sec. 312(k)) for the 2007 tax year. This assumes that we receive accumulated depreciation from the Company as of the end of 2006 for each method of depreciation on an asset by asset basis for regular tax, alternative minimum tax, ACE, state tax and Sec. 312(k). Time incurred to create the historical data for any depreciation method before 2007 will be billed separately subject to the provisions in the Compliance Fees section of this letter. We will also provide a forty year forecast of Quebecor's future tax depreciation.
3. We will also provide the services in Appendix B. This appendix describes the roles and responsibilities of each party.
4. Quebecor has informed us that all matters regarding estimated tax payments, extensions to file, and tax provision calculations will be performed by Quebecor.
5. We understand book basis tax returns on a legal entity basis, (or equivalent information) will be made available to KPMG by Quebecor within Quebecor's licensed InsourceRS software. Any





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hours required of KPMG to perform book basis tax return support will be billed separately subject to the provisions in the Compliance Fees section of this letter. To the extent they occur, they will be offset against the Additional Services Fee Pool.

6. We will also provide a copy of all workpapers prepared in support of the tax returns. These workpapers will be provided no later than 15 days after the delivery of all final tax returns (including but not limited to Section 199, Section 163(j), depreciation and state allocation and apportionment).
7. In order to ensure that Quebecor's timeline for preparation of the returns is met, KPMG and Quebecor will agree at the onset of the engagement to a schedule of milestones and deliverables regarding the provision by Quebecor of data integral to the preparation of the returns and Quebecor's review process.

This engagement letter also covers services related to the preparation of Quebecor's 2008 and 2009 tax returns. Quebecor may opt out of the engagement after the preparation of the 2007 tax return. If Quebecor chooses to retain KPMG for tax services after the preparation of the 2007 tax returns, Quebecor may retain KPMG for the preparation of both the 2008 and/or 2009 tax returns. Quebecor will provide written notification of its decision to KPMG by December 31, 2008.

We will prepare these returns from the information Quebecor submits. We will not audit or independently verify the data Quebecor submits. However, we may ask for clarification of some of the information. Our engagement cannot be relied on to uncover errors in the underlying information incorporated in the tax return, omissions, or irregularities, should any exist. However, we will inform you of any such matters that come to our attention. Because management has ultimate responsibility for the tax return(s), please have the appropriate corporate officials review the return before an officer signs and files the final tax return(s).

Please note that if Quebecor had a taxable presence (e.g., an employee within the state or any tangible property owned or rented within the state) in a state not listed in Appendix A, it may be subject to state income or franchise tax in that state, depending upon the particular facts. It is Quebecor's obligation to notify KPMG if assistance is needed to determine whether Quebecor is liable for state income or franchise tax or has a filing requirement in states not listed in Appendix A.

All returns are subject to examination by the taxing authorities. In the event of an examination, Quebecor may be requested to produce documents, records, or other evidence to substantiate the items of income and deduction shown on the tax return(s). In preparing your return(s), we rely on your representations that you understand and have complied with applicable documentation requirements for Quebecor's expenses, deductions, and credits. If an examination occurs, and if you and we agree to have KPMG assist or represent Quebecor in the examination, any such additional services and the fee therefore would be set forth in a separate engagement letter.



### **Tax Return Standards**

KPMG applies elevated standards in preparing tax returns. In this regard, if a return position relates to a transaction designated by the IRS or a state as a “listed transaction,” or if the principal purpose of a transaction is the avoidance or evasion of tax (principal purpose transaction), we must arrive at a “should” confidence level (i.e., approximately a 70 percent or greater likelihood of success if challenged by the taxing authorities) with respect to the position. If the position does not involve a federal or state “listed transaction” or a “principal purpose transaction,” we must be able to determine that (1) an undisclosed return position is at least “more likely than not” to be upheld (i.e., has a greater than 50 percent likelihood of success if challenged by the taxing authorities) and (2) a disclosed return position has at least a “realistic possibility” of being sustained on its merits (i.e., approximately a one-in-three or greater likelihood of success if challenged by the taxing authorities). In determining whether a return position meets the appropriate standard, we will not take into account the possibility that a tax return will not be audited, that an issue will not be raised on audit, or that an issue will be settled. We will inform you as soon as possible if, during our preparation, we determine circumstances exist that prevent us from completing the tax return under these standards and we will advise you of potential alternatives.

### **Transfer Pricing**

As agreed, we will not prepare or participate in the preparation of a “transfer pricing study” for the taxable year ended December 31, 2007. In addition, you stated the Company understands the requirements of sections 482 and 6662 of the Internal Revenue Code and the authorities, including Treasury regulations.

### **Coordination with KPMG International Member Firms**

Our services covered by this engagement letter may also necessitate the assistance of a member firm of KPMG International. To the extent that our services under this engagement letter require such assistance, the services will be provided under the direction of KPMG LLP, the U.S. member firm of KPMG International, and will include the participation of one or more other member firms of KPMG International (KPMG member firms), specifically KPMG Canada. KPMG LLP is a separate legal entity from other member firms of KPMG International. Advice relative to tax matters outside the United States will be based on tax advice provided by the KPMG member firm in the particular country and on the relevant tax authorities in that country. In rendering such advice, we may also consider U.S. tax treaties, their technical explanations, and judicial and administrative interpretations thereof.



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## **Electronic Filing**

Electronic filing is mandatory for certain federal corporate tax returns. We will assist Quebecor in the successful electronic filing of its federal income tax return. In addition, certain states<sup>1</sup> have enacted electronic filing requirements for corporate returns. The requirements and procedures vary by state. Any fees incurred by Quebecor for electronic filing by its software provider are the responsibility of Quebecor. In addition, all costs associated with the use of Quebecor's license of the InsourceRS software will be the responsibility of the company.

Attached to this letter is an E-filing Summary and Authorization Form that summarizes the federal and state e-filing requirements to which the corporate returns included in this engagement may be subject. Please complete and return this form to KPMG along with the signed engagement letter.

## **II. Tax Consulting Services**

This engagement letter also covers tax consulting matters that may arise for which you seek our advice, both written and oral, and that are not the subject of a separate engagement letter. Any such advice will comply with the elevated standards described in the "Tax Return Standards" section of this letter.

We do not anticipate that the written tax advice provided under this engagement letter will be a Covered Opinion as defined in §10.35 of Circular 230 (Covered Opinion). Therefore, all the written tax advice provided under this engagement letter will contain the following legend:

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

However, if our services will rise to the level of a Covered Opinion, we will issue a separate engagement letter for the issuance of a Covered Opinion.

KPMG will not render any advice with respect to a federal or state "listed transaction" or any transaction that is substantially similar to a federal or state "listed transaction".

To be of greatest assistance to Quebecor, we should be advised **in advance** of proposed transactions. If such matters exceed the scope of this engagement letter, we will issue separate engagement letters to confirm the scope and related terms of any additional engagements.

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<sup>1</sup> As of October 2007: Massachusetts and Michigan (SBT returns) for 2006 or 2007 tax year returns.



Furthermore, if the fees for any item of tax consulting are expected to exceed \$50,000, we will issue a separate engagement letter.

**Fees**

**I. Tax Compliance Services**

The fee for services provided by the KPMG and any KPMG member firm, including, KPMG Canada, will be based on the actual time incurred to complete the tax return at the hourly rates for the individuals involved in providing the services summarized in the table below. Our fee for tax compliance services will be the lesser of actual time incurred to complete the tax return at the rates posted in the below schedule or \$850,000. For services related to the preparation of the 2008 and 2009 income tax returns, our fee for tax compliance services will be the lesser of actual time incurred to complete the tax return at the rates posted in the below schedule or \$800,000 for 2008 and \$775,000 for 2009. In addition, we will bill you for our reasonable out-of-pocket expenses (e.g., non-local area travel, lodging, meals, etc.) but not for overhead or administrative fees.

Professional (U.S. & Member Firm)	Hourly Rate
Partner	\$400
Associate Partner/Senior Principal	\$363
Tax Managing Director	\$325
Senior Manager	\$305
Manager	\$213
Senior Tax Associate	\$168
Tax Associate	\$138

The cap of \$850,000 for 2007 (and the discounted amounts for 2008 and 2009) include(s) fees for additional services up to \$100,000 ("Additional Services Fee Pool") based on the above rate table. The Additional Services Fee Pool can include time incurred by Montreal and Chicago office professionals regarding fixed assets (AM reports, intercompany transfers, proceeds etc), various M-3 items (including the computation of certain reserve items, Sec. 163(j) limitation and Sec. 199 manufacturing deduction), various state related matters and time incurred for coordinating with other service providers regarding the Company's Chapter 11 restructuring. Fees for such additional services in excess of the Additional Services Fee Pool will be billed at the hourly rates above for compliance services of the individual performing the service and the hourly rates below for tax consulting services.

The Additional Services Fee Pool in the amount of \$100,000 will exist for each of the 2008 and 2009 tax return preparation as well. However any unused amounts from any given Additional Services Fee Pool for any given year will not be utilizable against services for a different year's tax



return preparation services (i.e., the Additional Services Fee Pools do not “carryback” or “carryforward” from year to year).

Our fees for tax compliance services will be progress billed monthly as work is performed. All invoices are payable 60 (sixty) days after issuance from KPMG. Invoices issued will identify which hours are subject to the Additional Services Fee Pool provision and the cumulative amount remaining.

KPMG acknowledges that the Bankruptcy Court must approve its fees in order to be compensated. In that regard, KPMG intends to file applications with the Court for allowance of compensation and reimbursement of expenses in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and any order of the Bankruptcy Court establishing procedures for monthly compensation and reimbursement of expenses for professionals. KPMG will submit time records in a summary format which shall set forth a description of the services rendered by each restructuring professional and the amount of time spent on each date, in half-hour (.5) increments, by each such individual in rendering services on behalf of the Debtors (unless directed by the Bankruptcy Court to provide other information).

If we encounter matters that exceed the scope of this engagement letter, we will issue separate engagement letters to confirm the scope and related terms of any additional engagements.

## II. Tax Consulting Services

Our fees for any separately identified and previously agreed to tax consulting services under this engagement will be based on the actual time required of the individuals who will be performing the services summarized in the table below. In addition, we will bill you for our reasonable out-of-pocket expenses (e.g., non-local travel, lodging, meals, etc.) but not for overhead or administrative fees. Our fees for tax consulting services will be billed as incurred.

Professional (U.S. & Member Firm)	Hourly Rate
Partner	\$505
Associate Partner/Senior Principal	\$475
Tax Managing Director	\$455
Senior Manager	\$420
Manager	\$332
Senior Tax Associate	\$245
Tax Associate	\$192

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## Terms & Conditions

The attached Standard Terms and Conditions are made a part of this Engagement Letter, except as modified below:

### In general

(1) The Dispute Resolution procedures set forth in Section 14 of the Standard Terms and Conditions are modified by providing that any dispute or claim also may be resolved before the United States Bankruptcy Court for the Southern District of New York; and (2) any terms and conditions relating to indemnification are modified and amended to the extent that neither party will be indemnified for damages arising from their bad faith, self-dealing, breach of fiduciary duty (if any such duty exists), gross negligence or willful misconduct.

### Specific Language Changes

1. A new subparagraph (d) is added to Section 1 (Services; Client Responsibilities) to read:  
“(d) The above shall not be construed as limiting in any manner whatsoever the responsibility of KPMG with respect to the provision of the Services.”
2. Add the following words at the end of Section 2 before the period:  
“or affiliates”
3. Section 3 (Termination) shall be amended and restated with the following:  
“Quebecor may terminate this Engagement Letter at any time by giving written notice to KPMG not less than ten (10) calendar days before the effective date of termination. KPMG may terminate this Engagement Letter for cause by giving written notice to Quebecor not less than ten (10) calendar days before the effective date of termination, provided that Quebecor shall have five (5) calendar days after receiving such written notice to cure, if possible, the events or circumstances constituting the “cause” and to thereafter notify KPMG of such cure. If KPMG deems the cure to be effective, the termination shall not be effective. In addition, the terminating party shall provide the Court, the Office of the United States (the “U.S. Trustee”), the Creditors’ Committee and the Fee Review Committee (if any) with five (5) business days’ notice of termination. Rights and obligations accrued prior to termination, including those provisions of the Engagement Letter relating to indemnification, infringement, confidentiality, limitation on damages, fees and expenses, will remain operative and in full force and effect regardless of any termination or expiration of the Engagement Letter and shall survive completion of the Debtors’ bankruptcy, whether through a confirmed plan of reorganization, liquidation of the Debtors’ assets under chapter 11 or 7 of the Bankruptcy Code, or otherwise.”
4. Section 6 (Limitation on Damages): The first sentence herein is amended and restated to read:  
““Except for each party’s indemnification obligations herein, to the fullest extent permitted by applicable law (including, without limitation, for these purposes, the rules and



interpretations of the AICPA and the U.S. Securities and Exchange Commission), and except in the case of damages arising from KPMG's bad faith, self-dealing, breach of fiduciary duty (if any such duty exists), gross negligence or willful misconduct, the total aggregate liability of KPMG to Client (and to any affiliate thereof or any other person or entity for or in respect of which any of the Services are provided) for any and all claims in connection with the performance of the Services pursuant to this Engagement Letter shall be limited to five times the fees actually paid to KPMG pursuant to this Engagement Letter in respect of the Services directly relating to and forming the basis of Client's claim, regardless of whether liability is based on breach of contract, tort, strict liability, breach of warranty, failure of essential purpose or otherwise." The second sentence herein shall be preceded by the words: "Except with respect to KPMG's indemnification obligations set forth in Section 7 below, . . .".

5. Insert the words "(where required)" in subparagraph (b) of Section 8 (Idemnification), in the last sentence after the words "or work product without adhering to the notice requirements".

6. Add a new subparagraph (e) of Section 11 (Confidentiality), to read:

"The obligations and liability of the parties hereto under this Section 11 shall not be limited by the limitation on damages in Section 6."

7. Insert the following sentence in Section 12 (Assignment; Use of Member Firms), as the last sentence:

"In such a case, KPMG shall be liable to the extent provided in this Agreement for all acts, omissions, faults, errors, non compliance with this Agreement or negligence of any such member firm, subject to the limitation on damages in Section 6."

8. Insert the following sentence in subparagraph (e) of Section 17 (Additional Terms for Engagements Involving Tax Services), as the last sentence:

"In all instances though, KPMG shall be liable to the full extent allowed by this Agreement for a breach of any provision hereof by any such affiliates or third party service providers as if they were a party hereto, subject to the limitation on damages in Section 6."





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Please sign the enclosed copy of this letter to confirm our agreement and return it to us within 30 days. Your signature also confirms your understanding of and consent to Section 17(e) (relating to the use of return processing services outside the United States) of the attached Standard Terms and Conditions, unless you indicate otherwise at the time of signing. If you have any questions, please call me at (312) 665-2494.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael R. Lawler', written over a faint, dotted grid background.

Michael R. Lawler  
*Partner, Tax*

Enclosures: Standard Terms & Conditions

cc: Dan Rahill – KPMG LLP  
John Gremer – KPMG LLP  
Jim McEvoy – KPMG Canada  
Robert Stenander – KPMG LLP



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ACCEPTED:

Quebecor World (USA), Inc.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**KPMG LLP**  
**Standard Terms and Conditions for Advisory and Tax Services**

**1. Services; Client Responsibilities.**

- (a) It is understood and agreed that KPMG's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Client. KPMG will not perform management functions or make management decisions for Client. References herein to Client shall refer to the addressee of the Proposal or Engagement Letter to which these Standard Terms and Conditions are attached (the "Engagement Letter").
- (b) In connection with KPMG's provision of services under the Engagement Letter, Client agrees that Client, and not KPMG, shall perform the following functions: (i) make all management decisions and perform all management functions; (ii) designate an individual who possesses suitable skill, knowledge and experience, preferably within senior management, to oversee such services, and to evaluate the adequacy and results of such services; (iii) accept responsibility for the results of such services; and (iv) establish and maintain internal controls over the processes with which such services are concerned, including monitoring on-going activities.
- (c) Subsequent to the completion of this engagement, KPMG will not update its advice, recommendations or work product for changes or modification to the law and regulations, or to the judicial and administrative interpretations thereof, or for subsequent events or transactions, unless Client separately engages KPMG to do so in writing after such changes or modifications, interpretations, events or transactions.

**2. Tax on Services.** All fees, charges and other amounts payable to KPMG under the Engagement Letter do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which shall be Client's sole responsibility, excluding any applicable taxes based on KPMG's net income or taxes arising from the employment or independent contractor relationship between KPMG and its personnel.

**3. Termination.** Either party may terminate the Engagement Letter at any time by giving written notice to the other party not less than 30 calendar days before the effective date of termination.

**4. Ownership and Use of Deliverables.**

- (a) KPMG has created, acquired, owns or otherwise has rights in, and may, in connection with the performance of services under the Engagement Letter, use, provide, modify, create, acquire or otherwise obtain rights in, concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and software (collectively, the "KPMG Property"). KPMG retains all ownership and use rights in the KPMG Property. Client shall acquire no rights or interest in the KPMG Property, except as expressly provided in the next paragraph. KPMG acknowledges that KPMG Property shall not include any of Client's confidential information or tangible or intangible property, and KPMG shall have no ownership rights in such property.

- (b) Except for KPMG Property, and upon full and final payment to KPMG under the Engagement Letter, the tangible items specified as deliverables or work product in the Engagement Letter including any intellectual property rights appurtenant thereto (the "Deliverables") will become the property of Client. If any KPMG Property is contained in any of the Deliverables, KPMG hereby grants Client a royalty-free, paid-up, non-exclusive, perpetual license to use such KPMG Property in connection with Client's use of the Deliverables.

- (c) Client acknowledges and agrees that any advice, recommendations, information or work product provided to Client by KPMG in connection with this engagement is for the sole use of Client and may not be relied upon by any third party. Client agrees that if it makes such advice, recommendations, information or work product available to any third party other than as expressly permitted by the Engagement Letter the provisions of Paragraph 8(b) shall apply unless Client provides the written notice to the third party in substantially the form of Appendix A hereto (the "Notice"), which Notice shall be acknowledged in writing by such third party and returned to Client. Upon request, Client shall provide KPMG with a copy of the foregoing Notice and acknowledgement and any notice and acknowledgement sent to Client by such third party as contemplated by the Notice. Notwithstanding the foregoing, (i) in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 17(a) below, no acknowledgement of the Notice shall be required and (ii) no Notice or acknowledgement shall be required with respect to disclosures expressly authorized by the Engagement Letter.

**5. Warranties.** KPMG's services under the Engagement Letter are subject to and will be performed in accordance with American Institute of Certified Public Accountants ("AICPA") and other professional standards applicable to the services provided by KPMG under the Engagement Letter and in accordance with the terms thereof. KPMG disclaims all other warranties, either express or implied.

**6. Limitation on Damages.** Except for each party's indemnification obligations herein, neither Client nor KPMG shall be liable to the other for any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter for an aggregate amount in excess of the fees paid or owing to KPMG under the Engagement Letter. In no event shall either party be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs).

**7. Infringement.**

- (a) KPMG hereby agrees to indemnify, hold harmless and defend Client from and against any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (collectively "Liabilities") asserted by a third party against Client to the extent such Liabilities result from the infringement by the Deliverables (including any KPMG Property contained therein) of such third party's patents issued as of the

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date of the Engagement Letter, trade secrets, trademarks or copyrights. The preceding indemnification shall not apply to any infringement arising out of (x) use of the Deliverables other than in accordance with applicable documentation or instructions supplied by KPMG or other than in accordance with Paragraph 4(c); (y) any alteration, modification or revision of the Deliverables not expressly agreed to in writing by KPMG; or (z) the combination of the Deliverables with materials not supplied or approved by KPMG.

- (b) In case any of the Deliverables (including any KPMG Property contained therein) or any portion thereof is held, or in KPMG's reasonable opinion is likely to be held, to constitute infringement, KPMG may, within a reasonable time, at its option either: (i) secure for Client the right to continue the use of such infringing item; or (ii) replace, at KPMG's sole expense, such item with a substantially equivalent non-infringing item or modify such item so that it becomes non-infringing. In the event KPMG is, in its reasonable discretion, unable to perform either of options described in (i) or (ii) above, Client shall return the Deliverable to KPMG, and KPMG's sole liability shall be to refund to Client the amount paid to KPMG for such item; provided that the foregoing shall not be construed to limit KPMG's indemnification obligation set forth in Paragraph 7(a) above.
- (c) The provisions of this Paragraph 7 state KPMG's entire liability and Client's sole and exclusive remedy with respect to any infringement or claim of infringement.

**8. Indemnification.**

- (a) Each party agrees to indemnify, hold harmless and defend the other from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which the other party may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the indemnifying party.
- (b) In accordance with Paragraph 4(c) Client agrees to indemnify, defend and hold harmless KPMG from and against any and all Liabilities incurred or suffered by or asserted against KPMG in connection with a third party claim to the extent resulting from such party's use or possession of or reliance upon KPMG's advice, recommendations, information or work product as a result of Client's disclosure of such advice, recommendations, information or work product without adhering to the notice requirements of Paragraph 4(c) above.
- (c) The party entitled to indemnification (the "Indemnified Party") shall promptly notify the party obligated to provide such indemnification (the "Indemnifying Party") of any claim for which the Indemnified Party seeks indemnification. The Indemnifying Party shall have the right to conduct the defense or settlement of any such claim at the Indemnifying Party's sole expense, and the Indemnified Party shall cooperate with the Indemnifying Party. The party not conducting the defense shall nonetheless have the right to participate in such defense at its own expense. The Indemnified Party shall have the right to approve the settlement of any claim that imposes any liability or obligation other than the payment of money damages.

**9. Cooperation; Use of Information.**

- (a) Client agrees to cooperate with KPMG in the performance of the services under the Engagement Letter and shall provide or arrange to provide KPMG with timely access to and use of the personnel, facilities, equipment, data and information to the extent necessary for KPMG to perform the services under the Engagement Letter. The Engagement Letter may set forth additional obligations of Client in connection with this engagement. Client acknowledges that Client's failure to perform these obligations could adversely affect KPMG's ability to provide the services under the Engagement Letter.
- (b) Client acknowledges and agrees that KPMG will, in performing the services under the Engagement Letter, base its conclusions on the facts and assumptions that Client furnishes and that KPMG may use data, material, and other information furnished by or at the request or direction of Client without any independent investigation or verification and that KPMG shall be entitled to rely upon the accuracy and completeness of such data, material and other information. Inaccuracy or incompleteness of such data, material and other information furnished to KPMG could have a material effect on KPMG's conclusions.

- 10. Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is or shall be considered an agent, distributor or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

**11. Confidentiality.**

- (a) "Confidential Information" means all documents, software, reports, data, records, forms and other materials obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party") or at the request or direction of the Disclosing Party in the course of performing the services under the Engagement Letter: (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential. Notwithstanding the foregoing, Confidential Information does not include information which: (i) is already known to the Receiving Party at the time of disclosure by the Disclosing Party; (ii) is or becomes publicly known through no wrongful act of the Receiving Party; (iii) is independently developed by the Receiving Party without benefit of the Disclosing Party's Confidential Information; (iv) relates to the tax treatment or tax structure of any transaction, (v) the Receiving Party determines is required to be maintained or disclosed by the Receiving Party under sections 6011, 6111 or 6112 of the Internal Revenue Code ("IRC") or the regulations thereunder or under any similar or analogous provisions of the laws of a state or other jurisdiction or (vi) is received by the Receiving Party from a third party without restriction and without a breach of an obligation of confidentiality.

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**Standard Terms and Conditions for Advisory and Tax Services**

- (b) The Receiving Party will deliver to the Disclosing Party all Confidential Information of the Disclosing Party and all copies thereof when the Disclosing Party requests the same, except for one copy thereof that the Receiving Party may retain for its records. The Receiving Party shall not use or disclose to any person, firm or entity any Confidential Information of the Disclosing Party without the Disclosing Party's express, prior written permission; provided, however, that notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the extent that it is required to be disclosed pursuant to a statutory or regulatory provision or court order or to fulfill professional obligations and standards.
- (c) Each party shall be deemed to have met its nondisclosure obligations under this Paragraph 11 as long as it exercises the same level of care to protect the other's information as it exercises to protect its own confidential information but in no event less than reasonable care, except to the extent that applicable law or professional standards impose a higher requirement.
- (d) If the Receiving Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the Disclosing Party's Confidential Information, the Receiving Party shall provide prompt written notice to the Disclosing Party of such demand in order to permit it to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such demand to the extent permitted by law, subject to any protective order or the like that may have been entered in the matter.
- 12. Assignment; Use of Member Firms.** Neither party may assign, transfer or delegate any of its rights or obligations without the prior written consent of the other party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, to the extent any of the services under the Engagement Letter will be performed in or relate to a jurisdiction outside of the United States, Client acknowledges and agrees that such services, including any applicable tax advice, may be performed by the member firm of KPMG International practicing in such jurisdiction. Accordingly, Client consents to KPMG's disclosure to a member firm and such member firm's use of data and information, including tax return information, received from or at the request or direction of Client for the purpose of completing the services under the Engagement Letter.
- 13. Governing Law; Severability.** The Engagement Letter and these Standard Terms and Conditions shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions. In the event that any term or provision of the Engagement Letter or these terms shall be held to be invalid, void or unenforceable, then the remainder of the Engagement Letter and these terms shall not be affected, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.
- 14. Alternative Dispute Resolution.**
- (a) Any dispute or claim arising out of or relating to the Engagement Letter between the parties or the services provided thereunder shall be submitted first to non-binding mediation (unless either party elects to forego mediation by initiating a written request for arbitration) and if mediation is not successful within 90 days after the issuance by one of the parties of a request for mediation then to binding arbitration in accordance with the Rules for Non-Administered Arbitration of the International Institute for Conflict Prevention and Resolution ("CPR Arbitration Rules"). By operation of this provision, the parties agree to forego litigation over such disputes in any court of competent jurisdiction.
- (b) Mediation, if selected, may take place at a location to be designated by the parties using the Mediation Procedures of the International Institute for Conflict Prevention and Resolution, with the exception of paragraph 2 (Selecting the Mediator).
- (c) Arbitration shall take place in New York, New York. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort except as provided in CPR Rule 13 (Interim Measures of Protection). Damages that are inconsistent with any applicable agreement between the parties, that are punitive in nature, or that are not measured by the prevailing party's actual damages shall be unavailable in arbitration or any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitration panel have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.
- (d) Either party may seek to enforce any written agreement reached by the parties during mediation, or to confirm and enforce any final award entered in arbitration, in any court of competent jurisdiction.
- (e) Notwithstanding the agreement to such procedures, either party may seek equitable relief to enforce its rights in any court of competent jurisdiction.
- 15. Miscellaneous.**
- (a) Except as otherwise set forth in the Engagement Letter, in accepting this engagement, Client acknowledges that completion of this engagement or acceptance of Deliverables resulting from this engagement will not constitute a basis for Client's assessment or evaluation of internal control over financial reporting and disclosure controls and procedures, or its compliance with its principal officer certification requirements under Section 302 of the Sarbanes-Oxley Act of 2002 (the "Act"). The services under the Engagement Letter shall not be construed to support Client's responsibilities under Section 404 of the Act requiring each annual report filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 to contain an internal control report from management.
- (b) KPMG may communicate with Client by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. Client accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices) and agrees that it may rely only upon a final hardcopy version of a document or other communication that KPMG transmits to Client unless no such hard copy is transmitted by KPMG to Client.

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**Standard Terms and Conditions for Advisory and Tax Services**

- (c) For engagements where services will be provided by KPMG through offices located in California, Client acknowledges that certain of KPMG's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.
- (d) Where KPMG is reimbursed for expenses, it is KPMG's policy to bill clients the amount incurred at the time the good or service is purchased. If KPMG subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, KPMG does not credit such payment to Client. Instead, KPMG applies such payments to reduce its overhead costs, which costs are taken into account in determining KPMG's standard billing rates and certain transaction charges that may be charged to clients.
- (e) Except as permitted by law or the terms of the Engagement Letter, neither party shall acquire hereunder any right to use the name or logo of the other party or any part thereof. Any such use shall require the express written consent of the owner party.

**16. Entire Agreement.** The Engagement Letter and these Standard Terms and Conditions, including the Exhibits and Appendices hereto and thereto, constitute the entire agreement between KPMG and Client with respect to the services under the Engagement Letter and supersede all other oral and written representation, understandings or agreements relating thereto.

**17. Additional Terms for Engagements Involving Tax Services.**

- (a) Notwithstanding anything to the contrary set forth herein, no provision in the Engagement Letter or these Standard Terms and Conditions is or is intended to be construed as a condition of confidentiality within the meaning of IRC sections 6011, 6111, 6112 or the regulations thereunder, or under any similar or analogous provisions of the laws of a state or other jurisdiction. In particular, Client (and each employee, representative, or other agent of Client) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of any transaction within the scope of this engagement and all materials of any kind (including opinions and other tax analyses) that are provided to Client relating to such tax treatment and tax structure. Client also agrees to use commercially reasonable efforts to inform KPMG of any conditions of confidentiality imposed by third party advisors with respect to any transaction on which KPMG advice is requested. Such notification must occur prior to KPMG providing any advice with respect to the transaction.
- (b) Treasury regulations under IRC section 6011 require taxpayers to disclose to the IRS their participation in reportable transactions and IRC section 6707A imposes strict penalties for noncompliance. Client agrees to use commercially reasonable efforts to inform KPMG if Client is required to disclose any transaction covered by the Engagement Letter as a reportable transaction to the IRS or to any state or other jurisdiction adopting similar or analogous provisions. IRC section 6111 requires a

material advisor with respect to a reportable transaction to disclose information on the transaction to the IRS by a prescribed date, and IRC section 6112 requires the material advisor to maintain, and make available to the IRS upon request, a list of persons and other information with respect to the transaction. KPMG will use commercially reasonable efforts to inform Client if KPMG provides Client's identifying information to the IRS under IRC section 6111 or 6112, or to any state or other jurisdiction adopting similar or analogous provisions.

- (c) Information relating to advice KPMG provides to Client, including communications between KPMG and Client and material KPMG creates in the course of providing advice, may be privileged and protected from disclosure to the IRS or other governmental authority in certain circumstances. As KPMG is not able to assert the privilege on Client's behalf with respect to any communications for which privilege has been waived, Client agrees to notify KPMG of any such waivers, whether resulting from communications with KPMG or third parties in the same or a related matter. Client also understands that privilege may not be available for communications with an audit client and that KPMG personnel providing audit and non-audit services will discuss matters that may affect the audit to the extent required by applicable professional standards. Client agrees that KPMG will not assert on Client's behalf any claim of privilege unless Client specifically instructs KPMG in writing to do so after discussing the specific request and the grounds on which such privilege claim would be made. Notwithstanding the foregoing, Client acknowledges that in no event will KPMG assert any claim of privilege that KPMG concludes, after exercising reasonable judgment, is not valid.
- (d) Unless expressly provided for, KPMG's services do not include representing Client in the event of a challenge by the IRS or other tax or revenue authorities.
- (e) Client acknowledges that in connection with any tax compliance services provided by KPMG under the Engagement Letter, KPMG may utilize the services of affiliates and third party service providers within and without the United States to organize and input data, operate the software used to generate tax returns for Client or its personnel and perform other related tasks. Client hereby consents to KPMG's use of such affiliates and third party service providers and the disclosure to such affiliates and third party service providers and their use of tax return information, received from Client or its personnel for the purpose of preparing, assisting in preparing, or obtaining or providing services in connection with preparing, any tax return required under the Engagement Letter.
- (f) In rendering tax advice, KPMG may consider, for example, the applicable provisions of the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1973, each as amended, and the relevant state and foreign statutes, the regulations thereunder, income tax treaties, and judicial and administrative interpretations, thereof. These authorities are subject to change, retroactively or prospectively, and any such changes could affect the validity of KPMG's advice.