

THE PERSONS LISTED IN SCHEDULE 2.1

as the Sellers

and

TRACEY CLARK AND JEFF YORK, JOINTLY

as the Sellers' Representative

and

THE SECOND CUP LTD.

as the Purchaser

SHARE PURCHASE AGREEMENT

December 4, 2019

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SHARE PURCHASE AGREEMENT

This Share Purchase Agreement dated as of December 4, 2019, by and among the Persons listed on Schedule 2.1 (each a “**Seller**” and collectively, the “**Sellers**”), Tracey Clark and Jeff York, jointly (the “**Sellers’ Representative**”), and The Second Cup Ltd. (the “**Purchaser**”), a corporation incorporated under the *Business Corporations Act* (Ontario).

ARTICLE 1 INTERPRETATION

1.1 Defined Terms.

As used in this Agreement, the following terms have the following meanings:

“**Additional Payment**” has the meaning specified in Section 2.6.

“**Affiliate**” means, with respect to any Person, any Person directly or indirectly controlling, controlled by or under direct or indirect common control with such other Person.

“**Agreement**” means this Share Purchase Agreement and all schedules thereto, and the expressions “**Article**” and “**Section**” followed by a number mean and refer to the specified Article or Section of this Agreement.

“**Ancillary Agreements**” means all agreements, certificates and other instruments delivered or given pursuant to this Agreement, including the Lock-Up Agreements and the Employment Agreements.

“**Applicable Laws**” means all applicable laws (including common law), statutes, regulations, by-laws, rules, decrees, orders, ordinances, protocols, codes, policies, notices, directions and judgments or other requirements, in each case issued by a Governmental Authority and having the force of law.

“**ASPE**” means the Canadian Accounting Standards for Private Enterprises, as in force at a given date, as well as the policies, procedures and methodology thereunder, all as amended from time to time.

“**Assets**” has the meaning specified in Section 3.1(m).

“**Authorization**” means, with respect to any Person, the Business or any matter, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person, Business or matter.

“**Books and Records**” means all books of account, tax records, sales and purchase records, customer and supplier lists, formulae, business reports, plans and projections and all other documents, files, correspondence and other information of the Company (whether in written, printed, electronic or computer printout form).

“**Business**” means the business of roasting and processing coffee beans and operating coffeehouses in the speciality coffee industry.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which banks are required or authorized to close in Toronto, Ontario or Ottawa, Ontario.

“**Canadian Securities Laws**” means, collectively, and as the context may require, the securities legislation of each of the provinces and territories of Canada, and the rules, regulations and policies published and/or promulgated thereunder, as such may be amended from time to time prior to the Closing Date.

“**Closing**” means the completion of the transaction of purchase and sale of the Purchased Shares as contemplated hereunder.

“**Closing Date**” means December 31, 2019, or such later date as the Sellers’ Representative and the Purchaser may agree in writing.

“**Closing Indebtedness**” has the meaning specified in Section 2.5(a).

“**Closing Indebtedness Statement**” means a statement to be delivered by the Sellers’ Representative to the Purchaser prior to the Closing Date setting out (i) in Part A, the Company’s good faith estimate of the Indebtedness of the Company as at the Closing Date (but excluding any payments to be made on the Closing Date pursuant to Section 2.4(b)) and (ii) in Part B, the Indebtedness of the Company that is to be repaid at Closing pursuant to Section 2.4(b).

“**Closing Statement**” has the meaning specified in Section 2.5(a).

“**Closing Working Capital**” has the meaning specified in Section 2.5(a).

“**Commercial-Off-the-Shelf Software**” means any product, Software, service, technology or intellectual property that is generally available to any purchaser or licensee upon acceptance of the publisher’s, manufacturer’s, distributor’s, service provider’s or reseller’s standard contract, license, terms of use or similar contractual provisions for the applicable product, Software, service, technology or intellectual property.

“**Company**” means Bridgehead (2000) Inc.

“**Company Intellectual Property**” shall mean any and all rights, title and interest in and to all Intellectual Property owned by the Company.

“**Consent**” means the consent of a contracting party to the transactions contemplated herein, if required by the terms of any Contract.

“**Consideration Shares**” means that number of Purchaser Shares having an aggregate value of \$3,500,000 based on a per Purchaser Share price equal to the lower of: (i) the 20-trading day volume weighted average trading price of a Purchaser Share on the TSX ending on the last

trading day immediately prior to the date hereof; and (ii) \$1.48 (such price, being the “**Consideration Shares Price**”).

“**Contracts**” means all agreements to which the Company is a party including all contracts, leases, mortgages, leases of personal property, understandings, options, warrants, indentures, notes or other obligations or commitments of any nature, written or oral.

“**Corporate Records**” means the corporate records of the Company, including (i) all charter documents and by-laws, (ii) all minutes of meetings and resolutions of shareholders and directors (and any committees), (iii) the share certificate books, securities register, register of transfers and register of directors, and (iv) any other documents required to be kept pursuant to Applicable Laws.

“**Current Assets**” means the current operating assets of the Company, in each case calculated in accordance with the Working Capital Principles and only as and to the extent substantially similar in nature to the line items reflected as “Current Assets” in the Target Closing Working Capital Statement. For the avoidance of doubt, the parties agree that Current Assets will not include any of the following types of assets: (1) fixed assets, (2) vehicles, (3) intangible assets, (4) Tax assets (including deferred Tax credits and net operating loss carry forwards), and (5) intercompany receivables.

“**Current Liabilities**” means the current operating liabilities of the Company, in each case calculated in accordance with the Working Capital Principles and only as and to the extent substantially similar in nature to the line items reflected as “Current Liabilities” in the Target Closing Working Capital Statement. For the avoidance of doubt, the parties agree that Current Liabilities will not include intercompany payables but shall include any severance or termination amounts paid or payable to Gina Becker and Tracey Clark.

“**Damages**” means any loss, liability, claim, damage or expense (including reasonable legal expenses) resulting from a Third Party Claim or a Direct Claim, as applicable; provided, that, “**Damages**” shall not include any punitive, special, consequential, indirect or exemplary damages (including any lost profits or diminution in value).

“**Direct Claim**” means any cause, matter, thing, act, omission or state of facts not involving a Third Party Claim which entitles an Indemnified Person to make a claim for indemnification under this Agreement.

“**Earn-Out Periods**” has the meaning specified in Section 2.6(a).

“**EBITDA**” means earnings before interest, taxes, depreciation and amortization, earned by the 19 cafés in operation by the Company at Closing, as adjusted using the same inputs and exclusions as shown in Schedule 1.1 which includes a detailed illustrative calculation of EBITDA for the period ended March 31, 2019, and a sample calculation for the purposes of calculating EBITDA under the terms of this Agreement.

“**EBITDA Earn-Out Amount**” has the meaning specified in Section 2.6.

“**EBITDA Statement**” has the meaning specified in Section 2.6(c).

“**Employee Plans**” means all the employee benefit, fringe benefit, supplemental employment benefit, bonus, incentive, profit sharing, termination, change of control, pension, retirement, share option, share purchase, phantom share, severance, share appreciation, health, welfare, medical, dental, disability, life insurance and similar plans, programmes, arrangements or practices relating to the current employees, officers or directors of the Company maintained, sponsored or funded by the Company, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered including all employee benefit plans.

“**Employment Agreements**” means the employment agreements to be entered into between the Company, on the one hand, and each of Laurie Ouellette, Kate Burnett, Ian Clark and Tracey Clark, on the other hand, substantially in the form attached hereto as Exhibit 1, with the salaries and job titles of each such individual as set out on Exhibit 2.

“**Environmental Laws**” means all Applicable Laws and agreements with Governmental Authorities and all other statutory requirements relating to public health or the protection of the environment and all Authorizations issued pursuant to such laws, agreements or statutory requirements.

“**Estimated Closing Indebtedness**” has the meaning specified in Section 2.3.

“**Estimated Closing Working Capital**” has the meaning set out in Section 2.3.

“**Final Closing Indebtedness**” has the meaning specified in Section 2.5(d).

“**Final Closing Working Capital**” has the meaning specified in Section 2.5(d).

“**Financial Statements**” means (i) the unaudited annual financial statements of the Company as at and for the fiscal years ended March 31, 2018 and 2019 (together, the “**Annual Financial Statements**”) and (ii) the unaudited interim financial statements of the Company as at September 30, 2019 (the “**Interim Financial Statements**”).

“**First Earn-Out Period**” has the meaning specified in Section 2.6(a).

“**Fundamental Decision**” means: (i) the taking of any act, step or proceeding, including any sale or disposition of any property or assets of the Company, for the purpose of, or leading to, the liquidation, dissolution or winding-up of the Company; or (ii) the sale, lease, exchange, exclusive license or other disposition of all or substantially all of the assets of the Company.

“**Governmental Authority**” means any governmental, regulatory or administrative authority, department, agency, commission, board, panel, tribunal, government-owned corporation, government ministry or court or other law, rule or regulation-making or enforcing entity having or purporting to have jurisdiction on behalf of any nation, or province, territory or state or other subdivision thereof or any municipality, district or other subdivision thereof.

“Harmful Code” means any “back door”, “drop dead device”, “time bomb”, “Trojan horse”, “virus” or “worm” (as such terms are commonly understood in the software industry, but in all circumstances excluding any licensing strings, license keys or other copyright control mechanisms) or any other code designed or intended to have, or designed or intended to be capable of performing, any of the following functions: (i) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; or (ii) damaging or destroying any data or file without the user's consent.

“Hazardous Substances” means any contaminant, pollutant, dangerous substance, liquid waste, industrial waste, hauled liquid waste, toxic substance, special waste, hazardous waste, hazardous material or hazardous substance as defined in or pursuant to any Environmental Laws of any Governmental Authority to which the Company is subject.

“Indebtedness” means, with respect to the Company, all indebtedness (but excluding all Current Liabilities) for borrowed money whether capital, interest or accrued bonus interest, or any other penalty related to indebtedness (including, for greater certainty, in respect of obligations of the Company evidenced by a bond, note, debenture or similar instrument or evidence of debt, letters of credit and bankers’ acceptances) and including, for greater certainty, any indebtedness to shareholders or non-arm’s length parties, any liability with respect to the deferred purchase price of property, goods or services, including any earnout or similar liabilities and all of the Company’s obligations under any leases which should have been or should be, in accordance with ASPE, recorded as capital leases in respect of which the Company is liable as a lessee.

“Indemnified Person” means a Person with indemnification rights or benefits under Article 7 of this Agreement.

“Indemnifying Party” means a party against which a claim may be made for indemnification under this Agreement.

“Intellectual Property” means domestic and foreign: (i) patents, applications for patents and reissues, divisions, continuations, renewals, extensions and continuations-in-part of patents or patent applications; (ii) proprietary and non-public business information, including inventions (whether patentable or not), invention disclosures, improvements, discoveries, trade secrets, confidential information, know-how, methods, processes, designs, technology, technical data, schematics, recipes, formulae and customer lists, and documentation relating to any of the foregoing; (iii) copyrights, copyright registrations and applications for copyright registration; (iv) mask works, mask work registrations and applications for mask work registrations; (v) industrial designs, and applications and registrations therefor and integrated circuit topographies; (vi) trade names, business names, corporate names, domain names, social media accounts, website names and world wide web addresses, common law trade-marks, trade-mark registrations, trade mark applications, trade dress and logos, and the goodwill associated with any of the foregoing; (vii) Software; and (viii) any other intellectual property and industrial property.

“**Internet Web Sites**” means all of the Company’s web sites used in the conduct of the Business that are accessible by the public over the Internet.

“**IT Systems**” means the computer, information technology and data processing systems, facilities and services used by the Company in the conduct of its Business, including all software, systems hardware, networks, interfaces, platforms and related systems and services.

“**Key Employees**” means Kate Burnett, Laurie Ouellette and Ian Clark.

“**Leased Property**” means the premises subject to the Leases.

“**Leases**” means the leases of Leased Property listed in Schedule 3.1(p).

“**Liabilities**” means with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, or otherwise, and whether or not the same is required to be set forth in the financial statements of such Person.

“**Licensed Software**” means all Software that is used by the Company in the conduct of the Business and that is not exclusively owned by the Company and is subject to third party software licenses, except for any Commercial-Off-the-Shelf Software.

“**Lien**” means any encumbrance, hypothecation, security interest, option, right of first refusal, adverse claim, easement, mortgage, charge, hypothec, indenture, deed of trust, statutory or deemed trust, right of way, restriction on the use of real property, encroachment, lease to third parties, security agreement, assignment, lien (statutory or otherwise), title retention agreement or arrangement, restrictive covenant or other encumbrance of any nature or any other arrangement, deemed or statutory trust, or condition which in each case, in substance, secures payment or performance of an obligation.

“**Lock-Up Agreements**” means the lock-up agreements imposing resale restricting on the Consideration Shares for a period of two (2) years from the date of Closing, to be delivered by each of the Sellers to the Purchaser on Closing in a form to be mutually agreed upon by the Purchaser and the Sellers’ Representative, acting reasonably.

“**Material Adverse Change**” means any change, effect, event or occurrence that, individually or in the aggregate with all other changes, effects, events or occurrences: (i) is or would reasonably be expected to be material and adverse to the affairs, operations or conditions of the Company or the Business, or (ii) would reasonably be expected to materially impair or delay the ability of the Sellers to perform their obligations under this Agreement, excluding, however, in each case any such change, effect, event or occurrence to the extent resulting or arising from (i) any change in Applicable Law or interpretation thereof, (ii) any change in general economic conditions in the industries or markets in which the Company operates or affecting Canadian or foreign economies in general, (iii) any change that is generally applicable to the industries or markets in which the Company operates, (iv) any change resulting from acts of war (whether or not declared),

sabotage or terrorism, military actions or the escalation thereof, except, in each case, to the extent that any such change has or could reasonably be expected to have a materially disproportionate adverse effect on the Company, as compared to other Persons operating in the same industry in which the Company operates, or (v) the execution of this Agreement or the public announcement of the transactions contemplated hereby.

“**Material Contracts**” has the meaning specified in Section 3.1(q).

“**Options**” means any options granted, outstanding and issued pursuant to the 2010 Share Option Plan of the Company.

“**Ordinary Course**” means, with respect to an action taken by a Person, that such action is consistent with the past practices of the Person and is taken in the ordinary course of the normal day-to-day operations of the Person.

“**Outside Date**” means March 31, 2020.

“**parties**” means the Sellers, the Sellers’ Representative and the Purchaser.

“**Permitted Liens**” means the Liens listed and described in Schedule 3.1(m)(iii).

“**Person**” means a natural person, partnership, limited partnership, limited liability company or partnership, corporation, syndicate, sole proprietorship, company, joint share company, trust, trustee, executor, administrator or other legal representative, unincorporated association, joint venture or other entity or Governmental Authority, and pronouns have a similarly extended meaning.

“**Preliminary Cash Purchase Price**” has the meaning set out in Section 2.4(a)(ii).

“**Preliminary Purchase Price**” has the meaning set out in Section 2.4(a)(i).

“**Pro Rata Share**” means, with respect to any Seller, the percentage set forth opposite such Seller’s name on Schedule 2.1.

“**Proceeding**” has the meaning set out in Section 3.1(hh)(iv).

“**Public Record**” means all information filed by Purchaser with any securities commission or similar regulatory authority in compliance, or intended compliance, with Canadian Securities Laws.

“**Purchase Price**” means the Preliminary Purchase Price paid for the Purchased Shares, as may be adjusted in accordance with Section 2.5.

“**Purchased Shares**” has the meaning specified in Section 2.1.

“**Purchaser**” has the meaning set out in the preamble hereto.

“**Purchaser Indemnified Parties**” has the meaning specified in Section 7.2(a).

“**Purchaser Shares**” means the common shares in the capital of the Purchaser.

“**Required Consents**” means all requirements to obtain any Consent of a third party under any Contract in connection with the completion of the transactions contemplated by this Agreement or the Ancillary Agreements or to avoid potential cancellation or default thereunder, a complete list of which is set out under the heading “*Required Consents*” on Schedule 3.1(d).

“**Restricted Employee**” has the meaning specified in Section 6.5(b).

“**Restricted Period**” has the meaning specified in Section 6.5(b).

“**Second Earn-Out Period**” has the meaning specified in Section 2.6(a).

“**Sellers**” has the meaning specified in the preamble to this Agreement.

“**Sellers’ Counsel**” means LaBarge Weinstein LLP.

“**Sellers’ Representative**” has the meaning specified in the preamble to this Agreement.

“**Seller Indemnified Parties**” has the meaning specified in Section 7.3(a).

“**Seller Majority**” has the meaning set out in Section 9.1(i).

“**Software**” means any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, (iii) all documentation, including user manuals and training software, relating to any of the foregoing, and (iv) any device, programming, documentation, media and other objects, including compilers, workbenches, tools, and higher-level or proprietary languages.

“**Target Closing Working Capital**” means \$0.

“**Target Closing Working Capital Statement**” means the statement attached hereto as Exhibit 2.4(b), setting forth the parties’ agreed-upon calculation of the Target Closing Working Capital.

“**Tax**” or “**Taxes**” means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or other basis, including those levied on, or measured by, or described with respect to, income, gross receipts, profits, gains, windfalls, capital, capital stock, production, recapture, transfer, land transfer, license, gift, occupation, wealth, environment, net worth, Indebtedness, surplus, sales, goods and services, harmonized sales, use, value-added, excise, special assessment, stamp, withholding, business, franchising, real or personal property, health, employee health, payroll, workers’ compensation, employment or unemployment, severance, social services, social security, education, utility, surtaxes, customs, import or export, and including all license and

registration fees and all employment insurance, health insurance and government pension plan premiums or contributions; (ii) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority on or in respect of amounts of the type described in clause (i); (iii) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (iv) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party.

“**Tax Act**” means the *Income Tax Act* (Canada) as may be amended, re-enacted or replaced, and the regulations promulgated thereunder.

“**Tax Refunds**” means any refund or rebate of Taxes previously paid (or any instalments previously paid in respect of Taxes), or any refundable tax credit received (or credited), in respect of any taxable period or portion thereof.

“**Tax Return**” means any return, declaration, report, election, notice, designation, filing, claim for refund, or information return or statement relating to any Tax, including any schedule or attachment thereto, and any amendment thereof.

“**Territory**” means the provinces and territories of Canada.

“**Third Party Claim**” means any action, suit, proceeding, arbitration, claim or demand that is instituted or asserted by a third party against an Indemnified Person which entitles the Indemnified Person to make a claim for indemnification under this Agreement.

“**TSX**” means the Toronto Stock Exchange.

“**Working Capital**” means, as of a specified date, an amount (which may be positive or negative) equal to the difference between (i) the Current Assets minus (ii) the Current Liabilities.

“**Working Capital Principles**” means the accounting-related principles underlying and used in the preparation of the Target Closing Working Capital Statement attached hereto as Exhibit 2.4(b).

1.2 Gender and Number.

Any reference in this Agreement or any Ancillary Agreement to gender includes all genders and words importing the singular number only shall include the plural and vice versa.

1.3 Headings, etc.

The provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and are not to affect its interpretation.

1.4 Currency.

All references in this Agreement or any Ancillary Agreement to dollars, unless otherwise specifically indicated, are expressed in Canadian Dollars.

1.5 Certain Phrases, etc.

In this Agreement and any Ancillary Agreement (i) (a) the words “including” and “includes” mean “including (or includes) without limitation”, and (b) the phrase “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”, and (ii) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

1.6 Accounting Terms.

All accounting terms not specifically defined in this Agreement shall be interpreted either in accordance with ASPE.

1.7 Knowledge.

Where any representation or warranty contained in this Agreement is qualified by reference to the knowledge of the Company, it refers to the actual knowledge of the Key Employees, after due inquiry of such Persons within the Company who would reasonably be expected to have knowledge as to the matters that are the subject of the representation and warranty.

1.8 Incorporation of Schedules, Exhibits and Attachments.

The schedules, exhibits and other attachments attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it.

ARTICLE 2 PURCHASED SHARES AND PURCHASE PRICE

2.1 Purchased Shares.

Subject to the terms and conditions of this Agreement, the Sellers agree to sell, assign, transfer and deliver to the Purchaser, and the Purchaser agrees to purchase and accept from the Sellers, on the Closing Date, all (but not less than all) of the Company’s issued and outstanding shares as set out in Schedule 2.1 hereto (the “**Purchased Shares**”), free and clear of all Liens.

2.2 Purchase Price.

Subject to adjustment, if any, in accordance with Section 2.5, and subject to any Additional Payments payable in accordance with Section 2.6, the aggregate purchase price payable by the Purchaser for the Purchased Shares (the “**Purchase Price**”) shall be:

- (a) \$9,500,000;
- (b) minus the Indebtedness as set forth on the Closing Statement;
- (c) plus the amount, if any, by which the Closing Working Capital exceeds the Target Closing Working Capital;
- (d) minus the amount, if any, by which the Closing Working Capital is less than the Target Closing Working Capital.

2.3 **Estimated Closing Working Capital and Estimated Closing Indebtedness.**

As soon as practicable prior to the Closing, but in no event less than two (2) Business Days prior to the Closing Date, the Sellers' Representative shall provide to the Purchaser an estimate of the Closing Working Capital, calculated (as of the Closing Date) in a manner consistent with the Working Capital Principles (the "**Estimated Closing Working Capital**"), and the Closing Indebtedness Statement, which sets out (among other things) an estimate of the Indebtedness as at the Closing Date (the "**Estimated Closing Indebtedness**").

2.4 **Closing Payments.**

- (a) At Closing, the Purchaser shall:
 - (i) pay to the Sellers an amount equal to \$6,000,000 plus the amount, if any, by which the Estimated Closing Working Capital exceeds the Target Closing Working Capital, or less the amount, if any, by which the Estimated Closing Working Capital is less than the Target Closing Working Capital, less the aggregate amount of Estimated Closing Indebtedness (the "**Preliminary Cash Purchase Price**"), by wire transfer of immediately available funds to the Sellers' Counsel in trust for the Sellers, which balance shall be allocated among the Sellers in accordance with their respective Pro Rata Share; and
 - (ii) issue the Consideration Shares (together with the Preliminary Cash Purchase Price, the "**Preliminary Purchase Price**") to the Sellers, which Consideration Shares shall be allocated among the Sellers in accordance with their respective Pro Rata Share and the registration instructions specified on Schedule 2.1 hereto.
- (b) Immediately prior to Closing, (i) the Purchaser shall, on behalf of and at the direction of the Company, pay in full, or cause to be paid in full, to the Persons listed in Part B of the Closing Indebtedness Statement, the Indebtedness of the Company owed to such Persons, and (ii) all Liens (other than Permitted Liens) relating to the Indebtedness paid in accordance with Part B of the Closing Indebtedness Statement shall be discharged and released, or arrangements for

such discharge and release reasonably satisfactory to the Purchaser shall have been made (it being understood that “paid in full” for the purposes of this section shall also mean, with respect to any letters of credit or guarantee, backstopped in a manner reasonably acceptable to the existing issuing bank), by way of transfer of immediately available funds to accounts designated in writing by the Sellers’ Representative. The Indebtedness of the Company set out in the Closing Indebtedness Statement and not described in Part B thereof (if any) shall remain outstanding.

2.5 Purchase Price Adjustment.

- (a) Closing Statement. No later than 90 days after the Closing Date, the Purchaser shall cause to be prepared and delivered to the Sellers’ Representative a certificate of a senior officer of the Purchaser setting out the statement (the “**Closing Statement**”), prepared in accordance with the Working Capital Principles applied in a manner consistent with the preparation of the Target Closing Working Capital Statement, setting forth in detail the Purchaser’s good faith calculations of (i) Working Capital as at close of business on the day immediately prior to the Closing Date (the “**Closing Working Capital**”), and (ii) the Indebtedness of the Company as of the Closing Date, being the Indebtedness of the Company as of the Closing excluding such payment made in accordance with Section 2.4(b) (the “**Closing Indebtedness**”). The Purchaser shall make available to the Sellers’ Representative concurrently with the Closing Statement copies of all customary accounting working papers in its possession that were used in connection with the calculations set forth in the Closing Statement.
- (b) Dispute Resolution Procedures.
 - (i) If the Sellers’ Representative disagrees in good faith with the Purchaser’s calculation of the Closing Working Capital and/or the Closing Indebtedness as set forth in the Closing Statement, the Sellers’ Representative may, within 30 days following its receipt of the Closing Statement, deliver to the Purchaser (A) a written notice of disagreement setting forth in reasonable detail each specific item or amount included in the Closing Statement as to which the Sellers’ Representative disagrees, together with the basis for each such disagreement, and (B) reasonable supporting documentation for each such disagreement. In respect of Closing Working Capital, the only valid basis for a notice of disagreement shall be that: (1) an item or amount included in the Closing Statement (or excluded therefrom) was not properly included, excluded or calculated in accordance with the Working Capital Principles applied in a manner consistent with the preparation of the Target Closing Working Capital Statement; or (2) there was a mathematical or clerical error in the recording of any item or amount included in the Closing Statement. The Sellers’ Representative shall be deemed to have agreed with all other

items and amounts set forth in the Closing Statement other than those specified in a notice of disagreement.

- (ii) If the Sellers' Representative does not timely deliver a notice of disagreement to the Purchaser, or if the Sellers' Representative delivers a notice to the Purchaser that confirms the Sellers' Representative's acceptance of the Closing Statement, then the Closing Statement delivered pursuant to Section 2.5(a) and the calculations set forth therein shall be final, binding and conclusive on the parties.
- (iii) If the Sellers' Representative timely delivers a notice of disagreement to the Purchaser, the Purchaser and the Sellers' Representative shall, during the 30-day period following the Purchaser's receipt of such notice, negotiate in good faith and use commercially reasonable efforts to resolve promptly all of the disputed items and amounts specified in the notice of disagreement. Any such disputed items and amounts that are resolved by a written agreement between the Purchaser and the Sellers' Representative shall be final, binding and conclusive on the parties and shall become part of the calculation of the Closing Working Capital and the Closing Indebtedness.
- (iv) If the Purchaser and the Sellers' Representative are unable to resolve all of the disputed items and amounts that were properly included in a notice of disagreement by the end of such 30-day dispute resolution period, they shall jointly engage and submit the unresolved disputed items and amounts for resolution to an independent internationally recognized accounting firm that is mutually acceptable to the Purchaser and the Sellers' Representative. If the parties are unable to agree on such an accounting firm within 10 days after the end of such 30-day dispute resolution period, the Purchaser and the Sellers' Representative shall each select such a firm and such two firms shall jointly select a third independent internationally recognized accounting firm to resolve the unresolved disputed items and amounts. Each party agrees to execute, if requested by the accounting firm, a reasonable engagement letter with such firm.
- (v) The Purchaser and the Sellers' Representative shall jointly instruct the accounting firm that: (A) it shall base its decision solely on the written submissions of the Purchaser and the Seller and not on independent review; (B) it may not assign a dollar value to any disputed item greater than the highest amount or less than the lowest amount claimed by the Purchaser or the Sellers' Representative, as applicable; and (C) it shall deliver to the Purchaser and the Sellers' Representative its written decision setting forth its calculations of the Closing Working Capital and the Closing Indebtedness and any adjustment to the Preliminary Purchase Price as promptly as practicable (but in no event later than 30 days) after the submission of the unresolved disputed items to the accounting firm,

which written decision shall be final, binding and conclusive on the parties. The Closing Statement shall be revised as necessary to reflect the accounting firm's written decision, and judgment may be entered upon the determination of the accounting firm in any court having jurisdiction over the party against whom such determination is to be enforced.

- (vi) The fees and expenses of the accounting firm shall be allocated between the Purchaser, on the one hand, and the Sellers, on the other hand, in the same proportion that their respective positions are confirmed or rejected by the accounting firm (which proportionate allocations also shall be determined by the accounting firm and included in its written decision).
- (c) Access to Information. During the period from and after the Purchaser's delivery of the Closing Statement pursuant to Section 2.5(a) through the resolution of any matters contemplated by Section 2.5(b), the Purchaser shall (and shall cause its representatives to) afford the Sellers' Representative and their representatives, on a confidential basis, reasonable access during normal business hours to the books and records of the Company to the extent related to the calculation of the Closing Working Capital or Closing Indebtedness, provided that such access shall not interfere unreasonably with the normal business operations of the Purchaser and subject to the execution by the Sellers' Representative and their representatives of a customary confidentiality agreement in form and substance reasonably satisfactory to the Purchaser.
- (d) Final Closing Working Capital and Final Closing Indebtedness. As used herein, the "**Final Closing Working Capital**" and "**Final Closing Indebtedness**" shall mean:
 - (i) if the Sellers' Representative does not timely deliver a notice of disagreement with respect to the Closing Statement pursuant to Section 2.5(b)(i) or if the Sellers' Representative delivers a notice of acceptance with respect to the Closing Statement pursuant to Section 2.5(b)(ii), the Closing Working Capital and Closing Indebtedness as set forth in the Closing Statement; or
 - (ii) if a proper notice of disagreement is timely delivered, the Closing Working Capital and Closing Indebtedness (A) as agreed to in writing by the Purchaser and the Sellers' Representative pursuant to Section 2.5(b)(iii) or (B) in the absence of such agreement, as determined by an independent internationally recognized accounting firm pursuant to Section 2.5(b)(v).
- (e) Adjustments. As promptly as practicable (but in no event later than five (5) Business Days) after the determination of the Final Closing Working Capital and the Final Closing Indebtedness, the Purchase Price shall be adjusted as follows:

- (i) if the Final Closing Working Capital exceeds the Estimated Closing Working Capital, then the Purchaser shall pay or cause to be paid to the Sellers, an amount equal to such excess (which amount shall be allocated among the Sellers in accordance with their respective Pro Rata Shares); or if the Final Closing Working Capital is less than the Estimated Closing Working Capital, then the Sellers (in accordance with their respective Pro Rata Shares) shall pay to the Purchaser an amount equal to such shortfall; and
 - (ii) if the Estimated Closing Indebtedness is greater than the Final Closing Indebtedness, then the Purchaser shall pay an amount equal to such excess to the Sellers (which amount shall be allocated among the Sellers in accordance with their respective Pro Rata Shares). If the Final Closing Indebtedness is greater than the Estimated Closing Indebtedness, then the Sellers (in accordance with their respective Pro Rata Shares) shall pay an amount equal to such excess to the Purchaser.
- (f) Tax Treatment. Any amounts paid pursuant to this Section 2.5 shall be treated as an adjustment to the Purchase Price for Tax purposes, except to the extent otherwise required by Applicable Law.

2.6 Earn-Out Payments.

Following the Closing Date, the Purchaser shall make the additional payments described below (each, an “**Additional Payment**”) on account of the Purchase Price, in cash, to the Sellers (which amounts shall be allocated among the Sellers in accordance with their respective Pro Rata Shares) in accordance with the calculations set out below (each, an “**EBITDA Earn-Out Amount**”) and subject to the terms and conditions set out below.

- (a) Following completion of each of the 12-month fiscal periods ending December 31, 2020 (the “**First Earn-Out Period**”) and December 31, 2021 (the “**Second Earn-Out Period**”) and together with the First Earn-Out Period, the “**Earn-Out Periods**”), the Purchaser shall make an Additional Payment equal to \$750,000 multiplied by a fraction, the numerator of which is the EBITDA achieved by the Company during the applicable 12-month fiscal period and the denominator of which is \$2,250,000; provided that, if Kate Burnett’s employment is terminated without cause during an Earn-Out Period or her oversight role as described in Section 2.6(b)(ii) below is terminated without her consent, the amount of the remaining Additional Payment(s) for the Earn-Out Period(s) shall equal the greater of (i) the amount determined in accordance with the foregoing formula and (ii) the amount determined in accordance with the foregoing formula if the numerator were the actual EBITDA achieved by the Company during the trailing 12-month period ending on the last day of the month preceding such termination.

- (b) Subject to the terms of this Agreement and the other Ancillary Agreements, subsequent to the Closing, the Purchaser shall have sole discretion with regard to all matters relating to the operation of the Company; provided that the Purchaser shall not, directly or indirectly, take any actions in bad faith that would have the purpose of avoiding or reducing any Additional Payment hereunder. The Sellers acknowledge that there is no assurance that the Sellers will receive any Additional Payment and the Purchaser has not promised or projected any Additional Payment. In addition (i) during the Earn-Out Period, the Company shall remain a separate Person for accounting and legal purposes and the consent of the Sellers' Representative shall be required for any corporate reorganization of the Company; (ii) subject to the oversight of the Company's board of directors and compliance with the Purchaser's internal policies and procedures applicable to the Company, Kate Burnett shall have the responsibility for overseeing the day-to-day operations of the Business in accordance with the budgets, business plans, and objectives established by the Purchaser for the Business from time to time; and (iii) the Purchaser shall not make any Fundamental Decision in respect of the Company without reasonable consultation with and prior consent of the Sellers' Representative (not to be unreasonably withheld).
- (c) Within 60 days following the completion of the applicable Earn-Out Period, the Purchaser shall deliver to the Sellers' Representative a statement with the same detail as set out in Schedule 1.1 setting forth (i) the EBITDA for the applicable Earn-Out Period; and (ii) all good faith calculations and assumptions used in the determination the Company's EBITDA for the applicable Earn-Out Period (the "**EBITDA Statement**"). Any dispute by the Sellers' Representative of any matter set out in the EBITDA Statement shall be resolved pursuant to the procedures set out in Section 2.5(b), *mutatis mutandis*.
- (d) During the period from and after the Purchaser's delivery of the EBITDA Statement pursuant to Section 2.6(d) through the resolution of any matters contemplated by Section 2.6(d), the Purchaser shall (and shall cause its representatives to) afford the Sellers and their representatives, on a confidential basis, reasonable access during normal business hours to the books and records of the Company to the extent related to the calculation of the EBITDA for the applicable Earn-Out Period, provided that such access shall not interfere unreasonably with the normal business operations of the Purchaser and subject to the execution by the Sellers and their representatives of a customary confidentiality agreement in form and substance reasonably satisfactory to the Purchaser.
- (e) In the event that the Company achieves an EBITDA Earn-Out Amount pursuant to Section 2.6(a), the corresponding Additional Payment shall become due and payable by the Purchaser within 15 days following the delivery of the EBITDA Statement for the applicable Earn-Out Period. Any such payments shall be made by wire transfer of immediately available funds to an account specified in writing by the Sellers' Representative.

- (f) The Purchaser's obligation to pay each of the Additional Payments to the Seller in accordance with Section 2.6(a) is an independent obligation of Purchaser and is not otherwise conditional or contingent upon the satisfaction of any conditions precedent to any preceding or subsequent Additional Payment and the obligation to pay an Additional Payment to the Sellers shall not obligate the Purchaser to pay any preceding or subsequent Additional Payment.

2.7 Section 85 Tax Election.

- (a) Each Seller shall, by no later than ninety (90) days prior to the filing due-date for such elections, provide executed joint elections under subsection 85(1) of the Tax Act and any corresponding provincial elections between such Seller and Purchaser relating to the sale of a portion of the Purchased Shares held by such Seller.
- (b) The Purchaser agrees to make a joint election with Seller in respect of the disposition of a portion of the Purchased Shares pursuant to subsection 85(1) of the Tax Act (or any similar provisions of any applicable provincial Tax Law). The Purchaser further agrees that the agreed amount under such joint elections shall be determined by each Seller in their sole discretion within the limits set out in the Tax Act (and any applicable provincial Tax laws). The Purchaser shall, within ninety (90) days after receiving the completed joint election forms from the Seller, and subject to such joint election forms being correct and complete and in compliance with requirements imposed under the Tax Act (or applicable provincial Tax laws), sign and return them to the Sellers, for filing with the Canada Revenue Agency (or the applicable provincial Governmental Authority). The Purchaser will not be responsible for the proper completion or filing of any Tax election form and, subject to the signing and return of such Tax election form by the Purchaser in compliance with this Section 2.7(b), the Seller will be solely responsible for the payment of any Taxes resulting from the failure of the Seller to properly complete or file such joint Tax election forms in the form and manner and within the time prescribed by the Tax Act (or any applicable provincial Tax laws).

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE SELLERS REGARDING THE COMPANY

3.1 Representations and Warranties regarding the Company.

Each Seller, severally and not jointly and severally, represents and warrants as follows to the Purchaser as of the date hereof and acknowledges and confirms that the Purchaser is relying on such representations and warranties in connection with the purchase by the Purchaser of the Purchased Shares and the other transactions contemplated hereby:

Corporate Matters

- (a) Incorporation and Qualification. The Company is a corporation amalgamated, validly existing and in good standing under the Applicable Laws of its jurisdiction of amalgamation and has the corporate power to own or lease its property, carry on its business as presently conducted and enter into and perform its obligations under this Agreement (if any) and each of the Ancillary Agreements to which it is a party. The Company is duly qualified, licensed or registered, as required by Applicable Law, to carry on business in Ontario, other than such qualifications, licenses or registrations that, individually or in the aggregate, are not material to the Company.
- (b) Private Issuer. The Company is a private issuer within the meaning of National Instrument 45-106 – *Prospectus Exemptions*.
- (c) Required Authorizations. There is no requirement to make any filing with, give any notice to, or to obtain any consent or approval of any Governmental Authority or to obtain any Authorization of any Governmental Authority as a condition to the lawful completion of the transactions contemplated by this Agreement or any Ancillary Agreement.
- (d) Required Consents. Except for the Required Consents or as otherwise set out on Schedule 3.1(d), there is no requirement to obtain any Consent, approval or waiver of a third party under any Material Contract in connection with the completion of the transactions contemplated by this Agreement or the Ancillary Agreements or to avoid potential cancellation or default thereunder.
- (e) Authorized and Issued Capital.
 - (i) On the Closing Date, the authorized capital of the Company will consist of an unlimited number of Class A Common Shares, an unlimited number of Class B Common Shares, an unlimited number of Class C Common Shares, an unlimited number of Class A Preferred Shares and an unlimited number of Class B Preferred Shares, of which 336,346 Class A Common Shares, 574,169 Class B Common Shares, 600 Class C Common Shares, no Class A Preferred Shares and 175,621 Class B Preferred Shares shall be issued and outstanding as fully paid and non-assessable shares of the Company.
 - (ii) As of the Closing Date, the Purchased Shares shall represent 100% of the issued and outstanding shares of the Company, on a fully diluted basis.
 - (iii) All of the Purchased Shares have been duly authorized and are validly issued, fully paid, non-assessable.
 - (iv) The Sellers are the registered holders of all of the Purchased Shares.

- (f) Other Rights. Except as provided in the Company's articles of amalgamation, as amended, or set out on Schedule 3.1(f), there are no outstanding contractual obligations of the Company (i) restricting the transfer of; (ii) affecting the voting rights of; (iii) requiring the repurchase, redemption or disposition of, or containing any right of first refusal with respect to; (iv) requiring the registration or sale of, or (v) granting any pre-emptive or anti-dilutive right with respect to, any shares in the capital of the Company. No debt securities of the Company that are convertible into securities in the capital of the Company are issued and outstanding.
- (g) No Other Agreements to Purchase. Except for the Options (none of which is or will be "in the money" at the per Purchased Share value implied by the Purchase Price) and as set forth in Schedule 3.1(g), no Person has any written or oral agreement, option or warrant or any right or privilege (whether by Applicable Law, pre-emptive or contractual) capable of becoming such for the purchase, subscription, allotment or issuance of the Purchased Shares or any unissued shares or other securities of the Company.
- (h) Corporate Records. The Corporate Records are complete and accurate in all material respects and all corporate proceedings and actions reflected in the Corporate Records have been conducted or taken in compliance with all Applicable Laws and with the articles of amalgamation and by-laws of the Company, in each case, in all material respects.

General Matters Relating to the Business

- (i) Conduct of Business in Ordinary Course. Since September 30, 2019 and except as set out on Schedule 3.1(i), the Business has been carried on in the Ordinary Course and the Company has not done any of the following, other than in the Ordinary Course:
 - (i) sold, transferred or otherwise disposed of any assets except for assets which are obsolete and which individually or in the aggregate do not exceed \$20,000;
 - (ii) made any capital expenditure or commitment therefor which individually or in the aggregate exceeded \$20,000;
 - (iii) incurred any material liability or obligation (including the borrowing of funds under existing lines of credit or otherwise);
 - (iv) declared, made, paid or committed to any form of distribution or reduction of the profits of the Company or of its respective capital, including any (i) dividend (including share dividends) or other distribution on any present or future shares, (ii) purchase, redemption or retirement or acquisition of any of its shares, or any option, warrant or other right to

acquire any such shares, or apply or set apart any of its assets therefor, (iii) bonuses to shareholders, (iv) payment on account of loans made to any shareholders of the Company, or (v) payment of any bonuses or management fees, in each case, other than pursuant to the Company's incentive compensation plans;

- (v) created, allotted or issued any shares, or entered into any agreement, or grant any option, right or privilege, whether pre-emptive, contractual or otherwise for the purchase or other acquisition of shares or securities convertible into such shares of the Company, nor amended its charter documents, changed its capital structure or entered into any agreement or made any offer to do so;
- (vi) discharged any secured or unsecured obligation or liability (whether accrued, absolute, contingent or otherwise) which individually or in the aggregate exceeded \$25,000;
- (vii) increased its Indebtedness for borrowed money or made any loan or advance, or assumed, guaranteed or otherwise became liable with respect to the Liabilities of any Person;
- (viii) made any payment to any employee, officer or director other than normal salary, incentive compensation plan payments, or expense reimbursements;
- (ix) made any bonus or profit sharing distribution or similar payment of any kind, or incurred the obligation for the same, except as may be required by the terms of a Contract or pursuant to incentive compensation plans in place;
- (x) granted any general increase in the rate of wages, salaries, bonuses or other remuneration of any employees of the Company other than in the Ordinary Course;
- (xi) removed any auditor or director or terminated any officer or other senior employee;
- (xii) written off as uncollectible any accounts receivables totalling in excess of \$5,000;
- (xiii) cancelled or waived any material claims or rights;
- (xiv) compromised or settled any litigation, proceeding or other governmental action relating to the assets, the Business or the Company other than in the Ordinary Course;

- (xv) made any material Tax election or changed any existing material Tax election or settled or compromised any Tax liability;
 - (xvi) made, or agreed to make, any material change in any method of accounting or auditing practice;
 - (xvii) entered into, adopted or amended (or committed to enter into, adopt or amend) or otherwise became obligated under any Employee Plan;
 - (xviii) entered into any “related party transaction” as such term is defined under ASPE (other than in connection with Closing);
 - (xix) authorized, agreed or otherwise committed, whether or not in writing, to do any of the foregoing.
- (j) No Material Adverse Change. Since September 30, 2019, there has not been any Material Adverse Change, and no event has occurred or circumstance exists which could reasonably be expected to result in such a Material Adverse Change.
 - (k) Compliance with Laws. The Company is conducting and has always conducted the Business in compliance with all Applicable Laws other than acts of non-compliance which, individually or in the aggregate, are not material to the Company.

Matters Relating to the Assets

- (l) Conduct of Business. The Business is the only business operation carried on by the Company.
- (m) Sufficiency and Title to the Assets.
 - (i) The Company is the owner of all tangible and intangible property of which it claims to be the owner, including all other assets which are registered as belonging to it in the Books and Records and in the Financial Statements (except only for tangible property disposed of in the Ordinary Course from the dates indicated therein) and all property and assets purchased or otherwise acquired by the Company since September 30, 2019, in the Ordinary Course (the “**Assets**”).
 - (ii) Except as set out in Schedule 3.1(m)(ii) and except for the Leased Property, the Licensed Software and Commercial-Off-the-Shelf Software, (A) the Company does not use any material property owned by a third party that is necessary for the operation of the Business as currently operated, and (B) the Assets constitute all material property and material assets necessary for the operation of the Business as currently carried on.

- (iii) The Company has good title to, and legal and beneficial ownership of, or the right to use the Assets free and clear of all Liens except as set forth in Schedule 3.1(m)(iii) (the “**Permitted Liens**”).
- (n) No Options, etc. No Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such, for the purchase or other acquisition from the Company of any Assets.
- (o) Condition of Tangible Assets. The tangible personal property of the Company is in good operating condition and repair having regard to its use and age, and is adequate and suitable for the uses to which it is currently being put subject to reasonable wear and tear.
- (p) Leased Properties. The Company is not a party to, or under any agreement to become a party to, any lease with respect to real property other than the Leases, true and complete copies of which have been provided to the Purchaser. The Company does not utilize any real property other than the real property subject to the Leases and does not hold legal or beneficial title to any real property. The Leases are in good standing and are in full force and effect without amendment. With respect to each Lease (i) all rents and additional rents have been paid, (ii) no waiver, indulgence or postponement of the lessee’s obligations has been granted by the lessor, (iii) there exists no event of default or event, occurrence, condition or act (including, subject to receipt of the consent of the landlord, the purchase of the Purchased Shares) which, with the giving of notice, the lapse of time or the happening of any other event or condition, would become a default under such Lease; and (iv) to the knowledge of the Company, all of the covenants to be performed by any party (other than the Company) under such Lease have been fully performed.
- (q) Contracts. Except for the Contracts identified in Schedule 3.1(q) (collectively, the “**Material Contracts**”) and except as set out on Schedule 3.1(m)(ii), the Company is not a party to or bound by:
 - (i) any current customer, sales, advertising or agency Contract with a financial benefit or obligation of more than \$25,000 in any twelve (12) month period;
 - (ii) any continuing Contract for the purchase of materials, supplies, equipment or services with a financial benefit or obligation of more than \$25,000;
 - (iii) any Contract with a financial benefit or obligation of more than \$25,000 that expires or may be renewed at the option of any Person other than the Company so as to expire more than one (1) year after the date of this Agreement;

- (iv) any trust indenture, mortgage, promissory note, loan agreement or other Contract for the borrowing of money, any currency exchange, commodities or other hedging arrangement or any leasing transaction of which the Company is liable as a tenant and of the type required to be capitalized in accordance with ASPE;
 - (v) any current Contract for future capital expenditures in excess of \$25,000 in the aggregate;
 - (vi) (x) any continuing confidentiality, secrecy or non-disclosure Contract or (y) any continuing Contract, that in each case, limits the freedom of the Company to engage in any line of business, operate in any jurisdiction, compete with any other Person, operate its assets at maximum production capacity or otherwise conduct its business or to solicit or hire employees;
 - (vii) any Contract with a financial benefit or obligation of more than \$25,000 pursuant to which the Company is a lessor of any machinery, equipment, motor vehicles, office furniture, fixtures or other personal property;
 - (viii) any Contract with any Seller (or Affiliate thereof);
 - (ix) any agreement of guarantee, support, indemnification, assumption or endorsement of, or any similar commitment with respect to, the obligations, liabilities (whether accrued, absolute, contingent or otherwise) or Indebtedness of any other Person (other than in the Ordinary Course pursuant to lease, supplier or customer agreements entered into by the Company);
 - (x) any Contract pertaining to Licensed Software other than Commercial-Off-the-Shelf Software; or
 - (xi) any Contract made out of the Ordinary Course or that is otherwise material to the Company.
- (r) No Breach of Material Contracts. The Company has performed all of the obligations required to be performed by it and is entitled to all benefits under, and is not alleged to be in default of, any Material Contract. Each of the Material Contracts is in full force and effect, unamended, and there exists no default or event of default or event, occurrence, condition or act (including the purchase of the Purchased Shares but subject to securing the Consents as specified in Schedule 4.1(e)) which, with the giving of notice, the lapse of time or the happening of any other event or condition, would become a default or event of default under any Material Contract. True, correct and complete copies of all Material Contracts have been delivered to the Purchaser.

- (s) No Breach of Other Contracts. The Company has not violated or breached, in any material respect, any of the terms or conditions of any Contract (other than the Material Contracts), and all the covenants to be performed by any other party to such Contract have been fully performed, in all material respects.
- (t) Intellectual Property.
- (i) Except as set forth in Schedule 3.1(t)(i), the Company owns, directly and exclusively (to the extent the applicable Intellectual Property right provides exclusive protection under applicable law or the applicable Intellectual Property subject matter is accorded exclusive protection under applicable law), all right, title and interest in and to all Company Intellectual Property, with a good and marketable title, free and clear of all Liens (other than Permitted Liens). Any third party who has any moral rights or similar rights in or to the Company Intellectual Property has irrevocably waived such rights in favour of the Company. The Company holds valid licenses for all third-party owned Intellectual Property used by the Company in the conduct of the Business.
 - (ii) Except as set forth in Schedule 3.1(t)(ii), the Company is not bound by any agreement or other obligation whatsoever that limits or impairs its ability to sell, transfer, assign, convey or licence, or that otherwise affects the Company Intellectual Property rights.
 - (iii) All current and former employees, consultants, and contractors of the Company that have created or contributed to Company Intellectual Property have assigned to the Company all of their right, title, and interest in such Company Intellectual Property and waived their moral rights therein, and the Company is not in material breach of any such agreements and, to the knowledge of the Company, no other party to any such agreement(s) is in material breach thereof and to the knowledge of the Company there is no fact or circumstances that would affect the validity or enforceability of any such agreements other than (A) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (B) rules of law governing specific performance, injunctive relief and other equitable remedies.
 - (iv) Schedule 3.1(t)(iv) includes (i) complete and accurate particulars of all registrations and applications for registration filed by or on behalf of the Company in respect of the Company Intellectual Property identifying in each case the status, filing/grant dates and issuance/ registration/ application number thereof (as applicable) for which registrations or applications for registration have been made with the Canadian Intellectual Property Office, or such similar organizations in any other foreign jurisdictions, and (ii) a list of all titles of recipes and formulations within the Company Intellectual Property and any current material

unregistered trademarks, trade names, and social media accounts within the Company Intellectual Property that are material to the Company. Except as set forth in Schedule 3.1(t)(iv), the Company has made prudent and reasonable efforts in respect to the applications and registrations filed by or on behalf of the Company in respect to the Company Intellectual Property to preserve the rights of the Company in such applications and registrations. Except as set forth in Schedule 3.1(t)(iv), the Intellectual Property identified in Schedule 3.1(t)(iv) is subsisting and to the knowledge of the Company valid and enforceable.

- (v) The Company has taken reasonable commercial measures (having regard to the size and financial resources of the Company) to maintain the secrecy of its Intellectual Property that it considers to be material trade secrets or material confidential information.
- (vi) Except as set forth in Schedule 3.1(t)(v), each employee and contractor of the Company has signed a confidentiality and non-disclosure agreement, and there have not been any breaches of such confidentiality and non-disclosure agreements, to the knowledge of the Company. To the knowledge of the Company, its employment of any of its employees or the retainer of any consultant does not violate any non-disclosure or non-competition agreement between any employee or consultant and a third party.
- (u) No Infringement of Intellectual Property. To the Company's knowledge, the Company Intellectual Property does not conflict with, misappropriate or infringe upon the Intellectual Property rights of any other Person. For greater certainty, to the extent any other representations or warranties in this Agreement deal with or have the effect of dealing with any conflict with, misappropriation or infringement upon any Intellectual Property rights of any other Person, then such other representations and warranties shall be deemed to be provided by the Company only as to the knowledge of the Company. There are no unresolved pending or, to the knowledge of the Company, threatened actions or claims that allege that the Company infringes, violates or misappropriates the intellectual property rights of others or challenging the validity or scope of any Company Intellectual Property or the Company's rights and title thereto or right to use any such Company Intellectual Property (except for any rejections or objections that may have been issued by the applicable patent, trademark or intellectual property office in the course of prosecution of applications for registrations for any Company Intellectual Property). To the knowledge of the Company, none of the Company's employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court of administrative agency, that would materially interfere with their duties to the Company or that would materially conflict with the Business. To the knowledge of the Company, there is no (i) infringement, conflict, unauthorized use or misappropriation by third parties of

any Company Intellectual Property, or (ii) material breach at any time of any duty or obligation owed to the Company in respect of the Company Intellectual Property.

- (v) No Order. Except as set forth in Schedule 3.1(v), there are no consents, settlements, judgements, injunctions, decrees awards, stipulations, orders, or *inner partes* decisions, or government-imposed written or statutory obligations to which the Company is a party or is otherwise bound that do, or may: (i) restrict the rights of the Company to use, transfer, license, or enforce any of the Company Intellectual Property; (ii) restrict the conduct of the business of the Company in order to accommodate a third party's Intellectual Property rights; or (iii) grant any third party any right with respect to any Company Intellectual Property.
- (w) Employee Intellectual Property Matters. Neither the execution nor delivery of this Agreement, nor the carrying on of the Business by the employees of the Company, nor the conduct of the Business as presently conducted, will conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under any Contract, covenant or instrument under which any employee of the Company is now obligated towards the Company. The Company does not utilize any inventions, trade secrets or proprietary information of any of its current and former employees made prior to their employment by the Company except for inventions, trade secrets or proprietary information that have been assigned to the Company, in writing and it will not be necessary to do so upon Closing.
- (x) The Company owns, or has the right to use, all computer software and programs used by the Company to carry on the Business as now conducted by Company, other than such computer software and programs, the absence of which would not be material to the Business, taken as a whole.
- (y) Schedule 3.1(y) sets forth the physical location of the computer server that is currently hosting the Internet Web Sites.
- (z) The Company has taken commercially reasonable steps and implemented commercially reasonable safeguards to scan for and remove Harmful Code from the IT Systems owned by the Company. The IT Systems are reasonably sufficient for the needs of the Business as currently conducted, including as to capacity and scalability. The IT Systems are in good working condition to effectively perform all computing, information technology and data processing operations necessary for the operation of the Business as currently conducted. In the three-year period prior to the date of this Agreement, there has been no failure, breakdown or continued substandard performance of any IT System that has caused a material disruption or interruption in or to the operation of the Business. The Company has taken commercially reasonable steps to provide for the remote-site back-up of data and information critical to the conduct of the Business in a commercially reasonable attempt to avoid material disruption to, or material interruption in, the conduct of the Business. The Company has in place industry standard (and, in

any event, not less than commercially reasonable having regard to the size and financial resources of the Company) disaster recovery and business continuity plans, procedures and facilities. To the extent any of the representations and warranties in this Section 3.1(z) apply to any IT Systems that are leased or licensed by the Company, such representations and warranties are only provided as to knowledge of the Company for such leased or licensed IT Systems.

- (aa) Subsidiaries. The Company has no subsidiaries and holds no shares or other ownership, equity or proprietary interests in any other Person.

Financial Matters

- (bb) Books and Records. All accounting and financial Books and Records have been fully, properly and accurately kept and completed in all material respects.
- (cc) Financial Statements. Subject to the notes to the Annual Financial Statements, (i) the Annual Financial Statements have been prepared in accordance with ASPE applied on a basis consistent with those of previous fiscal years and (ii) the Interim Financial Statements have been prepared in accordance with ASPE applied on a consistent basis throughout the period subject to normal and recurring year-end adjustments and the absence of notes. The Financial Statements present fairly and accurately in all material respects the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial position of the Company and the results of its operations as of and for the periods covered thereby.
- (dd) No Liabilities. Except as reflected or reserved against in the balance sheet forming part of Financial Statements, the Company has no Liabilities nor is the Company a party to or bound by any agreement of guarantee, support, indemnification, assumption, or endorsement of, or any other similar commitment with respect to the Liabilities or Indebtedness of any Person, except for current Liabilities incurred in the Ordinary Course since September 30, 2019, which Liabilities in the aggregate are not material to the Company.
- (ee) Borrowed Money. No direct or indirect equity owner, officer, director, employee, or any family member of any of the foregoing, has borrowed money from, or loaned money to, the Company which remains outstanding except to the extent disclosed on the Closing Indebtedness Statement.
- (ff) Related Party Transactions. The Company has not made any payment or loan to, or borrowed any monies from or is otherwise indebted to, any related party, any shareholder of the Company or any other Person with whom the Company is not dealing at arm's length or any Affiliate of any of the foregoing, except as disclosed in the Financial Statements or for usual employment compensation and benefits paid in the Ordinary Course. Except for Contracts related to employment or directorship, or related to the previous purchase and sale of shares in the capital

of the Company, the Company is not a party to any Contract with any related party or any other Person with whom the Company is not dealing at arm's length or any Affiliate of any of the foregoing.

- (gg) Accounts Receivables. The accounts receivables due or accruing to the Company: (i) are reflected in the Financial Statements and accounting records, (ii) arose in the Ordinary Course, (iii) are bona fide and, (iv) subject to reasonable allowance for doubtful accounts that has been reflected in the Financial Statements and accounting records generally in accordance with ASPE, are collectible without defence, set-off or counterclaim.

Particular Matters Relating to the Business

(hh) Environmental Matters.

- (i) The Company is and has been since inception in compliance with all applicable Environmental Laws, except for non-compliance which would not reasonably be expected to have a material impact on the Company.
- (ii) The Company has not been required by any Governmental Authority to perform any environmental closure, decommissioning, rehabilitation, restoration or post-remedial investigations, on, about, or in connection with any real property.
- (iii) There are no reports and documents relating to environmental matters affecting the Company which are in the possession or under the control of the Company.
- (iv) There are no claims, prosecutions, charges, hearings or other proceedings of any kind (“**Proceeding**”) or, to the Company’s knowledge, contemplated Proceedings, in any court or tribunal or before any Governmental Authority, and no notice has been received by the Company of any such Proceeding or contemplated Proceeding, which alleges the violation of, or non-compliance with, any Environmental Law or relates to the presence of, or release of, any Hazardous Substances in connection with the Business.
- (v) Neither the Company nor the Sellers have agreed by contract or other agreement to indemnify, or be responsible for any liabilities or obligations of, another Person under Environmental Laws.

(ii) Employees.

- (i) The Company is in material compliance with all Applicable Laws respecting employment and employment practices, terms and conditions of employment, pay equity, employment equity, wages and hours of work,

occupational health and safety, and there are no outstanding claims, complaints, investigations or orders under any such Applicable Laws.

- (ii) The Company has not been and is not engaged in any unfair labour practice and no unfair labour practice complaint, grievance or arbitration proceeding is pending or, to the Company's knowledge, threatened against the Company.
- (iii) No union or collective bargaining agreement is currently being negotiated by the Company with respect to any employees of the Company, and there are no collective agreements in force with respect to any employees of the Company. There is no labour strike, dispute, work slowdown or work stoppage pending, involving, or, to the knowledge of the Company, threatened against the Company.
- (iv) All amounts due or accrued due for all salary, wages, bonuses, commissions, vacation with pay, pension benefits or other employee benefits are reflected in the Books and Records.
- (v) Schedule 3.1(ii)(v) sets forth a correct and complete list, as of November 19, 2019, of each salaried employee, whether actively at work or not, and every independent contractor and consultant of the Company having provided services to the Company during the last fiscal year, their salaries, wage rates, commissions and consulting fees, bonus arrangements, benefits, positions, status as full-time or part-time employees, length of service, vacation entitlement and accrued unused vacation as of November 19, 2019, in each case, as applicable. No employee of the Company has any agreement as to length of notice or severance payment required to terminate his or her employment, other than pursuant to the *Employment Standards Act, 2000* (Ontario) or such as results by Applicable Laws from the employment of an employee without an agreement as to notice or severance.
- (vi) To the Company's knowledge, no employee, consultant or independent contractor of the Company is obligated under any Contract or subject to any judgment, decree or order of any Governmental Authority, or any other restriction that would interfere with the use of his or her best efforts to carry out his or her duties for the Company or that would materially conflict with the Business.
- (vii) The carrying on of the Business by the employees, consultants and independent contractors of the Company and the conduct of the Business will not result in a material breach of the terms, conditions or provisions of, or constitute a material default under, any Contract under which (x) to the knowledge of the Company, any of such employees or consultants or (y) the Company is now obligated.

- (viii) Except as set out in Schedule 3.1(ii)(viii), the Company does not have any Employee Plans or any similar plans.
- (jj) Insurance. Schedule 3.1(jj) sets forth a list of insurance policies which are maintained by the Company setting out, in respect of each policy, a description of the type of policy, the name of insurer, the coverage allowance, the expiration date, the annual premium and any pending claims. The coverage provided by such insurance policies are consistent with industry practice for the industry in which the Business operates. The Company is not in default with respect to any of the provisions contained in the insurance policies, or the payment of any premiums under any insurance policy, and have never failed to give any notice or to present any claim under any insurance policy in a due and timely fashion. There has not been any material adverse change in the relationship of the Company with its insurers, the availability of coverage on substantially similar terms as previously granted, or in the premiums payable pursuant to the policies. Schedule 3.1(jj) also sets forth a list of any and all material claims made under any policies of insurance maintained by benefit of the Company.
- (kk) Litigation. Except as disclosed in Schedule 3.1(kk), there are no actions, suits or proceedings, at Applicable Law or in equity, by any Person (including the Company), nor any arbitration, administrative or other proceeding by or before (or any investigation by) any Governmental Authority pending, or to the knowledge of the Company, threatened against or affecting the Company, the Business or any of the Company's assets, and to the knowledge of the Company, there is no valid basis for any such action, suit, proceeding, arbitration or investigation by or against the Company, the Business or the Company's assets. The Company is not subject to any judgment, order or decree entered in any lawsuit or proceeding. The Company is not the plaintiff or complainant in any action, suit or proceeding.
- (ll) Suppliers. Schedule 3.1(ll) sets forth a true and correct list of the 10 largest suppliers by cost of the Company for the fiscal year ended March 31, 2019 (the "**Major Suppliers**"). The Company has not been notified that any Major Supplier will terminate or materially reduce its relationship with the Company after the Closing Date.
- (mm) Taxes.
- (i) The Company has duly and timely filed all Tax Returns required to be filed prior to the date hereof with the appropriate Governmental Authorities and all such Tax Returns are true and correct in all material respects and have not been amended.
- (ii) The Company has duly and timely paid or made adequate reserves on its respective books for all Taxes, including all instalments on account of Taxes, for any Tax period for which a Tax Return is not yet due, whether

or not assessed by the appropriate Governmental Authority. The Company has made adequate provision in the Books and Records for all Taxes which are not yet due and payable but which relate to periods ending on or before the date hereof. Since the date of the Company's last Financial Statements, the Company has only incurred Taxes in the ordinary course;

- (iii) All tax deficiencies asserted or assessed against the Company have been paid or finally settled. No notice has been received by the Company and no claim has been made in the last six years by any governmental authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to taxation by that jurisdiction. The Company has not filed, and currently is not required to file, any Tax Returns with any Governmental Authority located in any jurisdiction outside of Canada.
- (iv) There are no Liens on any assets of the Company that relate to any failure or alleged failure to pay any Tax, except for Permitted Liens (including current Taxes not yet due and payable).
- (v) There is no outstanding request for any extension of time within which to pay any Taxes or file any Tax Returns of the Company and there has been no waiver or extension of any applicable statute of limitations for the assessment or collection of any Taxes of the Company. To the knowledge of the Company, there is no pending or threatened claim, action, suits, audit, proceeding or investigation against the Company for the assessment or collection of any Taxes and the Sellers know of no valid basis for any such claim, action, suit, audit, proceeding or investigation. There are no requests for rulings, subpoenas or requests for information pending with respect to any Governmental Authority.
- (vi) The Company has withheld or collected all amounts required or permitted by Applicable Laws to be withheld or collected by it on account of Taxes and has remitted all such amounts to the appropriate Governmental Authorities that were due and payable on or before the Closing Date within the time prescribed under any Applicable Law. The amount of Taxes withheld or collected but not yet due on or before the Closing Date is retained in the appropriate account so it could be remitted by the Company to the appropriate Governmental Authority when due.
- (vii) The Company has not made any "excessive eligible dividend designation" as such term is defined in the Tax Act.
- (viii) Other than pursuant to certain Leases, the Company is not a party to any agreement, understanding, or arrangement pursuant to which the Company indemnifies, allocates or shares any amount of Taxes of another Person.

- (ix) The Company will not be required to include any item of income, or exclude any material item of deduction in the determination of income, for any taxable period (or portion thereof) ending after the Closing Date as a result of: (a) the use of the cash method of accounting, the instalment method of accounting or a change in method of accounting for a taxable period ending on or prior to the Closing Date; (b) the use of an improper method of accounting for a taxable period ending on or before the Closing Date; (c) any prepaid amount or advanced payment; (d) any reserve, deduction or election taken in respect of any taxable period ending on or before the Closing Date; (e) any Tax credit (including any investment tax credit) claimed in respect of any taxable period ending on or before the Closing Date, (f) an agreement with any Governmental Authority, any provision of local, provincial, territorial, federal or foreign Tax law, or (g) for any other reason.
- (x) None of sections 78, 80, 80.01, 80.02, 80.03 or 80.04 of the Tax Act, or any equivalent provision of the Tax law of any province or any other jurisdiction, has applied or will apply to the Company at any time up to and including the Closing.
- (xi) The Company is not, and will not become, liable for Tax under Parts III or III.1 of the Tax Act (or under any equivalent provision in the Tax Law of any province) as a result of any dividend declared prior to the Closing.
- (xii) The Company is registrant for the purposes of Part IX of the Excise Tax Act (Canada) and its registration number is 86813 0527 RC0002. The Company is not and has never been a financial institution within the meaning of Part IX of the Excise Tax Act (Canada) or a financial institution or specified financial institution within the meaning of the Tax Act.
- (xiii) The Company has not, directly or indirectly, transferred property to or supplied services to, or acquired property or services from, any Person with whom it was not dealing at arm's length (for the purposes of the Tax Act) for consideration other than consideration equal to the fair market value of the property or services at the time of the transfer, supply or acquisition of such property or services.
- (xiv) The Company has not realized or received any Tax Refund to which it was or is not entitled.
- (nn) Privacy.
 - (i) The Company is, and has been since inception, conducting the Business in compliance with all Applicable Laws governing privacy, the collection, use and/or disclosure of personal information and anti-spam, other than

acts of non-compliance which individually or in the aggregate are not material. The Company has implemented commercially reasonable protections (having regard to the size and financial resources of the Company) against any unauthorized disclosure, access or transfer of personal information and to the knowledge of the Company there has been no unauthorized disclosure, access or transfer of personal information collected by the Company. The Company has a written privacy policy which governs the collection, use and disclosure of personal information and the Company is in compliance in all material respects with such policy.

- (ii) To the Company's knowledge: (i) there has been no loss, damage, or unauthorized access, intrusions, use or modification, or other misuse of any personal information collected, controlled or held by the Company; (ii) no Person has provided any notice, made any claim, or commenced any proceeding with respect to loss, damage, or unauthorized access, use or modification, or other misuse of any such personal information by the Company; (iii) there is no reasonable basis for any such notice, claim or proceeding; and (iv) the execution of the Agreement and the consummation of the transactions contemplated hereby do not violate any privacy policy, terms of use, contracts or Applicable Laws relating to the use, dissemination, or transfer of any information.

- (oo) No Brokers. No broker, finder, investment banker or other Person is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE SELLERS

4.1 Representations and Warranties of the Sellers.

Each of the Sellers severally and not jointly and with respect only to himself, herself or itself, represents and warrants as follows to the Purchaser as of the Closing Date and acknowledges and confirms that the Purchaser is relying on such representations and warranties in connection with the purchase by the Purchaser of the Purchased Shares and the other transactions contemplated hereby:

- (a) Incorporation and Corporate Power. To the extent a Seller is a corporate Person, the Seller is a corporation incorporated and existing under the Applicable Laws in the jurisdiction in which it is incorporated and has the corporate power and authority to enter into and perform its obligations under this Agreement and each of the Ancillary Agreements to which it is a party.

- (b) Validity of Agreement. The execution, delivery and performance by such Seller of this Agreement and each of the Ancillary Agreements to which such Seller is a party:
- (i) have, to the extent such Seller is a corporate Person, been duly authorized by all necessary corporate action on the part of such Seller and do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any other person to exercise any rights under any of the terms or provisions of its constating documents, bylaws or any shareholders' agreement relating to the Seller;
 - (ii) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any other person to exercise any rights under any of the terms or provisions of any contracts, or instruments to which such Seller is a party or pursuant to which any of such Seller's assets or property may be affected; and
 - (iii) will not result in the violation of any Applicable Law.
- (c) Execution and Binding Obligation. This Agreement and each of the Ancillary Agreements to which such Seller is a party have been, or will by the Closing Date have been, duly executed and delivered by such Seller and constitute, or will constitute, legal, valid and binding obligations of such Seller, enforceable against him, her or it in accordance with their respective terms subject only to any limitation under Applicable Laws relating to (i) bankruptcy, winding up, insolvency, arrangement or other Applicable Laws of general application affecting creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies.
- (d) Required Authorizations. There is no requirement to make any filing with, give any notice to, or to obtain any consent or approval of any Governmental Authority or to obtain any Authorization of, any Governmental Authority as a condition to the lawful completion of the transactions contemplated by this Agreement or any Ancillary Agreement.
- (e) Required Consents. Except as specified in Schedule 4.1(e), there is no requirement to obtain any Consent, approval or waiver of a third party under any Contract to which the Seller is a party as a condition to the completion of the transactions contemplated by this Agreement or the Ancillary Agreements or to avoid potential cancellation or default thereunder.
- (f) Litigation. There are no actions, suits or proceedings, at Applicable Law or in equity, by any Person, nor any arbitration, administrative or other proceeding by or before (or any investigation by) any Governmental Authority pending, or to the

Seller's knowledge, threatened against or affecting such Seller's ability to perform his, her or its obligations under this Agreement or under any Ancillary Agreement, and, to the Seller's knowledge, there is no valid basis for any such action, suit, proceeding, arbitration or investigation by or against such Seller that would affect such obligations. The Seller is not subject to any judgment, order or decree entered in any lawsuit or proceeding that affects such Seller's ability to perform his, her or its obligations under this Agreement or under any Ancillary Agreement.

- (g) Title to Purchased Shares. As of the Closing Date, such Seller owns all of the Purchased Shares set forth opposite such Seller's name on Schedule 2.1 as the registered and beneficial owner with a good title, free and clear of all Liens, other than Permitted Liens. Upon completion of the transactions contemplated by this Agreement, the Purchaser will have good and valid title to the Purchased Shares transferred by such Seller, free and clear of all Liens other than Permitted Liens or Liens granted by the Purchaser.
- (h) No Other Agreements to Purchase. No Person has any written or oral agreement, option or warrant or any right or privilege (whether by Applicable Law, pre-emptive or contractual) capable of becoming such for the purchase or acquisition from such Seller of any of the Purchased Shares owned by him, her or it (other than this Agreement).
- (i) Residence. Such Seller is not a non-resident of Canada for the purposes of the Tax Act.
- (j) Authority under Unanimous Shareholder Agreement. The Sellers executing this Agreement on the date hereof hold 80% or more of the Purchased Shares and, pursuant to the terms of the Company's Unanimous Shareholder Agreement dated November 21, 2013, such Sellers have the authority to cause each of the other Sellers to sell their Purchased Shares in accordance with the terms and conditions of this Agreement.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

5.1 Representations and Warranties of the Purchaser.

The Purchaser represents and warrants as follows to the Sellers as of the date hereof and as of the Closing Date and acknowledges and confirms that the Sellers are relying on such representations and warranties in connection with the sale by the Sellers of the Purchased Shares and the other transactions contemplated hereby:

- (a) Incorporation and Corporate Power. The Purchaser is a corporation incorporated and existing under the *Business Corporations Act* (Ontario) and has the corporate

power and authority to enter into and perform its obligations under this Agreement and each of the Ancillary Agreements to which it is a party.

- (b) Validity of Agreement. The execution, delivery and performance by the Purchaser of this Agreement and each of the Ancillary Agreements to which it is a party:
 - (i) have been duly authorized by all necessary corporate action on the part of the Purchaser;
 - (ii) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with, or allow any other person to exercise any rights under, any of the terms or provisions of its constating documents, bylaws or any shareholders' agreement relating to the Purchaser;
- (c) No Conflict with Authorizations, Laws, etc. The execution, delivery and performance by the Purchaser of this Agreement and the Ancillary Agreements to which it is a party do not (or would not with the giving of notice, the passage of time or the happening of any other event or circumstance):
 - (i) result in a breach or a violation of, conflict with, or cause the termination or revocation of, any Authorization held by the Purchaser or necessary to the ownership and transfer of the Purchased Shares;
 - (ii) result in or require the creation of any Lien upon any of the Consideration Shares, other than as a result of any action taken by a Seller, whether prior to, on or after the date hereof; or
 - (iii) result in the violation of any Applicable Law.
- (d) Execution and Binding Obligation. This Agreement and each of the Ancillary Agreements to which the Purchaser is a party have been, or will by the Closing Date have been, duly executed and delivered by the Purchaser and constitute, or will constitute, legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms subject only to any limitation under Applicable Laws relating to (i) bankruptcy, winding up, insolvency, arrangement or other Applicable Laws of general application affecting creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies.
- (e) Required Authorizations. Other than with respect to approval of the TSX, there is no requirement to make any filing with, give any notice to, or to obtain any consent or approval of any Governmental Authority or any other Person, or to obtain any Authorization of, any Governmental Authority as a condition to the

lawful completion of the transactions contemplated by this Agreement or any Ancillary Agreement.

- (f) Litigation. There are no actions, suits or proceedings, at Applicable Law or in equity, by any Person, nor any arbitration, administrative or other proceeding by or before (or any investigation by) any Governmental Authority pending, or threatened against or affecting the Purchaser's ability to perform its obligations under this Agreement or under any Ancillary Agreement, and there is no valid basis for any such action, suit, proceeding, arbitration or investigation by or against the Purchaser that would affect such obligations. The Purchaser is not subject to any judgment, order or decree entered in any lawsuit or proceeding nor has the Purchaser settled any claim prior to being prosecuted in respect of it that affects the Purchaser's ability to perform its obligations under this Agreement or under any Ancillary Agreement.
- (g) Securities Law Compliance; Public Disclosure; Timely Disclosure.
 - (i) The Purchaser is a reporting issuer (or equivalent where applicable) in good standing in each of the provinces and territories of Canada.
 - (ii) The Purchaser is in compliance with all of its timely disclosure obligations under applicable securities laws of each of the provinces and territories of Canada.
 - (iii) The Purchaser has complied, and will comply, with all applicable securities laws in connection with the issuance of the Consideration Shares.
 - (iv) The Purchaser is not in violation in any material respect of any of the rules and policies of the TSX, including the applicable listing requirements of the TSX.
 - (v) The Purchaser has taken no action designed to, or likely to have the effect of, terminating the registration of the Parent Shares under Canadian Securities Laws or delisting the Parent Shares from the TSX, nor has the Purchaser received any notification from any Canadian securities Government Authority that such entities are contemplating terminating such registration or listing.
- (h) Purchaser Shares.
 - (i) The Purchaser has a sufficient number of Purchaser Shares authorized for issuance to complete the transactions contemplated by this Agreement. The issuance of the Consideration Shares has been duly authorized in accordance with this Agreement, and when issued in accordance with the

terms of this Agreement will be validly issued, fully paid and non-assessable.

- (ii) The offer, sale and issuance of the Consideration Shares is exempt from the prospectus requirements of the applicable securities laws of the provinces and territories of Canada and the only filing, proceedings, approval, consent or authorization required to be made, taken or obtained to permit the issue and sale of the Consideration Shares is the filing, within 10 days from the date of such issue and sale, of a report prepared on Form 45-106F1 to be prepared and executed in accordance with National Instrument 45-106 – *Prospectus Exemptions* and accompanied by the requisite filing fee.
- (i) Except as disclosed in the Public Record, there has not been any material change (whether actual, anticipated, contemplated or threatened) in or affecting the business, financial condition, affairs, assets, liabilities (absolute, accrued, contingent or otherwise), operations, revenue, capital or condition of Purchaser and no event has occurred or circumstances exists which could reasonably be expected to result in such a material change. Purchaser has not filed any confidential material change report or any other confidential filing with any Canadian securities Government Authority which at the date of this Agreement remains confidential. As of the date of this Agreement, Purchaser has no knowledge of any material fact or material change (as such terms are defined in the *Securities Act* (Ontario)) relating to Purchaser which has not been disclosed in the Public Record or otherwise been disclosed to the Sellers. All of the documents constituting the Public Record (i) were or will be filed on a timely basis, (ii) at the time filed, complied, or will comply when filed, as to form in all material respects with the requirements of the applicable Law including applicable Canadian securities Laws, and rules and regulations promulgated thereunder applicable to such Public Record and (iii) did not, or will not, at the time they were or are filed (or, if amended, as of the date of such amendment) contain any untrue statement of a material fact or omit to state a material fact required to be stated in such Public Record or necessary in order to make the statements in such Public Record, in the light of the circumstances under which there were made, not misleading.
- (j) No order, ruling or determination having the effect of suspending the sale or ceasing the trading of Purchaser Shares or any other securities of Purchaser has been issued or made by any securities commission or stock exchange or any other regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of Purchaser, are contemplated or threatened by any such authority.

ARTICLE 6
CONDITIONS OF THE CLOSING AND COVENANTS

6.1 Conditions for the Benefit of the Purchaser.

The purchase of the Purchased Shares is subject to the following conditions to be fulfilled or performed prior to the Closing, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion. Other than as set forth in Schedule 6.1(a), in the event that any of the following conditions are not fulfilled or performed prior to the Closing to the satisfaction of the Purchaser, the Purchaser may choose, at its sole discretion, not to purchase the Purchased Shares:

- (a) Truth of Representations and Warranties.
 - (i) The representations and warranties of each of the Sellers contained in Sections 3.1(a), 3.1(e), 3.1(f), 3.1(g), 4.1(b), 4.1(c), 4.1(g) and 4.1(h) shall have been true and correct as of the date of this Agreement and shall be true and correct in all respects as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date;
 - (ii) the representations and warranties of each of the Sellers contained in this Agreement (other than those referred to in Section 6.1(a)(i)) or in any Ancillary Agreement shall have been true and correct as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date (except for representations and warranties that by their express terms are made as of a specific date); and
 - (iii) the Sellers' Representative, on behalf of the Sellers, shall have executed and delivered a certificate to certify the accuracy of the statements contained in Sections 6.1(a)(i) and 6.1(a)(ii). The receipt of such certificate and the Closing shall not constitute a waiver by the Purchaser of any of such representations and warranties of the Sellers. Upon the delivery of such certificate, such representations and warranties of the Sellers shall be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date (except for representations and warranties that by their express terms are made as of a specific date).
- (b) Required Consents. All Required Consents shall have been obtained on terms acceptable to the Purchaser, acting reasonably.
- (c) Discharge of Liens. All appropriate releases and discharges with respect to all recorded or otherwise existing Liens relating to the Purchased Shares and Assets

other than Permitted Liens (or pay off letters from the holders of Indebtedness related thereto), including those set forth in Schedule 3.1(m)(iii) shall have been obtained on terms acceptable to the Purchaser, acting reasonably.

- (d) Deliveries. As a condition to the Closing, the Sellers shall deliver or cause to be delivered to the Purchaser the following in form and substance satisfactory to the Purchaser, acting reasonably:
 - (i) share certificates representing the Purchased Shares duly endorsed in blank for transfer, or accompanied by irrevocable security transfer powers of attorney duly executed in blank, in either case by the holders of record; and
 - (ii) a certificate of status, compliance, good standing or like certificate with respect to the Company.
- (e) No Material Adverse Change. During the period between the date hereof and the Closing Date, there shall not have occurred a Material Adverse Change.
- (f) Resignations and Releases. Each director of the Company shall have duly executed and delivered, in form and substance satisfactory to the Purchaser, acting reasonably, (1) their resignation from the board of directors of the Company; and (2) a release of all claims they may have against the Company, which release shall not release the Company from (i) any obligations to a director or officer who is an employee of the Company in respect of obligations arising to such director or officer in connection with such employment, or (ii) any indemnification obligation to such officer or director for such service at any time prior to Closing.
- (g) Seller Release. Each Seller shall have duly executed and delivered, in form and substance satisfactory to the Purchaser, acting reasonably, a release of all claims such Seller may have against the Company, which release shall not release the Company from (i) any obligations to a Seller who is an employee of the Company in respect of obligations arising to such Seller in connection with such employment, (ii) any indemnification obligation to a Seller who served as an officer or director of the Company at any time prior to Closing, and (iii) any claims under this Agreement.
- (h) Ancillary Agreements. The Sellers and the Company shall have duly executed and delivered each of the other Ancillary Agreements to which he, she or it is a party.
- (i) Employment Agreements. Each of the Key Employees shall have entered into employment agreements with the Company, in form and substance reasonably satisfactory to the Purchaser.

- (j) Lock-Up Agreements. The Sellers shall have duly executed and delivered the Lock-Up Agreement.
- (k) Assignment of HUB Ottawa Inc. Loan. The indebtedness owing by HUB Ottawa Inc. to the Company pursuant to the debenture dated January 16, 2012 between HUB Ottawa Inc. and the Company in the principal amount of \$7,500 and the debenture dated January 31, 2012 between HUB Ottawa Inc. and the Company in the principal amount of \$7,500, each as amended on January 1, 2016, shall have been assigned to Tracey Clark by the Company.
- (l) Cancellation of Options. All Options shall have been cancelled concurrently with the Closing without any securities being issued thereunder, and the Sellers shall have provided evidence satisfactory to the Purchaser, acting reasonably, that all rights of any holders of Options have been fully settled and extinguished.
- (m) Execution of this Agreement. Sellers holding 100% of the Purchased Shares shall have executed this Agreement.
- (n) Tracey Clark Release. Tracey Clark shall have duly executed and delivered a final release and indemnity agreement substantially in a form similar to the final release and indemnity agreement signed by Gina Becker on November 12, 2019.

6.2 Condition Not Fulfilled.

If any condition in Section 6.1 has not been fulfilled at or before 5:00 p.m. (Toronto time) on the Outside Date or if any such condition is, or becomes, impossible to satisfy prior to the Outside Date, other than as a result of the failure of the Purchaser to comply with its obligations under this Agreement, then the Purchaser may, without limiting any rights or remedies available to the Purchaser at law or in equity, either:

- (a) terminate this Agreement by notice to the Seller as provided in Section 8.1; or
- (b) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

6.3 Conditions for the Benefit of the Sellers.

The sale of the Purchased Shares is subject to the following conditions to be fulfilled or performed prior to the Closing, which conditions are for the exclusive benefit of the Sellers and may be waived, in whole or in part, by the Sellers in their sole discretion.

- (a) Truth of Representations and Warranties.
 - (i) The representations and warranties of the Purchaser contained in Sections 5.1(b), 5.1(d) and 5.1(h)(i) shall have been true and correct as of the date of this Agreement and shall be true and correct in all respects as of the

Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date;

- (ii) The representations and warranties of the Purchaser contained in this Agreement (other than those referred to in Section 6.3(a)(i)) or in any Ancillary Agreement shall have been true and correct as of the date of this Agreement and shall be true and correct in all material respects as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date (except for representations and warranties that by their express terms are made as of a specific date);
 - (iii) The Purchaser shall have executed and delivered a certificate by a senior officer to certify the accuracy of the statements contained in Sections 6.3(a)(i) and 6.3(a)(ii) above. The receipt of such certificate and the Closing shall not constitute a waiver by the Sellers of any of such representations and warranties of the Purchaser. Upon the delivery of such certificate, such representations and warranties of the Purchaser shall be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date (except for representations and warranties that by their express terms are made as of a specific date).
- (b) Payment for the Purchased Securities. The Purchaser shall deliver, or cause to be delivered, the Preliminary Purchase Price as required by Section 2.4(a).
- (c) Deliveries. As a condition to the Closing, the Purchaser shall deliver or cause to be delivered to the Sellers' Representative the following in form and substance satisfactory to the Sellers' Representative, acting reasonably:
- (i) evidence satisfactory to the Sellers' Representative of the issuance and delivery of the Consideration Shares to the Sellers; and
 - (ii) written evidence that the TSX has conditionally approved the listing and posting for trading of the Consideration Shares on the TSX, subject only to the satisfaction of the customary listing conditions of the TSX.
- (d) Employment Agreements. The Purchaser shall have duly executed and delivered the Employment Agreements.
- (e) Ancillary Agreements. The Purchaser shall have duly executed and delivered each of the other Ancillary Agreements.

6.4 Condition Not Fulfilled.

If any condition in Section 6.3 has not been fulfilled at or before 5:00 p.m. (Toronto time) on the Outside Date or if any such condition is, or becomes, impossible to satisfy prior to the Outside Date, other than as a result of the failure of the Sellers to comply with their obligations under this Agreement, then the Sellers may, without limiting any rights or remedies available to the Sellers at law or in equity, either:

- (a) terminate this Agreement by notice to the Purchaser as provided in Section 8.1; or
- (b) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

6.5 Covenants.

- (a) Collaboration. Each of the Sellers and the Purchaser agrees to cooperate with each other in order to complete the transactions provided for herein and to fulfill all the obligations that must be fulfilled by either of them under the Agreement and the Ancillary Agreements, and to perform all other actions not expressly mentioned herein but which may be necessary to complete the transactions contemplated herein. Each of the Sellers and the Purchaser also agrees to take no action that would, or could, have the effect of delaying, hindering or preventing the closing of the transactions contemplated herein.
- (b) Non-Solicitation and Non-Competition.
 - (i) Each of Gina Becker and Tracey Clark (each a “**Restricted Party**”) covenants and agrees that, for and during a period of (i) two (2) years in respect of Gina Becker, and four (4) years in respect of Tracey Clark, after the Closing (as applicable, the “**Restricted Period**”), such Restricted Party will not employ, solicit or recruit, or take any actions for or on behalf of any other Person to assist in the employment, solicitation, or recruiting of any individual that was an employee of the Company as of the Closing Date (a “**Restricted Employee**”); provided, however, that nothing will preclude such Restricted Party from employing, soliciting or taking any actions for or on behalf of any other Person to assist in the employment, solicitation, or recruiting of any Restricted Employee who responds to a general solicitation of employment published in a journal, newspaper or other publication of general circulation or listed on any internet job site and not specifically directed towards such Restricted Employee. Each Restricted Party agrees that it will not hire, engage, or retain the services of any Key Employee during the Restricted Period unless such Key Employee has not been engaged or employed by the Company for a period of at least twelve (12) months at such time.

- (ii) During the Restricted Period, each Restricted Party shall not, and shall not permit any of its Affiliates to, directly or indirectly, (i) engage in or assist others in engaging in the Business in the Territory; (ii) have an interest in any Person that engages directly or indirectly in the Business in the Territory in any capacity, including as a partner, shareholder, employee, principal, agent, trustee or consultant; or (iii) intentionally interfere in any material respect with the business relationships (whether formed before or after the date of this Agreement) between the Company and customers or suppliers of the Company. Notwithstanding the foregoing, each Restricted Party may own, directly or indirectly, solely as an investment, securities of any Person traded on any domestic or foreign stock exchange if such Restricted Party is not a controlling Person of, or a member of a group that controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person.
 - (iii) Each Restricted Party acknowledges that a breach or threatened breach of this Section 6.5(b) would give rise to irreparable harm to the Purchaser, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such Restricted Party of any such obligations, the Purchaser shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post security).
 - (iv) Each Restricted Party acknowledges that the restrictions contained in this Section 6.5(b) are reasonable and necessary to protect the legitimate interests of the Purchaser and constitute a material inducement to the Purchaser to enter into this Agreement and consummate the transactions contemplated by this Agreement. The covenants contained in this Section 6.5(b) and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.
 - (v) No proceeds shall be received or receivable by any Seller or any other person for granting the restrictions contained in this Section 6.5(b).
- (c) Discharging of Liens and Guarantees. The Sellers covenant and agree that they will act in good faith and use commercially reasonable efforts to (1) discharge all existing Liens relating to the Purchased Shares and Assets other than Permitted Liens, including those set forth in Schedule 3.1(m)(iii); and (2) amend any

agreement necessary to remove the Company from any obligations whereby it acts as guarantor or provides any financial support to any party.

- (d) Pre-Closing Taxes. The Sellers shall, at their sole cost, prepare, or cause to be prepared, and timely file, or cause to be timely filed, all Tax Returns, and shall timely pay in full all Taxes, relating to the Company and the Business arising from or relating to any tax period ending on or prior to the Closing Date, in a manner consistent with the representations set out in Section 3.1(mm); provided that, before filing any such Tax Return, the Sellers shall first supply draft copies of any such Tax Return to the Purchaser and consider any comments received from the Purchaser thereon; provided further, however, that any such Tax Return shall be prepared and filed in accordance with the historical practice of the Company for prior Tax periods. The Sellers shall be liable for and shall timely pay in full directly to the appropriate Governmental Authority any liability for Taxes of the Company for any pre-Closing Tax period. Any such payment shall be considered a reduction of the Purchase Price to the extent that such amounts were not already included in the Closing Working Capital amount.
- (e) Tax Cooperation. The Purchaser and the Sellers agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Company and the Business as is reasonably necessary for the filing of all Tax Returns and making of any election related to Taxes, the preparation for any audit by any Governmental Authority, and the prosecution or defence of any Claim relating to any Tax Return. The Purchaser and the Sellers shall cooperate with each other in the conduct of any audit or other proceeding related to Taxes involving the Company or the Business and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 6.5(e). In addition, the Purchaser and the Sellers agree to maintain or arrange for the maintenance of all records necessary to comply with this Section 6.5(e) for a period of seven years from the Closing Date (or such longer period as may be reasonably requested in writing by the Purchaser or the Sellers) and each Party agrees to afford the other reasonable access to such records during normal business hours.
- (f) Tax Elections.
 - (i) If it is determined that the Company has made an “excessive eligible dividend designation” (as defined in subsection 89(1) of Tax Act) in respect of a Tax period ending on or before the Closing Date, the Sellers hereby concur (or shall cause the recipient of the relevant dividend to concur) in the making of an election under subsection 185.1(2) of the Tax Act in respect of the full amount thereof, and such election shall be made by the Company in the manner and within the time prescribed by subsections 185.1(2) and 185.1(3) of the Tax Act. The Sellers covenant and agree to do all such things, including entering into any elections, to give effect to the foregoing.

- (ii) If it is determined that the Company has made an election under subsection 83(2) of the Tax Act in respect of the full amount of any dividend payable (or deemed to be payable) by it in respect of a Tax period ending on or before the Closing Date, and the full amount of such dividend exceeded the amount of the Company's "capital dividend account" (as defined in the Tax Act) immediately before the dividend became payable (or was deemed to be payable), the Sellers hereby concur (or shall cause the recipient of the relevant dividend to concur) in the making of an election under subsection 184(3) of the Tax Act. The Sellers covenant and agree to do all such things, including entering into any elections, to give effect to the foregoing.
- (g) Execution of this Agreement. The Sellers' Representative agrees to use its reasonable best efforts (including exercising any power of attorney available to it or the Sellers) to ensure that the condition set forth in Section 6.1(m) is satisfied prior to the date that is ten (10) days from the date hereof.
- (h) Required Consents. The Sellers' Representative shall use their commercially reasonable efforts to obtain the Required Consents (which efforts shall not include making any payments not stipulated under the terms of the applicable agreements giving rise to the Required Consents) on or prior to the Closing Date.

ARTICLE 7 INDEMNIFICATION

7.1 Survival.

- (a) The representations and warranties contained in this Agreement and the certificates to be delivered pursuant to Sections 6.1(a) and 6.3(a) will survive the Closing Date and continue in full force and effect for a period of 12 months after the Closing Date, except that:
 - (i) the representations and warranties set out in Sections 3.1(a), 3.1(e), 3.1(f), 3.1(g), 4.1(a), 4.1(b), 4.1(c), 4.1(g), 4.1(h) (the "**Fundamental Representations**") and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Sections 6.1(a) and the representations and warranties set out in Sections 5.1(a), 5.1(b), 5.1(d) and 5.1(h)(i) and the corresponding representations and warranties set out in the certificates to be delivered pursuant to Section 6.3(a) will survive and continue in full force and effect without limitation of time or until the latest date permitted by Applicable Law;
 - (ii) the representations and warranties set out in Section 3.1(mm) and the corresponding representations and warranties set out in the certificate to be delivered pursuant to Section 6.1(a), and the covenants set out in Sections 6.5(d) through 6.5(f) will survive and continue in full force and effect until

ninety (90) days after the expiration of the period, if any, during which an assessment, reassessment or other form of recognized document assessing liability for tax, interest or penalties in respect of any taxation year to which such representations and warranties extend could be issued under such tax legislation to the Company, provided the Company did not file any waiver or other document extending such period after Closing; and

- (iii) any representation and warranty involving fraud or fraudulent misrepresentation will survive and continue in full force and effect without limitation of time.
- (b) For greater certainty, no party has any obligation or liability with respect to any representation or warranty made by such party in this Agreement and in the certificates to be delivered pursuant to Sections 6.1(a) or 6.3(a), if any, as the case may be, after the end of the applicable time period specified in Section 7.1(a), except for claims relating to the representations and warranties that the party has been notified of prior to the end of the applicable time period.

7.2 Indemnification in Favour of the Purchaser.

- (a) Subject to the limitations set forth herein, from and after the Closing Date, each Seller will, severally, and not jointly nor jointly and severally, in accordance with such Seller's Pro Rata Share, indemnify and save the Purchaser and its Affiliates and respective shareholders, current and former directors, officers and employees (the "**Purchaser Indemnified Parties**") harmless of and from any Damages, without duplication, suffered by or imposed upon or asserted against any of them as a result of, in respect of, or arising out of:
 - (i) any breach of any representation or warranty given by the Sellers contained in Article 3 or the corresponding representations and warranties set forth in the certificates to be delivered pursuant to Section 6.1(a), if any, for which a notice of claim under Section 7.4 has been provided to the Sellers prior to the end of the applicable time period specified in Section 7.1(a);
 - (ii) any Taxes of the Company in respect of any period ending on or prior to the Closing Date, except to the extent that such Taxes arise as a result of an amendment filed by the Company after the Closing Date;
 - (iii) any failure of such Seller to perform or fulfil any covenant of such Seller under this Agreement, including with respect to any Ancillary Agreement;
 - (iv) any breach of any representation or warranty given by such Seller contained in Article 4, or the corresponding representations and warranties set forth in the certificates to be delivered pursuant to Section 6.1(a), if any, for which a notice of claim under Section 7.4 has been provided to

the Sellers prior to the end of the applicable time period specified in Section 7.1(a);

- (v) any severance or termination amounts paid to Gina Becker and Tracey Clark to the extent such costs exceed the amounts included in the calculation of Current Liabilities in respect of severance and termination costs paid or payable to either of Gina Becker and Tracey Clark; and
 - (vi) the litigation disclosed in Schedule 3.1(kk).
- (b) The obligations of the Sellers to indemnify pursuant to Section 7.2(a) shall survive the consummation of the transactions contemplated by this Agreement for the time periods set out in Section 7.1, except for claims for indemnification asserted prior to the end of such periods, which claims shall survive until final resolution thereof.

7.3 Indemnification in Favour of the Sellers.

- (a) Subject to the limitations set forth herein, from and after the Closing Date, the Purchaser will indemnify and save the Sellers and their Affiliates and their respective shareholders, current and former directors, officers and employees, (the “**Seller Indemnified Parties**”) harmless of and from, and will pay for, any Damages, without duplication, suffered by, imposed upon or asserted against any of them as a result of, in respect of, connected with, or arising out of, under, or pursuant to:
- (i) any breach of any representation or warranty given by the Purchaser contained in this Agreement or the corresponding representations and warranties set forth in the certificate to be delivered pursuant to Section 6.3(a), if any, for which a notice of claim under Section 7.4 has been provided to the Purchaser prior to the end of the applicable time period specified in Section 7.1(a);
 - (ii) any failure of the Purchaser to perform or fulfil any of its covenants or obligations under this Agreement or any Ancillary Agreement; and
 - (iii) any failure of the Purchaser to issue the Consideration Shares to the Sellers, free and clear of all Liens.
- (b) The obligations of the Purchaser to indemnify pursuant to Section 7.3(a) shall survive the consummation of the transactions contemplated by this Agreement for the time periods set out in Section 7.1, except for claims for indemnification asserted prior to the end of such periods, which claims shall survive until final resolution thereof.

7.4 Notification.

- (a) If a Third Party Claim is instituted or asserted against an Indemnified Person, the Indemnified Person will promptly (and in any event not later than ten (10) calendar days after receipt of such Third Party Claim by the Indemnified Person) notify the Indemnifying Party in writing of the Third Party Claim. The notice shall contain (i) a brief summary of the facts underlying or relating to such Third Party Claim to the extent then known by the Indemnified Person, (ii) a copy of any correspondence or notice received from the relevant third party, (iii) a statement that the Indemnified Person seeks indemnification, (iv) the total amount of out-of-pocket Damages or the anticipated Damages (including any costs or expenses which have been or may be incurred in connection therewith) resulting from the Third Party Claim, and (v) the underlying representation, warranty, covenant or agreement alleged to have been breached.
- (b) If an Indemnified Person becomes aware of a Direct Claim, the Indemnified Person will promptly (and in any event not later than ten (10) calendar days after the Indemnified Person becomes aware of such Direct Claim) notify the Indemnifying Party in writing of the Direct Claim. The notice shall contain (i) a brief summary of the facts underlying or relating to such Direct Claim to the extent then known by the Indemnified Person, (ii) a copy of any material written evidence thereof, (iii) a statement that the Indemnified Person seeks indemnification, (iv) the total amount of out-of-pocket Damages or the anticipated Damages (including any costs or expenses which have been or may be incurred in connection therewith) resulting from the Direct Claim, and (v) the underlying representation, warranty, covenant or agreement alleged to have been breached.
- (c) Upon receipt of such notice, the provisions of Section 7.5 will apply to any Third Party Claim.
- (d) The omission to notify the Indemnifying Party will not relieve the Indemnifying Party from any obligation to indemnify the Indemnified Person, unless the notification occurs after the expiration of the applicable period set out in Section 7.1(a) or (and only to that extent that) the omission to notify (i) prejudices the ability of the Indemnifying Party to exercise its right to defend or (ii) increases the amount of liability or cost of defence of the Indemnifying Party.

7.5 Procedure.

- (a) Third Party Claims.
 - (i) Upon receiving notice of a Third Party Claim, the Indemnifying Party may participate in the investigation and defence of the Third Party Claim, subject to the terms of this Section 7.5(a). The Indemnifying Party may also assume the investigation and defence of the Third Party Claim, subject to the terms of this Section. An Indemnifying Party may not

assume the investigation or defence of a Third Party Claim if it (i) would, in the good faith judgment of the Indemnified Person, based on the opinion of the Indemnified Person's counsel, give rise to conflicts of interest or (ii) seeks an injunction or other equitable relief against the Indemnified Person.

- (ii) In order to assume the investigation and defence of a Third Party Claim, the Indemnifying Party must give the Indemnified Person written notice of its election within fifteen (15) days of Indemnifying Party's receipt of notice of the Third Party Claim.
- (iii) If the Indemnifying Party assumes the investigation and defence of a Third Party Claim:
 - (A) the Indemnifying Party will pay for all of his, her or its costs and expenses of the investigation and defence of the Third Party Claim; and
 - (B) legal counsel chosen by the Indemnifying Party to defend the Third Party Claim must be satisfactory to the Indemnified Person, acting reasonably.
- (iv) If the Indemnifying Party does not elect or is not entitled to assume the investigation and defence of a Third Party Claim or assumes the investigation and defence of a Third Party Claim but fails to diligently pursue such defence, the Indemnified Person has the right (but not the obligation) to undertake the defence of the Third Party Claim and compromise and settle the Third Party Claim. In the case where the Indemnifying Party fails to diligently pursue the defence of the Third Party Claim, the Indemnified Person may not assume the defence of the Third Party Claim unless the Indemnified Person gives the Indemnifying Party written demand to diligently pursue the defence and the Indemnifying Party fails to do so within 15 days after receipt of the demand, or such shorter period as may be required to respond to any deadline imposed by a court or other tribunal. If the Indemnified Person conducts the defense of any Third Party Claim, the amount to be paid by the Indemnified Person in the settlement or compromise of such Third Party Claim without the prior consent of the Indemnifying Party to such payment amount shall not be deemed determinative of the amount of the indemnification payment owed by the Indemnifying Party to the Indemnified Person.
- (v) The Indemnifying Party will not be permitted to compromise and settle or to cause a compromise and settlement of a Third Party Claim without the prior written consent of the Indemnified Person, unless:

- (A) the terms of the compromise and settlement require only the payment of money for which the Indemnified Person is entitled to full indemnification under this Agreement;
- (B) the Indemnified Person is not required to admit any wrongdoing, take or refrain from taking any action, acknowledge any rights of the Person making the Third Party Claim or waive any rights that the Indemnified Person may have against the Person making the Third Party Claim; and
- (C) the Indemnified Person receives, as part of the compromise and settlement, a legally binding and enforceable unconditional satisfaction or release from any and all obligations or liabilities it may have with respect to the Third Party Claim.

Otherwise, the consent of the Indemnified Person shall be required in order to enter into any settlement of, or consent to the entry of a judgment with respect to, any Third Party Claim, which consent shall not be unreasonably withheld, conditioned or delayed. In any event, if the Indemnified Person fails to consent to such firm offer within fifteen (15) days of such notice, the amount of all Damages for which the Indemnifying Party shall be liable in respect of such Third Party Claim shall thereafter be capped at the amount that would have been paid by the Indemnifying Party if such settlement had been accepted.

- (vi) The Indemnified Person and the Indemnifying Party agree to keep the other fully informed of the status of any Third Party Claim and any related proceedings. If the Indemnifying Party assumes the investigation and defence of a Third Party Claim, the Indemnified Person will use its reasonable efforts to make available to the Indemnifying Party those employees whose assistance, testimony or presence is necessary to assist the Indemnifying Party in investigating and defending the Third Party Claim. The Indemnified Person shall, at the request and reasonable expense of the Indemnifying Party, make available to the Indemnifying Party, or its representatives, on a timely basis all documents, records and other materials in the possession of the Indemnified Person, reasonably required by the Indemnifying Party for its use in defending any Third Party Claim which it has elected to assume the investigation and defence of. The Indemnified Person shall cooperate on a timely basis with the Indemnifying Party in the defence of any Third Party Claim.
- (vii) The parties acknowledge and agree that the obligations pursuant to this Article 7 shall survive the execution and delivery of this Agreement and the Closing, subject to Section 7.1.
- (viii) Notwithstanding anything to the contrary herein, (i) the assumption of the

defence of a Third Party Claim by the Indemnifying Party shall not, by its terms, be an acknowledgment by the Indemnifying Party of any obligation to indemnify the Indemnified Person and the Indemnifying Party shall be entitled to dispute any indemnification obligations in accordance with the terms of this Article 7 in respect of that Third Party Claim, and (ii) in no event shall the Indemnifying Party be required to assume any liability in excess of the limitations set forth in this Agreement.

- (b) **Direct Claim.** Upon receiving notice of a Direct Claim, the Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Person shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim, and the Indemnified Person shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Company's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Person shall be free to pursue such remedies as may be available to the Indemnified Person on the terms and subject to the provisions of this Agreement. If the Indemnifying Party does so respond and disputes the Direct Claim, the parties will endeavour in good faith to resolve the Direct Claim. If the parties are unable to resolve such dispute within 30 days of the Indemnifying Party's delivery of its notice disputing the Direct Claim, then the Indemnified Person shall be free to pursue such remedies as may be available to the Indemnified Person on the terms and subject to the provisions of this Agreement.

7.6 Limitations on Indemnification.

The indemnification provided for in Section 7.2 and Section 7.3 shall be subject to the following limitations:

- (a) Each Seller's indemnification obligations under this Article 7 shall be several, and not joint nor joint and several, and no Seller shall be liable for any amount in excess of:
- (i) in respect of an indemnification claim made under Sections 7.2(a)(i) and (iv) (other than with respect to Fundamental Representations), the lesser of such Vendor's Pro Rata Share of all such Damages and an amount, in the aggregate, equal to 50% of the Purchase Price actually paid to and received by such Seller, determined (in the case of the Purchaser Shares) in accordance with Section 7.6(d) below;
 - (ii) in respect of an indemnification claim made under Section 7.2(a)(i) and (iv) with respect to Fundamental Representations, Sections 7.2(a)(ii), (iii), and (v), or for fraud or willful misconduct, the lesser of such Seller's Pro

Rata Share of all such Damages and an amount, in the aggregate, equal to the Purchase Price actually paid to and received by such Seller, determined (in the case of the Purchaser Shares) in accordance with Section 7.6(c) below;

- (iii) for certainty, the maximum liability of any Seller in respect of Damages resulting from a matter referred to in Sections 7.2(a)(i), (ii) and (v) shall, in each instance a claim is made by the Purchaser, equal such Seller's Pro Rata Share of the Damages; and
 - (iv) notwithstanding anything to the contrary set forth herein, in no event will the maximum aggregate liability of a Seller under this Agreement exceed the Purchase Price actually paid to and received by such Seller.
- (b) No Seller shall be liable for any other Seller's indemnification obligations under Sections 7.1(a)(iii) and (iv) in respect of such other Seller, or for any other Seller's fraud or willful misconduct.
- (c) For purposes of determining a Seller's liability cap set forth in Section 7.6(a) above and to determine the value of any Purchaser Shares to be forfeited pursuant to this Section 7.6(c), the Purchaser Shares issued to the Seller pursuant to this Agreement shall be deemed to be a value per share equal to the Consideration Shares Price. Each Seller shall have the option to settle any outstanding claims for Damages by either (i) making payment in immediately available funds or (ii) making payment in immediately available funds and forfeiting Purchaser Shares for cancellation by Purchaser in the same proportion of funds and Purchaser Shares received by such Seller on Closing. Within fifteen (15) days of the date of the final determination or settlement of a claim for Damages, the applicable Seller shall either pay all amounts payable by such Seller in respect of such Damages in immediately available funds or shall cause the Sellers' Representative to communicate in writing to the Purchaser that the Seller wishes to settle the amount of such Damages owing by it in accordance with (ii) of the immediately preceding sentence. The aggregate purchase price of each tranche of Purchaser Shares forfeited for cancellation by a Seller pursuant to the foregoing shall be \$1.00. The balance of any Damages finally determined or agreed to be owing by a Seller shall be paid in immediately available funds. The Purchaser shall release any Purchaser Shares elected to be forfeited by a Seller pursuant to this Section 7.6(c) that are subject to a Lock-Up Agreement in order to allow for such forfeiture.
- (d) Notwithstanding the foregoing, the maximum aggregate amount for which Purchaser will be required to indemnify Sellers in respect of any and all Damages for which Purchaser shall be liable under Section 7.3 shall not exceed the value of the Purchase Price, provided that the value associated with the Purchaser Shares in determining the Purchase Price is the Consideration Shares Price multiplied by the number of Purchaser Shares issued to the Sellers.

- (e) No party shall be entitled to double recovery for any Damage even though such Damage may have resulted from the breach of more than one of the representations, warranties, agreements and covenants made in this Agreement by the party or parties against which the claim is made.
- (f) Nothing in this Agreement shall in any way restrict, limit or expand the general obligation in accordance with Applicable Law of a Purchaser Indemnified Party to mitigate any Damages which it may suffer or incur by reason of the breach by a Seller of any representation, warranty or covenant under this Agreement.
- (g) The Sellers shall not be liable to the Purchaser Indemnified Parties under Section 7.2(a)(i) until the aggregate amount of all Damages in respect of indemnification under Section 7.2(a)(i) exceeds \$15,000 (the “**Basket**”), in which event the Sellers shall be liable for all Damages in excess of the Basket, subject to the other limitations set forth in this Section 7.6.
- (h) Each limitation set forth herein may be read and construed together, and is not exclusive of any other limitation set forth herein.

7.7 Exclusive and Equitable Remedies.

Except as otherwise provided in this Section 7.7, if the Closing occurs, the indemnities provided in Section 7.2 and Section 7.3 will constitute the only remedy of the Purchaser (or any of the Purchaser Indemnified Parties) or the Sellers (or any of the Seller Indemnified Parties), respectively, against an Indemnifying Party in respect of a breach of any representation, warranty, covenant or agreement under this Agreement. However, if after Closing an Indemnified Person makes a claim for indemnification in accordance with Section 7.2 or Section 7.3, as the case may be, and the relevant Indemnifying Party refuses to make payment for such Damages or otherwise provide satisfaction in respect of that claim, then that Indemnified Person may bring a proceeding to seek a remedy for that refusal. The parties acknowledge that the failure to comply with a covenant or obligation contained in this Agreement may give rise to irreparable injury to a party inadequately compensable in damages. Accordingly, a party may seek to enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damage (and without the requirement of posting a bond or other security). Each party expressly waives, from and after the Closing, any other remedies whatsoever, whether at law or in equity, which it would otherwise be entitled to as against a party.

7.8 Survival of Covenants.

Except as otherwise provided in this Agreement, all covenants of the parties contained in this Agreement or any of the Ancillary Agreements shall survive the Closing for the benefit of the Purchaser (in the case of covenants made by the Sellers) or the Sellers (in the case of any covenants made by the Purchaser) for the period of such covenant, subject only to applicable limitation period imposed by Applicable Law.

7.9 Tax Treatment of Indemnification Payments.

To the extent permitted by Applicable Law, all indemnification payments made under this Agreement shall be treated by the party as an adjustment to the Purchase Price. In the event that any Governmental Authority successfully asserts that such indemnification payments constitute income or a capital gain for Tax purposes, then such indemnification payments shall be made on an after-Tax basis.

7.10 Reductions and Subrogation.

In calculating the amount of any Damages, (i) the proceeds actually received by an Indemnified Person or any of its affiliates under any insurance policy maintained and paid for by the Company prior to Closing shall be deducted from such Damages and (ii) there shall be taken into account in determining the Indemnified Person's damages and losses any tax benefits which are received by such Indemnified Person and that are directly attributable to such Damages. If an Indemnified Person or any of its affiliates recovers an amount from a third party in respect of Damages that are the subject of indemnification hereunder after all or a portion of such Damages have been paid pursuant hereto, the Indemnified Person shall promptly remit to the applicable Indemnifying Party(ies) the amount recovered from the third party, up to a maximum amount equal to the amount paid by such Indemnifying Party(ies) pursuant hereto, less any and all costs or expenses incurred by the Indemnified Person in connection with securing or obtaining such amount from the third party.

7.11 Right of Set-Off.

Each Seller agrees that all or any portion of any Damages alleged to be incurred or suffered by any Purchaser Indemnified Party may, at the Purchaser's option and upon at least five (5) days' prior written notice from the Purchaser to such Seller describing in reasonable detail the nature of such Damages, be set-off against any amount otherwise due and payable by the Purchaser to such Seller hereunder, including the amounts of the Purchase Price that may be payable by the Purchaser to such Seller pursuant to Section 2.6. For the avoidance of doubt, the right of set-off provided in this Section 7.11 is not intended to be the exclusive means of collecting Damages incurred or suffered by any Purchaser Indemnified Party in connection with this Agreement.

7.12 Adjustment to the Purchase Price.

Any payment made by the Sellers as an Indemnifying Party pursuant to this Article 7 shall constitute a dollar-for-dollar decrease of the Purchase Price and the payment made by the Purchaser as an Indemnifying Party pursuant to this Article 7 shall constitute a dollar-for-dollar increase in the Purchase Price.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

This Agreement may be terminated:

- (a) by the mutual written agreement of the Sellers' Representative and the Purchaser;
- (b) by written notice from the Purchaser to the Sellers' Representative as permitted in Section 6.2; or
- (c) by written notice from the Sellers' Representative to the Purchaser as permitted in Section 6.4.

8.2 Effect of Termination

If this Agreement is terminated:

- (a) by the Sellers' Representative or by the Purchaser under Section 8.1, subject to Section 8.2(b), all further obligations of the parties under this Agreement shall terminate, except for the obligations under Section 10.4, which shall survive such termination; or
- (b) by a Party under Section 8.1(b) or 8.1(c) and the right to terminate arose because of a breach of this Agreement by the other Party (including a breach by the other Party resulting in a condition in favour of the terminating Party failing to be satisfied), then the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

ARTICLE 9 SELLERS' REPRESENTATIVE

9.1 Terms of Appointment.

- (a) Each Seller hereby appoints (the "**Appointment**") the Sellers' Representative as the agent, proxy and attorney-in-fact for such Seller for all purposes under this Agreement, with full power and authority to act on behalf of the Sellers. The Appointment, being coupled with an interest, is irrevocable and shall not be revoked by the revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of existence of any Seller. The Appointment shall extend to and be binding upon the respective heirs, executors, legal personal representatives, successors and permitted assigns of the Shareholders, as the case may be. The Sellers' Representative accepts the Appointment and shall act as representative of the Sellers' in accordance with this Agreement.

- (b) Each Seller revokes any and all other authority, whether as agent, attorney-in-fact, proxy or otherwise, previously conferred or agreed to be conferred by him, her or it, as the case may be, at any time with respect to the shares in the capital of the Company held by such Seller. Each Seller shall not grant any subsequent authority, whether as agent, attorney-in-fact, proxy or otherwise, with respect to such shares.
- (c) Each Seller shall be bound by any actions taken by the Sellers' Representative pursuant to the Appointment and hereby waives any and all defences which may be available to contest, negate or disaffirm the actions of the Sellers' Representative taken in good faith under such Appointment. The Appointment shall survive the Closing and shall continue until the completion, termination or settlement of all obligations of the Company or the Seller under or in respect of this Agreement. The Appointment may be exercised by the Sellers' Representative on behalf of each Seller in executing any instrument by affixing the signature of the Sellers' Representative thereto with the indication that it is acting on behalf of the Sellers.
- (d) The Purchaser shall be entitled to rely on any notice, demand, communication, declaration, receipt, waiver, consent or other document purporting to be delivered by the Sellers' Representative on behalf of any Seller, and the Purchaser shall not have any obligation to enquire as to the veracity, accuracy or adequacy thereof, and the Purchaser shall be entitled to disregard any notice, demand or claim to the contrary not sent by the Sellers' Representative. Wherever this Agreement makes reference to a notice to be given to or document to be delivered to the Sellers by the Purchaser or any of its Affiliates, such notice will be deemed to have been validly given if delivered to the Sellers' Representative in accordance with Section 10.1.
- (e) The Sellers' Representative shall be entitled to engage counsel, accountants and other advisors, and the fees and expenses of such counsel and advisors and the fees and any out-of-pocket expenses incurred by the Sellers' Representative will be severally, and not jointly, paid by the Sellers in proportion to their pro rata portion of the Purchase Price.
- (f) The Sellers' Representative shall be entitled to receive on behalf of the Sellers, and determine the allocation of, any payments made to the Sellers by the Purchaser, including payments made by the Purchaser pursuant to Section 2.5 and Section 2.6.
- (g) The Sellers' Representative shall not be liable to any Seller for any action taken by the Sellers' Representative pursuant to this Agreement, and the Sellers shall severally, and not jointly, in proportion to their Pro Rata Share, indemnify and hold the Sellers' Representative harmless from and against any and all Damages arising out of or relating to the Sellers' Representative serving in this capacity,

except in each case if and to the extent the Sellers' Representative is found to have engaged in willful misconduct or fraud.

- (h) The Sellers' Representative is serving in this capacity solely for purposes of administrative convenience, and is not personally liable for any of the obligations of the Sellers hereunder, and the Purchaser's Indemnified Parties agree that they will not look to the underlying assets of the Sellers' Representative for the satisfaction of any obligations of the Sellers (except to the extent that the Sellers' Representative is also a Seller).
- (i) Any Person serving as the Sellers' Representative hereunder may resign from such role upon at least ten (10) days prior written notice to the Sellers, the Company and the Purchaser, in which case the Sellers holding a majority of the Purchased Shares as of immediately prior to the Closing Date ("Seller Majority") may replace any Person serving as the Sellers' Representative upon at least ten (10) days prior written notice to the Sellers' Representative, the Purchaser, the Company and the other Sellers. Upon the receipt of notice of resignation of the Sellers' Representative, the Seller Majority shall appoint a replacement within five (5) days of such notice. All rights of such resigning Sellers' Representative to indemnification and exculpation hereunder shall survive such resignation.

ARTICLE 10 MISCELLANEOUS

10.1 Notices.

Any notice, direction or other communication given under this Agreement or any Ancillary Agreement shall be in writing and given by delivering it or sending it by facsimile or other similar form of recorded communication addressed:

- (a) to the Purchaser:

6303 Airport Road
Toronto, Ontario
L4V 1R8

Attention: Melinda Lee
Email: melindalee@secondcup.com
Facsimile: 905 362-1121

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

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

Attention: John Connon
Email: jconnon@goodmans.ca
Facsimile: (416) 979-1234

- (b) to the Sellers, at the address set forth opposite such Seller's name in Schedule 2.1:

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

LaBarge Weinstein LLP
800-515 Legget Drive
Ottawa, Ontario K2K 3G4
Attention: Debbie Weinstein
Email: dw@lwlaw.com
Facsimile: 613-599-0018

- (c) to the Sellers' Representative:

Tracey Clark
[Redacted - Privacy]

and

Jeff York
[Redacted - Privacy]

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

LaBarge Weinstein LLP
800-515 Legget Drive
Ottawa, Ontario K2K 3G4
Attention: Debbie Weinstein
Email: dw@lwlaw.com
Facsimile: 613-599-0018

Any such communication shall be deemed to have been validly and effectively given (i) if personally delivered, on the date of such delivery if such date is a Business Day and such delivery was made prior to 4:00 p.m. (local time in the place of receipt) and otherwise on the

next Business Day, or (ii) if transmitted by facsimile, electronic mail or similar means of recorded communication on the Business Day following the date of transmission. Any party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

10.2 Time of the Essence.

Time shall be of the essence of this Agreement.

10.3 Third Party Beneficiaries.

Except as otherwise provided in Section 7.2 and Section 7.3, the parties intend that this Agreement shall not benefit or create any right or cause of action in, or on behalf of, any Person other than the parties to this Agreement and no Person, other than the parties to this Agreement, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

10.4 Expenses.

Except as otherwise expressly provided in this Agreement, all costs and expenses (including the fees and disbursements of legal counsel, advisers and accountants) incurred in connection with this Agreement, the Ancillary Agreements and the transactions contemplated therein shall be paid by the party incurring such expenses.

10.5 Amendments.

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Sellers, the Sellers' Representatives and the Purchaser.

10.6 Waiver.

- (a) No waiver of any of the provisions of this Agreement or any Ancillary Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar); nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Sellers or the Purchaser to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

10.7 Non-Merger.

Except as otherwise expressly provided in this Agreement, the covenants, representations and warranties shall not merge on and shall survive the Closing and, notwithstanding such Closing or any investigation made by or on behalf of any party, shall continue in full force and effect. The

Closing shall 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.

10.8 Entire Agreement.

This Agreement together with the Ancillary Agreements constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement except as specifically set forth herein and therein, and neither the Sellers nor the Purchaser have relied or are relying on any other information, discussion or understanding in entering into and completing the transactions contemplated in this Agreement and the Ancillary Agreements.

10.9 Successors and Assigns.

- (a) This Agreement shall become effective when executed by the Sellers and the Purchaser and after that time shall be binding upon and enure to the benefit of the Sellers, the Purchaser and their respective heirs, legal representatives, successors and permitted assigns.
- (b) Except as provided in this Section 10.9, neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by any party without the prior written consent of the other parties. The Purchaser shall be entitled, upon giving notice to the Sellers at any time on or prior to the Closing Date, to assign this Agreement or any of the Purchaser's rights and obligations under this Agreement to any Affiliate of the Purchaser subject to the following conditions:
 - (i) the assignee shall become jointly and severally liable with the Purchaser, as a principal and not as a surety, with respect to all of the representations, warranties, covenants, indemnities and agreements of the Purchaser;
 - (ii) the assignee shall execute an agreement confirming the assignment and the assumption by the assignee of all obligations of the Purchaser under this Agreement; and
 - (iii) the assignee provides evidence to the Sellers that it has the financial resources to satisfy the Purchase Price.

10.10 Severability.

If any provision of this Agreement shall be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

10.11 Governing Law.

This Agreement shall be governed by and construed in accordance with provincial laws of the Province of Ontario and the federal laws of Canada applicable therein.

10.12 Further Assurances.

From time to time after the Closing Date, each party shall, at the request of any other party, execute and deliver such additional conveyances, transfers and other assurances as may be reasonably required to effectively transfer the Purchased Shares to the Purchaser and carry out the intent of this Agreement and any Ancillary Agreement.

10.13 Counterparts.

This Agreement may be executed in any number of counterparts including counterparts by electronic means and all such counterparts taken together shall be deemed to constitute one and the same instrument.

[Remainder of this page is left intentionally blank]

IN WITNESS WHEREOF the parties have executed this Agreement.

THE SECOND CUP LTD.

Per: "Steven Pelton"

Name: Seven Pelton

Title: CEO

[Redacted - Confidential Information]