
THE SECOND CUP LTD.

- and -

SPE FINANCE LLC

- and -

**21187769 ONTARIO INC., 22087742 ONTARIO INC.,
2208744 ONTARIO INC. AND FRUZER INC.**

- and -

**MICHAEL SERRUYA,
AS THE INVESTORS' REPRESENTATIVE**

INVESTMENT AGREEMENT

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INVESTMENT AGREEMENT

THIS AGREEMENT made this 31st day of July, 2017.

BETWEEN:

THE SECOND CUP LTD., a corporation amalgamated under the Laws of the Province of Ontario (the “**Corporation**” or “**Second Cup**”)

- and -

SPE FINANCE LLC, a limited liability company formed under the Laws of the State of Delaware (“**SPE**”)

- and -

2188769 ONTARIO INC., a corporation incorporated under the Laws of the Province of Ontario (“**MichaelCo**”)

- and -

22087742 ONTARIO INC., a corporation incorporated under the Laws of the Province of Ontario (“**SimonCo**”)

- and -

2208744 ONTARIO INC., a corporation incorporated under the Laws of the Province of Ontario (“**JacquesCo**”)

- and -

FRUZER INC., a corporation incorporated under the Laws of the Province of Ontario (“**AaronCo**”)

- and -

MICHAEL SERRUYA, solely in his capacity as the Investors’ Representative (the “**Investors’ Representative**”).

RECITALS:

- A. The Corporation and Bank of Nova Scotia (“**BNS**”) were party to that certain third amended and restated credit agreement dated as of January 1, 2011 (as the same was amended on June 12, 2012, November 30, 2012, September 26, 2013, February 23, 2015 and on December 14, 2015 (collectively, the “**Original Credit Agreement**”));
- B. BNS assigned and sold to SPE all of its right, title and interest in and to the Original Credit Agreement, and the obligations outstanding thereunder (the Original Credit

Agreement as so assigned, the “**Assigned Credit Agreement**”), and all of its right, title and interest in and to the security documents and other loan documents delivered in connection therewith (collectively, the “**Credit Documents**”), pursuant to an assignment and assumption agreement dated as of December 2, 2016.

- C. Concurrently with the assignment of the Assigned Credit Agreement, the Corporation and SPE entered into a fourth amended and restated credit agreement dated as of December 2, 2016 (the “**Credit Agreement**”), amending and restating in its entirety, without novation, the Assigned Credit Agreement and all obligations outstanding thereunder.
- D. Immediately prior to Closing (as defined herein), SPE will assign (directly or indirectly through its Affiliates) to each of the Investors on a pro rata basis (the “**Pre-Closing Assignment**”) (i) the right to receive payment of the aggregate principal amount of \$8,000,000 owing under the Credit Agreement and the other Credit Documents (the “**Principal Receivable**”) and (ii) the SPE Warrants (as defined herein).
- E. In exchange for, and in full and final satisfaction of, each Investor’s pro rata portion of the Principal Receivable, each Investor wishes to purchase from the Corporation, and the Corporation wishes to issue on the Transaction Closing Date (as defined herein) to each of the Investors, the number of Purchased Shares (as defined herein) set forth opposite the name of each Investor on Exhibit A hereto, all on the terms and conditions set out in this Agreement.
- F. In connection with the Debt Exchange (as defined herein), and the Investors’ subsequent ownership in the Corporation contemplated hereby, the Parties have agreed to the additional covenants, representations, warranties and indemnities set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants in this Agreement and for other consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

ARTICLE 1

INTERPRETATION

1.1 Defined Terms.

For the purpose of this Agreement, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

- (a) “**AaronCo**” has the meaning given to that term in the preamble to this Agreement;
- (b) “**Affiliate**” means, with respect to a specified Person, any other Person that such specified Person directly or indirectly Controls, is Controlled by, or is under common Control with; provided, that, for greater certainty, (i) the Corporation is

not an Affiliate of SPE or any of the Investors, (ii) SPE is not an Affiliate of the Corporation or any of the Investors, and (iii) none of the Investors is an Affiliate of the Corporation, SPE or any other Investor;

- (c) “**Announcement Date**” has the meaning given to that term in Section 6.2(a);
- (d) “**Applicable Securities Laws**” means, collectively, all applicable securities Laws of each of the Reporting Jurisdictions and the respective rules and regulations under such Laws together with applicable published instruments, notices and orders of the securities regulatory authorities in the Reporting Jurisdictions, and the rules and policies of the TSX and any other market or marketplace on which securities of Second Cup are traded, listed or quoted;
- (e) “**Assigned Credit Agreement**” has the meaning given to that term in Recital B;
- (f) “**Audited Financial Statements**” has the meaning given to that term in Section 3.14;
- (g) “**BNS**” has the meaning given to that term in Recital A;
- (h) “**Board**” means the board of directors of the Corporation as the same is constituted from time to time;
- (i) “**Business Day**” means any day other than a Saturday, Sunday or statutory or civic holiday in the city of Toronto;
- (j) “**Cancelled SPE Warrants**” has the meaning given to that term in Section 6.5(a);
- (k) “**Closing**” means the completion of the transactions contemplated herein on the Transaction Closing Date;
- (l) “**Common Shares**” means the common shares of the Corporation;
- (m) “**Completion Deadline**” means September 30, 2017, or such earlier or later date as may be agreed to by the Parties;
- (n) “**Control**” means that a Person has the power to direct or cause the direction of the management and policies of another Person, whether through holding beneficial ownership interest in such other Person, through contract or otherwise;
- (o) “**Convertible Securities**” means the SPE Warrants, and all rights, agreements, options or debt instruments, or any right or privilege capable of becoming a right, agreement or option, for the purchase, subscription or issuance of Common Shares or any other security convertible into or exchangeable for Common Shares;

- (p) “**Corporation**” or “**Second Cup**” have the meaning given to such terms in the preamble to this Agreement;
- (q) “**Corporation Securities**” means, collectively, Common Shares and Convertible Securities;
- (r) “**Credible Bid**” means any take-over bid (including an amended take-over bid) other than a take-over bid (i) that the Board has determined in good faith, after consultation with its financial and legal advisors, that such bid (and each material amendment thereto) is not reasonably capable of being completed in accordance with its terms, and (ii) in respect of which the Corporation has publicly announced the Board’s conclusion as contemplated in the preceding clause (i) via news release no later than ten Business Days following the date on which such take-over bid is commenced or the intention to make such take-over bid (together with the material terms of the bid) is publicly announced;
- (s) “**Credit Agreement**” has the meaning given to that term in Recital C;
- (t) “**Credit Documents**” has the meaning given to that term in Recital B;
- (u) “**Debt Exchange**” has the meaning given to that term in Section 2.2.
- (v) “**distribution**” means a distribution for the purposes of Applicable Securities Laws or any of them;
- (w) “**Disclosure Documents**” means all press releases, material change reports, information circulars, annual information forms, financial statements, business acquisition reports, prospectuses and other documents that have been filed by the Corporation with applicable securities regulatory authorities pursuant to Applicable Securities Laws from January 1, 2017 through to present and which are available to the public at www.sedar.com;
- (x) “**Effective Time**” means 10:00 a.m. (Toronto time) on the Transaction Closing Date;
- (y) “**Governmental Entity**” means any (i) multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, ministry, central bank, court, tribunal, arbitral body, bureau or agency, domestic or foreign, (ii) subdivision, agent, commission, board, or authority of any of the foregoing, or (iii) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, including any stock exchange or self-regulatory authority and, for greater certainty, the Securities Commissions and the TSX;
- (z) “**Interim Financial Statements**” has the meaning given to that term in Section 3.14;

- (aa) “**Investors**” means, collectively, MichaelCo, SimonCo, JacquesCo and AaronCo, and “**Investor**” means any one of them, as the context requires;
- (bb) “**Investors’ Entitlement**” has the meaning given to that term in Section 6.2(a)(iv);
- (cc) “**Investors’ Representative**” has the meaning given to that term in the preamble to this Agreement;
- (dd) “**Investor Warrants**” has the meaning given to that term in Section 6.5(b);
- (ee) “**IFRS**” means International Financial Reporting Standards as issued by the International Accounting Standards Board;
- (ff) “**Issuance**” has the meaning given to that term in Section 6.2(a);
- (gg) “**JacquesCo**” has the meaning given to that term in the preamble to this Agreement;
- (hh) “**knowledge of the Corporation**” means the knowledge of the Corporation after reasonable inquiry;
- (ii) “**Law**” or “**Laws**” means any applicable domestic or foreign federal, provincial, regional, local, municipal or other law, statute, constitution, principle of common law, resolution, ordinance, proclamation, directive, code, edict, instrument, order, policy, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Entity;
- (jj) “**Liability**” means, with respect to any Person, any liability or obligation of such Person, of any kind, character or description, whether known or unknown, whether asserted or unasserted, whether executory, determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether disputed or undisputed, whether disclosed or undisclosed, whether incurred or consequential, whether secured or unsecured, joint or several, vested or unvested, whether due or to become due, whether choate or inchoate and whether or not required under IFRS to be accrued on the financial statements of such Person and regardless of whether such debt, duty or liability is immediately due and payable, and including all costs and expenses related thereto;
- (kk) “**Liens**” means any encumbrance or title defect of whatever kind or nature, regardless of form, whether or not registered or registrable, whether or not consensual or arising by Law (statutory or otherwise) and whether or not contingent or absolute, including any mortgage, lien, charge, pledge or security interest, whether fixed or floating, or any assignment, lease, option, right of pre-emption, privilege, encumbrance, easement, servitude, right of way, restrictive covenant, right of use or any other right or claim of any kind or nature whatever

which affects ownership or possession of, or title to, any interest in, or the right to use or occupy any property or assets;

- (ll) “**Material Adverse Effect**” means any one or more events, changes, circumstances, facts, or states of being which could in either case, either individually or in the aggregate, reasonably be expected to have a significant and adverse effect on the assets, liabilities (absolute, accrued, contingent or otherwise), affairs, business, capital, condition (financial or otherwise), contractual arrangements, operations, permits or properties of Second Cup taken as a whole, including a material change and a material fact, provided that it shall not include any such event, change or effect resulting from: (i) the announcement of the execution of this Agreement or the transactions contemplated herein or the performance of the covenants and obligations herein; (ii) any action taken by the Corporation at the request of SPE or as required under this Agreement, or the failure to take any action prohibited by this Agreement; (iii) changes in the U.S. or Canadian economy or securities or currency markets in general, except where any such change has a materially disproportionate effect on the Corporation; (iv) changes in Laws (other than orders, judgments decrees against that the Corporation) or in IFRS, except where any such change has a materially disproportionate effect on the Corporation; (v) any natural disaster, except where any such natural disaster has a materially disproportionate effect on the Corporation; or (vi) any decrease in the market price or any decline in the trading volume of Common Shares on the TSX (it being understood, however, that any event, change or effect causing or contributing to any such decreases in market price may constitute a Material Adverse Effect and may be taken into account in determining whether a Material Adverse Effect has occurred);
- (mm) “**material change**” has the meaning ascribed thereto in the Securities Act;
- (nn) “**material fact**” has the meaning ascribed thereto in the Securities Act;
- (oo) “**MichaelCo**” has the meaning given to that term in the preamble to this Agreement;
- (pp) “**misrepresentation**” means a misrepresentation for the purposes of Applicable Securities Laws or any of them;
- (qq) “**OBCA**” means the *Business Corporations Act* (Ontario);
- (rr) “**Offer**” has the meaning given to that term in Section 6.2(a);
- (ss) “**Offered Securities**” has the meaning given to that term in Section 6.2(a);
- (tt) “**Offering**” has the meaning given to that term in Section 6.2(a);
- (uu) “**Original Credit Agreement**” has the meaning given to that term in Recital A;
- (vv) “**Parties**” means the parties to this Agreement and “**Party**” means one of them;

- (ww) “**Person**” means an individual, body corporate with or without share capital, partnership, joint venture, unincorporated association, syndicate, sole proprietorship, trust, pension fund, union, governmental agency, board, tribunal, ministry, commission or department and the heirs, beneficiaries, executors, legal representatives or administrators of an individual;
- (xx) “**Pre-Closing Assignment**” has the meaning given to that term in Recital D;
- (yy) “**Principal Receivable**” has the meaning given to that term in Recital D;
- (zz) “**Purchased Shares**” has the meaning set out in Section 2.1;
- (aaa) “**Remaining Warrants**” has the meaning given to that term in Section 6.5(a);
- (bbb) “**Reporting Jurisdictions**” means all of the provinces and territories of Canada;
- (ccc) “**Securities Act**” means the *Securities Act* (Ontario), as amended;
- (ddd) “**Securities Commissions**” means the applicable securities commission or regulatory authority in each of the Reporting Jurisdictions;
- (eee) “**Shareholders**” means the holders of Common Shares;
- (fff) “**SimonCo**” has the meaning given to that term in the preamble to this Agreement;
- (ggg) “**SPE**” has the meaning given to that term in the preamble to this Agreement;
- (hhh) “**SPE Warrants**” means the 600,000 Common Share purchase warrants issued by the Corporation to SPE, each of which is exercisable for one Common Share at an exercise price of \$2.75 with an expiry date of December 2, 2020;
- (iii) “**Transaction Closing Date**” means 10 Business Days following the date on which the conditions to Closing set forth in Sections 7.1 and 7.2 have been satisfied or waived by the applicable Party or Parties, as the case may be, or such other date as may be mutually agreed upon by the Corporation and SPE, but in any event no later than the Completion Deadline;
- (jjj) “**TSX**” means the Toronto Stock Exchange;
- (kkk) “**U.S. Person**” has the meaning set out in Rule 902(k) of Regulation S under the U.S. Securities Act; and
- (lll) “**U.S. Securities Act**” means the United States Securities Act of 1933, as amended.

1.2 Currency.

Unless otherwise indicated, all dollar amounts referred to in this Agreement are expressed in Canadian dollars.

1.3 Sections and Headings.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section or a Schedule refers to the specified Article or Section of, or Schedule to, this Agreement.

1.4 Including.

Where the word “**including**” or “**includes**” is used in this Agreement, it means “**including (or includes) without limitation**”.

1.5 Number, Gender and Persons.

In this Agreement, words importing the singular number only shall include the plural and *vice versa*, words importing gender shall include all genders and words importing Persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities.

1.6 Entire Agreement.

This Agreement, together with the agreements and other documents herein or therein referred to constitute the entire agreement and understanding between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect to the subject matter hereof, and there are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided in this Agreement or the agreements and other documents herein or therein referred to.

1.7 Applicable Law.

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the Laws of the Province of Ontario and the federal Laws of Canada applicable therein, and each of the Parties hereby irrevocably attorns to the jurisdiction of the courts of the Province of Ontario in connection with any matter arising out of or in connection with, or otherwise relating to, this Agreement and the transactions contemplated hereby.

1.8 Appointment of Investors’ Representative.

- (a) For administrative convenience only, each Investor hereby designates and appoints the Investors’ Representative as its agent and attorney-in-fact, such

designation and appointment being coupled with an interest, with full power of substitution for such Investor, to:

- (i) give and receive all notices and communications on behalf of such Investor hereunder or in connection herewith; and
 - (ii) take all actions as are necessary or appropriate in the judgement of the Investors' Representative in connection with any of the foregoing.
- (b) The Investors may replace the Investors' Representative by written notice delivered by all of the Investors to the Corporation.
 - (c) A notice to or from the Investors' Representative shall constitute notice to or from any applicable Investor.
 - (d) The Corporation may rely upon any notice or communication from the Investors' Representative on behalf of the Investors as being a notice or communication of each Investor. The Corporation is hereby relieved from any liability to any Investor for any acts taken by the Corporation in accordance with such notice or communication of the Investors' Representative.
 - (e) The Investors shall indemnify and hold harmless the Investors' Representative from and against all claims, losses, damages, reasonable costs, penalties, fines and reasonable expenses (including reasonable expenses of the Investors' Representative's legal counsel) which, without fraud, negligence, recklessness, willful misconduct or bad faith on the part of the Investors' Representative, may be paid, incurred or suffered by the Investors' Representative by reason, or as a result, of the performance by the Investors' Representative of its obligations hereunder.

ARTICLE 2

INVESTMENT TRANSACTIONS

2.1 Issue and Sale of Purchased Shares.

- (a) Subject to the terms and conditions hereof, the Corporation covenants and agrees to sell to the Investors, and the Investors covenant and agree to purchase from the Corporation immediately following the Pre-Closing Assignment, an aggregate of 4,210,528 Common Shares (the "**Purchased Shares**") at a purchase price of \$1.90 per Purchased Share, which shall be satisfied in its entirety by the Debt Exchange as set out in Section 2.2.
- (b) The Corporation will issue to each of the Investors on the Transaction Closing Date the number of Purchased Shares set forth opposite the name of each Investor on Exhibit A hereto.

2.2 Debt Exchange.

In full and final satisfaction of the Principal Receivable, the Investors hereby agree to accept and the Corporation hereby agrees to issue to the Investors at the Closing, the Purchased Shares (the “**Debt Exchange**”). SPE agrees that immediately upon receipt by the Investors of the Purchased Shares: (a) all indebtedness of the Corporation under the Credit Agreement and the other Credit Documents shall be fully and finally satisfied and discharged; (b) all unfunded commitments of SPE to make loans or otherwise extend credit to the Corporation under the Credit Agreement (if any) shall be terminated; (c) all other obligations of the Corporation and SPE under or relating to the Credit Agreement and the other Credit Documents shall terminate and be released and discharged; (d) the Credit Agreement, the Credit Documents and all documents related thereto, including any security documents, shall terminate and have no further force or effect; and (e) all of the security interests, hypothecs, liens, charges and mortgages on the assets of the Corporation pledged as collateral under the Credit Agreement and the other Credit Documents shall terminate and be released and discharged.

2.3 Place of Closing.

The Closing shall take place at the offices of Goodmans LLP, counsel to Second Cup, at 333 Bay Street, Suite 3400, Toronto, Ontario M5H 2S7.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE CORPORATION

The Corporation represents and warrants to, and covenants and agrees with, SPE and the Investors as set out below and acknowledges that SPE and the Investors are relying on such representations, warranties, covenants and agreements in connection with the transactions contemplated by this Agreement.

3.1 Incorporation and Organization.

The Corporation has been duly incorporated and organized and is a valid and subsisting corporation under the Laws of its jurisdiction of existence and has all requisite corporate power and capacity to carry on its business as now conducted or proposed to be conducted and to own or lease and operate the property and assets thereof.

3.2 Extra-Provincial Registration.

The Corporation is licensed, registered or qualified as an extra-provincial corporation or foreign corporation, as the case may be, in all jurisdictions where the character of the property or assets thereof owned or leased or the nature of the activities conducted by it make such licensing, registration or qualification necessary and is carrying on the business thereof in material compliance with all Laws, rules and regulations of each such jurisdiction.

3.3 Authorized Capital.

The Corporation's authorized share capital consists of an unlimited number of Common Shares, and as at the date of this Agreement there are 12,830,945 Common Shares issued and outstanding as fully paid and non-assessable shares. All of such Common Shares have been duly and validly authorized and issued, in compliance with Laws and not in violation of or subject to any pre-emptive or similar right that entitles any Person to acquire from the Corporation any Common Shares or other security of the Corporation or any security convertible into, or exercisable for, Common Shares or any other such security.

3.4 Listing.

The Common Shares are listed and posted for trading on the TSX and the Corporation, as soon as practicable following the signing of this Agreement, shall make application so that at the time of issuance the Purchased Shares will have been conditionally approved for listing on the TSX, subject only to standard post-closing listing conditions required by the TSX and specified in the TSX's conditional acceptance.

3.5 Certain Securities Law Matters.

The Corporation is a reporting issuer or the equivalent only in the Reporting Jurisdictions and is not noted as being in default of any material requirement of Applicable Securities Laws. The Corporation is not a reporting company (or the equivalent) under the securities Laws of the United States.

3.6 Rights to Acquire Securities.

Except for (i) the SPE Warrants, (ii) options, restricted stock units and director stock units and warrants to purchase up to an aggregate of 423,290 Common Shares, and (iii) as contemplated in this Agreement, no Person now has, or will immediately following the Transaction Closing Date have, any agreement, option, right or privilege (whether pre-emptive, contractual or otherwise) capable of becoming an agreement or option for the purchase, acquisition, subscription for or issue of any Common Shares or other securities of the Corporation.

3.7 No Pre-emptive Rights.

The issue of the Purchased Shares will not be subject to, trigger or otherwise give rise to any pre-emptive right or other contractual or other right to purchase securities granted by the Corporation or to which the Corporation is subject.

3.8 Issue of Purchased Shares.

Prior to the Effective Time, all necessary corporate action shall have been taken to authorize the issue and sale of the Purchased Shares and the delivery of certificates representing the Purchased Shares. At the Effective Time and upon payment of the requisite consideration therefor pursuant to the Debt Exchange, the Purchased Shares will be validly issued as fully paid and non-assessable Common Shares, free and clear of all Liens, and will have been issued in

compliance with all Laws and not in violation of or subject to any pre-emptive or similar right that entitles any Person to acquire from the Corporation any Corporation Securities. The portion of the Purchased Shares issued to each Investor will, upon issuance, represent approximately 6.18% of the issued and then outstanding Common Shares, calculated on an undiluted basis.

3.9 Consents, Approvals and Conflicts.

None of the offering and sale of the Purchased Shares, the execution and delivery of this Agreement, the compliance by the Corporation with and performance of its obligations under the provisions of this Agreement or the consummation of the transactions contemplated herein and therein including the issue of the Purchased Shares, do or will (i) require the consent, approval, authorization, order or agreement of, or registration, filing or qualification with, any Governmental Entity or other Person, except such as may be required under the policies of the TSX and will be obtained by the Transaction Closing Date, or (ii) conflict with or result in any breach or violation of any of the provisions of, or constitute a default under or create a state of facts which, after notice or lapse of time or both, will result in any breach or violation of or default under, any indenture, mortgage, deed of trust, lease or other material agreement or instrument to which the Corporation is a party or by which any of the material properties or assets thereof is bound, or the notice of articles, articles or by-Laws or any other constating document of the Corporation or any resolution passed by the directors (or any committee thereof) or Shareholders, or any Laws applicable to the Corporation or any of the material properties or assets thereof.

3.10 Authority and Authorization.

The Corporation has all requisite corporate power and capacity to enter into and deliver this Agreement and to do all acts and things, and execute and deliver all documents as are required hereunder to be done, observed, performed or executed and delivered by the Corporation in accordance with the terms hereof and the Corporation and Shareholders have taken all necessary action to authorize the execution and delivery of, and performance of the Corporation's obligations under, this Agreement and to observe and perform its obligations under this Agreement in accordance with the provisions hereof, including the issue of the Purchased Shares.

3.11 Validity and Enforceability.

This Agreement has been duly authorized, executed and delivered by the Corporation and constitutes a legal, valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its terms (except in any case as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other Laws relating to or affecting the rights of creditors generally and except as limited by equitable principles).

3.12 Timely Disclosure.

The Corporation is in compliance in all material respects with all timely disclosure obligations under Applicable Securities Laws and, without limiting the generality of the foregoing, there has not occurred any material change in the assets, liabilities (absolute, accrued, contingent or otherwise), affairs, business, capital, condition (financial or otherwise) or

operations of the Corporation, and no event has occurred or circumstance exists which could reasonably be expected to result in such a material change, which has not been publicly disclosed. None of the Disclosure Documents filed by or on behalf of the Corporation pursuant to Applicable Securities Laws contain a misrepresentation at the date of the filing thereof. The Corporation has not filed a material change report with any of the Securities Commissions that has not been made public.

3.13 No Cease Trade Order.

No order or ruling preventing, ceasing or suspending trading in any securities of the Corporation or prohibiting the issue and sale of securities by the Corporation has been issued and no proceedings or investigations for such purposes have been instituted or are pending, or to the knowledge of the Corporation, are contemplated or threatened.

3.14 Financial Statements.

Each of the Corporation's audited financial statements for the fiscal year ended December 31, 2016 (the "**Audited Financial Statements**") and all notes thereto, and the Corporation's unaudited condensed interim financial statements for the 13 weeks ended April 1, 2017 and all notes thereto (the "**Interim Financial Statements**") (i) present fairly, in all material respects, the financial position, the results of operations and cash flows and the shareholders' equity and other information of the Corporation shown therein at the respective dates and for the respective periods to which they apply, (iii) have been prepared in conformity with IFRS, consistently applied throughout the periods covered thereby, (iv) contain and reflect adequate provision or allowance for all reasonably anticipated liabilities, expenses and losses of the Corporation, and (v) are in accordance with the books, records and accounts of the Corporation. There has been no change in accounting policies or practices of the Corporation since December 31, 2016.

3.15 Auditors.

PricewaterhouseCoopers LLP, the Corporation's current auditors, which audited the Audited Financial Statements and which provided their audit report thereon, are independent public accountants as required under Applicable Securities Laws and there has not, during the last two financial years, been a reportable disagreement (within the meaning of National Instrument 51-102 – *Continuous Disclosure Obligations*) between the Corporation and its auditors.

3.16 Insolvency.

No act or proceeding has been taken by or against the Corporation in connection with its liquidation, winding-up or bankruptcy, including that the Corporation has not committed an act of bankruptcy or sought protection from the creditors thereof before any court or pursuant to any legislation, proposed a compromise or arrangement to the creditors thereof generally, taken any proceeding with respect to a compromise or arrangement, taken any action to be declared bankrupt or wound up, taken any action to have a receiver appointed of any of the assets thereof, had any Person holding any Lien or receiver take possession of any of the property thereof, had

an execution or distress become enforceable or levied upon any portion of the property thereof or had any petition for a receiving order in bankruptcy filed against it.

3.17 No Contemplated Changes.

Except as disclosed in the Disclosure Documents, the Corporation has not approved or has entered into any letter of intent, agreement or other arrangement (whether or not legally binding) in respect of: (i) the purchase of material assets or any interest therein or, the sale, transfer or other disposition of any material portion of its assets or any interest therein currently owned, directly or indirectly, by the Corporation whether by asset sale, transfer of shares or otherwise; or (ii) the change of control (by sale or transfer of shares or sale of all or substantially all of the property and assets of the Corporation) of the Corporation.

3.18 Taxes and Tax Returns.

The Corporation has filed in a timely manner all necessary tax returns in accordance with Laws and notices and has paid all applicable taxes of whatsoever nature for all tax years prior to the date hereof to the extent that such taxes have become due or have been alleged to be due. The Corporation is not aware of any Lien for any material amount of taxes, tax deficiencies interest or penalties accrued or accruing, or alleged to be accrued or accruing, thereon and there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return by the Corporation or the payment of any material tax, governmental charge, penalty, interest or fine against the Corporation. There are no material actions, suits, proceedings, investigations or claims now pending or, to the knowledge of the Corporation, threatened against the Corporation which could result in a material liability in respect of taxes, charges or levies of any Governmental Entity, penalties, interest, fines, assessments or reassessments or any matters under discussion with any Governmental Entity relating to taxes, governmental charges, penalties, interest, fines, assessments or reassessments asserted by any such Governmental Entity and the Corporation has withheld (where applicable) from each payment to each of the present and former officers, directors, employees and consultants thereof the amount of all taxes and other amounts, including income tax and other deductions, required to be withheld therefrom, and has paid the same or will pay the same when due to the proper tax or other receiving Governmental Entity within the time required under applicable tax Laws.

3.19 Compliance with Laws, Licenses and Permits.

The Corporation has conducted and is conducting its business in compliance in all material respects with all Laws, rules, regulations, tariffs, orders and directives of each jurisdiction in which it carries on business and possesses all material approvals, consents, certificates, registrations, authorizations, permits, licenses, waivers, exemptions and entitlements issued by the appropriate Governmental Entity necessary to carry on the business currently carried on by it, is in compliance in all material respects with the terms and conditions of all such approvals, consents, certificates, authorizations, permits and licenses and with all Laws, regulations, tariffs, rules, orders and directives applicable to it. The Corporation has not received any notice of the modification, revocation or cancellation of, or any intention to modify, revoke or cancel or any proceeding relating to the modification, revocation or cancellation of any such

approval, consent, certificate, authorization, registration, permit, license, waiver, exemption or entitlement. All of such approvals, consents, certificates, registrations, authorizations, permits, licenses, waivers, exemptions and entitlements are and will be as of the Transaction Closing Date in full force and effect and with no material default thereunder.

3.20 No Litigation.

Except as disclosed in the Disclosure Documents, there are no claims, actions, suits, proceedings, inquiries or investigations existing, pending or, to the knowledge of the Corporation, threatened against the Corporation and any of the property or assets thereof or to which the Corporation is a party, at Law or equity, or before or by any Governmental Entity, which could reasonably be expected to materially adversely affect the assets, liabilities (contingent or otherwise), affairs, business, capital, condition (financial or otherwise) or operations of the Corporation or the ability of the Corporation to perform the obligations thereof and the Corporation is not subject to any judgement, order, writ, injunction, decree, award, rule, policy or regulation of any Governmental Entity.

3.21 Intellectual Property.

The Corporation owns or possesses adequate enforceable rights to use all trademarks, copyrights, trade secrets and other intellectual property used or proposed to be used in the conduct of the business thereof and the Corporation has not infringed and is not infringing upon the rights of any other Person with respect to any trademarks, copyrights, trade secrets or other intellectual property rights and, to the knowledge of the Corporation or as otherwise disclosed in writing to SPE, no other Person has infringed or is infringing any of the Corporation's trademarks, copyrights, trade secrets or other intellectual property rights.

3.22 Absence of Undisclosed Liabilities.

The Corporation has no Liabilities except for (a) Liabilities set forth in the Audited Financial Statements and the Interim Financial Statements and (b) Liabilities incurred in the ordinary course of business since the Interim Financial Statements date.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF SPE AND THE INVESTORS

Each of SPE and the Investors (on a several basis as to itself only) represents and warrants to the Corporation as set out below and acknowledges that the Corporation is relying on such representations and warranties in connection with the transactions contemplated by this Agreement.

4.1 Legal Capacity.

SPE and each Investor has the legal capacity to enter into and execute this Agreement and perform its obligations hereunder and under any other instruments delivered pursuant hereto. Each Investor is purchasing the Purchased Shares as principal and not for the benefit of others

and has not been created for the purposes of avoiding the prospectus, registration or any similar requirements of any Applicable Securities Laws.

4.2 Authorization.

SPE and each Investor has the power and capacity to enter into this Agreement and to perform its obligations hereunder. This Agreement has been duly authorized by SPE and each Investor. This Agreement has been duly executed and delivered by SPE and each Investor, and is a legal, valid and binding obligation of SPE and each Investor, enforceable against SPE and each Investor by the Corporation and in accordance with its terms (except in any case as enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other Laws relating to or affecting the rights of creditors generally and except as limited by equitable principles).

4.3 No Violation.

The execution and delivery of this Agreement by SPE and each Investor, and the consummation of the transactions provided for herein, will not result in the violation of, or constitute a default under or conflict with or cause the acceleration of any obligation of SPE or any Investor under:

- (a) any provision of the constating documents or by-Laws or resolutions of the board of directors (or any committee thereof) or shareholders of SPE or any Investor, as applicable;
- (b) any judgment, decree, order or award of any Governmental Entity having jurisdiction over SPE or any Investor, as applicable; or
- (c) any Law, statute, ordinance, regulation or rule to which SPE or any Investor is subject, as applicable.

4.4 Consents and Approvals.

Other than as described in this Agreement, there is no requirement for SPE or any Investor to make any filing with, give any notice to or obtain any license, permit, certificate, registration, authorization, consent or approval of, any Governmental Entity as a condition to the Lawful consummation by SPE or any Investor of the transactions contemplated by this Agreement.

4.5 No Purchase or Offer in United States.

SPE and each Investor acknowledges that the Purchased Shares have not been, nor will they be, registered under the U.S. Securities Act or the applicable securities Laws of any state, and may not be offered or sold in the United States or to a U.S. Person, unless an exemption from the registration requirements under the U.S. Securities Act and applicable state securities Laws is available, and agrees not to offer, or sell the Purchased Shares in the United States or to a U.S. Person, unless the Corporation consents to such offer or sale and an exemption from registration under the U.S. Securities Act and applicable state securities Laws is available.

4.6 Purchase of Purchased Shares.

Each Investor has been advised to consult its own legal advisors with respect to trading in the Purchased Shares and with respect to the resale restrictions imposed by Applicable Securities Laws, and acknowledges that, except as contemplated in the opinion to be delivered by Goodmans LLP, counsel to the Corporation, pursuant to Section 7.1(i)(iii), no representation has been made respecting the applicable hold periods imposed by Applicable Securities Laws or other resale restrictions applicable to such securities which restrict the ability of such Investor to resell the Purchased Shares. Each Investor is solely responsible to find out what these restrictions are, and such Investor is solely responsible (and Second Cup is in no way responsible) for compliance with applicable resale restrictions. Each Investor is aware that it may not be able to resell the Purchased Shares except in accordance with limited exemptions under the Applicable Securities Laws and other applicable securities Laws.

4.7 Not a Related Party; Not Acting Jointly and in Concert.

- (a) Neither SPE nor any Investor is a “related party” of the Corporation within the meaning of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*.
- (b) None of the Investors is acting jointly and in concert (within the meaning of Applicable Securities Laws) with any other Investor or with SPE.

4.8 Debt Exchange.

- (a) Other than the assignment of the Principal Receivable to be effected in connection with the Pre-Closing Assignment, SPE has not assigned or transferred its right, title and interest under the Credit Agreement or any other Credit Documents, or any part thereof, to any other Person;
- (b) SPE has not encumbered or granted a security interest to any of its right, title and interest under the Credit Agreement or any other Credit Documents, or any part thereof, to any other Person; and
- (c) Each of the Investors has the right, power and authority to effect the Debt Exchange on the terms and conditions set out in this Agreement.

ARTICLE 5

ACKNOWLEDGEMENTS OF THE INVESTORS

Each of the Investors acknowledges and agrees that:

- (a) (i) no Governmental Entity has made any finding or determination as to the merit for investment of, nor has any such Governmental Entity made any recommendation or endorsement with respect to the Purchased Shares; (ii) there is no government or other insurance covering the Purchased Shares; and (iii) there are risks associated with the purchase of the Purchased Shares;

- (b) such Investor is purchasing the Purchased Shares as principal and has not been created, and is not being used, solely to purchase or hold the Purchased Shares in reliance on the exemption in Section 2.3 of National Instrument 45-106 – *Prospectus Exemptions*;
- (c) the purchase of the Purchased Shares has not been or will not be (as applicable) made through, or as a result of, and the distribution of the Purchased Shares is not being accompanied by, a general solicitation or advertisement including articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television, or any seminar or meeting whose attendees have been invited by general solicitation or general advertising;
- (d) no prospectus or other offering document has been filed by the Corporation with a Securities Commission or other securities regulatory authority in any province of Canada, or any other jurisdiction in or outside of Canada in connection with the issuance of the Purchased Shares, and such issuance is exempt from the prospectus requirements otherwise applicable under the provisions of Applicable Securities Laws and, as a result, in connection with its purchase of the Purchased Shares hereunder, as applicable:
 - (i) such Investor is restricted from using most of the protections, rights and remedies available under Applicable Securities Laws including statutory rights of rescission or damages;
 - (ii) such Investor will not receive information that may otherwise be required to be provided to such Investor under Applicable Securities Laws or contained in a prospectus prepared in accordance with Applicable Securities Laws; and
 - (iii) the Corporation is relieved from certain obligations that would otherwise apply under such Applicable Securities Laws in the event that the Purchased Shares were qualified by a prospectus or other offering document in accordance with Applicable Securities Laws;
- (e) the Purchased Shares are being offered for sale only on a “private placement” basis. The Purchased Shares will be subject to certain resale restrictions under Applicable Securities Laws. For purposes of complying with Applicable Securities Laws, including National Instrument 45-102 – *Resale of Securities*, such Investor understands and acknowledges that the certificates representing the Purchased Shares issued on the Transaction Closing Date, or if no certificates representing the Purchased Shares are to be delivered to the Investors, a written notice delivered to the Investors on the Transaction Closing Date shall bear the following legend (and any additional legend that may be required by the TSX):

“UNLESS PERMITTED UNDER SECURITIES LEGISLATION,
THE HOLDER OF THIS SECURITY MUST NOT TRADE THE
SECURITY BEFORE DECEMBER 1, 2017.”

ARTICLE 6 COVENANTS

6.1 Investor Nominees.

- (a) For so long as any Investor holds, or the Investors collectively hold, not less than 20% of the issued and outstanding Common Shares (calculated on an undiluted basis and subject to adjustment to reflect any subdivision, stock split or consolidation of, or other reorganization involving, the outstanding Common Shares), the Investors' Representative (for administrative convenience only on behalf of each of MichaelCo and AaronCo) shall be entitled to designate two (2) individuals, who may be non-residents of Canada and directors or officers of SPE or any of its Affiliates, to be nominated to serve as directors of the Corporation (each an "**Investor Nominee**"). In the event that the Investors collectively hold less than 20%, but greater than or equal to 10%, of the issued and outstanding Common Shares (calculated in each case on an undiluted basis and subject to adjustment to reflect any subdivision, stock split or consolidation of, or other reorganization involving, the outstanding Common Shares), the Investors' Representative (for administrative convenience only on behalf of MichaelCo) shall be entitled to designate one (1) Investor Nominee.
- (b) Each Investor Nominee must consent in writing to serve as a director of the Corporation and meet all statutory and stock exchange requirements for membership on the Board.
- (c) On or prior to the later of 30 days following the Closing Date and the date that is three Business Days following receipt of notice from the Investors' Representative designating the initial Investor Nominees, the Corporation shall appoint such Investor Nominees to the Board as promptly as practicable (and in any event within ten Business Days) pursuant to the power of the Board to appoint additional directors between Shareholders meetings or to fill a vacancy on the Board. The Corporation will ensure that, both prior to and following the Corporation's next annual meeting of Shareholders, the Board shall have the power, exercisable by resolution at a duly called meeting of the Board, to appoint Investor Nominees to the Board.
- (d) The Corporation shall notify the Investors' Representative in writing promptly upon determining the date of any meeting of the Shareholders at which directors of the Corporation are to be elected and the Investors' Representative shall advise the Corporation of the name of each Investor Nominee that the Investors' Representative is entitled to nominate pursuant to Section 6.1(a) (as of the record date for the meeting of Shareholders) within ten Business Days after receiving such notice. If the Investors' Representative does not advise the Corporation and the Board of Investor Nominees within such ten-Business Day period, then the Investors' Representative will be deemed to have designated the incumbent Investor Nominees for nomination for election at the relevant meeting of Shareholders.

- (e) At each meeting of Shareholders at which directors are to be elected, the Corporation shall cause the Investor Nominees (as of the record date for the meeting of Shareholders) to be included in the slate of nominees proposed by the Corporation for election as directors of the Corporation. The Corporation shall use commercially reasonable efforts to cause the election of each Investor Nominee, including soliciting proxies in favour of the election of each Investor Nominee. Forthwith following any meeting of Shareholders at which an Investor Nominee was nominated to serve as a director but was not validly elected by the Shareholders in accordance with the OBCA, the Corporation shall take all steps necessary to appoint an Investor Nominee to the Board who is not the same individual who was not elected at the meeting of Shareholders, including pursuant to the power of the Board to appoint additional directors between Shareholder meetings or to fill a vacancy on the Board.
- (f) If an Investor Nominee ceases to hold office as a director of the Corporation for any reason (including as a result of a resignation by an Investor Nominee tendered pursuant to the Corporation's by-Laws), other than as a result of the Investors' Representative no longer being entitled to nominate such Investor Nominee pursuant to this Section 6.1, the Investors' Representative shall be entitled to nominate an individual to replace him or her and the Corporation shall promptly take all steps as may be necessary to appoint such individual to the Board to replace an Investor Nominee who has ceased to hold office, including pursuant to the power of the Board to appoint additional directors between shareholders meetings or to fill a vacancy on the Board.
- (g) The Corporation shall pay all reasonable expenses incurred by each Investor Nominee in the performance of his or her duties for or on behalf of the Corporation incurred as a result of Investor Nominees attending Board and committee meetings, including travel and accommodation expenses, in each case in accordance with the Corporation's policies applicable to all directors.
- (h) The Corporation shall maintain director and officer indemnifications and liability insurance in respect of each Investor Nominee of the same kind and type provided for the Corporation's other directors and officers.

6.2 Pre-Emptive Rights.

- (a) For so long as any Investor holds, or the Investors collectively hold, at least 4,210,526 Common Shares in the aggregate (subject to adjustment to reflect any subdivision, stock split or consolidation of, or other reorganization involving, the outstanding Common Shares), if the Corporation proposes to issue (the "**Issuance**") any Corporation Securities (the "**Offered Securities**"), whether pursuant to a public offering, a private placement or otherwise (an "**Offering**"), the Corporation will, at least (i) ten Business Days, or (ii) if the Issuance is by way of a "bought deal", two Business Days, prior to the first date of public announcement of the Issuance (the "**Announcement Date**"), give written notice of the Issuance to the Investors' Representative including, to the extent known

by the Corporation, the full particulars of the Issuance. As soon as is practicable, and in any event at least two Business Days before the Announcement Date, the Corporation will make an irrevocable offer (the “**Offer**”) to the Investors to subscribe for, at the same subscription price as under the Offering, up to that number of Offered Securities as will enable each Investor, upon completion of the Issuance, to maintain its then current aggregate proportionate interest in the Corporation (after giving effect to the exercise of all Investor Warrants held by such Investor) at the same percentage as that which existed immediately prior to completion of the Issuance. The Offer will contain full particulars of the Issuance, including:

- (i) the subscription price or range of subscription prices;
 - (ii) the terms and conditions of the Offered Securities;
 - (iii) the number of Offered Securities to be issued or proposed to be issued to Persons other than the Investor;
 - (iv) the maximum number of Offered Securities that the Investor is entitled to subscribe for (the “**Investor’s Entitlement**”);
 - (v) a statement as to the use of proceeds; and
 - (vi) the proposed Announcement Date and the proposed completion date for the Issuance.
- (b) The Offer will provide that if the Investor intends to subscribe for any or all of the Investor’s Entitlement, the Investor may accept the Offer, such acceptance to be irrevocable by giving notice of such intention to the Corporation not later than the Business Day immediately prior to the proposed Announcement Date set out in the Offer, which notice will specify:
- (i) whether the determination of the Investor’s Entitlement by the Corporation is correct and, if not, the correct Investor’s Entitlement; and
 - (ii) the number of Offered Securities to be purchased.
- (c) For greater certainty, this Section 6.2 will not apply to any issuance of:
- (i) Corporation Securities on the exercise of a conversion, exchange or purchase right attached to a security convertible into Corporation Securities; provided, that the issuance of such security was on or prior to the date hereof and, if subsequent to the date hereof, was exempt from this Section 6.2 or subject to and made in accordance with this Section 6.2;
 - (ii) rights under a shareholder rights plan adopted by the Corporation or any Corporation Securities issuable pursuant to the exercise of rights issued under such rights plan;

- (iii) Common Shares pursuant to the exercise of employee stock options or otherwise under any equity incentive plan of the Corporation;
 - (iv) Common Shares in payment or satisfaction of or as consideration for *bona fide* indebtedness (including in payment of interest) or for services or the purchase or acquisition of assets, operations or securities of other Persons;
 - (v) Common Shares as a *bona fide* commission or finder's fee; or
 - (vi) Common Shares upon the exercise of the Investor Warrants.
- (d) Each Investor will give written notice to the Corporation of the aggregate number of Corporation Securities beneficially owned by such Investor within five Business Days of a written request by the Corporation.

6.3 Standstill.

- (a) For a period of two (2) years from the date hereof, each of SPE and the Investors shall not, without the prior written authorization of the Board, directly or indirectly, or jointly and in concert (within the meaning of Applicable Securities Laws) with any other Person:
- (i) purchase, offer or agree to purchase or negotiate to purchase any securities or assets of the Corporation or any of its Affiliates;
 - (ii) enter into, offer, or agree to enter into any acquisition of, or other business combination involving, the Corporation or any of its Affiliates, or propose any of the foregoing;
 - (iii) solicit or join in or in any way participate in a solicitation of proxies from the Shareholders or otherwise attempt to influence the conduct of the Shareholders (other than in connection with the election of an Investor Nominee to the Board);
 - (iv) make any public announcement with respect to the foregoing; and
 - (v) advise, assist or encourage any other Person to do, or take any action inconsistent with, any of the foregoing.
- (b) Section 6.3(a) shall cease to be of any force or effect as and from the date of:
- (i) the announcement by any third Person, any Person under common control with such third Person or any group of Persons acting jointly and in concert (within the meaning of Applicable Securities Laws), other than SPE, any Investor or any Affiliate thereof, of the commencement of a Credible Bid or an intention to undertake a Credible Bid;

- (ii) the approval or entering into by the Corporation of any letter of intent, agreement, arrangement, proposal or understanding with any third Person, any Person under common control with such third Person or any group of Persons acting jointly and in concert (within the meaning of Applicable Securities Laws), other than SPE, any Investor or any Affiliate thereof, in respect of a merger, amalgamation, arrangement, asset purchase or other business combination transaction involving the Corporation, or an intention to undertake such a transaction, which would, if completed, result in:
 - (A) existing Shareholders holding less than 75% of the voting or equity securities of the Corporation;
 - (B) any class of outstanding voting securities of the Corporation being converted into cash or securities of another Person resulting in existing Shareholders holding less than 75% of the voting or equity securities of the resulting or surviving entity;
 - (C) all or substantially all of the Corporation's assets being sold to any third Person, any Person under common control with such third Person or any group of persons acting jointly and in concert (within the meaning of Applicable Securities Laws), other than SPE, any Investor or any Affiliate thereof;
 - (iii) the acquisition by any third Person, any Person under common control with such third Person or any group of persons acting jointly and in concert (within the meaning of Applicable Securities Laws), other than SPE, any Investor or any Affiliate thereof, directly or indirectly, of more than 50% of the outstanding Common Shares;
 - (iv) the announcement or public disclosure of any proxy fight or other similar proxy solicitation process relating to the Corporation (other than any such process initiated by SPE, any Investor or any Affiliate thereof); or
 - (v) the commencement of any proceeding by or against the Corporation in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of the Corporation, for the appointment of a trustee, receiver, manager or other administrator of the Corporation or any of its properties or assets, or for protection under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation.
- (c) Nothing in this Section 6.3 shall prevent SPE or any Investor, or any of their respective Affiliates, from (i) exercising any right granted to SPE, any Investor or any of their respective Affiliates pursuant to any of the provisions of this Agreement (including the exercise by the Investors of the Investor Warrants), or

(ii) acquiring securities or investing in a mutual fund or a non-affiliated corporate entity holding shares of the Corporation in its portfolio.

6.4 Listing of Common Shares; Reporting Issuer Status

- (a) From and after the Transaction Closing Date, the Corporation shall use all reasonable best efforts to not take any action which would reasonably be expected to result in the delisting or suspension of the Common Shares on or from any securities exchange, market or trading or quotation facility on which the Common Shares are now or are then listed or quoted, including the TSX, and the Corporation shall comply with the rules and regulations thereof; provided, that this covenant shall not apply to any merger, amalgamation, arrangement, take-over bid, going private transaction or other similar transaction involving the purchase or sale of all of the outstanding Common Shares for cash or securities of an entity listed on an internationally recognized stock exchange.
- (b) From and after the Effective Time, the Corporation shall use its reasonable best efforts to maintain its status as a “reporting issuer” in each of the Reporting Jurisdictions and the Corporation shall comply with all Applicable Securities Laws; provided, that the covenant to remain a “reporting issuer” shall not apply to any merger, amalgamation, arrangement, take-over bid, going private transaction or other similar transaction involving the purchase or sale of all of the outstanding Common Shares.

6.5 Cancelled SPE Warrants; Investor Warrants.

- (a) Following the Pre-Closing Assignment and prior to or concurrent with Closing, each Investor shall surrender and transfer to the Corporation 75,000 of the SPE Warrants (the “**Cancelled SPE Warrants**”) in partial consideration for the Corporation agreeing to enter into this Agreement. At the Effective Time, (i) the Cancelled SPE Warrants shall be terminated and cancelled (and all rights thereunder shall expire) and be of no further force or effect, and (ii) the remaining 300,000 SPE Warrants (the “**Remaining Warrants**”) shall remain in full force and effect in accordance with their terms, and the central securities register of the Corporation shall be revised accordingly.
- (b) Concurrent with Closing, the Corporation will issue to each Investor a warrant certificate representing 75,000 of the Remaining Warrants (the “**Investor Warrants**”), in each case, in substantially the form of the warrant certificate representing the SPE Warrants. Upon the issuance of the Investor Warrants, the SPE Warrants shall be terminated and cancelled (and all rights thereunder shall expire) and be of no further force or effect.

6.6 Assignment of Principal Receivable.

The Corporation hereby consents to the assignment of the Principal Receivable by SPE to the Investors (on a pro rata basis) in connection with the Pre-Closing Assignment pursuant to Section 11.1(3) of the Credit Agreement.

ARTICLE 7

CONDITIONS OF CLOSING

7.1 Conditions of Closing in Favour of SPE and the Investors.

The purchase and sale of the Purchased Shares issuable and the other transactions contemplated on the Transaction Closing Date is subject to the following terms and conditions for the exclusive benefit of SPE and the Investors (and which may be waived by SPE and the Investors), to be fulfilled or performed by the Corporation at or prior to the Effective Time:

- (a) **Representations and Warranties.** The representations and warranties of the Corporation contained in this Agreement shall be true and correct in all material respects at the Effective Time, other than those that are qualified by materiality, which shall be true and correct in all respects at the Effective Time, with the same force and effect as if such representations and warranties were made at and as of such time and a certificate of an officer of the Corporation shall be delivered to SPE and the Investors' Representative at the Effective Time in this respect;
- (b) **Covenants.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Corporation at or before the Effective Time shall have been complied with or performed and a certificate of an officer of the Corporation shall be delivered to SPE and the Investors' Representative at the Effective Time in this respect;
- (c) **Material Adverse Effect.** No Material Adverse Effect shall have occurred since the date of the Audited Financial Statements;
- (d) **No Action or Proceeding.** No legal or regulatory action or proceeding shall be pending or threatened by any Person which would, in the opinion of SPE or the Investors' Representative, acting reasonably, enjoin, restrict or prohibit, on a temporary or permanent basis, the purchase and sale of the Purchased Shares contemplated hereby;
- (e) **Regulatory Approval.** The Corporation shall have obtained conditional approval (subject only to customary post-Closing filing requirements and payment of fees) to permit the issuance and listing of the Purchased Shares on the TSX and the other transactions contemplated hereunder, on terms and evidence satisfactory to the Corporation, SPE and the Investors' Representative, each acting reasonably;
- (f) **Corporate Approvals.** The Corporation shall have obtained all necessary resolutions or consents of the Board and the Shareholders, which shall have been duly passed or obtained by the requisite majority in accordance with Law;
- (g) **Director Compensation.** The Board and any committees thereof, as applicable, shall have adopted resolutions reducing the annual cash retainer currently paid to each director of the Corporation, in each case, by 50%;

- (h) ***Repayment of Interest and Fees Owing Under Credit Agreement.*** The Corporation shall have repaid in cash to SPE all of the accrued interest and fees owing under the Credit Agreement; and
- (i) ***Closing Deliveries.*** At the Effective Time, the Corporation shall have delivered the following:
 - (i) certificates, in physical or electronic form, respecting the Purchased Shares, or if no certificates representing the Purchased Shares are to be delivered to the Investors, written notices delivered to the Investors, bearing applicable legends as set forth herein;
 - (ii) the officer's certificates required by Sections 7.1(a) and 7.1(b);
 - (iii) a customary securities Law opinion of Goodmans LLP, counsel to the Corporation, with respect to the Purchased Shares, in a form satisfactory to the Investors' Representative, acting reasonably; and
 - (iv) warrant certificates in the names of each of the Investors representing the Investor Warrants.

7.2 Condition of Closing in Favour of the Corporation.

The purchase and sale of the Purchased Shares on the Transaction Closing Date and completion of the other transactions contemplated on the Transaction Closing Date is subject to the following conditions that are for the exclusive benefit of Second Cup (and which may be waived by Second Cup), to be fulfilled or performed by SPE or the Investors, as applicable, at or prior to the Effective Time:

- (a) ***Representations and Warranties.*** The representations and warranties of SPE and the Investors contained in this Agreement shall be true and correct in all material respects at the Effective Time, other than those that are qualified by materiality, which shall be true and correct in all respects at the Effective Time with the same force and effect as if such representations and warranties were made at and as of such time and a certificate of an officer of SPE and each Investor shall be delivered to the Corporation in this respect;
- (b) ***Covenants.*** All of the terms, covenants and conditions of this Agreement to be complied with or performed by SPE and the Investors at or before the Effective Time shall have been complied with or performed and a certificate of an officer of SPE and each Investor shall be delivered to the Corporation at the Effective Time in this respect;
- (c) ***Regulatory Approval.*** The Corporation shall have obtained conditional approval (subject only to customary post-Closing filing requirements and payment of fees) to permit the issuance and listing of the Purchased Shares on the TSX and the other transactions contemplated hereunder, on terms and evidence satisfactory to the Corporation, SPE and the Investors' Representative, each acting reasonably;

- (d) ***SPE Warrants.*** The Cancelled SPE Warrants shall have been cancelled and terminated in accordance with Section 6.5(a);
- (e) ***Termination of Investor's Rights Agreement.*** Prior to or concurrent with Closing, the Corporation and SPE shall have terminated the investor's rights agreement dated as of December 2, 2016 between the Corporation and SPE; and
- (f) ***Closing Deliveries.*** At the Effective Time, SPE or the Investors, as applicable, shall have delivered the following:
 - (i) mortgage discharges, financing change statements, releases, termination statements, registration forms and such other instruments as may be necessary to effectually release and discharge any or all applicable security interests in favour of SPE over the assets of the Corporation pledged as collateral under the Credit Agreement and the other Credit Documents, including such financing change statements as may be required to discharge the registrations set forth on Schedule A hereto;
 - (ii) an intellectual property release and discharge with respect to any filings made against any trademarks and other intellectual property at the Canadian Intellectual Property Office;
 - (iii) any additional agreements, documents, discharges or releases which may be necessary or desirable, in the reasonable opinion of the Corporation, to give effect to the Debt Exchange and the release and discharge of all obligations of the Corporation under the Credit Agreement and the other Credit Documents, and the release and discharge of all security granted in connection therewith; and
 - (iv) the officer's certificates required by Sections 7.2(a) and 7.2(b).

ARTICLE 8

TERMINATION

This Agreement may be terminated:

- (a) by mutual consent of SPE and Second Cup in writing at any time;
- (b) by SPE, by notice to Second Cup in writing:
 - (i) if one or more of the conditions set out in Section 7.1 cannot be satisfied by the Completion Deadline; or
 - (ii) if a breach of any representation or warranty or a failure to perform any covenant or agreement on the part of the Corporation set forth in this Agreement shall have occurred that has caused any of the conditions set

forth in Section 7.1 not to be satisfied, and such conditions are incapable of being satisfied by the Completion Deadline;

provided, that SPE may not terminate this Agreement pursuant to the foregoing clause (b) if SPE or any Investor is in breach, in any material respect, of any of its representations, warranties, covenants or agreements hereunder.

- (c) by Second Cup, by notice to SPE in writing:
 - (i) if one or more of the conditions set out in Section 7.2 cannot be satisfied by the Completion Deadline; or
 - (ii) if a breach of any representation or warranty or a failure to perform any covenant or agreement on the part of SPE or any Investor set forth in this Agreement shall have occurred that has caused any of the conditions set forth in Section 7.2 not to be satisfied, and such conditions are incapable of being satisfied by the Completion Deadline;

provided, that the Corporation may not terminate this Agreement pursuant to the foregoing clause (c) if the Corporation is in breach, in any material respect, of any of its representations, warranties, covenants or agreements hereunder; or

- (d) automatically immediately following the Completion Deadline, if Closing has not occurred on or before the Completion Deadline.

ARTICLE 9

SURVIVAL OF REPRESENTATIONS AND WARRANTIES

The representations, warranties and covenants contained in this Agreement and in all certificates and documents delivered pursuant to or contemplated by this Agreement shall survive the Closing and shall terminate at the expiration of one year following the Transaction Closing Date; provided, however, that the representations and warranties in: (a) Sections 3.1 (*Incorporation and Organization*), 3.2 (*Extra-Provincial Registration*), 3.3 (*Authorized Capital*), 3.8 (*Issue of Purchased Shares*), 3.10 (*Authority and Authorization*) and 3.11 (*Validity and Enforceability*) shall survive indefinitely; (b) Section 3.9 (*Consents, Approvals and Conflicts*) shall survive for a period of two years after the Closing; and (c) Section 3.18 (*Taxes and Tax Returns*) shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus 60 days; and, in each case, notwithstanding such Closing nor any investigation made by or on behalf of the Party entitled to the benefit thereof, shall continue in full force and effect for the benefit of the Party entitled to the benefit thereof.

ARTICLE 10

NOTICES

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in Person or transmitted by electronic communication, addressed as follows:

- (a) if to the Corporation:

The Second Cup Ltd.
6303 Airport Road
Mississauga, Ontario
L4V 1R8

Attention: President
Email: GM@secondcup.com

with a copy to (which shall not constitute notice)

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, Ontario
M5H 2S7

Attention: John Connon
Email: jconnon@goodmans.ca

- (b) if to SPE or the Investors' Representative:

SPE Finance LLC
210 Shields Court
Markham, Ontario
L3R 8V2

Attention: Michael Serruya
Email: michael@serruyaequity.com

with a copy to (which shall not constitute notice)

Stikeman Elliott LLP
5300 Commerce Court West, 199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Curtis Cusinato
Email: ccusinato@stikeman.com

Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day, on the next following Business Day). Any Party may at any time change its address for service from time to time by giving notice to the other Parties in accordance with this Section 10.

ARTICLE 11

MISCELLANEOUS

11.1 Consultation.

The Corporation and SPE shall consult with each other before issuing any press release or making any other public announcement with respect to this Agreement or the transactions contemplated hereby. Except as required by any Law or regulatory requirement, neither the Corporation nor SPE shall issue any other press release or make any such public announcement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed. It is understood that the Corporation will file a copy of this Agreement with the Securities Commissions in accordance with Applicable Securities Laws.

11.2 Expenses.

The Corporation shall pay all of the costs and expenses incurred by SPE, the Investors and the Investors' Representative in connection with the negotiation and execution of this Agreement, subject to a cap of \$30,000 (plus taxes and reasonable disbursements).

11.3 Successors and Assigns.

This Agreement shall enure to the benefit of and shall be binding on and enforceable by the Parties and, where the context so permits, their respective successors and permitted assigns. Neither Party may assign any of its rights or obligations hereunder without the prior written consent of the other Party; provided, that SPE may assign any of its rights under this Agreement to the Investors without the Corporation's prior written consent.

11.4 Amendment and Waivers.

No amendment or waiver of any provision of this Agreement shall be binding on any Party unless consented to in writing by such Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided.

11.5 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 require, acting reasonably, from time to time 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 the full extent the provisions of this Agreement.

11.6 Severability.

If any provision hereof is illegal, invalid or unenforceable, such provision shall be deemed to be severed and deleted from this Agreement and such illegality, invalidity or unenforceability shall not in any manner affect the validity or enforceability of the remainder hereof.

11.7 Waiver.

A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred from or implied by any 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 Party. The waiver by a Party of any default, breach or non-compliance under this Agreement shall 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).

11.8 Counterparts.

This Agreement may be executed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Counterparts may be executed either in original or faxed or electronic form and the Parties adopt any signatures received by a receiving fax machine or by other electronic means as original signatures of the Parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF this Agreement has been executed by the Parties on the date first above written.

THE SECOND CUP LTD.

By: (signed) "Michael Bregman"
Name: Michael Bregman
Title: Chairman

By: (signed) "Ba Linh Le"
Name: Ba Linh Le
Title: Chief Financial Officer

SPE FINANCE LLC

By: (signed) "Michael Serruya"
Name: Michael Serruya
Title: President

2188769 ONTARIO INC.

By: (signed) "Michael Serruya"
Name: Michael Serruya
Title: Authorized Signatory

22087742 ONTARIO INC.

By: (signed) "Simon Serruya"
Name: Simon Serruya
Title: Authorized Signatory

2208744 ONTARIO INC.

By: (signed) "Jacques Serruya"
Name: Jacques Serruya
Title: Authorized Signatory

FRUZER INC.

By: *(signed) "Aaron Serruya"* _____

Name: Aaron Serruya

Title: Authorized Signatory

EXHIBIT A

Registration of Purchased Shares

Investor	Number of Purchased Shares
MichaelCo	1,052,632
SimonCo	1,052,632
JacquesCo	1,052,632
AaronCo	1,052,632

SCHEDULE A

PPSA DISCHARGES

JURISDICTION	REGISTRATION NO. / REFERENCE NO.
Alberta	09061913441
British Columbia	034049F
Manitoba	200910488103
Ontario	634195656
Ontario	633863637
Ontario	633863511
Ontario	633863466
Ontario	610938576
Ontario	654277905
New Brunswick	17632522
Newfoundland	7447854
Nova Scotia	15423999
Quebec	10-0903158-0001
Quebec	09-0388720-0001
Saskatchewan	300472559