

## **SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into this 8th day of July, 2016 (hereinafter, "Effective Date"), between MCCi, LLC, ("MCCi") and the Attorney General for the State of Texas (the "Attorney General").

WHEREAS, the Attorney General has been investigating potential violations of the antitrust laws in connection with the provision of enterprise content management ("ECM") software and services offered to public and private entities in Texas (the "Attorney General's Investigation");

WHEREAS, the Attorney General believes that its investigation, could have resulted in claims for civil penalties, disgorgement, restitution, damages, and equitable relief under federal and state law arising from MCCi's marketing of ECM software ("the Attorney General's Claims");

WHEREAS, MCCi does not admit any liability under federal or state law, states that it has never acted in an anticompetitive manner, and does not believe that the Attorney General's investigation would have resulted in any civil liability for MCCi;

WHEREAS, MCCi has, solely to end the Attorney General's Investigation, terminated all agreements that the Attorney General may have challenged as potential violations of the antitrust laws;

WHEREAS, in order to avoid further expense and the risks inherent in litigation, MCCi and the Attorney General desire to settle the Attorney General's Claims; and

WHEREAS, the Attorney General finds that the agreed relief and other provisions contained in this Settlement Agreement are appropriate and in the public interest;

NOW THEREFORE, in exchange for the mutual obligations described below, MCCi and the Attorney General hereby agree as follows:

### **DEFINITIONS**

1. The term "ECM" or "Enterprise Content Management" means a type of software used to capture, manage, store, preserve, and deliver content and documents related to organizational processes.
2. The term "DocuNav" means VP Imaging, Inc. d/b/a DocuNav Solutions, a Value Added Reseller offering Laserfiche software and services in the State of Texas.
3. The term "Laserfiche" means Compulink Management Center, Inc. d/b/a Laserfiche, a corporation that sells ECM software.
4. The term "VAR" or "Value Added Reseller" means a company licensed to resell Laserfiche software.

5. The term “End User” means the ultimate purchaser of ECM software.

## **PARTIES**

6. MCCi, LLC is a limited liability company headquartered in the State of Florida. MCCi, LLC markets, installs, and maintains ECM software for private and public sector customers within Texas and the United States.

7. The Attorney General is the chief law enforcement officer of the State of Texas, responsible for enforcing state and federal antitrust laws to promote competition and protect the State’s citizens, general welfare, and economy from anticompetitive conduct.

## **THE ATTORNEY GENERAL’S ALLEGATIONS**

### **A. Background Information**

8. Laserfiche is one of the largest providers of ECM software worldwide. Laserfiche’s primary business model is to license its software to Value Added Resellers, who in turn sell the software to the End User. VARs are responsible for installing, maintaining and upgrading the Laserfiche software, and serve as the End User’s primary Laserfiche contact. MCCi competes against other VARs to sell Laserfiche software and services to private and public sector End Users. Laserfiche does not grant VARs exclusive rights to sell within geographic territories or otherwise prohibit VARs from competing against each other for new or existing business. Laserfiche also promotes competition with other ECM Products. Laserfiche established a process allowing End Users to transfer their accounts from one VAR to another.

9. Laserfiche allows VARs to create and sell their own software that interoperates with Laserfiche software. DocuNav owns a product called Geodocs, which is a mapping automation tool that integrates geographic information systems with Laserfiche.

10. On June 6, 2012, MCCi entered into a written agreement (“the DocuNav Agreement”) with DocuNav authorizing MCCi to be a licensed reseller of Geodocs. Two of MCCi’s 165 End Users located in Texas use Geodocs.

### **B. The Agreement Not to Compete**

11. The DocuNav Geodocs Agreement includes a provision where the parties agreed not to solicit each other’s customers or accept a VAR transfer request without the other VAR’s consent. The agreements not to compete extended to all End Users regardless of whether they purchased Geodocs.<sup>1</sup>

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<sup>1</sup> MCCi and its officers, managers, agents, and employees represent that, despite the provision in the DocuNav Agreement, they have never refused to “take over or accept a support transfer request, of any VAR account without the consent of the [existing] VAR.”

### **C. The Agreement Not to Solicit Employees**

12. The DocuNav Agreement also includes a provision where the parties agreed “to not solicit for employment, entertain a request for employment, nor hire, any person employed by the other entity....” This agreement was unlimited in scope and geography.<sup>2</sup>

### **PROHIBITED BUSINESS PRACTICES**

13. For a period of five years from the Effective Date, MCCi and its officers, managers, agents, and employees agree not to enter into any agreement with a similar purpose or effect as the agreements described in paragraphs 11 and 12. This only includes those agreements: (1) with businesses residing in Texas; or (2) for services and products to be delivered in Texas.

14. This Settlement Agreement does not prohibit MCCi from entering into, attempting to enter into, or complying with a written agreement with any other VAR to market and sell products belonging to MCCi or the other VAR so long as such agreement is: (1) reasonably related to a lawful joint venture agreement or sale agreement; and (2) is reasonably necessary and narrowly tailored to achieve such agreement’s procompetitive benefits.

### **SETTLEMENT PAYMENT**

15. Within 30 days of the Effective Date, MCCi agrees to pay the total sum of \$35,000, for partial reimbursement of attorneys’ fees, which were incurred in connection with the Attorney General’s investigation and do not constitute an antecedent debt with respect to this matter. Payment is to be made by certified check or wire transfer, payable to the “STATE OF TEXAS,” bearing the reference AG# 153556972, and if not by wire transfer, delivered/mailed to the Office of the Attorney General, ATTN: Accounting Division, 300 W. 15th Street, MC-003, Austin, Texas 78701.

### **RELEASE BY THE ATTORNEY GENERAL**

16. Effective upon MCCi’s compliance with its obligations to make the payment set forth above in paragraph 15, the Attorney General releases MCCi and its past and current parents, subsidiaries, affiliates, officers, directors, attorneys and employees (collectively the “Released Parties”), from all civil claims, counterclaims, cross claims, setoffs, civil causes of action of any type (whether common law, equitable, statutory, regulatory or administrative, class, individual or otherwise in nature, and whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured), demands, disputes, damages, restitution, whenever incurred and liabilities of any nature whatsoever, including, without limitation, costs, fines, debts, expenses, penalties and attorneys’ fees, known or unknown, arising out of the Attorney General’s Claims that could have been asserted by the Attorney General in connection with his enforcement of state and federal antitrust laws in his sovereign capacity as chief law enforcement officer of the State of Texas (the “Released Claims”).

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<sup>2</sup> MCCi and its officers, managers, agents, and employees represent that this provision has never been enforced or considered.

17. The Attorney General intends by this Settlement Agreement to settle with and release only the Released Party, and does not intend this Settlement Agreement, or any part hereof or any other aspect of the settlement or the release, to extend to, to release or otherwise to affect in any way any rights that the Attorney General has or may have against any other person, party, or entity whatsoever. Similarly, the Attorney General does not intend this Settlement Agreement to extend to, release, or otherwise affect any rights that another person, party, or entity may have against the Released Parties.

18. Paragraphs 16 and 17 pertain only to claims that could have been asserted by the Attorney General in his sovereign capacity and do not affect civil or administrative claims, causes of action, counterclaims, set-offs, demands, actions, suits, rights and liabilities for damages, restitution, disgorgement or taxes arising from the Attorney General's Claims that the Attorney General may assert on behalf of any state entity or political subdivision. As of the Effective Date of this Agreement, the Attorney General is unaware of any such actual claims against MCCi and has no knowledge that any MCCi customer intends to pursue litigation in connection with this matter.

19. Nothing herein shall be construed to prevent the Attorney General from pursuing an action to enforce or interpret this Settlement Agreement.

#### **NOTICES AND CORRESPONDENCE**

20. All notices and correspondence required to be provided to the Attorney General shall be sent electronically or by first-class mail, postage pre-paid as follows:

Bret Fulkerson  
Assistant Attorney General, Antitrust Section  
Office of the Texas Attorney General  
300 W. 15<sup>th</sup> Street, Seventh Floor  
Austin, TX 78701  
bret.fulkerson@texasattorneygeneral.gov

All notices and correspondence required to be provided to MCCi shall be sent electronically or by first-class mail, postage pre-paid as follows:

Gregory Casas  
Greenberg Traurig, L.L.P.  
300 W. 6<sup>th</sup> Street, Ste. 2050  
Austin, Texas 78701  
CasasG@gtlaw.com

#### **OTHER PROVISIONS**

21. This Settlement Agreement is entered into voluntarily and solely for the purpose of resolving the potential claims and causes of action between MCCi, the Attorney General, and the State of Texas. This Settlement Agreement shall not be used for any other purpose in any

legal proceeding or action, except in proceedings or actions to enforce or interpret this Settlement Agreement.

22. This Settlement Agreement shall not confer any rights upon, and is not enforceable by, any persons or entities other than the Attorney General and the Released Parties.

23. This Settlement Agreement may be modified by the mutual agreement of MCCi and the Attorney General. Any such modification shall be in writing and signed by all parties to this Settlement Agreement.

24. The parties agree that the state or federal courts located in Travis County, Texas, shall be the exclusive forum for resolving any disputes arising from the terms of this Settlement Agreement. MCCi specifically agrees that courts located in Travis County, Texas, may exercise personal jurisdiction over them to resolve such disputes. Texas law shall apply in any action brought by the Attorney General, to enforce or interpret this Settlement Agreement.

25. This Settlement Agreement may be executed in counterparts.

WHEREFORE, IT IS SO AGREED AND the following signatures are affixed hereto on this 8th day of July, 2016.

For  
MCCi, LLC

For  
Attorney General of the State of Texas

By:   
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Donny Barstow  
President

By:   
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Bret Fulkerson  
Assistant Attorney General  
Antitrust Section