

SNC-LAVALIN GROUP INC.

- and -

7577702 CANADA INC.

SHARE PURCHASE AGREEMENT
August 14, 2019

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THIS SHARE PURCHASE AGREEMENT is made on August 14, 2019.

AMONG:

SNC-LAVALIN GROUP INC., a corporation governed by the laws of Canada,
(**SNCL**)

- and -

7577702 CANADA INC., a corporation governed by the laws of Canada,
(the **Purchaser**)

WHEREAS SNCL entered into a Share Purchase Agreement (the **Third Party Share Purchase Agreement**) on April 4, 2019 whereby it agreed to sell common shares in the capital of 407 International Inc. (**407**) to Somerset Acquisition LP, subject to certain existing purchase and sale rights in favour of the Purchaser under the Shareholder Agreement (as defined below), including a right of first refusal;

WHEREAS the entering into of the Third Party Share Purchase Agreement constituted a "Third Party Offer" pursuant to Section 10.1 of the Shareholder Agreement, and notice was therefore duly given to the Purchaser in accordance therewith;

WHEREAS the Purchaser exercised its right of first refusal as provided for in the Shareholder Agreement and the Third Party Share Purchase Agreement was terminated in accordance with the provisions thereof;

WHEREAS, *inter alios*, the Purchaser and SNCL entered into a Memorandum of Understanding dated May 15, 2019 with respect to the Closing (as defined below);

WHEREAS the Purchaser and SNCL are now entering into this Agreement on the terms and conditions of, and substantially in the form of, the Third Party Share Purchase Agreement;

WHEREAS, immediately prior to the Closing, subject to the terms of this Agreement, SNCL shall complete, and shall cause to be completed, all of the transactions contemplated in the tax memorandum attached hereto as Schedule A (the **Pre-Closing Reorganization**);

WHEREAS, following the Pre-Closing Reorganization, SNCL or a Substituted Vendor (as defined below), as applicable, will be the registered and beneficial owner of 77,577,500 common shares in the capital of 407 (the **Purchased Shares**); and

WHEREAS, following the Pre-Closing Reorganization and upon the Closing, the Vendor (as defined below) will sell to the Purchaser, and the Purchaser will purchase from the Vendor, the Purchased Shares, being slightly more than 10% of the 407 Shares (as defined below), with the purchase and sale of such common shares to occur and be determined in accordance with the terms and conditions of this Agreement.

THEREFORE, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, the following words and terms have the meanings set out below:

407 has the meaning set forth in the recitals to this Agreement;

407 Quarterly Dividends means any and all regular quarterly cash dividends declared and paid by 407 on its common shares in respect of an Applicable 407 Dividend Quarter, or other cash distributions in lieu thereof. For certainty, 407 Quarterly Dividends will be considered to have been declared in respect of an Applicable 407 Dividend Quarter only if such dividend is declared and paid in the quarter immediately subsequent to such Applicable 407 Dividend Quarter;

407 Shares means all of the issued and outstanding common shares in the capital of 407;

2018 EBITDA Calculation has the meaning given to it in Section 2.4(c);

2031 Carry Over Amount has the meaning given to it in Section 2.3(h);

2031 Excess Distribution Amount has the meaning given to it in Section 2.3(h)(i);

Affiliate means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made;

Aggregate Earn-Out Cap has the meaning given to it in Section 2.3(e);

Aggregate Earn-Out Payments means the sum of all Annual Earn-Out Payments (including, for certainty, the payment of any 2031 Carry Over Amount, if applicable) payable hereunder in respect of the entire Earn-Out Period;

Agreement means this Share Purchase Agreement, including all schedules, and all amendments or restatements, as permitted, and references to **Article** or **Section** mean the specified Article or Section of this Agreement;

Annual Adjusted Amount has the meaning given to it in Section 2.3(c);

Annual Earn-Out Cap means,

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Annual Earn-Out Payment has the meaning given to it in Section 2.3(c);

Annual Earn-Out Payment Date means in respect of any particular financial year of 407, the date that is ten (10) Business Days after the date that the Earn-Out Payment Statement in respect of the previous financial year of 407 has been agreed, is deemed to be agreed or has been finally determined in each case in accordance with Section 2.4.

Anti-Corruption Laws has the meaning provided in Section 3.27;

Applicable 407 Dividend Quarter means each interim quarterly period of 407 ending on March 31, June 30, September 30 and December 31 in respect of which 407 regularly declares and pays 407 Quarterly Dividends;

Assignment Gross-Up has the meaning provided in Section 2.4(j);

Bankruptcy and Equity Exception has the meaning provided in Section 3.4(a);

Base Purchase Price has the meaning given to it in Section 2.3(a);

Business Day means any day, other than a Saturday, Sunday or holiday, on which banks in Toronto, Ontario and Montreal, Quebec are open for commercial banking business during normal banking hours;

Caisse Loan means the Convention de prêt dated April 20, 2017, as amended on April 4, 2019, between Highway Holdings, as borrower, and CDPQ Revenu Fixe Inc., as lender, and any successor loan resulting from the refinancing of the foregoing (whether with the same lender, another lender or another group of lenders), in each case as amended, restated or otherwise modified from time to time;



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Claims means claims, demands, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, judgments, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value and reasonable professional fees, including fees and disbursements of legal counsel;

Closing means the completion of the sale to and purchase by the Purchaser of the Purchased Shares under this Agreement;

Closing Date means August 15, 2019 or such other date as the Parties may agree in writing as the date upon which the Closing shall take place;

Closing Time means 8:00 a.m. (Montreal time), on the Closing Date or such other time on such date as the Parties may agree in writing as the time at which the Closing shall take place;

Collective Agreement means the collective agreement between 407 ETR Concession Company Limited and Union for Canada effective February 1, 2018;

Concession Agreement means the Concession and Ground Lease Agreement between the Crown in Right of Ontario as Represented by the Minister without Portfolio with Responsibility for Privatization and 407 ETR Concession Company Limited dated April 6, 1999, as amended by the Amending Agreements dated December 22, 2000, March 6, 2008, April 1, 2009 and April 19, 2018;

Confidential Information has the meaning given in Section 9.3(a);

Constating Documents means articles and notice of articles, articles of incorporation, formation, amalgamation, or continuation, as applicable, charters, operating agreements, by-laws or other organizational documents and all amendments to such articles, charters, operating agreements, by-laws or other organizational documents;

Contract means any contract, licence, lease, agreement, obligation, promise, undertaking, understanding, arrangement, document, commitment, entitlement or engagement of any nature, written or oral, together with any amendments and modifications thereto;

Core Representations and Warranties has the meaning given in Section 7.1(b);

Dividend Excess Amount has the meaning given to it in Section 2.3(b)(i);

Earn-Out Dispute Date has the meaning given to it in Section 2.4(b)(v);

Earn-Out Dispute Notice has the meaning given to it in Section 2.4(b)(i);

Earn-Out Payment Statement has the meaning given to it in Section 2.4(a);

Earn-Out Period means the financial year of 407 ended December 31, 2020 through the financial year of 407 ended December 31, 2030, inclusive;

Encumbrances means pledges, liens, charges, hypothec, security interests, leases, mortgages, options, restrictive covenants, adverse right or claims or encumbrances of any kind or character whatsoever;

Financial Statement Date means the date on which the annual audited consolidated financial statements of 407 and its subsidiaries are publicly filed under the profile of 407 on SEDAR;

GAAP means those generally accepted accounting principles in force from time to time in Canada, consistently applied, including the applicable International Financing Reporting Standards, taking into consideration financial and accounting regulatory requirements;

Governmental Authorities means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law, rule or regulation-making organizations or entities:

- (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or
- (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

Governmental Authorizations means, with respect to any Person, permits, certificates, licences, authorizations, consents, waivers, agreements, instructions, directions, registrations, approvals or similar authorizations of any Governmental Authority having jurisdiction over such Person;

Government Official means any official, employee, or representative of any Governmental Authority or public international organization, any political party or employee thereof, or any candidate for political office;

Highway Holdings means SNC-Lavalin Highway Holdings Inc.;

Indemnified Party has the meaning given in Section 10.3(a);

Indemnifying Party has the meaning given in Section 10.3(a);

Insolvent Person has the meaning given under the *Bankruptcy and Insolvency Act* (Canada);

Intellectual Property Rights means any intellectual property rights including patent, trademark, copyright, rights in confidential information, know-how and trade secrets, design and industrial design rights, integrated circuit topography and mask work rights, moral rights, rights in domain names, or other proprietary rights, whether registered or unregistered, including any application for registration of any of the foregoing and all rights or forms of protection of a similar nature having equivalent or similar effect to any of these that may subsist anywhere in the world;

IT Assets means any and all Software, hardware, servers, systems, networks, data communications lines, websites, platforms, tolling technology, and other computer information technology or telecommunications assets and equipment, in each case, owned, leased, licensed, used or held for use by 407 or any of its subsidiaries;

Laws means any and all applicable statutes, by-laws, rules, regulations, standards, guidelines, directives, trade controls, economic sanctions, requirements, policies, Orders, ordinances or judgments, in each case of any Governmental Authority, having the force of law;

Legal Proceeding means any litigation, action, suit, investigation, hearing, claim, complaint, grievance, arbitration proceeding or other proceeding and includes any appeal or review and any application for same;

Loss means any and all loss, liability, damages, interest, cost, Taxes or expense, including any of the foregoing resulting from or arising out of any Claim, and including the costs and expenses of any action, suit, proceeding, demand, assessment, reassessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith, but excluding, except to the extent the damages are awarded by a Governmental Authority pursuant to a Third Party Claim: (i) any exemplary or punitive damage or damages related to loss of business reputation or opportunity or goodwill; and (ii) any consequential damage or loss of profits that could not reasonably have been foreseen as a result of the breach or other applicable matter for which indemnification is being sought; for greater certainty and without limiting the foregoing, (i) in the event that any allowance, credit, deduction, exemption, refund or set-off in respect of any Tax of 407 or its subsidiaries or relevant to the computation of any income, profits or gains for the purposes of any Tax or saving of Tax of 407 or its subsidiaries is disallowed (collectively, a "**Disallowed Current Tax Benefit**") in respect of a period ending prior to or which includes the Closing Date and the Disallowed Current Tax Benefit will be allowed in respect of any other period whether commencing before or after the Closing Date (collectively, a "**Replacement Tax Benefit**") no Loss shall be considered to have occurred and give rise to indemnification under this Agreement save and except for Loss (A) resulting from any related interest and penalties, plus (B) an amount equal to the excess of the Taxes payable in respect of the Disallowed Current Tax Benefit over the amount (in the case of a reduction in Taxes in a period ending before the Closing Date) or present value (in all other cases) of a reduction in Taxes arising as a result of the Replacement Tax Benefit (including any interest payable by a Governmental Authority, net of any Taxes payable thereon); (ii) in the event that any Tax of 407 or its subsidiaries in respect of a period ending prior to or which includes the Closing Date is increased (a "**Current Tax Increase**") and the Current Tax Increase will give rise to a corresponding credit in respect of any Tax of 407 or its subsidiaries in any other period whether commencing before or after the Closing Date (a "**Tax Offset**"), no Loss shall be considered to have occurred and give rise to indemnification under this Agreement save and except for Loss (A) resulting from any related interest and penalties, plus (B) an amount equal to the excess of the Current Tax Increase over the amount (in the case of a Tax Offset in a period ending before the Closing Date) or present value (in all other cases) of the Tax Offset (including any interest payable by a Governmental Authority, net of any Taxes payable thereon); and (iii) in the event that any item of income, profit or gains for the purposes of any Tax of 407 or its subsidiaries in respect of a period ending prior to or which includes the Closing Date is increased (collectively a "**Current Income Increase**") and the Current Income Increase will give rise to a corresponding reduction of income, profit or gains for the purposes of any Tax of 407 or its subsidiaries in any other period whether commencing before or after the Closing Date (collectively, a "**Replacement Income Decrease**") or an increase in any allowance, credit, deduction, exemption or set-off in respect of any Tax of 407 or its subsidiaries in any other period whether commencing before or after the Closing Date resulting from such increase ("**Replacement Tax Savings**"), no Loss shall be considered to have occurred and give rise to indemnification under this Agreement, save and except for Loss (C) resulting from any related interest and penalties, plus (D) an amount equal to the excess of the Taxes payable as a result of the Current Income Increase over the amount (in the case of a reduction in Taxes arising as a

result of the Replacement Income Decrease or Replacement Tax Savings in a period ending before the Closing Date) or present value (in all other cases) of a reduction in Taxes arising as a result of the Replacement Income Decrease or Replacement Tax Savings (including any interest payable by a Governmental Authority, net of any Taxes payable thereon); with present value being calculated by (E) applying the statutory Tax rate that is anticipated to apply at the time to which the Replacement Tax Benefit, Replacement Income Decrease or Replacement Tax Savings, as the case may be, is allocable, (F) applying a discount rate of 7% per annum over the anticipated period to which the Replacement Tax Benefit, Tax Offset, Replacement Income Decrease or Replacement Tax Savings, as the case may be, is allocable, and (G) making the assumption that 407 or the relevant subsidiary is profitable for Tax purposes;

Material Adverse Effect means any change, event, occurrence, effect, state of facts or circumstance that, individually or in the aggregate with other such changes, events, occurrences, effects, state of facts or circumstances, has or would reasonably be expected to have a materially adverse effect on the business, operations, results of operations, assets, properties, financial condition or liabilities of 407 and its subsidiaries, taken as a whole, except any such change, event, occurrence, effect, state of facts or circumstance resulting from or arising in connection with:

- (a) any change or development generally affecting the industries or segments in which 407 and its subsidiaries operate or carry on their business;
- (b) any change or development in currency exchange, interest, credit or inflation rates or in general economic, business, regulatory, political or market conditions or in financial, credit, securities or capital markets in Canada, the United States or in global financial, credit or capital markets;
- (c) any adoption, proposal, implementation or change or proposed change in Laws, any interpretation or enforcement of Law by any Governmental Authority;
- (d) any change in GAAP or changes in applicable regulatory accounting requirements applicable to the industries in which it conducts business;
- (e) any hurricane, flood, tornado, earthquake or other natural disaster or man-made disaster;
- (f) the commencement or continuation of war, armed hostilities, including the escalation or worsening thereof, or acts of terrorism;
- (g) the announcement of this Agreement or the transactions contemplated hereby;
- (h) any action not taken by the Vendor solely as a result of the refusal of or failure by the Purchaser to provide a consent required by Vendor or its Affiliates to such action pursuant to Section 9.2; or
- (i) any action taken (or omitted to be taken) by the Vendor which is required to be taken (or omitted to be taken) pursuant to this Agreement or that is consented to by the Purchaser in writing,

provided, however, that with respect to clause (a) through to and including clause (d), such matter does not have a materially disproportionate effect on 407 and its subsidiaries, taken as a whole, relative to other comparable companies and entities operating in North America in the industries in which 407 and/or its subsidiaries operate, in which case such effect may be taken into account in determining whether a Material Adverse Effect occurred;

Minimum Annual Distribution Amount means for each applicable Reference Year, the amount set forth in Schedule D for such Reference Year;

Misrepresentation means an untrue statement of a material fact or an omission to state a material fact required or necessary to make the statements contained therein not misleading in light of the circumstances in which they are made;

Neutral Accountant means a certified public accounting firm based in Canada mutually agreed upon by the Vendor and the Purchaser; provided that if the Vendor and the Purchaser are unable to mutually agree upon such firm within ten (10) days after the date on which an unresolved dispute is capable of being referred to the Neutral Accountant, either Party shall be permitted to apply to the Superior Court of Justice (Ontario) for the appointment of a certified public accounting firm to act in such role;

Notice has the meaning given in Section 11.7;

Orders means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator;

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

Outside Date means September 3, 2019;

Parties means, collectively, SNCL and the Purchaser and, if applicable, any Substituted Vendor, and **Party** means either one of them;

Person means any individual, sole proprietorship, partnership, limited liability company, unlimited liability company, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

Pre-Closing Reorganization has the meaning set forth in the recitals to this Agreement;

Prime Rate means the rate of interest per annum established from time to time by The Bank of Nova Scotia as the reference rate of interest for the determination of interest rates that The Bank of Nova Scotia charges customers of varying degrees of credit worthiness in Canada for Canadian dollar demand loans;

Public Filings means all documents publicly filed under the profile of 407 on SEDAR since December 31, 2017;

Purchase Price means the sum of the Base Purchase Price and the Aggregate Earn-Out Payments;

Purchased Shares has the meaning set forth in the recitals to this Agreement;

Purchaser has the meaning set forth in the preamble to this Agreement;

Purchaser Indemnitees has the meaning given in Section 10.1(a);

Purchaser's Pre-Closing 407 Dividend Entitlement means, in respect of any 407 Quarterly Dividends that have been declared prior to the date of this Agreement, or that are declared on or after the date of this Agreement (whether before or after the Closing Date), in each case in respect of an Applicable 407 Dividend Quarter during which the Purchaser owned the Purchased Shares for at least one day, but that are payable and are paid on or after the Closing Date, an amount equal to: (i) 10.01%, multiplied by; (ii) the aggregate dollar amount of the 407 Quarterly Dividend paid in respect of the Applicable 407 Quarterly Dividend Quarter; multiplied by (iii) the Purchaser's Pre-Closing 407 Dividend Entitlement Percentage;

Purchaser's Pre-Closing 407 Dividend Entitlement Percentage means the fraction obtained by dividing: (i) the number of days in the Applicable 407 Dividend Quarter during which the Purchaser owned and held the Purchased Shares; over (ii) the total number of days in such Applicable 407 Dividend Quarter;

Qualified Transferee has the meaning given to it in Section 2.4(j);

Reference Year has the meaning given to it in Section 2.3(c);

Reported EBITDA has the meaning given to it in Section 2.4(c);

Representative when used with respect to a Person means each director, officer or employee of that Person;

Reserve Account Agreement has the meaning given to it in Section 2.4(j)(ii);

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Securities Authorities means the Ontario Securities Commission and any other applicable securities commissions or securities regulatory authority of a province or territory of Canada;

Securities Laws means the *Securities Act* (Ontario) and any other applicable Canadian provincial securities laws, rules and regulations and published companion policies thereunder;

SEDAR means the System for Electronic Document Analysis and Retrieval maintained on behalf of the Securities Authorities;

Shareholder Agreement means the Amended and Restated Subscription and Unanimous Shareholders' Agreement dated April 12, 1999, as amended [REDACTED]

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Side Letter means [REDACTED]

[REDACTED]

SLI means SNC-Lavalin Inc.;

SNCL has the meaning set forth in the preamble to this Agreement;

Software means computer software and programs (both source code and object code form), all proprietary rights in the computer software and programs and all documentation and other materials related to the computer software and programs;

subsidiary means, with respect to any person, an entity which is controlled by such person; when used without reference to a particular person, "**subsidiary**" means a subsidiary of 407;

Substituted Vendor has the meaning given in Section 11.2;

Tax Act means the *Income Tax Act* (Canada);

Tax Representations and Warranties has the meaning given in Section 7.1(c);

Tax Returns means any and all returns, reports, declarations, elections, notices, forms, designations, filings, and statements (including estimated tax returns and reports, withholding tax returns and reports, and information returns and reports) filed or required to be filed in respect of Taxes;

Taxes means all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers' compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, in all cases imposed by any Governmental Authority in respect thereof or in respect of an adjustment to income and whether disputed or not;

Third Party Claim means any Claim asserted against an Indemnified Party that is paid or payable to, or claimed by, any Person who is not a Party or an Affiliate of a Party;

Threshold EBITDA means for each applicable Reference Year, the amount set forth in Schedule C for such Reference Year;

Transaction Documents means this Agreement and any other documents delivered pursuant to this Agreement or in connection with the Pre-Closing Reorganization, including the Side Letter;

Trust Indenture means the amended and restated master trust indenture dated as of May 5, 1999 and amended and restated as of July 20, 1999, effective as of May 5, 1999, made between 407, 407 ETR Concession Company Limited and BNY Trust Company of Canada, as amended and supplemented;

Vendor means SNCL or, to the extent SNCL exercises its right under Section 11.2, the Substituted Vendor;

Vendor Indemnitees has the meaning provided in Section 10.2(a);

Vendor's 407 Quarterly Dividends means (i) any 407 Quarterly Dividends in respect of Applicable 407 Dividend Quarters ending before the Closing Date and (ii) the 407 Quarterly Dividend in respect of the Applicable 407 Dividend Quarter that includes the Closing Date multiplied by the Vendor's Pre-Closing 407 Dividend Entitlement Percentage; and

Vendor's Pre-Closing 407 Dividend Entitlement Percentage means 1 minus the Purchaser's Pre-Closing 407 Dividend Entitlement Percentage in respect of the Applicable 407 Dividend Quarter that includes the Closing Date.

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Control** – For the purposes of the definition of "Affiliate", the definition of "subsidiary" and the definition of "Qualified Transferee", the term "control" (including the correlative

meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person by virtue of: (a) the ownership or direction of voting securities of the other Person; (b) a written agreement or trust instrument; (c) being the general partner or controlling the general partner of the other Person, or (d) being the trustee of the other Person.

- (b) **Currency** – Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.
- (c) **Governing Law** – This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario. For the purpose of all legal proceedings, the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Vendor and the Purchaser each attorns to the jurisdiction of the courts of the Province of Ontario.
- (d) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (e) **Including** – Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (f) **No Strict Construction** – The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (g) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (h) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.
- (i) **Statutory references** – A reference to a statute includes all regulations made pursuant to such statute.
- (j) **Time** – Time is of the essence in the performance of the Parties’ respective obligations.
- (k) **Time Periods** – Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.
- (l) **Accounting Principles; GAAP** – Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be to GAAP, applicable on a consolidated basis as in effect on the date of this Agreement. If any accounting changes occur in GAAP which have a material effect on the application of the provisions of this Agreement which are of a financial nature, then the Parties agree to enter into negotiations in order to amend the affected provisions of this Agreement, so as

to equitably reflect such accounting changes with the desired result that the criteria for evaluating 407's financial condition shall be the same after such accounting changes as if such accounting changes had not been made. If the Parties agree upon the required amendments, then after appropriate amendments have been executed and the underlying accounting changes with respect thereto have been implemented, any reference to GAAP contained in this Agreement shall, only to the extent of such accounting change, refer to GAAP, consistently applied after giving effect to the implementation of such accounting change and without including the effect of any accounting change to lease accounting that requires the assets and liabilities arising under operating leases to be recognized in any statement or financial position. If the Parties cannot agree upon the required amendments within thirty (30) days following the date of implementation of any such accounting change, then all calculations of such other standards and terms in this Agreement shall continue to be prepared, delivered and made without regard to the underlying accounting change. The Parties acknowledge and agree that the provisions of this Section 1.2(l) do not apply to Reported EBITDA, the calculation of which is covered separately in Section 2.4.

- (m) **Preamble and Recitals** – The preamble and recitals form an integral part of this Agreement.

1.3 Legal Representation; No Presumption Against any Party

Each Party acknowledges that such Party has been represented by counsel in connection with the negotiation and execution of this Agreement and related matters, and that the terms of this Agreement and related matters have been negotiated by it. Any rule of Law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the Party that drafted it has no application and any such right is expressly waived by the Parties.

1.4 Instruments and Statutes

Any agreement, instrument or statute (including any specific provision) defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute (including any specific provision and in the case of a statute any regulations promulgated thereunder) as amended, restated, replaced, modified, qualified or supplemented as of the date of this Agreement, including (in the case of agreements and instruments) by waiver or consent and (in the case of statute) by succession of comparable successor statutes and all attachments thereto and instruments incorporated therein.

1.5 Knowledge

Where any representation, warranty or other statement in this Agreement is expressed to be made by SNCL and, if applicable, the Substituted Vendor to its or their knowledge, or is otherwise expressed to be limited in scope to matters known to SNCL and, if applicable, the Substituted Vendor or of which SNCL and, if applicable, the Substituted Vendor is aware, it shall mean such knowledge as is known to [REDACTED] and [REDACTED] after having made a reasonable level of inquiry regarding the relevant matters. Where any representation, warranty or other statement in this Agreement is expressed to be made by the Purchaser to its knowledge or is otherwise expressed to be limited in scope to matters known to the Purchaser or of which the Purchaser is aware, it shall mean such knowledge as is known to [REDACTED] after having made a reasonable level of inquiry regarding the relevant matters.

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1.6 Entire Agreement

This Agreement, the Side Letter, and the agreements and other documents required to be delivered pursuant to this Agreement constitute the entire agreement between the Parties and sets out all the

covenants, promises, warranties, representations, conditions and agreements between the Parties in connection with the subject matter of this Agreement and the Side Letter and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral, whether statutory or otherwise, between the Parties in connection with the subject matter of this Agreement and the Side Letter except as specifically set forth in this Agreement and the Side Letter and any document required to be delivered pursuant to this Agreement.

1.7 Schedules

The schedules to this Agreement, listed below, are an integral part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	Tax Memorandum
Schedule B	Side Letter
Schedule C	Threshold EBITDA
Schedule D	Minimum Annual Distribution Amount
Schedule E	Annual Adjustment Amount Sample Calculations
Schedule 2.4(j)	Assignment Gross-Up
Schedule 3.2	Capitalization
Schedule 3.10	Subsidiaries
Schedule 3.22	Litigation
Schedule 3.25	Taxes

The information disclosed in any Schedule is to be taken as relating to the representations and warranties in the corresponding Section or sub-Section of this Agreement; provided that each of the Schedules shall be deemed to incorporate by reference all information disclosed in any other Schedule to the extent it is reasonably apparent on its face that the disclosure of such matter is applicable to such other Schedule.

ARTICLE 2 PURCHASE AND SALE

2.1 Pre-Closing Reorganization

SNCL shall complete, and shall cause to be completed, the Pre-Closing Reorganization substantially in accordance with the steps set out in Schedule A attached hereto prior to the Closing Time. The Purchaser shall be provided with a reasonable opportunity to review and comment on any proposed changes to the steps constituting the Pre-Closing Reorganization, and SNCL shall give due consideration to all comments made by the Purchaser. In addition and without limiting the foregoing, the Purchaser shall have the right to consent to any material changes to the steps constituting the Pre-Closing Reorganization, such consent not to be unreasonably withheld, conditioned or delayed.

2.2 Action by the Vendor and the Purchaser

Subject to the terms and conditions of this Agreement, at the Closing Time:

- (a) **Purchase and Sale of Purchased Shares** – the Vendor shall sell and the Purchaser shall purchase the Purchased Shares;
- (b) **Payment of Purchase Price** – the Purchaser shall pay the Purchase Price to the Vendor as provided in Section 2.3;
- (c) **Transfer and Delivery of the Purchased Shares** – the Vendor shall transfer and deliver to the Purchaser a share certificate representing the Purchased Shares duly endorsed in

blank for transfer, or accompanied by irrevocable security transfer powers of attorney duly executed in blank, together with a copy of the share register of 407 evidencing that the Purchaser has been registered as holder of record of the Purchased Shares; and

- (d) **Other Documents** – the Vendor and the Purchaser shall deliver such other documents as may be necessary to complete the transactions provided for in this Agreement.

2.3 Purchase Price

- (a) The amount payable by the Purchaser on the Closing Date for the Purchased Shares is three billion dollars (\$3,000,000,000) (the **Base Purchase Price**), subject to adjustment pursuant to Section 2.3(b), payable by wire transfer of immediately available funds in accordance with wire transfer instructions provided by the Vendor not less than five (5) Business Days prior to the Closing Date;
- (b) The Base Purchase Price is subject to adjustment as follows:
 - (i) If any 407 Quarterly Dividends are paid prior to the Closing Date in respect of any preceding Applicable 407 Dividend Quarter in 2019, and the aggregate amount of 407 Quarterly Dividends that relate to any such Applicable 407 Dividend Quarter in 2019 exceeded \$0.323 per common share (the amount of any such excess amount in respect of a particular Applicable 407 Dividend Quarter in 2019, on a per share basis, a **Dividend Excess Amount**), then the Base Purchase Price shall automatically be reduced by an aggregate amount equal to the number of Purchased Shares multiplied by each Dividend Excess Amount.
 - (ii) Within ten (10) Business Days of the payment and receipt by the Purchaser of 407 Quarterly Dividends after the Closing Date, the Purchaser shall pay to the Vendor, as an upwards adjustment to the Purchase Price, an amount equal to: (A) the sum of any and all 407 Quarterly Dividends received by and paid to the Purchaser by 407 on or after the Closing Date in respect of any preceding Applicable 407 Dividend Quarter up to a maximum aggregate dividend per share in respect of any Applicable 407 Dividend Quarter of \$0.323 per common share (such that, for certainty, if the aggregate dividend per common share in respect of all 407 Quarterly Dividends that relate to a particular Applicable 407 Dividend Quarter exceed \$0.323 per common share, the full amount of such excess shall not be subject to this subclause (A) and shall be for the full benefit of the Purchaser), less (B) any and all of the Purchaser's Pre-Closing 407 Dividend Entitlement thereto; such amount to be payable by wire transfer of immediately available funds in accordance with the wire transfer instructions previously provided by the Vendor to the Purchaser prior to the Closing Date. It is hereby acknowledged and agreed by the Parties that the foregoing shall and may only apply to a maximum number of two series of 407 Quarterly Dividends paid on or after the Closing Date.
- (c) In addition to the Base Purchase Price, as additional consideration for the Purchased Shares, at such times and subject to the terms and conditions as set forth in this Section 2.3 (including the Annual Earn-Out Cap in Section 2.3(d) and the Aggregate Earn-Out Cap in Section 2.3(e)), the Purchaser agrees to pay to the Vendor on each Annual Earn-Out Payment Date in respect of the Earn-Out Period, an amount, if applicable, that is equal to the Annual Adjusted Amount in respect of the most recently completed applicable financial year of 407 during the Earn-Out Period (each, a **Reference Year**, and each such payment, an **Annual Earn-Out Payment**); provided, for certainty, that if the Annual Adjusted Amount in any Reference Year is negative or equal to zero, then no Annual Earn-Out Payment shall be made in respect of such Reference Year.

The **Annual Adjusted Amount** in respect of any particular Reference Year shall be

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Any amount payable pursuant to this Section 2.3(c) shall be paid in accordance with Section 2.3(f). Schedule E sets forth sample calculations of the Annual Adjusted Amount, which calculations are provided for illustrative purposes only and are not binding on the Parties.

- (d) Notwithstanding the calculation set forth in Section 2.3(c), in no event shall any Annual Earn-Out Payment payable on any Annual Earn-Out Payment Date exceed the Annual Earn-Out Cap for the applicable Reference Year;
- (e) Notwithstanding the calculation set forth in Section 2.3(c), in no event shall (i) the Aggregate Earn-Out Payments paid to the Vendor in respect of the entire Earn-Out Period and, if applicable, the 2031 Carry Over Amount exceed two hundred and fifty million (\$250,000,000) (the **Aggregate Earn-Out Cap**), or (ii) any interest be payable on any Annual Earn-Out Payment other than as a result of the late payment of an Annual Earn-Out Payment after the applicable Annual Earn-Out Payment Date in accordance with the provisions of Section 2.3(g);

- (f) Each Annual Earn-Out Payment shall be payable by wire transfer in accordance with wire transfer instructions provided by the Vendor to the Purchaser at least five (5) Business Days prior to the applicable Annual Earn-Out Payment Date;
- (g) Any late payment of an Annual Earn-Out Payment shall bear interest at the interest rate of Prime Rate plus 2% per annum, accruing on a daily basis from the applicable Annual Earn-Out Payment Date until payment is made by the Purchaser in full;
- (h) If, after the Annual Earn-out Payment Date in respect of the year ended December 31, 2030 and payment of any applicable Annual Earn-Out Payment due on such date, the difference between the Annual Adjusted Amount and the Annual Earn-Out Cap in respect of the Reference Year ended December 31, 2030 is positive (such difference, subject to any adjustment pursuant to this Section 2.3(h), the **2031 Carry Over Amount**), and if:
 - (i) the aggregate amount of cash distributions and dividends actually received from 407 by the holder of the Purchased Shares in respect of such Purchased Shares during the financial year ended December 31, 2031 is greater than the Minimum Annual Distribution Amount in respect of such financial year (such difference between such distributions and dividends actually received and such Minimum Annual Distribution Amount, the **2031 Excess Distribution Amount**),

then the Purchaser shall pay to the Vendor the 2031 Carry Over Amount; provided that, notwithstanding the foregoing, (a) the 2031 Carry Over Amount shall not exceed the 2031 Excess Distribution Amount and (b) the aggregate amount of the 2031 Carry Over Amount together with the Aggregate Earn-Out Payments previously paid to the Vendor shall not exceed the Aggregate Earn-Out Cap, and the amount of the 2031 Carry Over Amount shall, as necessary, be automatically reduced such that the foregoing maximum amounts in (a) and (b) are not exceeded (and, for certainty, the amount by which the 2031 Carry Over Amount is reduced in accordance with the foregoing shall be extinguished and shall not carry forward to any subsequent period). Any such payment of the 2031 Carry Over Amount shall be made within ten (10) Business Days following the Annual Earn-Out Payment Date in respect of the financial year ended December 31, 2031. To the extent that a 2031 Carry Over Amount is payable pursuant to this Section 2.3(h), such payment shall be considered an Annual Earn-Out Payment in respect of the Earn-Out Period for all purposes under this Section 2.3.

- (i) After the Annual Earn-out Payment Date in respect of the Reference Year ended December 31, 2030 (or, if there is a 2031 Carry Over Amount, after the Annual Earn-out Payment Date in respect of the financial year ended December 31, 2031) and payment of the Annual Earn-Out Payment, if applicable, in respect of such years, all rights and obligations of the Purchaser and the Vendor under this Section 2.3 shall terminate in full and neither Party shall have any further obligation to the other Party in respect thereof, including, for certainty, (i) in respect of any remaining negative or positive amount in the Annual Adjusted Amount in respect of such final Reference Year (subject only to Section 2.3(h) if there is a 2031 Carry Over Amount) or (ii) in respect of any remaining positive amount in the 2031 Carry Over Amount in respect of the financial year ended December 31, 2031.

2.4 Earn-Out Payment Statement and Earn-Out Dispute Settlement

- (a) The Vendor will deliver to the Purchaser a draft calculation and statement of the relevant Annual Earn-Out Payment (together with all back-up and supporting documents and calculations (including, for the avoidance of doubt, with specific reference to the applicable annual audited consolidated financial statements of 407 and its subsidiaries) and any other information that may be reasonably requested by the Purchaser) (the **Earn-Out Payment Statement**) with respect to each full twelve (12) month financial year

of 407 following Closing in respect of the Earn-Out Period. For each financial year, the Earn-Out Payment Statement will be delivered to the Purchaser no later than ten (10) days following the Financial Statement Date. To the extent there is a 2031 Carry Over Amount, the provisions of this Section 2.4 shall be applicable to the determination of any payment to be made to the Vendor under Section 2.3(h), mutatis mutandis.

- (b) Any disputes relating to the calculation of any Annual Earn-Out Payment will be resolved as follows:
- (i) Purchaser shall have ten (10) days from receipt of the Earn-Out Payment Statement to review the calculations and back-up and supporting documents in respect thereof, and the determination of the calculation of the Annual Earn-Out Payment shall be final and binding on each Party at the end of such ten (10) day period unless the Vendor receives a written notice of objection from the Purchaser (an **Earn-Out Dispute Notice**) on or prior to such date.
 - (ii) Such Earn-Out Dispute Notice shall state in reasonable detail the item or items in dispute, and shall state the amount, if any, of any adjustment that the Purchaser claims should be made to the determination of the relevant Annual Earn-Out Payment.
 - (iii) The Purchaser shall provide to the Vendor, on request, such information as the Vendor may reasonably require to confirm a view as to whether an adjustment should be made to the determination of the relevant Annual Earn-Out Payment.
 - (iv) In the event of a dispute regarding the determination of an Annual Earn-Out Payment, the Purchaser and the Vendor shall each use commercially reasonable efforts to resolve any such objections, including, if the Purchaser and the Vendor do not resolve any such dispute within ten (10) days after the Vendor's receipt of the Earn-Out Dispute Notice, referring such dispute to senior officers, being Andrew Hay, director of the Purchaser (or, upon written notice from the Purchaser, another officer of similar seniority), in the case of the Purchaser, and the Chief Financial Officer of SNCL (or, upon written notice from the Vendor, another officer of similar seniority), in the case of the Vendor, for determination and any such resolution if agreed between such persons shall be final and binding on all Parties.
 - (v) If the Purchaser and the Vendor do not resolve any such dispute within twenty (20) days after the Vendor's receipt of the Earn-Out Dispute Notice (an **Earn-Out Dispute Date**), then any such unresolved dispute shall be referred promptly to the Neutral Accountant. In this event, the Purchaser and the Vendor shall direct the Neutral Accountant to resolve, within thirty (30) days following such submission, such remaining dispute, and such resolution shall be final and binding on all Parties.
 - (vi) Each Party shall have the opportunity to make representations to the Neutral Accountant in respect of the matters in dispute and will provide such information in its possession as the Neutral Accountant reasonably requests, to enable it to consider the matters in dispute, and each Party will copy the other Party when it sends that information to the Neutral Accountant.
 - (vii) The Neutral Accountant, in undertaking the tasks to be performed by it as provided herein, shall act as an expert and not as an arbitrator and shall only consider items in dispute as set forth in the Earn-Out Dispute Notice, the applicable definitions and other terms in this Agreement and the representations by the Purchaser and the Vendor. The Neutral Accountant shall proceed in any

manner it thinks fit; conduct any investigation which it considers necessary to resolve the dispute or difference; examine such documents as it may require; have regard to any submissions of the Vendor and the Purchaser but ignore all directions of the Vendor or the Purchaser; and make such directions for the conduct of the determination it considers necessary. The fees and expenses of the Neutral Accountant relating to a dispute pursuant to this Section 2.4 shall be borne by the Vendor and the Purchaser in proportion to the amounts by which their respective calculations compared to the final calculations as finally determined by the Neutral Accountant.

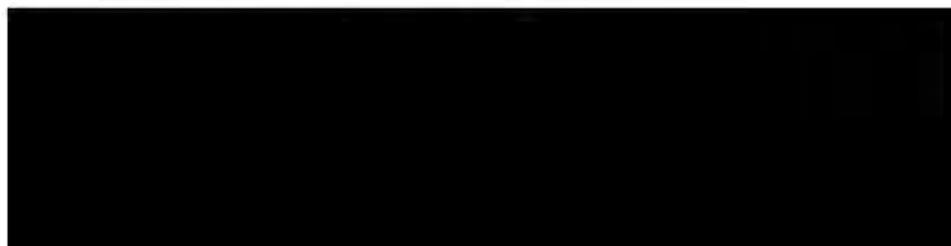
- (viii) The determination by the Neutral Accountant of the amount of the Annual Earn-Out Payment as set forth in a notice delivered by the Neutral Accountant to the Purchaser and the Vendor shall be binding on the Parties, subject to review by a court of competent jurisdiction.
 - (ix) The Parties agree that the procedure set forth in this Section 2.4 for resolving disputes with respect to any Annual Earn-Out Payment shall be the first method for resolving any such disputes. The Parties may only make a claim to a court of competent jurisdiction, following completion of the steps set out in this Section 2.4.
- (c) For the purposes of this Agreement, **Reported EBITDA** means EBITDA as reported by 407 on a consolidated basis for any financial year; provided that Reported EBITDA continues to be calculated in the same manner as EBITDA was calculated in the 407's Management's Discussion and Analysis dated December 31, 2018 but excluding all non-recurring non-cash items, all as determined on a consolidated basis for 407 and its subsidiaries (the **2018 EBITDA Calculation**). If 407 changes the way it calculates EBITDA or any of its constituent elements as compared to the 2018 EBITDA Calculation, then all calculations of Reported EBITDA shall continue to be prepared, delivered and made without regard to the underlying change to the calculation of EBITDA or any of its constituent elements by 407. If the Parties are unable to calculate Reported EBITDA in the same manner as the 2018 EBITDA Calculation as a result of the applicable changes to 407's calculation of EBITDA or its constituent elements, then the Parties shall enter into negotiations in order to adjust the Reported EBITDA so as to equitably reflect the applicable changes to the calculation of EBITDA or any of its constituent elements with the desired result that the calculation of Reported EBITDA shall be on the same basis as the 2018 EBITDA Calculation. If the Parties agree upon the required amendments, any reference to Reported EBITDA contained in this Agreement shall refer to Reported EBITDA after giving effect to the implementation of such amendments. If the Parties do not agree upon the required amendments, such disagreement shall be resolved in accordance with the provisions set forth in Sections 2.4(b)(iv) to 2.4(b)(ix), *mutatis mutandis*.
- (d) The Parties acknowledge and agree that the calculation of the Annual Earn-Out Payment as set forth in Section 2.3 is based upon a financial year of 407 ending December 31. If the financial year of 407 is changed during the Earn-Out Period to no longer coincide with a calendar year, the Parties acknowledge and agree that the calculation of the Annual Earn-Out Payment shall nonetheless continue to be calculated based on a January 1 through December 31 basis, provided that in no event will any Annual Earn-Out Payment be calculated until the annual audited consolidated financial statements of 407 and its subsidiaries are publicly filed under the profile of 407 on SEDAR in respect of the entirety of the applicable financial period, and the Parties shall in good faith and acting reasonably endeavour to agree upon such changes to Section 2.3 and Section 2.4 and any corresponding provisions in this Agreement as may be necessary to give effect to the foregoing, and provided, for certainty, that in no event shall the Earn-Out Period extend beyond December 31, 2030 (and if there is a 2031 Carry Over Amount, in no event shall

the financial year referred to in Section 2.3(h)(i) and Section 2.3(h)(ii) extend beyond December 31, 2031).

- (e) For greater certainty, the duration of the Earn-Out Period shall in no way affect, extend or prolong the survival period of any representation, warranty, obligation or indemnity hereunder.
- (f) Notwithstanding any other provision of this Agreement, the Purchaser has no obligation to cause the operation of the 407 to be carried out, or to vote the Purchased Shares under the Shareholder Agreement, in order to achieve any Annual Earn-Out Payment or to maximize the amount of any Annual Earn-Out Payment, provided, however, that with respect to the declaration of any distributions or dividends by 407, the Purchaser acknowledges and agrees that it shall conduct itself in a manner consistent with past practice, including in accordance with the terms of the Shareholder Agreement. The Vendor acknowledges that there is no assurance that the Vendor will receive any Annual Earn-Out Payment and the Purchaser has not promised, or made any representation or warranty in respect of or projected any Annual Earn-Out Payment.
- (g) The Purchaser shall have the right to withhold and set off against any Annual Earn-Out Payment the amount of any Losses in respect of which any Purchaser Indemnitees may be entitled to payment under Article 10 or any other Transaction Document.
- (h) For the purposes of determining the total Purchase Price applicable to any limitation under Section 10.1(b), the Purchase Price will include the Aggregate Earn-Out Payments actually paid by the Purchaser to the Vendor together with the Base Purchase Price as of the date of the claim for indemnification under Article 10.
- (i) The Parties understand and agree that (i) the contingent rights to receive any Annual Earn-Out Payment shall not be represented by any form of certificate or other instrument, are not transferable and do not constitute an equity, an ownership or a security interest in the Purchaser or the 407 and (ii) the Vendor shall not have any rights as a security holder of the Purchaser or the 407 as a result of the Vendor's contingent right to receive any Annual Earn-Out Payment hereunder.
- (j) Notwithstanding anything to the contrary set out in the Transaction Documents, in the event that the Purchaser transfers all or substantially all of the Purchased Shares during the Earn Out Period (or, if there is a 2031 Carry Over Amount, prior to December 31, 2031), then it shall, in advance or concurrently with the completion of such transfer, assign to such transferee the payment obligations of the Purchaser to make any remaining Annual Earn-Out Payments (including the 2031 Carry Over Amount) to the Vendor in the remaining Earn-Out Period pursuant to Section 2.3, provided that any such transferee must be a Qualified Transferee (and the Purchaser shall, subject to the conditions set out in this Section 2.4(j) and upon the completion of such assignment, be released from such obligations).

Qualified Transferee shall mean any of the following:

- (i)



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(ii)



(k) For certainty, in the event that the Purchaser transfers all or substantially all of the Purchased Shares pursuant to Section 2.4(j) above, the Purchaser shall, in each case prior to completing any such transfer, provide the Vendor with a copy of a side letter or any other written document as may be reasonably requested by the Vendor to demonstrate, effective on the transfer of all or substantially all of the Purchased Shares by the Purchaser to the Qualified Transferee, (i) the full and complete assignment of the payment obligations of the Purchaser to make any remaining Annual Earn-Out Payments (including the 2031 Carry Over Amount); and (ii) the acceptance by the Qualified Transferee to be bound by such payment obligations for the requisite period of time, the whole on terms and conditions as set forth in Section 2.3 and 2.4 of this Agreement.

2.5 Place of Closing

The Closing shall take place at the Closing Time at the offices of Norton Rose Fulbright Canada LLP located at 1 Place Ville Marie, Suite 2500, Montreal, Quebec, H3B 1R1 or at such other place as may be agreed upon by the Vendor and the Purchaser.

2.6 Tender

Any tender of documents under this Agreement shall be made upon the Parties or their respective counsel.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SNCL

SNCL represents and warrants as follows to the Purchaser and acknowledges and agrees that the Purchaser is relying upon the representations and warranties in connection with its purchase of the Purchased Shares. The inclusion of any information in any schedule (or any update) shall not be deemed to be an acknowledgement, in and of itself, that such information is required to be disclosed or is material.

Further to Section 11.2, to the extent a Substituted Vendor replaces SNCL as the Vendor hereunder, references to SNCL in this Article 3 (other than the reference to SNCL in Section 3.3(a)), will mean SNCL and the Substituted Vendor.

3.1 Incorporation and Corporate Power

Each of SNCL, Highway Holdings, SLI, 407 and each of 407's subsidiaries is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has all necessary corporate power, authority and capacity to own its assets and to carry on its business as presently conducted.

3.2 Capitalization

The authorized and issued share capital of 407 both as of (i) the date hereof, and (ii) immediately following the Pre-Closing Reorganization and immediately prior to the Closing Time, is and will be as set forth in Schedule 3.2. All of the Purchased Shares are, and will be immediately following the Pre-Closing Reorganization and immediately prior to the Closing Time, duly and validly issued as outstanding and fully paid and non-assessable shares and no such shares or other equity interests: (i) have been issued in violation of any Law or any pre-emptive or similar rights; or (ii) are subject to pre-emptive rights, rights of first refusal or similar rights created by statute, 407's organizational documents or any agreement binding upon 407, subject to the Shareholder Agreement. The registered owners of all of the 407 Shares are set forth in Schedule 3.2.

3.3 Title to Purchased Shares

- (a) At the date hereof (i) SNCL owns all of the outstanding shares of SLI and SLI owns all of the outstanding common shares of Highway Holdings, and (ii) Highway Holdings owns all of the Purchased Shares free and clear of all Encumbrances, subject only to the Encumbrances on the Purchased Shares pursuant to the Shareholder Agreement and the Caisse Loan, and Highway Holdings has the exclusive right to dispose of the Purchased Shares and no Person has any option, warrant or other right to purchase any of the Purchased Shares except as contemplated in this Agreement and the Pre-Closing Reorganization.
- (b) At the Closing Time (immediately following the Pre-Closing Reorganization), the Vendor will own and have good and valid title to the Purchased Shares, free and clear of all

Encumbrances, subject only to the Encumbrances on the Purchased Shares pursuant to the Shareholder Agreement, and will have the exclusive right to transfer the legal and beneficial title and ownership of the Purchased Shares to the Purchaser free and clear of all Encumbrances, subject only to the Encumbrances pursuant to the Shareholder Agreement, and no Person has or will have any Contract, option, warrant or other right to purchase the Purchased Shares except the Purchaser as contemplated in this Agreement.

- (c) To the knowledge of SNCL, there is no Contract, option or any other right of another Person binding upon or which at any time in the future may become binding upon 407: (i) to allot or issue any of the unissued shares of 407 or to create any additional class of shares; (ii) other than as publicly disclosed in the Public Filings, to sell, transfer, assign, pledge, mortgage or in any other way dispose of or encumber any of the assets of 407 other than in the Ordinary Course; or (iii) other than as publicly disclosed in the Public Filings, to purchase or otherwise acquire from 407 or any of its subsidiaries any of their respective material undertaking, property or assets other than in the Ordinary Course.

3.4 Due Authorization and Enforceability of Obligations

- (a) SNCL has all necessary corporate power, authority and capacity to enter into this Agreement and each other Transaction Document to which it is a party and to carry out and perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement, each other Transaction Document to which it is a party and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of SNCL. This Agreement and each other Transaction Document to which it is a party constitute a valid and legally binding obligation of SNCL enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Law affecting the enforcement of creditors' rights generally or, as to enforceability, by general equitable principles (the **Bankruptcy and Equity Exception**).
- (b) SNCL, Highway Holdings, SLI and the other Vendor's Affiliates contemplated in the Pre-Closing Reorganization have all necessary corporate power, authority and capacity to enter into the transactions, and carry out their obligations, pursuant to the Pre-Closing Reorganization.

3.5 Absence of Conflicts

The execution and delivery of and performance by SNCL of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby:

- (a) 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 Person to exercise any rights under, any of the terms or provisions of SNCL's, SLI's, Highway Holdings or 407's or 407's subsidiaries Constating Documents or the Shareholder Agreement
- (b) do not and will not (or would not with the giving of notice, the lapse of time or the happening or any other event or condition) constitute or result in a material breach or violation of, a termination of, a right of termination or material event of default under, the creation or acceleration of any material obligations under, or the creation of an Encumbrance on the Purchased Shares or the property, assets or undertaking of 407 or any of its subsidiaries, or material conflict with or allow any Person to exercise any material rights under, any of the terms or provisions of any Contracts to which it, SLI,

Highway Holdings or, to the knowledge of SNCL, 407 or any of 407's subsidiaries is a party; and

- (c) do not and will not result in a breach or violation of, or a default under, any Law.

3.6 Regulatory Approvals

No approval, Order, consent or filing with any Governmental Authority is required on the part of SNCL, SLI, Highway Holdings, or, to the knowledge of SNCL, 407 or its subsidiaries, in connection with the execution, delivery and performance of this Agreement or any other Transaction Document or the performance of SNCL's obligations under this Agreement or any other Transaction Document.

3.7 Required Consents

Except as set out in Section 9.1 as it relates to the Pre-Closing Reorganization and the Caisse Loan, there is no requirement to obtain any consent, approval or waiver of a party under any Contract, to which SNCL, SLI or Highway Holdings, or, to the knowledge of SNCL, 407 or any of 407's subsidiaries' is a party, to the transactions contemplated by this Agreement or any other Transaction Document.

3.8 Litigation

There is no Legal Proceeding in progress or, to the knowledge of SNCL, Claim or Legal Proceeding pending against or relating to SNCL, SLI or Highway Holdings, which, if determined adversely to SNCL, SLI or Highway Holdings would:

- (a) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Shares as contemplated by this Agreement; or
- (b) prevent SNCL from fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

3.9 No Broker

Except for any fees payable to SNCL's financial advisors, which shall be payable solely by SNCL, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based on arrangements made by SNCL.

3.10 Subsidiaries

The following information with respect to each subsidiary of 407 is accurately set out in Schedule 3.10: (i) its name; (ii) its issued and authorized capital; (iii) the percentage of equity owned directly or indirectly by 407, (iv) the name of and the percentage owned by registered holders of shares or other equity interests; and (v) its jurisdiction of incorporation, organization, formation, or governance.

407 is, directly or indirectly, the registered and beneficial owner of all of the outstanding common shares or other equity interests of each of its subsidiaries, free and clear of all Encumbrances other than Encumbrances created pursuant to (i) the Trust Indenture or (ii) the Constatting Documents of a subsidiary of 407, all such shares or other equity interests so owned by 407 have been validly issued and are fully paid and non-assessable, as the case may be, and no such shares or other equity interests: (A) have been issued in violation of any Law or any pre-emptive or similar rights; or (B) are subject to pre-emptive rights, rights of first refusal or similar rights created by statute, such subsidiary's organizational documents or any agreement binding upon 407 or any of its subsidiaries. Except for the shares or other equity interests owned by 407 or by any of its subsidiaries, directly or indirectly, in any subsidiary of 407, to the knowledge of SNCL neither 407 nor any of its subsidiaries is the registered or beneficial owner of

any equity interest of any kind in, voting debt of, or any interest convertible into or exchangeable or exercisable for any equity interest in, any other Person.

3.11 Shareholder Agreement and Other Agreements

- (a) The Shareholder Agreement is valid and in full force and effect (subject to the Bankruptcy and Equity Exception).
- (b) [REDACTED]
- (c) Other than the Shareholder Agreement and the shareholder declarations in relation to the subsidiaries of 407, neither 407 nor any of its subsidiaries is subject to, or affected by, any unanimous shareholders agreement and is not a party to any shareholder, pooling, voting, or other similar arrangement or agreement relating to the ownership, registration, transfer or voting of any of the securities of 407 or any of its subsidiaries or pursuant to which any Person other than 407 or any of its subsidiaries may have any right or claim in connection with any existing or past equity interest in 407 or any of its subsidiaries.
- (d) Pursuant to the Shareholder Agreement, immediately after giving effect to the transactions contemplated by this Agreement and as of the date hereof, (i) the board of directors of 407 is composed of thirteen (13) directors, and (ii) [REDACTED] SNCL and its Affiliates, collectively, have the right to nominate two (2) directors to the board of directors of 407.

Redacted –
Commercially
sensitive
information

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Commercially
sensitive
information

3.12 Securities Law Matters

- (a) 407 is a “reporting issuer” or equivalent thereof and, to the knowledge of SNCL, it is not on the list of reporting issuers in default under applicable Securities Laws in each of the provinces of Canada in which such concept exists and is not in default of any material requirements of any Securities Laws. To the knowledge of SNCL, no inquiry or investigation of any Securities Authority, is pending, in effect or ongoing or threatened against 407. To the knowledge of SNCL, 407 does not have any securities listed or posted for trading on any securities exchange in any jurisdiction. None of 407’s subsidiaries are subject to any continuous or periodic or other disclosure requirements under any Securities Laws in any jurisdiction.
- (b) To the knowledge of SNCL, the documents comprising the Public Filings comply as filed or furnished in all material respects with the requirements of applicable Securities Laws and did not, as of the date filed (or, if amended or superseded by a subsequent filing prior to the date of this Agreement, on the date of such filing), contain any Misrepresentation. To the knowledge of SNCL, 407 has, since December 31, 2017, complied and is in compliance with applicable Securities Laws in all material respects. To the knowledge of SNCL, 407 has timely filed with the Securities Authorities all material forms, reports, schedules, certifications, statements and other documents required to be filed by it under applicable Securities Laws since December 31, 2017. To the knowledge of SNCL, 407 has not filed any confidential material change report with the Securities Authorities which at the date hereof remains confidential. To the knowledge of SNCL, neither 407 nor any of the Public Filings is subject of an ongoing audit, review, comment or investigation by any Securities Authority.

3.13 Financial Statements

The audited consolidated financial statements of 407 and its subsidiaries included in the Public Filings (i) were prepared in accordance with GAAP, and (ii) fairly present, in all material respects, the assets, liabilities (whether accrued, absolute, contingent or otherwise), consolidated financial position, results of

operations or financial performance and cash flows of 407 and its subsidiaries as of the date and the consolidated financial position, results of operations or financial performance and cash flows of 407 and its subsidiaries as at the dates and for the periods covered by such financial statements (except as may be expressly indicated in the notes to such financial statements). To the knowledge of SNCL, 407 does not intend to make any material correction or restatement of, nor, is there any basis for any material correction or restatement of, any aspect of any of the financial statements referred to in this Section 3.13. To the knowledge of SNCL, except as described in the notes to 407's audited consolidated financial statements as at and for the fiscal years ended December 31, 2018 and 2017, there has been no material change in 407's accounting policies since December 31, 2018.

3.14 No Undisclosed Liabilities

To the knowledge of SNCL, there are no material liabilities or obligations of 407 or of any of its subsidiaries of the type required to be reflected as liabilities on a balance sheet prepared in accordance with GAAP, other than liabilities or obligations: (a) disclosed in the audited consolidated financial statements of 407 as at and for the fiscal years ended December 31, 2018 and 2017 (including any notes or schedules thereto and related management's discussions and analysis) or the unaudited consolidated interim financial statements as at and for the periods ended March 31, 2018, June 30, 2018 or September 30, 2018; (b) incurred in the Ordinary Course since December 31, 2018; or (c) as contained in Contracts that relate to liabilities to be performed in the Ordinary Course that have not yet been performed, and are not yet required to be performed.

3.15 Absence of Certain Changes or Events

To the knowledge of SNCL, since December 31, 2018, other than as publicly disclosed in the Public Filings:

- (a) the business of 407 and of each of its subsidiaries has been conducted in the Ordinary Course; and
- (b) there has not occurred any change, event, occurrence, effect or circumstance that, individually or in the aggregate, has had or would reasonably be expected to have, a Material Adverse Effect.

3.16 Related Party Transactions

To the knowledge of SNCL, neither 407 nor any of its subsidiaries is indebted to any director, officer or employee of 407, any of its subsidiaries or any of their respective Affiliates (except for amounts due in the Ordinary Course as salaries, bonuses, director's fees or the reimbursement of Ordinary Course expenses). To the knowledge of SNCL, there are no Contracts (other than Contracts entered into on arm's length terms in the Ordinary Course) between 407, or any of its subsidiaries, with any shareholder, officer or director of 407, any of its subsidiaries or any of their respective Affiliates.

3.17 Compliance with Laws

To the knowledge of SNCL (i) 407 and each of its subsidiaries is and, since January 1, 2016, has been conducting its business in material compliance with all applicable Law, and (ii) neither 407 nor any of its subsidiaries is under any investigation with respect to, has been charged or to the knowledge of SNCL threatened to be charged with, or has received notice of, any material violation or potential material violation of any Law or a disqualification by a Governmental Authority.

3.18 Authorizations and Licenses

- (a) To the knowledge of SNCL, 407 and each of its subsidiaries, as applicable, (i) lawfully hold, own or use, and have been in material compliance with, all material Governmental

Authorizations that are required by Law in connection with the operation of the business of 407 and each of its subsidiaries as presently conducted, or in connection with the ownership, operation or use of 407's assets; and (ii) each such material Governmental Authorization is valid and in full force and effect, and is renewable by its terms or in the Ordinary Course.

- (b) To the knowledge of SNCL, no action, investigation or proceeding is pending in respect of or regarding any such material Governmental Authorization and none of 407 or any of its subsidiaries has received notice, whether written or oral, of revocation, non-renewal or amendments of any such material Governmental Authorization, or of the intention of any Person to revoke, refuse to renew or amend any such material Governmental Authorization.
- (c) To the knowledge of SNCL, neither 407 nor any of its subsidiaries has given a written undertaking or written assurance (whether legally binding or not) to any Governmental Authority (including any competition authority) under any anti-trust or similar legislation in any jurisdiction which remains current at the date of this Agreement.

3.19 Concession Agreement

- (a) The Concession Agreement is valid and in full force and effect (subject to the Bankruptcy and Equity Exception).
- (b) 407 and each of its subsidiaries has performed in all material respects all respective obligations required to be performed by them to date under the Concession Agreement and none of 407 nor any of its subsidiaries has received any notice (whether written or oral) of, or is in material breach or default under the Concession Agreement, nor does SNCL have knowledge of any condition that with the passage of time or the giving of notice or both would result in such a material breach or default by 407, its subsidiaries or any other party to the Concession Agreement.
- (c) To the knowledge of SNCL, none of 407 or any of its subsidiaries has received any notice (whether written or oral) or other indication that any party to the Concession Agreement intends to cancel, rescind, terminate or otherwise materially modify its relationship with 407.

3.20 Sufficiency of IT Assets

To the knowledge of SNCL: (i) the IT Assets owned, leased or rented by 407 or any of its subsidiaries constitute all of the IT Assets used in connection with the business of 407 and its subsidiaries, and such IT Assets constitute all of the IT Assets necessary for 407 and its subsidiaries to conduct their business as presently conducted; (ii) 407 or its subsidiaries owns or has the rights under valid and subsisting license or other agreement to use the IT Assets to carry on the business of 407 and its subsidiaries; (iii) such uses of the IT Assets does not infringe, violate or constitute a misappropriation of any Intellectual Property Right of any third person; and (iv) no Person has given notice of any such Claims.

3.21 Data Privacy and Cybersecurity

To the knowledge of SNCL, other than as disclosed in the Public Filings, 407 and its subsidiaries have established and implemented policies, programs, and procedures that are commercially reasonable to protect the confidentiality of the trade secrets and other confidential information in their possession, custody, or control, and of their Software, IT Assets, products and services. To the knowledge of SNCL other than as disclosed in the Public Filings, except as would not reasonably be expected to have a Material Adverse Effect either individually or in the aggregate, there has been no loss, damage, or unauthorized access, disclosure, transfer or use of any personal information, trade secret, or otherwise

protected business information in the possession, custody, or control of 407 or any subsidiary, or maintained or processed on any of their behalf. To the knowledge of SNCL, other than as disclosed in the Public Filings, neither 407 nor any of its subsidiaries has notified in writing, or been required to notify in writing, any Person of any personal data or network security-related incident, nor has 407 or any of its subsidiaries received any notice of any claims, investigations, or alleged material violations of Law with respect to data security, personal data rights or privacy.

3.22 Litigation

Except as disclosed in Schedule 3.22, to the knowledge of SNCL, there are no material Legal Proceedings pending against 407 or any of its subsidiaries, or affecting any of their respective business, properties or assets, or that would reasonably be expected to prevent or delay the completion of the transactions contemplated hereby.

3.23 Employees

- (a) To the knowledge of SNCL, 407 and its subsidiaries are in material compliance with all terms and conditions of the Collective Agreement and there are no material pending grievances under the Collective Agreement.
- (b) To the knowledge of SNCL, there is no labour strike or dispute, pending or involving 407 or any of its subsidiaries.

3.24 Insurance

- (a) To the knowledge of SNCL, 407 and each of its subsidiaries is, and has been continuously since January 1, 2018, insured by reputable third party insurers with reasonable and prudent policies appropriate and customary for the size and nature of the business of 407, its subsidiaries and their respective assets.
- (b) To the knowledge of SNCL, each material insurance policy currently in effect that insures the physical properties, business, operations and assets of 407 and its subsidiaries, is valid and binding and in full force and effect and 407 has not received any written notification that any such insurance policy will be cancelled or will not be renewed. To the knowledge of SNCL, there is no material claim pending under any such policies as to which coverage has been questioned, denied or disputed.

3.25 Taxes

- (a) To the knowledge of SNCL, except as disclosed in Schedule 3.25 or reflected in the Public Filings:
 - (i) 407 and its subsidiaries have duly and timely filed all Tax Returns required to be filed by them prior to the date hereof and all such Tax Returns are complete and correct in all material respects. All material Taxes due and owing by 407 and its subsidiaries have been paid or accrued;
 - (ii) 407 and its subsidiaries have withheld, deducted or collected all material amounts required to be withheld, deducted or collected by them on account of Taxes, and have remitted all such amounts to the appropriate Governmental Authority when required by Law to do so;
 - (iii) no agreements, arrangements, extensions or waivers of limitation periods that are currently running have been given or requested with respect to any Taxes or Tax Return of 407 or any of its subsidiaries;

- (iv) no material deficiencies, litigation, proposed adjustments or matters in controversy exist or have been asserted by any Governmental Authority in any jurisdiction with respect to Taxes of 407 or any of its subsidiaries, and neither 407 nor any of its subsidiaries is a party to any material action or proceeding for assessment or collection of Taxes in any jurisdiction, and no such event has been asserted or threatened in writing against 407 or any of its subsidiaries;
 - (v) there are no Encumbrances for Taxes (other than for current Taxes not yet due and payable or for taxes contested in good faith by appropriate proceedings) upon the assets of 407 and its subsidiaries; and
 - (vi) neither 407 nor any of its subsidiaries is a party to any Tax indemnity, Tax sharing or Tax allocation agreement.
- (b) SNCL is not a non-resident of Canada within the meaning of the Tax Act.

3.26 Bankruptcy and Insolvency

Neither SNCL, SLI, Highway Holdings, nor, to the knowledge of SNCL, 407 or any of its subsidiaries, is an Insolvent Person, has made an assignment in favour of its creditors or has made a proposal in bankruptcy to its creditors or any class thereof nor has any petition for a receiving order been presented in respect of it. Neither SNCL, SLI, Highway Holdings, nor, to the knowledge of SNCL, 407 or any of its subsidiaries, has initiated any Legal Proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution. No receiver has been appointed in respect of SNCL, SLI or Highway Holdings, or, to the knowledge of SNCL, 407 or any of its subsidiaries, or the respective property or assets of any of SNCL, SLI or Highway Holdings, or, to the knowledge of SNCL, 407 or any of its subsidiaries, and no execution or distress has been levied upon any of the respective property or assets of any of SNCL, SLI or Highway Holdings, or, to the knowledge of SNCL, 407 or any of its subsidiaries.

3.27 Anti-Bribery and Corruption

In connection with 407, its subsidiaries or business, none of SNCL, SLI and Highway Holdings, nor, to the knowledge of SNCL, 407 or any of its subsidiaries, nor any of their respective agents or Representatives, have directly or indirectly, (i) offered, promised, made or authorized, or agreed to offer, promise, make or authorize, any contribution, expense, payment or gift of funds, property or anything else of value to or for the use or benefit of any Government Official for the purpose of securing action or inaction or a decision of a Governmental Authority or a Government Official, influence over such action, inaction or decision, or any improper advantage; or (ii) taken any action which is or would be otherwise inconsistent with or prohibited by the *Corruption of Foreign Public Officials Act* (Canada) or the *Criminal Code* (Canada) if applicable, or the rules and regulations promulgated thereunder or under any other legislation of any relevant jurisdiction covering a similar subject matter applicable to 407 or any of its subsidiaries (collectively, "**Anti-Corruption Laws**"). To the knowledge of SNCL (i) the operations of 407 and its subsidiaries have been conducted at all times in compliance with Anti-Corruption Laws; and (ii) over the past six (6) years there has been no suit, action, investigation (including any internal investigation), inquiry, litigation or proceeding by or before any Governmental Authority, customer, business partner or any arbitrator involving 407 or any of its subsidiaries, or any of their agents or Representatives with respect to Anti-Corruption Laws. To the knowledge of SNCL, 407 and its subsidiaries are not ineligible nor considered by any Governmental Authority to be ineligible, to tender for any contract or business with, or be awarded any contract or business by, such Governmental Authority, or to tender for or perform any sub-contracting work under a contract with such Governmental Authority.

3.28 No Other Representations and Warranties

Except for the representations and warranties contained in this Article 3, neither SNCL nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of SNCL, including any representation or warranty as to the accuracy or completeness of any information regarding SNCL or 407 furnished or made available to the Purchaser and its representatives or as to the future revenue, profitability or success of 407, or any representation or warranty arising from statute or otherwise in Law.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants as follows to the Vendor and acknowledges and agrees that the Vendor is relying upon the representations and warranties in connection with its sale of the Purchased Shares.

4.1 Status of the Purchaser

The Purchaser is a corporation existing under the laws of Canada and has all necessary corporate power, authority and capacity to own its assets and to carry on its business as presently conducted.

4.2 Accredited Investor

The Purchaser is acquiring the Purchased Shares as principal and for its own account and at the Closing Time, is an "accredited investor" as such term is defined in National Instrument 45-106 – *Prospectus Exemptions*.

4.3 Due Authorization and Enforceability of Obligations

The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and each other Transaction Document to which it is a party and to carry out and perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and each other Transaction Document to which the Purchaser is a party and the consummation of the transactions contemplated under this Agreement have been duly authorized by all necessary corporate action of the Purchaser. This Agreement and each other Transaction Document to which it is a party constitute a valid and legally binding obligation of the Purchaser enforceable against it in accordance with their respective terms subject to the Bankruptcy and Equity Exception.

4.4 Absence of Conflicts

The execution and delivery of and performance by the Purchaser of this Agreement and each other Transaction Document to which it is a party and the consummation of the transactions contemplated hereby and thereby:

- (a) 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 Person to exercise any rights under, any of the terms or provisions of the Constatng Documents of the Purchaser;
- (b) do not and will not (or would not with the giving of notice, the lapse of time or the happening or any other event or condition) constitute or result in a breach or violation of, a termination of, a right of termination or default under, the creation or acceleration of any obligations under, or the creation of an Encumbrance on, or conflict with or allow any Person to exercise any material rights under, any of the terms or provisions of any Contracts or instruments to which the Purchaser is a party; and

- (c) do not and will not result in a breach or violation of, or a default under, any Law.

4.5 Regulatory Approvals

No approval, Order, consent of or filing with any Governmental Authority is required on the part of the Purchaser in connection with the execution, delivery and performance of this Agreement or each other Transaction Document to which it is a party or the performance of the Purchaser of the Purchaser's obligations under this Agreement or any other Transaction Document.

4.6 Required Consents

There is no requirement to obtain any consent, approval or waiver of a party under any Contract, to which the Purchaser is a party, to the transactions contemplated by this Agreement or the other Transaction Documents.

4.7 Litigation

There is no Legal Proceeding in progress or, to the knowledge of the Purchaser, pending or threatened against or relating to the Purchaser, which, if determined adversely to the Purchaser, would:

- (a) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Shares as contemplated by this Agreement; or
- (b) prevent the Purchaser from fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

4.8 No Broker

Except for any fees payable to the Purchaser's financial advisors, which shall be payable solely by the Purchaser, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based on arrangements made by the Purchaser.

4.9 Financial Ability

Notwithstanding anything to the contrary contained herein, the Purchaser's obligation to effect the Closing is not conditioned or contingent on the Purchaser's ability to obtain any financing prior to effecting the Closing. The Purchaser has cash on hand, existing and available lines of credit and/or commitments in an amount sufficient to allow it to pay the Purchase Price in full and all other costs and expenses in connection with the consummation of the transactions contemplated by this Agreement.

ARTICLE 5 VENDOR'S CONDITIONS PRECEDENT

The obligation of the Vendor to complete the sale of the Purchased Shares under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Vendor and may be waived by it in whole or in part in its sole and absolute discretion).

5.1 Truth and Accuracy of Representations of the Purchaser at the Closing Time

The representations and warranties of the Purchaser contained in this Agreement qualified by references to materiality shall be true and correct in all respects and representations and warranties of the Purchaser contained in this Agreement not qualified by references to materiality shall be true and correct in all material respects as of the Closing Date and with the same force and effect as if such representations

and warranties had been made on and as of such date and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect. The receipt of such certificate and the Closing will not constitute a waiver by the Vendor of any of the representations and warranties of the Purchaser which are contained in this Agreement or prejudice Vendor's rights of termination in the event of non-fulfilment of any other condition in whole or in part or to its rights to recover damages for the breach of any representation, warranty, covenant or condition contained in this Agreement. Upon delivery of such certificate, the representations and warranties of the Purchaser in Article 4 will 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.

5.2 Performance of Obligations

The Purchaser shall have performed or complied with, in all material respects, all its obligations and covenants under this Agreement and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect. The receipt of such certificate and the Closing will not constitute a waiver by the Vendor of any of the covenants of the Purchaser which are contained in this Agreement.

5.3 Receipt of Closing Documentation

The Purchaser shall deliver or cause to be delivered to the Vendor the following in form and substance satisfactory to the Vendor:

- (a) the documents contemplated in Section 2.2(d);
- (b) certified copies of (i) the Constatting Documents of the Purchaser, (ii) all resolutions of the board of directors of the Purchaser approving the entering into and completion of the transactions contemplated by this Agreement and the performance of its obligations hereunder, and (iii) a list of its officers and directors authorized to sign agreements together with their specimen signatures;
- (c) a certificate of status, compliance, good standing or like certificate with respect to the Purchaser issued by appropriate Governmental Authorities of the jurisdiction of its incorporation; and
- (d) the certificates referred to in Section 5.1 and Section 5.2.

5.4 No Legal Proceeding

No Order shall have been made which enjoins, restricts or prohibits, the completion of the transactions herein contemplated.

ARTICLE 6 PURCHASER'S CONDITIONS PRECEDENT

The obligation of the Purchaser to complete the purchase of the Purchased Shares under this Agreement is subject to the satisfaction of, or compliance with, at or before the Closing Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part in its sole discretion).

6.1 Truth and Accuracy of Representations of SNCL and the Substituted Vendor at the Closing Time

The Core Representations and Warranties shall be true and correct in all respects, the non-Core Representations and Warranties of SNCL and, if applicable, any Substituted Vendor, contained in this Agreement qualified by references to materiality shall be true and correct in all respects and the non-Core Representations and Warranties of SNCL and, if applicable, any Substituted Vendor contained in this

Agreement not qualified by references to materiality shall be true and correct in all material respects, in each case as of the Closing Date and with the same force and effect as if such representations and warranties had been made on and as of such date and SNCL and, if applicable, any Substituted Vendor shall have executed and delivered a certificate of a senior officer to that effect. The receipt of such certificate and the Closing will not constitute a waiver by the Purchaser of any of the representations and warranties set out in Article 3 which are contained in this Agreement or prejudice Purchaser's rights of termination in the event of non-fulfilment of any other condition in whole or in part or to its rights to recover damages for the breach of any representation, warranty, covenant or condition contained in this Agreement. Upon the delivery of such certificate, the representations and warranties in Article 3 will 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.

6.2 Performance of Obligations

SNCL and, if applicable, the Substituted Vendor, shall have performed or complied with, in all material respects, all their obligations and covenants under this Agreement to be fulfilled or complied with by them at or prior to the Closing, and SNCL and, if applicable, the Substituted Vendor, shall have executed and delivered a certificate of a senior officer to that effect. The receipt of such certificate and the Closing will not constitute a waiver by the Purchaser of any of the covenants of SNCL and, if applicable, the Substituted Vendor which are contained in this Agreement.

6.3 Receipt of Closing Documentation

The Vendor shall deliver or cause to be delivered to the Purchaser the following in form and substance satisfactory to the Purchaser:

- (a) the documents contemplated in Sections 2.1 and 2.2(c);
- (b) certified copies of (i) the Constatting Documents of the Vendor, (ii) all resolutions of the shareholders and the board of directors of the Vendor approving the entering into and completion of the transactions contemplated by this Agreement and the performance of its obligations hereunder, and (iii) a list of the directors and officers authorized to sign this Agreement and the other agreements relating thereto together with their specimen signatures;
- (c) the certificates referred to in Section 6.1 and Section 6.2;
- (d) a certificate of status, compliance, good standing or like certificate with respect to the Vendor and 407 issued by appropriate Governmental Authorities of their respective jurisdictions of incorporation; and
- (e) evidence from the Vendor (such as a copy of a no interest letter, a payout letter or release of security or other waiver) in a form satisfactory to the Purchaser, acting reasonably, that, as of and concurrently with the Closing, Highway Holdings has complied in all respects with its obligations in respect of the Caisse Loan with respect to this Agreement and the transactions hereby contemplated and that the applicable lender has no interest in the Purchased Shares.

6.4 Legal Opinion

A legal opinion of Norton Rose Fulbright Canada LLP, counsel to the Vendor, dated the Closing Date and being in form and substance satisfactory to counsel to the Purchaser, acting reasonably, addressing incorporation and corporate good standing of SNCL, SLI, Highway Holdings, the Substituted Vendor (if applicable) as well as the due authorization, execution and delivery of this Agreement shall have been received by the Purchaser at the Closing Time. In rendering such opinion, counsel may rely as to the

laws of jurisdictions other than the Province of Ontario upon the opinions of counsel qualified to practise in such jurisdictions satisfactory to the Purchaser.

6.5 No Legal Proceeding

No Order shall have been made which enjoins, restricts or prohibits, the completion of the transactions herein contemplated.

6.6 No Material Adverse Change

From the date of this Agreement, there shall not have occurred any Material Adverse Effect, nor shall any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, could reasonably be expected to result in a Material Adverse Effect.

ARTICLE 7 SURVIVAL

7.1 Nature and Survival

- (a) Except as specified in Sections 7.1(b) and 7.1(c), all representations and warranties contained in this Agreement on the part of each of the Parties shall survive the Closing for the same period of time during which an obligation to indemnify exists pursuant to Section 10.1(b) or 10.2(b)(i).
- (b) The representations and warranties of the Vendor contained in Sections 3.1, 3.2, 3.3, 3.4, 3.5, 3.9, 3.10, 3.11(a), 3.11(c) and 3.25(b) (the **Core Representations and Warranties**) shall survive the events described in Sections 7.1(a) and continue in full force and effect indefinitely.
- (c) The representations and warranties set forth in Section 3.25(a) (the **Tax Representations and Warranties**) shall survive the Closing and continue in full force and effect until 90 days after the expiration of the last of the limitation periods contained in the Tax Act and any other legislation imposing Tax on 407 or any of its subsidiaries subsequent to the expiration of which an assessment, reassessment or other form or recognized document assessing liability for Tax for a period including or ending prior to the Closing Date cannot be issued to 407 or its subsidiary, as applicable, unless notice of any Claim by the Purchaser against the Vendor with respect thereto is given to the Vendor by the Purchaser prior to such date.
- (d) There is no limitation as to time for claims involving fraud, willful misconduct or intentional misrepresentation.

ARTICLE 8 TERMINATION

8.1 Termination Rights

This Agreement may, by notice in writing given prior to or on the Closing Date, be terminated:

- (a) by mutual written consent of the Vendor and the Purchaser;
- (b) by the Vendor if any condition in Article 5 has not been satisfied as of the Closing Date or if satisfaction of such a condition is or becomes impossible (other than through the failure of the Vendor to comply with its obligations under this Agreement) and the Vendor has not waived such condition on or before the Outside Date in its sole and absolute

discretion, without prejudice to its rights of termination in the event of non-fulfilment of any other condition in whole or in part;

- (c) by the Purchaser if any condition in Article 6 has not been satisfied as of the Closing Date or if satisfaction of such a condition is or becomes impossible (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition on or before the Outside Date in its sole and absolute discretion, without prejudice to its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or
- (d) by the Vendor or the Purchaser if the completion of the sale and purchase of the Purchased Shares herein contemplated has not occurred (other than through the failure of the Party seeking to terminate this Agreement to comply fully with its obligations under Article 5 or Article 6, as the case may be, and Section 9.4) on or before the Outside Date, unless the Parties mutually agree in writing to extend the Outside Date.

8.2 Effect of Termination

- (a) Each Party's right of termination under this Article 8 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Article 8 limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfilment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part under this Agreement.
- (b) If this Agreement is terminated pursuant to Section 8.1, all obligations of the Parties under this Agreement will terminate, except that:
 - (i) if this Agreement is terminated pursuant to Section 8.1(a), each Party's obligations under Sections 9.3, 11.2, 11.3 and 11.6 will survive; and
 - (ii) if this Agreement is terminated by a Party pursuant to Sections 8.1(b), 8.1(c) or 8.1(d), then (i) nothing herein shall release any Party from any liability for damages arising out of any failure to comply with any provision, covenant or agreement contained herein prior to the termination of this Agreement, and (ii) the provisions of Sections 9.3, 11.2, 11.3 and 11.6 shall survive such termination.

ARTICLE 9 OTHER COVENANTS OF THE PARTIES

9.1 Pre-Closing Reorganization

Subject to the provisions of Section 2.1, SNCL shall cause the Pre-Closing Reorganization to be completed substantially in accordance with the steps set out in Schedule A attached hereto prior to the Closing Time. The Parties acknowledge that consent is required under the Caisse Loan for the consummation of the Pre-Closing Reorganization. The Pre-Closing Reorganization shall (a) be duly authorized by all necessary actions in compliance with the terms or provisions of the Constatting Documents and other similar documents of the applicable entities, (b) be effected in compliance with all agreements binding upon the applicable entities, and (c) be effected in compliance with all applicable Laws.

9.2 Interim Covenants

Except for any matters relating to nomination, removal and election of directors of 407 where the Vendor or any of its Affiliates is committed pursuant to the Shareholder Agreement to vote a certain way, the Vendor covenants and agrees that during the period from the date of this Agreement until the earlier of the Closing Time and the time that this Agreement is terminated in accordance with its terms, the Vendor will not, and will ensure that all of its Affiliates and Representatives, including for greater clarity, Highway Holdings, will not, without the prior written consent or approval of the Purchaser (which consent or approval shall not be unreasonably withheld or delayed), vote in favour of, consent to, approve or otherwise authorize any matter:

- (a) as a shareholder of 407; or
- (b) under or pursuant to the Shareholder Agreement,

in respect of which such vote, consent, approval or authorization from the Vendor or such Affiliate or Representative, as applicable, is required to implement such matter, including:

- (i) [REDACTED]
- (ii) [REDACTED]
- (iii) [REDACTED]
- (iv) [REDACTED]

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9.3 Confidentiality

- (a) Each Party shall keep confidential all information disclosed to it by the other Party or its agents relating to the Purchaser, Vendor or to 407 (the **Confidential Information**) in accordance with the terms and conditions of the Shareholder Agreement.
- (b) Any use and/or disclosure of Confidential Information by either Party after Closing will be carried out in compliance with all applicable Laws and the terms and conditions of the Shareholder Agreement.

9.4 Actions to Satisfy Closing Conditions

- (a) SNCL and, if applicable, the Substituted Vendor shall take all such actions as are within its power to control and shall use their reasonable commercial efforts to cause other actions to be taken which are not within their power to control, so as to ensure compliance with all of the conditions set forth in Article 6 including ensuring that prior to the Closing Time, there is no breach of any of its representations and warranties.
- (b) The Purchaser shall take all such actions as are within its power to control and shall use its reasonable commercial efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all of the conditions set forth in Article 5 including ensuring that prior to the Closing Time, there is no breach of any of its representations and warranties.

9.5 Notice of Untrue Representation or Warranty

The Vendor shall promptly notify the Purchaser, and the Purchaser shall promptly notify the Vendor, upon any representation or warranty made by it or its Affiliate contained in this Agreement to its knowledge becoming untrue or incorrect prior to the Closing Time and, for the purposes of this Section 9.5, each representation and warranty will be deemed to be given at and as of all times during the period prior to the Closing Time. Any such notification must set out particulars of the untrue or incorrect representation or warranty and details of any actions being taken by the Vendor or the Purchaser, as the case may be, to rectify that state of affairs. Any notification provided pursuant to this Section 9.5 will not amend this Agreement or qualify the representations and warranties of the Vendor given in Article 3.

ARTICLE 10 INDEMNIFICATION

10.1 Indemnification by SNCL and the Substituted Vendor

- (a) SNCL and the Substituted Vendor, if any, shall indemnify and save harmless the Purchaser and the Purchaser's Affiliates and their respective Representatives (collectively, the **Purchaser Indemnitees**) from and against all Losses incurred by any of them, directly or indirectly arising out of, as a result of, in connection with or relating to:
- (i) any non-fulfilment or breach of any covenant or agreement on the part of SNCL or, if applicable, the Substituted Vendor contained in this Agreement;
 - (ii) any misrepresentation or any incorrectness in or breach of any representation or warranty of SNCL and, if applicable, the Substituted Vendor, contained in this Agreement or in any certificate furnished by SNCL and, if applicable, the Substituted Vendor, pursuant to this Agreement;
 - (iii) Taxes with respect to 407 and each of its subsidiaries (including, for greater certainty, of any predecessor) for (A) taxation years or periods that end or are deemed to end prior to Closing and (B) the portion up to Closing of any taxation year or period that begins prior to the Closing and ends after the Closing (to be determined as if a taxation year had ended at Closing), but excluding:
 - (A) 
 - (B) 
 - (C) 
 - (D) Taxes reflected in Tax Returns as initially filed for taxation years or periods that end or are deemed to end prior to Closing; and
 - (E) Taxes reflected in Tax Returns initially filed for the portion up to Closing of any taxation year or period that begins prior to the Closing and ends

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after the Closing (to be determined as if a taxation year had ended at Closing); and

- (iv) the Pre-Closing Reorganization.
- (b) SNCL's and, if applicable, the Substituted Vendor's indemnity obligations under Section 10.1(a)(ii) shall be subject to the limitations set out in this Section 10.1(b), and SNCL's and, if applicable, the Substituted Vendor's indemnity obligations under Section 10.1(a)(iii) shall be subject to the limitation set out in Section 10.1(b)(iii) and 10.1(b)(v):
- (i) except for in respect of the Core Representations and Warranties which shall survive and continue in full force and effect without limitation of time and the Tax Representations and Warranties which shall survive in accordance with Section 7.1(c), the indemnity obligations of SNCL and, if applicable, the Substituted Vendor, under Section 10.1(a)(ii) shall terminate twelve (12) months from the date hereof, except to the extent that, during such period, a notice of Claim is received, in which case such Claim will survive and continue in full force and effect until the final determination of such Claim;
 - (ii) SNCL and, if applicable, the Substituted Vendor, will not be liable under Section 10.1(a)(ii) until the aggregate amount of all Losses arising in respect of indemnification under Section 10.1(a)(ii) exceeds [REDACTED], in which event SNCL and, if applicable, the Substituted Vendor, shall be required to pay or be liable for all such Losses in excess of such amount, provided that the foregoing limitation shall not apply to SNCL's and, if applicable the Substituted Vendor's liability in respect of the Core Representations and Warranties, the Tax Representations and Warranties, or any Claim involving fraud, intentional misrepresentation or willful misconduct;
 - (iii) other than with respect to a breach of the Core Representations and Warranties, SNCL's and the Substituted Vendor's, total liability under Sections 10.1(a)(ii) and 10.1(a)(iii) shall not exceed four hundred fifty million dollars (\$450,000,000), provided that the foregoing limitation shall not apply to SNCL's and, if applicable, the Substituted Vendor's liability in respect of any Claim involving fraud, intentional misrepresentation or willful misconduct;
 - (iv) SNCL's and the Substituted Vendor's total liability under Section 10.1(a)(ii) for a breach of the Core Representations and Warranties shall not exceed 100% of the Purchase Price; and
 - (v) no Party or other Person is entitled to indemnification pursuant to this Article 10 unless such Party or other Person has given written notice of its Claim for indemnification pursuant to Section 10.3, as the case may be, within the survival periods specified in the provisions of this Section 10.1.
- (c) For all purposes under this Article 10, including determining whether SNCL or the Substituted Vendor has breached a representation or warranty and establishing the Purchaser Indemnitees' right of indemnification resulting from any such breach, the damages resulting from such breach, or the amount of aggregate damages as measured against any applicable indemnification threshold, the qualification of such representation or warranty by the term "material," "Material Adverse Effect", or other similar phrase shall be disregarded.

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- (d) The indemnity obligations of SNCL and, if applicable, the Substituted Vendor under Section 10.1(a)(iii) shall survive for the same period as the Tax Representations and Warranties.

10.2 Indemnification by the Purchaser

- (a) The Purchaser shall indemnify and save harmless the Vendor and the Vendor's Affiliates and their respective Representatives (collectively, the **Vendor Indemnitees**) from and against all Losses incurred by any of them directly or indirectly arising out of, as a result of, in connection with or relating to:
 - (i) any non-fulfilment or breach of any covenant or agreement on the part of the Purchaser contained in this Agreement; and
 - (ii) any misrepresentation or any incorrectness in or breach of any representation or warranty of the Purchaser contained in this Agreement or in any certificate furnished by the Purchaser pursuant to this Agreement.
- (b) The Purchaser's obligations under Section 10.2(a) shall be subject to the following limitation:
 - (i) the obligations of the Purchaser under Section 10.2(a)(ii) shall continue in full force and effect for a period of twelve (12) months after the Closing Date, except for the representations and warranties in Sections 4.1, 4.2 and 4.3 which shall survive and continue in full force and effect without limitation of time; and
 - (ii) the Purchaser's total liability shall not exceed 100% of the Purchase Price.

10.3 Indemnification Procedures for Third Party Claims

- (a) In the case of Third Party Claims, the Party seeking indemnification (the **Indemnified Party**) shall give prompt notice, and in any event within fifteen (15) Business Days, to the other Party (the **Indemnifying Party**) of any such Third Party Claims made upon it including a description of such Third Party Claim in reasonable detail including the sections of this Agreement which form the basis for such Third Party Claim, copies of all material written evidence of such Third Party Claim in the possession of the Indemnified Party and the actual or estimated amount of the damages that have been or will be sustained by an Indemnified Party, including reasonable supporting documentation therefor.
- (b) The Indemnifying Party shall have the right, by notice to the Indemnified Party given not later than 20 Business Days after receipt of the notice described in Section 10.3(a), to assume the control of the defence, compromise or settlement of the Third Party Claim at its own cost and expense with counsel of its own selection, provided that:
 - (i) the Indemnified Party shall at all times have the right to fully participate in the defence at its own expense, and the Indemnifying Party shall reasonably cooperate with the Indemnified Party in connection with such participation, provided the Indemnifying Party continues to control such defence;
 - (ii) such Third Party Claim seeks only monetary damages and does not seek injunctive or equitable relief against the Indemnified Party or relate to or arise in connection with any criminal or quasi criminal proceedings, allegations, investigations, Orders or any requirements by any Governmental Authority;

- (iii) settlement of, or an adverse judgment with respect to, such Third Party Claim is not, in the good faith judgment of the Indemnified Party, likely to be materially adverse to the continuing business interests of the Indemnified Party;
 - (iv) there is not, in the good faith judgment of the Indemnified Party, upon the advice of counsel, a conflict of interest between the Indemnifying Party and Indemnified Party;
 - (v) the Losses related to such Third Party Claim are not, in the good faith judgment of the Indemnified Party, likely to exceed the limit on the Indemnifying Party's liability for indemnification under this Agreement; and
 - (vi) if the Indemnifying Party assumes the defense of such Third Party Claim, it will be conclusively established for purposes of this Agreement that the claims made in such Third Party Claim are within the scope of and subject to indemnification.
- (c) If the Indemnifying Party fails within twenty (20) Business Days after receipt of the notice described in Section 10.3(a), to assume the control of the defence, compromise or settlement of the Third Party Claim in accordance with Section 10.3(b), then the Indemnifying Party shall be deemed to have waived its right to defend such Third Party Claim and the Indemnified Party shall have the right (but not the obligation) to undertake or to cause the Indemnifying Party to undertake the defence of such Claim and compromise and settle such Third Party Claim on behalf, for the account and at the risk and expense of the Indemnifying Party.
- (d) Upon the assumption of control of any Third Party Claim by the Indemnifying Party as set out in Section 10.3(b):
- (i) the Indemnifying Party shall diligently proceed with the defence, compromise or settlement of the Third Party Claim at its sole expense, including if necessary, employment of counsel of its choosing and, in connection therewith, the Indemnified Party shall co-operate and use its commercially reasonable efforts to make available to the Indemnifying Party or its representatives all pertinent documentation, information and witnesses under the Indemnified Party's control as are reasonably necessary to enable the Indemnifying Party to conduct such defence and shall take such other steps as are, in the reasonable opinion of counsel for the Indemnifying Party, necessary to enable the Indemnifying Party to conduct such defence; provided always that:
 - (A) no admission of fault may be made by or on behalf of any Purchaser Indemnitee without the prior written consent of the Purchaser;
 - (B) no admission of fault may be made by or on behalf of a Vendor Indemnitee without the prior written consent of the Vendor; and
 - (C) the Indemnified Party is not obligated to take any measures which, in the reasonable opinion of legal counsel, could be prejudicial or unfavourable to the Indemnified Party.
 - (ii) the Indemnified Party will have the right to employ separate counsel and/or to participate in the defence of any such Third Party Claim, but the fees and expenses of such counsel will not be included as part of any Losses incurred by the Indemnified Party unless (i) the Indemnifying Party failed to give the notice specified in Section 10.3(b); (ii) such Indemnified Party has received an opinion of counsel, reasonably acceptable to the Indemnifying Party, to the effect that the

interests of the Indemnified Party and the Indemnifying Party with respect to the Claim proceeding are sufficiently adverse to prohibit the representation by the same counsel of both parties under applicable ethical rules, or (iii) the employment of such counsel at the expense of the Indemnifying Party has been specifically authorized by the Indemnifying Party. The party conducting the defence of any Third Party Claim proceeding will keep the other party apprised of all significant developments and will not enter into any settlement, compromise or consent to judgment with respect to such Third Party Claim proceeding unless the Indemnifying Party and the Indemnified Party consent, which consent will not be unreasonably withheld.

- (e) No Third Party Claim described in Section 10.3(a) may be settled or compromised by the Indemnifying Party without the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld.
- (f) The final determination of any Third Party Claim pursuant to this Section 10.3, including all related costs and expenses, shall be binding and conclusive upon the Parties as to the validity or invalidity, as the case may be of such Third Party Claim against the Indemnifying Party.

10.4 Subrogation

The amount of Losses and the amount of any indemnity payment under this Article 10 shall be reduced to take into account any amounts actually recovered or received by the Indemnified Party under insurance policies, indemnities, reimbursement arrangements or similar agreements with respect to such Losses. If the amount of Losses is reduced subsequent to the making of an indemnity payment under this Article 10 pursuant to the foregoing, the amount of such reduction (less any costs, expenses (including taxes) or premiums incurred in connection therewith) shall promptly be repaid by that Party to the other Party. Each Party waives, to the extent permitted under its applicable insurance policies, any subrogation rights that its insurer may have with respect to any indemnifiable Losses.

10.5 Exclusive Remedy

The rights of indemnity set forth in this Article 10 are the sole and exclusive remedy of each Party from and after Closing in respect of any misrepresentation, incorrectness in or breach of any representation or warranty, or breach of covenant, by the other Party under this Agreement. Accordingly, the Parties waive, from and after the Closing, any and all rights, remedies and claims that one Party may have against the other, whether at law, under any statute or in equity (including but not limited to claims for breach of contract, breach of representation and warranty, negligent misrepresentation and all claims for breach of duty), or otherwise, directly or indirectly, relating to the provisions of this Agreement or the transactions contemplated by this Agreement other than as expressly provided for in this Article 10 and other than those arising with respect to any fraud, wilful misconduct or intentional misrepresentation. The Parties agree that if a Claim for indemnification is made by one Party in accordance with Section 10.1(a) or Section 10.2(a), as the case may be, and there has been a refusal by the other Party to make payment or otherwise provide satisfaction in respect of such Claim, then a legal proceeding is the appropriate means to seek a remedy for such refusal. This Article 10 shall remain in full force and effect in all circumstances and shall not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its representations, warranties or covenants under this Agreement or under any Closing document or by any termination or rescission of this Agreement by any Party.

10.6 One Recovery

A Party shall not be entitled to double recovery for any Claims even though they may have resulted from the breach of more than one of the representations, warranties, agreements and covenants made by the other Party in this Agreement.

10.7 Tax Treatment

Any amount payable as an indemnity payment under this Article 10 shall be treated by the Parties as an adjustment to the Purchase Price.

10.8 Duty to Mitigate

Nothing in this Agreement shall in any way restrict or limit the general obligation at law of a Party to mitigate any loss which it may suffer or incur by reason of the breach by the other Party of any representation, warranty or covenant of that other Party under this Agreement.

10.9 Timing of Indemnification

Any amount due from an Indemnifying Party to an Indemnified Party pursuant to this Article 10 shall be paid by the Indemnifying Party to the Indemnified Party within ten (10) Business Days following the final determination of an indemnification claim by way of wire transfer of immediately available funds to an account designated by the Indemnified Party.

ARTICLE 11 GENERAL

11.1 Financing Cooperation

Prior to Closing, SNCL shall provide, and shall cause its Affiliates and its representatives to use commercially reasonable efforts to provide, all cooperation reasonably requested by the Purchaser and at the Purchaser's expense, where any out-of-pocket expenses are incurred by the Vendor and/or its Affiliates and its representatives in connection with any equity and/or debt financing that may be undertaken by the Purchaser, in connection with the transactions contemplated by this Agreement, including by furnishing to the Purchaser and its prospective lenders, equity providers and rating agencies (subject in case to applicable confidentiality restrictions) all information requested by the Purchaser regarding the transactions contemplated by this Agreement and 407 and its business that is in their possession and control to the extent such information is relevant to and customary to be provided to a lender, equity provider or rating agency, as the case may be.

11.2 Substitution of Vendor; Joint and Several Liability of SNCL and Substituted Vendor

In the event SNCL decides, in its sole discretion, between the date hereof and the Closing Date, to substitute for itself a wholly-owned subsidiary as the Vendor hereunder (the **Substituted Vendor**), then SNCL shall be permitted to so substitute for itself a Substituted Vendor hereunder provided (i) such Substituted Vendor is a "Permitted Transferee" (as defined in the Shareholder Agreement) of SNCL (or a Permitted Transferee of SLI), and (ii) the Substituted Vendor executes a joinder and intervention to this Agreement and the other Transaction Documents, and (iii) SNCL and the Substituted Vendor are jointly and severally liable for and in respect of all covenants, representations, warranties, indemnities and payment obligations under this Agreement and the other Transaction Documents for so long as such covenants, representations, warranties, indemnities and payment obligations survive in accordance with this Agreement or the other applicable Transaction Document. For greater certainty, the liability of each of SNCL and any Substituted Vendor by reason of this Section 11.2 is primary (and not a collection guaranty), and the Purchaser shall not be required to make any demand on the Substituted Vendor for performance of the Vendor's joint and several obligations hereunder, nor to exhaust any legal, contractual or equitable remedies against the Substituted Vendor prior to proceeding against SNCL.

11.3 Public Announcements

- (a) Except for the issuance by the Vendor (or one or more of its Affiliates) and the Purchaser (or one or more of its Affiliates) of separate press releases, subject to Section 11.3(b), announcing the transactions described herein and announcing the closing of such

transactions and subject to disclosure as may be required by Law to which the Parties or their respective Affiliates are subject to, no press release or announcement concerning the discussions between the Parties hereto, this Agreement or the transactions contemplated hereby between the Parties hereto will be issued by any Party without the prior approval, not to be unreasonably withheld or delayed, of the form and substance thereof by each other Party.

- (b) Each of the Parties shall (i) use its reasonable best efforts to develop a joint communication plan with respect to this Agreement and the transactions contemplated hereby in order to ensure that press releases and public statements shall be consistent with such joint communication plan, both in terms of content and timing, or otherwise consented to by the other Parties, and (ii) consult with each other Party prior to issuing any press release or otherwise making any public statement or other public disclosure with respect to this Agreement and the other Transaction Documents, provide to each other Party for review a copy of any such press release, statement or disclosure, and not issue any such press release or make any such public statement or disclosure that is not consistent with such joint communication plan without the other Party's consent, unless such Party determines in good faith that such press release, statement or disclosure is required by any Governmental Authority or under applicable Law or any applicable listing agreement with, or rules and regulations of, an applicable securities exchange, in which case, such Party shall, prior to issuing any such press release or making any such public statement or disclosure, use its reasonable best efforts to afford the other Party a reasonable opportunity to review and comment thereon. Notwithstanding the foregoing, each of the Parties may issue any press release or other public statement with respect to this Agreement (including the terms hereof and thereof, and the transactions contemplated hereby and thereby) which is consistent with and limited to the information contained in any prior press release or other public statement issued and approved by either Party in accordance with this Section 11.3.
- (c) Notwithstanding clause (a) above, the Vendor shall be allowed to disclose the terms of this Agreement, the discussions between the Parties hereto and the transactions contemplated hereby (i) to authorized representatives and employees of the Vendor and/or its Affiliates, (ii) to its and its Affiliates' investors in connection with summary information about the Vendor or any of the Vendor's Affiliates' financial condition, (iii) to any of the Vendor's Affiliates, auditors, attorneys, lenders or other agents or any other Person to whom an Affiliate of the Vendor discloses such information in the ordinary course of business, and (iv) following the Closing, to any bona fide prospective purchaser of the securities or assets of the Vendor or its Affiliates or to any lender to the Vendor and/or its Affiliates; provided that in the case of disclosures made pursuant to clauses (i) through (iv), the recipient is informed of the confidential nature of such information.
- (d) Notwithstanding clause (a) above, the Purchaser shall be allowed to disclose the terms of this Agreement and the transactions contemplated hereby (i) to authorized representatives and employees of the Purchaser or its Affiliates, (ii) to its and its Affiliates' investors in connection with summary information about the Purchaser or any of the Purchaser's Affiliates' financial condition, (iii) to any of the Purchaser's Affiliates, auditors, attorneys, financing sources, potential investors or other agents or any other Person to whom an Affiliate of the Purchaser discloses such information in the ordinary course of business, and (iv) following the Closing to any bona fide prospective purchaser of the equity or assets of the Purchaser or its Affiliates or other equity partner, co-investor or debt provider; provided that in the case of disclosures made pursuant to clauses (i) through (iv), the recipient is informed of the confidential nature of such information.

11.4 Specific Performance

Each of the Parties acknowledges that its obligations hereunder are unique and that remedies at law, including monetary damages, will be inadequate in the event it should default in the performance of its obligations under this Agreement. Accordingly, in the event of any breach of any agreement, representation, warranty or covenant set forth in this Agreement, a Party, in the case of a breach by a different Party, may be entitled to equitable relief, without the proof of the insufficiency of damages, including in the form of an injunction or injunctions or orders for specific performance to prevent breaches of this Agreement and to order the defaulting Party to affirmatively carry out its obligations under this Agreement, and each of the Parties hereby waives any defense to the effect that a remedy at law would be an adequate remedy for such breach. Such equitable relief shall be in addition to any other remedy to which the Parties are entitled to at law or in equity as a remedy for such non-performance, breach or threatened breach. The foregoing shall not be deemed to be or construed as a waiver or election of remedies by any of the Parties, each of whom expressly reserves any and all rights and remedies available to it at Law or in equity in the event of any breach or default by the others under this Agreement prior to Closing on or before which the relevant obligation is required to be performed. In no event shall the Vendor: (x) be entitled to directly seek the remedy of specific performance of this Agreement against any debt provider; or (y) be entitled to seek specific performance to cause the Purchaser to file, commence or otherwise pursue any Legal Proceeding against any debt provider.

11.5 No Shop

From the date of this Agreement until the earlier of the Closing Time or the Outside Date, the Vendor will not, and will cause its Affiliates not to, directly or indirectly, solicit, initiate, entertain or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information to, or consider the merits of any inquiries or proposals from, or enter into any agreement with, any Person (other than the Purchaser or its Affiliates) relating to any transaction directly or indirectly involving the sale or transfer of any of the Purchased Shares, including, by way of any other structure or means (an **Alternative Transaction**). The Vendor will promptly (and in any event within 24 hours) notify the Purchaser orally if practicable and then as promptly as practicable thereafter in writing, of any proposal, inquiry, offer, expression of interest or request, made by a Person other than the Purchaser or its Affiliates, relating to an Alternative Transaction, such notice to include a copy of any written proposal (together with any document referred to therein) and, if not in written form, a description of the material terms and conditions of, and the identity of the Person making, any such proposal, inquiry, offer, expression of interest or request.

The Vendor and its Affiliates, as applicable, will immediately cease and promptly cause to be terminated any existing solicitation, encouragement, activity, discussion or negotiation with any Person by the Vendor, its Affiliates or any of their directors, officers, employees, representatives or agents, as applicable, with respect to any Alternative Transaction, whether or not initiated by the Vendor. The Vendor shall not terminate, waive, amend or modify any provision of any existing confidentiality agreement relating to an Alternative Transaction.

For greater certainty and subject to the Vendor's compliance with its obligations under the Side Letter, this Section 11.5 shall in no way limit, restrict or prohibit the Vendor and/or its Affiliates from dealing in any manner with any 407 Shares that do not form part of the Purchased Shares.

11.6 Expenses

Each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, broker fees, costs and expenses incurred in connection with the purchase and sale of the Purchased Shares and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses incurred.

11.7 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section referred to as a **Notice**) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

in the case of a Notice to SNCL (or the Vendor to the extent the Vendor is not SNCL) at:

SNC-LAVALIN GROUP INC.

455 René-Lévesque Blvd. West
Montréal, Québec H2Z 1Z3
Attention: Treasurer
Fax: 514-954-0263

with a copy to:

[Redacted]

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with copies (which shall not constitute Notice) to:

NORTON ROSE FULBRIGHT CANADA LLP
1, Place Ville Marie, Suite 2500
Montreal, Québec H3B 1R1

Attention: Stephen Kelly and Elliot Shapiro
E-mail: [Redacted]

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(a) in the case of a Notice to the Purchaser at:

7577702 Canada Inc.
c/o Canada Pension Plan Investment Board
One Queen Street East, Suite 2500
Toronto ON M5C 2W5

Attention: Andrew Hay
Email: [Redacted]

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with copies (which shall not constitute Notice) to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay St, Toronto, ON M5L 1B9

Attention: Amanda Linett
Email: [Redacted]

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information

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is

delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section.

11.8 Assignment

Neither Party may assign this Agreement or any rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing the Vendor agrees that the Purchaser may assign all or any part of its rights under this Agreement to, and its obligations under this Agreement may be assumed by, any of its Affiliates, provided that it shall continue to be liable jointly and severally with such Affiliate for all of its obligations hereunder.

11.9 Enurement

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

11.10 Amendment

No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the Party to be bound thereby.

11.11 Third Party Beneficiaries

Except pursuant to Sections 10.1(a), 10.2(a) and 11.8 and as otherwise expressly provided in this Agreement, the Parties intend that this Agreement shall not benefit or create any right, stipulation for the benefit of, delegation open for acceptance by, or cause of action in favour of, any Person other than the Parties and their respective successors and permitted assigns and no Person, other than the Parties, shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

11.12 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing, provided that the costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

11.13 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other electronic means, and all such counterparts and facsimiles together constitute one and the same agreement. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Parties by facsimile or other means of recorded electronic transmission and such transmission (including in PDF form) shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[signature page follows]

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

7577702 CANADA INC.

By: (signed) Andrew Hay
Name: Andrew Hay
Title: Director

SNC-LAVALIN GROUP INC.

By: (signed) Stéphanie Vaillancourt
Name: Stéphanie Vaillancourt
Title: Executive Vice-President, Capital
and Treasurer

By: (signed) Sylvain Girard
Name: Sylvain Girard
Title: Executive Vice-President and
Chief Financial Officer

LIST OF SCHEDULES

<u>Schedule</u>	<u>Description</u>
Schedule A	Tax Memorandum
Schedule B	Side Letter
Schedule C	Threshold EBITDA
Schedule D	Minimum Annual Distribution Amount
Schedule E	Annual Adjustment Amount Sample Calculations
Schedule 2.4(j)	Assignment Gross-Up
Schedule 3.2	Capitalization
Schedule 3.10	Subsidiaries
Schedule 3.22	Litigation
Schedule 3.25	Taxes

SCHEDULE A
Tax Memorandum

[Redacted – Commercially sensitive information]

SCHEDULE B
Side Letter

[Redacted – Commercially sensitive information]

SCHEDULE C
Threshold EBITDA

[Redacted – Commercially sensitive information]

SCHEDULE D
Minimum Annual Distribution Amount

[Redacted – Commercially sensitive information]

SCHEDULE E

Sample Calculations of the Annual Adjusted Amount (Provided for Illustrative Purposes)

[Redacted – Commercially sensitive information]

SCHEDULE 2.4(j)
Assignment Gross-Up

[Redacted – Commercially sensitive information]

SCHEDULE 3.2
Capitalization

[Redacted – Commercially sensitive information]

SCHEDULE 3.10
Subsidiaries

[Redacted – Commercially sensitive information]

SCHEDULE 3.22
Litigation

[Redacted – Commercially sensitive information]

SCHEDULE 3.25
Taxes

[Redacted – Commercially sensitive information]