EXECUTION VERSION

AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

BY AND AMONG

HARBORSIDE INC.;

VENUS MERGER SUB, INC.;

AND

SUBLIMATION INC.

Dated as of June 1, 2021

TABLE OF CONTENTS

Exhibits

AGREEMENT AND PLAN OF MERGER AND REORGANIZATION

This Agreement and Plan of Merger and Reorganization (this "Agreement") is entered into as of June 1, 2021, by and among Harborside Inc., a corporation existing under the laws of the Province of Ontario ("Parent"), Venus Merger Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), Sublimation Inc., a Delaware corporation (the "Company") and, solely in its capacity as the representative of the stockholders of the Company (the "Stockholders"), Demeter Capital Group II LP (the "Stockholder Representative").

RECITALS

WHEREAS, the respective Boards of Directors of each of Parent, Merger Sub and the Company deem it advisable and in the best interests of each company and its respective shareholders or members, that Parent and the Company combine in order to advance the long-term business strategies of Parent and the Company;

WHEREAS, the Board of Directors of Parent (the "Parent Board") has determined that the merger of Merger Sub with and into the Company with the Company being the surviving entity therein (the "Merger") and this Agreement are in the best interests of Parent;

WHEREAS, the Board of Directors of the Company (the "Company Board") has determined that the Merger and this Agreement are fair to, and in the best interests of, the Company and its Stockholders;

WHEREAS, the respective Boards of Directors of each of Parent, Merger Sub and the Company have approved this Agreement and the Merger on the terms and conditions contained in this Agreement;

WHEREAS, concurrently with the execution of this Agreement, and as a condition and inducement to Parent's willingness to enter into this Agreement, certain affiliates of the Company are entering into a Voting and Support Agreement, in the form attached hereto as Exhibit A;

WHEREAS, concurrently with the execution of this Agreement, and as a condition and inducement to Parent's willingness to enter into this Agreement, certain affiliates of the Company are entering into a Lockup Agreement, in the form attached hereto as Exhibit B;

WHEREAS, Parent, as the sole shareholder of Merger Sub, has approved this Agreement, the Merger and the transactions contemplated by this Agreement pursuant to unanimous written resolutions of the Parent Board in accordance with the requirements of the *Business Corporations Act* (Ontario);

WHEREAS, pursuant to a written consent, Merger Sub has approved this Agreement, the Merger and the transactions contemplated by this Agreement in accordance with the requirements of the Delaware General Corporation Law, as amended ("DGCL") and the Certificate of Incorporation and Bylaws of Merger Sub; and

WHEREAS, for U.S. federal income Tax purposes, the parties intend that the Merger qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and that this Agreement be, and is hereby, adopted as a plan of reorganization within the meaning of Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the foregoing, the representations, warranties, covenants and agreements set forth in this Agreement, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. The following terms, as used herein, have the following meanings:

"Acquisition Agreement" has the meaning set forth in Section 6.03.

"Action" means any claim, charge, action, suit, arbitration, mediation, inquiry, hearing, audit, proceeding or investigation by or before any Governmental Authority, including any audit, claim or assessment for Taxes or otherwise.

"Actual Tax Benefit" means the excess, if any, of (i) the Taxes that would have been payable by a Seller Indemnified Party or Parent Indemnified Party, as the case may be, in the taxable period in which such Loss is incurred by such Person for U.S. federal income tax purposes, not taking into account the Tax items attributable to such Losses, over (ii) the actual Taxes payable by such Person in each such taxable period.

"Adjustment Escrow Account" has the meaning set forth in Section 2.18(a)(ii).

"Affiliate" means, with respect to any specified Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

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

"Agreement of Merger" has the meaning set forth in Section 2.12.

"Ancillary Agreements" means the Escrow Agreement, the Voting and Support Agreement and the Lockup Agreement.

"Antitrust Laws" means the HSR Act and any other Laws that are designed or intended to prohibit, restrict, or regulate actions having the purpose or effect of monopolization or restraint of trade or significant impediments or lessening of competition or creation or strengthening of a dominant position through merger or acquisition.

"Balance Sheet" has the meaning set forth in Section 4.06(a).

"Balance Sheet Date" has the meaning set forth in Section 4.06(a).

"Benefit Plan" has the meaning set forth in Section 4.19(a).

"Business" means, collectively, the business conducted by the Company and its Subsidiaries of cultivating, processing, branding, manufacturing, distributing and selling cannabis and cannabis-related products.

"Business Day" means any day that is not a Saturday, Sunday or other day on which banking institutions in California are authorized or required by law or executive order to close.

"Bylaws" means the Bylaws of the Company, adopted March 28, 2019.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended.

"Certificate of Incorporation" means the Second Amended and Restated Certificate of Incorporation of the Company, dated November 27, 2019.

"Closing" has the meaning set forth in Section 2.12.

"Closing Cash Payment" means an amount equal to $2,000,000.00, to be paid in accordance with Schedule 2.14(d), which schedule shall be delivered by the Company to Parent at least five (5) business days before the Closing Date.

"Closing Equity Consideration" shall mean such amount of shares equal to the Equity Consideration, less the Indemnification Escrow Amount and less the Adjustment Escrow Amount.

"Closing Date" has the meaning set forth in Section 2.12.

"Closing Date Indebtedness" means the amount of Indebtedness and payment obligations of the Company and Subsidiaries outstanding as of immediately prior to the Closing.

"Closing Date Transaction Expenses" means the amount of Transaction Expenses as of immediately prior to the Closing.

"Closing Working Capital Statement" has the meaning set forth in Section 2.17(a).

"Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Common Holder Claims" has the meaning set forth in Section 6.10.

"Company" has the meaning set forth in the Preamble.

"Company Adverse Recommendation Change" means the Company Board: (a) failing to make, withdrawing, amending, modifying, or materially qualifying, in a manner adverse to Parent, the Company Board Recommendation; (b) failing to include the Company Board Recommendation in the soliciting materials provided to the holders of Company Common Stock; (c) failing to recommend against acceptance of any tender offer or exchange offer for the shares of Company Common Stock within ten Business Days after the commencement of such offer; (d) failing to reaffirm (publicly, if so requested by Parent) the Company Board Recommendation within ten Business Days after the date any Takeover Proposal (or material modification thereto) is first publicly disclosed by the Company or the Person making such Takeover Proposal; (e) making any public statement inconsistent with the Company Board Recommendation; or (f) resolving or agreeing to take any of the foregoing actions.

"Company Board" has the meaning set forth in the Recitals.

"Company Board Recommendation" has the meaning set forth in Section 4.01(c).

"Company Common Stock" means issued and outstanding common stock, $0.0001 par value per share, of the Company.

"Company Fundamental Representations" has the meaning set forth in Section 8.01(a).

"Company Intellectual Property" means all Intellectual Property owned or purported to be owned by the Company and its Subsidiaries.

"Company IP Agreements" means (a) licenses of Company Intellectual Property by the Company or any of its Subsidiaries to third parties, (b) licenses of Intellectual Property by third parties to the Company or any of its Subsidiaries, (c) agreements between the Company or any of its Subsidiaries and third parties relating to the development or use of Intellectual Property, and (d) consents, settlements, decrees, orders, injunctions, judgments or rulings governing the use, validity or enforceability of Company Intellectual Property.

"Company Material Adverse Effect" means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Company and the Subsidiaries taken as a whole, or (b) the authority or ability of the Company and the Subsidiaries taken as a whole to perform their obligations hereunder, or to consummate the transactions contemplated in this Agreement, in accordance with the terms hereof and applicable Law; provided, however, that "Company Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions affecting the industries in which the Company or the Subsidiaries operate (including but not limited to the cannabis industry); (iii) any changes in financial, banking or securities markets in general; (iv) a national emergency, acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) natural disasters, or weather conditions, epidemics, pandemics, or disease outbreaks (including the COVID-19 virus), public health emergencies (as declared by the World Health Organization or the Health and Human Services Secretary of the United States) or (vi) any changes in applicable Laws or accounting rules (including IFRS); (vii) the announcement, pendency or completion of the transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors or other having relationships with the Company or the Subsidiaries; or (viii) any failure by the Company or the Subsidiaries to meet any internal or published projections, forecasts or revenue or earnings predictions (provided that the underlying causes of such failures, subject to the other provisions of this definition, shall not be excluded); provided, however, that any event, occurrence, fact, effect, condition or change referred to in clauses (i) through (viii) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, effect, condition or change has a disproportionate effect on the Company compared to other participants in the industries in which the Company conducts its businesses.

"Company Software" has the meaning set forth in Section 4.15(a).

"Company Stock Option" has the meaning set forth in Section 2.03(c).

"Company Technology" means any and all Technology used in connection with the Business.

"Company Warrant" has the meaning set forth in Section 2.03(d).

"Contract" means any written or oral contract, agreement, indenture, commitment, note, bond, loan, instrument, lease, conditional sale contract, mortgage, license, arrangement or other legally binding agreement or obligation.

"Converted Option" has the meaning set forth in Section 2.03(c).

"Convertible Promissory Note" shall mean such convertible promissory notes issued in accordance with that certain Note Purchase Agreement, by and among the Company and the signatories thereto.

"Deductions" means all U.S. federal, state and local income Tax deductions related to the exercise or payment of Company options, bonus payments, payment under deferred compensation arrangements, payment of any investment banking (or other advisory) fees, and other deductible Indebtedness or Expenses and payments made by or on behalf of the Company and its Subsidiaries, in each case in connection with the Transactions and only to the extent that it is "more likely than not" (or higher) level of comfort that such amounts would be permitted to be deducted for Tax purposes.

"CSE" means the Canadian Securities Exchange.

"DGCL" has the meaning set forth in the Recitals.

"Direct Claim" has the meaning set forth in Section 8.05(c).

"Disclosure Schedule" means the Disclosure Schedule attached hereto, dated as of the date hereof, delivered by the Company to Parent in connection with this Agreement.

"Disputed Amounts" has the meaning set forth in Section 2.17(b)(iii).

"Dissenting Shares" has the meaning set forth in Section 2.20.

"Effective Time" has the meaning set forth in Section 2.12.

"End Date" has the meaning set forth in Section 9.02(a).

"Environmental Claim" means any and all administrative, regulatory or judicial Actions, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, proceedings, consent orders or consent agreements relating in any way to any Environmental Law or any Environmental Permit.

"Environmental Laws" means all Laws, now or hereafter in effect and as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety, product registration, natural resources or Hazardous Materials, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"Environmental Notice" means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"Environmental Permits" means all Permits required under or issued pursuant to any applicable Environmental Law.

"Equity Consideration" means 207,579.66 Multiple Voting Shares.

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

"ERISA Affiliate" means all employers, trades or businesses (whether or not incorporated) that would be treated together with the Company or the Subsidiaries as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code.

"Escrow Account" has the meaning set forth in Section 2.18(a)(ii).

"Escrow Agent" means an escrow agent mutually agreeable to Parent, the Company and the Stockholder Representative.

"Escrow Agreement" means that certain escrow agreement by and among Parent, Stockholder Representative and the Escrow Agent regarding the Indemnification Escrow Amount in form agreed to by Parent, Stockholder Representative and the Escrow Agent.

"Final Net Working Capital" means the Net Working Capital as determined in accordance with Section 2.17.

"Financial Statements" has the meaning set forth in Section 4.06(a).

"Governmental Authority" means any federal, national, foreign, state, provincial, local, or similar government, governmental, regulatory or administrative authority, agency, bureau, department, board, panel or commission or any court, tribunal, or judicial or arbitral body or mediator or any other instrumentality of any kind of any of the foregoing.

"Hazardous Materials" means (a) petroleum and petroleum products, radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated biphenyls and radon gas, and (b) any other chemicals, materials or substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous wastes", "restricted hazardous wastes", "toxic substances", "toxic pollutants", "contaminants" or "pollutants", or words of similar import, under any applicable Environmental Law.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"IFRS" means the International Financial Reporting Standards and practices in effect from time to time applied consistently throughout the periods involved.

"Indebtedness" means, with respect to the Company and Subsidiaries, at the time of any determination, without duplication: (a) all indebtedness of the Company or Subsidiaries for borrowed money or in respect of loans or advances (including principal and interest thereon), (b) all obligations of the Company and Subsidiaries evidenced by bonds, debentures, notes or other similar instruments or debt securities, (c) all obligations with respect to letters of credit and bankers' acceptances issued for the account of the Company or Subsidiaries to the extent drawn, (d) all obligations arising from bank overdrafts, (e) all obligations arising from deferred compensation arrangements, (f) all obligations under capital leases (as determined in accordance with IFRS) and any sale-lease back transactions, (g) all past due or deferred rent, (h) all indebtedness for the deferred purchase price of property or services with respect to which the Company and Subsidiaries is liable contingently or otherwise, (i) all obligations of the type referred to in clauses (a) through

(h) for the payment of which the Company and Subsidiaries are responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations, (j) all obligations of the type referred to in clauses (a) through (i), whether or not assumed, secured by any Lien or payable out of the proceeds or product from any property or assets now or hereafter owned by the Company or any Subsidiary, and (k) all accrued interest, prepayment premiums or penalties with respect to any of the obligations of the type referred to in clauses (a) through (j).

"Indemnification Escrow Account" has the meaning set forth in Section 2.18(a)(i).

"Indemnified Party" has the meaning set forth in Section 8.05.

"Indemnified Taxes" means all Taxes (or the non-payment thereof) of the Company or any Subsidiary with respect to any Pre-Closing Tax Period, (ii) all Taxes of any member of an affiliated, consolidated, combined or unitary group of which the Company or any Subsidiary (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation Section 1.1502-6 or any analogous or similar state, local, or non-U.S. law or regulation, (iii) any and all Taxes of any Person (other than the Company and the Subsidiaries) imposed on the Company or any Subsidiary as a transferee or successor, pursuant to any Tax Sharing Agreement entered into prior to the Closing, or pursuant to applicable Law, which Taxes relate to an event or transaction occurring before the Closing, and (iv) Transfer Taxes that are the responsibility of the Stockholders under Section 2.15, except in each case to the extent such Taxes (a) resulted from any transactions or actions by the Surviving Company, its Subsidiaries or any Parent Indemnified Party on the Closing Date after the Closing outside the Ordinary Course of business and not contemplated under this Agreement, (b) relate to Parent's share of liability for Transfer Taxes under Section 2.15, (c) result from an election under Section 336 or 338 of the Code, (d) would not have been imposed solely and directly but for a breach by the Surviving Company, its Subsidiaries or any Parent Indemnified Party of any covenant or agreement contained herein or (e) were included in the calculation of Transaction Expenses or as a liability in Final Net Working Capital.

"Indemnifying Party" has the meaning set forth in Section 8.05.

"Independent Accountant" has the meaning set forth in Section 6.02(b).

"Insurance Policies" has the meaning set forth in Section 4.23.

"Intellectual Property" means all intellectual property rights of the Company and the Subsidiaries arising from or in respect of the following: (i) inventions, processes, methods, algorithms and formulae, including all patents and patent applications and statutory invention registrations, (ii) all trademarks, service marks, trade names, service names, brand names, trade dress, logos, domain names and corporate names and other identifiers of source or goodwill, including registrations and applications for registration or renewal thereof and including the goodwill of the business symbolized thereby or associated therewith, (iii) works, copyrights, including copyrights in computer software, promotional materials and any websites, data, databases and any registrations and applications for registration of any of the forgoing, (iv) all computer software (including source code, executable code, data, databases and documentation), and (v) confidential and proprietary information, including trade secrets, know-how and rights in non-published inventions.

"Inventory Report" has the meaning set forth in Section 4.24.

"Knowledge" means (i) with respect to the Company and its Subsidiaries, the actual knowledge of Ahmer Iqbal, Lin Chan, Morgan Paxhia, Derek Obata and Tiffany Liff after reasonable inquiry into the applicable matter; and (ii) with respect to Parent and its Subsidiaries, the actual knowledge of Tom DiGiovanni and Jack Nichols after reasonable inquiry into the applicable matter.

"Law" means any domestic or foreign, federal, state, municipality or local law, statute, ordinance, code, rule, regulation, directive, norm, order, requirement or rule of law (including common law); provided, however, the parties hereby acknowledge that under United States federal law, and more specifically the Federal Controlled Substances Act, the possession, use, cultivation, marketing and transfer of cannabis is illegal and that, notwithstanding anything to the contrary, with respect to regulated cannabis business activities, "Law", "law", or "federal" shall only include such federal law, authority, agency, or jurisdiction as is not in conflict with the Laws, regulations, authority, agency, or jurisdiction of any state, district, or territory regarding such regulated cannabis business activities.

"Lease" has the meaning set forth in Section 4.16(a).

"Leased Real Property" means the real property leased, subleased, licensed or otherwise used by the Company or any Subsidiary as tenant, subtenant, licensee or occupant, as applicable, together with, to the extent leased by the Company, or any Subsidiary all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of the Company or any Subsidiary attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Liabilities" means with respect to any Person, any and all debts, liabilities or obligations of such Person of any kind or nature whatsoever, whether asserted or unasserted, known or unknown, accrued or unaccrued, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person, including those arising under any Law (including any Environmental Law), Action or Order and those arising under any Contract, agreement, arrangement, commitment or undertaking.

"Licensed Intellectual Property" means Intellectual Property licensed to the Company or any Subsidiary pursuant to the Company IP Agreements.

"Lien" means any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage deed of trust, right of way, easement, encroachment, servitude, right of first option, right of first or last negotiation or refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

"Lockup Agreement" means that certain lockup agreement in the form attached hereto as Exhibit B.

"Losses" means any and all losses, costs, obligations, liabilities, obligations, settlement payments, awards, judgments, fines, penalties, damages (including, to the extent reasonably foreseeable, consequential damages, indirect damages and diminution in value), deficiencies, claims, demands or other charges, including court filing fees, court costs, arbitration fees or costs,

witness fees, reasonable fees of attorneys, accountants and other advisors, Taxes and expenses incurred in connection with investigating, defending or asserting any claim or Action.

"Material Contracts" has the meaning set forth in Section 4.14.

"Merger" has the meaning set forth in the Preamble.

"Merger Consideration" has the meaning set forth in Section 2.06(a).

"Merger Sub" has the meaning set forth in the Preamble.

"Multiple Voting Shares" means the multiple voting shares of Parent.

"Net Working Capital" means the amount (which may be positive or negative) of (a) the aggregate value of cash and cash equivalents, inventory, prepaid and other assets, trade and other receivables and intangible assets, less (b) the aggregate value of accounts payable and accrued expenses, Tax liabilities of the Company and its Subsidiaries for Taxes (net of any prepaid taxes, including estimated tax payments) for any Pre-Closing Tax Period, computed in accordance with the past practices of the Company and its Subsidiaries, and with respect to any Straddle Period computed in accordance with Section 6.02(a), , as adjusted by the removal of (c) any Tax liability penalties, leasing and deferred rent liability arising from accounting treatments, other liabilities such as accrued liabilities related to settlements from claims and litigations and intangible assets, in each case, determined in accordance with Schedule 2.17 attached hereto. Notwithstanding anything in this Agreement to the contrary, Net Working Capital will exclude all deferred Tax assets and deferred Tax Liabilities and any Tax liabilities included in the definition of Transaction Expenses.

"Net Working Capital Deficit" means the amount, if any, by which Net Working Capital is less than Target Net Working Capital.

"Net Working Capital Surplus" means the amount, if any, by which Net Working Capital is greater than Target Net Working Capital.

"Organizational Documents" means, with respect to any Person that is not an individual, (a) such Person's certificate of incorporation and bylaws, (b) such Person's certificate of formation, certificate of trust, limited liability company agreement, limited partnership agreement or trust agreement, or (c) any documents comparable to those described in clauses (a) and (b) as may be applicable pursuant to any applicable Law, and (d) any amendment or modification to any of the foregoing.

"Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Ordinary Course" means, with respect to an action taken by a party or any subsidiary, that such action is consistent with the past practices of such party or such subsidiary and is taken in the ordinary course of the normal day-to-day operations of the business of such party or such subsidiary, or as commercially reasonable in light of changed circumstances of such party or such subsidiary, but excludes non-arm's length transactions.

"Owned Real Property" means all land, together with all buildings, structures, fixtures, and improvements located thereon and all easements, rights of way, and appurtenances relating thereto, owned by the Company or any of its Subsidiaries.

"Parent" has the meaning set forth in the Preamble.

"Parent Board" has the meaning set forth in the Recitals.

"Parent Disclosure Documents" has the meaning set forth in Section 5.13.

"Parent Financial Statements" has the meaning set forth in Section 5.15.

"Parent Indemnified Party" has the meaning set forth in Section 8.02.

"Parent Material Adverse Effect" means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of Parent and the Subsidiaries taken as a whole, or (b) the authority or ability of Parent and the Subsidiaries taken as a whole to perform their obligations hereunder, or to consummate the transactions contemplated in this Agreement, in accordance with the terms hereof and applicable Law; provided, however, that "Parent Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions affecting the industries in which Parent or its subsidiaries operate (including but not limited to the cannabis industry); (iii) any changes in financial, banking or securities markets in general; (iv) a national emergency, acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) natural disasters, or weather conditions, epidemics, pandemics, or disease outbreaks (including the COVID-19 virus), public health emergencies (as declared by the World Health Organization or the Health and Human Services Secretary of the United States or (vi) any changes in applicable Laws or accounting rules (including IFRS); (vii) the announcement, pendency or completion of the transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors or other having relationships with Parent or its subsidiaries; or (viii) any failure by Parent or its subsidiaries to meet any internal or published projections, forecasts or revenue or earnings predictions (provided that the underlying causes of such failures (subject to the other provisions of this definition) shall not be excluded); provided, however, that any event, occurrence, fact, effect, condition or change referred to in clauses (i) through (viii) immediately above shall be taken into account in determining whether a Parent Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, effect, condition or change has a disproportionate effect on Parent compared to other participants in the industries in which Parent conducts its businesses.

"Payoff Letters" has the meaning set forth in Section 2.13(k).

"Permit" means any permit, license, certificate (including a certificate of occupancy) registration, authorization, application, filing, notice, qualification, waiver of any of the foregoing or approval of a Governmental Authority.

"Permitted Liens" means: (a) statutory Liens for current Taxes or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith (provided appropriate reserves have been made in respect thereof); (b) mechanics', carriers', workers', repairers', and similar statutory Liens arising or incurred in the Ordinary Course of

business for amounts which are not delinquent or which are being contested by appropriate proceedings (provided appropriate reserves required pursuant to IFRS have been made in respect thereof); (c) zoning, entitlement, building, and other land use regulations imposed by a Governmental Authority having jurisdiction over such Person's owned or leased real property, which are not violated by the current use and operation of such real property; (d) covenants, conditions, restrictions, easements, and other similar non-monetary matters of record affecting title to such Person's owned or leased real property, which do not materially impair the occupancy or use of such real property for the purposes for which it is currently used in connection with such Person's businesses; (e) any right of way or easement related to public roads and highways, which do not materially impair the occupancy or use of such real property for the purposes for which it is currently used in connection with such Person's businesses; and (f) Liens arising under workers' compensation, unemployment insurance, social security, retirement, and similar legislation.

"Person" means an individual, corporation, partnership (including a general partnership, limited partnership or limited liability partnership), limited liability company, association, trust or other entity or organization, whether for-profit, not-for-profit or otherwise, and including a government, domestic or foreign, or political subdivision thereof, or an agency or instrumentality thereof.

"Personal Property" means all of the vehicles, machinery, equipment, tools, furniture, leasehold improvements, office equipment, computer hardware (including peripherals), appliances, spare parts, supplies, materials and other items of tangible personal property of every kind which are owned, used or leased (as lessor or lessee) by the Company or any Subsidiary and used or useful in the conduct of the Business or the operations of the Business or intended by the Company or any Subsidiary for use in connection with the Business or the operations of the Business, wherever located and whether or not carried on the books of the Company or any Subsidiary.

"Post-Closing Tax Period" means any taxable period beginning after the Closing Date and, with respect to any Straddle Period, the portion of such Straddle Period beginning after the Closing Date.

"Pre-Closing Tax Contest" has the meaning set forth in Section 6.02(i).

"Pre-Closing Tax Period" means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such Straddle Period ending on and including the Closing Date.

"Preferred Stock" means the Company's Series A Preferred Stock, Series B Preferred Stock and Series B-1 Preferred Stock.

"Pro Rata Share" means the percentage interest of each Stockholder determined by dividing (i) the number of shares of Company Common Stock held by such Stockholder, by (ii) the aggregate amount of issued and outstanding Company Common Stock as of the Effective Time.

"Registered IP" has the meaning set forth in Section 4.15(a).

"Regulatory License" means each Permit, license and related approvals authorizing the Company or any Subsidiary to operate in the State of California that can lawfully cultivate, produce, process and sell medical cannabis and cannabis products.

"Release" means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing and the like into or upon any land or water or air or otherwise entering into the environment.

"Representative" means, with respect to any Person, any and all directors, managers, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"Resolution Period" has the meaning set forth in Section 2.17(b)(ii).

"Review Period" has the meaning set forth in Section 2.17(b)(i).

"Securities Act" means the U.S. Securities Act of 1933, as amended.

"Securities Authorities" means the Ontario Securities Commission and the applicable securities commission or securities regulatory authority of each of the other provinces and territories of Canada and "Securities Authority" means any one of them.

"Securities Laws" means (a) the Securities Act (Ontario) and any other applicable provincial securities Laws, (b) the U.S. Securities Act, the U.S. Exchange Act and the rules and regulations promulgated thereunder, to the extent applicable, and (c) the policies, rules and regulations of the CSE.

"Seller Indemnified Party" has the meaning set forth in Section 8.03.

"Seller Tax Refund" has the meaning set forth in Section 6.02(l).

"Senior Secured Notes" means the 10% senior secured notes of the Company due December 4, 2022.

"Senior Secured Debt Payment" means an amount not to exceed $3,449,692, which is to fully satisfy any amounts due to the holders of the Company's Senior Secured Notes.

"Series A Preferred Stock" means the Company's Series A Preferred Stock, $0.0001 par value per share.

"Series B Preferred Stock" means the Company's Series B Preferred Stock, $0.0001 par value per share.

"Series B-1 Preferred Stock" means the Company's Series B-1 Preferred Stock, $0.0001 par value per share.

"Stockholder Representative" has the meaning set forth in the Recitals.

"Statement of Objections" has the meaning set forth in Section 2.17(b)(ii).

"Stockholders Escrow" means that certain escrow account to be established by the Stockholders of the Company to receive a portion of the Equity Consideration.

"Stockholders Trust" means that certain trust established by the Stockholders of the Company in accordance with the Agreement and Declaration of Trust among Cresco Capital Partners II, LLC, Demeter Capital Group II LP, and the Company.

"Straddle Period" has the meaning set forth in Section 6.02(a).

"Straddle Period Tax Contest" has the meaning set forth in Section 6.02(i).

"Subordinate Voting Shares" has the meaning set forth in Section 2.03(c).

"Subsidiary" means a corporation, partnership, limited liability company, or other business entity of which a majority of the shares of voting securities is at the time beneficially owned, or the management of which is otherwise controlled, directly or indirectly, through one or more intermediaries, or both, by the Company or Parent, as applicable.

"Surviving Company" has the meaning set forth in Section 2.01.

"Takeover Proposal" means with respect to the Company or Parent, as the case may be, an inquiry, proposal, or offer from, or indication of interest in making a proposal or offer by, any Person or group relating to any transaction or series of related transactions (other than the transactions contemplated by this Agreement), involving any: (a) direct or indirect acquisition of assets of such party hereto or its Subsidiaries (including any voting equity interests of Subsidiaries, but excluding sales of assets in the Ordinary Course of business) equal to 15% or more of the fair market value of such party and its Subsidiaries' consolidated assets or to which 15% or more of such party's and its Subsidiaries' net revenues or net income on a consolidated basis are attributable; (b) direct or indirect acquisition of 15% or more of the voting equity interests of such party hereto or any of its Subsidiaries whose business constitutes 15% or more of the consolidated net revenues, net income, or assets of such party and its Subsidiaries, taken as a whole; (c) tender offer or exchange offer that if consummated would result in any Person or group (as defined in Section 13(d) of the Exchange Act) beneficially owning (within the meaning of Section 13(d) of the Exchange Act) 15% or more of the voting power of such party hereto; (d) merger, consolidation, other business combination, or similar transaction involving such party hereto or any of its Subsidiaries, pursuant to which such Person or group (as defined in Section 13(d) of the Exchange Act) would own 15% or more of the consolidated net revenues, net income, or assets of such party and its Subsidiaries, taken as a whole; (e) liquidation, dissolution (or the adoption of a plan of liquidation or dissolution), or recapitalization or other significant corporate reorganization of such party hereto or one or more of its Subsidiaries which, individually or in the aggregate, generate or constitute 15% or more of the consolidated net revenues, net income, or assets of such party and its Subsidiaries, taken as a whole; or (f) any combination of the foregoing.

"Target Net Working Capital" is an amount equal to $***[Redacted - Commercially Sensitive Information]***.

"Tax Act" means the Income Tax Act (Canada) and the regulations promulgated thereunder, each as amended.

"Tax(es)" means any federal, state, local or non-U.S. tax, charge, fee, levy, custom, duty, deficiency, or other assessment of any kind or nature whatsoever imposed by any Taxing Authority (including, without limitation, any income (net or gross), gross receipts, profits, windfall profit, premium, customs duty, capital stock, sales, use, goods and services, ad valorem, franchise, license, stamp, withholding, employment, social security (or similar), workers compensation, unemployment compensation, disability, employment, payroll, severance, occupation, transfer, excise, import, real property, personal property, intangible property, occupancy, registration, recording, value added, minimum, unclaimed property, escheat payments, alternative minimum,

environmental or estimated tax), together with any interest, penalty, additions to tax or additional amount imposed with respect thereto.

"Tax Return" means any return, information return, declaration, claim for refund or credit, report or any similar statement, and any amendment thereto, including any attached schedule and supporting information, whether on a separate, consolidated, combined, unitary or other basis, that is filed or required to be filed with any Taxing Authority in connection with the determination, assessment, collection or payment of a Tax or the administration of any Law relating to any Tax.

"Tax Sharing Agreement" means a written agreement, the principal purpose of which is the sharing of, or indemnification for, Taxes.

"Taxing Authority" means the Internal Revenue Service and any other Governmental Authority responsible for the collection, assessment or imposition of any Tax or the administration of any Law relating to any Tax.

"Technology" means all inventions, works, discoveries, innovations, know-how, information (including ideas, research and development, formulas, algorithms, compositions, processes and techniques, data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, business and marketing plans and proposals, graphics, illustrations, artwork, documentation, and manuals), databases, computer software, firmware, computer hardware, integrated circuits and integrated circuit masks, electronic, electrical, and mechanical equipment, and all other forms of technology, including improvements, modifications, works in process, derivatives, or changes, whether tangible or intangible, embodied in any form, whether or not protectable or protected by patent, copyright, mask work right, trade secret law, or otherwise, and all documents and other materials recording any of the foregoing.

"Termination Fee" has the meaning set forth in Section 9.06(b).

"Third Party Claim" has the meaning set forth in Section 8.05(b).

"Transaction Expenses" means, without duplication, all fees, costs and expenses incurred by or on behalf of, or otherwise payable by the Company or any Subsidiary that have not been paid as of the Closing Date and that will become or remain a liability of the Company or any Subsidiary (a) to third parties in connection with the consideration, preparation, documentation, execution and consummation of the transactions contemplated by this Agreement, or any alternative transactions, including fees and disbursements of the Company or any Subsidiary, attorneys, financial advisors, accountants and other advisors and service providers, and (b) in respect of any bonus, severance or other payment or other form of compensation or benefits that is created, accelerated, accrues or becomes payable by the Company or any Subsidiary in connection with the consummation of the transactions contemplated by this Agreement, to any present or former manager/director, shareholder, employee, independent contractor or consultant thereof, including pursuant to any employment or consulting agreement, benefit plan or any other Contract, including any Taxes of the Company or Subsidiaries as an employer payable on or triggered by any such payment.

"Transfer Agent" means Odyssey Trust Company.

"Undisputed Amounts" has the meaning set forth in Section 2.17(b)(iii).

"United States" and "U.S." means the United States of America.

"U.S. Exchange Act" means the *United States Securities Exchange Act of 1934*, as amended, and the rules and regulations promulgated thereunder.

"U.S. Securities Act" means the *United States Securities Act of 1933*, as amended, and the rules and regulations promulgated thereunder.

"Voting and Support Agreement" means that form of voting and support agreement attached hereto as Exhibit A.

Section 1.02 Interpretive Provisions. Unless the express context otherwise requires:

(a) the words "hereof," "herein," and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(b) terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa;

(c) the terms "Dollars" and "$" mean United States Dollars;

(d) references herein to a specific Section, Subsection, Recital, Schedule or Exhibit shall refer, respectively, to Sections, Subsections, Recitals, Schedules or Exhibits of this Agreement;

(e) wherever the word "include," "includes," or "including" is used in this Agreement, it shall be deemed to be followed by the words "without limitation";

(f) references herein to any gender shall include each other gender;

(g) references herein to any Person shall include such Person's heirs, executors, personal representatives, administrators, successors and assigns; provided, however, that nothing contained in this Section 1.02(g) is intended to authorize any assignment or transfer not otherwise permitted by this Agreement;

(h) references herein to a Person in a particular capacity or capacities shall exclude such Person in any other capacity;

(i) references herein to any Contract or agreement (including this Agreement) mean such Contract or agreement as amended, supplemented or modified from time to time in accordance with the terms thereof;

(j) with respect to the determination of any period of time, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding";

(k) references herein to any Law or any license mean such Law or license as amended, modified, codified, reenacted, supplemented or superseded in whole or in part, and in effect from time to time; and

(l) references herein to any Law shall be deemed also to refer to all rules and regulations promulgated thereunder.

ARTICLE II
THE MERGER

Section 2.01 The Merger. Upon the terms and subject to the conditions of this Agreement, and in accordance with the DGCL, at the Effective Time (as hereinafter defined), Merger Sub shall be merged with and into the Company. As a result of the Merger, the separate corporate existence of Merger Sub shall cease, and the Company shall continue as the surviving company following the Merger (the "Surviving Company") and as a wholly-owned subsidiary of Parent. The corporate existence of the Company, with all its purposes, rights, privileges, franchises, powers and objects, shall continue unaffected and unimpaired by the Merger.

Section 2.02 Effects of the Merger. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time:

(a) All the property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Company, and all debts, liabilities, obligations, restrictions, disabilities and duties of the Company and Merger Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Company;

(b) The Certificate of Incorporation shall be the certificate of incorporation of the Surviving Company, until duly amended or repealed in accordance with the provisions thereof and of applicable Law; and

(c) The Bylaws of the Company shall be the bylaws of the Surviving Company, until duly amended or repealed in accordance with the provisions thereof and of applicable Law.

Section 2.03 Treatment of Preferred Stock, Common Stock, Stock Options and Warrants.

(a) Company Preferred Stock. Each Company Preferred Share issued and outstanding immediately prior to the Effective Time, and all rights in respect thereof, shall be cancelled and automatically converted, in accordance with the Certificate of Incorporation, into the liquidation preference thereof plus accrued and unpaid dividends as of the Effective Time, payable in Multiple Voting Shares (the "Preferred Stock Merger Consideration"). From and after the Effective Time, all such Company Preferred Shares shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and each applicable holder of such Company Preferred Share shall cease to have any rights with respect thereto, except the right to receive the Preferred Stock Merger Consideration therefor, upon the surrender of such Company Preferred Shares, as applicable, in accordance with Section 2.07.

(b) Company Common Stock. At the Effective Time by virtue of the Merger, the shares of the Company Common Stock issued and outstanding immediately prior to the Effective Time (other than Dissenting Shares) shall be canceled and shall by virtue of the Merger and without any action on the part of the Stockholders be converted automatically into the right to receive such consideration as set forth in the Certificate of Incorporation (the "Common Stock Merger Consideration"). All shares of the Company Common Stock converted pursuant to this Section 2.03(b) shall no longer be outstanding and shall automatically be canceled and retired and cease to exist, except as to Dissenting Shares, and the Stockholders shall cease to have any rights with respect thereto, except the right to receive the Common Stock Merger Consideration in accordance with the terms herein.

(c) Treatment of Company Stock Options. By virtue of the Merger and without any action on the part of the holders thereof, each option to acquire Company Common Stock ("Company Stock

Option"), whether vested or unvested, that is outstanding and unexercised as of immediately prior to the Effective Time shall, as of the Effective Time, cease to represent a right to acquire shares of Company Common Stock and shall be converted into an option (a "Converted Option") to acquire, on the same terms and conditions (including with respect to vesting, exercisability and the ability to pay the exercise price and satisfy applicable tax or other withholding obligations by reduction of the amount of shares otherwise deliverable) as were applicable to such Company Stock Option immediately prior to the Effective Time, the number of subordinate voting shares of Parent (the "Subordinate Voting Shares") (rounded, if necessary, down to the nearest whole share) as reasonably determined by the Parent Board. Each Converted Option shall be subject to the terms and conditions of the Parent's equity incentive plan.

(d) Treatment of Company Warrants. At the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Sub, or the Company, each outstanding unexercised warrant to purchase or otherwise acquire shares of Company Common Stock or Company Preferred Shares (each a "Company Warrant") shall be cancelled. From and after the Effective Time, any such cancelled Company Warrant shall no longer be exercisable by the former holder thereof, the Company shall deliver written notice to each holder of a Company Warrant, in accordance with the terms of the applicable Company Warrant, informing such holders of the effect of the Merger on the Company Warrant.

Section 2.04 Merger Sub Stock. At the Effective Time, all outstanding shares of common stock, no par value per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become, collectively, one validly issued, fully paid and nonassessable share of common stock, no par value per share, of the Surviving Company and shall constitute the only outstanding shares of capital stock of the Surviving Company.

Section 2.05 Directors and Officers. The directors and officers of Merger Sub, in each case, immediately prior to the Effective Time shall, from and after the Effective Time, be the directors and officers, respectively, of the Surviving Company until their successors have been duly elected or appointed and qualified or until their earlier death, resignation, or removal in accordance with the certificate of incorporation and by-laws of the Surviving Company.

Section 2.06 Merger Consideration.

(a) On the terms and subject to the conditions set forth in this Agreement, including, and in reliance on, the representations, warranties and covenants of the parties hereto, the aggregate consideration to be paid by Parent in the Merger is $43.8 million (the "Merger Consideration") consisting of:

(i) the Senior Secured Debt Payment, plus

(ii) the Closing Cash Payment, plus

(iii) the Equity Consideration.

(b) The Multiple Voting Shares issuable as the Equity Consideration shall be uncertificated.

(c) As consideration for the issuance of the Merger Consideration, the Surviving Company shall issue Parent one (1) share of common stock for each Multiple Voting Share issued to the Stockholders as part of the Merger Consideration.

Section 2.07 Exchange Procedures.

(a) Prior to the Effective Time and subject to Section 2.06(a), Parent shall deliver a treasury direction to the Transfer Agent for the purpose of issuing, in accordance with this Article II, the Merger Consideration payable in exchange for the Company Preferred Shares and the Company Common Stock pursuant to Section 2.14. At least five (5) Business Days prior to the Closing, the Company shall deliver to Parent a list of all Stockholders and all registration details for the Merger Consideration as may be reasonably requested by Parent or the Transfer Agent.

(b) Subject to Section 2.06(a), the Transfer Agent shall deliver the Multiple Voting Shares to former holders of the Company Preferred Shares and the Company Common Stock electronically, without the need for such holder to surrender certificates, if any, representing the Company Preferred Shares and the Company Common Stock.

Section 2.08 No Further Ownership Rights in the Company Common Stock and Company Preferred Shares. All shares of Multiple Voting Shares issued in accordance with the terms of this Article II shall be deemed to have been issued or paid in full satisfaction of all rights pertaining to the shares of Company Common Stock and Company Preferred Shares and there shall be no further registration of transfers on the stock transfer books of the Surviving Company of the shares of the Company Common Stock and Company Preferred Shares which were outstanding immediately prior to the Effective Time.

Section 2.09 Stock Transfer Books. On the Closing Date, the stock transfer books of the Company shall be closed and there shall be no further registration of transfers of shares of Company Common Stock thereafter on the records of the Company. From and after the Effective Time, the Stockholders shall cease to have any rights with respect to such shares of Company Common Stock formerly represented thereby, except as otherwise provided herein or by Law. On or after the Effective Time, any certificates presented to Parent for any reason shall only entitle such Stockholder to receive its Pro Rata Share of the Merger Consideration with respect to the shares of Company Common Stock formerly represented thereby.

Section 2.10 Company Closing Statement. No later than three (3) Business Days prior to the Closing Date, Stockholder Representative shall deliver to Parent a statement, attached hereto as Schedule 2.10 (the "Company Closing Statement") setting forth (i) the Company's good faith estimate of the amount of Closing Date Indebtedness, and (ii) the Company's good faith estimate of the amount of Closing Date Transaction Expenses.

Section 2.11 Intentionally Omitted.

Section 2.12 Closing. Subject to the terms and conditions of this Agreement, the consummation of the Merger shall take place at a closing (the "Closing") to be held remotely via the electronic exchange of counterpart signature pages on the date of this Agreement, or in such other manner or at such other time or date as the parties may mutually agree upon in writing (in either case, the "Closing Date"). At the Closing, the Company, Parent or Merger Sub shall cause the Merger to be consummated by filing an Agreement of Merger (the "Agreement of Merger") with the Delaware Secretary of State and by making all other filings or recordings required under the DGCL in connection with the Merger, in such form as is required by, and executed in accordance with the relevant provisions of, the DGCL. The Merger shall become effective at such time as the Agreement of Merger is duly filed with the Delaware Secretary of State, or at such other time as the parties hereto agree shall be specified in the Agreement of Merger (the date and time the Merger becomes effective, the "Effective Time").

Section 2.13 Closing Deliveries by the Company. At the Closing, the Company shall deliver or cause to be delivered to Parent the following:

(a) the Agreement of Merger, duly executed by an authorized officer of the Company;

(b) evidence reasonably satisfactory to Parent of the amount required to pay in full all outstanding Senior Secured Notes;

(c) evidence reasonably satisfactory to Parent that all outstanding Convertible Promissory Notes have been converted;

(d) executed copies of each third-party consent, approval, notification or amendment listed on Schedule 2.13;

(e) executed counterparts of each of the Ancillary Agreements (as applicable);

(f) within ninety (90) days after the Closing Date, audited financial statements (including the related notes thereto) of the Company and its consolidated subsidiaries for the year ended December 31, 2020, such financial statements have been prepared in conformity with the International Financial Reporting Standards;

(g) certificates of good standing for the Company and each of the Subsidiaries issued by the California Secretary of State, dated as of a date not earlier than 10 days prior to the Closing;

(h) complete and correct copies of the minute books, stock books, ledgers and registers, if any, and other records relating to the organization, ownership and maintenance of the Company and each Subsidiary, if not currently located on the premises of the Company;

(i) a certification duly executed by the Company and dated as of the Closing Date, in form and substance required under Regulations Section 1.897-2(h)(2) and 1.1445-2(c)(3) and reasonably acceptable to Parent, certifying that none of the equity interests in the Company is a "United States real property interest" within the meaning of Section 897 of the Code;

(j) countersigned releases and resignations, effective as of the Closing, of such officers and directors of the Company and each Subsidiary, as designated by Parent, in such form as are acceptable to counsel to Parent;

(k) payoff letters, releases and lien discharges (or agreements therefor), each in a form reasonably satisfactory to Parent from each creditor or vendor that has a claim that is part of the Indebtedness or Transaction Expenses (the "Payoff Letters"), such Payoff Letters to also specify the amount owed to such creditors as well as wire instructions for any payment to be made to any of them;

(l) a certificate from a duly authorized officer of the Company, dated as of the Closing, (i) certifying and attaching true and complete copies of (A) the resolutions duly and validly adopted by the Company Board and the Stockholders authorizing the execution, delivery and performance of this Agreement, the Ancillary Agreements (as applicable) and the consummation of the transactions contemplated hereby and thereby; (B) the certificate of incorporation of the Company, as amended to date and as currently in effect; and (C) the bylaws of the Company, as amended to date and as currently in effect; and (ii) certifying the names and specimen signatures of the officers of the Company authorized to sign this Agreement and the Ancillary Agreements to which the Company is a party and the other documents to be delivered hereunder and thereunder;

(m) all certificates, documents, schedules, agreements, resolutions, consents, approvals, rulings or other instruments required to be delivered under any of the Ancillary Agreements; and

(n) such other certificates, documents, schedules, agreements, resolutions, consents, approvals, rulings or other instruments as may be reasonably requested by Parent in order to effectuate or evidence the transactions contemplated hereby.

Section 2.14 Closing Deliveries by Parent. At the Closing, Parent shall deliver or cause to be delivered the following:

(a) the Closing Equity Consideration to paid as follows:

(i) 111,936.48 Multiple Voting Shares to the Stockholders Escrow; and

(ii) 41,515.93 Multiple Voting Shares to the Stockholders Trust.

(b) the Indemnification Escrow Amount to the Indemnity Escrow Account;

(c) the Adjustment Escrow Amount to the Adjustment Escrow Account;

(d) the Closing Cash Payment, to be paid in accordance with Schedule 2.14(d);

(e) to the holders of the Senior Secured Notes, the Senior Secured Debt Payment;

(f) the Agreement of Merger, duly executed by an authorized officer of Parent and Merger Sub;

(g) executed counterparts of each of the Ancillary Agreements (as applicable);

(h) a certificate of status for Parent from the jurisdiction in which Parent is incorporated, dated as of a date not earlier than ten (10) days prior to the Closing;

(i) a certificate from a duly authorized officer of Parent, dated as of the Closing, certifying and attaching true and complete copies of the resolutions duly and validly adopted by the Board of Directors of Parent authorizing the execution, delivery and performance of this Agreement, the Ancillary Agreements (as applicable) and the consummation of the transactions contemplated hereby and thereby;

(j) countersigned releases and resignations, effective as of the Closing, of such of the officers and directors of the Company and each Subsidiary, as are designated by Parent, in such form as are acceptable to counsel to Parent;

(k) if required pursuant to CSE rules applicable to Parent, the consent of the CSE in respect of the issuance of the Merger Consideration as contemplated in this Agreement; and

(l) such other certificates, documents, schedules, agreements, resolutions, consents, approvals, rulings or other instruments as may be reasonably requested by the Stockholder Representative in order to effectuate or evidence the transactions contemplated hereby.

Section 2.15 Conveyance Taxes. All transfer (including real estate transfer), documentary, sales, use, stamp, registration and other such similar Taxes and fees (including any penalties and interest) incurred in connection with this Agreement ("Transfer Taxes") or the transactions contemplated hereby will be paid by one-half by Parent and one-half by the Stockholder Representative (on behalf of the

Stockholders) when due, and Parent will, at its own expense, file all necessary Tax Returns and other documentation, in a manner consistent with applicable Law, with respect to all such Transfer Taxes, and the Stockholder Representative will join in the execution of any such Tax Returns and other documentation to the extent required by applicable Law.

Section 2.16 Withholding Tax. Each of Parent, Merger Sub, and the Surviving Company shall be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Article II such amounts as may be required to be deducted and withheld with respect to the making of such payment under any Laws; provided, that, promptly upon becoming aware of any withholding (other than withholding required in connection with compensatory payments), Parent shall use reasonably commercial efforts to notify the Stockholder Representative. prior to the date on which such deduction or withholding is to be made, in writing in reasonable detail and shall cooperate with the Stockholder Representative and the applicable Person to whom withholding applies to reduce or eliminate any withholding that otherwise would be required. To the extent that amounts are so deducted and withheld by Parent and paid to the applicable Taxing Authority, Merger Sub, or the Surviving Company, as the case may be, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which Parent, Merger Sub, or the Surviving Company, as the case may be, made such deduction and withholding . Notwithstanding anything to the contrary in this Agreement, any amounts that constitute compensation for services for Tax purposes will be paid through the ordinary payroll procedures of the Company (or the Surviving Company, as appropriate).

Section 2.17 Final Working Capital.

(a) Determination of Final Net Working Capital. Within the later of (i) the completion of the audited financial statements of the Company for the year ended December 31, 2020 or (ii) ninety (90) days after the Closing Date, Parent shall prepare and deliver to the Stockholder Representative a statement (the "Closing Working Capital Statement"), setting forth its proposed calculation of the Final Net Working Capital Amount utilizing Schedule 2.17, and any resulting Net Working Capital Deficit or Net Working Capital Surplus.

(b) Examination and Review.

(i) Examination. After receipt of the Closing Working Capital Statement, the Stockholder Representative shall have forty five (45) days (the "Review Period") to review the Closing Working Capital Statement. During the Review Period, Stockholder Representative and its representatives shall have full access to the books and records of the Surviving Company and to such historical financial information (to the extent in Parent's possession) relating to the Closing Working Capital Statement as the Stockholder Representative may reasonably request for the purpose of reviewing the Closing Working Capital Statement and to prepare a Statement of Objections (defined below), provided, that such access shall be at the expense of the Stockholder Representative and during normal business hours upon reasonable advance notice to Parent in a manner that does not unreasonably interfere with the normal business operations of Parent or the Surviving Company.

(ii) Objection. On or prior to the last day of the Review Period, the Stockholder Representative may object to the Closing Working Capital Statement by delivering to Parent a written statement setting forth the Stockholder Representative's objections in reasonable detail, indicating each disputed item or amount and the basis for the Stockholder Representative's disagreement therewith (the "Statement of Objections"). If the Stockholder Representative gives Parent written notice of the Stockholder Representative's acceptance of the Closing Working Capital Statement or fails to deliver the Statement of Objections before the expiration of the Review Period, then the Closing Working Capital Statement and any resulting Net Working Capital Deficit or Net Working Capital Surplus reflected in the

Closing Working Capital Statement shall be deemed to have been accepted by the Stockholder Representative. If the Stockholder Representative delivers the Statement of Objections before the expiration of the Review Period, Parent and the Stockholder Representative shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the "Resolution Period"), and, if the same are so resolved within the Resolution Period, any resulting Net Working Capital Deficit or Net Working Capital Surplus and the Closing Working Capital Statement, with such changes as may have been previously agreed in writing by Parent and the Stockholder Representative, shall be final and binding.

(iii) Resolution of Disputes. If the Stockholder Representative and Parent fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute ("Disputed Amounts" and any amounts not so disputed, the "Undisputed Amounts") shall be submitted for resolution to the Independent Accountant who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the Closing Working Capital Statement. The parties hereto agree that all adjustments shall be made without regard to materiality. The Independent Accountant shall only decide the specific items under dispute by the parties and their decision for each Disputed Amount must be within the range of values assigned to each such item in the Closing Working Capital Statement and the Statement of Objections, respectively.

(c) Fees of the Independent Accountant. The fees and expenses of the Independent Accountant shall be paid by the Stockholder Representative, on the one hand, and by Parent, on the other hand, based upon the percentage that the amount actually contested but not awarded to Stockholders bears to the aggregate amount actually contested by the Stockholder Representative.

(d) Determination by Independent Accountants. The Independent Accountant shall make a determination as soon as practicable within 30 days (or such other time as the Parties hereto shall agree in writing) after their engagement, and their resolution of the Disputed Amounts and their adjustments to the Closing Working Capital Statement shall be conclusive and binding upon the parties hereto.

(e) Payments of Net Working Capital Deficit or Net Working Capital Surplus.

(i) If there is finally determined pursuant to this Section 2.17 a Net Working Capital Deficit, Parent and the Stockholder Representative shall, within five (5) Business Days after the date of such determination, deliver a joint written instruction to the Escrow Agent to pay to Parent the Net Working Capital Deficit by transferring to Parent for redemption such number of shares of Multiple Voting Shares equal to the Net Working Capital Deficit divided by 100 and divided by the 30 Day-VWAP. In the event that the Multiple Voting Shares available in the Adjustment Escrow Account are less than the required number of shares to satisfy the Net Working Capital Deficit, the Adjustment Escrow Account shall be the sole source of recovery for the Net Working Capital Deficit, and the Stockholders and the Stockholder Representative shall not have any liability for any amounts due pursuant to this Section 2.17 in excess of the Adjustment Escrow Account.

(ii) If there is finally determined pursuant to this Section 2.17 a Net Working Capital Surplus, Parent shall, within five (5) Business Days after the date of such determination (i) release the Adjustment Escrow Amount and (ii) pay cash or issue Multiple Voting Shares (at the option of the Stockholder Representative) in an amount equal to the Net Working Capital Surplus to the Stockholder Representative for further distribution to the Stockholders such Net Working Capital Surplus in accordance with Section 2.07.

(iii) Any amounts distributed pursuant to the provisions of this Section 2.17 shall be deemed to be and treated for all Tax purposes as an adjustment to the Merger Consideration, and the parties hereto agree to file their Tax Returns accordingly, and each party hereto agrees to take no position (and will not permit its Affiliates to take a position) contrary thereto unless required to do so by applicable Tax Law pursuant to a "determination" as defined in Code Section 1313(a).

Section 2.18 Escrow.

(a) As of the Closing Date, Parent shall deposit a portion of the Equity Consideration with the Escrow Agent, to be held in escrow, as follows:

(i) 43,301.80 Multiple Voting Shares (the "Indemnification Escrow Amount") into a segregated escrow account (the "Indemnity Escrow Account") to satisfy, at least in part, (i) any claims by a Parent Indemnified Party for satisfaction of any indemnification claim of any Parent Indemnified Party pursuant to Article VII, or (ii) any and all other claims made by Parent or any Parent Indemnified Party pursuant to this Agreement or in connection with the transactions contemplated hereby. If the Company becomes obligated (whether through mutual agreement between Parent and Stockholder Representative, as a result of a final non-appealable judicial determination or otherwise finally determined in accordance with the terms hereof or the terms of the Escrow Agreement) to provide indemnification or another payment pursuant to or in accordance with the terms of this Agreement, Parent and Stockholder Representative shall, if necessary for release of shares from the Indemnity Escrow Account, execute joint written instructions to the Escrow Agent to disburse the appropriate amounts, based on the value of the Indemnity Escrow Amount as of the date hereof, in accordance with the terms of this Agreement and the Escrow Agreement. The Escrow Agent shall hold the Indemnification Escrow Amount in accordance with the terms of the Escrow Agreement until the later of (i) final resolution of any claims made by Parent or Parent Indemnified Party in accordance with the terms of this Agreement and the Indemnification Escrow Agreement, or (ii) the eighteenth (18) month anniversary of the Closing Date.

(ii) 10,825.45 Multiple Voting Shares (the "Adjustment Escrow Amount") into a segregated escrow account (the "Adjustment Escrow Account"). The Escrow Agent shall hold the Adjustment Escrow Amount in accordance with the terms of the Escrow Agreement until Parent and Stockholder Representative execute joint written instructions to the Escrow Agent to disburse the appropriate amounts in accordance with the terms of this Agreement and the Escrow Agreement.

(b) Parent shall be treated as the owner of the Multiple Voting Shares held in the Indemnification Escrow Account and the Adjustment Escrow Account for U.S. federal and state income tax purposes. In furtherance of the foregoing, the Stockholders shall have no right to vote, or receive dividends with respect to, such Multiple Voting Shares prior to their release from the Indemnification Escrow Account and the Adjustment Escrow Account, as applicable. Notwithstanding the foregoing, in the event of a stock split or payment of dividends by Parent while the Multiple Voting Shares are held in either the Indemnification Escrow Account or the Adjustment Escrow Account, such split or dividends shall accrue on the Multiple Voting Shares and such amounts, if any, shall be distributed, in accordance with the terms of the Indemnification Escrow Account and the Adjustment Escrow Account, as applicable when so released.

(c) Unless other required by applicable Law, any amounts distributed to the Stockholders from the Indemnity Escrow Account shall be deemed to be and treated for all Tax purposes as an adjustment to the Merger Consideration, and the parties hereto agree to file their Tax Returns in a manner consistent with such treatment.

(d) If the Company becomes obligated as a result of a final non-appealable judicial determination or otherwise finally determined in accordance with the terms hereof or the terms of the Escrow Agreement to provide indemnification or another payment pursuant to or in accordance with the terms of this Agreement, Parent and Stockholder Representative shall, if necessary for release of shares from the escrow, execute joint written instructions to the Escrow Agent to disburse the appropriate number of shares which shall be such number of shares determined using a per share price of $1.8475 (as adjusted to reflect any stock split, stock dividend or other change), from the Indemnity Escrow Amount in accordance with the terms of this Agreement and the Escrow Agreement.

Section 2.19 Dissenting Shares. Each outstanding share of Company Common Stock the holder of which has perfected his, her or its right to dissent pursuant to Section 262 of the DGCL and has not effectively withdrawn or lost such right as of the Effective Time (the "Dissenting Shares"), shall be cancelled, extinguished and cease to exist and shall not be converted into or represent a right to receive the Merger Consideration, and the holder thereof shall be entitled only to such rights as may be granted to them under the DGCL. The Company shall give Parent prompt notice upon receipt by the Company of any such written demands for payment of the fair value of such shares of the Company Common Stock and of withdrawals of such demands and any other instruments provided pursuant to the DGCL. If any holder of Dissenting Shares shall have effectively withdrawn or lost the right to dissent (through failure to perfect or otherwise), the Dissenting Shares held by such holder shall be converted on a share by share basis into the right to receive the Merger Consideration in accordance with the applicable provisions of this Agreement. Any payments made in respect of Dissenting Shares shall be made by Parent within the time period set forth in the DGCL.

ARTICLE III
RESERVED

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the Disclosure Schedule, the Company represents and warrant to Parent that the statements contained in this Article IV are true and correct as of the date of this Agreement.

Section 4.01 Organization and Authority; Execution; Enforceability.

(a) The Company (i) is a corporation validly existing and in good standing under the laws of the State of Delaware; and (ii) is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not have a Company Material Adverse Effect. The Company has all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements by the Company, the performance by the Company of its obligations hereunder and thereunder and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Company. This Agreement has been, and upon their execution, the Ancillary Agreements to which the Company is a party, shall have been, duly executed and delivered by the Company, and this Agreement constitutes, and upon their execution the Ancillary Agreements shall constitute, legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms except to the extent enforcement may be affected by Laws relating to bankruptcy, insolvency, creditors' rights and by the availability of injunctive relief, specific performance and other equitable remedies.

(b) The Company Board, by resolutions duly adopted by a unanimous vote at a meeting of all directors of the Company duly called and held and, not subsequently rescinded or modified in any way, has: (i) determined that this Agreement and the transactions contemplated hereby, including the Merger, upon the terms and subject to the conditions set forth herein, are fair to, and in the best interests of, the Company and the Stockholders; (ii) approved and declared advisable this Agreement, including the execution, delivery, and performance thereof, and the consummation of the transactions contemplated by this Agreement, including the Merger, upon the terms and subject to the conditions set forth herein; (iii) directed that this Agreement be submitted to a vote of the Stockholders at a duly called meeting or by written consent; and (iv) resolved to recommend that the Stockholders vote in favor of adoption of this Agreement in accordance with the DGCL (collectively, the "Company Board Recommendation").

Section 4.02 Subsidiaries.

(a) Other than as set forth on Section 4.02(a) of the Disclosure Schedules, there are no corporations, limited liability companies, partnerships, joint ventures, associations or other entities in which the Company or any Subsidiary owns, of record or beneficially, any direct or indirect equity or other interest or any right (contingent or otherwise) to acquire the same, and neither the Company nor any Subsidiary has any obligation to make any investment (in the form of a loan, capital contribution or otherwise) in any Person

(b) Each Subsidiary (i) is a corporation or a limited liability company, validly existing and in good standing under the laws of the State of California or Delaware, as the case may be; and (ii) is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not have a Company Material Adverse Effect. Each Subsidiary has all necessary power and authority to enter into the Ancillary Agreements to which it is a party, to carry out its obligations thereunder and to consummate the transactions contemplated thereby. Section 4.02(b) of the Disclosure Schedule sets forth each Subsidiary's name, type of entity, and each jurisdiction where it is licensed or qualified to do business.

Section 4.03 Capitalization.

(a) The Company's Common Stock and Preferred Stock is beneficially owned as set forth on Section 4.03(a) of the Disclosure Schedules.

(b) All of the shares of Common Stock and Preferred Stock of the Company were issued in compliance with applicable Laws. None of shares of Common Stock and Preferred Stock were issued in violation of the Organizational Documents of the Company or any other agreement, arrangement or commitment to which any Stockholder or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(c) Except as set forth in Section 4.03(c) of the Disclosure Schedule, there are no issued, reserved for issuance or outstanding (i) voting securities of or ownership interests in the Company, (ii) securities of the Company convertible into or exchangeable for voting securities of or ownership interests in the Company, (iii) warrants, calls, options or other rights to acquire from the Company, or other obligation of the Company to issue, voting securities or securities convertible into or exchangeable for voting securities of the Company or (iv) securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, or distributions on, or proceeds from the sale of, any equity securities of the Company, including any share appreciation rights, profits interests, phantom or shadow equity.

(d) Except as set forth in Section 4.03(d) of the Disclosure Schedule and other than the Organizational Documents, there are no voting trusts, proxies or other agreements or understandings in effect with respect to the voting or transfer of any capital stock of the Company.

(e) All of the shares of Preferred Stock of the Company issued in connection with the conversion of any Convertible Promissory Notes as of the date hereof, were issued in compliance with the terms thereof and with applicable Laws and did not violate the Organizational Documents of the Company or any other agreement, arrangement or commitment to which any Stockholder or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any Person.

(f) No Stockholder beneficially owns more than fifty (50) per cent of any outstanding class (as defined under Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*) of shares of the Company.

Section 4.04 No Conflict. The execution, delivery and performance by the Company of this Agreement and the Ancillary Agreements to which it is a party and the consummation of the transactions contemplated hereby and thereby do not and will not (i) violate, conflict with or result in the breach of any provision of the Organizational Documents of the Company; (ii) conflict with or result in a violation or breach of any Law or Order applicable to the Company or any of its respective assets, properties or businesses, including the Business; (iii) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any Material Contract to which the Company is a party or the Company is bound or by which any of the Company's properties or assets are subject; (iv) result in the creation of any Lien on any of the Company's properties or assets; or (v) conflict with or result in a breach of any of the terms or requirements of, or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify, any Permit that is held by or on behalf of the Company.

Section 4.05 Consents. Except as set forth in Section 4.05 of the Disclosure Schedule, the execution, delivery and performance by the Company of this Agreement and each Ancillary Agreement, does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority or any other Person.

Section 4.06 Financial Statements.

(a) Complete copies of the Company's audited consolidated annual financial statements consisting of its balance sheet as of December 31, 2019, and the related statements of income and retained earnings, members' equity and cash flow for the year then ended (collectively, the "Financial Statements") have been delivered to Parent. The Financial Statements have been prepared in accordance with IFRS applied on a consistent basis throughout the periods involved. The Financial Statements are based on the books and records of the Company, and fairly present their financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated. The consolidated balance sheet of the Company as of December 31, 2020 is referred to herein as the "Balance Sheet" and the date thereof as the "Balance Sheet Date". The Company maintains a standard system of accounting established and administered in accordance with IFRS.

Section 4.07 Undisclosed Liabilities. Except as set forth in Section 4.07 of the Disclosure Schedule, the Company does not have any Liabilities, except (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date, or (b) those which have been incurred in the Ordinary Course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

Section 4.08 Bank Accounts. Set forth in Section 4.08 of the Disclosure Schedule is a complete and correct list of all banks or other financial institutions with which the Company or any Subsidiary has an account, showing the type and account number of each such account, and the names of the persons authorized as signatories thereon or to act or deal in connection therewith.

Section 4.09 Indebtedness; Payment Obligations. Set forth in Section 4.09 of the Disclosure Schedule is an accurate and complete summary of all Indebtedness and payment obligations of the Company or any Subsidiary to any Person as of the day immediately prior to the Closing Date, and such summary is true and correct in all material respects as of such date.

Section 4.10 Absence of Certain Facts or Events. Except as expressly contemplated by this Agreement or as set forth in Section 4.10 of the Disclosure Schedule, since the Balance Sheet Date, the Business has been conducted in all material respects in the Ordinary Course of business consistent with past practice and there has not been with respect to the Company or any Subsidiary any:

(a) Company Material Adverse Effect;

(b) any damage, destruction or loss to the assets or Business, whether covered by insurance or not, involving damages, losses or assets valued in excess of $***[Redacted - Commercially Sensitive Information]***;

(c) (A) amendment to or entering into of any employment or independent contractor agreements or any severance or termination agreements with, any increase in the compensation payable or to become payable by the Company or any Subsidiary to, any employee, independent contractor, manager/director or officer whose annual remuneration (which, for purposes of this Section 4.10(c)(A) includes base salary and targeted commissions and bonuses) exceeds $***[Redacted - Commercially Sensitive Information]*** or (B) any establishment or termination of, or increase in or amendment or modification to the coverage or benefits under any bonus, insurance, pension, retention, transaction bonus, change in control or other Benefit Plan that, in any case, is not in the Ordinary Course of business, consistent with past practice;

(d) any issuance, sale, transfer or disposition of capital stock or other equity interest of the Company or any Subsidiary or options or rights to acquire capital stock or other equity interest of the Company or any Subsidiary, any redemption, repurchase or other cancellation or acquisition of outstanding shares of capital stock or other equity interest of the Company or any Subsidiary, any declaration, setting aside or payment of any dividend or distribution thereon (other than cash dividends or distributions), any recapitalization, reclassification, stock split or reverse stock split, any merger of the Company or any Subsidiary with any Person, any purchase or other acquisition by the Company or any Subsidiary of capital stock or other interest in any other Person, any purchase or other acquisition by the Company or any Subsidiary of all or substantially all of the business or assets of any other Person, any transfer or sale of a substantial portion of the Business or assets of the Company or any Subsidiary to any Person or any agreement to take any such actions;

(e) any sale, assignment, modification or transfer outside of the Ordinary Course of business of any contractual rights, claims or other assets of the Company or any Subsidiary valued at more than $***[Redacted - Commercially Sensitive Information]*** in the aggregate;

(f) except as set forth in Section 4.10(f) of the Disclosure Schedule, any Lien placed on the assets of the Company or any Subsidiary to secure indebtedness or guaranties, or any other Lien placed on any material asset of the Company or any Subsidiary;

(g) except as set forth in Section 4.10(g) of the Disclosure Schedule, the incurrence of any Liability of the Company or any Subsidiary as a result of indebtedness for borrowed money or guaranties thereof or any capital expenditure, in either case, in excess of $***[Redacted - Commercially Sensitive Information]***;

(h) any failure to pay or perform any obligation of the Company or any Subsidiary involving more than $***[Redacted - Commercially Sensitive Information]*** as, when and to the extent due other than pursuant to a good faith defense or contractual right of setoff;

(i) any amendment or termination of the Organizational Documents of the Company or any Subsidiary or amendment, termination or modification of any Material Contract;

(j) any material transaction entered into or consummated by the Company or any Subsidiary not in the Ordinary Course of business;

(k) any forgiveness or waiver of any obligations or performance (past, present or future) owed to the Company or any Subsidiary other than in the Ordinary Course of business;

(l) any material change in any method of accounting or accounting policy (including with respect to reserves) or policy or procedure relating to financial reporting, internal controls, cash management, accounts receivable collection or accounts payable practices;

(m) any waiver, settlement or consent to the settlement of, any material claims made by or against the Company or any Subsidiary or entrance into any consent decree;

(n) any material change in accounting or Tax principles, methods, entity classification or policies;

(o) any material change or modification to the credit, collection or payment policies, procedures or practices of the Company or any Subsidiary;

(p) except as otherwise required under applicable Law, any amendment to any Tax Return, any material Tax election or modification or revocation of any existing material Tax election, entry into any Tax Sharing Agreement, surrender of any right to claim a material refund, consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment, any change to any material Tax accounting method, election or convention, or any settlement or compromise of any material Tax claims;

(q) except as set forth on Section 4.10(q) of the Disclosure Schedule, any hiring or promoting any person as or to (as the case may be) an officer or hiring or promoting any employee who is not an officer except to fill a vacancy in the Ordinary Course of business; or

(r) any agreement to do any of the things described in the preceding clauses.

Section 4.11 Litigation. Except as set forth in Section 4.11 of the Disclosure Schedule, for the two-year period prior to the date of this Agreement, there have been no Actions by or against the Company or any Subsidiary or affecting any of the assets or the Business of the Company or any Subsidiary, and there are no Actions pending or, to the Company's Knowledge, threatened, (a) by or against the Company or any Subsidiary affecting any of their respective properties or assets (or relating to the Company or any Subsidiary); or (b) by or against the Company, or any Subsidiary or any of their respective Affiliates that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement

or any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby. Except as set forth in Section 4.11 of the Disclosure Schedule, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action. Except as set forth in Section 4.11 of the Disclosure Schedule, since its formation, neither the Company nor any Subsidiary has been subject to any Order, and there is no Order pending or, to the Company's Knowledge, threatened against the Company or any Subsidiary or affecting the Business.

Section 4.12 Compliance with Laws; Permits.

(a) The Company and each Subsidiary has conducted and continues to conduct the Business in accordance in all material respects with all Laws and Orders applicable to the Company, each Subsidiary and their respective assets and the Business, and neither the Company nor any Subsidiary is in material violation of any such Law or Order. No claim has been made by any Governmental Authority to the effect that the Business conducted or any asset owned or used by the Company or any Subsidiary fails to comply, in any material respect, with any Law or Order.

(b) Section 4.12(b) of the Disclosure Schedule contains a complete and accurate list of all Permits held by the Company or any Subsidiary, and the Company and each Subsidiary possesses and is in material compliance with all Permits required to operate the Business. Each such Permit is valid and in full force and effect. True and correct copies of all of such Permits have been made available to Parent. None of the Permits will be impaired or terminated or become terminable as a result of the transactions contemplated hereby or by any Ancillary Agreement.

(c) Each of the Company and the Subsidiaries and their respective Affiliates hold the applicable Regulatory Licenses required to conduct the present Business. Each Regulatory License is in full force and effect in all material respects and has not been revoked, suspended, cancelled, rescinded, terminated, modified and has not expired. There are no pending or, to the Company's Knowledge, threatened Actions by or before any Governmental Authority to revoke, suspend, cancel, rescind, terminate and/or materially adversely modify any Regulatory License. Section 4.12(c) of the Disclosure Schedule contains a complete and accurate list of all Regulatory Licenses, and true and correct copies of all of such Regulatory Licenses have been made available to Parent.

Section 4.13 Environmental Matters.

(a) To the Company's Knowledge, the Company and each Subsidiary is currently and has at all times been in compliance in all material respects with all Environmental Laws, and has not received from any Person any Environmental Notice or Environmental Claim or written request for information pursuant to Environmental Law with respect to the Company, any Subsidiary or the Business, which, in each case, either remains pending or unresolved or is the source of ongoing obligations or requirement.

(b) The Company and each Subsidiary possesses and is in compliance in all material respects with all Environmental Permits necessary for the operation of the Business and the ownership, lease, operation or use of the Leased Real Property and the assets of the Company and each Subsidiary. All Environmental Permits obtained by the Company or any Subsidiary are in full force and effect in accordance with Environmental Laws. To the Company's Knowledge, there is no condition, event, or circumstance that might prevent or impede, after the Closing Date, the ownership, lease, operation, or use of the business or assets of the Company or any Subsidiary as currently carried out. With respect to any such Environmental Permits, the Company, the Subsidiaries and the Company have undertaken all measures necessary to facilitate transferability of the same and none of the Company, any Subsidiary or the Company are aware of any condition, event, or circumstance that might prevent or impede the transferability of the same nor

have either received any Environmental Notice or written communication regarding any material adverse change in the status or terms and conditions of the same.

(c) To the Company's Knowledge, there has been no Release of Hazardous Materials in contravention of Environmental Law with respect to the Business or assets of the Company or any Subsidiary or any Leased Real Property. None of the Company, any Subsidiary, or the Company have received an Environmental Notice that any Leased Real Property (including soils, groundwater, surface water, buildings and other structure located on any such real property) has been contaminated with any Hazardous Material that could reasonably be expected to result in an Environmental Claim against or a violation of Environmental Law or term of any Environmental Permit by the Company, any Subsidiary or the Company.

(d) To the Company's Knowledge, there are no active or abandoned aboveground or underground storage tanks owned or operated by the Company or any Subsidiary.

(e) To the Company's Knowledge, there are no Hazardous Materials treatment, storage, or disposal facilities or locations used by the Company or any Subsidiary or any of their respective predecessors as to which the Company or any Subsidiary may retain liability. None of such facilities or locations has been placed or proposed for placement on the National Priorities List under CERCLA or any similar state list. None of the Company, any Subsidiary or the Company have received any Environmental Notice regarding potential liabilities with respect to such off-site Hazardous Materials treatment, storage or disposal facilities or locations used by the Company or any Subsidiary.

(f) Neither the Company nor any Subsidiary has retained or assumed, by Contract or operation of Law, any liabilities or obligations of third parties under Environmental Laws.

(g) The Company, the Subsidiaries and the Company have provided or otherwise made available to Parent and listed in Section 4.13(g) of the Disclosure Schedule: (i) any and all environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents in the Company's possession or control with respect to the Business or assets of the Company or any Subsidiary or any Leased Real Property related to compliance with Environmental Laws, Environmental Claims, an Environmental Notice or the Release of Hazardous Materials; and (ii) any and all material documents concerning planned or anticipated capital expenditures required to reduce, offset, limit or otherwise control pollution or emissions, manage waste or otherwise ensure compliance with current or future Environmental Laws (including, without limitation, costs of remediation, pollution control equipment and operational changes).

(h) None of the Company, any Subsidiary or the Company are aware of or reasonably anticipate any condition, event, or circumstance concerning the Release or regulation of Hazardous Materials that would be likely to, after the Closing Date, prevent, impede or materially increase the costs associated with the ownership, lease, operation, performance or use of the Business or assets of the Company or any Subsidiary as currently carried out.

(i) There are no Environmental Claims pending or, to the Company's Knowledge, threatened against the Company, any Subsidiary or the Leased Real Property, and to the Company's Knowledge, there are no circumstances that could reasonably be expected to form the basis of any such Environmental Claim.

(j) Neither the execution of this Agreement or the Ancillary Agreements by the Company or any Subsidiary, as applicable, nor the consummation of the transactions contemplated hereby

or thereby, will require any notice to or consent of any Governmental Authority or third party pursuant to any applicable Environmental Law or Environmental Permit.

Section 4.14 Material Contracts. Section 4.14(a) of the Disclosure Schedule contains an accurate and complete list of the following outstanding Contracts (including all amendments and supplements thereto) to which the Company or any Subsidiary is a party or by which the Company or any Subsidiary or any of their properties or assets is bound (collectively, the "Material Contracts"):

(a) each Contract involving aggregate consideration in excess of $***[Redacted - Commercially Sensitive Information]*** or requiring performance by any party more than one year from the date hereof, which, in each case, cannot be cancelled by the Company or any Subsidiary without penalty or without more than 90 days' notice;

(b) each Contract involving aggregate consideration in excess of $***[Redacted - Commercially Sensitive Information]*** with employees, third party consultants, independent contractors or other service providers of the Company or any Subsidiary, which cannot be cancelled by the Company or any Subsidiary without penalty or without more than 30 days' notice;

(c) each Contract involving a sharing of profits, losses, costs or Liabilities by the Company or any Subsidiary with any other Person, including any joint venture, partnership, alliance or similar agreement;

(d) each Contract containing covenants that restrict or purport to restrict the Company's or any Subsidiary's business activity or limit the freedom of the Company or any Subsidiary to engage in any line of business, to compete with any Person, to compete in any geographical area or to solicit any Person for business, employment or other purposes;

(e) each Contract or instrument that creates, gives rise to or otherwise contemplates any Lien over or in respect of any property or asset of the Company or any Subsidiary;

(f) each Contract providing for the Company's or any Subsidiary's lease of any Leased Real Property (whether as lessor or lessee);

(g) each Contract providing for the Company's or any Subsidiary's lease of Personal Property for payments or other consideration of more than $***[Redacted - Commercially Sensitive Information]*** in any 12-month period;

(h) each Contract that relates to Indebtedness;

(i) each Contract or letter of intent relating to the acquisition or disposition by the Company or any Subsidiary (whether by merger, consolidation or other business combination, sale of securities, sale of assets or otherwise), outside of the Ordinary Course of business, of assets or securities;

(j) each Contract involving monies or anything of value (including any compensation or benefits) that would become payable, owed, accelerated or vested upon the execution of this Agreement or the consummation of the transactions contemplated by this Agreement or any Ancillary Agreement or any other change of control of the Company or any Subsidiary;

(k) each Contract involving capital expenditures in excess of $***[Redacted - Commercially Sensitive Information]***;

(l) each warranty, guaranty or similar undertaking with respect to performance of a Contract extended by the Company or any Subsidiary, other than in the Ordinary Course of business;

(m) each Contract involving loans by the Company or any Subsidiary to any Person;

(n) each Contract between the Company or any Subsidiary, on the one hand, and a Governmental Authority, on the other hand;

(o) each agency, dealer, distributor, sales representative, marketing or other similar Contract;

(p) each Contract for management services or financial advisory services (other than the Ancillary Agreements);

(q) each settlement, resolution or similar Contract involving payments by the Company or any Subsidiary after the Closing or any injunctive or similar equitable obligations on the Company or any Subsidiary;

(r) each Contract between the Company and any Subsidiary;

(s) each agreement to enter into any Contract of the type described in subsections (a) through (r) of this Section 4.14; and

(t) each other Contract that is material to the Company and not previously disclosed pursuant to this Section 4.14.

Each Material Contract is in full force and effect and is valid and binding on and enforceable in accordance with its terms against the Company or the applicable Subsidiary party thereto and, to the Company's Knowledge, against the other party or parties thereto. Neither the Company nor any Subsidiary is in default under or in breach of, or in receipt of any written claim of default or breach or any notice of any intention to terminate, any Material Contract. There are no material disputes pending or, to the Company's Knowledge, threatened under any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of material default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any material right or material obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements thereto and waivers thereunder) have been made available to Parent.

Section 4.15 Intellectual Property.

(a) Section 4.15(a) of the Disclosure Schedule sets forth a true and complete list of (i) all patents and patent applications, registrations and applications for trademarks and trade names, material common law trademarks, registered copyrights and copyright applications, domain names ("Registered IP") and material proprietary software ("Company Software") included in the Company Intellectual Property, and (ii) all Company IP Agreements, other than commercially available off-the-shelf computer software licensed pursuant to shrink-wrap or click wrap licenses that is not material to the Business, in each case (i)-(ii) that is material to the conduct of the Business as presently conducted or contemplated to be conducted. The Company and each Subsidiary exclusively owns all right, title and interest in and to the Company Intellectual Property, including without limitation the Registered IP and Company Software listed on Section 4.15(a) of the Disclosure Schedule, free and clear of any Liens. The Company and each Subsidiary is the owner of, or has the licensed or other right to use, all Intellectual Property, that is used in the business

or otherwise is material to the conduct of the Business as presently conducted. The consummation of the transactions contemplated hereby will not result in the loss or impairment of any Company or Subsidiary rights in any Company Intellectual Property, Licensed Intellectual Property, or Company Technology and will not result in the breach of, or create on behalf of any third party the right to terminate or modify any license, sublicense or other agreement as to which the Company or any Subsidiary is a party or pursuant to which the Company or any Subsidiary is authorized to license or use any third party Intellectual Property rights or Technology; provided that the Company Intellectual Property shall not include the items set forth in Part II of Section 4.15(a) of the Disclosure Schedule.

(b) To the Company's Knowledge, the Company and each Subsidiary has a valid license to use the Licensed Intellectual Property in connection with the Business, subject only to the terms of the Company IP Agreements, as the case may be. To the Company's Knowledge, the Company and each Subsidiary is entitled to use all Company Intellectual Property, Company Technology and Licensed Intellectual Property in the continued operation of the Business without infringement, misappropriation or violation of any Intellectual Property rights of any third party, subject only to the terms of the Company IP Agreements, as the case may be. The registered Company Intellectual Property is valid and enforceable, and no claim has been threatened in writing against the Company alleging that the registered Company Intellectual Property is invalid or unenforceable or challenging the Company or Subsidiary ownership in whole or in part.

(c) Except as disclosed in Section 4.15(c) of the Disclosure Schedule, no Action alleging that the Company, any Subsidiary or the conduct of the Business has infringed, misappropriated or otherwise violated the Intellectual Property of any third party has been served on the Company or any Subsidiary or is pending. To the Company's Knowledge, the Company, each Subsidiary and the conduct of the Business has not infringed, misappropriated or otherwise violated the Intellectual Property of any third party and, except as disclosed in Section 4.15(c) of the Disclosure Schedule, no claim has been threatened in writing against the Company or any Subsidiary alleging any of the foregoing, and, to the Company's Knowledge, there is no basis for any claims of infringement, misappropriation or violation of any Intellectual Property rights of any third party. To the Company's Knowledge, and except as disclosed in Section 4.15(c) of the Disclosure Schedule, no Person has infringed, misappropriated or otherwise violated the Company Intellectual Property, and neither the Company nor any Subsidiary has alleged or threatened any of the foregoing against any Person.

(d) Except as disclosed in Section 4.15(d) of the Disclosure Schedule, no Company Intellectual Property is subject to any outstanding decree, order, injunction, judgment or ruling restricting the use of such Company Intellectual Property or that would impair the validity or enforceability of such Company Intellectual Property.

(e) Except as disclosed in Section 4.15(e) of the Disclosure Schedule, each current employee, consultant and contractor (and each former employee employed and consultant and contractor engaged at any time within the three-year period prior to the Closing Date) of the Company and each Subsidiary has executed a confidentiality and intellectual property assignment agreement or an employment or independent contractor agreement maintaining confidentiality in any material trade secrets or proprietary information of the Company and each Subsidiary and assigning any rights in the Company Intellectual Property and Company Technology to the Company or such Subsidiary, or to the extent not assigned in such an agreement, such rights in the Company Intellectual Property are assigned to the Company or such Subsidiary as a work made for hire.

(f) Neither the Company nor any Subsidiary is required, obligated or under any Liability whatsoever to make any payments by way of royalties, fees or otherwise, or to provide any other consideration of any kind, to any owner or licensor of, or other claimant to, any Company Intellectual

Property or Company Technology with respect to its use, licensing and distribution. None of the Company Software is subject to an obligation that (i) requires the Company or any Subsidiary to divulge to any third party the source code for such Company Software, (ii) permits the creation of any derivative work based on such Company Software or any part thereof, or (iii) permits the distribution or redistribution of such Company Software or any part thereof at no charge.

(g) The software, hardware, firmware, networks, platforms, servers, interfaces, applications, web sites and related systems used by the Company and each Subsidiary are sufficient for its current needs in all material respects (including as to capacity and ability to process current and anticipated volumes in a timely manner). The Company and each Subsidiary has disaster recovery plans and capabilities, reasonably designed to safeguard its data and the ongoing ability to conduct the Business in the event of a disaster, which would cause site recovery to be operational within a commercially reasonable time following a disaster. To the Company's Knowledge, all Company Software is free from malicious code and material defects. The Company and each Subsidiary: (i) has in its possession the source code for the Company Software and systems developed by or on behalf of the Company, the Subsidiaries or for the Business in up-to-date appropriately catalogued versions and has been documented as reasonably necessary to enable competently skilled programmers and engineers to use, update, and enhance the Company Software by readily using the existing source code and documentation, and (ii) the Company and each Subsidiary has the right to use all software development tools, library functions, compilers and other software that is required to operate, modify, distribute and support such systems.

Section 4.16 Real Property.

(a) Neither the Company nor any Subsidiary has any Owned Real Property.

(b) Section 4.16(a) of the Disclosure Schedule lists: (i) each lease, sublease, license or other agreement and any amendments or modifications thereto relating to all Leased Real Property (each a "Lease" and collectively, the "Leases"), true and complete copies of which have been made available to Parent, (ii) the street address of each parcel of Leased Real Property, (iii) the identity of the lessor, lessee and current occupant (if different from lessee) of each such parcel of Leased Real Property, and (iv) the current use of each such parcel of Leased Real Property. The Company and each Subsidiary has a valid and enforceable leasehold interest under each Lease relating to Leased Real Property used by it. Each Lease is in full force and effect and is valid, binding and enforceable in accordance with its terms against the Company or Subsidiary and each other party thereto. Neither the Company nor any Subsidiary is in default nor has it received a notice of default or termination that remains outstanding under any Lease, and to the Company's Knowledge, no uncured default or breach on the part of the landlord exists under any Lease, and no event has occurred or circumstance exists which, with the delivery of notice, passage of time or both, would constitute such a breach or default or permit the termination, modification or acceleration of rent under any such Lease. The Company or Subsidiary is in peaceful and undisturbed possession of each parcel of Leased Real Property, the use of the Leased Real Property complies with the terms of the applicable Lease and to the Company's Knowledge, there are no contractual or legal restrictions that preclude or restrict the ability to use the Leased Real Property for the purposes for which it is currently being used. Neither the Company nor any Subsidiary has leased or subleased any parcel or any portion of any parcel of Leased Real Property to any other Person and no other Person has any rights to the use, occupancy or enjoyment thereof. The Leased Real Property comprises all real property used in connection with the Business. Neither the Company nor any Subsidiary is liable under any lease, sublease, license or other form of occupancy agreement other than the Leases. There are no condemnation proceedings or eminent domain proceedings of any kind pending or, to the Company's Knowledge, threatened with respect to any of the Leased Real Property, and none of the Company nor any Subsidiary has received written notice of any such proceedings.

(c) The Leased Real Property comprise all of the real property used or intended to be used in, or otherwise related to, the Business of the Company or any of its Subsidiaries.

Section 4.17 Assets. Except as set forth in Section 4.17 of the Disclosure Schedule, the Company and the Subsidiaries hold all legal and beneficial right, title and interest in and to all of their respective assets, free and clear of any Lien. Immediately following the Closing, all of such assets will be owned, leased or available for use by the Company or such Subsidiary on terms and conditions substantially identical to those under which, immediately prior to the Closing, the Company or such Subsidiary owns, leases, uses or holds available for use such assets. Such assets comprise all of the assets, properties and rights used in or necessary to the conduct of the Business and are adequate and sufficient to conduct the Business.

Section 4.18 Condition of Personal Property. All items of Personal Property with an individual book value of greater than $***[Redacted - Commercially Sensitive Information]*** as of the day immediately prior to the Closing Date are set forth in Section 4.18 of the Disclosure Schedule. Except as set forth in Section 4.18 of the Disclosure Schedule, all items of Personal Property are in good operating condition and repair (except for ordinary, routine maintenance and repairs that are not material in nature or cost) and are suitable for their intended use in the Business. The Company and each of its Subsidiaries are in possession of and have good and marketable title to, or valid leasehold interests in or valid rights under contract to use, the machinery, equipment, furniture, fixtures, and other tangible Personal Property and assets owned, leased, or used by the Company or any of its Subsidiaries, free and clear of all Liens other than Permitted Liens.

Section 4.19 Employee Benefit Matters.

(a) Section 4.19(a) of the Disclosure Schedule sets forth a true and complete list of each (i) "employee benefit plan" (as defined in Section 3(3) of ERISA, whether or not subject to ERISA) and (ii) other profit-sharing, deferred compensation, bonus or incentive, stock option, stock purchase, equity or equity-based, employment, independent contractor, consulting, severance, retention, change-of-control, paid time off, holiday pay, pension, retirement, medical, welfare, fringe and other compensation or benefit plan, policy, program, contract, arrangement or agreement (whether written or unwritten), in either case, sponsored, maintained, contributed to, or required to be contributed to, by the Company or any Subsidiary for the benefit of any current or former employee, manager/director, officer or independent contractor of the Company or any Subsidiary, or with respect to which the Company or any Subsidiary has or could have any Liability, whether direct or indirect, actual or contingent, whether formal or informal, and whether written or oral, legally binding or not (including liability on account of an ERISA Affiliate) (each, a "Benefit Plan" and collectively, "Benefit Plans").

(b) With respect to each Benefit Plan, there are no funded benefit obligations for which contributions have not been made, or properly accrued and there are no unfunded benefit obligations that have not been accounted for by reserves and all monies withheld for employee paychecks with respect to Benefit Plans have been transferred to the appropriate Benefit Plan within the time required under applicable Law. Neither the Company nor any Subsidiary has or within the past five (5) years has had any ERISA Affiliates, nor does the Company or any Subsidiary have any Liability with respect to any collectively-bargained for plans, whether or not subject to the provisions of ERISA. No statement, either written or oral, has been made by the Company or any Subsidiary to any Person with regard to any Benefit Plan that was not in accordance with the Benefit Plan and that could reasonably be expected to have, cause or result in a Company Material Adverse Effect.

(c) Each Benefit Plan has been maintained, operated and administered at all times in compliance with its terms and applicable Laws, including ERISA and the Code in all material respects. No

event has occurred, nor do any circumstances exists, that could reasonably be expected to give rise to any material liability or civil penalty under any Laws with respect to any Benefit Plan. All contributions and other payments required to be made to each Benefit Plan under the terms of that Benefit Plan, ERISA, the Code or any other applicable Law have been timely made.

(d) The Company has delivered or made available to Parent, accurate and complete copies, if applicable, of (i) each Benefit Plan, including all amendments, material, non-routine, employee communications and other documents related thereto (including any current summary plan description, summary of material modifications, and all related trust documents, insurance contracts or other funding vehicles), and in the case of an unwritten Benefit Plan, a written description of all material terms, (ii) the three most recently filed annual reports on Form 5500 and all schedules thereto, (iii) the most recent IRS determination, opinion or advisory letter, (iv) the most recent summary annual reports, actuarial reports, financial statements and trustee reports and (v) all documents concerning Governmental Authority audits or investigations or non-exempt "prohibited transactions" within the meaning of Section 4975 of the Code.

(e) Except as set forth in Section 4.19(e) of the Disclosure Schedule, neither the execution and delivery of this Agreement or any Ancillary Agreement, nor the consummation of the transactions contemplated hereby could, either alone or in combination with another event, (i) entitle any individual to any severance pay, unemployment compensation, forgiveness of indebtedness or other benefits or compensation; (ii) accelerate the time of payment or vesting, funding, or increase the amount of any compensation due, or in respect of, any individual; (iii) result in or satisfy a condition to the payment of compensation that would, in combination with any other payment, result in an "excess parachute payment" within the meaning of Section 280G of the Code or that would not be deductible under Section 162 or 404 of the Code; or (iv) directly or indirectly cause the Company or any Subsidiary to transfer or set aside any assets to fund any material benefits under any Benefit Plan. Neither the Company nor any Subsidiary has any obligation to indemnify, hold harmless or gross-up any individual with respect to any excise tax imposed under Sections 4999 or 409A of the Code and each Benefit Plan that is a nonqualified deferred compensation plan within the meaning of Section 409A(d)(1) of the Code has been maintained, operated and administered in operational and documentary compliance with Section 409A of the Code.

(f) None of the Company or any Subsidiary or an ERISA Affiliate maintains, maintained or contributed to within the past five (5) years, any multiemployer plan, within the meaning of Section 3(37) or 4001(a)(3) of ERISA. None of the Company or any Subsidiary or an ERISA Affiliate currently has any Liability to make withdrawal liability payments to any multiemployer plan.

(g) Each Benefit Plan can be amended, suspended or terminated at any time without the consent of any employees, participants, service providers, or insurance companies and without resulting in any Liability to Parent or its Affiliates for any additional contributions, penalties, premiums, fees, fines, excise taxes or any other charges or Liabilities other than ordinary administrative expenses typically incurred in a termination event.

Section 4.20 Employees and Contractors.

(a) Section 4.20(a) of the Disclosure Schedule sets forth a complete and accurate list of all Persons employed by the Company or any Subsidiary immediately prior to the Closing (the "Employees"), showing as of the Closing Date each Employee's: (i) name, (ii) job title or position, (iii) location, (iv) date of hire, (v) whether such Employee is full-time, part-time or temporary, (vi) whether such Person is exempt or non-exempt for purposes of the Fair Labor Standards Act and/or similar state Laws, (vii) base salary or hourly rate of base salary, (viii) annual bonus or other incentive compensation opportunity and (ix) the nature and amount of any other regular compensation (*e.g.*, commissions and accrued but unused paid time off/vacation time). Except as set forth on Section 4.20(a) of the Disclosure

Schedule, to the Company's Knowledge, the employment of each Employee (whether or not under any Contract) can be terminated by the Company or any Subsidiary without notice and without severance, penalty or premium, other than payment of accrued salaries, wages and bonuses or commissions, if any. All salaries, wages, commissions and other compensation and benefits payable to each employee of the Company or any Subsidiary have been accrued and paid by the Company or such Subsidiary when due for all periods through the Closing Date. Except as set forth on Section 4.20(a) of the Disclosure Schedule, to the Company's Knowledge, no current executive, key employee or group of employees has given notice of termination of employment or otherwise disclosed plans to terminate employment with the Company or any Subsidiary within the next 12 months. No executive or key employee of the Company or any Subsidiary is employed under a non-immigrant work visa or other work authorization that is limited in duration.

(b) Section 4.20(b) of the Disclosure Schedule sets forth a complete and accurate list of all independent contractors currently engaged by the Company or any Subsidiary, along with the position, date of retention and rate of remuneration, most recent increase (or decrease) in remuneration and amount thereof, for each such independent contractor. Except as set forth on Section 4.20(b) of the Disclosure Schedule, none of such independent contractors is a party to a written Contract with the Company or any Subsidiary. For purposes of applicable Law, including the Code and the Fair Labor Standards Act, to the Company's Knowledge, all independent contractors who are currently, or within the last two years have been, engaged by the Company or any Subsidiary are bona fide independent contractors and not employees of the Company or any Subsidiary. Except as set forth on Section 4.20(b) of the Disclosure Schedule, each independent contractor engaged by the Company or any Subsidiary is terminable on not more than 30 days' notice, without any obligation of the Company or any Subsidiary to pay a termination fee.

Section 4.21 Labor Matters. Except as set forth in Section 4.21 of the Disclosure Schedule, to the Company's Knowledge, (a) the Company and each Subsidiary is in material compliance with all Laws regarding employment and employment practices, conditions of employment, wages and hours with respect to the Business, and the payment and withholding of Taxes and other sums as required by the appropriate Governmental Authority, and has withheld and paid to the appropriate Governmental Authority or is holding for payment not yet due to such Governmental Authority all Taxes and other amounts required to be withheld from employees of the Company or any Subsidiary (and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed); (b) neither the Company nor any Subsidiary is engaged in unfair labor practices, and there are no unfair labor practice complaints or grievances pending or, to the Company's Knowledge, threatened against the Company or any Subsidiary relating to employees of the Company or any Subsidiary who are employed in connection with the Business, (c) there are no claims for violations of employment or labor Laws, or age, sex, racial or other employment discrimination pending or, to the Company's Knowledge, threatened against the Company or any Subsidiary relating to employees of the Business, and (d) there is no labor strike, dispute or work stoppage pending or, to the Company's Knowledge, threatened against or involving the Business or at the current customer locations which may affect such Business or which may interfere with its continued operation, and there has been no strike, walkout or work stoppage involving any of the employees of the Company or any Subsidiary employed with respect to the Business or at the current customer locations during the twenty-four (24) months prior to the date of this Agreement. Neither the Company nor any Subsidiary, to the Company's Knowledge, has incurred any Liability arising from the failure to pay wages (including overtime wages), from the misclassification of employees as independent contractors and/or from the misclassification of employees as exempt from the requirements of the Fair Labor Standards Act or similar state Laws. Except as disclosed in Section 4.21 of the Disclosure Schedule, there is no Action with respect to any employment-related matters, including payment of wages, salary or overtime pay, that has been asserted in writing or is now pending or, to the Company's Knowledge, threatened by or before any Governmental Authority with respect to any Persons currently or formerly employed (or engaged as an independent contractor) by, or who are or were applicants for employment with, the Company or any Subsidiary.

Section 4.22 Taxes.

(a) Except as set forth in Section 4.22(a) of the Disclosure Schedule, (i) the Company and each Subsidiary have filed or caused to be filed with the appropriate Taxing Authority all income, franchise and other material Tax Returns that they were required to file under applicable Law; (ii) all such Tax Returns were true, correct and complete in all material respects and were prepared in substantial compliance with all applicable Laws; (iii) all Taxes due and owing by the Company and each Subsidiary (whether or not shown as due on any Tax Return) have been paid, (iv) all payments on any installment payment arrangements with any Taxing Authority for any Taxes due and owing have been timely made; and (v) there are no Liens for Taxes upon the Company, any Subsidiary or their respective assets, except Permitted Liens. Neither the Company nor any Subsidiary currently is the beneficiary of any extension of time within which to file any Tax Return and neither have granted any waiver of any statute of limitations with respect to, or any extension of a period for the assessment of, any Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency.

(b) Except as set forth in Section 4.22(b) of the Disclosure Schedule, no Actions in respect of any Tax are pending or being conducted with respect to the Company or any Subsidiary. Neither the Company nor any Subsidiary has received within the past five (5) years from any Taxing Authority (including jurisdictions where the Company or any Subsidiary has not filed Tax Returns) any written (i) notice indicating an intent to open an audit or other review, (ii) request for information related to substantive Tax matters, or (iii) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted, or assessed by any Taxing Authority against the Company or any Subsidiary. During the past five (5) years, no written claim has ever been made by a Taxing Authority in a jurisdiction where the Company or any Subsidiary does not file Tax Returns that the Company or any Subsidiary is or may be subject to taxation in that jurisdiction.

(c) The Company and each Subsidiary have withheld and timely paid to the proper Taxing Authority all Taxes that each of them was required to withhold and pay in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party. The Company and each Subsidiary have properly completed, in all material respects, and filed all Tax Returns (including, applicable information returns or reports, including IRS Forms 1099 and W-2), that are required to be filed.

(d) Section 4.22(d) of the Disclosure Schedules lists all income Tax Returns filed with respect to any of the Company and each Subsidiary for taxable periods ended on or after December 31, 2016. The Company has delivered to Parent correct and complete copies of all federal and state income Tax Returns filed for taxable periods ended on or after December 31, 2016 and all examination reports, and statements of deficiencies with respect to Taxes assessed against or agreed to by the Company and each Subsidiary received since December 31, 2016.

(e) Neither the Company nor any Subsidiary is a party to any Tax Sharing Agreement with any Person pursuant to which the Company or any Subsidiary would have liability for Taxes of another Person following the Closing. The Company and each Subsidiary (i) have not been a member of an affiliated group under Section 1504(a) of the Code or any similar group defined under a similar provision of state, local, or non-U.S. law (other than a group the common parent of which was the Company), and (ii) does not have any Liability for Taxes of another Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision or state, local, or non-U.S. law), as a transferee or successor, pursuant to a Tax Sharing Agreement, or pursuant to applicable Law.

(f) As of the Closing, the Company has not taken or agreed to take any action, nor does it have actual knowledge of any fact or circumstance that would reasonably be expected to prevent the Merger from qualifying as a reorganization within Section 368(a) of the Code.

(g) Neither the Company nor any Subsidiary are or have been a party to any "listed transaction," as defined in Section 6707A(c)(2) of the Code and Section 1.6011-4(b)(2) of the Treasury Regulations.

(h) Neither the Company nor any Subsidiary will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) beginning after the Closing Date as a result of any:

(i) change in method of accounting made or use of an improper accounting prior to the Closing Date;

(ii) "closing agreement," as described in Code Section 7121 (or any corresponding provision of state, local, or non-U.S. income Tax law) executed prior to the Closing;

(iii) intercompany transaction, as defined in Section 1.1502-13 of the Treasury Regulations, occurring prior to the Closing, or any excess loss account, as defined in Section 1.1502-19 of the Treasury Regulations, (or any corresponding provision of state, local or non-U.S. income Tax law) in existence prior to the Closing;

(iv) installment sale or open transaction made prior to the Closing for which payments were received prior to the Closing Date;

(v) prepaid amount received on or prior to the Closing Date; or

(vi) election under Code Section 108(i) made prior to the Closing.

(i) During the past two (2) years, neither the Company nor any Subsidiary have distributed the stock of another Person, or had their stock distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Code Section 355.

(j) During the past six years, neither the Company nor any Subsidiary has had a permanent establishment in any country other than the United States.

(k) Neither the Company nor any Subsidiary has received any letter ruling from the Internal Revenue Service (or any comparable ruling from any other Taxing Authority) that would have a continuing effect after the Closing Date.

(l) Notwithstanding anything to the contrary in this Agreement, the Company is not making, and will not be construed to have made, any representation or warranty as to the amount or utilization of any net operating loss, Tax credit, Tax basis or other Tax attribute of the Company after the Closing Date.

Section 4.23 Insurance Policies. Section 4.23 of the Disclosure Schedule contains a complete and correct list (by type of policy, form of coverage, name of insurer and expiration date) of all insurance policies, directors' and officers' liability policies, and formal self-insurance programs, and other forms of insurance and all fidelity bonds held by or applicable to the Company, any Subsidiary and their respective assets, properties, employees or Benefit Plan fiduciaries (the "Insurance Policies"). All Insurance Policies

are in full force and effect, and the Company is not in default with respect to any provision in any Insurance Policy, and all such policies and all premiums due thereunder have been paid. Neither the Company nor any Subsidiary has received any notice of cancellation or non-renewal of any Insurance Policy, and neither the Company nor any Subsidiary has been denied any claim or made any claims which subject to reservation of rights of the insurer. With respect to each Insurance Policy, since the last renewal date of such policy, neither the Company nor any Subsidiary has received any notice of any material change in its relationship with its respective insurer or the premiums payable pursuant to such policy. All Insurance Policies have been made available to Parent.

Section 4.24 Inventory. Section 4.24 of the Disclosure Schedule sets forth a complete list of the Inventory (the "Inventory Report"). The Inventory Report is true, complete and correct in all material respects and prepared in a manner disclosed to Parent.

Section 4.25 Affiliate Transactions. Except as set forth in Section 4.25 of the Disclosure Schedule, no current or former manager, member, director, trustee, beneficiary, officer or employee of the Company or any Subsidiary, nor any immediate family member or Affiliate of any of the foregoing (whether directly or indirectly through an Affiliate of such Person): (a) is, or has been within the two years preceding the date of this Agreement, a party to any Contract (other than ordinary course employment Contracts that have been provided to Parent) with the Company or any Subsidiary; (b) has, or has had during the last two years preceding the date of this Agreement, any direct or indirect interest (i) in any material property, asset or right that is owned or used by the Company or any Subsidiary in the conduct of the Business, or (ii) in any Person that is a client, customer, supplier, lessor, lessee, debtor, creditor or competitor of the Company or any Subsidiary; or (c) is, or was during the last two years preceding the date of this Agreement, a manager, member, director, trustee, beneficiary, officer or employee of any Person that is a client, customer, supplier, lessor, lessee, debtor, creditor or competitor of the Company.

Section 4.26 Brokers. Except as set forth in Section 4.26 of the Disclosure Schedule, no broker, finder, investment banker or financial advisor is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Ancillary Agreement based upon arrangements made by or on behalf of the Company or any Subsidiary.

Section 4.27 Canadian Securities Laws. Security holders whose last address as shown on the books of the Company is in Canada hold less than 10% of the outstanding Company Common Stock. Security holders in Canada beneficially own less than 10% of the outstanding Company Common Stock. There is no published market for the Company Common Stock.

Section 4.28 Full Disclosure. No representation or warranty by the Company in this Agreement and no statement contained in the Disclosure Schedule or by Company in any Ancillary Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein in any material respect as of the date they were provided, in light of the circumstances in which they are made, not misleading.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PARENT

Parent represents and warrants to the Company that the statements contained in this Article IV are true and correct as of the Closing Date.

Section 5.01 Organization and Authority; Execution; Enforceability.

(a) The Parent and its subsidiaries are corporations or companies duly organized, validly existing and in good standing under the laws of their respective jurisdictions of formation and have all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder to consummate the transactions contemplated hereby and thereby and to carry on their business. The execution and delivery of this Agreement and the Ancillary Agreements (as applicable) by Parent, the performance by Parent of its obligations hereunder and thereunder and the consummation by Parent of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Parent. This Agreement has been, and upon their execution the Ancillary Agreements to which Parent is a party shall have been, duly executed and delivered by Parent, and (assuming due authorization, execution and delivery by each other party hereto and thereto) this Agreement constitutes, and upon their execution the Ancillary Agreements (as applicable) shall constitute, legal, valid and binding obligations of Parent, enforceable against Parent in accordance with their respective terms except to the extent enforcement may be affected by Laws relating to bankruptcy, insolvency, creditors' rights and by the availability of injunctive relief, specific performance and other equitable remedies.

(b) Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements (as applicable) by Merger Sub, the performance by Merger Sub of its obligations hereunder and thereunder and the consummation by Merger Sub of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Merger Sub. This Agreement has been, and upon their execution the Ancillary Agreements to which Merger Sub is a party shall have been, duly executed and delivered by Merger Sub, and (assuming due authorization, execution and delivery by each other party hereto and thereto) this Agreement constitutes, and upon their execution the Ancillary Agreements (as applicable) shall constitute, legal, valid and binding obligations of Merger Sub, enforceable against Merger Sub in accordance with their respective terms except to the extent enforcement may be affected by Laws relating to bankruptcy, insolvency, creditors' rights and by the availability of injunctive relief, specific performance and other equitable remedies.

Section 5.02 No Conflict. The execution, delivery and performance by Parent and Merger Sub of this Agreement and the Ancillary Agreements to which each is a party and the consummation of the transactions contemplated hereby and thereby do not and will not (a) violate, conflict with or result in the breach of any provision of the Organizational Documents of Parent and Merger Sub; (b) conflict with or result in a violation or breach of any Law or Order applicable to Parent and Merger Sub; or (c) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any material contract to which Parent and Merger Sub is a party or by which Parent and Merger Sub is bound or by which any of Parent's or Merger Sub's properties or assets are subject.

Section 5.03 Consents. Except as set forth in Section 5.03 of the Disclosure Schedule, the execution, delivery and performance by Parent and Merger Sub of this Agreement and each Ancillary Agreement to which each is a party do not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, Security Authority, the CSE or any other Person.

Section 5.04 Litigation. Except as set forth in Section 5.04 of the Disclosure Schedule, there are no Actions pending or, to Parent's knowledge, threatened, by or against Parent or any Affiliate of Parent

that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 5.05 Brokers. Except as set forth in Section 5.05 of the Disclosure Schedule, no broker, finder, investment banker or financial advisor is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Parent or Merger Sub.

Section 5.06 Issued Capital.

(a) As of May 28, 2021, the authorized share capital of Parent consists of an unlimited number of Subordinate Voting Shares and an unlimited number of Multiple Voting Shares, of which the following shares are issued and outstanding: 34,643,470 Subordinate Voting Shares and 243,288.42 Multiple Voting Shares, plus outstanding options, warrants and other rights to acquire an aggregate of approximately 21,146,480 Subordinate Voting Shares.

(b) Upon consummation of the Merger, the Stockholders shall own all of the Merger Consideration payable in accordance with Section 2.05, free and clear of all Liens.

(c) The authorized, issued and outstanding share capital of Merger Sub consists of 1,000 shares of common stock, no par per share, of which one share is issued and outstanding and is owned by Parent.

Section 5.07 Due Issuance. The Multiple Voting Shares have been validly and duly issued as fully paid and non-assessable and have been reserved for issuance by Parent. (a) Immediately after the Closing, the Merger Consideration will be duly authorized, validly issued, fully paid and non-assessable and will have been issued in accordance with all applicable Laws, including, but not limited to, the Securities Act.

Section 5.08 No Material Undisclosed Information. There is no material fact or material change in the affairs of Parent that has not been publicly disclosed.

Section 5.09 Reporting Status and Securities Laws Matters. The Parent is a "reporting issuer" or the equivalent and not on the list of reporting issuers in default under the applicable Canadian provincial Securities Laws of the Provinces of British Columbia, Alberta and Ontario. The Parent is in compliance, in all material respects, with all applicable Securities Laws and there are no current, pending or, to the knowledge of the Parent, threatened proceedings before any Governmental Authority or Securities Authority relating to any alleged non-compliance with Securities Laws. The issued and outstanding Subordinate Voting Shares are listed on, and the Parent is in compliance in all material respects with, the rules and policies of the CSE. No de-listing, suspension of trading in or cease trading order with respect to any securities of the Parent and, to the knowledge of the Parent, no inquiry or investigation (formal or informal) of any Governmental Authority or the CSE is in effect or ongoing or, to the knowledge of the Parent, expected to be implemented or undertaken.

Section 5.10 Cease Trade Orders. Except as set forth in Section 5.10 of the Disclosure Schedule, Parent is not subject to any cease trade or other order of any applicable stock exchange or securities regulatory authority and, to the knowledge of Parent, no investigation or other proceeding involving Parent which may operate to prevent or restrict trading of any securities of Parent is currently in progress or pending before any applicable stock exchange or securities regulatory authority.

Section 5.11 Bankruptcy. There is no bankruptcy, liquidation, winding-up or other similar proceeding pending or in progress or, to the knowledge of Parent, threatened against Parent or any of its subsidiaries before any court, regulatory or administrative agency or tribunal.

Section 5.12 Compliance with CSE Filings. Parent has filed all documents required to be filed by it in accordance with applicable Securities Laws and with the CSE, except for such filings that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

Section 5.13 Compliance with Disclosure Obligations. Except as set forth in Section 5.13 of the Disclosure Schedule, Parent has publicly filed, under its profile on System for Electronic Document Analysis and Retrieval, all documents required to be filed by it in accordance with applicable Securities Laws with the Securities Authorities and/or the CSE since May 30, 2019 (collectively, the "Parent Disclosure Documents"). The Parent has timely filed or furnished all Parent Disclosure Documents required to be filed or furnished by the Parent with any Governmental Authority (including "documents affecting the rights of securityholders" and "material contracts" required to be filed by Part 12 of National Instrument 51-102 – *Continuous Disclosure Obligations*). Since May 30, 2019, Parent has not filed any confidential material change report with any securities regulatory authority which remains confidential. Each of the Parent Disclosure Documents: (i) complied when filed with the requirements of applicable Securities Laws; except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, and (ii) did not, as of the date filed (or, if amended or superseded by a subsequent filing prior to the date of this Agreement, on the date of such filing), contain any material misrepresentation, untrue statement of material fact or omit to state a material fact required to be stated therein or required in order to make the statements therein, in light of the circumstances under which they were made.

Section 5.14 Financial Statements. The consolidated annual audited financial statements of the Parent as at and for the year ended December 31, 2020 (including the notes thereto) and related management's discussion and analysis (collectively, the "Parent Financial Statements") were prepared in accordance with IFRS consistently applied (except (a) as otherwise indicated in such financial statements and the notes thereto or, in the case of audited statements, in the related report of the Parent's independent auditors, or (b) in the case of unaudited interim statements, are subject to normal period-end adjustments and may omit notes which are not required by applicable Laws in the unaudited statements) and present fairly, in all material respects, the consolidated financial position, financial performance and cash flows of the Parent for the dates and periods indicated therein (subject, in the case of any unaudited in term financial statements, to normal period-end adjustments) and reflect reserves required by IFRS in respect of all material contingent liabilities, if any, of the Parent on a consolidated basis. There has been no material change in the Parent's accounting policies, except as described in the Parent Financial Statements, since December 31, 2020.

Section 5.15 Independent Auditors. The Parent's current auditors are independent with respect to the Parent within the meaning of the rules of professional conduct applicable to auditors in Canada and there has never been a "reportable event" (within the meaning of National Instrument 51-102 – Continuous Disclosure Obligations) with the current or, to the best knowledge of the Parent, any predecessor auditors of the Parent during the last three years.

Section 5.16 Taxes.

(a) The Parent and each of its subsidiaries have (i) filed or cause to be filed with the appropriate Taxing Authority all income, franchise and other material Tax Returns that they were required to file under applicable Law; (ii) paid all Taxes shown due and owing on such Tax Returns and established appropriate reserves in accordance with IFRS in the Parent Financial Statements with respect to all other Taxes.

(b) There are no Liens for material Taxes upon the Parent or its subsidiaries or their respective assets, except Permitted Liens.

(c) As of the Closing, neither Parent nor Merger Sub has taken or agreed to take any action, nor do any of them have actual knowledge of any fact or circumstance that would reasonably be expected to prevent the Merger from qualifying as a reorganization within Section 368(a) of the Code.

(d) None of the Parent nor any of its subsidiaries are or have been a party to any "listed transaction," as defined in Section 6707A(c)(2) of the Code and Section 1.6011-4(b)(2) of the Treasury Regulations.

(e) During the past two (2) years, none of the Parent nor any of its subsidiaries have distributed the stock of another Person, or had their stock distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Code Section 355.

(f) The Parent is a "taxable Canadian corporation" for the purposes of the Tax Act.

(g) Parent is treated and properly classified as a "domestic corporation" within the meaning of Section 7874(b) of the Code, and will continue to be so classified at the time the Merger is consummated.

(h) Notwithstanding anything to the contrary in this Agreement, the Parent is not making, and will not be construed to have made, any representation or warranty as to the amount or utilization of any net operating loss, Tax credit, Tax basis or other Tax attribute of the Parent or its subsidiaries after the Closing Date.

Section 5.17 Compliance with Laws.

(a) Except as disclosed in the Parent Disclosure Documents, the Parent and each of its subsidiaries have complied with and are not in violation, in any material respect, of any applicable Laws.

(b) Except as disclosed in the Parent Disclosure Documents, neither the Parent nor any of its subsidiaries have received any written notices or other written correspondence from any Governmental Authority (i) regarding any violation (or any investigation, inspection, audit, or other proceeding by any Governmental Authority involving allegations of any violation) of any Law or (ii) of any circumstances that may have existed or currently exist which could lead to a loss, suspension, or modification of, or a refusal to issue or re-issue, any material authorization other than where such. correspondence would not reasonably be expected to have a Parent Material Adverse Effect on the Parent or significantly impact the ability of the Parent to consummate the Agreement. To the knowledge of the Parent, no investigation, inspection, audit or other proceeding by any Governmental Authority involving allegations of any material violation of any Law is threatened or contemplated.

(c) Neither the Parent, its subsidiaries nor, to the knowledge of the Parent, any of their respective directors, executives, representatives, agents or employees: (i) has used or is using any corporate funds for any illegal contributions, gifts, entertainment or other expenses relating to political activity that would be illegal; (ii) has used or is using any corporate funds for any director indirect illegal payments to any foreign or domestic governmental officials or employees; (iii) has violated or is violating any provision of the *United States Foreign Corrupt Practices Act of 1977*, the *Corruption of Foreign Public Officials Act* (Canada) or any similar Laws of other jurisdictions; (iv) has established or maintained, or is maintaining, any illegal fund of corporate monies or other properties; or (v) has made any bribe, illegal rebate, illegal payoff, influence payment, kickback or other illegal payment of any nature.

(d) The operations of the Parent and its Subsidiaries are and have been conducted at all times in material compliance with applicable financial record-keeping and reporting requirements of any money laundering Laws and no action, suit or proceeding by or before any Governmental Authority or any arbitrator non-Governmental Authority involving the Parent or any of its subsidiaries with respect to the money laundering Laws is pending or, to the knowledge of the Parent, threatened.

(e) None of the Parent or any of its subsidiaries, to the knowledge of the Parent, any director, officer, agent, employee or affiliate of the Parent or any of its subsidiaries, has had any sanctions imposed upon any such Person, and the Parents and its subsidiaries are not in violation of any of the sanctions or Law or executive order relating thereto, or are conducting business with any person subject to any sanctions.

Section 5.18 No Judgments. Neither Parent, nor any of its subsidiaries, nor any of their respective assets or properties, is subject to any material outstanding judgment, order, writ, injunction or decree applicable to Parent or any of its subsidiaries on a consolidated basis.

Section 5.19 Sufficiency of Funds. Parent has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Company Senior Secured Debt Payment and consummate the transactions contemplated by this Agreement

ARTICLE VI
ADDITIONAL COVENANTS OF THE PARTIES

Section 6.01 Conduct of Business of the Company. During the period from the date of this Agreement until the Effective Time, the Company shall, and shall cause each of its Subsidiaries, except as expressly required by this Agreement, as required by applicable Law, or with the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned, or delayed), to use its reasonable best efforts to conduct its business only in the Ordinary Course of business consistent with past practice, and, to the extent consistent therewith, the Company shall, and shall cause each of its Subsidiaries to, use its reasonable best efforts to preserve substantially intact its and its Subsidiaries' business organization, to keep available the services of its and its Subsidiaries' current officers and employees, to preserve its and its Subsidiaries' present relationships with customers, suppliers, distributors, licensors, licensees, and other Persons having business relationships with it. Without limiting the generality of the foregoing, between the date of this Agreement and the Effective Time, except as otherwise expressly permitted or required by this Agreement, or as required by applicable Law, the Company shall not, nor shall it permit any of its Subsidiaries to, without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned, or delayed):

(a) amend or propose to amend its Organizational Documents;

(b) (i) split, combine, or reclassify any equity securities of the Company or any Subsidiary, (ii) repurchase, redeem, or otherwise acquire, or offer to repurchase, redeem, or otherwise acquire, any Company Securities or Company Subsidiary Securities, or (iii) declare, set aside, or pay any dividend or distribution (whether in cash, stock, property, or otherwise) in respect of, or enter into any Contract with respect to the voting of, any shares of its capital stock (other than dividends from its direct or indirect wholly-owned Subsidiaries);

(c) issue, sell, pledge, dispose of, or encumber any equity securities of the Company or any Subsidiary;

(d) acquire, by merger, consolidation, acquisition of stock or assets, or otherwise, any business or Person or division thereof or make any loans, advances, or capital contributions to or investments in any Person;

(e) (i) transfer, license, sell, lease, or otherwise dispose of (whether by way of merger, consolidation, sale of stock or assets, or otherwise) or pledge, encumber, mortgage, or otherwise subject to any Lien (other than a Permitted Lien), any assets, including the capital stock or other equity interests in any Subsidiary of the Company; *provided, that* the foregoing shall not prohibit the Company and its Subsidiaries from transferring, selling, leasing, or disposing of obsolete equipment or assets being replaced, or granting non-exclusive licenses under the Company Intellectual Property, in each case in the Ordinary Course of business consistent with past practice, or (ii) adopt or effect a plan of complete or partial liquidation, dissolution, restructuring, recapitalization, or other reorganization;

(f) repurchase, prepay, or incur any indebtedness for borrowed money or guarantee any such indebtedness of another Person, issue or sell any debt securities or options, warrants, calls, or other rights to acquire any debt securities of the Company or any of its Subsidiaries, guarantee any debt securities of another Person, enter into any "keep well" or other Contract to maintain any financial statement condition of any other Person (other than any wholly-owned Subsidiary of it) or enter into any arrangement having the economic effect of any of the foregoing, other than in connection with the financing of Ordinary Course trade payables consistent with past practice;

(g) enter into or amend or modify in any material respect, or consent to the termination of (other than at its stated expiry date), any Company Material Contract or any Lease with respect to material real estate or any other Contract or Lease that, if in effect as of the date hereof would constitute a Company Material Contract or Lease with respect to material real estate hereunder;

(h) institute, settle, or compromise any Action involving the payment of monetary damages by the Company or any of its Subsidiaries;

(i) make any material change in any method of financial accounting principles or practices, in each case except for any such change required by a change in IFRS or applicable Law;

(j) (i) settle or compromise any material Tax claim, audit, or assessment for an amount materially in excess of the amount reserved or accrued on the Balance Sheet, (ii) make or change any material Tax election, change any annual Tax accounting period, or adopt or change any method of Tax accounting, (iii) amend any material Tax Returns, or file claims for material Tax refunds, (iv) fail to remit when due any payments on any installment payment arrangements with any Taxing Authority for any Taxes due and owing; or (v) enter into any closing agreement, surrender in writing any right to claim a material Tax refund, or consent to any extension or waiver of the limitation period applicable to any material Tax claim or assessment relating to the Company or its Subsidiaries;

(k) enter into any material agreement, agreement in principle, letter of intent, memorandum of understanding, or similar Contract with respect to any joint venture, strategic partnership, or alliance;

(l) except in connection with actions permitted herein, take any action to exempt any Person from, or make any acquisition of securities of the Company by any Person not subject to, any state takeover statute or similar statute or regulation that applies to Company with respect to a Takeover Proposal or otherwise, except for Parent, Merger Sub, or any of their respective Subsidiaries or Affiliates, or the transactions contemplated by this Agreement;

(m) abandon, allow to lapse, sell, assign, transfer, grant any security interest in otherwise encumber or dispose of any intellectual property, or grant any right or license to any intellectual property other than pursuant to non-exclusive licenses entered into in the Ordinary Course of business consistent with past practice;

(n) terminate or modify in any material respect, or fail to exercise renewal rights with respect to, any material insurance policy;

(o) adopt or implement any stockholder rights plan or similar arrangement; or

(p) agree or commit to do any of the foregoing.

Section 6.02 Tax Matters.

(a) In the case of any taxable period that begins on or before and ends after the Closing Date (a "Straddle Period"), the amount of any Taxes based on or measured by income, gain, receipts, capital, sales or payroll of the Company or any Subsidiary for the Pre-Closing Tax Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date. The amount of any other Taxes of the Company or any Subsidiary for a Straddle Period that relates to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date and the denominator of which is the number of days in such Straddle Period.

(b) The Stockholder Representative, at the Company's expense, shall prepare, or cause to be prepared all Tax Returns required to be filed by the Company or any Subsidiary after the Closing Date (taking into account extensions) for all Pre-Closing Tax Periods (other than Straddle Periods) and the Stockholder Representative (on behalf of the Stockholders) shall timely pay and discharge all Indemnified Taxes shown to be due by the Company or the applicable Subsidiary on such Tax Returns. Unless otherwise required by Law, any such Tax Return shall be prepared in a manner consistent with past practice of the Company or the applicable Subsidiary, as the case may be, provided that all Deductions shall be reported on such Tax Returns for the Tax periods ending on or prior to the Closing Date to the maximum extent permitted by Law, and, such Tax Return (other than payroll Tax Returns) shall be submitted by the Company to Parent (together with schedules, statements and, to the extent requested by Parent, supporting documentation) at least 30 days prior to the due date (including extensions) of such Tax Return. If Parent objects to any item on any such Tax Return, it shall, within 10 days after delivery of such Tax Return, notify the Stockholder Representative in writing that it so objects, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Parent and the Company shall negotiate in good faith and use their commercially reasonable efforts to resolve such items. If Parent and the Company are unable to reach such agreement within 10 days after receipt by the Stockholder Representative of the notice of objection, the disputed items shall be submitted for resolution to an impartial nationally recognized firm of independent certified public accountants mutually agreed to by Parent and the Stockholder Representative (the "Independent Accountant") and any determination by the Independent Accountant shall be final. The Independent Accountant shall resolve any disputed items within 10 days of having the item referred to it pursuant to such procedures as it may require. If the Independent Accountant is unable to resolve any disputed items at least three (3) days before the due date for such Tax Return, the Tax Return shall be filed as determined by the Parent and then amended (to the extent necessary) to reflect the Independent Accountant's resolution. The costs, fees and expenses of the Independent Accountant shall be borne by the Parent and the Stockholder Representative in the manner set forth in Section 2.17(c). Parent will timely file the Tax Returns with the appropriate Taxing Authority prepared pursuant to this Section 6.02(b).

(c) Parent shall prepare, or cause to be prepared, and file, or cause to be filed (taking into account all extensions properly obtained), all Tax Returns required to be filed by the Company and the Subsidiaries after the Closing Date with respect to any Straddle Period and, no later than three (3) days prior to the due date of such a Tax Return, the Stockholder Representative (on behalf of the Stockholders) shall pay to the Company or the applicable Subsidiary an amount equal to all Indemnified Taxes shown to be due on such Tax Return. Unless otherwise required by Law, any such Tax Return shall be prepared in a manner consistent with past practice of the Company or the applicable Subsidiary, as the case may be, and, such Tax Return (other than payroll Tax Returns) shall be submitted by Parent to the Stockholder Representative (together with schedules, statements and, to the extent requested by the Stockholder Representative, supporting documentation) at least 30 days prior to the due date (including extensions) of such Tax Return. If the Stockholder Representative objects to any item on any such Tax Return, it shall, within 10 days after delivery of such Tax Return, notify Parent in writing that it so objects, specifying with particularity any such item and stating the specific factual or legal basis for any such objection. If a notice of objection shall be duly delivered, Parent and the Stockholder Representative shall negotiate in good faith and use their commercially reasonable efforts to resolve such items. If Parent and the Stockholder Representative are unable to reach such agreement within 10 days after receipt by Parent of the notice of objection, the disputed items shall be resolved by the Independent Accountant and any determination by the Independent Accountant shall be final. The Independent Accountant shall resolve any disputed items within 10 days of having the item referred to it pursuant to such procedures as it may require. If the Independent Accountant is unable to resolve any disputed items at least three (3) days before the due date for such Tax Return, the Tax Return shall be filed as prepared by Parent and then amended to reflect the Independent Accountant's resolution. The costs, fees and expenses of the Independent Accountant shall be borne by the Parent and by the Stockholder Representative in the manner set forth in Section 2.17(c).

(d) In the event that the amount of Indemnified Taxes (ignoring for these purposes clause (e) of the definition thereof) shown as due and payable on a Tax Return prepared pursuant to Section 6.02(b) or (c) is less than the amount with respect to such liability that included in the calculation of Transaction Expenses or as a liability in Final Net Working Capital, Parent will pay such difference to the Stockholder Representative (on behalf of the Stockholders) at least three (3) days before the due date for such Tax Return.

(e) Notwithstanding anything in this Agreement to the contrary, the Seller Indemnified Parties will not be responsible for, and shall not have any indemnification obligations under this Agreement with respect to, any Taxes of the Company or its Subsidiaries that are attributable to a Post-Closing Tax Period, except to the extent that such Taxes result from, or are attributable to, the Company's breach of any of the representations and warranties under Section 4.22(e), (h), (i) or (k).

(f) No election pursuant to Section 338 or Section 336 of the Code (or any comparable provision of state or local Tax Law) shall be made by any of Parent, the Surviving Company, or any of their respective Affiliates with respect to this Agreement. Until the release of the Indemnification Escrow Amount, without the prior written consent of Stockholder Representative (such consent not to be unreasonably withheld, conditioned or delayed), Parent (and, after the Closing, the Surviving Company, its Subsidiaries and Affiliates) shall not, with respect to the Company or any Subsidiary, unless required by applicable Law, (i) make, change or rescind any Tax election for any Pre-Closing Tax Period, (ii) amend or file any Tax Return for any Pre-Closing Tax Period, (iii) make any voluntary disclosures with respect to Taxes of the Company or its Subsidiaries for any Pre-Closing Tax Period, (iv) change any accounting method or adopt any convention that (x) shifts taxable income of the Company or its Subsidiaries from a Post-Closing Tax Period to a Pre-Closing Tax Period or (y) shifts deductions or losses of the Company or its Subsidiaries from a Pre-Closing Tax Period to a Post-Closing Tax Period, or (v) initiate discussions or examinations with any Taxing Authority regarding Taxes or Tax Returns of the Company or its Subsidiaries with respect to any Pre-Closing Tax Period, (vi) or agree to extend or waive the statute of limitations with

respect to Taxes for any Pre-Closing Tax Period (subject to the provisions of Section 6.02(i)), in each case only if such Action would be reasonably expect to result in Indemnified Taxes that would be satisfied from the Indemnification Escrow.

(g) Parent and the Company shall cooperate fully, as and to the extent reasonably requested by any other party, in connection with the filing of Tax Returns pursuant to this Section 6.02 and any Action with respect to Taxes of the Company or any Subsidiary. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together with accompanying schedules, related workpapers and documents relating to rulings or other determinations by Tax authorities. The party hereto requesting assistance pursuant to this Section 6.02(g) shall reimburse the non-requesting parties hereto for all reasonable, documented out-of-pocket expenses associated with providing such assistance.

(h) The Company agrees to retain all books and records of the Company and the Subsidiaries in the possession of the Company or Subsidiaries, as the case may be, with respect to Tax matters relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Parent or the Stockholder Representative, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Taxing Authority.

(i) All payments made under this Section 6.02 shall be treated by the parties hereto as an adjustment to the Merger Consideration for Tax purposes, unless otherwise required by Law.

(j) Following the Closing Date, with respect to any Action for Taxes or a Tax Return of the Company or its Subsidiaries that relates to a taxable period ending on or prior to the Closing Date or a Straddle Period (a "**Tax Contest**"), Parent shall control such Tax Contest, including the defense and settlement thereof; provided that (i) the Stockholder Representative will be permitted to participate in such Tax Contest with counsel of its choice at its sole expense, (ii) each of the Stockholder Representative and Parent (x) will keep the other party reasonably informed concerning the progress of such Tax Contest, and (y) provide the other party with copies of all correspondence with a Taxing Authority relevant to such Tax Contest and (iii) Parent will not settle such Pre-Closing Tax Contest without prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed) if the settlement would result in Losses indemnifiable by the Stockholders under Section 8.02, which Losses would be satisfied at least 50% or more from the Indemnification Escrow. In the event of any conflict between this Section 6.02(i) and Section 8.05, this Section 6.02(i) shall control.

(k) All Tax Sharing Agreements with respect to or involving the Company and the Subsidiaries shall be terminated as of the Closing Date and, after the Closing Date, the Company and the Subsidiaries shall not be bound thereby or have any liability thereunder.

(l) The Selling Parties will be entitled to any Tax refund or Tax overpayment, including interest paid therewith, in respect of Taxes of the Company and any Subsidiary for any Pre-Closing Tax Period that were paid by the Company or any Subsidiary on or prior to the Closing Date or by the Stockholder Representative on behalf of the Stockholders after the Closing Date, paid on behalf of the Stockholders out of the Indemnification Escrow Amount, or included as a liability in the Final Net Working Capital (a "Seller Tax Refund"), to the extent any such Seller Tax Refund is received or realized by Parent on or prior to the release of the Indemnification Escrow Amount, the Company or any Subsidiary, or any of their Affiliates, provided that such amounts shall be net of: (i) any reasonable out-of-pocket costs incurred in obtaining a Tax Refund and (ii) any Taxes incurred by Parent, the Company, any Subsidiary or any of their Affiliates as a result of their receipt or realization of such Seller Tax Refund. Parent shall pay any amount to which the Selling Parties are entitled pursuant to this Section 6.02(h), by wire transfer of

immediately available funds, within ten (10) days after receipt or entitlement thereto. Each such Seller Tax Refund will be considered to be realized (A) on the date on which such Seller Tax Refund is received as a refund of Taxes, or (B) to the extent that the Seller Tax Refund is not received as a refund of Taxes but rather results in reduced liability for Taxes, on the due date of the Tax Return that reflects such reduction in Liability for Taxes.

(m) The parties hereto intend that, for federal income tax purposes, the Merger shall constitute a "reorganization" within the meaning of Section 368(a) of the Code. The Company and Parent shall use their commercially reasonable efforts, and shall cause their Affiliates to use their commercially reasonable efforts, to take or cause to be taken any action necessary for the Merger to qualify as a "reorganization" within the meaning of Section 368 of the Code. Neither the Company nor Parent shall, nor shall they permit any of their respective Affiliates or Representatives to take, or cause to be taken, any action that would be reasonably expected to prevent the Merger from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code, nor shall they take any position on any Tax Return, or take any other Tax reporting position, that is inconsistent with the treatment of the Merger as a reorganization within the meaning of Section 368(a) of the Code, unless required by Law, in each case except to the extent required pursuant to a "determination" within the meaning of Code Section 1313(a).

(n) This Agreement is intended to constitute, and the parties hereto hereby adopt this Agreement as, a "plan of reorganization" within the meaning Treasury Regulation Sections 1.368-2(g) and 1.368-3(a).

(o) Any reference to the Company in this Section 6.02 will include the Surviving Company.

Section 6.03 No Solicitation. Neither the Company, on the one hand, nor Parent, on the other hand, shall, and each shall cause their respective Subsidiaries and their Representatives not to, directly or indirectly, solicit, initiate, or knowingly: (i) take any action to facilitate or encourage the submission of any Takeover Proposal or the making of any proposal that could reasonably be expected to lead to any Takeover Proposal; (ii) conduct or engage in any discussions or negotiations with, disclose any non-public information relating to the Company or Parent or any of their respective Subsidiaries to, afford access to the business, properties, assets, books, or records of the Company or Parent or any of their respective Subsidiaries to, or knowingly assist, participate in, facilitate, or encourage any effort by, any third party (or its potential sources of financing) that is seeking to make, or has made, any Takeover Proposal; or (iii) enter into any agreement in principle, letter of intent, term sheet, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement, or other Contract relating to any Takeover Proposal (each, an "Acquisition Agreement"). The Company Board shall not effect a Company Adverse Recommendation Change. The Company on the one hand, and Parent, on the other hand, shall, and shall cause their respective Subsidiaries and their and their Subsidiaries' Representatives to cease immediately and cause to be terminated any and all existing activities, discussions, or negotiations, if any, with any third party conducted prior to the date hereof with respect to any Takeover Proposal and shall use its reasonable best efforts to cause any such third party (or its agents or advisors) in possession of non-public information in respect of the Company or Parent, as applicable, and any of their respective Subsidiaries that was furnished by or on behalf of such party or its respective Subsidiaries to return or destroy (and confirm destruction of) all such information. Without limiting the foregoing, it is understood that any violation of or the taking of actions inconsistent with the restrictions set forth in this Section 6.03 by any Representative of the Company or its Subsidiaries, on the one hand, or Parent or its Subsidiaries, on the other hand, whether or not such Representative is purporting to act on behalf of the applicable party or any of its Subsidiaries, shall be deemed to be a breach of this Section 6.03 by the applicable party.

Section 6.04 Notices of Certain Events. Subject to applicable Law, the Company shall notify Parent and Merger Sub, and Parent and Merger Sub shall notify the Company, promptly of: (a) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement; (b) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; and (c) any event, change, or effect between the date of this Agreement and the Effective Time which individually or in the aggregate causes or is reasonably likely to cause or constitute: (i) a material breach of any of its representations, warranties, or covenants contained herein, or (ii) the failure of any of the conditions set forth in Article VII of this Agreement to be satisfied; provided that, the delivery of any notice pursuant to this Section 6.04 shall not cure any breach of, or noncompliance with, any other provision of this Agreement or limit the remedies available to the party receiving such notice.

Section 6.05 Reasonable Best Efforts.

(a) Upon the terms and subject to the conditions set forth in this Agreement (including those contained in this Section 6.05(a), each of the parties hereto shall, and shall cause its Subsidiaries to, use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper, or advisable to consummate and make effective, and to satisfy all conditions to, as promptly as reasonably practicable (and in any event no later than the End Date), the Merger and the other transactions contemplated by this Agreement, including: (i) the obtaining of all necessary Permits, waivers, and actions or nonactions from a Governmental Authority and the making of all necessary registrations, filings, and notifications (including filings with a Governmental Authority) and the taking of all steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any a Governmental Authority; (ii) the obtaining of all necessary consents or waivers from third parties; and (iii) the execution and delivery of any additional instruments necessary to consummate the Merger and to fully carry out the purposes of this Agreement. The Company and Parent shall, subject to applicable Law, promptly: (A) cooperate and coordinate with the other in the taking of the actions contemplated by clauses (i), (ii), and (iii) immediately above; and (B) supply the other with any information that may be reasonably required in order to effectuate the taking of such actions. Each party hereto shall promptly inform the other party or parties hereto, as the case may be, of any communication from any Governmental Authority regarding any of the transactions contemplated by this Agreement. If the Company, on the one hand, or Parent or Merger Sub, on the other hand, receives a request for additional information or documentary material from any Governmental Authority with respect to the transactions contemplated by this Agreement, then it shall use reasonable best efforts to make, or cause to be made, as soon as reasonably practicable and after consultation with the other party, an appropriate response in compliance with such request, and, if permitted by applicable Law and by any applicable Governmental Authority, provide the other party's counsel with advance notice and the opportunity to attend and participate in any meeting with any Governmental Authority in respect of any filing made thereto in connection with the transactions contemplated by this Agreement. Neither Parent nor the Company shall commit to or agree (or permit any of their respective Subsidiaries to commit to or agree) with any Governmental Authority to stay, toll, or extend any applicable waiting period under the HSR Act or other applicable Antitrust Laws, without the prior written consent of the other (such consent not to be unreasonably withheld, conditioned, or delayed.

(b) In the event that any administrative or judicial action or proceeding is instituted (or threatened to be instituted) by a Governmental Authority or private party challenging the Merger or any other transaction contemplated by this Agreement, or any other agreement contemplated hereby, the Company shall cooperate in all respects with Parent and Merger Sub and shall use its reasonable best efforts to contest and resist any such action or proceeding and to have vacated, lifted, reversed, or overturned any Order, whether temporary, preliminary, or permanent, that is in effect and that prohibits, prevents, or restricts consummation of the transactions contemplated by this Agreement. Notwithstanding anything in

this Agreement to the contrary, none of Parent, Merger Sub, or any of their respective Affiliates shall be required to defend, contest, or resist any action or proceeding, whether judicial or administrative, or to take any action to have vacated, lifted, reversed, or overturned any Order, in connection with the transactions contemplated by this Agreement.

(c) Notwithstanding anything to the contrary set forth in this Agreement, none of Parent, Merger Sub, or any of their respective Subsidiaries shall be required to, and the Company may not, without the prior written consent of Parent, become subject to, consent to, or offer or agree to, or otherwise take any action with respect to, any requirement, condition, limitation, understanding, agreement, or Order to: (i) sell, license, assign, transfer, divest, hold separate, or otherwise dispose of any assets, business, or portion of business of the Company, the Surviving Company, Parent, Merger Sub, or any of their respective Subsidiaries; (ii) conduct, restrict, operate, invest, or otherwise change the assets, business, or portion of business of the Company, the Surviving Company, Parent, Merger Sub, or any of their respective Subsidiaries in any manner; or (iii) impose any restriction, requirement, or limitation on the operation of the business or portion of the business of the Company, the Surviving Company, Parent, Merger Sub, or any of their respective Subsidiaries; provided, that if requested by Parent, the Company will become subject to, consent to, or offer or agree to, or otherwise take any action with respect to, any such requirement, condition, limitation, understanding, agreement, or Order so long as such requirement, condition, limitation, understanding, agreement, or Order is only binding on the Company in the event the Closing occurs.

Section 6.06 Public Disclosure. The initial press release with respect to this Agreement and the transactions contemplated hereby shall be a release mutually agreed to by the Company and Parent. Thereafter, each of the Company and Parent agrees that no public release, statement, announcement, or other disclosure concerning the Merger and the other transactions contemplated hereby shall be issued by any party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned, or delayed), except as may be required by: (a) applicable Law, (b) court process, (c) the rules or regulations of any applicable stock exchange, or (d) any Governmental Authority to which the relevant party is subject or submits; provided, in each such case, that the party making the release, statement, announcement, or other disclosure shall use its reasonable best efforts to allow the other party reasonable time to comment on such release, statement, announcement, or other disclosure in advance of such issuance. Notwithstanding the foregoing, the restrictions set forth in this Section 6.06 shall not apply to any release, statement, announcement, or other disclosure made with respect to: (i) in the case of the Company, a Company Adverse Recommendation Change issued or made in compliance with Section 9.03; (ii) any other disclosures issued or made in compliance with Section 9.03; or (iii) the Merger and the other transactions contemplated hereby that is substantially similar (and identical in any material respect) to those in a previous release, statement, announcement, or other disclosure made by the Company or Parent in accordance with this Section 6.06.

Section 6.07 Confidentiality. Except as required by applicable Law or in accordance with Section 6.06, each party agrees that it will keep confidential and will not disclose or divulge the terms of this Agreement and the transactions contemplated hereby, or any confidential, proprietary or secret information that such party may obtain from the other parties, unless such information is known, or until such information becomes known, to the public without wrongful disclosure by any disclosing party or its attorneys, accountants, consultants, other professionals, Affiliates, or partners, or such information is required, in legal counsel's written opinion, to be disclosed in legal or administrative proceedings; *provided*, *however*, that the parties may disclose such information to their respective attorneys, accountants, consultants and other professionals to the extent necessary to obtain their services.

Section 6.08 Obligations of Merger Sub. Parent will take all action necessary to cause Merger Sub to perform its obligations under this Agreement and to consummate the Merger on the terms and conditions set forth in this Agreement.

Section 6.09 Resignations. At the written request of Parent, the Company shall cause each director of the Company or any director of any of the Company's Subsidiaries to resign in such capacity, with such resignations to be effective as of the Effective Time.

Section 6.10 Common Holder Claims. The Company shall use commercially reasonable efforts to settle, or if applicable, have dismissed with prejudice, any and all existing claims, actions or lawsuits between the Company and Alex Fang (the "Common Holder Claims") prior to the Closing Date; provided, however, any such settlement or dismissal shall contain full mutual releases of the Company and Alex Fang to the fullest extent permissible under Section 1542 of the California Civil Code.

Section 6.11 Further Assurances. At and after the Effective Time, the officers and directors of the Surviving Company shall be authorized to execute and deliver, in the name and on behalf of the Company or Merger Sub, any deeds, bills of sale, assignments, or assurances and to take and do, in the name and on behalf of the Company or Merger Sub, any other actions and things to vest, perfect, or confirm of record or otherwise in the Surviving Company any and all right, title, and interest in, to and under any of the rights, properties, or assets of the Company acquired or to be acquired by the Surviving Company as a result of, or in connection with, the Merger.

Section 6.12 Employee Matters.

(a) Parent shall offer employment to such individuals and upon such terms and conditions as agreed to by Parent and such individuals, as Parent shall determine in its sole discretion.

(b) Notwithstanding the foregoing, nothing in this Section 6.12 shall (i) confer on any current employee of the Company or any other Person not a party to this Agreement any rights or remedies (including any third-party beneficiary rights) under this Section 6.12; (ii) be interpreted or construed to confer upon current employee of the Company any right with respect to continuance of employment (or any term or condition of employment) by Parent or its Affiliates (including the Surviving Company), nor shall this Agreement interfere in any way with the right of Parent or its Affiliates to amend, terminate or otherwise discontinue or modify any or all benefit or compensation plans, programs, agreements, arrangements, practices or policies at any time; or (iii) be deemed to amend, terminate, or modify any Benefit Plan or any other benefit or compensation plan, program, agreement, arrangement, practice or policy.

ARTICLE VII
CONDITIONS

Section 7.01 Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of each party to this Agreement to effect the Merger is subject to the satisfaction or waiver (where permissible pursuant to applicable Law) on or prior to the Closing of each of the following conditions:

(a) Regulatory Approvals. All waiting periods applicable to the consummation of the Merger under the HSR Act (or any extension thereof) shall have expired or been terminated and all required filings shall have been made and all required approvals obtained (or waiting periods expired or terminated) under applicable Antitrust Laws.

(b) No Injunctions, Restraints, or Illegality. No Governmental Authority having jurisdiction over any party hereto shall have enacted, issued, promulgated, enforced, or entered any Laws or Orders, whether temporary, preliminary, or permanent, that make illegal, enjoin, or otherwise prohibit

consummation of the Merger, issuance of the Merger Consideration as contemplated in this Agreement, or the other transactions contemplated by this Agreement.

(c) Company Stockholder Approval. This Agreement will have been duly adopted and approved by the requisite vote of the Stockholders.

(d) Securities Laws. The distribution of the Equity Consideration pursuant to the Merger shall be exempt from the prospectus requirements of applicable Securities Laws in Canada either by virtue of exemptive relief from the Securities Authorities of each of the provinces of Canada or by virtue of exemptions under applicable Securities Laws and the resale of such Equity Consideration shall be subject to the applicable requirements of the Securities Act or any applicable securities laws of any state, the certificates representing the Equity Consideration will, among other things bear the standard four-month restrictive legend required by Canadian securities law.

Section 7.02 Conditions to Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to effect the Merger are also subject to the satisfaction or waiver (where permissible pursuant to applicable Law) by Parent and Merger Sub on or prior to the Closing of the following conditions:

(a) Each of the representations and warranties contained in Article IV (i) that are qualified by reference to materiality, material adverse effect or any similar qualification shall be true and correct in all respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent any representation or warranty expressly relates to a specific date, in which case as of that specific date), and (ii) that are not qualified as to materiality, individually and in the aggregate, shall be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent any representation or warranty expressly relates to a specific date, in which case as of that specific date);

(b) The Company shall have performed in all material respects all obligations, and complied in all material respects with the agreements and covenants, in this Agreement required to be performed by or complied with by it at or prior to the Closing.

(c) Since the date of this Agreement, there shall not have been any Company Material Adverse Effect or any event, change, or effect that would, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(d) The Company shall have delivered each of the closing deliverables set forth in Section 2.13.

(e) Parent will have received a certificate, signed by the chief executive officer or chief financial officer of the Company, certifying as to the matters set forth this Section 7.02.

Section 7.03 Conditions to Obligation of the Company. The obligation of the Company to effect the Merger is also subject to the satisfaction or waiver by the Company on or prior to the Closing of the following conditions:

(a) Each of the representations and warranties contained in Article V (i) that are qualified by reference to materiality, material adverse effect or any similar qualification shall be true and correct in all respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent any representation or warranty expressly relates to a specific date, in which case as of that specific date), and (ii) that are not qualified as to materiality, individually and in the aggregate, shall

be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent any representation or warranty expressly relates to a specific date, in which case as of that specific date).

(b) Parent and Merger Sub shall have performed in all material respects all obligations, and complied in all material respects with the agreements and covenants, of this Agreement required to be performed by or complied with by them at or prior to the Closing.

(c) Since the date of this Agreement, there shall not have been any Parent Material Adverse Effect or any event, change, or effect that would, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

(d) Parent shall have delivered each of the closing deliverables set forth in Section 2.14.

(e) The Company will have received a certificate, signed by an officer of Parent, certifying as to the matters set forth in this Section 7.03.

Section 7.04 Frustration of Closing Conditions. Neither the Company, Parent, or Merger Sub may rely, as a basis for not consummating the Merger or the other transactions contemplated by this Agreement, on the failure of any condition set forth in Section 7.01, Section 7.02, or Section 7.03, as the case may be, to be satisfied if such failure was caused by such party's breach in any material respect of any provision of this Agreement.

ARTICLE VIII
INDEMNIFICATION

Section 8.01 Survival.

(a) The representations and warranties of the Company contained in this Agreement shall survive the Closing until the date that is 18 months after the Closing Date (the "General Survival Date"); provided, however, that (i) the representations and warranties contained in Section 4.01 (Organization and Authority; Execution; Enforceability), Section 4.02 (Subsidiaries) and Section 4.03 (Capitalization), Section 4.26 (Brokers) (collectively, the "Company Fundamental Representations") shall survive the Closing indefinitely, and (iii) the representations and warranties of the Company contained in Section 4.22 (Taxes) shall survive until 60 days after the expiration of the relevant statute of limitations with respect to the underlying subject matter. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by Parent to the Company, then the relevant representations and warranties shall survive as to such claim, until such claim has been finally resolved.

(b) The representations and warranties of Parent contained in this Agreement shall survive the Closing until the General Survival Date; provided, however, that the representations and warranties of Parent contained in Section 5.01 (Organization and Authority; Execution; Enforceability), Section 5.05 (Brokers), Section 5.06 (Issued Capital), Section 5.07 (Due Issuance), Section 5.10 (Cease Trade Orders) and Section 5.11 (Bankruptcy) (collectively, the "Parent Fundamental Representations") shall survive the Closing indefinitely, and the representations and warranties of the Parent contained in Section 5.19 (Taxes) shall survive until sixty (60) days after the expiration of the relevant statute of limitations with respect to the underlying subject matter. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by the Company to Parent, then the relevant representations and warranties shall survive as to such claim, until such claim has been finally resolved.

(c) The covenants and other agreements contained in this Agreement shall survive the Closing and remain in full force and effect until fully performed in accordance with their terms unless waived by Parent or the Company, whichever is applicable.

(d) No claim for indemnification may be asserted against any party for breach of any representation, warranty, covenant or agreement contained herein, unless written notice of such claim is received by such party describing in reasonable detail, to the extent practicable in light of facts then known, the facts and circumstances with respect to the subject matter of such claim on or prior to the date on which the representation, warranty, covenant or agreement on which such claim is based ceases to survive as set forth in this Section 8.01.

(e) Notwithstanding the foregoing, the limitations set forth in this Section 8.01 shall not apply to or have any effect upon any claim for indemnification pursuant to Section 8.02 or Section 8.03 with respect to Losses suffered, sustained or incurred in connection with or arising or resulting from any fraud or intentional misrepresentation.

Section 8.02 Indemnification by the Stockholders. Subject to the limitations set forth in this Article VIII, the Stockholders hereby covenant and agree that the Stockholders, severally and not jointly, shall defend, indemnify and hold harmless Parent and its Affiliates (including the Company and the Subsidiaries after the Closing), and their respective shareholders, partners, members, managers, officers, directors and employees (each a "Parent Indemnified Party") from and against any and all Losses, caused proximately by or resulting from:

(a) the breach of any representation or warranty made by the Company in Article IV of this Agreement;

(b) the breach of any covenant or agreement to be performed by the Company or its Affiliates pursuant to this Agreement or any Ancillary Agreement.

(c) all Indemnified Taxes;

(d) any claims by or on behalf of any former equity holder of the Company to receive any portion of the Merger Consideration;

(e) all Indebtedness that remains unpaid as of the Closing;

(f) all Transaction Expenses that remain unpaid as of the Closing;

(g) any fraud or intentional misrepresentation under this Agreement by Company or any of their respective Affiliates or Representatives;

(h) the Stockholders Trust;

(i) the Stockholders Escrow; and

(j) the items set forth on Schedule 8.02(j).

Section 8.03 Indemnification by Parent. Subject to the limitations set forth in this Article VIII, Parent hereby covenants and agrees that it shall defend, indemnify and hold harmless the Stockholders (each a "Seller Indemnified Party") from and against any and all Losses, arising out of or resulting from:

(a) the breach of any representation or warranty made by Parent in this Agreement;

(b) the breach of any covenant or agreement to be performed by Parent pursuant to this Agreement or any Ancillary Agreement; and

(c) any fraud or intentional misrepresentation under this Agreement by Parent or any of their respective Affiliates or Representatives.

Section 8.04 Limits on Indemnification.

(a) Notwithstanding anything to the contrary contained herein, no party shall have a right to be indemnified for Losses under Section 8.02(a), Section 8.02(b), Section 8.03(a) and Section 8.03(b) unless and until the aggregate amount of indemnifiable Losses underlying such claims equals or exceeds $***[Redacted - Commercially Sensitive Information]*** (the "Deductible"), and then such party shall have a right to be indemnified for the amount of Losses in excess of the Deductible. Notwithstanding the foregoing, the Deductible shall not be applicable to any right of a Parent Indemnified Party to be indemnified for Losses resulting from items set forth on Schedule 8.02(j).

(b) The maximum amount of Losses for which Parent Indemnified Parties, in the aggregate, shall be entitled to receive indemnification under Section 8.02(a) and Section 8.02(b) (other than in respect of breaches of any of the Company Fundamental Representations) shall be $***[Redacted - Commercially Sensitive Information]***.

(c) The maximum amount of Losses for which Seller Indemnified Parties, in the aggregate, shall be entitled to receive indemnification under Section 8.03(a) and Section 8.03(b) (other than in respect of breaches of any of the Parent Fundamental Representations) shall be an amount equal to $***[Redacted - Commercially Sensitive Information]***.

(d) Notwithstanding anything to the contrary in this Agreement, the limitations set forth in this Section 8.04 shall not apply to or have any effect upon any claim for indemnification pursuant to Section 8.02 with respect to Losses arising out of or resulting from (i) the indemnities set forth in Sections 8.02(d)-(j) and (ii) fraud, willful misconduct or intentional misrepresentation, and the Company shall indemnify a Parent Indemnified Party from and against the entirety of such Losses; provided, however, that the Company shall not have any obligation to indemnify a Parent Indemnified Party from and against any Losses which arise after the end of any applicable statute of limitations.

(e) For the sole purposes of determining Losses under this Article VIII (and not for determining whether any breach of any representation or warranty has occurred), the representations and warranties of the parties shall be determined without regard to any materiality, material adverse effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

(f) The amount of any Losses incurred by a Seller Indemnified Party or Parent Indemnified Party in connection with any claim shall be reduced to take into account any related Actual Tax Benefit and amounts actually recovered from insurers (other than under self-insurance arrangements) as a result of the facts and circumstances giving rise to such Losses (net of deductibles, retentions, co-insurance, any retrospective premiums, and other recovery costs and expenses, including premium increases, attributable to such recovery).

Section 8.05 Notice of Loss; Third Party Claims; Direct Claims. For purposes of this Article VIII, the term "Indemnified Party" means a Parent Indemnified Party or a Seller Indemnified Party,

as the case may be, and the term "Indemnifying Party" means the Company pursuant to Section 8.02 or Parent pursuant to Section 8.03, as the case may be.

(a) An Indemnified Party shall give the Indemnifying Party prompt written notice of any claim which an Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement stating the amount of the Loss, only to the extent then known by the Indemnified Party, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises; provided, however, that the failure to provide timely notice shall not relieve the Indemnifying Party from any of its obligations under this Article VIII except to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure.

(b) If an Indemnified Party shall receive written notice of any Action, audit or demand (each, a "Third Party Claim") against it or which may give rise to a claim for Loss under this Article VIII, within 30 days of the receipt of such notice, the Indemnified Party shall give the Indemnifying Party notice of such Third Party Claim; provided, however, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under this Article VIII except to the extent that the Indemnifying Party is actually and materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or Liability that it may have to any Indemnified Party otherwise than under this Article VIII. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party hereunder against any Losses that may result from such Third Party Claim, then the Indemnifying Party shall be entitled to assume and control the defense of such Third Party Claim at its expense and through counsel of its choice if (i) the Indemnifying Party gives notice of its intention to do so to the Indemnified Party within five days of the receipt of such notice from the Indemnified Party, (ii) the Indemnifying Party actively and diligently defends such Third Party Claim, (iii) the Third Party Claim involves only claims for monetary damages and does not seek an injunction or other equitable relief, (iv) the Third Party Claim does not relate to or otherwise arise in connection with any criminal, regulatory or statutory enforcement action and (v) the Indemnified Party does not reasonably believe that the Loss relating to such claim for indemnification would exceed the maximum amount that such Indemnified Party could then be entitled to recover from the Indemnifying Party; provided, however, that if there exists or is reasonably likely to exist a conflict of interest that would make it inappropriate in the judgment of the Indemnified Party in its sole and absolute discretion for the same counsel to represent both the Indemnified Party and the Indemnifying Party, then the Indemnified Party shall be entitled to retain its own counsel in each jurisdiction for which the Indemnified Party determines counsel is required, at the expense of the Indemnifying Party. In the event that the Indemnifying Party exercises the right to undertake any such defense against any such Third Party Claim as provided above, the Indemnified Party shall reasonably cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party (provided that no party shall be required to provide information to the extent it is subject to attorney-client privilege or such information may be reasonably relevant to a direct claim among the parties). Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Third Party Claim, the Indemnifying Party shall reasonably cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at the Indemnifying Party's expense, all such witnesses, records, materials and information in the Indemnifying Party's possession or under the Indemnifying Party's control relating thereto as is reasonably required by the Indemnified Party (provided that no party shall be required to provide information to the extent it is subject to attorney-client privilege or may be reasonably relevant to a direct claim among the parties). No such Third Party Claim may be settled by the Indemnifying Party without the prior written consent of the Indemnified Party which shall not be unreasonably withheld, conditioned or delayed.

(c) Any claim by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a "Direct Claim") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of from any of its obligations under this Article VIII except to the extent that the Indemnifying Party is actually and materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or Liability that it may have to any Indemnified Party otherwise than under this Article VIII. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail based on the facts then known, and shall indicate the estimated amount, if reasonably practicable based on the facts then known, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. During such 30-day period, the Indemnifying Party and Indemnified Party shall use good faith efforts to resolve the disputed matters. If the dispute is not resolved within such 30-day period, either party may seek resolution of the dispute in a court having jurisdiction over the parties and the matter. If the Indemnifying Party does not so respond within such 30-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement; provided, that, in no event shall any Indemnified Party be required to wait for such 30-day period prior to pursuing any remedies available to such Indemnified Party pursuant to this Agreement.

Section 8.06 Payment and Offset Rights.

(a) Any payment the Stockholders are obligated to make to any Parent Indemnified Parties pursuant to this Article VII shall be payable solely by releasing such sum due and owing to such Parent Indemnified Parties from the Indemnification Escrow in accordance with the terms of this Agreement and the Escrow Agreement.

(b) Notwithstanding any provision in this Agreement to the contrary, Parent shall have right to recover and offset against any amount due to the Stockholders or any of their Affiliates, the amount of any claim for indemnification or payment of damages to which any Parent Indemnified Party may be entitled under this Agreement. Neither the exercise nor the failure to exercise such rights of offset will constitute an election of remedies or limit Parent in any manner in the enforcement of any other remedies that may be available to it.

Section 8.07 Effect of Investigation. The representations, warranties and covenants of the Indemnifying Party, and the Indemnified Party's right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Indemnified Party (including by any of its Representatives) or by reason of the fact that the Indemnified Party or any of its Representatives knew or should have known that any such representation or warranty is, was or might be inaccurate.

Section 8.08 Exclusive Remedies. Except for claims based on fraud or willful misconduct, the indemnification rights provided in this Article VIII shall be the sole and exclusive remedy available to the parties hereto for any and all Losses related to a breach of any of the terms, conditions, covenants, agreements, representations or warranties contained in this Agreement, or any right, claim or action arising from the transactions contemplated hereby; provided, however, that the provisions of this Section 8.08 shall not limit or affect a party's remedies under any of the Ancillary Agreements or preclude any party from bringing an action for specific performance, injunction or any other equitable remedy to the extent that such action or remedy is permitted by this Agreement.

Section 8.09 Tax Treatment of Indemnification Payments. All indemnification payments made under this Article VIII shall be treated by the parties hereto as an adjustment to the Merger Consideration for Tax purposes, unless otherwise required by Law.

ARTICLE IX TERMINATION, AMENDMENT, AND WAIVER

Section 9.01 Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Closing by the mutual written consent of Parent and the Company.

Section 9.02 Termination by Either Parent or the Company. This Agreement may be terminated by either Parent or the Company at any time prior to the Closing:

(a) if the Merger has not been consummated on or before July 31, 2021 (the "**End Date**"); provided, however, that the right to terminate this Agreement pursuant to this Section 9.02(a) shall not be available to any party whose breach of any representation, warranty, covenant, or agreement set forth in this Agreement has been the contributing cause of, or was a contributing factor that resulted in, the failure of the Merger to be consummated on or before the End Date;

(b) if any Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced, or entered any Law or Order making illegal, permanently enjoining, or otherwise permanently prohibiting the consummation of the Merger or the other transactions contemplated by this Agreement, and such Law or Order shall have become final and nonappealable; provided, however, that the right to terminate this Agreement pursuant to this Section 9.02(b) shall not be available to any party whose breach of any representation, warranty, covenant, or agreement set forth in this Agreement has been the cause of, or resulted in, the issuance, promulgation, enforcement, or entry of any such Law or Order; or

(c) if the Stockholders do not ratify and approve the Merger Agreement.

Section 9.03 Termination by Parent. This Agreement may be terminated by Parent at any time prior to the Closing:

(a) if: (i) a Company Adverse Recommendation Change shall have occurred or the Company shall have approved or adopted, or recommended the approval or adoption of, any Acquisition Agreement; or (ii) the Company shall have breached or failed to perform in any material respect any of its covenants and agreements set forth in Section 6.03; or

(b) if there shall have been a breach of any representation, warranty, covenant, or agreement on the part of the Company set forth in this Agreement such that the conditions to the Closing of the Merger set forth in Section 7.02(a) or Section 7.02(b), as applicable, would not be satisfied and, in either such case, such breach is incapable of being cured by the End Date; provided, that Parent shall have given the Company at least thirty (30) days written notice prior to such termination stating Parent's intention to terminate this Agreement pursuant to this Section 9.03(b); provided further, that Parent shall not have the right to terminate this Agreement pursuant to this Section 9.03(b) if Parent or Merger Sub is then in material breach of any representation, warranty, covenant, or obligation hereunder that would cause any condition set forth in Section 7.03(a) or Section 7.03(b) not to be satisfied.

Section 9.04 Termination by the Company. This Agreement may be terminated by the Company at any time prior to the Closing:

(a) if: Parent shall have breached or failed to perform in any material respect any of its covenants and agreements set forth in Section 6.03; or

(b) if there shall have been a breach of any representation, warranty, covenant, or agreement on the part of Parent or Merger Sub set forth in this Agreement such that the conditions to the Closing of the Merger set forth in Section 7.03(a) or Section 7.03(b), as applicable, would not be satisfied and, in either such case, such breach is incapable of being cured by the End Date; provided, that the Company shall have given Parent at least thirty (30) days written notice prior to such termination stating the Company's intention to terminate this Agreement pursuant to this Section 9.04; provided further, that the Company shall not have the right to terminate this Agreement pursuant to this Section 9.04 if the Company is then in breach of any representation, warranty, covenant, or obligation hereunder that could cause any condition set forth in Section 7.02(a) or Section 7.02(b) not to be satisfied.

Section 9.05 Notice of Termination; Effect of Termination. The party desiring to terminate this Agreement pursuant to this Article IX (other than pursuant to Section 9.01) shall deliver written notice of such termination to each other party hereto specifying with particularity the reason for such termination, and any such termination in accordance with this Section 9.05 shall be effective immediately upon delivery of such written notice to the other party. If this Agreement is terminated pursuant to this Article IX, it will become void and of no further force and effect, with no liability on the part of any party to this Agreement (or any stockholder, director, officer, employee, agent, or Representative of such party) to any other party hereto, except: (a) with respect this Section 9.05 and Section 9.06, (and any related definitions contained in any such Sections), which shall remain in full force and effect; and (b) with respect to any liabilities or damages incurred or suffered by a party, to the extent such liabilities or damages were the result of fraud or the breach by another party of any of its representations, warranties, covenants, or other agreements set forth in this Agreement.

Section 9.06 Following Termination.

(a) If this Agreement is terminated the Company pursuant Section 9.04(a) then Parent shall pay to the Company (by wire transfer of immediately available funds), at or prior to the termination, a fee in an amount equal to One Million Five Hundred Thousand Dollars ($1,500,000) (the "Termination Fee");

(b) If this Agreement is terminated by Parent pursuant to Section 9.03(a), then Company shall pay to Parent (by wire transfer of immediately available funds), at or prior to the termination, the Termination Fee; and

(c) If this Agreement is terminated: (i) by the Company or Parent pursuant to Section 9.02(a); or (ii) by Parent pursuant to Section 9.03(b), and: (1) prior to such termination (in the case of termination pursuant to Section 9.02(a) or Section 9.03(b)), a Takeover Proposal shall (x) in the case of a termination pursuant to Section 9.02(a), have been publicly disclosed, or (y) in the case of a termination pursuant to Section 9.03(b), have been publicly disclosed or otherwise made or communicated to the Company or the Company Board; and (2) within twelve (12) months following the date of such termination of this Agreement the Company shall have entered into a definitive agreement with respect to any Takeover Proposal, or any Takeover Proposal shall have been consummated (in each case whether or not such Takeover Proposal is the same as the original Takeover Proposal made, communicated, or publicly disclosed), then in any such event the Company shall pay to Parent (by wire transfer of immediately available funds), immediately prior to and as a condition to consummating such transaction, the Termination Fee on or prior to the termination of this Agreement.

(d) If this Agreement is terminated: (i) by the Company pursuant to Section 9.04(b), then in such event Parent shall pay to the Company (by wire transfer of immediately available funds), within two Business Days after such termination, a fee of $500,000 and (ii) by Parent pursuant to Section 9.03(b),

then in such event the Company shall pay Parent (by wire transfer of immediately available funds), within two Business Days after such termination, a fee of $500,000.

(e) The parties acknowledge and hereby agree that the provisions of this Section 9.06 are an integral part of the transactions contemplated by this Agreement (including the Merger), and that, without such provisions, the parties would not have entered into this Agreement. If the Company, on the one hand, or Parent and Merger Sub, on the other hand, shall fail to pay in a timely manner the amounts due pursuant to this Section 9.06, and, in order to obtain such payment, the other party makes a claim against the non-paying party that results in a judgment, the non-paying party shall pay to the other party the reasonable costs and expenses (including its reasonable attorneys' fees and expenses) incurred or accrued in connection with such suit, together with interest on the amounts set forth in this Section 9.06 at the prime rate as published in The Wall Street Journal in effect on the date such payment was actually received, or a lesser rate that is the maximum permitted by applicable Law. The parties acknowledge and agree that in no event shall the Company or Parent be obligated to pay the Termination Fee on more than one occasion.

(f) Except as expressly set forth in this Section 9.06, all expenses incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the party incurring such Expenses; provided, however, that Parent and the Company shall be equally responsible for all filing fees incurred in connection with the HSR Act or any other Antitrust Law in connection with the consummation of the transactions contemplated by this Agreement.

Section 9.07 Amendment. At any time prior to the Effective Time, this Agreement may be amended or supplemented in any and all respects, by written agreement signed by each of the parties hereto.

Section 9.08 Extension; Waiver. At any time prior to the Effective Time, Parent or Merger Sub, on the one hand, or the Company, on the other hand, may: (a) extend the time for the performance of any of the obligations of the other party(ies); (b) waive any inaccuracies in the representations and warranties of the other party(ies) contained in this Agreement or in any document delivered under this Agreement; or (c) unless prohibited by applicable Law, waive compliance with any of the covenants, agreements, or conditions contained in this Agreement. Any agreement on the part of a party to any extension or waiver will be valid only if set forth in an instrument in writing signed by such party. The failure of any party to assert any of its rights under this Agreement or otherwise will not constitute a waiver of such rights.

ARTICLE X
MISCELLANEOUS

Section 10.01 Governing Law. This Agreement shall be governed by, enforced, and construed under and in accordance with the Laws of the State of Delaware without giving effect to the principles of conflicts of law thereunder. Each of the parties irrevocably consents and agrees that any legal or equitable action or proceedings arising under or in connection with this Agreement shall be brought exclusively in the state courts with jurisdiction in Delaware. By execution and delivery of this Agreement, each party hereto irrevocably submits to and accepts, with respect to any such action or proceeding, generally and unconditionally, the jurisdiction of the aforesaid courts, and irrevocably waives any and all rights such party may now or hereafter have to object to such jurisdiction.

Section 10.02 Notices.

(a) Any notice or other communications required or permitted hereunder shall be in writing and shall be sufficiently given if personally delivered to it or sent by email, overnight courier or registered mail or certified mail, postage prepaid, addressed as follows:

(i) If to Parent or Merger Sub, to:

Harborside Inc.
2100 Embarcadero, Suite 101
Oakland, CA 94606
Attn: Jack Nichols
Email: ***[Redacted – Personal Information]***

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

Duane Morris LLP
1540 Broadway, 14th Floor
New York, NY 10036
Attn: Nanette C. Heide
Email ncheide@duanemorris.com

Cassels Brock & Blackwell LLP
40 King Street West, Suite 2100
Toronto, Ontario M5H 3C2
Attn: Jonathan Sherman
Email: jsherman@cassels.com

(ii) If to Company, to:

Sublimation Inc.
2537 Willow Street
Oakland, CA 94607-1723
Attn: Ahmer Iqbal
Email: ***[Redacted – Personal Information]***

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

CGL LLP
355 S. Grand Avenue, Suite 2450
Los Angeles, CA 90071
Attn: Jessica Edwards
Email: j.edwards@cfgl-llp.com

Forward Counsel LLP
4340 Von Karman Avenue, Suite 380
Newport Beach, CA 92660
Attn: Kandy Williams, Esq.
Email:
kwilliams@ForwardCounsel.com

(ii) If to Stockholder Representative, to:

Demeter Capital Group II LP
130 Frederick Street
Unit 206
San Francisco, CA 94117
Attn: Morgan Paxhia
[Redacted – Personal Information]

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

CGL LLP
355 S. Grand Avenue, Suite 2450
Los Angeles, CA 90071
Attn: Jessica Edwards
Email: j.edwards@cfgl-llp.com

Forward Counsel LLP
4340 Von Karman Avenue, Suite 380
Newport Beach, CA 92660
Attn: Kandy Williams, Esq.
Email:
kwilliams@ForwardCounsel.com

(b) Any party may change its address for notices hereunder upon notice to each other party in the manner for giving notices hereunder.

(c) Any notice hereunder shall be deemed to have been given (i) upon receipt, if personally delivered, (ii) on the day after dispatch, if sent by overnight courier, (iii) upon dispatch, if transmitted by email with return receipt requested and received, and (iv) three (3) days after mailing, if sent by registered or certified mail.

Section 10.03 Stockholder Representative.

(a) By virtue of approval by the requisite vote of Stockholders (the "Stockholder Approval"), Demeter Capital Group II LP shall be the agent and attorney-in-fact for each of the Stockholders (in such capacity, as previously defined, the "Stockholder Representative") to act as the Stockholder Representative under this Agreement and the Ancillary Documents in accordance with the terms of this Section 10.03 and the Ancillary Documents. In the event of the resignation of the Stockholder Representative, a successor Stockholder Representative reasonably satisfactory to Parent shall thereafter be appointed by an instrument in writing signed by Parent and such successor Stockholder Representative.

(b) By virtue of the Stockholder Approval, the Stockholder Representative shall be authorized and empowered to act for, and on behalf of, any or all of the Stockholders (with full power of substitution in the premises) in connection with (i) the purchase price adjustment set forth in this Agreement and (ii) such other matters as are reasonably necessary for the consummation of the contemplated herein including, without limitation, (A) to receive all payments owing to the Stockholders under this Agreement, (B) to withhold any amounts received on behalf of the Stockholders in order to satisfy any actual or potential liabilities of the Stockholders under this Agreement, (C) to make any payments on behalf of the Stockholders and collect from the Stockholders (in accordance with each Stockholder's pro rata distribution percentage) any amounts paid in settlement of any claims under this Agreement, (D) to terminate, amend, waive any provision of, or abandon, this Agreement or any of the Ancillary Documents, (E) to act as the representative of the Stockholders to review and authorize all claims and disputes or question the accuracy thereof, (F) to negotiate and compromise on their behalf with Parent any claims asserted hereunder and to authorize payments to be made with respect thereto, (G) to distribute any payments to Stockholders as contemplated by this Agreement, (H) to take such further actions as are authorized in this Agreement or the Ancillary Documents, and (I) in general, do all things and perform all acts, including, without limitation, executing and delivering all agreements (including the Ancillary Documents), certificates, receipts, consents, elections, instructions and other documents contemplated by or deemed by the Stockholder Representative to be necessary or desirable in connection with this Agreement, the Ancillary Documents and the transactions contemplated herein and therein. Parent and the Merger Sub shall be entitled to rely on such appointment and to treat the Stockholder Representative as the duly appointed attorney-in-fact of each Stockholder. Notices given to the Stockholder Representative in accordance with the provisions of this Agreement shall constitute notice to the Stockholders for all purposes under this Agreement. The Stockholder Representative shall not have any duties or responsibilities except those expressly set forth in this Agreement and the Letters of Transmittal, and no implied covenants, agreements, functions, duties, responsibilities, obligations or liabilities shall be read into this Agreement, or shall otherwise exist against the Stockholder Representative.

(c) By virtue of the Stockholder Approval, (i) the appointment of the Stockholder Representative is an agency coupled with an interest and is irrevocable and any action taken by the Stockholder Representative pursuant to the authority set forth in this Section 10.03 shall be effective and absolutely binding on each Stockholder notwithstanding any contrary action of or direction from such Stockholder, except for actions or omissions of the Stockholder Representative constituting Fraud, and (ii) the death or incapacity, or dissolution or other termination of existence, of any Stockholder shall not

terminate the authority and agency of the Stockholder Representative. Parent, the Merger Sub and any other party to an Ancillary Document in dealing with the Stockholder Representative may conclusively rely, without inquiry, upon any act of the Stockholder Representative as the act of the Stockholders.

(d) By virtue of the Stockholder Approval, the Stockholder Representative shall be released from, and indemnified against, any liability for any action taken or not taken by the Stockholder Representative in its capacity as such (including the expenses referred to in this Section 10.03, except for the liability of the Stockholder Representative to any Stockholder for loss which such Stockholder may suffer from the willful misconduct or gross negligence of the Stockholder Representative in carrying out its duties hereunder. The Stockholder Representative shall not be liable to any Stockholder or to any other Person, with respect to any action taken or omitted to be taken by the Stockholder Representative in its role as Stockholder Representative under or in connection with this Agreement or any Ancillary Document, unless such action or omission results from or arises out of Fraud or willful misconduct on the part of the Stockholder Representative, and the Stockholder Representative shall not be liable to any Stockholder in the event that, in the exercise of its reasonable judgment, the Stockholder Representative believes there will not be adequate resources available to cover potential costs and expenses to contest a claim made by Parent or the Merger Sub against the Stockholders. Parent and the Merger Sub acknowledge and agree that the Stockholder Representative is party to this Agreement solely for purposes of serving as the "Stockholder Representative " and that no claim shall be brought by or on behalf of Parent or the Merger Sub against the Stockholder Representative with respect to this Agreement, any Ancillary Document or the transactions contemplated herein or therein (it being understood that any covenant or agreement that requires performance by the "parties" or a "party" at or prior to the Closing shall not be deemed to require performance by the Stockholder Representative unless performance by the Stockholder Representative is expressly provided for in such covenant or agreement).

Section 10.04 Disclosure Schedule. Nothing in the Disclosure Schedule is intended to broaden the scope of any representation or warranty contained in this Agreement or to create any covenant unless clearly specified to the contrary herein or therein. Inclusion of any item on any Disclosure Schedule (a) does not represent a determination that such item is material nor shall it be deemed to establish a standard of materiality, (b) does not represent a determination that such item did not arise in the Ordinary Course of business, and (c) shall not constitute, or be deemed to be, an admission to any third party concerning such item. The Disclosure Schedule includes descriptions of instruments or brief summaries of certain aspects of the Company, the Subsidiaries and the Business and operations. The descriptions and brief summaries are not necessarily complete and are provided in the Disclosure Schedule to identify documents or other materials previously delivered or made available.

Section 10.05 Third Party Beneficiaries. Except for the provisions of Article VIII relating to indemnified parties, this Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any other Person, including any employee or former employee of the Company or any Subsidiary, any legal or equitable right, benefit or remedy of any nature whatsoever, including any rights of employment for any specified period, under or by reason of this Agreement.

Section 10.06 Expenses. Except as otherwise specified in this Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 10.07 Entire Agreement. Each of the parties, on behalf of itself and its respective Affiliates, agrees this Agreement (including the Exhibits, Schedules, and other documents incorporated herein) represents the entire agreement among them relating to the subject matter hereof, and supersedes

all prior agreements, understandings and negotiations, written or oral, with respect to such subject matter, including that certain Confidentiality Agreement dated March 13, 2021, and that certain Letter of Intent dated March 21, 2021, by and between Parent and the Company.

Section 10.08 Arm's Length Bargaining; No Presumption Against Drafter. This Agreement has been negotiated at arm's-length by parties of equal bargaining strength, each represented by counsel or having had but declined the opportunity to be represented by counsel and having participated in the drafting of this Agreement. This Agreement creates no fiduciary or other special relationship between the parties hereto, and no such relationship otherwise exists. No presumption in favor of or against any party in the construction or interpretation of this Agreement or any provision hereof shall be made based upon which Person might have drafted this Agreement or such provision.

Section 10.09 Headings. The headings contained in this Agreement are intended solely for convenience and shall not affect the rights of the parties hereto.

Section 10.10 Assignment. This Agreement may not be assigned by a party hereto by operation of Law or otherwise without the express written consent of the other parties hereto (which consent may be granted or withheld in the sole discretion of such other parties), except that (a) Parent shall be permitted to assign its rights and obligations hereunder to any of its respective Affiliates, provided that no such assignment shall relieve Parent of any of its respective obligations hereunder, and (b) Parent Indemnified Parties shall be permitted to collaterally assign any or all of their rights and obligations hereunder to any provider of debt financing to it or any of its Affiliates.

Section 10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall be but a single instrument. The execution and delivery of a facsimile or other electronic transmission of a signature to this Agreement shall constitute delivery of an executed original and shall be binding upon the person whose signature appears on the transmitted copy.

Section 10.12 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

[*Signatures Appear on Following Page*]

IN WITNESS WHEREOF, the parties have executed this Agreement and Plan of Merger and Reorganization as of the Closing Date.

PARENT:

HARBORSIDE INC.

By: (signed) *"Peter Bilodeau"*
Name: Peter Bilodeau
Title: Interim Chief Executive Officer

MERGER SUB:

VENUS MERGER SUB, INC.

By: (signed) *"Tom DiGiovanni"*
Name: Tom DiGiovanni
Title: President

COMPANY:

SUBLIMATION INC.

By: (signed) *"Ahmer Iqbal"*
Name: Ahmer Iqbal
Title: Chief Executive Officer

STOCKHOLDER REPRESENTATIVE:

DEMETER CAPITAL GROUP II LP

By: (signed) *"Morgan Paxhia"*
Name: Morgan Paxhia
Title: Managing Director

[Disclosure Schedules Redacted – Commercially Sensitive Information]