

**SHARE PURCHASE AGREEMENT**

between

**EMERGENCE GLOBAL ENTERPRISES INC.**

-

and-

**PRODYNN DISTRIBUTION, LLC**

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and-

**THE SOLE MEMBER OF PRODYNN DISTRIBUTION, LLC**

## SHARE PURCHASE

**THIS AGREEMENT** is dated the 5th day of March 2021,

**BETWEEN**

EMERGENCE GLOBAL ENTERPRISES INC.  
a corporation existing under the laws of the Province of British Columbia  
(the "**Purchaser**")

AND:

**PRODYNN DISTRIUTION, LLC.**, a Limited Liability Corporation existing under  
the laws of the State of Wisconsin.  
(the "**Corporation**")

AND:

**JEFF HOFFMAN**, an individual resident of the State of Wisconsin, the sole  
Member of the LLC,  
(the "**Vendor**").

**WHEREAS**

1. The Vendor is the registered and beneficial owner of all of the issued and outstanding member shares in the capital of the Corporation, (collectively the "**Purchased Shares**").
2. The Purchaser wishes to purchase, and the Vendor wishes to sell, the Purchased Shares on the terms and conditions set out in this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1 - INTERPRETATION

#### 1.1 Definitions

In this Agreement, the following terms and expressions will have the following meanings:

- (a) "**Accounts Receivable**" means all accounts receivable of the Corporation whether due or accruing due or recorded or unrecorded to the extent relating to goods or services provided by or on behalf of the Corporation prior to the Closing Time, calculated in accordance with IFRS.

- (b) "**Affiliate**" means with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control", when used with respect to any specified Person, shall mean the power to, directly or indirectly, direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms "controlling" and "controlled" shall have correlative meanings.
- (c) "**Agreement**", "**this Agreement**", "**hereto**", "**hereof**", "**herein**", "**hereunder**" and "**similar expressions refer to this Agreement**" and not to any particular article, Section or other portion of this Agreement and include every amendment or instrument supplementary hereto or in implementation hereof.
- (d) "**Assets**" means all of the Corporation's property and assets of every nature and kind, wherever located.
- (e) "**Benefit Plan**" means employee benefit plan, agreement, program, policy, practice, material undertaking or arrangement (whether oral or written, formal or informal, funded or unfunded) maintained for, available to or otherwise relating to any employees, directors or officers or former employees, directors or officers of the Corporation, or any spouses, dependents or survivors of any employee or former employee of the Corporation, or under which the Corporation has or may have any liability including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits including medical or dental treatment or expenses, life and other insurance including accident insurance, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, equity or equity-based compensation, change of control benefits, profit-sharing, mortgage assistance, employee loan, employee assistance and pension, retirement and supplemental retirement plans (including any defined benefit or defined contribution pension plan and any group registered retirement savings plan) and supplemental pension.
- (f) "**Books and Records**" means all technical, business and financial records relating to the Business, including, without limitation, customer lists, operating data, files, financial books, correspondence, credit information, research materials, contract documents, title documents, leases, surveys, records of past sales, supplier lists, employee documents, inventory data, accounts receivable data, financial statements and any other similar records in any form whatsoever (including written, printed, electronic or computer printout form).
- (g) "**Business**" means the business carried on by Corporation which primarily involves the development, marketing and sale of nutritional supplements and associated health products and all operations related thereto.

- (h) "**Business Day**" means any day other than a Saturday, a Sunday or a statutory holiday in the Province of Ontario or any other day on which the principal chartered banks located in the City of Toronto are not open for business during normal banking hours.
- (i) "**Closing**" means the completion of the Transactions pursuant to this Agreement at the Closing Time.
- (j) "**Closing Date**" has the meaning ascribed thereto in Section 6.1.
- (k) "**Closing Date Financial Statements**" means the interim balance sheet of the Corporation at the Closing Time and the interim income statement for the Corporation for the period of time between the Statements Date and the Closing Time.
- (l) "**Closing Time**" means 11:00 am in the City of Toronto on the Closing Date or at such other time on the Closing Date upon which the Parties may agree.
- (m) "**Collective Agreement**" has the meaning ascribed thereto in Section 3.1(23)(b).
- (n) "**Company Intellectual Property**" shall mean any and all Company-Owned Intellectual Property and any and all Third-Party Intellectual Property that is licensed to the Corporation.
- (o) "**Company-Owned Intellectual Property**" shall mean any and all Intellectual Property that is owned or purported to be owned by the Corporation.
- (p) "**Confidential Information**" means any non-public information pertaining to or concerning the Business, the Corporation, the Purchaser, or the Vendor or their respective Affiliates, including, any and all information relating to their respective businesses, affairs, finances, opportunities, projections, customers, suppliers, assets, liabilities, operations and internal practices, including, without limitation, all: (a) accounting and financial information; (b) all non-public Company Intellectual Property (in any stage of development), technical expertise and know-how, trade secrets, designs, software programs, processes and research; (c) corporate, commercial, strategic, regulatory and legal information; and (d) all other information which, by its nature, or by the nature of the circumstances surrounding its disclosure, ought in good faith to be treated as confidential, except that, "Confidential Information" does not include information that: (x) is or was independently developed by a Party or its Representatives without the use of any Confidential Information; (y) is publicly available, other than as a result of a disclosure in contravention of this Agreement; and (z) is made available to a Party or its Representatives on a non-confidential basis from a Third Party, which to the knowledge such Party or its Representatives, is not subject to an obligation of confidentiality to the other Party in relation to such information;

- (q) "**Consent**" means a license, permit, approval, consent, certificate, registration or authorization (including, without limitation, those made or issued by a Governmental Authority, in respect of a Contract, or otherwise).
- (r) "**Consideration Shares**" has the meaning ascribed thereto in Section 2.2.
- (s) "**Contract**" means any agreement, understanding, indenture, contract, lease, deed of trust, license, option, instrument or other commitment, whether written or oral.
- (t) "**Corporation**" means ProDynn Distribution, LLC
- (u) "**Current Assets**" means cash and cash equivalents, accounts receivable, inventory and prepaid expenses, but excluding (A) the portion of any prepaid expense of which Purchaser will not receive the benefit following the Closing; (B) deferred Tax assets; and (C) receivables from any of the Corporation's affiliates, directors, employees, officers or shareholders and any of their respective affiliates, determined in accordance with IFRS, consistently applied.
- (v) "**Current Liabilities**" means accounts payable, accrued Taxes and accrued expenses, but excluding (A) payables to any of the Corporation's affiliates, directors, employees, officers or shareholders and any of their respective affiliates; (B) deferred Tax liabilities; and (C) the current portion of long-term debt, determined in accordance with IFRS, consistently applied.
- (w) "**Disclosure Letter**" means that certain disclosure letter delivered by the Vendor to the Purchaser dated as of the date hereof.
- (x) "**Encumbrances**" means any encumbrance or restriction of any kind or nature and includes mortgages, charges, pledges, security interests, liens, encumbrances, actions, claims, demands and equities of any nature whatsoever or howsoever arising and any rights or privileges capable of becoming any of the foregoing.
- (y) "**Exchange Approval**" means any consent, approval, waiver or confirmation for the Transactions required under the rules of the Canadian Securities Exchange.
- (z) "**Existing Confidentiality Agreements**" means, collectively: (i) the unilateral non-disclosure agreement, dated November 29, 2019, between the Purchaser and the Corporation; and (ii) the letter agreement, dated, November 29, 2019, between the Purchaser and the Corporation with respect to certain confidentiality terms contained therein.
- (aa) "**Financial Statements**" means: (i) the audited financial statements of the Corporation for the fiscal year ended December 31, 2020 consisting of a balance sheet, an income statement, a statement of changes in financial position together with the accompanying notes of the Corporation's accountants thereon.
- (bb) "**Governmental Authority**" means any: (a) multinational, national, federal, provincial, territorial, state, municipal, local or other government, governmental or public department, central bank, court, commission, board, bureau, agency or

instrumentality, domestic or foreign; (b) subdivision or authority of any of the foregoing; (c) stock-exchange; or (d) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;

- (cc) "**IFRS**" means the International Financial Reporting Standards formulated by the International Accounting Standards Board, as updated and amended from time to time.
- (dd) "**Indebtedness**" means, with respect to any Person: (a) all indebtedness for borrowed money, including all accrued but unpaid interest, penalties, fees and prepayment premiums; (b) all bank loans and indebtedness owed under any line of credit, credit agreement or facility or evidenced by any note, debenture, bond, mortgage or similar instrument; (c) all capitalized lease obligations; (d) all obligations issued or assumed as the deferred purchase price of property or services (including all obligations under any acquisition agreements for any earn-out, note payable or other contingent payment); (e) all obligations under any currency or interest rate swap, hedge or similar agreement or arrangement (determined as if such instrument were terminated as of the Closing Date); (f) all guarantees of obligations of another Person of the type described in clauses (a) through (e) of this definition; and (g) all unfunded amounts under any Benefit Plans, excluding Current Liabilities.
- (ee) "**Independent Accountant**" means a nationally recognized accountant, or firm of accountants, that is mutually agreed by the Parties.
- (ff) "**Intellectual Property**" means any and all intellectual property (whether foreign or domestic, registered or unregistered) including: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice) and all patents, patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions and re-examinations thereof; (b) all trademarks, trade-names, trade dress, logos, business names, corporate names, domain names, uniform resource locators (URL's) and the internet websites related thereto, and including all goodwill associated therewith and all applications, registrations and renewals in connection therewith; (c) all works of authorship, all copyrights and all applications, registrations and renewals in connection therewith; (d) all designs, industrial designs, design patents and all applications, registrations and renewals in connection therewith; (e) all proprietary, technical or Confidential Information, including all trade secrets, processes, procedures, know-how, show-how, formulae, methods, data, compilations,

databases and the information contained therein, together with all business and financial information relating to the Corporation; (f) all computer software (including all source code, object code and related documentation); and (g) any industrial or intellectual property that may exist, arise or be embodied in those items set out in Section 3.1(35) of the Disclosure Letter, together with: (i) all copies and tangible embodiments of the foregoing referred to in clauses (a) to (g) of this definition (in whatever form or medium); (ii) all improvements, modifications, translations, adaptations, refinements, derivations and combinations thereof; and (iii) all Intellectual Property rights related thereto.

- (gg) "**Interim Period**" means the period from and including the date of this Agreement and ending as at the Closing Time.
- (hh) "**Law**" or "**Laws**" means all requirements imposed by statutes, regulations, rules, ordinances, by-laws, decrees, codes, policies, judgments, orders, rulings, decisions, approvals, notices, permits, guidelines or directives of any Governmental Authority.
- (ii) "**Legal Proceeding**" means any litigation, action, suit, dispute, investigation, inquiry, audit, complaint, claim, demand, arbitration or legal, administrative or other similar matter or proceeding, including by any Governmental Authority, and includes any appeals or applications for review.
- (jj) "**Loss**" means any and all loss, liability, damage, cost or expense of a Vendor or Purchaser Indemnity, as applicable, including any resulting from or arising out of any claim, including the costs and expenses of any action, suit, proceeding, demand, assessment, reassessment, investigation, judgment, settlement or compromise relating thereto and all interest, punitive damages, fines and penalties, collection costs and reasonable legal fees and expenses incurred in connection therewith.
- (kk) "**Material Contract**" has the meaning ascribed thereto in Section 3.1(34)(a).
- (ll) "**Minimum Working Capital**" means an amount of Working Capital greater than \$50,000.
- (mm) "**Outside Date**" means the date that is the 6 month anniversary of the Effective Date.
- (nn) "**Ordinary Course**" means with respect to an action taken by any Person, that such action is consistent in nature and scope with the past practices of such Person, and is taken in the ordinary course of the normal day-to-day operations of the business of such Person.
- (oo) "**Party**" or "**Parties**" means the Purchaser, the Corporation, the Vendor and any other Person that may become a party to this Agreement, as applicable.
- (pp) "**Permits**" has the meaning ascribed thereto in Section 3.1(20)(b).

- (qq) "**Permitted Encumbrances**" means:
- (i) Liens for Taxes, assessments and governmental charges due and being contested in good faith and diligently by appropriate proceedings (and for the payment of which adequate provision has been made); and
  - (ii) Liens for Taxes either not due and payable or due but for which notice of assessment has not been given.
- (rr) "**Person**" includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government, governmental agency and any other form of entity or organization.
- (ss) "**Personal Information**" shall mean information about any identifiable individual or other information that is subject to any privacy laws.
- (tt) "**Purchased Shares**" has the meaning ascribed thereto in Recital 1.
- (uu) "**Purchaser**" means Emergence Global Enterprises Inc.
- (vv) "**Purchaser Indemnities**" and "**Purchaser Indemnity**" has the meaning ascribed thereto in Section 7.1.
- (ww) "**Registered Corporate IP**" has the meaning ascribed to such term in Section 3.1(35)(b).
- (xx) "**Representatives**" means directors, officers, employees, agents, consultants and professional advisors of the referenced Person.
- (yy) "**Restrictive Covenant Agreements**" means the agreements between the Purchaser and the Vendor, dated as of the Closing Date, setting out the applicable non-competition covenants of the Vendor, reasonably satisfactory to the Purchaser.
- (zz) "**Statements Date**" means the date of the most recent balance sheet included in the Financial Statements which is December 31, 2020.
- (aaa) "**Tax**" and "**Taxes**" means all taxes, surtaxes, duties, levies, imposts, fees, assessments, reassessments, withholdings, dues and other charges of any nature, imposed or collected by any Governmental Authority, whether disputed or not, including federal, provincial, territorial, state, municipal and local, foreign and other income, and all other taxes and similar governmental charges, levies or assessments of any kind whatsoever imposed by any Governmental Authority including any installment payments, interest, penalties or other additions associated therewith, whether or not disputed.
- (bbb) "**Tax Return**" means all reports, returns, information returns, claims for refunds, elections, designations, estimates, reports and other documents, including any schedule or attachments thereto, filed or required to be filed or supplied to any



Governmental Authority in respect of Taxes and including any amendment thereof or attachment thereto.

(ccc) "**Transactions**" means the purchase and sale of the Purchased Shares and all other transactions contemplated by this Agreement.

(ddd) "**Union**" has the meaning ascribed thereto in Section 3.1(23)(b).

(eee) "**Vendor**" has the meaning ascribed thereto in the Recitals to this Agreement.

(fff) "**Working Capital**" means the amount equal to the total of Corporation's Current Assets less the total of its Current Liabilities as of the close of business on the referenced date.

## **1.2 Schedules and Disclosure Letters**

The Schedules, and the Disclosure Letter are incorporated into this Agreement and form an integral part of the Agreement.

### **1.1 Interpretation Not Affected by Headings or Party Drafting**

The division of this Agreement into Articles and Sections, and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement. The Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement, and the Parties agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party will not be applicable in the interpretation of this Agreement.

### **1.2 Certain Terms and References**

In this Agreement:

- (a) the term "including", "includes" and "include" means "including (or includes or include) without limitation";
- (b) any reference to a specific Article or Section number refers to the specified Article or Section in this Agreement; and
- (c) with respect to calculating a period of time, time periods "within" or "following" which any act is to be done will be calculated by excluding the day on which the period commences and including the day which ends the period, and by extending the period to the next Business Day if the last day of the period is not a Business Day.

### **1.3 Number and Gender**

In this Agreement, words importing the singular number include the plural and *vice versa* unless the context otherwise requires. Words importing the use of any gender include all genders, including the neutral gender "it".

### **1.4 Statutes**

Unless otherwise provided for in this Agreement, any reference to a statute in this Agreement refers to such statute and all rules and regulations made under it, as it or they may have been, or may from time to time be, amended, re-enacted or replaced.

## ARTICLE 2- PURCHASE AND SALE

### 2.1 Purchased Shares

On the terms and subject to the fulfilment of the conditions of this Agreement, the Vendor agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase from the Vendor at the Closing, all of the Purchased Shares, free and clear of all Encumbrances for the consideration specified in Section 2.2.

### 2.2 Payment of Purchase Price

On Closing, the purchase price shall be paid and satisfied by the Purchaser issuing 1,000,000 common shares in the capital of Purchaser (each a "**Consideration Share**" and collectively, the "**Consideration Shares**") for each of the Purchased Shares, which shall result in an aggregate of 1,000,000 Common Shares being distributed to the Vendor. All Consideration Shares will be subject to any applicable resale or escrow restrictions in accordance with the Exchange Approval and applicable securities Laws and as indicated on the share certificates evidencing the Consideration Shares, and the Vendor hereby acknowledges and agrees to comply with such conditions, as applicable.

## ARTICLE 3- REPRESENTATIONS AND WARRANTIES

### 3.1 Representations and Warranties of the Vendor and of the Corporation

The following representations and warranties are hereby made to the Purchaser (i) by the Vendor and (ii) by the Corporation. The Vendor and the Corporation hereby acknowledge that the Purchaser is relying on such representations and warranties in entering into this Agreement and completing the Transactions as follows:

- (1) Share Ownership. The Vendor is the registered and beneficial owner of the Purchased Shares listed in Section 3.1(1) of the Disclosure Letter and that the Purchased Shares constitute all of the issued and outstanding securities in the capital of the Corporation.
- (2) Incorporation and Existence of the Corporation. The Corporation is a Limited Liability Corporation incorporated and validly existing under the laws of State of Wisconsin, U.S.A. and has not been discontinued or dissolved under such laws. No steps or proceedings have been taken to authorize or require such discontinuance or dissolution.
- (3) Corporate Power. The Corporation has the corporate power and authority to own or lease their property and to carry on the Business as now being conducted by them.

- (4) Qualification. The Corporation is duly qualified, licensed or registered to carry on business and is in good standing in the State of Wisconsin, U.S.A and each other jurisdiction in which it conducts its Business. The Corporation has submitted all notices or return or corporate information and other filings required by law to be submitted by it to any Governmental Authority in the State of Wisconsin and any other applicable jurisdiction in which the operation of the Business, as currently conducted, makes such licensing registration or filing necessary.
- (5) Subsidiaries. The Corporation does not own or have any interest in any securities of any other Person. The Corporation has not agreed to acquire, directly or indirectly, any of the outstanding securities of any interest in any other Person.
- (6) Authorized and Issued Capital. The authorized capital of the Corporation consists of 100 member shares, of which only the Purchased Shares are issued and are outstanding. All Purchased Shares have been duly authorized, are validly issued, fully paid and non-assessable, and the Vendor is the registered and beneficial owner of the Purchased Shares, free and clear of all Encumbrances. Upon consummation of the Transactions contemplated by this Agreement, the Purchaser will own all the Purchased Shares, free and clear of all Encumbrances.

Parties acknowledge and agree that Purchaser may use shares as consideration for future acquisitions. This would increase the total number of shares issued by the Purchaser. Nothing in this Agreement shall prohibit Executives and Directors from using shares as consideration in such acquisitions and they shall have a free hand in decision making thereto.

- (7) Options. Except for the Purchaser's right in this Agreement, no Person has any option, warrant, right, call, commitment, conversion right, right of exchange or other agreement or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an option, warrant, right, call, commitment, conversion right, right of exchange or other agreement for (i) the purchase from the Vendor of any of the Purchased Shares; (ii) the purchase from the Corporation of any security issued and outstanding by the Corporation; (iii) the purchase, subscription, allotment or issuance of any unissued shares or securities of the Corporation; or (iv) other than in the Ordinary Course of the Business, the purchase or other acquisition from the Corporation of any of their respective undertakings, property or assets.
- (8) Books and Records. The Books and Records of the Corporation are complete and accurate and all corporate proceedings and actions reflected therein have been conducted or taken in compliance with all applicable Laws and with the articles and by-laws of the Corporation, respectively, and without limiting the generality of the foregoing, (i) the minute book contains complete and accurate minutes of all meetings of the directors and shareholders of the Corporation held since its date of incorporation, and all such meetings were duly called and held; (ii) the minute book contains all written resolutions passed by the directors and shareholders of the Corporation and all such resolutions were duly passed; (iii) the share certificate books, registers of shareholders and registers of securities transfers of the

Corporation are complete and accurate, and all transfers of securities have been duly completed and approved and any eligible Tax payable in connection with the transfer of any securities of the Corporation has been duly paid; and (iv) the registers of directors and officers are complete and accurate and all former and present directors and officers of the Corporation were duly elected or appointed as the case may be.

(9) Validity of Agreement

- (a) The Vendor has all necessary power to own the Purchased Shares and to enter into and perform its obligations under this Agreement and under any other agreements or instruments to be delivered or given by it pursuant to this Agreement.
- (b) The Vendor's execution and delivery of, and performance of his obligations under, this Agreement and the consummation of the Transactions have been duly authorized by all necessary action on the part of the Vendor and the Corporation, respectively as applicable.
- (c) This Agreement or any other agreement entered into pursuant to this Agreement to which either of the Corporation or the Vendor are a party constitutes legal, valid and binding obligations of each of the Corporation or the Vendor, as the case may be, enforceable against each of them in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

(10) No Violation The execution and delivery of this Agreement by the Corporation and the Vendor, the consummation of the Transactions and the fulfilment by the Vendor of the terms, conditions and provisions hereof will not (with or without the giving of notice or lapse of time, or both):

- (a) Contravene or violate or result in a breach or a default under or give rise to a right of termination, amendment or cancellation or the acceleration of any obligations of the Vendor or the Corporation under:
  - (i) any applicable Law;
  - (ii) any judgment, order, writ, injunction or decree of any Governmental Authority having jurisdiction over the Vendor or the Corporation;
  - (iii) the articles, by-laws or any resolutions of the board of directors or shareholders of the Corporation;
  - (iv) any Consent held by the Vendor or the Corporation or necessary to the ownership of the Purchased Shares or the operation of the Business; or

- (v) the provisions of any Contract to which the Vendor or the Corporation is a party or by which any of them is, or any of their properties or assets are, bound.
  - (b) Result in the creation or imposition of any Encumbrance on any of the Purchased Shares or any of the property or assets of the Corporation.
- (11) Shareholders' Agreements There are no shareholders' agreements, pooling agreements, voting trusts or other similar agreements with respect to the ownership or voting of any of the securities of the Corporation.
- (12) Private Issuer The Corporation is a private issuer as defined by the *Securities Exchange Act of 1933*, as amended.
- (13) Regulatory Consents Other than as disclosed in Section 3.1(13) of the Disclosure Letter, there is no requirement to make any filing with, give any notice to or obtain any Consent from any Governmental Authority as a condition to the lawful consummation of the Transactions.
- (14) Contract Consents Other than as disclosed in Section 3.1(14) of the Disclosure Letter, there is no requirement under any Contract relating to the Business or to which the Vendor or the Corporation is a party or by which any of them are bound to make any filing with, give any notice to, or to obtain the Consent of, any party to such Contract relating to the Transactions.
- (15) Financial Statements The Financial Statements:
  - (a) have been prepared in accordance with IFRS applied on a consistent basis throughout the period involved;
  - (b) are complete and accurate; and
  - (c) present fairly the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial condition of the Corporation at their respective balance sheet dates, and the results of operations of the Corporation.
- (16) Books and Records The Books and Records have been duly maintained in accordance with all applicable legal requirements and contain full and accurate records of all material matters relating to the Business. All material financial transactions relating to the Business have been accurately recorded in the Books and Records. No Books and Records are in the possession of, recorded, stored, maintained by, or otherwise dependent on, any other Person.
- (17) Absence of Certain Changes, Events and Conditions Since the Statements Date, and other than in the Ordinary Course consistent with past practice, there has not been with respect to the Corporation, any:
  - (a) material adverse change in any of the assets, business, financial condition, earnings, results of operations or prospects of the Corporation nor has any

other event, condition, or state of facts occurred or arisen which might have a material adverse effect on the assets, business, financial condition, earnings, results of operations or prospects of the Corporation on a consolidated basis;

- (b) amendment or the articles, by-laws, or other constating documents of the Corporation;
- (c) declaration or payment of any dividends or distributions on or in respect of any shares in the Corporation or redemption, retraction, purchase or acquisition of its shares;
- (d) material change in any method of accounting or accounting practice of the Corporation, except as required by IFRS or as disclosed in the notes to the Financial Statements;
- (e) entry into any Contract that would constitute a Material Contract;
- (f) incurrence, assumption or guarantee of any indebtedness for borrowed money except unsecured current obligations and liabilities incurred in the Ordinary Course of business consistent with past practice;
- (g) transfer, assignment, sale or other disposition of any assets shown or reflected in the Financial Statements or cancellation of any debts or entitlements;
- (h) transfer, assignment or grant of any licence or sublicense of any material rights under or with respect to any Corporate IP;
- (i) material damage, destruction or loss (whether or not covered by insurance) to its property;
- (j) any capital investment in, or any loan to, any other Person or entity;
- (k) acceleration, termination, material modification to or cancellation of any Material Contract to which the Corporation is a party or by which it is bound;
- (l) any material capital expenditures;
- (m) imposition of any Encumbrance upon any of the Corporation's properties, shares or assets, tangible or intangible;
- (n) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of its current or former employees, officers, directors, independent contractors or consultants, other than as provided for in any written agreements or required by applicable law; (ii) change in the terms of employment for any employee or any termination of any employees or (iii)

action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, officer, director, independent contractor or consultant;

- (o) adoption, modification or termination of any:
  - (i) employment, severance, retention or other agreement with any current or former employee, officer, director, independent contractor or consultant;
  - (ii) Benefit Plan; or
  - (iii) Collective Agreement or other agreement with a Union, in each case whether written or oral;
- (p) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any of its shareholders or current or former directors, officers and employees;
- (q) entry into a new line of business or abandonment or discontinuance of existing lines of business;
- (r) adoption of any amalgamation, arrangement, reorganization, liquidation or dissolution or the commencement of any proceedings in which the Corporation would acquire the status of a bankrupt or insolvent Person;
- (s) purchase, lease or other acquisition of the right to own, use or lease any property or assets, except for purchases of inventory or supplies in the Ordinary Course of business consistent with past practice;
- (t) acquisition by amalgamation or arrangement with, or by purchase of a substantial portion of the assets or shares of, or by any other manner, any business or any Person or entity;
- (u) action by the Corporation to make, change or rescind any Tax election, amend any Tax Return or take any position on any Tax Return, take any action, omit to take any action or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset or attribute of the Corporation; or
- (v) any Contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

(18) Absence of Undisclosed Liabilities Except to the extent reflected or reserved against in the balance sheet (including the notes thereto) forming part of the Financial Statements and except in respect of normal trade payables arising in the Ordinary Course of the Business, the Corporation has not any outstanding indebtedness or liabilities (whether accrued, absolute, contingent or otherwise) nor any outstanding commitments or obligations of any kind exceeding USD \$2,500.

- (19) Consents Section 3.1(19) of the Disclosure Letter contain a list of every Consent including all amendments thereto. The Corporation has conducted the Business in compliance with, and hold all Consents necessary for the lawful operation of the Business, pursuant to all applicable Laws, all of which Consents are valid and subsisting and in good standing with no violations as of the date of this Agreement. All such Consents are renewable by their terms or in the Ordinary Course of the Business without the need for the Corporation to comply with any special qualification or procedures or to pay any amounts other than routine filing fees. The Vendor has provided a true and complete copy of each Consent and all amendments thereto to the Purchaser.
- (20) Compliance with Laws; Permits
- (a) The Corporation has complied, and the Business is now being conducted in compliance with, all Laws applicable to the Business or to Corporation including the Corporation's production, marketing sales and distribution of its products.
- (b) Section 3.1(20)(b) of the Disclosure Letter lists all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights from Governmental Authorities required by the Corporation to conduct its Business (collectively, the "**Permits**"). The Permits are valid and in full force and effect. All fees and charges with respect to the Permits as of the date hereof have been paid in full. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit.
- (21) Environmental Matters The Corporation is currently and has been in compliance with all environmental Laws. There has been no release, spillage, leaking, emitting, discharging, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate of any hazardous product, waste, toxic substance, contaminant, pollutant or deleterious substance in contravention of environmental Law with respect to the business or assets of the Corporation or any real property currently or formerly owned, operated, controlled or leased by the Corporation.
- (22) Benefit Plans
- (a) Section 3.1(22) of the Disclosure Letter contains a true and complete list of each Benefit Plan.
- (b) With respect to each Benefit Plan, the Vendor has made available to the Purchaser accurate, current and complete copies of each of the following:
- (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments; and



- (ii) where the Benefit Plan has not been reduced to writing, a written summary of all material plan terms.

(23) Employees

- (a) Section 3.1(23)(a) of the Disclosure Letter sets forth the list of employees of the Corporation which indicates: (i) the titles of all employees together with the location of their employment; (ii) the date each employee was hired; (iii) which employees are subject to a written employment agreement with the Corporation; (iv) the annual wage of each employee at the date of such list, any bonuses paid to each employee since the end of the Corporation's last completed financial year and before the date of such list and all other bonuses, incentive schemes, benefits, commissions and other material compensation to which each employee is entitled; (v) the vacation days to which each employee is entitled on the date of such list; and (vi) the employees that are not actively working on the date of this Agreement due to leave of absence, illness, injury, accident or other disabling condition. As of the date hereof, all compensation, including wages, commissions, bonuses and vacation pay, payable to all employees, independent contractors or consultants of the Corporation for services performed on or before the date hereof have been paid in full (or accrued in full in the Financial Statements) and there are no outstanding agreements, understandings or commitments of the Corporation with respect to any compensation, commissions, bonuses or vacation pay.
- (b) The Corporation is not currently, and has not been, a party to any collective agreement, letter of understanding, letter of intent or other written communication or contract with any trade union, association that may qualify as a trade union, council of trade unions, employee bargaining agent or affiliated bargaining agent (each, a "**Union**") which would cover any of the employees (each, a "**Collective Agreement**"). No Union holds bargaining rights with respect to any of the employees including by way of certification, interim certification, voluntary recognition, related employer or successor employer rights, or has applied or threatened to apply to be certified as the bargaining agent of any of the employees.
- (c) The Corporation is and has been in compliance with all applicable Laws pertaining to employment and employment practices, including all Laws relating to labour relations, unfair labour practices, employment discrimination, harassment, pay equity, retaliation, duty to accommodate, disability rights or benefits, immigration, wages, hours, overtime compensation, child labour, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workplace safety and insurance, leaves of absence, unemployment insurance and employment standards. All individuals characterized and treated by the Corporation as independent contractors or consultants are properly treated as independent contractors under all applicable laws. There

are no actions against the Corporation pending, or to Vendor's knowledge, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicant, employee, consultant, volunteer, intern or independent contractor of the Corporation, including any claim relating to unfair labour practices, employment discrimination, harassment, retaliation, pay equity, wages and hours or any other employment related matter arising under applicable Laws.

- (24) Conduct of Business in Ordinary Course Since the Statements Date, the Business has been carried on in the Ordinary Course consistent with past practice. The Business is the only business operation carried on by the Corporation, and the assets owned by the Corporation is sufficient to carry on the Business at the Closing Date.
- (25) Working Capital The amount of Working Capital is greater than the Minimum Working Capital.
- (26) Location of Tangible Personal Property With the exception of inventory in transit, all the tangible assets of the Corporation are situate at the location of the Corporation's premises.
- (27) Condition of Assets All material tangible personal property used by the Corporation in or in connection with the Business or any part thereof is in good operating condition, repair and proper working order, having regard to its use and age, except only for reasonable wear and tear.
- (28) Title to Personal and Other Property The property and assets of the Corporation are owned by the Corporation as the legal and beneficial owner with a good and marketable title, free and clear of all Encumbrances other than the Permitted Encumbrances.
- (29) Absence of Real Property The Corporation does not own or control any real property or real estate assets.
- (30) Litigation There are no Legal Proceedings (whether or not purportedly on behalf of the Corporation) pending or threatened, by or against or affecting the Corporation, at law or in equity, or before or by any Governmental Authority, including, without limitation, to enjoin, restrict or prohibit any of the Transactions or the right of the Corporation to conduct the Business after Closing on substantially the same basis as heretofore conducted. There are no grounds on which any such action, suit or proceeding might be commenced with any reasonable likelihood of success. There is not presently outstanding against the Corporation any judgment, injunction or other order of any Governmental Authority.
- (31) Capital Expenditures The Corporation is not committed to make any capital expenditures, nor have any capital expenditures been authorized by the Corporation at any time since the Statements Date.

- (32) Inventories All inventory, finished goods, raw materials, work in progress, packaging, supplies, parts and other inventories of the Corporation consist of a quality and quantity usable and salable in the Ordinary Course of business. The inventories of Corporation do not include any material items that are slow moving, below standard quality or of a quality or quantity not useable or saleable in the Ordinary Course of the Business, the value of which has not been written down on its books of account to net realizable market value. The inventory levels of Corporation has been maintained at such amounts as are required for the operation of the Business as previously conducted, and to the knowledge of the Vendor such inventory levels are adequate for the Business. The Vendor does not represent or warrant that present inventory levels are or will be satisfactory for all purposes or to fulfill all customer orders, as inventory requirements are both seasonal and unpredictable.
- (33) Accounts Receivable The accounts receivable due or accruing to Corporation reflected in the Financial Statements and all accounts receivable of Corporation arising since the date of the Financial Statements arose from *bona fide* transactions in the Ordinary Course of the Business and are valid, enforceable and fully collectible accounts (subject to a reasonable allowance, consistent with past practice, for doubtful accounts as reflected in the Financial Statements or as previously disclosed in writing to the Purchaser). Such accounts receivable are not subject to any defence, set-off or counterclaim.
- (34) Material Contracts
- (a) Section 3.1(34) of the Disclosure Letter lists each of the following Contracts of the Corporation (such Contracts, together with all Corporate IP Agreements set forth in Section 3.1(35)(a) of the Disclosure Letter, being "**Material Contracts**"):
- (i) all Contracts concerning the occupancy, management or operation of any real property (including any brokerage contracts);
  - (ii) distributor, sales, advertising, agency or manufacturer's representative Contract;
  - (iii) continuing Contract for the purchase of materials, supplies, equipment or services involving more than \$2,500.00 in respect of any such Contract;
  - (iv) employment or consulting Contract or any other Contract with any officer, employee or consultant other than oral Contracts of indefinite hire terminable by the employer without cause on reasonable notice;
  - (v) profit sharing, bonus, stock option, pension, retirement, disability, stock purchase, medical, dental, hospitalization, insurance or similar

plan or agreement providing benefits to any current or former director, officer, employee or consultant;

- (vi) trust indenture, mortgage, promissory note, loan agreement, guarantee or other Contract for the borrowing of money, the provision of financial assistance of any kind or a leasing transaction of a type required to be capitalized, or any Contract creating an Encumbrance relating thereto;
  - (vii) commitment for charitable contributions;
  - (viii) Contract for the sale of any assets, other than sales of inventory to customers in the Ordinary Course of the Business;
  - (ix) Contract pursuant to which the Corporation is a lessor of any machinery, equipment, motor vehicles, office furniture, fixtures or other personal property material to the Business;
  - (x) confidentiality, secrecy or non-disclosure Contract (whether the Corporation is a beneficiary or obligor thereunder) relating to any proprietary or confidential information or any non-competition or similar Contract;
  - (xi) agreement of guarantee, support, indemnification, assumption or endorsement of, or any other similar commitment with respect to, the obligations, liabilities (whether accrued, absolute, contingent or otherwise) or indebtedness of, or any agreement to provide financial assistance of any kind to, any other Person (except for cheques endorsed for collection);
  - (xii) Contract that expires, or may expire if the same is not renewed or extended at the option of any Person other than the Corporation, more than one year after the date of this Agreement;
  - (xiii) Contract with any officer, director, employee, shareholder or any other Person not dealing at arm's length with the Corporation or with Corporation, except for Contracts of employment;
  - (xiv) any other Contract that is material to the Corporation and not previously disclosed in the Disclosure Letter; and
  - (xv) any Contract entered into by Corporation other than in the Ordinary Course of the Business;
- (b) The Corporation has performed all its obligations required to be performed by the Material Contracts and is entitled to all of the benefits under any Material Contract. Each Material Contract is in full force and effect unamended and no default exists on the part of any of the parties

thereto. The Corporation is not in default or in breach of any Material Contract to which it is a party and there exists no condition, event or act which, with the giving of notice or lapse of time or both would constitute such a default or breach and all such Material Contracts are in good standing and in full force and effect unamended and either the Corporation is entitled to all benefits thereunder. The Vendor has provided to the Purchaser a true and complete copy of each Material Contract and all amendments thereto.

(35) Intellectual Property

- (a) Section 3.1(35)(a) of the Disclosure Letter contains a complete and accurate list of all Company Intellectual Property and all other Intellectual Property licensed to or used by the Corporation in carrying on the Business or Corporation's operations, which list indicates whether the Intellectual Property listed is owned, licensed and/or used by the Company and, with respect to unregistered Intellectual Property, the particulars of such Intellectual Property. True and complete copies of all Contracts relating to Intellectual Property disclosed in Section 3.1(35)(a) of the Disclosure Letter have been made available.
- (b) The Corporation is not bound by any outstanding judgment, injunction, order or decree restricting the use of the Company Intellectual Property or restricting the licensing thereof to any Person or entity.
- (c) Section 3.1(35)(b) of the Disclosure Letter contains a complete and accurate list of particulars, including jurisdiction, filing and registration dates, of all registrations and applications for registration (including provisional patent applications) of the Company-Owned Intellectual Property (collectively, "**Company IP Registrations**") and identifies any filings, office action responses, fees, or other actions in respect of any Company IP Registrations that are due within 60 days after Closing. All of the Company IP Registrations have been properly maintained and renewed by the Company in accordance with all applicable Laws and have not been used or enforced, or failed to be used or enforced, in a manner that would result in the abandonment, cancellation or unenforceability of any rights in such Company IP Registrations or the Intellectual Property covered thereby. None of the Company IP Registrations is involved in or subject to any ongoing interferences, oppositions, reissues, re-examinations or other proceedings.
- (d) The Corporation is the sole and exclusive owner of all right, title and interest in and to the Company Intellectual Property, free and clear of all Encumbrances, and the Corporation has valid and enforceable rights to use all the Intellectual Property used by it, including but not limited to, the Company Intellectual Property, in carrying on the Business. The Corporation has taken all reasonable steps to protect its rights in and to the Company-Owned Intellectual Property, in each case in accordance with

industry practice. The Company-Owned Intellectual Property is valid and enforceable throughout the world.

- (e) The operation of the Business, as currently conducted and proposed to be conducted, and the Company Intellectual Property, have not and do not infringe, violate, dilute, misappropriate or otherwise violate the rights, including the intellectual property rights, of any Person or entity. No claims have been asserted, pending or threatened alleging that the conduct of the Business including the use of the Company Intellectual Property (or any other Intellectual Property held or used by the Corporation), infringes, misappropriates or otherwise violates any Intellectual Property of any Person or entity. No claims have been asserted, pending or threatened by any Person or entity with respect to ownership, validity, enforceability, effectiveness or use of the Company Intellectual Property. There are no valid grounds for any such bona fide claims alleging a conflict with or infringement, misappropriation, or other violation of any Intellectual Property of any Person or entity. There is no state of facts that casts doubt on, and no Person nor entity has challenged, the ownership, validity or enforceability of any of the Company Intellectual Property.
- (f) No Person or entity is infringing, misappropriating, diluting or otherwise violating any of the Company Intellectual Property, and neither the Corporation nor any affiliate of the Corporation has made or asserted any claim, demand or notice against any Person or entity alleging any such infringement, misappropriation, dilution or other violation.
- (g) The Company Intellectual Property collectively constitutes all of the Intellectual Property used in, or held for use for by, the Business without: (i) the need for Purchasers to acquire or license any other Intellectual Property; or (ii) the breach or violation of any Contract to which a Company is a party or is otherwise bound. No Company has transferred ownership of, or granted any exclusive rights in, any Company-Owned Intellectual Property to any third party.
- (h) At no time during the conception of or reduction to practice of any of the Company-Owned Intellectual Property was the Corporation or any developer, inventor or other contributor to such Company-Owned Intellectual Property (i) operating under any grants from any governmental entity or agency, university or private source; (ii) performing research sponsored by any governmental entity or agency, university or private source; or (iii) subject to any employment agreement or invention assignment or nondisclosure agreement or other obligation with any third party that could adversely affect a Company's rights in, or give any such third party rights in or to, such Company-Owned Intellectual Property.
- (i) The Corporation has taken all commercially reasonable steps to protect and preserve the confidentiality of all confidential or non-public information of

the Corporation (including trade secrets) or provided by any third party to the Corporation (collectively, “**Company Confidential Information**”). All current and former employees, consultants, advisors and independent contractors of the Corporation and any third-party having access to Company Confidential Information have executed and delivered to the Corporation, as applicable, a written legally binding agreement regarding the protection of such Company Confidential Information. The Corporation has implemented and maintains reasonable security, disaster recovery and business continuity plan consistent with industry practices of companies offering similar services, and acts in compliance therewith and has tested such plans on a periodic basis, and such plans have proven effective upon testing. The Corporation has not experienced any breach of security or other unauthorized access by third parties to the Company Confidential Information, including Personal Information in the Company’s possession, custody or control. There has been no breach by the Corporation nor a breach of any third party’s obligations to the Corporation relating to any Company Confidential Information.

- (j) The Corporation has not granted any options, licenses or agreements of any kind relating to any Company Intellectual Property other than non-exclusive licenses to customers that are entered into in the ordinary course of Business, and the Corporation is not otherwise bound by or a party to any option, license or agreement of any kind with respect to any of the Company Intellectual Property. The Corporation is not obligated to pay any royalties or other payments to third parties with respect to the marketing, sale, distribution, manufacture, license or use of any Company-Owned Intellectual Property or any other property or rights used in the Business.
- (k) None of the execution and performance of this Agreement or the consummation of the transactions contemplated herein will result in: (i) the Corporation or any of its Affiliates, being bound by or subject to, any exclusivity obligations, non-compete or other restriction on the operation or scope of their respective businesses, (ii) the Corporation being obligated to pay any royalties or other material amounts to any third party in excess of those payable by any of them, respectively, in the absence of this Agreement; or (iii) any termination of, or other material impact to, any Company Intellectual Property.
- (l) The Corporation has not agreed to indemnify any Person or entity against infringement, violation, or misappropriation of any Intellectual Property of a third party resulting from that Person's or entity’s use of the Intellectual Property provided by or used by the Corporation.
- (m) All current and former employees, consultants, and contractors whose duties or responsibilities relate to the creation, development or invention of any Intellectual Property have entered into enforceable intellectual property assignment agreements that convey to the Corporation all right, title and

interest that each such Person may possess in and to such Intellectual Property, and each such Person has irrevocably waived in writing any non-assignable rights (including moral rights) that such Person may possess in or to any and all such Intellectual Property. No such Person has claimed an ownership interest in any of the Company-Owned Intellectual Property.

- (n) With respect to all Contracts relating to any Company Intellectual Property to which a Company is a party or bound by, except for Contracts for Third-Party Intellectual Property that is commercially available off-the-shelf software with annual payments of less than USD \$1,000, and without limiting the representations in this Section 3.1(35)(n) hereof (each, a **“Company Intellectual Property Agreement”**):
- (i) each such agreement is listed in Section 3.1(35)(a) of the Disclosure Letter;
  - (ii) each such agreement is valid and subsisting and has, where necessary or desirable, been duly recorded or registered;
  - (iii) the Corporation is (and will not be as a result of the execution and delivery or effectiveness of this Agreement or the performance of such Corporation’s obligations hereunder or thereunder), in breach of any Company Intellectual Property Agreement, and the consummation of the transactions contemplated in this Agreement will not result in the modification, cancellation, termination, suspension of, or acceleration of any payments, rights, obligations or remedies with respect to any Company Intellectual Property Agreements, or give any other party to any Company Intellectual Property Agreement the right to do any of the foregoing;
  - (iv) no counterparty to any Company Intellectual Property Agreement is in breach thereof;
  - (v) at and after the Closing, all of the Corporation’s rights under the Company Intellectual Property Agreements will be permitted to be exercised to the same extent the Corporation would have been able to had the transactions contemplated in this Agreement not occurred and without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments that the Corporation would otherwise be required to pay;
  - (vi) there are no disputes or Proceedings (pending or threatened) regarding the scope of any Company Intellectual Property Agreements, or performance under any Company Intellectual Property Agreements including with respect to any payments to be made or received by the entities thereunder;



- (vii) none of the Company Intellectual Property Agreements or any other Contracts to which the Corporation is a party or is otherwise bound grants any third party exclusive rights to or under any Company-Owned Intellectual Property;
  - (viii) none of the Company Intellectual Property Agreements grants any third party the right to sublicense any Company-Owned Intellectual Property;
  - (ix) the Corporation has obtained valid, written, perpetual, non-terminable (other than for cause) licenses (sufficient for the conduct of its Business) to all third-party Intellectual Property that is incorporated into, integrated or bundled by the Corporation with any products offered in connection with the Business; and
  - (x) no third party that has licensed Intellectual Property to the Corporation has ownership or license rights to improvements or derivative works made by the Corporation in the third-party Intellectual Property that has been licensed to the Corporation.
- (36) Insurance The Corporation has all of its and Corporation's property and assets insured against loss or damage by all insurable hazards or risks on a replacement cost basis and such insurance coverage will be continued in full force and effect to and including the Closing Time. The Vendor has provided all insurance policies (specifying the insurer, the amount of the coverage, the type of insurance, the policy number and any claims) maintained by the Corporation on its and on Corporation's property and assets or personnel as of the date of this Agreement and true and complete copies of the most recent inspection reports, if any, received from insurance underwriters or others as to the condition of the property and assets of the Corporation. The Corporation is not in default with respect to any of the provisions contained in any such insurance policy, nor has failed to give any notice or present any claim under any such insurance policy in a timely fashion, and the Corporation has not received notice from any insurer denying any claim. The Vendor has provided to the Purchaser a true copy of each insurance policy and all amendments.
- (37) Bank Accounts and Powers of Attorney. The Vendor has provided a correct and complete list showing (i) the name of each bank, trust Corporation or similar institution in which the Corporation has an account or safe deposit box, the number or designation of each such account and safe deposit box and the names of all Persons authorized to draw thereon or to have access thereto; and (ii) the names of any Persons holding powers of attorney from the Corporation and a summary of the terms.
- (38) Brokers. Neither the Corporation nor the Vendor has entered into any agreement which would entitle any broker or other agent in connection with the Transactions to any commission, fee or other remuneration. The Vendor shall be solely

responsible for all commissions, fees or other remuneration payable to such broker, and shall indemnify and save harmless the Purchaser in connection with all such remuneration.

(39) Customers and Suppliers. Section 3.1(39) of the Disclosure Letter sets out Corporation's major customers and suppliers and there has been no termination or cancellation of, and no modification or change in, Corporation's business relationship with any major customer, supplier or group of major customers or suppliers since 2013. The benefits of all relationships with the major customers or suppliers of Corporation will continue after the Closing Date in substantially the same manner as prior to the date of this Agreement.

(40) Tax Matters

(a) The Corporation has filed on a timely basis all Tax Returns required to be filed. All such Tax Returns are complete and accurate in all respects. All Taxes due from or payable by the Corporation for periods (or portions thereof) ending on or prior to the Closing Date, have been paid or will be provided for in the Financial Statements. All instalments or other payments on account of Taxes that relate to periods for which Tax Returns are not yet due have been paid on a timely basis. The Corporation is not currently the beneficiary of any extension of time within which to file any Tax Return. Assessments for all other applicable Taxes of the Corporation that are levied by way of assessment have been issued and any amounts owing thereunder have been paid. There are no actions, objections, appeals, suits or other proceedings or claims in progress, pending or threatened by or against the Corporation or by or against Corporation in respect of any Taxes, and in particular there are no currently outstanding assessments or written enquiries which have been issued or raised by any Governmental Authority relating to any such Taxes. No claim has ever been made by a Governmental Authority of any jurisdiction where the Corporation does not file Tax Returns that the Corporation, as the case may be, is or may be subject to taxation by that jurisdiction. There are no Encumbrances pending on or with respect to any of the assets of the Corporation that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) The Corporation has each withheld, collected and paid to the proper Governmental Authorities all Taxes required to have been withheld, collected and paid in connection with (i) amounts paid, credited or owing to any employee, independent or dependent contractor, creditor, shareholder or other third party, and (ii) goods and services received from or provided to any Person.

(c) No steps are being taken by any Governmental Authority to assess any additional Taxes against the Corporation for any period for which Tax Returns have been filed and there are no actual or pending investigations of the Corporation relating to Taxes. The Purchaser has been provided with

correct and complete copies of all Tax Returns of the Corporation, together with any notices of assessment, examination reports or statements of deficiencies assessed against or agreed to by any of the Corporation, for all taxable periods for which the statute of limitations has not yet closed and any correspondence relating thereto.

- (d) The Corporation has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to an assessment or deficiency.
  - (e) At the Closing Time, the unpaid Taxes of the Corporation attributable to all periods (or portions thereof) ending on or prior to the Closing Date will not exceed the reserve for Tax liability set forth in the Financial Statements.
  - (f) Neither the Corporation nor any Vendor (i) is a party to any Tax allocation or sharing agreement, (ii) has been a member of an affiliated, combined or unitary group filing a combined, unitary, or other return for federal, provincial, local or foreign tax purposes reflecting the income, assets, or activities of affiliated companies, or (iii) has any liability for the Taxes of any Person or entity other than the Corporation under any provision of any Law, or as a transferee or successor, or by Contract, or otherwise.
  - (g) The Corporation is not a party to any joint venture, partnership or other arrangement or Contract that could be treated as a partnership for Tax purposes.
- (41) Residency of Vendor The Vendor is a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- (42) Full Disclosure No representation or warranty by Vendor in this Agreement and no statement contained in the Disclosure Letter to this Agreement or any certificate or other document furnished or to be furnished to Purchaser under this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in the light of the circumstances in which they are made, not misleading.

### **3.2 Representations and Warranties of the Purchaser**

The Purchaser hereby makes the following representations and warranties to the Vendor and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and completing the Transactions:

- (1) Incorporation and Existence The Purchaser is a Corporation incorporated and existing under the laws of British Columbia.
- (2) Validity of Agreement

- (a) The Purchaser has all necessary corporate power to own the Purchased Shares. The Purchaser has all necessary corporate power to enter into and perform its obligations under this Agreement and any other agreements or instruments to be delivered or given by it pursuant to this Agreement.
  - (b) The execution, delivery and performance by the Purchaser of this Agreement and the consummation of the Transactions have been duly authorized by all necessary corporate action on the part of the Purchaser.
  - (c) This Agreement or any other agreements entered into pursuant to this Agreement to which the Purchaser is a party constitute legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.
- (3) No Violation The execution and delivery of this Agreement by the Purchaser, the consummation of the Transactions and the fulfilment by the Purchaser of the terms, conditions and provisions hereof will not (with or without the giving of notice or lapse of time, or both):
- (a) contravene or violate or result in a breach or a default under or give rise to a right of termination, amendment or cancellation or the acceleration of any obligations of the Purchaser, under:
    - (i) any applicable Law;
    - (ii) any judgment, order, writ, injunction or decree of any Governmental Authority having jurisdiction over the Purchaser;
    - (iii) the articles, by-laws or any resolutions of the board of directors or shareholders of the Purchaser;
    - (iv) any Consent held by the Purchaser; or
    - (v) the provisions of any Contract to which the Purchaser is a party or by which it is, or any of its properties or assets are, bound.
- (4) Brokers The Purchaser has not engaged any broker or other agent in connection with the Transactions and, accordingly, there is no commission, fee or other remuneration payable to any broker or agent who purports or may purport to have acted for the Purchaser.
- (5) Consents There is no requirement for the Purchaser to make any filing with, give any notice to or obtain any Consent from any Governmental Authority as a condition to the lawful consummation of the Transactions other than obtaining the Exchange Approvals.

## ARTICLE 4- COVENANTS

### 4.1 Conduct of Business Before the Closing

- (1) During the Interim Period, the Vendor shall, and shall cause the Corporation to, operate the Business in the Ordinary Course, and without limiting the generality of the foregoing, do the following:
  - (a) maintain all of the Assets in the same condition as they now exist, ordinary wear and tear excepted;
  - (b) maintain all of the Corporate IP so that it is current, enforceable and in good standing;
  - (c) maintain the Corporation's books, records and accounts in the Ordinary Course;
  - (d) maintain the inventory of the Business in order to continue carrying on the Business in the Ordinary Course;
  - (e) take all action to preserve the Business and the goodwill of the Corporation and its relationships with customers, suppliers, landlords, creditors and others having business dealings with it, to maintain in full force and effect all Material Contracts to which the Corporation is a party, and take all other action reasonably requested by the Purchaser in order that the Business and the condition of the Corporation will not be impaired during the Interim Period;
  - (f) keep available the services of its present officers and employees;
  - (g) ensure that the Corporation performs and complies with all of its contractual obligations under all Contracts and complies with all Consents;
  - (h) ensure that the Corporation does not sell or otherwise dispose of (or pledge as security) any of the Assets, except inventory in the Ordinary Course;
  - (i) maintain Working Capital sufficient to carry on the Business in the Ordinary Course and in no event less than the Minimum Working Capital;
  - (j) ensure that the Corporation does not create any Encumbrance upon any of its Assets, other than in the Ordinary or create any guarantees or otherwise become liable for the obligations of any other Person or make any loans or advances to any Person;
  - (k) ensure that the Corporation does not increase or promise to increase, in any manner, the compensation or employee benefits of any of its directors, officers or employees, or pay or agree to pay to any of its directors, officers or employees any pension, severance or termination amount or other

employee benefit not required by any of the Benefit Plans and programs described in the Disclosure Letter;

- (l) keep in full force and effect all of the current insurance policies of the Corporation;
  - (m) collect and manage Accounts Receivable and pay and manage accounts payable in the Ordinary Course, including not writing off as uncollectible any Accounts Receivable;
  - (n) ensure that the Corporation does not declare or pay any dividends, redeem or repurchase any shares in its share capital or make any other distributions in respect of its shares;
  - (o) take all actions within its reasonable control to ensure that the representations and warranties of the Vendor in Section 3.1 remain true and correct at the Closing Time, with the same force and effect as if such representations and warranties were made at and as of the Closing Time;
  - (p) subject to Laws, confer with the Purchaser concerning operational matters of a material nature; and
  - (q) keep the confidentiality of any non-public, confidential or proprietary information of the Business or Corporation.
- (2) Without limiting the generality of the foregoing, during the Interim Period the Vendor will not, except with the prior written consent of the Purchaser, allow the Corporation to:
- (a) amend or approve any amendment to its articles, by-laws or other constating documents;
  - (b) enter into any agreement with respect to the Business, except agreements made in the Ordinary Course;
  - (c) terminate or waive any right of substantial value to the Business;
  - (d) make any payments of whatsoever nature outside of the Ordinary Course to the Vendor, or any of its Affiliates;
  - (e) make any capital expenditure or commitment to do so;
  - (f) incur any increase in Indebtedness prior to the Closing Time;
  - (g) make any material change with respect to any method of management, operation or accounting in respect of the Business;
  - (h) remove the auditor or any director of the Corporation;

- (i) hire or terminate the employment of: (A) any officer of the Corporation; (B) any employee of the Corporation; or (C) any group of employees;
  - (j) compromise or settle any Legal Proceeding relating to the Assets, the Business or Corporation; or
- (3) authorize, agree, or otherwise commit, whether or not in writing, to do any of the foregoing.

#### **4.2 Purchaser Interim Period Covenants**

During the Interim Period, the Purchaser will not, without the prior written consent of the Vendor amend or approve any amendment to its articles, by-laws or other constating documents.

#### **4.3 Access to Information**

From the date hereof until the Closing, the Vendor shall, and shall cause the Corporation to: (a) afford the Purchaser and its representatives full and free access to and the right to inspect all of the assets, premises, Books and Records, Contracts and other documents and data related to the Corporation; (b) furnish Purchaser and its representatives with such financial, operating and other data and information related to the Corporation as Purchaser or any of its representatives may reasonably request; and (c) instruct the representatives of the Vendor and the Corporation to cooperate with Purchaser in its investigation of the Corporation. Any investigation under this Section 4.2 shall be conducted in such manner and not to interfere unreasonably with the conduct of the Business of the Vendor or the Corporation. No investigation by Purchaser or other information received by Purchaser shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Vendor or the Corporation in this Agreement.

#### **4.4 Satisfaction of Closing Conditions**

The Vendor agrees to use commercially reasonable efforts to ensure that the conditions set forth in Section 5.2, and the Purchaser agrees to use its commercially reasonable efforts to ensure that the conditions set forth in Section 5.4, are fulfilled at or prior to the Closing Time. Each of the Parties agrees to use its commercially reasonable efforts to ensure that the conditions set forth in Section 5.1 are fulfilled at or prior to the Closing Time. The Vendor agrees to use its commercially reasonable efforts to: (i) assist Purchaser obtain the Exchange Approval including by providing all applicable information, including financial information, necessary to complete any filings required by the Exchange including the listing statement; and (ii) cause the Corporation to obtain any necessary approvals or Consents, including shareholder approvals to obtain the Exchange Approval or otherwise complete the Transaction.

#### **4.5 Delivery of Records**

At the Closing Time, the Vendor shall deliver to the Purchaser all the Books and Records of the Corporation. The Purchaser agrees that it will preserve such Books and Records so delivered to it for a period of six years from the Closing Date, or for such longer period as is required by any applicable Law, and will permit the Vendor or its authorized representatives, upon prior written request and at the Vendor's sole cost and expense, reasonable access thereto in connection with the

affairs of Corporation prior to the Closing Time. The Vendor acknowledge and agree that the Purchaser shall not be responsible or liable to the Vendor for or as a result of any loss or destruction of or damage to any such Books and Records.

#### **4.6 Preparation of Tax Returns**

- (1) After the Closing Date, the Purchaser and the Vendor shall cooperate with each other as and to the extent reasonably requested by the other Party in connection with Tax matters relating to the Corporation or the transactions contemplated by this Agreement, including: (i) the preparation and filing of any Tax Returns (including any extensions thereto); (ii) the examination of Tax Returns; (iii) any audit, administrative or judicial proceeding with respect to Taxes assessed or proposed to be assessed.
- (2) Such cooperation will include the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such Tax Return or Tax proceeding and making employees available on a mutually convenient basis to provide additional information with respect to any Tax proceeding and explanation of any material provided under this Agreement.
- (3) The Vendor shall ensure that as of the Closing Date, the Corporation is in possession of all Books and Records relating to Tax matters pertinent to the Corporation relating to any pre-Closing Date tax period.

#### **4.7 Delivery of Closing Date Financial Statements**

- (1) Within 60 days of the Closing Date, the Purchaser shall cause the Corporation to prepare the Closing Date Financial Statements as at the Closing Date, including a closing statement setting out the final Working Capital as at the Closing Date all prepared in accordance with IFRS and applied on a basis consistent with past practice (except that, if past practices are inconsistent with IFRS, then IFRS takes precedence).
- (2) The Vendor will have 15 Business Days from the date they receive the Final Closing Statement to inform the Purchaser in writing of all disagreements (an "**Objection**") with the Final Closing Statements. For greater certainty, only one Objection may be delivered to the Purchaser by the Vendor. If the Purchaser does not receive an Objection within such 15 Business Day period, the Final Closing Statement will be deemed to have been accepted by the Vendor and will become binding upon the Vendor and the Purchaser. If the Vendor delivers an Objection to the Purchaser within such period, the Purchaser and the Vendor shall attempt to resolve and differences within 15 Business Days following the Purchaser's receipt of the Objection. If the Purchaser and the Vendor are unable to come to a resolution with respect to the matters raised in the Objection, the Parties shall promptly refer such matters to an Independent Accountant. The Independent Accountant shall, as promptly as practical (but in any event within 45 days following its appointment), make a determination on the disputed items based solely on written submissions



provided by the Purchaser and the Vendor to the Independent Accountant. The decision of the Independent Accountant as to any disputed items will, absent manifest error, be final and binding upon the Purchaser and the Vendor. The Purchaser and the Vendor shall share equally the fees, costs, and expenses of the Independent Accountant. The Purchaser and the Vendor shall each bear their own costs in preparing their respective cases to the Independent Accountant.

## ARTICLE 5- CONDITIONS OF CLOSING

### 5.1 Conditions to Obligations of All Parties

The obligations of each Party to consummate the Transactions contemplated by this Agreement shall be subject to the fulfillment, at or before the Closing, of each of the following conditions:

- (1) the Exchange Approval shall have been obtained; and
- (2) no Governmental Authority shall have enacted, issued, or promulgated, enforced or entered any issue, order or instrument which is in effect and has the effect of making the Transactions contemplated by this Agreement illegal, or otherwise restraining or prohibiting consummation of such transaction or causing any of the Transactions contemplated hereunder to be rescinded following the completion thereof.

### 5.2 Conditions for the Benefit of the Purchaser

The obligation of the Purchaser to complete the Transactions will be subject to the fulfillment of the following conditions at or prior to the Closing Time:

- (1) Due Diligence The Purchaser is satisfied, in its sole discretion, that the Business is suitable for the Purchaser's requirements following the Purchaser carrying out a due diligence verification of the Business, including by way of example and without limitation:
  - (a) the value and condition of the Business;
  - (b) the terms of all Encumbrances, rights and interests registered against or in respect of the title to the assets of the Business;
  - (c) the overall financial suitability of the Purchaser's proposed purchase of the Business.
- (2) Representations, Warranties and Covenants The representations and warranties of the Corporation and the Vendor made in or pursuant to this Agreement shall be true and accurate at the Closing Time and such representations, warranties and covenants shall continue in full force and effect as provided in Section 8.1. The Vendor shall have complied with all covenants and agreements in this Agreement to be performed or caused to be performed by them at or prior to the Closing Time.

- (3) No Material Adverse Change Except as has been specifically permitted in this Agreement, since the Statements Date there shall not have been:
- (a) any material adverse change in the Business or in any of the assets, financial condition, earnings, results of operations or prospects of the Corporation that has, or is reasonably likely to have, a material adverse effect on the assets, Business, financial condition, earnings, results of operations or prospects of Corporation; or
  - (b) any damage, destruction or loss, or other event, development or condition of any character (whether or not covered by insurance) which would have a material adverse effect on the Business or on the assets, financial condition, earnings, results of operations or prospects of the Corporation.
- (4) No Action to Restrain/No Adverse Law No Law shall have been made, and no action or proceeding shall be pending or threatened, which is likely to result in an order, decision or ruling imposing any limitations or conditions which may have a material adverse effect on the Transactions, the right of the Purchaser to own the Purchased Shares, the Business or the assets, financial condition, earnings, results of operations or prospects of the Corporation on a consolidated basis.
- (5) Consents All filings, notifications and Consents with, to or from Governmental Authorities and third parties, including the parties to the Material Contracts, required to permit the change of ownership of the Purchased Shares contemplated hereby without resulting in the violation of or a default under or any termination, amendment or acceleration of any obligation under any licence, permit, lease, or Material Contract affecting the Business or otherwise adversely affecting the Business, the Corporation, shall have been made, given or obtained on terms acceptable to the Purchaser acting reasonably.
- (6) Deliveries The Vendor shall have delivered to the Purchaser the following in form and substance satisfactory to the Purchaser:
- (a) a certificate of status for the Corporation, or equivalent, dated as of the Closing Date which confirms its organization and good standing in the State of Wisconsin;
  - (b) duly executed resignations, in form and substance reasonably satisfactory to the Purchaser, effective as at the Closing Time for each director and officer of the Corporation specified by the Purchaser;
  - (c) duly executed releases, in form and substance reasonably satisfactory to the Purchaser, effective as at the Closing Time for the Vendor of all claims they may have against the Corporation;
  - (d) share certificates representing the Purchased Shares, free and clear of all Encumbrances, duly endorsed in blank or accompanied by forms of share transfers or other instruments of transfer duly executed in blank;

- (e) all Books and Records of the Corporation and other documents referred to in this Agreement or the Disclosure Letter;
- (f) the Restrictive Covenant Agreements; and
- (g) all documentation and other evidence reasonably requested by the Purchaser in order to establish the due authorization and consummation of the Transactions in accordance with this Agreement, including the taking of all corporate proceedings by the boards of directors and shareholders, of the Corporation required to effectively carry out the obligations of the Vendor and the Corporation pursuant to this Agreement.

### **5.3 Waiver or Termination by the Purchaser**

The conditions contained in Section 5.1 are inserted for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time without prejudice to any of its rights of termination in the event of non-performance of any other condition in whole or in part.

If any of the conditions contained in Section 5.1 are not fulfilled or complied with by the time provided for, the Purchaser may, at or prior to the Closing Time, terminate this Agreement by notice in writing after such time required to the Vendor. In such event the Purchaser shall be released from all obligations in this Agreement and, unless the condition or conditions which have not been fulfilled are reasonably capable of being fulfilled or caused to be fulfilled by the Vendor or the Corporation, then the Vendor shall also be released from all obligations in this Agreement except as set out in Article 8 or Section 10.2.

### **5.4 Conditions for the Benefit of the Vendor**

The obligations of the Vendor to complete the Transactions will be subject to the fulfilment of the following conditions at or prior to the Closing Time:

- (1) Representations, Warranties and Covenants The representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and accurate at the Closing Time and such representations, warranties and covenants shall continue in full force and effect as provided in Section 8.2. The Purchaser shall have complied with all covenants and agreements in this Agreement to be performed or caused to be performed by it at or prior to the Closing Time.
- (2) Deliveries The Purchaser shall have delivered to the Vendor the following in form and substance satisfactory to the Vendor:
  - (a) share certificates, or such other evidence of ownership as is reasonably acceptable to the Vendor, representing the Consideration Shares;
  - (b) all documentation and other evidence reasonably requested by the Vendor in order to establish the due authorization and consummation of the Transactions in accordance with this Agreement, including the taking of all corporate proceedings by the boards of directors, shareholders, and trustees

(as applicable) of the Purchaser required to effectively carry out the obligations of the Purchaser pursuant to this Agreement.

### **5.5 Waiver or Termination by the Vendor**

The conditions contained in Section 5.4 are inserted for the exclusive benefit of the Vendor and may be waived in whole or in part without prejudice to any of their rights of termination in the event of non-performance of any other condition in whole or in part. If any of the conditions contained in Section 5.4 are not fulfilled or complied with by the time provided for, the Vendor may, at or prior to the Closing Time, terminate this Agreement by notice in writing after such time to the Purchaser. In such event the Vendor shall be released from all obligations in this Agreement and, unless the condition or conditions which have not been fulfilled are reasonably capable of being fulfilled or caused to be fulfilled by the Purchaser or the Corporation, then the Purchaser shall also be released from all obligations in this Agreement except as set out in Article 8 or Section 10.2.

## **ARTICLE 6- CLOSING ARRANGEMENTS**

### **6.1 Place of Closing**

Subject to the terms and conditions of this Agreement, the Closing shall take place electronically at the Closing Time, no later than two Business Days after the last of the conditions to Closing set forth in Article 5 have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date) or such other time or on such other date or at such other place as Vendor and Purchaser may mutually agree upon in writing (the day on which the Closing takes place being the "**Closing Date**").

## **ARTICLE 7- INDEMNIFICATION**

### **7.1 Indemnification by the Vendor**

The Vendor shall indemnify and save the Purchaser and its affiliates (including the Corporation) and their respective representatives (each a "**Purchaser Indemnity**" and collectively, the "**Purchaser Indemnities**") harmless for and from:

- (1) all debts and liabilities of the Corporation, including liabilities for any Taxes, existing at the Closing Time and not accrued or reserved for in the Financial Statements, except liabilities accruing or incurred subsequent to the Statements Date in the Ordinary Course of the Business, consistent with past practice and except liabilities disclosed in this Agreement or any Schedule;
- (2) all contingent liabilities which the Corporation becomes obligated to pay and which exist at the Closing Time whether or not disclosed or reflected in the Financial Statements, and whether or not the Vendor or the Corporation, Corporation or any of them have notice thereof or of the facts or circumstances which give rise thereto;
- (3) any assessment for Taxes for any period up to the Closing Date for which no adequate reserve has been provided and disclosed in the Financial Statements;

- (4) any Loss, damages or deficiencies suffered by a Purchaser Indemnity as a result of any breach of representation, warranty or covenant on the part of the Vendor or the Corporation contained in this Agreement or in any certificate or document delivered pursuant to or contemplated by this Agreement;
- (5) any warranty, damage or similar claim made against the Corporation for or arising from defects in any goods, materials, service or workmanship, in each case provided by the Corporation on or prior to the Closing Date for which the Corporation is or is alleged to be liable; and
- (6) all claims, demands, costs and expenses, including reasonable legal fees, in respect of the foregoing.

## **7.2 Indemnification by the Purchaser**

The Purchaser shall indemnify and save the Vendor harmless for and from:

- (1) any Loss, damages or deficiencies suffered by the Vendor as a result of any breach of representation, warranty or covenant on the part of the Purchaser contained in this Agreement or in any certificate or document delivered pursuant to or contemplated by this Agreement; and
- (2) all claims, demands, costs and expenses, including reasonable legal fees, in respect of the foregoing.

## **ARTICLE 8- SURVIVAL**

### **8.1 Survival of Covenants, Representations and Warranties of the Vendor**

To the extent that they have not been fully performed at or prior to the Closing Time, and unless otherwise provided, the covenants, representations and warranties of the Vendor contained in this Agreement and any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement shall survive the Closing and shall continue for the benefit of the Purchaser for a period of 12 months notwithstanding such Closing, nor any investigation made by or on behalf of the Purchaser or any knowledge of the Purchaser, except that:

- (a) The representations and warranties set out in Sections 3.1(1) to and including Section 3.1(8) and in Section 3.1(9), and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Section 5.2(6)(a) shall survive the Closing and continue in full force and effect without limitation of time.
- (b) The representations and warranties set out in Section 3.1(40) and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Section 5.2(6)(b) shall survive the Closing and continue in full force and effect until, but not beyond, the expiration of the period, if any, during which an assessment or other form of recognized document assessing liability for Tax, interest or penalties under Laws applicable to Tax in respect of any taxation year to

which such representations and warranties extend could be issued under such Laws to the Corporation, including any additional period resulting from the Corporation or from Corporation filing a waiver or other document extending such period prior to the Closing.

- (c) A claim for breach of any such representation or warranty, to be effective, must be asserted in writing on or prior to the applicable expiration time set out in this Section 8.1, provided that a claim for any breach of any of the representations and warranties contained in this Agreement or in any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement involving fraud or fraudulent misrepresentations may be made at any time following the Closing Date, subject only to applicable limitation periods imposed by Law.
- (d) No claim for any breach of any of the covenants, representations and warranties contained in this Agreement or in any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement may be made after the applicable expiration time set out in this Section 8.1 notwithstanding that such breach was not objectively discoverable.

## **8.2 Survival of Covenants, Representations and Warranties of the Purchaser**

To the extent that they have not been fully performed at or prior to the Closing Time, and unless otherwise provided, the covenants, representations and warranties of the Purchaser contained in this Agreement and in any agreement, instrument, certificate or other document delivered pursuant to this Agreement shall survive the Closing and shall continue for the benefit of the Vendor for a period of twelve (12) months notwithstanding such Closing, nor any investigation made by or on behalf of the Vendor or any knowledge of the Vendor, except that:

- (a) The representations and warranties set out in Sections 3.2(1) and 3.2(2), and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Section 5.4(1), shall survive the Closing and shall continue in full force and effect without limitation of time.
- (b) A claim for breach of any such representation or warranty, to be effective, must be asserted in writing on or prior to the applicable expiration time set out in this Section 8.2, provided that a claim for any breach of any of the representations and warranties contained in this Agreement or in any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement involving fraud or fraudulent misrepresentations may be made at any time following the Closing Date, subject only to applicable limitation periods imposed by Law.
- (c) No claim for any breach of any of the covenants, representations and warranties contained in this Agreement or in any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement may be made after the applicable expiration time set out in this Section 8.2 notwithstanding that such breach was not objectively discoverable.

## ARTICLE 9 – CONFIDENTIALITY

### 9.1 Confidentiality

- (a) Each Party acknowledges and agrees that each of the Existing Confidentiality Agreements are hereby terminated and of no further force and effect immediately, and no Party shall have any further rights, entitlements, privileges, duties, restrictions, obligations or liabilities thereunder.
- (b) After the Closing, the Vendor shall hold, and shall use all reasonable efforts to cause its Representatives to hold, in confidence any and all Confidential Information concerning the Corporation and the Business, except to the extent that the Vendor can show that such information is generally available to and known by the public through no fault of the Vendor or any of its respective representatives. If the Vendor or any of its Representatives are compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of Law, the Vendor shall: (a) promptly notify the Purchaser in writing of its obligation to disclose; (b) disclose only that portion of information that it is legally required to disclose in the opinion of its legal counsel; and (c) at all times, use reasonable efforts to obtain an appropriate protective order or other reasonable assurance that the Confidential Information will be accorded confidential treatment by all recipients thereof and will not be disclosed to any other Parties except as permitted by this Agreement.

## ARTICLE 10- TERMINATION

### 10.1 Rights of Termination

This Agreement and the obligations of the Parties to complete the Transaction may be terminated on or prior to Closing:

- (a) by the mutual written consent of the Vendor and the Purchaser;
- (b) by the Purchaser if:
  - (i) there has been a material breach of any representation, warranty, covenant or agreement made by the Vendor under this Agreement and such breach has not been waived by the Purchaser or cured by the Vendor within: (A) 10 days of the Vendor's receipt of written notice of such breach from the Purchaser; or (B) 24 hours of the Vendor's receipt of written notice of such breach from the Purchaser where the Purchaser acquires actual knowledge of the breach within 10 days of Closing; or
  - (ii) any of the conditions set out in Section 5.1 or 5.2 have not been fulfilled by the Outside Date unless such failure is due to the Purchaser's failure to perform or comply with any of the covenants,

agreements or conditions to be performed or complied with by the Purchaser before the Closing Date;

(c) by the Vendor if:

- (i) there has been a material breach of any representation, warranty, covenant or agreement made by the Purchaser under this Agreement and such breach has not been waived by the Vendor or cured by the Purchaser within 10 days of the Purchaser's receipt of written notice of such breach from the Vendor; or
- (ii) any of the conditions set out in Section 5.4 have not been fulfilled by the Outside Date unless such failure is due to the Vendor or the Principals' failure to perform or comply with any of the covenants, agreements or conditions to be performed or complied with by them before the Closing Date;

(d) by the Vendor or the Purchaser if:

- (i) any Governmental Authority of competent jurisdiction has threatened to issue or issued any Law, permanent injunction, order, decree, ruling or other action that prohibits or restrains the consummation of the transactions contemplated by this Agreement; or
- (ii) the Closing has not occurred by the Outside Date, except however, the right to terminate this Agreement pursuant to this Section 10.1(d)(ii) will not be available to any Party if such Party's failure to fulfill any obligation under this Agreement causes the Closing Date to not occur prior to the Outside Date.

## **10.2 Effect of Termination**

If this Agreement is terminated pursuant to Section 10.1, all obligations of the Parties under this Agreement will terminate, except that each Party's obligations under Sections 9.1 (Confidentiality), 11.4 (Expenses), 11.16 (Enurement) and Article 7 (Indemnification) will survive any termination of this Agreement. Termination of this Agreement pursuant to Section 10.1 will not limit or impair any remedies and indemnities that any Party may have with respect to a breach, default or non-fulfillment by any other Party of its representations, warranties, covenants, conditions or obligations under this Agreement.

## **ARTICLE 11- GENERAL**

### **11.1 Notices**

Any notices, requests for consents or other communications in relation to this Agreement shall be made in writing and addressed to the applicable party at the address set forth below, or to such other address as a Party may designate to the others in writing in accordance with this Section



11.1. Any such notice or other communication shall be deemed received upon sending a properly-addressed email or upon personal delivery, confirmed facsimile delivery or on the second day after delivery by a reputable courier:

To the Purchaser or the Corporation:

**EMERGENCE GLOBAL ENTERPRISES INC.**

14 Centre Street

Essex, Ontario N8M 1N9

ir@emergenceglobalinc.com

To the Vendor: to the address set forth in the signature page.

## **11.2 Legal Representation**

The Corporation and the Vendor hereby acknowledges that: (a) it has read this Purchase Agreement, the Disclosure Letter and all Schedules hereto; (b) it understands that the Purchaser has been represented in the preparation, negotiation, and execution of this Agreement by Bennett Jones LLP, counsel to the Purchaser; (c) it has been advised to engage legal counsel to obtain legal advice in connection with the preparation, negotiation, and execution of this Agreement and the consummation of the transactions contemplated hereunder; (d) it has not engaged legal counsel for the purposes of the foregoing and is proceeding at its own risk without the benefit of legal advice in connection with the preparation, negotiation, and execution of this Agreement and the consummation of the transactions contemplated hereunder.

## **11.3 Assignment by Purchaser**

The Purchaser may assign its rights under this Agreement in whole or in part to any other Person; provided, however, that any such assignment shall not relieve the Purchaser from any of its obligations hereunder. The Vendor may not assign its rights under this Agreement.

## **11.4 Best Efforts**

The Parties acknowledge and agree that, for all purposes of this Agreement, an obligation on the part of any Party to use its "best efforts" to obtain any waiver, Consent or other document shall not require such Party to make any payment to any Person for the purpose of procuring the same, other than payments for amounts due and payable to such Person, payments for incidental expenses incurred by such Person and payments required by any applicable law or regulation.

## **11.5 Announcements**

No public announcement or press release relating to this Agreement or the Transaction will be made by any Party without the prior and joint approval of the other Parties as to the content, timing and manner of such public announcement or press release unless such public announcement or press release is required by Law, in which case the disclosing party shall use reasonable efforts to provide prior notice to the other Parties and an opportunity for the other Parties to review and comment on the content, timing, manner and extent of disclosure.

## **11.6 Expenses**

Unless otherwise provided, the Vendor and the Purchaser shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by them, respectively, in connection with the negotiation and settlement of this Agreement and the completion of the Transactions. In the event of termination of this Agreement, the obligation of each Party to pay its own expenses will be subject to any rights of such Party arising from a breach of this Agreement by another Party.

## **11.7 Further Assurances**

Each of the Parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Parties may reasonably require from time to time after Closing at the expense of the requesting Party for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement and of the Transactions contemplated hereby.

## **11.8 No Shop**

As and from the date hereof until the earlier of the Outside Date and the date that this Agreement is terminated in accordance with its terms, the Vendor shall not enter into negotiations with, accept or solicit any offer from or enter into any other agreement or understanding with any other Person relating to: (a) the sale of any of the shares of the Corporation or Assets of the Corporation or its Business or any part thereof; (b) the issue of any shares, options or other securities of the Corporation; or (c) the entering into of any joint venture, partnership, merger, arrangement or similar transaction.

## **11.9 Governing Law**

This Agreement is made pursuant to the laws of the Province of Ontario, and the federal laws of Canada applicable therein, and shall be construed, interpreted and performed in accordance therewith.

## **11.10 Time of Essence**

Time shall be of the essence of this Agreement.

## **11.11 Currency**

Unless otherwise indicated, all dollar amounts referred to in this Agreement are in funds of the United States of America.

## **11.12 Entire Agreement**

This Agreement and the Disclosure Letter set forth the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior written, oral or electronic communications relating to this subject matter.

### **11.13 Remedies Cumulative**

The rights and remedies of the Parties under this Agreement are cumulative and in addition and without prejudice to and not in substitution for any rights or remedies provided by Law. Any single or partial exercise by any Party of any right or remedy for default or breach of any term, covenant, obligation or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

### **1.5 Third-Party Beneficiaries**

Except as specifically provided for herein, nothing in this Agreement, express or implied, is intended to confer upon any Person, other than the Parties and, as applicable, their respective successors, permitted assigns, heirs, administrators and legal representatives, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

### **11.14 Waiver**

No waiver of any default, breach or non-compliance under this Agreement will be effective unless in writing and signed by the Party to be bound by the waiver. No waiver will be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Parties. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

### **11.15 Amendments**

This Agreement may only be modified in writing, signed by the Parties, and no waiver of compliance with any provision or condition, and no consent provided for in this Agreement, shall be effective unless in writing, duly executed by the Party sought to be charged with such waiver or consent.

### **11.16 Severability**

If any arbitrator or court of competent jurisdiction determines any provision of this Agreement or portion thereof to be illegal, invalid or unenforceable that provision or portion thereof will be severed from this Agreement without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

### **11.17 Enurement**

The provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and, in the event of an assignment, upon their respective successors and assigns.

### **11.18 Counterparts**

This Agreement may be executed in counterparts, or by electronic means, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

### **11.19 Non-Merger**

Except as otherwise expressly provided in this Agreement, the covenants, representations and warranties and other provisions contained in this Agreement will not merge on but will survive Closing. Closing will not prejudice any right of one Party against any other Party in respect of anything done or omitted under this Agreement or in respect of any right to damages or other remedies.

**[The Remainder of This Page is Intentionally Left Blank. Signature Page Follows.]**

IN WITNESS WHEREOF this Agreement has been executed by the Parties as of the date firstset out above.

**EMERGENCE GLOBAL ENTERPRISES INC.**

Per: Joseph Byrne

Name: Joseph Byrne

Title: Chief Executive Officer

I have authority to bind the company.

**PRODYNN DISTRIBUTION, LLC**

Per: Jeffrey Hoffman  
Jeffrey Hoffman (Mar 5, 2021 09:37 CST)

Name: Jeffrey Hoffman

Title: Managing Member

I have authority to bind the company.

Jeff Hoffman an individual resident located at Appleton, Wisconsin

Jeffrey Hoffman  
Jeffrey Hoffman (Mar 5, 2021 09:37 CST)

*Jeff Hoffman Signature*

Brian S. Payne  
Brian S. Payne (Mar 5, 2021 10:50 EST)

*Witness Signature*

Brian S. Payne

*Witness Name*

## SCHEDULE 1

### List of Website Domains to be Transferred

<https://wholesale.fitnessone.com/welcome.php>

<https://www.fitnessone.com/index.php>

<http://www.24hoursupplements.com/>

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