

SAVARIA CORPORATION

- and -

THE SHAREHOLDERS OF GARAVENTA ACCESSIBILITY AG

SHARE PURCHASE AGREEMENT

DATED July 10, 2018

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SHARE PURCHASE AGREEMENT

This Share Purchase Agreement dated July 10, 2018 is made among **Savaria Corporation**, a corporation formed under the Business Corporations Act (Alberta), Canada, and having its principal place of business at 4350 Highway 13, Laval, Quebec, Canada, H7R 6E9 ("**Savaria**") and the persons listed on Exhibit A (individually a "**Vendor**", and collectively the "**Vendors**").

RECITALS

- A. The Vendors are the only shareholders of the Corporation and hold the shares set forth beside their respective names in Exhibit A (the "**Shares**").
- B. The Corporation is the direct or indirect shareholder of each Subsidiary.
- C. Prior to entering into this Agreement, the Purchaser conducted, based upon the information furnished by the Vendors and the Corporation, a due diligence investigation regarding the Shares and the Corporation, the Subsidiaries and the Business. In particular, the Vendors and the Corporation have prepared and made available the Data Room. The Purchaser had full access to the information contained in the Data Room and was encouraged to review such information for the purposes of a due diligence review and attended management presentations, tours of facilities and interviews with representatives of the Corporation, the Subsidiaries and the Vendors.
- D. Prior to entering into this Agreement, the Purchaser and the Vendors have entered into the Escrow Agreement.
- E. The Purchaser has on 21 June 2018 provided evidence in a form satisfactory to the Vendors regarding its ability to pay the Purchase Price on the Closing Date.
- F. The Purchaser is willing to purchase, and the Vendors are willing to sell, the Shares on and subject to the terms and conditions contained in this Agreement.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

- 1.1 **Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.
- 1.2 **Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement:
- (a) all amounts referred to in this Agreement are stated in Swiss Francs;
 - (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account specified by the payee; and
 - (c) except in the case of any payment due on the Closing Date, any payment due on a particular day must be received by and be available to the payee not later than 2:00 p.m. on the due date at the payee's address for notice under Section 10.3 or such other place as the payee may have specified in writing to the payor in respect of a particular payment

and any payment made after that time shall be deemed to have been made and received on the next Business Day.

1.3 **Calculation of Interest.** In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded.

1.4 **Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Toronto or Zurich time, as relevant, on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Toronto or Zurich time, as relevant, on the next succeeding Business Day.

1.5 **Knowledge.** In this Agreement (or any other document delivered by the Vendors pursuant to the terms of this Agreement), the term "knowledge" when used with respect to the Vendors, the Corporation or any of the Subsidiaries, shall mean the knowledge, after due and reasonable inquiry, of the Vendors.

1.6 **Additional Rules of Interpretation.**

(1) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.

(2) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.

(3) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections, Schedules or Exhibits are to Articles or Sections of this Agreement, and to Schedules or Exhibits to this Agreement.

(4) *Words of Inclusion.* Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list.

(5) *References to this Agreement.* The words "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(6) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated, or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(7) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, include all exhibits and schedules attached thereto.

1.7 **Schedules, Exhibits and Disclosure Letter.** The following are the Schedules, Exhibits and Sections to the Disclosure Letter attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

EXHIBITS

A	Purchase Price Allocation
B	Term Sheet
C	Share Transfer Form
D	Escrow Agreement
E	Vendors' Bring-Down Certificate
F	Vendors' Corporate Certificate
G	Corporation's Corporate Certificate
H	Non-Competition Agreements
J	Resignation and Release of Directors/Officers
K	Vendors' Release
L	Purchaser's Bring-Down Certificate
M	Releases from [Redacted – Personal Information.]
N	Proxy regarding Taxes

SCHEDULES

1.0	Definitions
1.15	Methodology for calculating the Final Net Financial Debt and the Final Net Working Capital
1.27	Data Stick (Data Room)
2.0	Representations and Warranties
2.2	Disclosure Letter
10.3	Notices

SECTIONS OF THE DISCLOSURE LETTER

2.1(7)	Commissions
2.2(1)	Authorized Capital and Other Information Concerning the Corporation and the Subsidiaries
2.2(2)	Jurisdictions where Corporation and Subsidiaries are Licensed or Qualified
2.2(5)	Financial Statements
2.2(7)	Asset Locations and Brief Description
2.2(8)	Real Property
2.2(9)	Leased Premises
2.2(10)	Personal Property
2.2(11)	Contracts
2.2(14)	Intellectual Property
2.2(15)	Permits
2.2(17)	Certain Liabilities
2.2(18)	Certain Changes or Events
2.2(19)	Bank Accounts and Safety Deposit Boxes
2.2(20)	Regulatory Approvals
2.2(22)	Legal Proceedings
2.2(24)	Employees and Collective Agreements
2.2(25)	Employee Plans
2.2(26)	Customers and Suppliers
2.2(28)	Products and Services
2.2(29)	Insurance Policies and Claims
2.2(30)	Tax Matters
2.2(32)	IT Systems
2.2(33)	Commissions
2.2(34)	Data Room

Unless the context otherwise requires, words and expressions defined in this Agreement and in Schedule 1.0 will have the same meanings in all of the Schedules and in the Disclosure Letter and the interpretation provisions set out in this Agreement apply to Schedule 2.0 and the Disclosure Letter. Unless the context otherwise requires, or a contrary intention appears, references in the Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE OF SHARES

- 2.1 **Purchase and Sale.** At the Closing, on and subject to the terms and conditions of this Agreement, the Vendors shall sell, assign, transfer and deliver to the Purchaser, and the Purchaser shall purchase from the Vendors, the Shares. For the avoidance of doubt, the Vendors hereby waive any and all rights of first refusal and preemption rights that they may have in relation to the Shares pursuant to the constitutional documents of the Corporation, any shareholders' agreement relating to the Corporation, or any other agreement or document.
- 2.2 **Purchase Price.** The total purchase price payable by the Purchaser to the Vendors for the Shares (the "**Purchase Price**") shall be the total of:
- (1) the Base Purchase Price;
 - (2) Net Working Capital Adjustment:
 - (i) plus an amount equal to the difference (if any) between the Final Net Working Capital and the Target Net Working Capital, should the Final Net Working Capital exceed the Target Net Working Capital; or
 - (ii) less an amount equal to the difference (if any) between the Final Net Working Capital and the Target Net Working Capital, should the Final Net Working Capital be less than the Target Net Working Capital;
 - (3) less the Final Net Financial Debt.

The Purchase Price shall be calculated, allocated and paid in accordance with Section 2.3, Section 2.4 and Schedule 1.15.

- 2.3 **Allocation of Purchase Price.** The Purchase Price shall be allocated amongst the Vendors in accordance with the Purchase Price allocation set forth in Exhibit A.

- 2.4 **Payment of Purchase Price.**
- (a) Subject to adjustments as provided for in Section 2.5 and subject to the provisions of Section 2.4(b), the Purchaser shall pay the estimated Purchase Price (the "**Estimated Purchase Price**") at the Closing Date as follows:
 - (1) the Base Purchase Price;
 - (2) Estimated Net Working Capital Adjustment:
 - (i) plus an amount equal to the difference (if any) between the Estimated Net Working Capital and the Target Net Working Capital, should the Estimated Net Working Capital exceed the Target Net Working Capital; or

- (ii) less an amount equal to the difference (if any) between the Estimated Net Working Capital and the Target Net Working Capital, should the Estimated Net Working Capital be less than the Target Net Working Capital;
- (3) less the Estimated Net Financial Debt.
- (b) The Estimated Purchase Price to be paid on the Closing Date shall be paid as follows:
 - (i) the Purchaser shall pay to the Vendors' Representative by wire transfer of immediately available funds an amount equal to the Estimated Purchase Price less the Holdback Amount and less the Escrow Amount; and
 - (ii) the Purchaser shall pay to the Escrow Agent by wire transfer of immediately available funds an amount of **[Redacted – Holdback Amount.]** (the "**Holdback Amount**"), to be held in accordance with and subject to the terms of the Escrow Agreement.
 - (iii) the Purchaser has, on 28 June 2018, paid the Escrow Amount to the Escrow Agent, which Escrow Amount shall be released to the Vendors in accordance with and subject to the terms and conditions of the Escrow Agreement.

2.5 Adjustments of Purchase Price.

- (1) *Calculation of Estimated Net Financial Debt and Estimated Net Working Capital.*
 - (a) **Calculation of Estimates.** Within five Business Days prior to the Closing Date, and in any event no less than three Business Days prior to the Closing Date, the Vendors' Representative shall provide to the Purchaser a written estimate of the Net Financial Debt at Closing (the "**Estimated Net Financial Debt**") and a written estimate of the Net Working Capital at Closing (the "**Estimated Net Working Capital**"), such estimates to be prepared in accordance with the Accounting Principles.
- (2) *Calculation of the Final Net Financial Debt and the Final Net Working Capital.*
 - (a) **Calculations.** Promptly after the Closing Date, but no later than the 60th day following the Closing Date, the Purchaser shall prepare in accordance with the Accounting Principles and have the Corporation's Auditor audit, at the Purchaser's or the Corporation's expense, and deliver to the Vendors' Representative, together with all relevant working papers in support thereof, draft calculations of the following:
 - (i) the Net Financial Debt at the Closing Date (the "**Draft Net Financial Debt**"); and
 - (ii) the Net Working Capital at the Closing Date (the "**Draft Net Working Capital**").
 - (b) **Access to Records, etc.** During the period from the date of delivery to the Vendors' Representative of the Draft Net Financial Debt and Draft Net Working Capital, until the date no later than 30 days after delivery of such calculations, the Purchaser shall give the Vendors' Representative and its accountants such assistance and access to the Books and Records as the Vendors' Representative and its accountants may reasonably request in order to enable them to reasonably assess such calculations. The Vendors' Representative and its accountants shall be entitled to be present at inventory counts and other procedures, as applicable, used in the calculation of the Draft Net Financial Debt and Draft Net Working Capital and the Vendors' Representative shall be provided promptly with copies of all working papers created by the Purchaser and/or the Corporation and the Corporation's Auditor in connection with such calculation.

- (c) **Deemed Acceptance.** If the Vendors' Representative does not give a notice of objection in accordance with Section 2.5(2)(e) regarding the calculation of the Draft Net Financial Debt and/or the Draft Net Working Capital, as applicable, the Vendors shall be deemed to have accepted such calculation of the Draft Net Financial Debt and/or the Draft Net Working Capital, as the case may be.
 - (d) **Final Closing Date Calculation.** If the Vendors accept or are deemed to have accepted the calculation of the Draft Net Financial Debt and/or the Draft Net Working Capital, as applicable, such calculation shall be the final calculation of such item(s) for the purposes of this Agreement and the Draft Net Financial Debt shall become the Final Net Financial Debt and/or the Draft Net Working Capital shall become the Final Net Working Capital, as the case may be.
 - (e) **Dispute Settlement.** If the Vendors' Representative objects to any matter in the Draft Net Financial Debt and/or the Draft Net Working Capital calculations prepared pursuant to Section 2.5(2)(a), it shall give notice to the Purchaser no later than 30 days after delivery of the Draft Net Financial Debt and Draft Net Working Capital. Any notice given by the Vendors' Representative shall set forth in detail the particulars of such objection. The Purchaser and the Vendors' Representative shall then use reasonable efforts to resolve such objection for a period of 30 days following the giving of such notice. If the matter is not resolved by the end of such 30 day period, then the dispute with respect to such objection shall be submitted by the Purchaser and the Vendors' Representative to the Independent Accountant, whom the Purchaser and the Vendor's Representative each hereby represent and warrant acts independently of it and is not subject to any influence from it as a result of past, current or the prospect of future commercial relations. The Independent Accountant shall, as promptly as practicable (but in any event within 45 days following its appointment), make a determination of the Final Net Financial Debt or the Final Net Working Capital, as applicable, based solely on written submissions of the Purchaser and the Vendor's Representative given by them to the Independent Accountant. The submissions of the Purchaser and the Vendors' Representative shall be disclosed to each other and each of the Purchaser and the Vendors' Representative shall be afforded a reasonable opportunity to respond thereto. The decision of the Independent Accountant as to the Final Net Financial Debt or the Final Net Working Capital, as applicable, shall be final and binding upon the Parties and shall constitute the Final Net Financial Debt or the Final Net Working Capital, as applicable, for purposes of this Agreement. The Independent Accountant, in making its determination of any dispute, shall be deemed to be acting as an expert and not as an arbitrator and shall not be required to engage in a judicial inquiry conducted in a judicial manner. In addition, the Independent Accountant shall only finally determine those amounts in dispute and the value of any adjustments made by the Independent Accountant shall not be lesser than the minimum amount, and exceed the maximum amount, proposed in any submission made to the Independent Accountant by the Purchaser or the Vendors' Representative. The Purchaser and the Vendors shall each pay one-half of the fees and expenses of the Independent Accountant with respect to the resolution of the dispute.
- (3) *Closing Adjustments and Payment.*
- (a) **Final Net Financial Debt Adjustment.** If the Final Net Financial Debt is less than the Estimated Net Financial Debt, then the difference between such amounts shall be paid by the Purchaser to the Vendors' Representative. If the Final Net Financial Debt exceeds the Estimated Net Financial Debt, then the difference between such amounts shall be paid by the Vendors to the Purchaser.
 - (b) **Final Net Working Capital Adjustment.** If the Final Net Working Capital exceeds the Estimated Net Working Capital, then the difference between such amounts shall be paid by the Purchaser to the Vendors' Representative. If the Estimated Net Working Capital

exceeds the Final Net Working Capital, then the difference between such amounts shall be paid by the Vendors to the Purchaser.

- (c) **Payment.** Any amount owing under Sections 2.5(3)(a) and 2.5(3)(b) shall be made within five Business Days following the Final Net Financial Debt and the Final Net Working Capital, respectively, becoming final in accordance with Sections 2.5(2), as applicable.

ARTICLE 3 CLOSING ARRANGEMENTS

- 3.1 **Closing.** The Closing shall take place at the Closing Time on the Closing Date at the offices of the Vendors' Swiss counsel, SwissLegal (Zürich) AG, Alfred Ulrich-Str. 2, Postfach 575, CH-8702 Zollikon-Zürich, Switzerland, or at such other place as may be agreed orally or in writing by the Vendors' Representative and the Purchaser.
- 3.2 **Vendors' Closing Deliveries.** At the Closing, the Vendors shall deliver or cause to be delivered to the Purchaser the following documents:
- (a) the certificates representing the Shares and the certificates representing the shares in the capital of each of the Subsidiaries;
 - (b) a declaration of assignment of the Shares in the form of Exhibit C, duly executed by each Vendor;
 - (c) the corporate minute books (including minutes of meetings and resolutions) and share registers of the Corporation and each Subsidiary;
 - (d) the minutes of a resolution or a circular resolution of the board of directors of the Corporation approving the transfer of the Shares to the Purchaser and the entry of the Purchaser in respect thereof in the share register of the Corporation as of the Closing;
 - (e) the updated share register of the Corporation reflecting the transfer of the Shares from the Vendors to the Purchaser;
 - (f) a bring-down certificate of the Vendors dated as of the Closing Date in the form of Exhibit D;
 - (g) a factual certificate of the Secretary or other appropriate officer of each of the Vendors who are not individuals dated as of the Closing Date, in the form of Exhibit E;
 - (h) a factual certificate of the Secretary or other appropriate officer of the Corporation dated as of the Closing Date, in the form of Exhibit F;
 - (i) non-competition agreements substantially in the form of Exhibit G, duly executed by each Vendor;
 - (j) the written resignation of each director and officer of the Corporation and each Subsidiary designated by the Purchaser and a release of all claims against the Corporation and each Subsidiary by each such director and officer in the form of Exhibit H;
 - (k) a release of claims against the Corporation and the Subsidiaries substantially in the form of Exhibit I, duly executed by each Vendor;

- (l) evidence in form satisfactory to the Purchaser that all of the Books and Records that are in **[Redacted – Location.]**, have been transferred to the place of business of the Corporation and/or its Swiss Subsidiaries in **[Redacted – Location.]**;
- (m) a release from each of **[Redacted – Personal Information.]** in the form of Exhibit J; and
- (n) all such other assurances, consents, agreements, documents and instruments as may reasonably be required by the Purchaser to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Purchaser, acting reasonably.

3.3 **Purchaser's Closing Deliveries.** At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendors' Representative the following documents and payments:

- (a) a bring-down certificate of the President or other appropriate senior officer of the Purchaser dated as of the Closing Date in the form of Exhibit K;
- (b) evidence of payment of the amount set forth in Section 2.4;
- (c) a confirmation/declaration by the Purchaser that, according to its analysis, no Regulatory Approvals (in particular merger control clearances and foreign investment approvals) are required prior to the consummation of the transactions contemplated by this Agreement;
- (d) a notification regarding the beneficial ownership in the Shares according to Article 697j of the Swiss Code of Obligations; and
- (e) all such other assurances, consents, agreements, documents and instruments as may reasonably be required by the Vendors to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Vendors, acting reasonably.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 **Representations and Warranties of the Vendors with respect to themselves.** As a material inducement to the Purchaser's entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon such representations and warranties, each of the Vendors, individually (not jointly and severally), represents and warrants to the Purchaser as to the matters set forth in Section 2.1 of Schedule 2.0.

4.2 **Representations and Warranties of the Vendors with respect to the Corporation and the Subsidiaries.** As a material inducement to the Purchaser's entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon such representations and warranties, each of **[Redacted – Personal Information.]**, jointly and severally, and all of the other Vendors, individually (not jointly and severally), represent and warrant to the Purchaser as to the matters set forth in Section 2.2 of Schedule 2.0.

4.3 **Representations and Warranties of the Purchaser.** As a material inducement to the Vendors entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendors are entering into this Agreement in reliance upon such representations and warranties, the Purchaser represents and warrants to the Vendors as to the matters set forth in Section 2.3 of Schedule 2.0.

- 4.4 **Representations and Warranties Independent.** Each representation or warranty is to be construed independently and except where this Agreement provides otherwise is not limited by a provision of this Agreement or by another representation or warranty.

ARTICLE 5 CONDITIONS OF CLOSING

- 5.1 **Purchaser's Conditions.** The Purchaser shall not be obligated to complete the transactions contemplated by this Agreement, including the purchase of the Shares, unless, at or before the Closing Time, each of the conditions listed below in this Section 5.1 has been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and it being understood further that in accordance with Article 2 of the Swiss Civil Code every person must act in good faith in the exercise of his or her rights and in the performance of his or her obligations.

(1) *Representations and Warranties.* The representations and warranties of the Vendors in Sections 2.1 and 2.2 of Schedule 2.0 shall be true and correct on the Closing Date.

(2) *Vendors' Compliance and Deliverables.* The Vendors shall have performed and complied with all of the terms and conditions in this Agreement on their part to be performed or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 3.2 and elsewhere in this Agreement.

(3) *Material Adverse Change.* During the Interim Period, there shall have been no Material Adverse Change.

(4) *No Litigation.* During the Interim Period, there shall have been no Order (whether temporary, preliminary or permanent) made or Legal Proceedings commenced or Threatened against the Corporation, any Subsidiaries or any Party or against any of their respective Affiliates or any of their respective directors or officers:

- (a) for the purpose of enjoining, prohibiting, preventing or restraining, temporarily or permanently, the completion of the transactions contemplated by this Agreement;
- (b) which, in the result, could adversely affect the right of the Purchaser to acquire or retain the Shares or which could prevent the Corporation or any Subsidiary from operating the Business after Closing in the same manner in which it was operated prior to Closing; or
- (c) which, if sustained, is reasonably likely to materially and adversely affect the Business.

(5) *No Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any Law which has the effect of (i) making any of the transactions contemplated by this Agreement illegal, or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

(6) *Regulatory Approvals.* All Regulatory Approvals shall have been obtained.

- 5.2 **Condition Not Fulfilled.** If any condition in Section 5.1 has not been fulfilled at or before the Closing Time or if any such condition is, or becomes, impossible to satisfy prior to the Closing Time, other than as a result of the failure of the Purchaser to comply with its obligations under this Agreement, then the Purchaser in its sole discretion may, without limiting any rights or remedies available to the Purchaser at law or in equity, either:

- (a) terminate this Agreement by notice to the Vendors' Representative, as provided in Section 9.1; or
- (b) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

5.3 **Vendors' Conditions.** The Vendors shall not be obligated to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the conditions listed below in this Section 5.3 has been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendors, and it being understood further that in accordance with Article 2 of the Swiss Civil Code every person must act in good faith in the exercise of his or her rights and in the performance of his or her obligations.

(1) *Representations and Warranties.* The representations and warranties of the Purchaser in Section 2.3 of Schedule 2.0 shall be true and correct on the Closing Date.

(2) *Purchaser's Compliance and Deliverables.* The Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Vendors' Representative at the Closing all the documents contemplated in Section 3.3 and elsewhere in this Agreement.

(3) *No Litigation.* During the Interim Period, there shall have been no Order (whether temporary, preliminary or permanent) made or Legal Proceedings commenced or Threatened against any of the Vendors for the purpose of enjoining, prohibiting, preventing or restraining the completion of the transactions contemplated by this Agreement.

(4) *No Law.* During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any Law which has the effect of (i) making any of the transactions contemplated by this Agreement illegal, or (ii) otherwise prohibiting, preventing or restraining the consummation of any of the transactions contemplated by this Agreement.

5.4 **Condition Not Fulfilled.** If any condition in Section 5.3 has not been fulfilled at or before the Closing Time or if any such condition is, or becomes, impossible to satisfy prior to the Closing Time, other than as a result of the failure of the Vendors to comply with their obligations under this Agreement, then the Vendors' Representative in its sole discretion may, without limiting any rights or remedies available to the Vendors at law or in equity, either:

- (a) terminate this Agreement by notice to the Purchaser as provided in Section 9.1; or
- (b) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfillment of any other condition.

ARTICLE 6 INDEMNIFICATION

6.1 **Survival.** All provisions of this Agreement and of any other agreement, certificate or instrument delivered pursuant to this Agreement, other than the conditions in Article 5 hereof, shall not merge on Closing but shall survive the execution, delivery and performance of this Agreement, the Closing and the execution and delivery of any transfer documents or other documents of title to the Shares and all other agreements, certificates and instruments delivered pursuant to this Agreement and the payment of the consideration for the Shares.

6.2 Indemnity by the Vendors with respect to the Corporation and the Subsidiaries.

Each of **[Redacted – Personal Information.]** shall, jointly and severally, and all of the other Vendors shall, individually (not jointly and severally), indemnify the Purchaser's Indemnified Parties and save them fully harmless against, and reimburse them for, any Damages arising from, in connection with or related in any manner whatsoever to any incorrectness in or breach of any representation or warranty of the Vendors with respect to the Corporation and the Subsidiaries contained in this Agreement, including, for greater certainty, in Section 2.2 of Schedule 2.0 and in the Disclosure Letter, or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement.

6.3 Indemnity with respect to each Vendor. Each Vendor shall individually (not jointly and severally) with respect to itself only indemnify the Purchaser's Indemnified Parties and save them fully harmless against, and reimburse them for, any Damages arising from, in connection with or related in any manner whatsoever to:

- (a) any incorrectness in or breach of any representation or warranty of such Vendor with respect to itself contained in this Agreement, including, for greater certainty, in Section 2.1 of Schedule 2.0 and in the Disclosure Letter, or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; and
- (b) any breach or any non-fulfillment by such Vendor of any covenant or agreement on the part of such Vendor contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement.

6.4 Rights not Affected. For greater certainty and without limiting the generality of the provisions of Sections 6.2 and 6.3(a), the indemnity provided for in Sections 6.2 and 6.3 shall extend to any Damages arising from any act, omission or state of facts that occurred or existed prior to the Closing Time. Except with respect to representations and warranties in relation to Taxes, the Vendors shall be deemed not to be in breach of a specific representation and warranty only to the extent a fact, matter, occurrence or event has been fully, fairly and specifically disclosed to the Purchaser against such representation and warranty in the Disclosure Letter and/or in the Data Room. "Fully, fairly and specifically disclosed" means disclosed in such a manner and with such accuracy and detail so as to enable a reasonable purchaser to make an informed assessment of the matter concerned, its nature and its effect. No updates to information from the Vendors to the Purchaser pursuant to Section 7.5(4), shall, or shall be deemed to (a) affect, mitigate, modify, waive, diminish the scope of or otherwise affect any representation or warranty made by the Vendors in or pursuant to this Agreement, (b) amend or supplement any Sections of the Disclosure Letter, or (c) limit or otherwise affect any remedies available to the Purchaser, unless in each case agreed to by the Purchaser in writing. The waiver of any condition based upon the accuracy of any representation and warranty or the performance of any covenant shall not affect the right to indemnification, reimbursement or other remedy based upon such representation, warranty or covenant. The Vendors shall not have any right of indemnification, contribution or subrogation against the Corporation, the Subsidiaries, the Purchaser or any of their respective Affiliates with respect to any indemnification payment made by or on behalf of the Vendors under this Article 6.

6.5 Tax Indemnity. Notwithstanding the provisions of Section 6.4 and in addition to and without limiting the generality of Section 0, each of **[Redacted – Personal Information.]** shall, jointly and severally, and all of the other Vendors shall, individually (not jointly and severally), indemnify the Purchaser's Indemnified Parties and save them fully harmless against any Taxes and other Damages, be they known or unknown to the Purchaser at the date of this Agreement or at the Closing Date, which may be suffered or incurred by any of the Purchaser's Indemnified Parties ("**Indemnified Taxes**") as a result of, or arising out of or in connection with or related in any manner whatever to any Taxes required to be paid by the Corporation or any of the Subsidiaries (and in each case any successor thereto):

- (a) in respect of a Pre-Closing Tax Period;
- (b) in respect of the portion of a Straddle Period ending immediately prior to the Closing Date (as determined under Section 7.8(c)) and to the extent that such Taxes were not included in the Final Net Working Capital calculation; and
- (c) any Taxes payable as a result of the cancellation, sale or deemed cancellation for Tax purposes of the Corporation's treasury shares as held by the Corporation itself as at the Date of Closing, whether or not such shares are cancelled, sold or deemed to be cancelled for Tax purposes before or after Closing and whether or not the obligation to pay such Tax arises before or after Closing, to the extent that such Taxes were not included in the Final Net Working Capital calculation.

For the avoidance of doubt, any limitation of liability of the Vendors as set forth in Section 6.4 shall not apply in respect of the tax indemnity set forth in this Section 6.5.

6.6 **Indemnity by the Purchaser.** The Purchaser shall indemnify the Vendors' Indemnified Parties and save them fully harmless against, and shall reimburse them for, any Damages arising from, in connection with or related in any manner whatsoever to:

- (a) any incorrectness in or breach of any representation or warranty of the Purchaser contained in this Agreement, including, for greater certainty, in Section 2.3 of Schedule 2.0, or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; and
- (b) any breach or non-fulfillment of any covenant or agreement on the part of the Purchaser contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement.

6.7 **Claim Notice.** If an Indemnified Party becomes aware of any act, omission or state of facts that may give rise to Damages in respect of which a right of indemnification is provided for under this Article 6, the Indemnified Party shall promptly give written notice thereof (a "**Claim Notice**") to the Indemnifying Party. The Claim Notice shall specify whether the potential Damages arise as a result of a claim by a Person against the Indemnified Party (a "**Third Party Claim**") or whether the potential Damages arise as a result of a claim directly by the Indemnified Party against the Indemnifying Party (a "**Direct Claim**"), and shall also specify with reasonable particularity (to the extent that the information is available):

- (a) the factual basis for the Direct Claim or Third Party Claim, as the case may be; and
- (b) the amount of the potential Damages arising therefrom, if known.

If, through the fault of the Indemnified Party, the Indemnifying Party does not receive a Claim Notice in time effectively to contest the determination of any liability susceptible of being contested or to assert a right to recover an amount under applicable insurance coverage, then the liability of the Indemnifying Party to the Indemnified Party under this Article 6 shall be reduced only to the extent that Damages are actually incurred by the Indemnifying Party resulting from the Indemnified Party's failure to give the Claim Notice on a timely basis. Nothing in this Section 6.7 shall be construed to affect the time within which a Claim Notice must be delivered pursuant to Sections 6.9(1) and 6.9(2) in order to permit recovery pursuant to Section 6.2, 6.3(a) or 6.6(a) as the case may be. In respect of any Claim Notice concerning Indemnified Taxes, a Purchaser's Indemnified Party shall deliver with its Claim Notice a copy of any assessment, reassessment, notice of confirmation thereof, proposal to assess or reassess, appeal or notification of a similar proceeding, together with all correspondence related to such documents.

6.8 **Remedies Exclusive.** The remedies provided in Sections 6.2 to 6.7 shall be in lieu of the remedies provided by Applicable Law for misrepresentation and breach of warranty. In particular, the Parties waive the right of contract rescission and purchase price reduction under and Article 23 (as it relates to error only) and Article 205 (as it relates to any breach of warranty of quality and fitness of the Shares only) of the Swiss Code of Obligations. Claims relating to fraud or negligent or willful act/omission of a Party remain reserved.

6.9 **Time Limits for Claim Notice for Breach of Representations and Warranties.**

(1) *Notice by the Purchaser.* No Damages may be recovered from the Vendors pursuant to Sections 6.2 or 6.3 unless (subject to the exception below relating to fraud or negligent or willful misrepresentation) a Claim Notice is delivered by the Purchaser in accordance with the timing set out below:

- (a) **[Redacted – Fundamental Representations survival period.];**
- (b) **[Redacted – Environmental Representations survival period.];**
- (c) **[Redacted – Tax Representations survival period.];** and
- (d) **[Redacted – General representation and warranties survival period.];**

provided, however, that in the event of fraud or negligent or willful misrepresentation relating to a representation and warranty of the Vendors in this Agreement, then notwithstanding the foregoing time limitations, the Purchaser Indemnified Parties shall be entitled to deliver a Claim Notice at any time for purposes of such a claim. Unless (subject to the exception above relating to fraud or negligent or willful misrepresentation) a Claim Notice has been given in accordance with the timing set out in Sections 6.9(1)(b), **Error! Reference source not found.** or **Error! Reference source not found.** with respect to the representations and warranties referred to in any such Section, the Vendors shall be released on the date set out in Sections 6.9(1)(b), **Error! Reference source not found.** or **Error! Reference source not found.**, as applicable, from all obligations in respect of the representations and warranties referenced in those Sections and from the obligation to indemnify the Purchaser's Indemnified Parties in respect thereof pursuant to Section 6.2. This Section 6.9(1) shall not be construed to impose any time limit on the Purchaser's right to assert a claim to recover Damages under Section 6.3(b), whether or not the basis on which such a claim is asserted could also entitle the Purchaser to make a claim for Damages pursuant to Section 6.3(a).

(2) *Notice by the Vendors' Representative.* No Damages may be recovered from the Purchaser pursuant to Section 6.6(a) if such Damages are in respect of a matter referred to in Section 6.6(a), unless a Claim Notice is delivered by the Vendors' Representative on or before the date that is two years after Closing, provided, however, that in the event of fraud or negligent or willful misrepresentation relating to a representation and warranty of the Purchaser in this Agreement, then notwithstanding the foregoing time limitations, the Vendors' Indemnified Parties shall be entitled to deliver a Claim Notice at any time for purposes of such a claim. Unless (subject to the aforementioned exception relating to fraud or negligent or willful misrepresentation) a Claim Notice has been given on or before the date that is two (2) years after Closing with respect to each particular representation and warranty, the Purchaser shall be released on the date that is two years after Closing from all obligations in respect of that particular representation and warranty and from the obligation to indemnify the Vendors' Indemnified Parties in respect thereof pursuant to Section 6.6(a) if such indemnification is in respect of a matter referred to in Section 6.6(a). This Section 6.9(2) shall not be construed to impose any time limit on the Vendors' right to assert a claim to recover Damages under Section 6.6(b) (other than if such Damages are in respect of a matter referred to in Section 6.6(a)), whether or not the basis on which such a claim is asserted could also entitle the Vendors to make a claim for Damages pursuant to Section 6.6(a).

6.10 **Monetary Limitations.**

- (1) **[Redacted – Indemnification threshold.]**
- (2) **[Redacted – Indemnification threshold.]**
- (3) **[Redacted – Indemnification threshold.]**
- (4) **[Redacted – Indemnification threshold.]**
- (5) **[Redacted – Indemnification threshold.]**
- (6) **[Redacted – Indemnification threshold.]**

6.11 **Calculation of Damages.** For greater certainty, for the purpose only of calculating the amount of Damages under this Article 6, the representations and warranties of the Parties contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement shall be deemed to have been made without qualifications as to materiality where the words or phrases “material”, “immaterial”, “in all material respects” or words or phrases of similar import are used, such that the amount of Damages payable to an Indemnified Party is not subject to any deduction in respect of amounts below the level of materiality stated in the relevant representation and warranty.

6.12 **Agency for Non-Parties.** Notwithstanding Section 10.14, each Party hereby accepts each indemnity in favour of each of its Indemnified Parties who are not Parties as agent and trustee of that Indemnified Party. Each Party may enforce an indemnity in favour of any of that Party's Indemnified Parties on behalf of each such Indemnified Party.

6.13 **Direct Claims.** In the case of a Direct Claim, the Indemnifying Party shall have 60 days from receipt of a Claim Notice in respect thereof within which to make such investigation as the Indemnifying Party considers necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate its right to be indemnified under this Article 6, together with all such other information as the Indemnifying Party may reasonably request. If the Parties fail to agree at or before the expiration of such 60 day period (or any mutually agreed upon extension thereof), the Indemnified Party shall be free to pursue such remedies as may be available to it.

6.14 **Third Party Claims.**

(1) *Rights of Indemnifying Party.* In the event a Claim Notice is delivered with respect to a Third Party Claim, the Indemnifying Party shall have the right, at its expense, to participate in but not control the negotiation, settlement or defence of the Third Party Claim, which control shall rest at all times with the Indemnified Party (except as otherwise described in Section 6.14(4)), unless:

- (a) the Indemnifying Party irrevocably and unconditionally acknowledges in writing complete responsibility for, and agrees to indemnify the Indemnified Party in respect of all Damages relating to, the Third Party Claim; and
- (b) the Indemnifying Party furnishes evidence to the Indemnified Party whenever requested by the Indemnified Party, which is satisfactory to the Indemnified Party, of the Indemnifying Party's financial ability to indemnify the Indemnified Party; and
- (c) in the case of a Third Party Claim that concerns Indemnified Taxes, the Indemnified Party complies and continues to comply with its obligations under Section 7.9;

in which case the Indemnifying Party may assume such control at its expense through counsel of its choice; provided, however, that notwithstanding the foregoing, the Indemnifying Party shall not be permitted to assume control of the negotiation, settlement or defence of the Third Party Claim if: (i) such Third Party Claim seeks an interim measure against the Indemnified Party as a primary form of relief; (ii) there is a reasonable probability that such Third Party Claim would result in monetary damages or payments in excess of 100% of the amount for which the Indemnifying Party is obligated to indemnify the Indemnified Party pursuant to this Article 6; (iii) such Third Party Claim involves criminal liability; (iv) such Third Party Claim is by a current material customer or supplier of the Business, the Purchaser or its Affiliates; (v) such Third Party Claim concerns Indemnified Taxes discussed in Section 6.13(4); or (vi) settlement of, or an adverse judgment with respect to the Third Party Claim is, in the opinion of the Indemnified Party, likely to establish a precedent, custom or practice adverse to the continuing business interests of the Indemnified Party.

(2) *Respective Rights on Indemnifying Party's Assumption of Control.* If the Indemnifying Party elects to assume control as contemplated in Section 6.14(1), the Indemnifying Party shall reimburse the Indemnified Party for all of the Indemnified Party's out-of-pocket expenses incurred as a result of such assumption. The Indemnified Party shall continue to have the right to participate in the negotiation, settlement or defence of such Third Party Claim and to retain counsel to act on its behalf, provided that the fees and disbursements of such counsel shall be paid by the Indemnified Party unless the Indemnifying Party consents to the retention of such counsel at its expense or unless the named parties to any action or proceeding include both the Indemnifying Party and the Indemnified Party and a representation of both the Indemnifying Party and the Indemnified Party by the same counsel would be inappropriate due to the actual or potential differing interests between them (such as the availability of different defences), in which case the fees and disbursements of such counsel shall be paid by the Indemnifying Party.

(3) *Lack of Reasonable Diligence.* If, having elected to assume control as contemplated by Section 6.14(1), the Indemnifying Party thereafter fails to conduct the negotiation, settlement or defence of the relevant Third Party Claim with reasonable diligence, then the Indemnified Party shall be entitled to assume such control and the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such Third Party Claim.

(4) *Joint Control for Certain Tax Claims.* The Vendors' Representative and the Purchaser's Indemnified Party shall jointly control and participate in the negotiation, settlement and defence of (a) any Third Party Claim relating to Taxes for any Straddle Period and (b) any Third Party Claim relating partly to Pre-Closing Tax Periods and partly to other tax periods. Neither the Vendors' Representative nor the Purchaser's Indemnified Party shall settle any such Third Party Claim without the written consent of the other, which consent shall not be unreasonably withheld or delayed.

(5) *Commercially Necessary Payments Prior to Settlement.* If any Third Party Claim is of a nature such that it is necessary in the reasonable view of the Indemnified Party acting in a manner consistent with reasonable commercial practices, in respect of (A) a Third Party Claim by a customer relating to products or services supplied by the Business or (B) a Third Party Claim relating to any Contract which is necessary to the ongoing operations of the Business or any material part thereof in order to avoid material damage to the relationship between the Indemnified Party and any of its major customers or to preserve the rights of the Indemnified Party under such Contract, to make a payment to any Person (a "**Third Party**") with respect to the Third Party Claim before the completion of settlement negotiations or related Legal Proceedings, as the case may be, then the Indemnified Party may make such payment and the Indemnifying Party shall, promptly after demand by the Indemnified Party, reimburse the Indemnified Party for such payment. If the amount of any liability of the Indemnified Party under the Third Party Claim in respect of which such a payment was made, as finally determined, is less than the amount which was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party shall, promptly after receipt of the difference from the Third Party, pay the amount of such difference to the Indemnifying Party.

(6) *Compulsory Payments Prior to Settlement.*

- (a) In the case of a Claim Notice concerning an amount of Damages (i) required to be paid by an Indemnified Party under Applicable Law or any Order, or (ii) in respect of which any amount is garnished by a Governmental Authority (each such amount a “**Preliminary Compulsory Payment Amount**”), the Indemnifying Party shall, within 10 days of receipt of the Claim Notice, pay the Indemnified Party an amount equal to the Preliminary Compulsory Payment Amount.
- (b) Upon the occurrence of a Final Compulsory Payment Indemnification Event (if any), (i) if the aggregate of all Preliminary Compulsory Payment Amounts is less than the amount so determined under the Final Determination to be the amount owing (the “**Final Compulsory Payment Amount**”), the Indemnifying Party shall, within 10 days of the time that the Indemnified Party notifies the Indemnifying Party of the occurrence of the Final Compulsory Payment Indemnification Event, pay to the Indemnified Party an amount equal to the difference between the aggregate for all Preliminary Compulsory Payment Amounts and the Final Compulsory Payment Amount, and (ii) if the aggregate of all Preliminary Compulsory Payment Amounts exceeds the Final Compulsory Payment Amount, the Indemnified Party shall within 10 days of the receipt of any related refund or credit, pay to the Indemnifying Party the amount of such refund or credit (including any interest paid or credited with respect thereto but net of any Taxes payable by the Indemnified Party in respect of such refund, credit or interest).

(7) *Other Rights of Indemnified Party.* If the Indemnifying Party does not, or is not permitted to, assume control of the defence of any Third Party Claim pursuant to Section 6.14(1), the Indemnified Party shall have the exclusive right to contest, settle or pay the amount claimed and the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such Third Party Claim. Whether or not the Indemnifying Party assumes control of the negotiation, settlement or defence of any Third Party Claim, the Indemnifying Party shall not settle any Third Party Claim without the written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed.

6.15 **Tax Contests.** Notwithstanding any other provision of this Agreement:

- (a) **Tax Notice.** If a Purchaser's Indemnified Party receives any written proposal to assess or reassess, assessment, reassessment, appeal or notification or similar proceeding with respect to any Tax in respect of which a claim may be made for indemnification under this Agreement (each, a “**Tax Notice**”), such Purchaser's Indemnified Party shall promptly (but in any event within 30 days of receipt) deliver a copy of the Tax Notice to the Vendors' Representative, together with all correspondence relating to, and any other documents received in respect of, such Tax Notice. The failure to give such notice shall not relieve the Vendors of the Tax indemnification obligations provided hereunder except to the extent that such failure materially prejudices the ability of the Vendors to defend a Tax claim or otherwise exercise its rights hereunder.
- (b) **Tax Contest Carriage.** Where a Tax Notice relates to a Pre-Closing Tax Period, provided that the Vendors' Representative has, after receiving written notification of a Tax Notice, unconditionally acknowledged in writing Vendors' obligation to indemnify the Purchaser's Indemnified Party in respect of such Taxes and furnished satisfactory evidence to the Purchaser's Indemnified Party, if so requested, of the financial ability of the Vendors to indemnify the Purchaser's Indemnified Party, and provided further that the Vendors have complied and continue to comply with their obligations under Sections 6.16, 7.8 and 7.9, the Vendors shall have the exclusive authority to control, at their own expense, any submissions in respect of such Tax Notice and any objection or appeal in respect of such Tax Notice (each, a “**Tax Contest**”) and may make all decisions in connection with such Tax Contest, provided that the Vendors shall reimburse such Purchaser's Indemnified Party's reasonable out-of-pocket expenses incurred as a result

of such assumption. Without limiting the foregoing, the Vendors may pursue or forego any and all administrative appeals, proceedings and conferences with any Governmental Authority with respect thereto, and may contest the Tax Contest in any permissible manner, provided that neither the Vendors nor the Purchaser's Indemnified Party may settle any Tax Contest without the prior written consent of the Vendors' Representative or the Purchaser's Indemnified Party, as the case may be, which consent shall not be unreasonably withheld, conditioned or delayed; provided further that the Purchaser's Indemnified Party shall only require the Vendors' Representative's consent to settle that portion of a Tax Contest that relates to Taxes for any Pre-Closing Tax Period or Taxes for any other Tax Period for which the Vendors must indemnify the Purchaser's Indemnified Party. If the Vendors' Representative fails within five Business Days of receipt of a Tax Notice to assume control of a Tax Contest in accordance with this Section 6.15(b), then the Vendors shall be deemed to have waived their right to control the Tax Contest and the Purchaser's Indemnified Party shall have the right (without prejudice to its right to be indemnified for the Indemnified Taxes at issue) to settle and/or dispute the matter as it deems reasonable in its sole judgment.

- (c) **Joint Carriage.** The Vendors' Representative and the Purchaser's Indemnified Party shall jointly control and participate in all proceedings taken in connection with (i) any Tax Contest relating to Taxes for any Straddle Period and (ii) any Tax Contest relating partly to Pre-Closing Tax Periods and partly to other taxable periods. Neither the Vendors nor the Purchaser's Indemnified Party shall settle any such Tax Contest without the prior written consent of the Vendors' Representative or the Purchaser's Indemnified Party, as the case may be, which consent shall not be unreasonably withheld, conditioned or delayed.

6.16 **Tax Indemnification Events.** Notwithstanding any other provision of this Agreement, the following provisions shall apply in respect of any claims for Indemnified Taxes:

- (a) **Initial Tax Payments.** In the case of a Tax Notice that is a notice of assessment or reassessment, a notice of confirmation of an assessment or reassessment, a notice of garnishment, or a similar document in respect of any Indemnified Taxes, the Vendors shall, within 15 days of receipt by the Vendors' Representative of written notice of such claim, reimburse the applicable Purchaser's Indemnified Party for an amount equal to (i) the full amount of such Indemnified Taxes in respect of which a Governmental Authority is permitted to take collection action, or (ii) the full amount that has been garnished and applied towards any Indemnified Taxes, as applicable.
- (b) **Final Determination True-Up.** Upon the occurrence of a Tax Indemnification Event, (i) to the extent that the total of the amounts previously paid by the Vendors in respect of the relevant Indemnified Taxes is less than the amount so determined to be the amount of the Indemnified Taxes and to the extent that such amounts have not been included in the calculation of the Final Net Working Capital, the Vendors shall forthwith (and, in any event, within 15 days of the time that the applicable Purchaser's Indemnified Party notifies the Vendors' Representative of the occurrence of the Tax Indemnification Event) pay to such Purchaser's Indemnified Party the amount of the Indemnified Taxes less the total of the amounts previously paid, and (ii) to the extent that the total of the amounts previously paid by the Vendors in respect of such Indemnified Taxes exceeds the amount so determined to be the amount of the Indemnified Taxes and to the extent that amounts have not been included in the calculation of the Final Net Working Capital, such Purchaser's Indemnified Party shall forthwith upon receipt or confirmation of any refund or credit of such Indemnified Taxes (and, in any event, within 15 days of the receipt or confirmation of such refund or credit) pay to the Vendors' Representative the amount of such refund or credit (including any interest paid or credited with respect thereto but net of any Taxes payable by the Purchaser's Indemnified Party in respect of such refund, credit or interest).

- 6.17 **Interest on Damages.** The amount of any Damages which is subject to indemnification hereunder shall bear interest from and including the date the Indemnified Party was notified of the claim for Damages at the Prime Rate calculated from and including such date to but excluding the date reimbursement of such Damages by the Indemnifying Party is made, compounded monthly, and the amount of such interest shall be deemed to be part of such Damages.
- 6.18 **Set-off.** The Vendors and/or the Purchaser shall be entitled to set off the amount of any Damages subject to indemnification under this Agreement against any other amounts payable by the Purchaser to the Vendors/by the Vendors to the Purchaser whether under this Agreement, through the Escrow Agent pursuant to the terms of the Escrow Agreement or otherwise.
- 6.19 **Cooperation.** Each Indemnified Party and Indemnifying Party shall reasonably cooperate and assist each other in determining the validity of any claim for indemnity by an Indemnified Party and otherwise in resolving such matters and, for this purpose, shall preserve all relevant documents in relation to the Third Party Claim, allow the Indemnifying Party access on reasonable notice to inspect and take copies of all such documents and require its personnel to provide such statements as the Indemnifying Party may reasonably require and to attend and give evidence at any trial or hearing in respect of the Third Party Claim.

ARTICLE 7 COVENANTS

- 7.1 **Investigation.** During the Interim Period, the Vendors shall, to the extent permitted under Applicable Law, give, or cause to be given, to the Purchaser and its Representatives, full access during normal business hours to the Business and the property and assets of the Corporation and the Subsidiaries, including the Books and Records, the Contracts, the Property Documents, the Real Property and the property subject to Premises Leases to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Corporation and the Subsidiaries as they deem necessary or desirable to familiarize themselves with such properties, assets and other matters. Without limiting the generality of the foregoing, the Purchaser shall be permitted complete access during normal business hours to all documents relating to information scheduled or required to be disclosed under this Agreement and to the Employees. Such investigations, inspections, surveys and tests shall be carried out during normal business hours and without undue interference with the operations of the Corporation, the Subsidiaries and the Business and the Vendors shall co-operate fully in facilitating such investigations, inspections, surveys and tests and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested. The Vendors shall cause the Corporation and the Subsidiaries to execute and deliver any authorizations required to permit such investigations, inspections, surveys and tests.
- 7.2 **Transaction Personal Information.** The Purchaser shall collect Transaction Personal Information prior to Closing only as necessary for purposes related to the transactions contemplated by this Agreement, including in connection with its investigations of the Business, the Corporation, the Subsidiaries and their respective properties and assets, and shall not disclose Transaction Personal Information to any Person other than to its Representatives who are evaluating and advising on the transactions contemplated by this Agreement. If the Purchaser proceeds with the transactions contemplated by this Agreement, the Purchaser shall not, following the Closing, without the consent of the individuals to whom such Personal Information relates or as permitted or required by Applicable Law, use or disclose Transaction Personal Information for purposes other than those for which such Transaction Personal Information was collected by the Vendors, the Corporation or a Subsidiary prior to the Closing, and shall give effect to any withdrawal of consent made in accordance with Privacy Law.
- 7.3 **Environmental Investigations.** Without limiting the generality of the provisions of Section 7.1, during the Interim Period the Purchaser and its Representatives shall be permitted, during reasonable business hours, access to the Real Property for the purpose of making soil, ground

water, environmental or other tests, measurements or surveys in, on or below the Real Property for the purpose of conducting or causing to be conducted an environmental assessment, provided that such testing or assessment is conducted in a manner which does not unduly interfere with the operations of the Business. The Purchaser shall, upon completion of its investigations, tests or surveys, restore or cause to be restored the surface of the Real Property to substantially the same condition as exists on the date hereof, if the transactions contemplated by this Agreement are not completed, to the extent that such investigations, tests or surveys have altered the surface of such property. Such tests, investigations, surveys and environmental assessment shall be at the Purchaser's sole expense. The Vendors shall deliver to the Purchaser, within five Business Days after a request therefor, letters of authorization directed to any Governmental Authority having jurisdiction over the Real Property, authorizing such Governmental Authority to inspect that aspect of the Real Property or the property subject to the Premises Leases under its jurisdiction and to advise the Purchaser of any defects or non-compliance with matters under the jurisdiction of such Governmental Authority.

7.4 [Redacted – Interim Period covenant.]

7.5 Action During Interim Period.

(1) *Operate in Ordinary Course.* During the Interim Period, the Vendors shall cause the Corporation and the Subsidiaries to operate the Business in the Ordinary Course of Business in compliance with Applicable Law and the terms and conditions of all Contracts, and in a manner that maintains relations with Employees and the suppliers, customers and landlords of the Corporation and the Subsidiaries in accordance with past custom and practice, provided, however, that during the Interim Period, the Vendors shall, at the request of the Purchaser, cause the Corporation, the Subsidiaries and the Corporation's Auditor to carry out, in collaboration with the Purchaser, such preparatory work as may be required to have the annual audited consolidated financial statements of the Corporation and the Subsidiaries for the fiscal years ended 31 December 2016 and 31 December 2017 and the internally prepared unaudited monthly financial statements of the Corporation and the Subsidiaries for the fiscal year 2018 converted into International Financial Reporting Standards (IFRS), it being understood that the Purchaser shall be responsible for the fees and expenses of the Corporation's Auditor in connection therewith.

(2) *Negative Covenants.* During the Interim Period, the Vendors shall ensure that neither the Corporation nor any Subsidiary (i) takes any action that if taken prior to the date hereof would have caused the representation and warranty in Section 2.2(18) of Schedule 2.0 to be incorrect, (ii) redeems, purchases, retires or otherwise acquires, directly or indirectly, any of its shares, or (iii) issues or sells any shares or other securities or issues, sells or grants any option, warrant or right to purchase any of its shares or other securities or issues any security convertible into its shares, grants any registration rights or otherwise makes any change to its authorized or issued share capital.

(3) *Notification of Certain Matters.* During the Interim Period, the Vendors' Representative shall give prompt notice in writing to the Purchaser of:

- (a) the occurrence, or failure to occur, of any event, which occurrence or failure would be likely to cause any of the representations or warranties of the Vendors contained in this Agreement to be untrue or inaccurate in any material respect during the Interim Period, including the occurrence of a Material Adverse Change;
- (b) any notice or communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;
- (c) any notice or communication from any Governmental Authority in connection with transactions contemplated by this Agreement;

- (d) any proceeding commenced or Threatened against the Vendors, the Corporation or any Subsidiary with respect to the Corporation, any Subsidiary or the Business or relating to or involving or otherwise affecting any of them, or which relates to the consummation of the transactions contemplated by this Agreement; and
- (e) any failure by any of the Vendors to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied under this Agreement;

provided that the delivery of any notice pursuant to this Section 7.5(3) shall not limit or otherwise affect the remedies available to the Purchaser.

(4) *Update to the Disclosure Letter.* The Vendors shall update on or before the third Business Day prior to the Closing, by amendment or supplement, the Disclosure Letter and any other disclosure in writing from the Vendors to the Purchaser as a result of any new or conflicting information coming to the attention of any of the Vendors, the Corporation or any Subsidiary. The Purchaser shall not be obligated to accept any such amendment or supplement, and receipt by the Purchaser of any such amendment or supplement, or of any notice from the Vendors pursuant to this Section 7.5(4), shall not be deemed to be a waiver or release by the Purchaser of any provision of this Agreement.

(5) *Fulfillment of Closing Conditions.* The Vendors shall take all such actions, steps and proceedings as are reasonably within their control as may be necessary to ensure that the conditions listed in Section 5.1 are fulfilled at or before the Closing Time. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed in Section 5.3 are fulfilled at or before the Closing Time.

7.6 **Exclusive Dealings.** During the Interim Period, none of the Vendors nor any of their Representatives or shareholders shall directly or indirectly in any manner (nor permit the Corporation or any Subsidiary to):

- (a) entertain, solicit or encourage;
- (b) furnish or cause to be furnished any information to any Persons (other than the Purchaser or its Representatives) in connection with; or
- (c) negotiate or otherwise pursue;

any proposal or discussions for or in connection with any possible sale of any Shares or of the Business, no matter how structured, including without limitation by sale of all or any significant or controlling part of the shares of the corporate Vendors, by sale or license of all or any significant part of the property and assets of the Corporation or any Subsidiary, or by any merger or other business combination involving any of the corporate Vendors or otherwise (each of the foregoing proposals or discussions, whether written or oral, an "**Alternative Transaction**"). The Vendors' Representative shall immediately notify the Purchaser in writing of (i) the receipt during the Interim Period of any proposal for an Alternative Transaction or any requests for any information relating to any of the Vendors, the Business, the Corporation or any Subsidiary or for access to the properties, books or records of the Corporation or any Subsidiary by any Person which has informed any of the Vendors that such Person is considering making, or has made, a proposal for an Alternative Transaction, and (ii) the terms of any such Alternative Transaction. The Vendors shall be responsible, jointly and severally, for any breach by their Representatives or shareholders of any of the provisions of this Section 7.6. Each Vendor acknowledges that a breach by it, its Representatives, its shareholders, the Corporation, or any Subsidiary of this Section 7.6 would result in damages to the Purchaser and that the Purchaser may not be adequately compensated for such damages by a monetary award alone. Accordingly, each Vendor agrees that in the event of any such breach, in addition to any other remedies available at Law or otherwise, the Purchaser shall be entitled as a matter of right to apply to a court of competent jurisdiction for relief by

way of injunction, restraining order, decree or otherwise as may be appropriate to ensure compliance with this Section 7.6.

7.7 **Consents and Approvals.** Commencing forthwith after the date hereof, the Vendors shall use all commercially reasonable efforts to obtain, at or prior to the Closing Time, all Consents and Regulatory Approvals.

7.8 **Preparation of Tax Returns.**

- (a) The Purchaser shall cause to be prepared and filed on a timely basis all Tax Returns for the Corporation and each of the Subsidiaries for (a) any Pre-Closing Tax Period for which Tax Returns have not been filed as of the Closing Date and (b) for any Straddle Period for which Tax Returns are required to be prepared and filed (all Tax Returns referred to in clause (a) and (b) above collectively being referred to herein as the “**Stub Period Returns**”). The Purchaser shall prepare each Stub Period Return on a basis consistent with (i) Applicable Law and (ii) the past practices and procedures of the Corporation or Subsidiary, as applicable. Notwithstanding the foregoing, in any Stub Period Return, neither the Corporation nor any Subsidiary shall deduct any amount in the nature of a reserve or claim any Tax credit that would require the Corporation, or such Subsidiary, as the case may be, to include in a tax period ending after the Closing Time any amount of income, unless the Tax liability in respect of such income (determined as though such income were the only income or loss of the entity for the tax period and without regard for the availability of any loss carryforwards or carrybacks) is taken into account in computing the Final Net Financial Debt and Final Net Working Capital. For the avoidance of doubt, the Purchaser may cause Garaventa (Canada) Ltd to make an election pursuant to subsection 256(9) of the ITA in respect of its taxation year ending on the acquisition of control of it by the Purchaser. The Purchaser shall provide to the Vendors’ Representative for its review a draft of each Stub Period Return no later than 30 days in the case of an income Tax Return, and 10 days in the case of any other Tax Return, prior to the due date for filing such Tax Return with the appropriate Governmental Authorities. The Vendors’ Representative shall notify the Purchaser in writing within 15 days in the case of an income Tax Return, and five days in the case of any other Tax Return, after delivery of a Stub Period Return if it has any reasonable comments with respect to items set forth in such Stub Period Return. The Purchaser shall consider all such comments.
- (b) Other than Taxes which were specifically taken into account in computing the Final Net Working Capital the Vendors shall pay (a) all Taxes due with respect to all Tax Returns for the Corporation and each of the Subsidiaries for any Pre-Closing Tax Period and (b) with respect to all Tax Returns for the Corporation and each of the Subsidiaries for any Straddle Period, Taxes allocable to the portion of the Straddle Period ending immediately prior to the Closing Date (as determined under Section 7.8(c)).
- (c) In the case of any Straddle Period, the amount of Taxes allocable to the portion of the Straddle Period ending immediately prior to the Closing Date shall be:
 - (i) in the case of Taxes imposed on a periodic basis (such as real or personal property Taxes), the amount of such Taxes for the entire Straddle Period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction, the numerator of which is the number of calendar days in the Straddle Period prior to the Closing Date and the denominator of which is the number of calendar days in the entire relevant Straddle Period; and
 - (ii) in the case of Taxes not described in (a) above (such as franchise Taxes, Taxes that are based upon or related to income or receipts, or Taxes that are based upon occupancy or imposed in connection with any sale or other transfer or

assignment of property to the extent that such transfer or assignment of property occurred prior to the Closing Date), the amount of such Taxes determined as if such tax period ended immediately prior to the Closing Date.

- (d) To the extent that such future tax refunds were not included in the Final Net Working Capital calculation, the Purchaser shall compensate the Vendors for any future tax refunds which relate to any Pre-Closing Tax Period (i.e. such refunds which are paid to the Corporation or any Subsidiary which have not been finally assessed by the relevant tax authority on the Closing Date, but relate to a Pre-Closing Tax Period), provided that the tax return or claim in connection therewith has been filed, or the relevant Taxes have been paid, by the Corporation and/or the relevant Subsidiary, as the case may be, prior to the Closing Date. Such compensation shall be paid within thirty (30) Business Days from the receipt of any such refunds (independently of whether the amount is actually wired to the Corporation or a Subsidiary or set off against a claim against the Corporation or a Subsidiary). The payment shall be made to an account/accounts indicated by the Vendors' Representative. The Purchaser shall without delay inform the Vendors' Representative about such compensations and all decisions of a Governmental Authority relating to a tax refund relating to any Pre-Closing Tax Period.

7.9 **Cooperation Respecting Tax Matters.** Each Party shall provide reasonable cooperation to the other Party and their counsel in respect of Tax matters arising under this Agreement ("**Tax Matters**"), including:

- (a) providing prompt notice to the other Party in writing of any pending or threatened Tax audits or assessments of the Corporation or any Subsidiary for tax periods for which the other may have a liability under this Agreement;
- (b) providing the other Party and its counsel with draft copies of all filings, motions, applications, correspondence and other documents the Party defending the claim intends to file with or deliver to any Governmental Authority in connection with a Tax Matter at least 10 Business Days prior to the date on which such documents are filed or delivered and considering the comments of the other Party and its counsel regarding such filings, motions, applications, correspondence and other documents;
- (c) promptly notifying the other Party of any communication the Party defending a Tax Matter receives from any Governmental Authority regarding such Tax Matter and providing the other Party with copies of all correspondence, filings or communications between such Party defending the claim, on the one hand, and any Governmental Authority or members of the staff of any Governmental Authority, on the other hand, in each case to the extent relating to any such Tax Matter; provided that the Purchaser shall in all cases have the right to attend any meetings or participate in other discussions (or have Purchaser's counsel attend or participate) with the staff of any Governmental Authority or such Governmental Authority's counsel;
- (d) keeping the other Party and its counsel advised on a prompt and ongoing basis of the status of such Tax Matter and any material changes or developments with respect thereto and promptly and fully responding to all requests for information, questions and comments of the other Party and its counsel from time to time;
- (e) making available to each other in a prompt fashion such Data, documents and other information as may reasonably be required for the preparation and filing of all Stub Period Returns, or for the conduct of any Tax Matter, and preserving all such Data, documents and information until the expiry of the limitation period under Applicable Law with respect to the taxation years or periods covered by such Stub Period Returns, or until a Final Determination has been made in respect of such Tax Matter, as the case may be; and

- (f) promptly signing and delivering such certificates or forms as may be necessary or appropriate to establish an exemption from (or otherwise reduce) Taxes, or an exemption from (or an extension in respect of) an obligation to file Tax Returns.

7.10 Indirect Partial Liquidation. The Purchaser shall refrain until the 5th anniversary of the Closing from doing anything which would cause an indirect partial liquidation (“indirekte Teilliquidation”) to occur in relation to the Corporation for the purposes of Swiss tax law under Art. 20a para. 1 lit. a of the Federal Act on Direct Federal Tax, Art. 7a of the Federal Act on the Harmonisation of Direct Taxes of Cantons and Municipalities, Circular Letter No. 14 of 6 November 2007 of the Swiss Federal Tax Administration, and published practice pertaining thereto. The Vendors shall notify the Purchaser no later than ten (10) days after receiving a notice from the tax authorities regarding a taxation arising from an indirect partial liquidation and the Parties shall reasonably cooperate with one another and furnish one another any information in connection therewith, provided that (i) the Purchaser shall have the right, through counsel of its choice, to control the negotiation, settlement and/or defense of such taxation, and (ii) the Vendors shall not agree or settle such taxation without the prior written approval of the Purchaser. If the Vendors become liable to pay taxes based on any of the Purchaser’s acts which lead to an indirect partial liquidation, the Purchaser shall indemnify and hold the Vendors harmless CHF for CHF from the income taxes triggered by application of the indirect partial liquidation practice in application of the tax rates of the Swiss Confederation, cantons and communities (*communes*). Notwithstanding the foregoing, the Purchaser shall have no obligation to indemnify and hold the Vendors harmless if (i) any of the Vendors has given his consent to a specific measure leading to an indirect partial liquidation, or (ii) any of the Vendors has not provided the Purchaser with all communication, assessment and documentation received from the tax authorities relating to any indirect partial liquidation, at the latest within ten (10) days following the receipt thereof, but in any event twenty (20) days before the expiry of the relevant deadline, or (iii) any of the Vendors (or their respective spouses) has not complied with all instructions given by the Purchaser in this regard, including but not limited with respect to a potential appeal, or (iv) any of the Vendors has not provided the Purchaser with all relevant information with respect to a possible indirect partial liquidation. The Purchaser shall have the right to take any measure or action with respect to the Corporation and the Subsidiaries during the five year blocking period referred to above if the Purchaser obtains a tax ruling confirming that there will be no adverse indirect partial liquidation taxation for any of the Vendors. The Vendors agree that the Purchaser shall have the sole right to contact the tax authorities and to negotiate and file tax rulings with regard to any indirect partial liquidation; for that purpose the Vendors shall sign the proxies as set out in Exhibit N. To the extent that the criteria of this Section 7.10 will be met, the Vendor shall have no right (i) to remedy against the Purchaser for breach of the Purchaser’s undertakings under this Section 7.10, and (ii) to take any other actions in order to delay or prevent such measures or actions.

7.11 Pre-Closing Reorganization.

- (a) The Vendors agree that during the Interim Period and upon reasonable request by the Purchaser, they shall cause the Corporation and its Subsidiaries to (a) effect such corporate, tax and legal reorganizations of the Corporation’s or its Subsidiaries’ business, operations and assets or such other transactions as the Purchaser may request, including, for greater certainty, by causing the Corporation and its Subsidiaries to reduce to the maximum extent possible all non-business related assets (“nicht betriebsnotwendige Substanz” as such term is defined in accordance with Swiss tax law and the practice of the Swiss tax authorities for the purpose of “indirect partial liquidation” as referred to in Section 7.10) in particular through repayment of pre-Closing liabilities of the Corporation or its Subsidiaries, as the case may be, (each a “**Pre-Closing Reorganization**”) and (b) co-operate with the Purchaser and its advisors in order to determine the nature of the Pre-Closing Reorganizations that might be undertaken and the manner in which they might most effectively be undertaken, provided, however that:

- (i) the Corporation and its Subsidiaries need not effect any Pre-Closing Reorganization which would prejudice the Vendors, the Corporation or its Subsidiaries in any material respect;
 - (ii) any Pre-Closing Reorganization shall not unreasonably interfere in any material operations of the Corporation or its Subsidiaries prior to Closing; and
 - (iii) any Pre-Closing Reorganization shall not require the Corporation or its Subsidiaries to contravene any Applicable Law, their respective constating documents or any material contract.
- (b) The Purchaser shall provide written notice to the Corporation and the Vendors' Representative of any proposed Pre-Closing Reorganization at least ten (10) Business Days prior to the Closing Date. Upon receipt of such notice, the Purchaser and the Vendors shall (and the Vendors shall cause the Corporation to) co-operate and use commercially reasonable efforts to prepare prior to the Closing Time all documentation necessary and do all such other acts and things as are necessary to give effect to such Pre-Closing Reorganization, prior to the Closing Time. The Purchaser agrees to waive any breach of a representation and warranty or covenant of this Agreement by the Vendors where such breach is a result of an action taken by the Corporation or its Subsidiaries in good faith pursuant to a request by the Purchaser in accordance with this Section 7.11.
- (c) If, at the request of the Purchaser, the Corporation or any of its Subsidiaries effects any Pre-Closing Reorganization before the Closing Date and the Closing does not occur for a reason not attributable to the Vendors, the Purchaser shall forthwith reimburse the Corporation and its Subsidiaries for all fees and expenses (including any reasonable professional fees and expenses) incurred by them in consideration of such Pre-Closing Reorganization and shall be responsible for any direct costs, fees, expenses, damages or other amounts that are or may become payable by the Corporation and its Subsidiaries in connection with or as a result of reversing or unwinding any such Pre-Closing Reorganization that was effected or undertaken prior to termination of this Agreement.

7.12 **Discharge of Directors and Officers.** Immediately after the Closing, at an extraordinary shareholders' meeting of the Corporation, the Purchaser shall vote, or cause the relevant shareholders to vote, in favor of an unconditional discharge to all directors and officers resigning as per the Closing, in connection with their respective conduct of the business of the Corporation in the period up to the Closing, except to the extent such conduct constitutes fraud, gross negligence or willful misconduct, provided, for the avoidance of doubt, that such discharge shall in no event relieve any such directors and/or officers who are Vendors from any liability under the Term Sheet, the Escrow Agreement or this Agreement.

7.13 **Adequate insurance protection.** The Purchaser shall cause the Corporation and the Subsidiaries to maintain, for the period until at least the date that is **[Redacted – Tailing insurance period.]** after Closing, the same or a similar level of protection as applicable on the date hereof with regard to any (i) product liability insurances in place with regard to the Corporation and the Subsidiaries and (ii) directors' and officers' liability insurances in place with regard to the Corporation and the Subsidiaries.

**ARTICLE 8
VENDORS' REPRESENTATIVE**

8.1 Vendors' Representative.

(1) *Appointment.* For the purposes of this Agreement, the Vendors shall always be represented by one individual person. Effective as of the date hereof, each Vendor hereby irrevocably appoints **[Redacted – Personal Information.]** as its representative, true and lawful attorney-in-fact and agent (the “**Vendors' Representative**”), with full power of substitution or re-substitution, to act on behalf of such Vendor with respect to the transfer of the Shares to the Purchaser in accordance with the terms and provisions of this Agreement, and to act on behalf of such Vendor in any litigation or arbitration involving this Agreement (other than a Vendor Specific Claim). In connection therewith, the Vendors' Representative is authorized to do or refrain from doing all such further acts and things, and to execute all such documents as the Vendors' Representative deems necessary or appropriate in connection with the transactions contemplated by this Agreement, including the power:

- (a) to act for the Vendors with regard to matters pertaining to indemnification referred to in this Agreement (other than a Vendor Specific Claim), including the power to compromise any indemnity claim on behalf of the Vendors and to transact matters of litigation, and to act for the Vendors under the Escrow Agreement (other than in connection with a Vendor Specific Claim);
- (b) to execute and deliver all amendments, waivers, ancillary agreements, stock powers, certificates and documents that the Vendors' Representative deems necessary or appropriate in connection with the consummation of the transactions contemplated by this Agreement;
- (c) to receive funds, make payments of funds, and give receipts for funds;
- (d) to receive funds for the payment of expenses of the Vendors and apply such funds in payment for such expenses;
- (e) to do or refrain from doing any further act or deed on behalf of the Vendors that the Vendors' Representative deems necessary or appropriate in the Vendors' Representative's sole discretion relating to the subject matter of this Agreement as fully and completely as the Vendors could do if personally present; and
- (f) to receive notices in connection with any claims under this Agreement.

(2) *Notices.* All notices required to be made or delivered by the Purchaser to the Vendors described in this Agreement shall be made to the Vendors' Representative for the benefit of the Vendors.

(3) *Confirmation.* The Vendors hereby confirm all that the Vendors' Representative shall do or cause to be done by virtue of its appointment as the representative of the Vendors hereunder.

(4) *Responsibility.* The Vendors' Representative shall act for the Vendors on all of the matters set forth in this Agreement in the manner the Vendors' Representative believes to be in the best interest of the Vendors and consistent with the obligations of the Vendors under this Agreement, but the Vendors' Representative shall not be responsible to any Vendor for any Damages which such Vendor may suffer by the performance of the Vendors' Representative's duties under this Agreement, other than Damages arising from willful violation of the Law or gross negligence in the performance of such duties under this Agreement. The Vendors' Representative shall not have any duties or responsibilities except those expressly set forth in this Agreement, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or shall otherwise exist against the Vendors' Representative.

- 8.2 **Reliance by the Purchaser.** The Purchaser and, after the Closing Date, the Corporation, shall have the right to rely conclusively upon all actions taken or omitted to be taken by the Vendors' Representative pursuant to this Agreement and the Escrow Agreement, including any and all information contained in any statement provided by the Vendors' Representative, all of which actions or omissions shall be legally binding upon the Vendors and the Purchaser shall have no liability to any Vendor based on any errors or omissions of the Vendors' Representative.
- 8.3 **Replacement.** In the event a Person appointed under Section 8.1(1) to be what is referred to as the Vendors' Representative becomes unable to perform its responsibilities hereunder, resigns from such position or is removed in the manner set forth in the following sentence, the Vendors shall select another representative to fill the vacancy, and such substituted representative shall be deemed to be the Vendors' Representative for all purposes of this Agreement. A Vendors' Representative may only be removed upon delivery of written notice to the Purchaser signed by all the Vendors.
- 8.4 **Survival.** The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION AND SPECIFIC PERFORMANCE

9.1 Grounds for Termination.

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors and the Purchaser;
- (b) by written notice from the Purchaser to the Vendors' Representative as permitted in (i) Section 5.2; provided, however, that if such notice is as a consequence of the non-fulfillment of any of the conditions set forth in Sections 5.1(1) or 5.1(2), the Purchaser has previously provided the Vendors' Representative with notice of the relevant breach and the Vendors have failed to cure such breach within 10 days thereafter, or (ii) Section **Error! Reference source not found.**;
- (c) by written notice from the Vendors' Representative to the Purchaser as permitted in Section 5.4; provided, however, that if such notice is as a consequence of the non-fulfillment of any of the conditions set forth in Sections 5.3(1) or 5.3(2), the Vendors' Representative has previously provided the Purchaser with notice of the relevant breach and the Purchaser has failed to cure such breach within 10 days thereafter; or
- (d) by written notice from the Vendors' Representative to the Purchaser or from the Purchaser to the Vendors' Representative if Closing has not occurred by 31 October 2018; provided, however, that the Party relying on this Section 9.1(d) shall not itself be in breach of this Agreement.

9.2 Effect of Termination. If this Agreement is terminated:

- (a) by the Vendors or by the Purchaser under Section 9.1, subject to Section 9.2(b), all further obligations of the Parties under this Agreement shall terminate, except for the obligations under Sections 7.2, 10.1, 10.2, 10.11 and 10.12, which shall survive such termination;
- (b) by the Vendors or by the Purchaser under Section 9.1(b), 9.1(c) or 9.1(d) and the right to terminate arose because of a breach of this Agreement by the other Party (including a breach by the other Party resulting in a condition in favour of the terminating Party failing

to be satisfied), then the other Party shall remain fully liable for any and all Damages sustained or incurred by the terminating Party directly or indirectly as a result thereof;

- (c) by the Vendors, the Vendors who are parties to the Term Sheet shall pay to the Purchaser the break-fee referred to in the Term Sheet, subject to and in accordance with the terms and conditions of the Term Sheet;
- (d) by the Purchaser or by the Vendors and regardless of whether such termination is the result of the failure of either Party to satisfy any of the conditions set forth in Articles 5.1 and/or 5.3, the non-solicitation obligation of the Purchaser under the Term Sheet shall continue to be effective.

9.3 **Specific Performance.** The Parties agree that irreparable and ongoing damages would occur in the event that any provision of this Agreement were not performed in accordance with its specific terms or otherwise were breached and that monetary damages, even if available, would not be an adequate remedy therefor. Accordingly, each Party agrees that in the event of any actual or threatened breach of this Agreement by the another Party, the non-breaching Party shall be entitled, in addition to all other rights and remedies that it may have, including the right to terminate this Agreement, to obtain injunctive or other equitable relief (including a temporary restraining order, a preliminary injunction and a final injunction) to prevent any actual or threatened breach of any of such provisions and to enforce such provisions specifically, without the necessity of posting a bond or other security or of proving actual damages.

ARTICLE 10 GENERAL

10.1 **Expenses.** Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisers).

10.2 **Public Announcements.** No Party shall, without the prior consent of the other Party, make any public statement or issue any press release concerning the transactions contemplated by this Agreement, except as may be necessary, in the opinion of counsel to the Party making such disclosure, to comply with the requirements of Applicable Laws or the rules of any stock exchange. If any such public statement or release is so required, the Party making such disclosure shall consult with the other Party prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release.

10.3 **Notices.**

(1) *Mode of Giving Notice.* Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by e-mail (return receipt requested) or other similar means of electronic communication, in each case to the applicable address set out below:

- (a) if to the Vendors' Representative, to:

[Redacted – Personal Information.]

E-mail address: **[Redacted – Personal Information.]**

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

SwissLegal (Zürich) AG
Alfred Ulrich-Strasse 2
8702 Zollikon
Switzerland

Attention: Nicolas Bonassi
Facsimile no: +41 44 395 44 41
E-mail address: bonassi@swisslegal.ch

- (b) if to a Vendor, to the address indicated beside such Vendors' name in Schedule 10.3

with a copy (which shall not constitute notice) to the Vendors' Representative

- (c) if to the Purchaser, to:

Legal Department
Savaria Corporation
4350 Highway 13
Laval, Québec H7R 6E9
Canada

Attention: Sylvain Aubry
Facsimile no: +1-450-628-4500
E-mail address: legalregistration@savaria.com

with a copy (not constituting notice) to:

HFW
13-15 Cours de Rive
CH-1204 Geneva
Switzerland

Attention: Georges Racine

E-mail address: georges.racine@hfw.com

(2) *Deemed Delivery of Notice.* Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 4:30 p.m. (local time at the place of the addressee) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

(3) *Change of Address.* Any Party may from time to time change its address under this Section 10.3 by notice to the other Party given in the manner provided by this Section 10.3.

- 10.4 **Time of Essence.** Time shall be of the essence of this Agreement in all respects.
- 10.5 **Further Assurances.** Each Party shall from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Parties may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.
- 10.6 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, including the provisions of the Term Sheet except as set forth in Sections 9.2(c) and (d) of this Agreement. Notwithstanding the above and for the avoidance of doubt, this Agreement does not supersede the Escrow Agreement. There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.
- 10.7 **Amendment.** No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.
- 10.8 **Waiver.** A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver, and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by any of the other Parties. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- 10.9 **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- 10.10 **Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.
- 10.11 **Arbitration.** Each Party agrees that any Legal Proceeding relating to this Agreement or any other agreements or instruments entered into in connection with the transactions contemplated herein, including the validity, invalidity, breach or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the notice of arbitration is submitted in accordance with such rules (the "**Rules**"). The arbitration shall be conducted by a single arbitrator designated by the parties to the arbitration; provided, that if the parties to the arbitration are unable to agree on a choice of arbitrator within 30 days from the date on which the notice of arbitration was received by the respondent(s), then either party may apply to the Arbitration Court as established by the Swiss Chambers' Arbitration Institution for the appointment of the arbitrator, on notice to the other party. The seat of arbitration shall be Geneva, Switzerland. The arbitration shall be conducted, all documents produced during the proceedings, and any award shall be rendered, in the English language. The award of the arbitrator shall be accompanied by a reasoned opinion. The allocation of the costs of the arbitration shall be apportioned by the

arbitrator in its final award, including the reasonable fees and disbursements of the Parties, between or among the Parties in such manner as the arbitrator considers reasonable, provided that the arbitrator shall not award costs on a distributive basis. The award of the arbitrator shall be final, binding and without appeal on any ground, including for greater certainty, any appeal on a question of law, a question of fact, or a question of mixed fact and law; the Parties hereby expressly waiving any right in this respect. Except as may be required by Law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. By submitting any Legal Proceeding relating to this Agreement or any other agreements or instruments entered into in connection with the transactions contemplated herein to the Rules, the Parties do not waive any right that they may have under Applicable Law to submit a request for interim measures to a judicial authority. A request for interim measures addressed by any party to a judicial authority shall not be deemed to be incompatible with the agreement to arbitrate, or to constitute a waiver of that agreement.

- 10.12 **Governing Law.** The validity, interpretation and performance of this Agreement shall be governed by Swiss law and this Agreement shall be treated, in all respects, as a Swiss contract.
- 10.13 **Successors and Assigns; Assignment.** This Agreement shall inure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns. Neither Party may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior written consent of the other Parties. Notwithstanding the foregoing, the Purchaser may assign or transfer all or any part of its rights and obligations under this Agreement to an Affiliate of the Purchaser without written consent from the Vendors.
- 10.14 **Third Party Beneficiaries.** This Agreement is for the sole benefit of the Parties, and except as specifically provided for in Section 6.12, nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- 10.15 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. 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, e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[signature page follows]

IN WITNESS WHEREOF the Parties have executed this Agreement on the date first above written.

SAVARIA CORPORATION

(Signed) **[Redacted – Personal Information.]**
By: _____

[Redacted – Indemnification threshold.]

[Redacted – Vendor.]

(Signed) **[Redacted – Personal Information.]**
By: _____
Name: **[Redacted – Personal Information.]**
Title: by power of attorney

[Redacted – Vendor.]

(Signed) **[Redacted – Personal Information.]**
By: _____
Name: **[Redacted – Personal Information.]**
Title: by power of attorney

[Redacted – Vendor.]

(Signed) **[Redacted – Personal Information.]**
By: _____
Name: **[Redacted – Personal Information.]**
Title: by power of attorney

(Signed) **[Redacted – Personal Information.]**

[Redacted – Personal Information.]

(Signed) ***[Redacted – Personal Information.]***
[Redacted – Personal Information.]

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(Signed) ***[Redacted – Personal Information.]***
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(Signed) ***[Redacted – Personal Information.]***
[Redacted – Personal Information.]

(Signed) ***[Redacted – Personal Information.]***
[Redacted – Personal Information.]

Exhibit A

[Redacted – Personal Information - Name and ownership of Vendors.]

SCHEDULE 1.0

1. **Definitions.** In this Agreement:
 - 1.1 **"Accounting Principles"** has the meaning set out in Schedule 1.15.
 - 1.2 **"Accounts Date"** means 31 December 2017.
 - 1.3 **"Affiliate"** means, with respect to any Person, any other Person who directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, such Person, and includes any Person in like relation to an Affiliate.
 - 1.4 **"Agreement"** means this Share Purchase Agreement, all Exhibits and Schedules attached thereto and the Disclosure Letter.
 - 1.5 **"Alternative Transaction"** has the meaning set out in Section 7.6.
 - 1.6 **"Annual Financial Statements"** means the annual audited consolidated financial statements of the Corporation and the Subsidiaries for the fiscal years ended December 31, 2014, December 31, 2015, December 31, 2016 and December 31, 2017, true and complete copies of which are included in Section 2.2(5) of the Disclosure Letter.
 - 1.7 **"Applicable Law"** means, with respect to any Person, property, transaction, event or other matter, (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, by-law, Order or other requirement having the force of law, (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively in the foregoing clauses (a) and (b), **"Law"**), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.
 - 1.8 **"Base Purchase Price"** shall mean CHF 74,000,000.
 - 1.9 **"Books and Records"** means the Financial Records and all other books, records, files and papers of the Corporation and the Subsidiaries including drawings, engineering information, manuals and Data, sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, marketing lists and marketing consent records, personnel, employment and other records, and the minute and share certificate books of the Corporation and each Subsidiary, however stored and all other information of the Corporation and each Subsidiary stored electronically, digitally or on computer-related media.
 - 1.10 **"[Redacted – Personal Information.]"** means **[Redacted – Personal Information.]**.
 - 1.11 **"Business"** means the business carried on by the Corporation and the Subsidiaries which involves the design, development, manufacturing, marketing, sale, distribution, provision, installation, maintenance, servicing and repair of home elevators and limited use limited application (LULA) elevators, vertical and inclined wheelchair lifts, portable wheelchair lifts, stairlifts and related equipment, accessories and services.
 - 1.12 **"Business Day"** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the Province of Ontario, Canada or the Canton of Schwyz, Switzerland.

- 1.13 **"Claim Notice"** has the meaning set out in Section 6.7.
- 1.14 **"Closing"** means the completion of the purchase and sale of the Shares in accordance with the provisions of this Agreement.
- 1.15 **"Closing Date"** means the last Business Day of the calendar month in which the last of the closing conditions is satisfied or waived in accordance with this Agreement, provided that if the last of the closing conditions is satisfied or waived in the last three (3) Business Days of a calendar month, the Closing Date will be the last Business Day of the following calendar month, or such earlier or later date as may be agreed to orally or in writing by the Parties.
- 1.16 **"Closing Time"** means 4:00 p.m. Zurich time on the Closing Date.
- 1.17 **"Consent"** means any consent, approval, permit, waiver, ruling, exemption or acknowledgement from any Person (other than the Corporation or a Subsidiary) which is provided for or required: (a) in respect of or pursuant to the terms of any Contract; or (b) under any Applicable Law, in either case in connection with the sale of the Shares to the Purchaser on the terms contemplated in this Agreement, to permit the Corporation and the Subsidiaries to carry on the Business after Closing or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, but does not include a Regulatory Approval.
- 1.18 **"Contracts"** means all pending and executory contracts, agreements, leases, understandings and arrangements (whether oral or written) to which the Corporation or a Subsidiary is a party or by which the Corporation or a Subsidiary or any of their respective properties or assets or the Business is bound or under which the Corporation or a Subsidiary has rights or obligations, including Premises Leases and Personal Property Leases.
- 1.19 **"Control"** means the control exercised over a Person by the direct or indirect holding, as owner or other beneficiary, other than solely as the beneficiary of an unrealized security interest, of securities of such Person carrying more than fifty (50%) percent of the maximum possible number of votes that may be cast for the election or appointment of the directors of such Person or by the possession of any other power to direct or cause the direction of the management and policies of such Person; and the terms **"Controlling"** and **"Controlled"** have meanings correlative to the foregoing.
- 1.20 **"Copyright"** means all rights, titles, interests and benefits in and to (a) all copyright and neighbouring rights in the Works, (b) all registrations for copyright and neighbouring rights, pending applications for registrations of copyright and neighbouring rights, and rights to file applications for registrations of copyright and neighbouring rights for the Works, and (c) all *sui generis* rights in the Databases.
- 1.21 **"Corporation"** means Garaventa Accessibility AG, a corporation formed under the laws of Switzerland with registered number CHE-109.456.418 and having its registered office at Tennmattstrasse 15, 6410 Goldau, Switzerland.
- 1.22 **"Corporation Policies"** has the meaning set out in Section 2.2(29) of Schedule 2.0.
- 1.23 **"Corporation's Auditor"** means Ernst & Young, of Basel, Switzerland or another Big Four audit firm (i.e. KPMG, PwC or Deloitte) as nominated by the Purchaser.
- 1.24 **"Cybersecurity Requirements"** means all Applicable Laws relating to security of network and information systems and security breach and incident reporting requirements which are from time to time applicable to the Corporation and/or any of the Subsidiaries, including but not limited to the Privacy Laws.

- 1.25 **"Damages"** means, whether or not involving a Third Party Claim, any loss, cost, liability, claim, interest, fine, penalty, assessment, Taxes, damages available at law or in equity (including incidental, consequential, special, aggravated, exemplary or punitive damages), expense (including consultant's and expert's fees and expenses and reasonable costs, fees and expenses of legal counsel on a full indemnity basis, without reduction for tariff rates or similar reductions and reasonable costs, fees and expenses of investigation, defence or settlement) or diminution in value.
- 1.26 **"Data"** means any information or data collected or received by, processed by, or output from the Software (including reports, analytics, and alerts), and any other information or data related to the Business, including information and data contained in any Databases.
- 1.27 **"Data Room"** means the electronic data room established by the Vendors for the purpose of making information, agreements, documents and other due diligence materials regarding the Corporation, the Subsidiaries and the Business available to the Purchaser, as it existed at 9 AM Montreal Time (3 PM Swiss Time) on the date of this Agreement, as contained on the data stick attached hereto as Schedule 1.27.
- 1.28 **"Databases"** has the meaning set out in the definition of Works.
- 1.29 **"Designs"** means all industrial designs, used by the Corporation or a Subsidiary in the Business, including (a) all features of shape, configuration, pattern or ornament and combinations thereof, and (b) all derivatives, modifications and improvements of the foregoing.
- 1.30 **"Direct Claim"** has the meaning set out in Section 6.7.
- 1.31 **"Disclosure Letter"** means the confidential disclosure letter dated the date of this Agreement and delivered by the Vendors to the Purchaser concurrently with this Agreement, as attached in Schedule 2.2.
- 1.32 **"Domain Names"** means all registered domain names used by the Corporation or a Subsidiary in the Business, including those registered on behalf of the Corporation or a Subsidiary in the name of an agent or proxy.
- 1.33 **"Draft Net Financial Debt"** has the meaning set out in Section 2.5(2)(a)(i).
- 1.34 **"Draft Net Working Capital"** has the meaning set out in Section 2.5(2)(a)(ii).
- 1.35 **"Employee"** means an individual who is employed by the Corporation or a Subsidiary, whether on a full-time or part-time basis.
- 1.36 **"Employee Plans"** means the written or oral employee benefit, welfare, supplemental unemployment benefit, bonus, pension, profit sharing, executive compensation, current or deferred compensation, incentive compensation, stock compensation, stock purchase, stock option, stock appreciation, phantom stock option, savings, severance or termination pay, retirement, supplementary retirement, hospitalization insurance, salary continuation, legal, health or other medical, dental, life, disability or other insurance (whether insured or self-insured) plans, programs, agreements or arrangements, and every other written or oral benefit plan, program, agreement or arrangement sponsored, maintained or contributed to or required to be contributed to by the Corporation or any Subsidiary for the benefit of its Employees or former Employees and their dependents or beneficiaries at any time in the last five years or as provided by any collective agreement to which the Corporation or any Subsidiary is a party or by which it is, or was at any time in the last five years, bound or with respect to which the Corporation or any Subsidiary participates or has any actual or potential liability or obligations, other than Statutory Plans.

- 1.37 **“Environmental Law”** means any Applicable Law in respect of the protection of the natural environment or any species or organisms that make use of it, public or occupational health or safety, or the manufacture, importation, handling, transportation, storage, disposal and treatment of Hazardous Substances.
- 1.38 **“Environmental Representations”** means the representations and warranties of the Vendors set forth in Section 2.2(23) of Schedule 2.0.
- 1.39 **“Escrow Agent”** means Bratschi AG (Dr. iur. Reto Arpagaus), Bahnhofstrasse 70, P.O. Box, 8021 Zurich, Switzerland.
- 1.40 **“Escrow Agreement”** means the escrow agreement among the Vendors’ Representative, the Purchaser and the Escrow Agent, contained in Exhibit C.
- 1.41 **“Escrow Amount”** has the meaning set out in the Escrow Agreement.
- 1.42 **“Estimated Net Financial Debt”** has the meaning set out in Section 2.5(1)(a).
- 1.43 **“Estimated Net Working Capital”** has the meaning set out in Section 2.5(1)(a).
- 1.44 **“Estimated Purchase Price”** has the meaning set out in Section 2.4.
- 1.45 **“Final Compulsory Payment Amount”** has the meaning set out in Section 6.14(6)(b).
- 1.46 **“Final Compulsory Payment Indemnification Event”** means a Final Determination having been made regarding a liability requiring payment under Applicable Law or any Order.
- 1.47 **“Final Determination”** means a determination made by a Governmental Authority (including pursuant to a settlement) where all rights to object to or appeal from the determination (including any right to obtain relief under a competent authority or similar process) have been exhausted or have expired.
- 1.48 **“Final Net Financial Debt”** means the Net Financial Debt as at the Closing Date prepared in accordance with the Accounting Principles as finally determined in accordance with Section 2.5(c), Section 2.5(d) or Section 2.5(e).
- 1.49 **“Final Net Working Capital”** means the Net Working Capital as at the Closing Date prepared in accordance with the Accounting Principles as finally determined in accordance with Section 2.5(c), Section 2.5(d) or Section 2.5(e).
- 1.50 **“Financial Records”** means all books of account and other financial Data and information of the Corporation and each Subsidiary, and includes all such records, Data and information stored electronically, digitally or on computer-related media.
- 1.51 **“Financial Statements”** means, collectively, the Annual Financial Statements and the Interim Financial Statements.

- 1.52 **“Fundamental Representations”** means the representations and warranties of the Vendors set forth in Sections **[Redacted – Fundamental Representations.]**.
- 1.53 **“GAAP”** means the generally accepted accounting principles in Switzerland as in effect from time to time as approved by the Foundation for accounting and reporting recommendations (Switzerland).
- 1.54 **“GDPR”** means the General Data Protection Regulation (EU) 2016/679.
- 1.55 **“General Representations”** means the representations and warranties of the Vendors set forth in Sections **[Redacted – General Representations.]**.
- 1.56 **“Governmental Authority”** means:
- (a) any domestic or foreign government, whether national, federal, provincial, cantonal, state, any domestic or foreign government, whether national, federal, provincial, cantonal, state, territorial, communal, municipal or local (whether administrative, legislative, executive or otherwise);
 - (b) any agency, authority, ministry, office, department, commission, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
 - (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
 - (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.
- 1.57 **“GST/HST”** means all goods and services tax and harmonized sales tax imposed under Part IX of the Excise Tax Act (Canada).
- 1.58 **“Hazardous Substance”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property or plant or animal life or harm or impair the health of any individual and includes any contaminant, waste, or substance or material defined, prohibited, regulated or reportable pursuant to any Environmental Law.
- 1.59 **“Holdback Amount”** has the meaning set out in Section 2.4(b)(ii).
- 1.60 **“[Redacted – Personal Information.]”** means **[Redacted – Personal Information.]**.
- 1.61 **“Improvements”** means all buildings, fixtures, sidings, parking lots, roadways, structures, erections, fixed machinery, fixed equipment and appurtenances situate on, in, under, over or forming part of, any real property.
- 1.62 **“Indemnified Party”** means a Person whom the Vendors or the Purchaser, as the case may be, is required to indemnify under Article 6.
- 1.63 **“Indemnified Taxes”** has the meaning set out in Section 6.5.

- 1.64 **"Indemnifying Party"** means, in relation to an Indemnified Party, the Party that is required to indemnify such Indemnified Party under Article 6.
- 1.65 **"Independent Accountant"** means PwC.
- 1.66 **"Intellectual Property"** means all intellectual property and industrial property used by the Corporation or a Subsidiary in the Business, throughout the world, whether or not registrable, patentable or otherwise formally protectable, and whether or not registered, patented, otherwise formally protected or the subject of a pending application for registration, patent or any other formal protection, including:
- (a) all rights, titles, interests and benefits in and to the Trade-Marks, including (i) all common law rights in the Trade-Marks, (ii) all registrations, pending applications for registration and rights to file applications for the Trade-Marks, and (iii) all rights of priority and all extensions of the foregoing applications and registrations for the Trade-Marks;
 - (b) all rights, titles, interests and benefits in and to the Inventions, including the Patent Rights;
 - (c) all rights, titles, interests and benefits in and to the Works, including the Copyright and the moral rights and all waivers of moral rights in the Works;
 - (d) all rights, titles, interests and benefits in and to the Designs, including (i) all design patents, industrial design registrations, pending design patent applications, pending applications for industrial design registrations and rights to file applications for the Designs, and (ii) all rights of priority and all rights in provisionals, continuations, continuations-in-part, divisionals, re-examinations, reissues, extensions, and other derivative applications, patents and registrations of the foregoing patents, registrations and applications for the Designs;
 - (e) all rights, titles, interests and benefits in and to the Know-How;
 - (f) all rights, titles, interests and benefits in and to (i) the telephone numbers and the accounts therefor, (ii) the social media identities and the accounts therefor, and (iii) the Domain Names, the accounts therefor and the registrations thereof;
 - (g) all rights, titles, interests and benefits in and to all licences, consents, permissions, covenants not to sue and other contractual rights in respect of, or relating to, the items set out in (a) through (f) above;
 - (h) all rights, titles, interests and benefits in and to revenues and proceeds in respect of the Intellectual Property and the rights, titles, interests and benefits set out in (a) through (f) above; and
 - (i) all rights, titles, interests and benefits to enforce all rights and to obtain all remedies, including Damages, accountings of profits, other compensation, and interim, temporary, interlocutory and permanent injunctions, for the infringement and other violations of the rights, titles, interests and benefits set out in (a) through (f) above.
- 1.67 **"Interim Financial Statements"** means the internally prepared unaudited monthly financial statements of the Corporation and of each Subsidiary as at 31 May 2018, true and complete copies of which are included in Section 1.2(5) of the Disclosure Letter.
- 1.68 **"Interim Period"** means the period from the date of this Agreement to the Closing Date.

- 1.69 **"Inventions"** means all inventions used by the Corporation or a Subsidiary in the Business, including (a) all arts, processes, machines, manufactures, compositions of matter, and (b) all improvements to the foregoing.
- 1.70 **"Inventories"** means all inventories of stock-in-trade and merchandise including materials, supplies, work-in-progress, finished goods, tooling, service parts and purchased finished goods owned by the Corporation or a Subsidiary (including those in possession of suppliers, customers and other third parties).
- 1.71 **"IT Contracts"** means all agreements or arrangements (whether or not in writing and including those currently being negotiated) under which any third party (including, without limitation, any source code deposit agent) provides or will provide any element of, or services relating to, the IT Systems, including leasing, hire purchase, licensing, maintenance, website hosting, outsourcing, security, back-up, disaster recovery, insurance, cloud computing and other types of services agreements.
- 1.72 **"IT Systems"** means all computer hardware, devices, peripheral equipment, Software and firmware, Data and Databases, technology infrastructure and other information technology systems and services that are used by or accessible to the Corporation or a Subsidiary to operate the Business and to receive, store, process or transmit Data.
- 1.73 **"ITA"** means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supplement).
- 1.74 **"Key Representations"** means the representations and warranties of the Vendors set forth in Sections **[Redacted – Key Representations]**.
- 1.75 **"Know-How"** means all know-how, trade secrets, proprietary information, confidential information and information of a sensitive nature used by the Corporation or a Subsidiary in the Business that have value to the Business or relate to business opportunities for the Business, in whatever form communicated, maintained or stored, including (a) all formulae, recipes, algorithms, business methods, technical processes, specifications, manuals, drawings, prototypes, models, corporate plans, management systems and techniques, and (b) all information relating to the research, design, development, engineering, manufacture, assembling, marketing, sales or post-sales activities of any past, present or future goods or services, including lab journals, notebooks, design documentation, engineering documentation, manufacturing documentation, costing information, advertising plans, pricing information, customer names, customer lists and other details of customers, supplier names, supplier lists and other details of suppliers, sales targets, sales statistics, market share information, market research and survey information.
- 1.76 **"[Redacted – Personal Information.]"** means **[Redacted – Personal Information.]**.
- 1.77 **"Lands"** means all real property that the Corporation or a Subsidiary owns, leases or in which it otherwise has an interest, including the Owned Lands and the Leased Premises, together with all easements, servitudes, rights-of-way and interests appurtenant to them.
- 1.78 **"Law"** has the meaning set out in the definition of "Applicable Law".
- 1.79 **"Leased Premises"** means all real property that is leased, subleased, licensed or otherwise occupied or used by the Corporation or a Subsidiary, including all Improvements thereon, therein or thereunder.
- 1.80 **"Leases"** means Personal Property Leases and Premises Leases.
- 1.81 **"Legal Proceeding"** means any litigation, action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration

proceeding or other similar proceeding, before or by any Governmental Authority, and includes any appeal or review thereof and any application for leave for appeal or review.

- 1.82 **“Licensed-In Intellectual Property”** means all Intellectual Property (a) which is not Owned Intellectual Property, and (b) in which the Corporation or a Subsidiary has a right, interest, benefit, licence or permission to access, use, practice or otherwise enjoy or exploit, including pursuant to a Contract, covenant not to sue, custom or practice, Order or Applicable Law.
- 1.83 **“Lien”** means any lien, mortgage, charge, hypothec, pledge, security interest, prior assignment, option, warrant, lease, sublease, right to possession, encumbrance, claim, right or restriction which affects, by way of a conflicting ownership interest or otherwise, the right, title or interest in or to any particular property.
- 1.84 **“Material Adverse Change”** means, with respect to any event, matter or circumstance, an effect or change that when considered either individually or in the aggregate, has a materially adverse effect on the Business, the assets, the operations or the condition (financial or otherwise) of the Corporation and the Subsidiaries taken as a whole, but does not include any effect resulting from (a) changes in general economic or political conditions affecting any of the Corporation, the Subsidiaries or any of its competitors, (b) general changes or developments in the industries in which the Corporation and the Subsidiaries operate, (c) acts of war (whether or not declared), sabotage or terrorism, or any escalation or worsening of any such acts of war (whether or not declared), sabotage or terrorism, (d) any pandemic, hurricane, tornado, flood, earthquake, natural disaster, act of God or other comparable events, (e) changes in Applicable Laws, (f) changes in GAAP, (g) the negotiation, execution and delivery of this Agreement or its public announcement; provided, however, that with respect to the matters set forth in (a) through (g) above, such matter does not disproportionately affect the Corporation, the Subsidiaries or the Business relative to other entities.
- 1.85 **“Material Contract”** means [Redacted – Material Contract threshold].
- 1.86 **“Net Financial Debt”** means with respect to the Corporation and its Subsidiaries the sum of:
- (a) all obligations for borrowed money or with respect to deposits or advances of any kind;
 - (b) all obligations evidenced by bonds, debentures, notes or similar instruments;
 - (c) all amounts owing to any Vendor by way of funding loans received;
 - (d) all obligations upon which interest charges are customarily paid;
 - (e) all obligations under conditional sale or other title retention agreements relating to property acquired by such Person;
 - (f) all obligations in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business);
 - (g) all capital lease obligations;
 - (h) all obligations in respect of letters of credit;
 - (i) all obligations, in respect of bankers’ acceptances;
 - (j) accrued and unpaid dividends;

- (k) an amount equal to **[Redacted – Amount related to financial reporting integration costs included in the Net Financial Debt.]** in relation to financial reporting integration costs; and
 - (l) any amendment, supplement, modification, deferral, renewal, extension, refunding or refinancing of any indebtedness of the types referred to above.

Less the sum of:
 - (m) all cash on hand or in any account with a financial institution; and
 - (n) all interest receivable.
- 1.87 **“Net Working Capital”** means the sum of the inventory (net of reserves), trade receivables (net of reserves), prepayments, corporate income and capital tax prepayments or tax receivables (excluding long-term deferred tax assets), VAT receivables, accrued revenues not yet invoiced, other short-term receivables, less the sum of trade payables, VAT payables, corporate income and capital tax payables (excluding long-term deferred tax liabilities), any Tax payable as a result of the cancellation, sale or deemed cancellation for Tax purposes of the Corporation's treasury shares as held by the Corporation itself as at the Closing Date, whether or not such shares are cancelled, sold or deemed cancelled for Tax purposes, before or after Closing and whether or not the obligation to pay such Tax arises before or after Closing, other short-term payables, short-term customer deposits received as deferred revenue, short-term warranty provisions and other short-term accruals of the Corporation and its Subsidiaries.
- 1.88 **“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- 1.89 **“Ordinary Course of Business”** when used in relation to the taking of any action by the Corporation or any Subsidiary means that the action:
- (a) is consistent in nature, scope and magnitude with the past practices of the Corporation or the Subsidiary and is taken in the ordinary course of normal day-to-day operations of the Corporation or the Subsidiary;
 - (b) is similar in nature, scope and magnitude to actions customarily taken in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as the Corporation or the Subsidiary; and
 - (c) does not require the authorization of the shareholders of the Corporation or the Subsidiary or any other separate or special authorization of any nature.
- 1.90 **“Owned Intellectual Property”** means all Intellectual Property in which the Corporation or a Subsidiary owns title.
- 1.91 **“Owned Lands”** means the Lands owned by the Corporation or a Subsidiary.
- 1.92 **“Owned Real Property”** means the Owned Lands and the Improvements thereon.
- 1.93 **“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means every Party.
- 1.94 **“Patent Rights”** means all rights, titles, interests and benefits in and to the Inventions, including (a) all utility patents, pending utility patent applications and rights to file utility patent applications for the Inventions, (b) all rights of priority and all rights in provisionals, continuations,

continuations-in-part, divisionals, re-examinations, reissues, extensions and other derivative applications and patents of the foregoing patents and patent applications for the Inventions, and (c) all inventors' certificates, utility models, applications for utility models and rights to file utility models for the Inventions.

- 1.95 **"Permit"** means any licence, permit, authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for, the Corporation or a Subsidiary by any Governmental Authority.
- 1.96 **"Person"** is to be broadly interpreted and includes an individual, a corporation, a company, a partnership, a trust, a foundation, an unincorporated organization, a Governmental Authority, the executors, administrators or other legal representatives of an individual in such capacity, and any other entity or undertaking recognized by Law.
- 1.97 **"Personal Information"** means information about an identifiable individual and includes any information that constitutes personal information or personal data within the meaning of one or more Privacy Laws, including but not limited to under Article 4(1) of the GDPR.
- 1.98 **"Personal Property"** means all machinery, equipment, furniture, motor vehicles and other chattels owned or leased by the Corporation or a Subsidiary (including those in possession of suppliers, customers and other third parties).
- 1.99 **"Personal Property Lease"** means a chattel lease, equipment lease, conditional sales contract and other similar agreement to which the Corporation or a Subsidiary is a party or under which it has rights to use Personal Property.
- 1.100 **"Pre-Closing Reorganization"** has the meaning set out in Section 7.11(a).
- 1.101 **"Pre-Closing Tax Period"** means a taxation year or other fiscal period that ends on or before the Closing Time.
- 1.102 **"Preliminary Compulsory Payment Amount"** has the meaning set out in Section 6.14(6)(a).
- 1.103 **"Premises Lease"** means a lease, an agreement to lease, a sublease, a licence agreement and an occupancy or other agreement under which the Corporation or a Subsidiary has the right, or has granted another Person the right to use or occupy any Leased Premises.
- 1.104 **"Prime Rate"** means the prime rate of interest per annum quoted by UBS from time to time as its reference rate of interest for the Swiss Franc demand loans made to its commercial customers in Switzerland and which UBS refers to as its "prime rate", as such rate may be changed from time to time.
- 1.105 **"Privacy Laws"** means the Laws governing the protection of personal information or privacy and electronic communications in any jurisdiction in which any of the Corporation or its Subsidiaries operate including but not limited to: (i) the GDPR and all related national laws, regulations and secondary legislation; (ii) all applicable national laws, regulations and secondary legislation implementing European Directive 2002/58/EC.
- 1.106 **"Pro Rata Share"** means, with respect to each Vendor, the pro rata share set forth next to such Vendor's name in Exhibit A, representing such Vendor's ownership interest in the share capital of the Corporation.
- 1.107 **"Processor"** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the Corporation and/or the Subsidiaries.

- 1.108 **"Property Documents"** means all documents in the possession or control of the Corporation, a Subsidiary or the Vendors relating to the Real Property, or any part thereof, including, the following:
- (a) the municipal address of each Real Property and the description of each Owned Real Property;
 - (b) copies of any current realty tax assessment notices and tax bills relating to each Owned Real Property;
 - (c) a list of all major or extraordinary repairs made by the Corporation or a Subsidiary or of which the Corporation or the Vendors are aware with respect to the Real Property;
 - (d) copies of any Contracts relating to the Real Property;
 - (e) copies of all warranties, guarantees or contractual obligations that entitle the Corporation or a Subsidiary to any rights against a contractor or supplier engaged in the construction or maintenance of the Real Property or any part of the Real Property; and
 - (f) a list of the Personal Property, together with a list of any equipment, used in connection with the Real Property that is the subject of a lease or subject to a conditional sale or other similar agreement.
- 1.109 **"Purchase Price"** has the meaning set out in Section 2.2.
- 1.110 **"Purchaser"** Savaria or such Affiliate of Savaria to which Savaria may assign or transfer its rights and obligations under this Agreement.
- 1.111 **"Purchaser's Indemnified Parties"** means the Purchaser, the Purchaser's Affiliates, the Corporation, the Subsidiaries and their respective Representatives.
- 1.112 **"Real Property"** means the Owned Real Property and the Leased Premises.
- 1.113 **"Receivables"** means all accounts receivable, bills receivable, trade accounts, book debts and insurance claims of the Corporation and each Subsidiary together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits.
- 1.114 **"Regulatory Approval"** means any approval, consent, licence, ruling, authorization, notice, permit, waiver or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Permit or the conditions of any Order (a) in connection with the transactions contemplated by this Agreement, (b) to permit the Corporation and the Subsidiaries to carry on the Business after Closing, or (c) which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, including any Specified Approval.
- 1.115 **"Release"** includes an actual or potential discharge, deposit, spill, leak, pumping, pouring, emission, emptying, injection, escape, leaching, seepage, migration or disposal of a Hazardous Substance, including without limitation the movement of Hazardous Substances through air, soil, subsoil, ground or surface water.
- 1.116 **"Representative"** when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.
- 1.117 **"Rules"** has the meaning set out in Section 10.11.

- 1.118 **"Shares"** means the issued and outstanding shares in the capital of the Corporation, of which the Vendors are the registered and beneficial owners, as set forth beside their respective names in Exhibit A of the Agreement.
- 1.119 **"Software"** means any software, computer programs and applications (including mobile apps), whether in source code, executable (object) code, script, or otherwise, in each case as used in the Business.
- 1.120 **"Specific Accounting Policies"** has the meaning set out in Schedule 1.15.
- 1.121 **"Statutory Plans"** means statutory benefit plans which the Corporation or any Subsidiary is required to participate in or comply with, including any and all plans administered pursuant to applicable pension, health, tax, workplace safety insurance and employment insurance legislation.
- 1.122 **"Straddle Period"** means a taxation year or fiscal period that includes, but does not begin or end on, the Closing Date.
- 1.123 **"Stub Period Returns"** has the meaning set out in Section 7.8(a).
- 1.124 **"Subsidiaries"** means [Redacted – List of Subsidiaries.], and **"Subsidiary"** means any one of them.
- 1.125 **"Supervisory Authority"** means, for the purposes of the Privacy Laws, any local, national supranational, state, governmental or quasi-governmental agency, body, department, board, official or entity exercising regulatory or supervisory authority functions pursuant to any Privacy Laws, including but not limited to the Federal Data Protection and Information Commissioner in Switzerland.
- 1.126 **"Swiss Francs"** means the lawful currency of Switzerland.
- 1.127 **"Target Net Working Capital"** means [Redacted – Target Net Working Capital.].
- 1.128 **"Tax Contest"** has the meaning set out in Section 6.15(b).
- 1.129 **"Tax Matters"** has the meaning set out in Section 7.9.
- 1.130 **"Tax Notice"** has the meaning set out in Section 6.15(a).
- 1.131 **"Tax Representations"** means the representations and warranties of the Vendors set forth in Section 2.2(30) of Schedule 2.0.
- 1.132 **"Taxes"** means, with respect to any Person, all supranational, national, federal, provincial, cantonal, state, communal, municipal, local or other taxes, including income taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, *ad valorem* taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, government pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment/unemployment insurance or compensation premiums and contributions, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority and any instalments in respect thereof, together with any tax indemnity obligation, interest, penalties, or additions with respect thereto and any interest in

respect of such additions or penalties, and whether disputed or not, and "**Tax**" means any one of such Taxes.

- 1.133 "**Tax Returns**" means all returns, reports, declarations, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.
- 1.134 "**Term Sheet**" means the term sheet dated **[Redacted – Date.]** between the Corporation, **[Redacted – Personal Information.]** and the Purchaser, a copy of which is contained in Exhibit B.
- 1.135 "**Third Party**" has the meaning set out in Section 6.14(5).
- 1.136 "**Third Party Claim**" has the meaning set out in Section 6.7.
- 1.137 "**Threatened**", when used in relation to a Legal Proceeding or other matter, means that a demand or statement (oral or written) has been made or a notice (oral or written) has been given that a Legal Proceeding or other matter is to be asserted, commenced, taken or otherwise pursued in the future or that an event has occurred or circumstances exist that would lead a reasonable Person to conclude that a Legal Proceeding or other matter is likely to be asserted, commenced, taken or otherwise pursued in the future.
- 1.138 "**Trade-Marks**" means all trade-marks used by the Corporation or a Subsidiary in the Business, including (a) all service marks, official marks, certification marks and collective marks, (b) all trade dress, and (c) all corporate names, partnership names, business names, fictitious names and other trade names.
- 1.139 "**Transaction Personal Information**" means any Personal Information in the possession, custody or control of the Corporation or a Subsidiary or the Vendors at or before the Closing Time, including Personal Information about Employees, suppliers, customers, directors, officers or shareholders of the Corporation or a Subsidiary that is disclosed to the Purchaser or any Representative of the Purchaser.
- 1.140 "**Vendor Specific Claim**" means claims for indemnification under (a) Section 0 or 6.5 with respect to any claim involving fraud or, negligent or willful misconduct or (b) Section 6.3.
- 1.141 "**Vendors**" means **[Redacted – Personal Information.]**, and "**Vendor**" shall mean any of the foregoing.
- 1.142 "**Vendors' Indemnified Parties**" means the Vendors, their Affiliates and their respective Representatives.
- 1.143 "**Vendors' Representative**" has the meaning set out in Section 8.1(1).
- 1.144 "**Works**" means all works and subject matter used by the Corporation or a Subsidiary in the Business in which copyright, neighbouring rights or moral rights subsist, including (a) all Software, (b) all databases and database layouts (the "**Databases**"), (c) all documents and other works relating to the Software or the Databases, (d) all other literary, artistic, pictorial, graphic, musical, dramatic and audio-visual works, (e) all performer's performances, sound recordings and other neighbouring works, (f) all compilations of the foregoing, and (g) all derivatives, enhancements and modifications of the foregoing.

SCHEDULE 2.0 REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of the Vendors with respect to themselves.

(1) *Organization of Vendor.* If such Vendor is a corporation, company or other entity, such corporation, company or other entity is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or other formation. Such Vendor, if it is a corporation, company or other entity, has full power and authority, and if such Vendor is a natural Person, has the legal capacity to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its other obligations hereunder and under all such other agreements and instruments. If such Vendor is a corporation, company or other entity, no act or proceeding has been taken or authorized by or against any such Vendor by any other Person in connection with the dissolution, liquidation, winding up, bankruptcy or insolvency of such Vendor or with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, such Vendor and, to the knowledge of such Vendor, no such proceedings have been Threatened by any other Person.

(2) *Corporate Authorizations.* If such Vendor is a corporation, company or other entity, the execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate or other action on the part of such Vendor and its shareholders, as applicable.

(3) *Enforceability of Vendor's Obligations.* This Agreement constitutes the valid and binding obligation of such Vendor enforceable against such Vendor in accordance with its terms subject to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of the rights of creditors and others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought. Such Vendor (i) is not an insolvent person within the meaning of Applicable Law, (ii) has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof, or otherwise become subject to a composition of creditors, and (iii) no petition in bankruptcy, insolvency or reorganization, or for a receiving order or the appointment of a liquidator, receiver, administrative receiver, administrator, trustee in bankruptcy, compulsory manager or similar officer has been presented in respect of it. Such Vendor will not become an insolvent person as a result of the Closing. There is no Legal Proceeding in progress, or, to the knowledge of such Vendor, pending or Threatened against or affecting such Vendor or affecting the title of such Vendor to any of the Shares. To the knowledge of such Vendor, there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting such Vendor which, in any such case, affects adversely or might affect adversely the ability of such Vendor to enter into this Agreement or to perform its obligations hereunder.

(4) *Ownership of Shares.* The Shares set forth beside the name of such Vendor in Exhibit A are owned by such Vendor as the registered and beneficial owner thereof with good and valid title thereto, free and clear of all Liens and have been validly issued in compliance with Applicable Law and are fully paid and non-assessable. No Person other than the Purchaser has, or has any right capable of becoming, any agreement, option, right or privilege for the purchase or other acquisition from such Vendor of any such Shares. There are no restrictions of any kind on the transfer of the Shares by such Vendor except those set out in the constitutional documents of the Corporation. The Shares, along with the Corporation's treasury shares as held by the Corporation itself, are the only issued and outstanding shares in the capital of the Corporation.

(5) *No Conflict.* The execution, delivery and performance by such Vendor of this Agreement and all other agreements and instruments to be executed by it as contemplated herein does not and will not (including with the giving of notice, the passage of time or the happening of any other event or circumstance):

- (a) result in a breach or a violation of, conflict with, or cause the termination or revocation of, any authorization held by such Vendor necessary to the ownership of the Shares;
 - (b) result in or require the creation of any Lien upon any of its Shares; or
 - (c) result in a breach or a violation of, or conflict with (i) any of the terms, conditions or provisions of the constitutional documents or by-laws of such Vendor, as applicable, (ii) any Order binding on such Vendor, (iii) any Law applicable to such Vendor, or (iv) any Contract binding on or affecting such Vendor or its Shares.
- (6) *Authorizations and Consents.* There is no requirement for such Vendor to make any filing with, give any notice to, or obtain any Consent of any Governmental Authority or consent of any Person who is a party to a Contract binding on or affecting such Vendor, as a result of, or in connection with, or as a condition to the lawful completion of, the transactions contemplated by this Agreement.
- (7) *No Brokers' Fees.* Except as disclosed in Section 2.1(7) of the Disclosure Letter, neither the Purchaser, the Corporation nor any Subsidiary will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by such Vendor.

2.2 Representations and Warranties of the Vendors with respect to the Corporation and the Subsidiaries.

(1) *Organization of the Corporation and the Subsidiaries.* The information set out in Section 2.2(1) of the Disclosure Letter concerning the name and jurisdiction of incorporation, the authorized, issued and outstanding shares and the directors and officers of the Corporation and of each Subsidiary is true and complete. The Corporation and each Subsidiary is incorporated, organized and validly subsisting under the laws of its jurisdiction of incorporation and no steps have been taken to terminate or change the corporate existence of the Corporation or of any Subsidiary in any way. Except as set out in Section 2.2(1) of the Disclosure Letter, the Corporation and the Subsidiaries have never conducted the Business under any name other than their respective current corporate names. Except as set out in Section 2.2(1) of the Disclosure Letter, there are no shareholders' agreements governing the affairs of the Corporation or any Subsidiary or the relationship, rights and duties of its shareholders, nor are there any voting trusts, pooling arrangements or other similar agreements with respect to the ownership or voting of any shares of the Corporation or any Subsidiary. The Corporation is the registered and beneficial owner of all the shares in the capital of each of the Subsidiaries, except **[Redacted – Ownership of the Subsidiaries.]**, with good and valid title thereto, free and clear of all Liens, and all such shares have been validly issued in compliance with Applicable Law and are fully paid and non-assessable. **[Redacted – Ownership of the Subsidiaries.]** There are no rights, subscriptions, warrants, options, conversion rights, calls, commitments or plans or agreements of any kind outstanding which would enable any Person to purchase or otherwise acquire any shares or other securities of the Corporation or any Subsidiary including, without limitation, any securities convertible into or exchangeable or exercisable for shares or other securities of the Corporation or any Subsidiary. Except as set out in Section 2.2(1) of the Disclosure Letter, neither the Corporation nor any Subsidiary has a direct or indirect interest in any other Person.

(2) *Qualification to do Business.* The Corporation and each Subsidiary is registered, licensed or otherwise qualified to do business under the laws of the jurisdictions specified in Section 2.2(2) of the Disclosure Letter and neither the character nor the location of the properties and assets owned by the Corporation or any Subsidiary nor the nature of the Business requires registration, licensing or other qualification under the laws of any other jurisdiction. The Corporation and each Subsidiary has all necessary corporate power, authority, and capacity to carry on the Business and to own or lease and operate its property and assets as now carried on and owned or leased and operated.

(3) *Corporate Records.* The corporate records of the Corporation and each Subsidiary have been maintained in accordance with Applicable Law and contain true, correct and complete copies of its constitutional documents, its by-laws, the minutes of every meeting of its board of directors and every

committee thereof and of its shareholders and every written resolution of its directors and shareholders. All meetings of directors and shareholders of the Corporation and each Subsidiary have been duly called and held and all resolutions have been duly passed in accordance with Applicable Law at such meetings or by written resolution. The share register (including its annexes) and the register of directors and officers of the Corporation and each Subsidiary are complete and accurate in all respects.

(4) *Bankruptcy, Insolvency and Reorganization.* Neither the Corporation nor any Subsidiary is an insolvent person within the meaning of Applicable Law nor has either the Corporation or any Subsidiary made an assignment in favour of its creditors nor a proposal in bankruptcy to its creditors or any class thereof nor become subject to a composition of creditors nor had any petition in bankruptcy, insolvency or reorganization for a receiving order or the appointment of a liquidator, receiver, administrative receiver, administrator, trustee in bankruptcy, compulsory manager or similar officer presented in respect of it. Neither the Corporation nor any Subsidiary has initiated 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 the Corporation, any Subsidiary, or any of their respective property or assets and no execution or distress has been levied upon any of their property or assets. No act or proceeding has been taken or authorized by or against the Corporation or any Subsidiary with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, the Corporation or any Subsidiary nor have any such proceedings been authorized by any other Person.

(5) *Financial Statements.* The Annual Financial Statements have been prepared in accordance with GAAP consistently applied throughout the periods to which they relate, unless otherwise disclosed in the Financial Statements. The Interim Financial Statements are materially in accordance with the respective accounting standards applicable in the local jurisdictions in which the Corporation and the Subsidiaries operate except that they are not required to contain all relevant disclosures and year-end adjustments as compared to Financial Statements. The balance sheets contained in the Financial Statements fairly present the financial position of the Corporation and the Subsidiaries as of their respective dates and the statements of earnings and retained earnings contained in the Financial Statements fairly present the revenues, earnings and results of operations for the periods indicated. The Financial Statements are accurate and complete in all material respects and are based upon and are consistent with the Books and Records.

(6) *Books and Records.* The Vendors have made available to the Purchaser all Books and Records as requested by the Purchaser to assess the transactions contemplated by this Agreement. All material financial transactions of the Corporation and the Subsidiaries have been accurately recorded in the Financial Records in accordance with sound business and financial practice and the Financial Records accurately reflect on a material basis the financial condition and the revenues, expenses and results of operations of the Corporation and the Subsidiaries as of and to the date hereof. All Books and Records are in the full possession and exclusive control of, and are owned exclusively by, the Corporation or a Subsidiary and are not dependent upon any computerized or other system, program or device that is not exclusively owned and controlled by the Corporation or a Subsidiary.

(7) *Title to and Sufficiency of Assets.* The Corporation and each Subsidiary has good and marketable legal and beneficial title to all of its property and assets, free and clear of any and all Liens. The property and assets owned and leased by the Corporation and the Subsidiaries constitute all of the property and assets used or held for use in connection with the Business and are sufficient to permit the continued operation of the Business in substantially the same manner as conducted as of the date hereof and during the year ended on the date of the most recent Annual Financial Statements. Section 2.2(7) of the Disclosure Letter sets out a complete and accurate list of all locations where the property and assets of the Corporation and each Subsidiary are situated. There is no agreement, option or other right or privilege outstanding in favour of any Person for the purchase from the Corporation or any Subsidiary of the Business or any part thereof or of any of the property or assets of the Corporation or any Subsidiary, other than the purchase of Inventories in the Ordinary Course of Business.

- (8) *Real Property.*
- (a) Section 2.2(8) of the Disclosure Letter sets out the local address for all of the Real Property. The Corporation or a Subsidiary has good and marketable title to the Real Property free and clear of all Liens. The information set out in Section 2.2(8) of the Disclosure Letter is true and complete.
- (b) The Owned Real Property and the current use of Real Property comply with Applicable Law. No notice of violation of any Applicable Law or of any covenant, restriction, easement or servitude affecting the Real Property or any part of it or with respect to the use or occupancy of the Real Property or any part of it has been given by any Governmental Authority having jurisdiction over the Real Property or by any other Person entitled to enforce the same. There are no existing, to the knowledge of the Vendors, or proposed, contemplated or Threatened expropriation proceedings that would result in the taking of all or any part of the Real Property or that would adversely affect the current use of the Real Property or any part of it.
- (c) The Improvements on the Owned Lands are located wholly within the boundaries of the Owned Lands and do not encroach upon any registered or unregistered easement, servitude or right-of-way affecting the Owned Lands. There is no encroachment onto the Owned Lands by Improvements on any adjoining lands. The Improvements on the Owned Lands have been constructed in a good and workmanlike manner and in compliance with Applicable Law. The Improvements on the Owned Lands are in good operating condition and repair, and are suitable and adequate for the purposes for which they have been designed. All amounts for labour and materials relating to the construction and repair of the Improvements on the Owned Lands have been paid in full and no one has a right to file a construction, builders', mechanics' or similar lien in respect of the payment of such amounts under any Applicable Law. Except as in accordance (i.e. not in violation) with Applicable Law, the Improvements on the Owned Lands have not been insulated with any Hazardous Substance and the Real Property does not contain any Hazardous Substance except in accordance with Applicable Law.
- (d) All Taxes with respect to the Owned Real Property that are due have been paid in full, and there are no local improvement charges or special levies outstanding in respect of the Owned Real Property and neither the Corporation nor any Subsidiary has received any notice of proposed local improvement charges or special levies. The Vendors have not received notice and have no other information or knowledge of any work orders, deficiency notices or other similar notices of non-compliance issued by any Governmental Authorities or otherwise with respect to the Real Property that are outstanding requiring or recommending that work or repairs in connection with the Real Property or any part thereof are necessary, desirable or required. Each part of the Real Property has passed all inspections of all Governmental Authorities having jurisdiction over it.
- (9) *Leased Premises.*
- (a) Section 2.2(9) of the Disclosure Letter lists all the Premises Leases and sets out, in respect of each Premises Lease: (i) the local address and applicable unit or premises leased; (ii) the date of the Premises Lease and any amendments to it; and (iii) the original parties to the Premises Lease and any amendment.
- (b) Each Premises Lease is valid and subsisting, in full force and effect, unamended by oral or written agreement, and the Corporation or a Subsidiary, as the case may be, is entitled to the full benefit and advantage of each Premises Lease in accordance with its terms. Each Premises Lease is in good standing and there has not been any default by any

party under any Premises Lease nor is there any dispute between the Corporation or a Subsidiary, as the case may be, and any landlord under any Premises Lease.

- (c) A full copy of each Premises Lease has been delivered to the Purchaser. There are no arrears of rent, except as disclosed in the Annual Financial Statements or Interim Financial Statements, or other defaults under any Premises Lease nor are there any disputes between the parties thereto.
- (d) None of the Premises Leases has been assigned by the Corporation or a Subsidiary in favour of any Person.

(10) *Personal Property.* Section 2.2(10) of the Disclosure Letter lists each item of Personal Property owned by the Corporation and each Subsidiary which had a book value in the Financial Records of the Corporation or such Subsidiary, as the case may be, at the date of the most recent Annual Financial Statements, of more than **[Redacted – Materiality threshold.]** or is otherwise material to the Business. No Personal Property owned by the Corporation or a Subsidiary is in the possession of a third party and neither the Corporation nor its Subsidiaries has assets on consignment. Each item of Personal Property is in good operating condition and repair, ordinary wear and tear excepted, and is suitable and adequate for the purpose for which it is being used.

(11) *Contracts.* Section 2.2(11) of the Disclosure Letter lists or identifies all Material Contracts. Except as set out in Section 2.2(11) of the Disclosure Letter, there are no ongoing contractual negotiations that if they were completed would result in a Material Contract. Except as disclosed in Section 2.2(11) of the Disclosure Letter, neither the Corporation nor any Subsidiary is a party to any Contract with any current or former director, officer or Employee of the Corporation or any Subsidiary or with any Affiliate of the Corporation or any Subsidiary. Neither the Corporation nor any Subsidiary is, nor to the knowledge of the Vendors, is any other party to any Material Contract in default under any Material Contract and there has not occurred any event which, with the lapse of time or giving of notice or both, would constitute a default under any Material Contract by the Corporation, any Subsidiary or any other party to the Material Contract. Each Material Contract is in full force and effect, unamended by written or oral agreement, and the Corporation or a Subsidiary, as the case may be, is entitled to the full benefit and advantage of each Material Contract in accordance with its terms. Neither the Corporation nor any Subsidiary has received any notice of a default by the Corporation or such Subsidiary or under any Material Contract or of a dispute between the Corporation or a Subsidiary, as the case may be, and any other Person in respect of any Material Contract. Except as disclosed in Section 2.2(11) of the Disclosure Letter, no Consent is required nor is any notice required to be given under any Contract by any party thereto or any other Person in connection with the completion of the transactions contemplated by this Agreement in order to maintain all rights of the Corporation or a Subsidiary, as the case may be, under such Contract. The completion of the transactions contemplated by this Agreement will not (i) afford any party to any of the Leases or other Contracts or any other Person the right to terminate any Lease or other Contract, (ii) result in any additional or more onerous obligation on the Corporation or a Subsidiary under any Lease or other Contract, or (iii) result in an event which, pursuant to the terms of any Contract or Lease, would cause any right or interest of the Corporation or any Subsidiary to be amended in any way that is detrimental to the Business.

(12) *Receivables.* All Receivables are recorded in the Financial Records of the Corporation or a Subsidiary, as the case may be, and the Receivables are valid obligations which arose in the Ordinary Course of Business and are not subject to any set-off or counterclaim.

(13) *Inventories.* To the knowledge of the Vendors and unless otherwise disclosed in Section 13 of the Disclosure Letter, the Inventories consist of items that are current and of good and merchantable quality and not subject to any write-down or write-off. The portion of the Inventories consisting of finished products is, to the knowledge of the Vendors and unless otherwise disclosed in Section 13 of the Disclosure Letter, saleable in the Ordinary Course of Business at normal prices. The portion of the Inventories consisting of raw materials and work-in-progress, is, to the knowledge of the Vendors and unless otherwise disclosed in Section 13 of the Disclosure Letter, of a quality useable in the

production of finished products. Current Inventory levels are consistent with the level of Inventories that has been maintained in the operation of the Business prior to the date hereof in accordance with the operation of the Business in the Ordinary Course of Business.

(14) *Intellectual Property.*

- (a) The Corporation or a Subsidiary has properly and diligently protected the Owned Intellectual Property. Section 2.2(14)(a) of the Disclosure Letter lists all of the registrations and applications for registration of the Intellectual Property and all common law trade-marks included in the Intellectual Property. All of the registrations and applications for registration of the Intellectual Property are subsisting, in good standing, valid and recorded in the name of the Corporation or a Subsidiary. During the last ten years, no application for registration of any Trade-Mark and during the last five years, no application for registration of any Intellectual Property other than a Trade-Mark has been rejected, withdrawn or opposed. Further, to the knowledge of the Vendors, prior to the last ten years, no application for registration of any Trade-Mark and, prior to the last five years, no application for registration of any Intellectual Property other than a Trade-Mark, has been rejected, withdrawn or opposed.
- (b) All of the Corporation's or Subsidiaries' permissions and licences to use the Intellectual Property of other Persons (including Software) are disclosed in Section 2.2(14)(b) of the Disclosure Letter. Neither the Corporation nor any Subsidiary has permitted or licensed any Person to use any of the Intellectual Property except as disclosed in Section 2.2(14)(b) of the Disclosure Letter. Each licence referred to in Section 2.2(14)(b) of the Disclosure Letter is in full force and effect and neither the Corporation, any Subsidiary nor any licensor or licensee is in material default of its obligations thereunder.
- (c) The Intellectual Property listed in Section 2.2(14)(a) of the Disclosure Letter and in Section 2.2(14)(b) of the Disclosure Letter constitutes all of the Intellectual Property (Owned Intellectual Property and Licensed-In Intellectual Property of the Corporation or a Subsidiary) used and otherwise exploited by the Corporation and the Subsidiaries in the Business. The Vendor has the right to sell, transfer and assign all rights, titles, interests and benefits the Owned Intellectual Property and all of the Corporation's and the Subsidiaries' rights, interests and benefits in and to the Licensed-In Intellectual Property.
- (d) During the last ten years, no Person, including any Employees or former Employees, consultants or independent contractors retained by the Corporation or by any Subsidiary, has challenged the validity of any of the registrations or applications for registration of the Intellectual Property or the Corporation's or Subsidiaries' rights to any of the Intellectual Property. Further, to the knowledge of the Vendors, no Person, including any Employees or former Employees, consultants or independent contractors retained by the Corporation or by any Subsidiary, has any valid grounds to challenge the validity of, any of the registrations or applications for registration of the Intellectual Property or the Corporation's or Subsidiaries' rights to any of the Intellectual Property.
- (e) Neither the use of the Intellectual Property by the Corporation or any Subsidiary nor the conduct of the Business has infringed, or, to the knowledge of the Vendors, currently infringes upon the intellectual property rights of any other Person nor has the Corporation or any Subsidiary misappropriated or violated the intellectual property rights of any other Person. The Corporation has not received any notice of infringement, misappropriation or violation nor, to the knowledge of the Vendors, are there any facts that could reasonably be expected to form the basis of Legal Proceedings which could constitute a bona fide claim for infringement, misappropriation or violation of the intellectual property rights of another Person by the Corporation or a Subsidiary. There are no Legal Proceedings relating to the Intellectual Property which are currently outstanding or, to the knowledge of the Vendors, Threatened.

- (f) To the knowledge of the Vendors, no Person has infringed, misappropriated or violated any of the Corporation's or Subsidiaries' rights to the Intellectual Property, nor, to the knowledge of the Vendors, are there any facts that could form the basis for a claim of infringement, misappropriation or other violation. The Know-How is and remains confidential to the Corporation or a Subsidiary. There is no prohibition or restriction on the use of the Intellectual Property by any Governmental Authority.

(15) *Permits and Compliance with Applicable Law.* The Permits are the only licences, permits, authorizations, approvals or evidences of authority of any Governmental Authority required for the operation of the Business and are held by the Corporation or a Subsidiary free and clear of any and all Liens. The Business is being conducted by the Corporation and the Subsidiaries in material compliance with all terms and conditions of the Permits and in material compliance with Applicable Law. All the Permits are valid and are in full force and effect, neither the Corporation nor any Subsidiary is in material violation of any term or provision or requirement of any Permit, and, to the knowledge of the Vendors, no Person has Threatened to revoke, amend or impose any condition in respect of, or commenced proceedings to revoke, amend or impose conditions in respect of, any Permit. Except as disclosed in Section 2.2(20) of the Disclosure Letter, no Regulatory Approval is required in connection with the transactions contemplated by this Agreement or in order to maintain any Permit in full force and effect and in good standing after Closing. The execution, delivery and performance of this Agreement by the Vendors and the completion (with any required Consents and Regulatory Approvals and the giving of any required notices) of the transactions contemplated by this Agreement do not and will not result in or constitute (i) a default, breach or violation or an event that, with notice or lapse of time or both, would be a default, breach or violation of any of the terms, conditions or provisions of any Permit or (ii) an event which, pursuant to the terms of any Permit, would cause any right or interest of the Corporation or any Subsidiary to come to an end or be amended in any way that is detrimental to the Business or entitle any other Person to terminate or amend any such right or interest or relieve any other Person of its obligations thereunder.

(16) *Compliance with Anti-Corruption Laws and Absence of Certain Business Practices.* To the knowledge of the Vendors, none of the Corporation, any Subsidiary, or any of their respective Representatives, in carrying out or representing the Business anywhere in the world, have violated any anti-corruption laws of any jurisdiction where the Business is carried on. None of the Corporation, any Subsidiary, or any of their respective Representatives, contractors or joint venture partners or any other Person associated with or acting for or on their respective behalf in connection with the Business, have directly or indirectly (i) made any contribution or gift which contribution or gift is in violation of any Applicable Laws, or any bribe, rebate, payoff, influence payment, kickback or other payment to any Person, regardless of form, whether money, property or services which is in violation of any Applicable Laws (a) to obtain favourable treatment in securing business, (b) to pay for favourable treatment of business secured, or (c) to obtain special concessions or for special concessions already obtained, for or in respect of any of the Corporation, the Subsidiaries or the Business, or (ii) established or maintained any fund or asset that has not been recorded in the Books and Records.

(17) *Undisclosed Liabilities.* Except as set forth in Section 2.2(17) of the Disclosure Letter, neither the Corporation nor any Subsidiary has any material liabilities (which includes Net Financial Debt) or material obligations of any nature (whether known or unknown, liquidated or unliquidated, due or to become due and whether absolute, accrued, contingent or otherwise) except for liabilities and obligations disclosed or provided for in the most recent Annual Financial Statements or Interim Financial Statements and current liabilities incurred in the Ordinary Course of Business since the date of such Annual Financial Statements. Without limiting the foregoing, neither the Corporation nor any Subsidiary is a party to or bound by any agreement, contract or commitment providing for the guarantee, indemnification, assumption or endorsement with respect to the obligations or liabilities (which includes Net Financial Debt), contingent or otherwise, of any other Person.

(18) *Absence of Certain Changes or Events.* Except as disclosed in Section 1.2(18), since the date of the most recent Annual Financial Statements, the Corporation and the Subsidiaries have

carried on the Business in the Ordinary Course of Business, and, in particular, but without limitation, neither the Corporation nor any Subsidiary has:

- (a) suffered any Material Adverse Change and, to the knowledge of the Vendors, no event has occurred nor do any circumstances exist which could result in a Material Adverse Change;
- (b) amended its constitutional documents or by-laws or similar document adopted or filed in connection with the creation, formation or organization of the Corporation or the Subsidiary, as the case may be;
- (c) directly or indirectly, declared, set aside for payment or paid any dividend or made any other payment or distribution on or in respect of any of its shares;
- (d) disposed of or revalued any of the material assets reflected on the balance sheet forming part of the most recent Annual Financial Statements, except sales of Inventory in the Ordinary Course of Business;
- (e) made any changes in its accounting principles, policies, practices or methods;
- (f) except as set forth in Section 2.2(18)(f) of the Disclosure Letter, suffered any operating loss or extraordinary loss or cancelled or waived any Net Financial Debt, claim or other right;
- (g) incurred or assumed any material liabilities (including any Net Financial Debt) or obligations of any nature, whether absolute, accrued, contingent or otherwise, except unsecured current liabilities incurred in the Ordinary Course of Business;
- (h) mortgaged, pledged, granted a security interest in or otherwise created a Lien on any of its property or assets, except in the Ordinary Course of Business and in amounts which, individually and in the aggregate are not material to the financial condition of the Corporation or the Subsidiary, as the case may be, or to the operation of the Business;
- (i) entered into any contract or any other transaction that was not in the Ordinary Course of Business;
- (j) terminated, cancelled, modified or amended in any material respect or received notice or a request for termination, cancellation, modification or amendment of any Material Contract or taken or failed to take any action that would entitle any party to a Material Contract to terminate, modify, cancel or amend any Material Contract;
- (k) given or agreed to give or become a party to or bound by any guarantee, surety or indemnity in respect of Net Financial Debt or other obligations or liabilities of any other Person or become a party to any other commitment by which the Corporation or the Subsidiary, as the case may be, is, or is contingently, responsible for such Net Financial Debt or other liability or obligation;
- (l) incurred any extraordinary damage, destruction or loss with respect to any of the assets or properties of the Corporation or any Subsidiary (whether or not insured);
- (m) purchased or otherwise acquired any interest in any securities of any other Person;
- (n) made any capital expenditure or authorized any capital expenditure or made any commitment for the purchase, construction or improvement of any capital assets except in the Ordinary Course of Business;

- (o) discharged, settled or satisfied any material Legal Proceedings, other than Legal Proceedings reflected in the most recent Annual Financial Statements and for amounts not in excess of the amount reserved against therein;
- (p) increased the salary, benefits, bonuses or other compensation of its officers, directors or Employees except in the Ordinary Course of Business, or adopted any Employee Plan; or
- (q) agreed, committed or otherwise become committed to do any of the foregoing.

(19) *Banking Information.* Section 2.2(19) of the Disclosure Letter sets forth the name and location (including local address) of each bank, trust company or other institution in which the Corporation or a Subsidiary has an account, money on deposit or a safety deposit box and the name of each Person authorized to draw thereon or to have access thereto and the name of each Person holding a power of attorney from the Corporation or a Subsidiary and a summary of the terms thereof.

(20) *Regulatory Approvals.* Except as set forth in Section 2.2(20) of the Disclosure Letter, no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority is required to be obtained or made by the Vendors: (a) in connection with the execution and delivery of, and performance by the Vendors of their obligations under, this Agreement or the consummation of the transactions contemplated hereby; (b) to avoid the loss of any Permit; or (c) to permit the Corporation and the Subsidiaries to carry on the Business after the Closing as the Business is currently carried on by the Corporation and the Subsidiaries.

(21) *Absence of Conflicting Agreements.* The execution, delivery and performance of this Agreement by the Vendors and the completion (with any required Consents and Regulatory Approvals and the giving of any required notices) of the transactions contemplated by this Agreement do not and will not result in or constitute (i) the creation or imposition of any Lien on any property or asset of the Corporation or any Subsidiary or (ii) the violation of any Applicable Law.

(22) *Legal Proceedings and Orders.* Except as set forth and described in Section 2.2(22) of the Disclosure Letter, there is no Legal Proceeding in progress, or, to the knowledge of the Vendors, pending or Threatened against or affecting the Corporation or any Subsidiary, or any of their respective officers or directors in their capacity as such, or any of their respective properties or assets or title thereto, nor is there any factual or legal basis on which any such Legal Proceeding might be commenced. Except as set forth and described in Section 2.2(22) of the Disclosure Letter, there is no Order outstanding against or affecting the Corporation or any Subsidiary or any of their respective properties or assets. Without limiting the generality of the foregoing, except as set forth and described in Section 2.2(22), there is no Legal Proceeding involving any product liability claim in progress, or, to the knowledge of the Vendors, pending or Threatened against or affecting the Corporation or any Subsidiary alleging any defect in, or failure to warn concerning any risks or damages inherent in, the design or manufacture of or the materials used in any of the products manufactured or distributed by or for the Corporation or any Subsidiary. There are no internal investigations or inquiries being conducted by the Corporation, any Subsidiary or, to the knowledge of the Vendors, any third party at the request of any of the foregoing concerning any financial, accounting, Tax, conflict of interest, illegal activity, fraudulent or deceptive conduct or other misfeasance or malfeasance issues.

(23) *Environmental Matters.*

- (a) The Business and the property and assets as carried on or used by the Corporation and the Subsidiaries have been carried on and used and are currently carried on and used in material compliance with all Environmental Laws.
- (b) The Corporation and the Subsidiaries have not used any of their property or assets, or permitted them to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce or process any Hazardous Substance except in

compliance with all Environmental Laws. No part of the Real Property or other assets of the Corporation or the Subsidiaries contains a Hazardous Substance (i) other than in material compliance with Environmental Laws, or (ii) which exceeds an applicable soil, groundwater or other environmental, health or safety criterion or standard published or enacted by a Governmental Authority having jurisdiction over the Real Property or other assets of the Corporation or the Subsidiaries.

- (c) There are no Legal Proceedings in progress, or, to the knowledge of the Vendors, pending or Threatened to which either the Corporation or any Subsidiary is subject (i) investigating or alleging the violation or possible violation of any Environmental Law, (ii) to determine whether any study or remedial action is required to respond to a Release or the presence of a Hazardous Substance on the Lands, or (iii) requiring or alleging responsibility of the Corporation or any Subsidiary for remediation, clean-up or corrective action of any kind pursuant to any Environmental Law.
 - (d) The Corporation and each Subsidiary have maintained all environmental and operating documents and records in the manner and for the time periods required by any Environmental Law and have never conducted an environmental audit of the Business or any of the property or assets of the Corporation or any Subsidiary. For purposes of this paragraph (e), an environmental audit includes any evaluation, assessment, review or study performed at the request of or on behalf of the Corporation, any Subsidiary, prospective purchaser of the Business or the property or assets of the Corporation or any Subsidiary or Governmental Authority, whether formally requisitioned or otherwise prepared. There are no underground storage tanks, pits, lagoons, waste disposal sites, above-ground storage tanks or materials or other assets containing asbestos or polychlorinated biphenyls located on the Real Property.
 - (e) The Corporation and the Subsidiaries have not, by contract or pursuant to Environmental Law, assumed or retained any liability or obligation pertaining to environmental matters as a result of the acquisition or disposition of any assets or real property.
- (24) *Employment Matters.*
- (a) A list or lists of all the Employees, and other Persons who are not Employees who are receiving remuneration for work or services provided to the Corporation or any Subsidiary, as of the date of this Agreement, has been provided to the Purchaser in the Data Room, including information on the age, position, status, length of service, location of employment, compensation and benefits of each Employee and the terms on which each other Person who is providing work or services to the Corporation or any Subsidiary is engaged. Except as set out in Section 2.2(24) of the Disclosure Letter, no Employee is on long-term disability leave, receiving benefits pursuant to any Applicable Law or otherwise an inactive Employee.
 - (b) Except as set out in Section 2.2(24) of the Disclosure Letter, neither the Corporation nor any Subsidiary is a party to or bound by any Contract in respect of any Employee or former Employee, which provides such Employee or former Employee with termination or severance entitlements in excess of those required by Applicable Law. Neither the Corporation nor any Subsidiary (i) has paid nor will it be required to pay any retention, bonus, fee, distribution, remuneration or other compensation to any Person (other than salaries, wages or bonuses paid or payable in the Ordinary Course of Business in accordance with current compensation levels and practices as set out in Section 2.2(24) of the Disclosure Letter), (ii) has forgiven, nor will it be required to forgive, any Net Financial Debt of any Person, or (iii) has increased, nor will it be required to increase, any benefits otherwise payable by the Corporation or any Subsidiary, as a result of the transactions contemplated by this Agreement.

- (c) All of the Persons who are receiving remuneration for work or services provided to the Corporation or any Subsidiary who are not Employees are treated as independent contractors, are properly characterized as independent contractors and are not likely to be characterized by any Governmental Authority as Employees. The Corporation and each Subsidiary is in material compliance with all Applicable Laws respecting employment, employment practices and standards, terms and conditions of employment, wages and hours, occupational health and safety, human rights, accessibility, labour relations, employment equity, pay equity and workers' compensation. Neither the Corporation nor any Subsidiary is a party to any application, complaint or other Legal Proceeding under any Applicable Law relating to Employees or former Employees nor are the Vendors aware of any factual or legal basis on which any such Legal Proceeding might be commenced. To the knowledge of the Vendors, none of the Employees or other Persons who are receiving remuneration for work or services provided to the Corporation or any Subsidiary is in violation of any non-competition, non-solicitation, non-disclosure or any similar agreement with any third party.
- (d) Except as set out in Section 2.2(24) of the Disclosure Letter, neither the Corporation nor any Subsidiary is a party to or bound by, either directly or by operation of Applicable Law, any collective agreement, labour contract, letter of understanding, letter of intent, voluntary recognition agreement or legally binding commitment or written communication to any labour union, trade union or employee organization or group which may qualify as a trade union in respect of or affecting Employees or independent contractors nor is the Corporation or any Subsidiary subject to any union organization effort.
- (e) There is no strike, labour dispute, work slow-down or stoppage, to the knowledge of the Vendors, pending or Threatened against the Corporation or any Subsidiary nor has there been any such strike, labour dispute, work slow-down or stoppage within the last three years. Neither the Corporation nor any Subsidiary is currently engaged in any labour negotiation. There is no grievance or arbitration proceeding arising out of or under any collective agreement which is, to the knowledge of the Vendors, pending or Threatened against the Corporation or any Subsidiary. Neither the Corporation nor a Subsidiary has engaged in any unfair labour practice nor are the Vendors aware of any pending or Threatened complaint regarding any alleged unfair labour practice or other Legal Proceeding relating to Employees or former Employees.
- (f) All current assessments under Applicable Laws governing workplace health and safety in the jurisdiction where the Corporation or any Subsidiary has Employees, that relate to either the Corporation or a Subsidiary, have been paid or accrued, and the Corporation and each Subsidiary has not been subject to any specialty or penalty assessment under such Applicable Laws which has not been paid.
- (g) To the knowledge of the Vendors, there are no outstanding inspection orders made under Applicable Laws governing workplace health and safety in the jurisdiction where the Corporation or any Subsidiary has Employees, relating to the Corporation, any Subsidiary or the Business. The Corporation and each Subsidiary is operating in compliance with all occupational health and safety laws. To the knowledge of the Vendors, there are no pending or Threatened charges against the Corporation or any Subsidiary under occupational health and safety laws. There have been no fatal or critical accidents which have occurred in the course of the operation of the Business which might lead to charges under the Applicable Laws governing workplace health and safety in the jurisdiction where the Corporation or any Subsidiary has Employees. The Corporation and each Subsidiary has complied in all material respects with any Orders issued under occupational health and safety laws.

(25) *Employee Plans.*

- (a) Section 2.2(25) of the Disclosure Letter sets forth a true, complete, up-to-date and accurate list of all the Employee Plans. The Vendors have furnished to the Purchaser true, correct, up-to-date and complete copies of all the Employee Plans (or, where oral, written summaries of the material terms thereof) as amended as of the date hereof together with all related documentation including current and past documents and all amendments thereto.
- (b) All of the Employee Plans have been established, registered (where required), funded, invested and administered in material compliance with, and are in good standing under, all Applicable Laws, the terms of such Employee Plans and all applicable collective agreements and in material compliance with all understandings, written or oral, between the Corporation or any Subsidiary, on the one hand, and the Employees or former Employees, on the other hand. No advance tax rulings or interpretations have been sought, issued or received in respect of any Employee Plan.
- (c) The Corporation and the Subsidiaries maintain all requisite pension plans and social security arrangements under Applicable Laws. There is no funding deficit under any of the pension plans relating to the Corporation, the Subsidiaries or their Employees. No material amendments or improvements to any Employee Plan have been promised by the Corporation or any Subsidiary and no material amendments or improvements to any Employee Plan will be made or promised by the Corporation or any Subsidiary prior to Closing. No changes have occurred to the Employee Plans or are expected to occur which would affect any of the Financial Statements. The Corporation or its Subsidiary, as the case may be, may unilaterally amend, modify, vary, revise, revoke, or terminate, in whole or in part, each Employee Plan, subject to Applicable Laws.
- (d) All contributions or premiums required to be made by the Corporation and each Subsidiary under the terms of each Employee Plan, any collective agreement or by Applicable Laws have been made in a timely fashion in accordance with Applicable Laws and the terms of the Employee Plans and any applicable collective agreement, and neither the Corporation nor any Subsidiary has, nor as of the Closing Date will have, any actual or potential unfunded liabilities (other than liabilities accruing after the Closing Date or disclosed in the Interim Financial Statements) with respect to any of the Employee Plans. All liabilities of the Corporation and each Subsidiary (whether accrued, absolute, contingent or otherwise) related to all Employee Plans have been fully and accurately disclosed in accordance with GAAP in the Annual Financial Statements. No insurance policy or other contract or agreement affecting any Employee Plan requires or permits a retroactive increase in premiums or payments due thereunder.
- (e) To the knowledge of the Vendors, no Employee Plan is subject to any pending, Threatened or anticipated investigation, examination or other Legal Proceeding, initiated by any Governmental Authority or by any other Person (other than routine claims for benefits), and there exists no state of facts which after notice or lapse of time or both could reasonably be expected to give rise to any such investigation, examination or other Legal Proceeding.
- (f) None of the Employee Plans creates any ongoing liabilities on the Corporation or any Subsidiary with regard to post-retirement or post-employment benefits to or in respect of the Employees or any former Employees or to or in respect of the beneficiaries of such Employees and former Employees. There exists no liability in connection with any former benefit plan relating to the Employees or former Employees or their beneficiaries that has terminated, and all procedures for termination of each such former benefit plan have been properly followed in accordance with the terms of such former benefit plans and Applicable Law.

(26) *Customers and Suppliers.* The most relevant customers of, and the most relevant suppliers to, the Corporation and each Subsidiary, as disclosed to the Purchaser in the Data Room (were respectively invoiced and paid by the Corporation or any Subsidiary during the last three years and, to the knowledge of the Vendors, no such customer or supplier intends to cease doing business with the Corporation or any Subsidiary or to modify or change in any material manner any existing arrangement with the Corporation or any Subsidiary for the purchase or supply of any products or services. To the knowledge of the Vendors, the relationships of the Corporation and each Subsidiary with each of its largest suppliers and customers are satisfactory, and there are no unresolved disputes with any such supplier or customer.

(27) *Transactions with Affiliates et al.* Except as provided for in Section 2.2(27) of the Disclosure Letter, neither the Corporation nor any Subsidiary is liable in respect of Indebtedness or other obligations to or on behalf of any shareholder, officer, director, Employee or Affiliate of the Corporation or any Subsidiary, or associates or relatives of any of the foregoing, or any other Person with whom the Corporation or any Subsidiary does not deal at arm's length. Except as provided in Section 2.2(27) of the Disclosure Letter, there are no services provided to the Corporation or any Subsidiary by any Vendor or by any Affiliate of such Vendor. No officer or director of the Corporation or any Subsidiary owns any material interest in any competitor, customer or supplier of the Corporation or any Subsidiary.

(28) *Products and Services.* The products produced by the Corporation and the Subsidiaries have been manufactured in accordance with, and, in all material respects, meet all requirements of, Applicable Laws and meet the specifications in all Contracts with customers of the Corporation and the Subsidiaries relating to the sale of such products. Except as disclosed in Section 2.2(28) of the Disclosure Letter, there have, in the last three years, been no undisclosed warranty claims and product returns. Without limiting the generality of Section 1.2(22), there are no claims against the Corporation or any Subsidiary pursuant to any product warranty or with respect to the production, distribution or sale of defective or inferior products or with respect to any warnings or instructions concerning such products. All services provided by the Corporation and the Subsidiaries to their respective customers have been provided in material compliance with Applicable Laws and the terms of all Contracts relating thereto. Section 2.2(28) of the Disclosure Letter sets out details respecting warranty claims and product returns for each of the three years preceding the date of this Agreement. Neither the Corporation nor any Subsidiary has, nor have any of the Corporation or the Subsidiaries had in the last three (3) years any, material liability or potential material liability (and there is no basis for any present or future material claim or proceeding against any of the Corporation or the Subsidiaries giving rise to any material liability) arising out of any injury to individuals or property as a result of the ownership, possession or use of any product designed, engineered, manufactured, sold, leased, distributed, installed, delivered or serviced by any of the Corporation or the Subsidiaries.

(29) *Insurance.*

- (a) The Corporation and the Subsidiaries maintain fire (with extended risk and casualty coverage), general liability, business interruption, product liability, use and occupancy and other forms of insurance with reputable and sound insurers covering their respective properties and assets and protecting the Business in such amounts and against such losses and claims as are generally maintained for comparable businesses and properties. Section 2.2(29) of the Disclosure Letter sets forth and describes the types of insurance maintained by the Corporation and each Subsidiary, the applicable area/country, the name of the insurer and the policy number (the "**Corporation Policies**"). Each of the Corporation Policies is valid and subsisting and in good standing, there is no default thereunder and the Corporation and each Subsidiary, as the case may be, is entitled to all rights and benefits thereunder.
- (b) Section 2.2(29) of the Disclosure Letter sets forth and describes all pending claims under any of the Corporation Policies. To the knowledge of the Vendors there are no circumstances which might entitle the Corporation or any Subsidiary to make a claim under any of the Corporation Policies or which might be required under any of the

Corporation Policies to be notified to the insurers and no claim under any of the Corporation Policies has been made by the Corporation or any Subsidiary since the date of the most recent Annual Financial Statements.

- (c) No notice of cancellation or non-renewal with respect to, nor disallowance of any claim under, any of the Corporation Policies has been received by the Corporation or any Subsidiary. To the knowledge of the Vendors there are no circumstances or occurrences which would or might form the basis of a material increase in premiums for the current insurance coverage maintained by the Corporation or any Subsidiary.
- (30) *Tax Matters.*
 - (a) The Corporation and each Subsidiary has prepared and filed when due with each relevant Governmental Authority all Tax Returns required to be filed by or on behalf of it in respect of any Taxes. All such Tax Returns are correct and complete in all material respects, and no material fact has been omitted therefrom. No extension of time in which to file any such Tax Returns is in effect. No Governmental Authority has asserted that the Corporation or any Subsidiary is required to file Tax Returns or pay any Taxes in any jurisdiction where it does not do so. The Corporation and each Subsidiary has paid in full and when due all Taxes required to be paid by it, whether or not such Taxes are shown on a Tax Return or on any assessments or reassessments.
 - (b) Except as specified in Section 2.2(30) of the Disclosure Letter, no assessments or reassessments of the Taxes of the Corporation or any Subsidiary are currently the subject of an objection or appeal, no audit by any Governmental Authority of the Corporation or any Subsidiary is currently ongoing and there are no outstanding issues which have been raised and communicated to the Corporation or any Subsidiary by any Governmental Authority. None of the Vendor, the Corporation or any Subsidiary has received any indication from any Governmental Authority that an audit, assessment or reassessment of the Corporation or any Subsidiary is proposed in respect of any Taxes, regardless of its merits. Neither the Corporation nor any Subsidiary has executed or filed with any Governmental Authority any agreement or waiver extending the period for assessment, reassessment or collection of any Taxes.
 - (c) Each of the Corporation and each Subsidiary has withheld from each payment made to any Person, including any of its present or former Employees, officers and directors, all amounts required by Applicable Law to be withheld, and has remitted such withheld amounts within the prescribed periods to the appropriate Governmental Authority. Each of the Corporation and each Subsidiary has remitted pension plan contributions, employment insurance premiums, employer health taxes and other Taxes payable or required to be withheld and remitted by it in respect of the Employees to the appropriate Governmental Authority within the time required under Applicable Law. Each of the Corporation and each Subsidiary has charged, collected and remitted on a timely basis all Taxes as required under Applicable Law on any sale, supply or delivery whatsoever, made by it.
 - (d) Neither the Corporation nor any Subsidiary is party to or bound by any tax sharing agreement and, to the knowledge of the Vendors, to any tax indemnity obligation in favour of any Person or similar agreement in favour of any Person with respect to Taxes (including any advance pricing agreement or other similar agreement relating to Taxes with any Governmental Authority).
 - (e) Neither the Corporation nor any Subsidiary will be required to include in a tax period ending after the Closing Time any amount of net taxable income (after taking into account deductions claimed for such a period that relate to a prior period) attributable to income that accrued, or that was required to be reported for financial accounting purposes in a

prior taxable period but that was not included in taxable income for that or another prior tax period.

- (f) No payment contemplated by this Agreement made by the Purchaser to any Person will subject the Purchaser to any obligation to withhold, collect or remit any Taxes under Applicable Law.
 - (g) The Corporation and each of its Subsidiaries have made adequate provisions for Taxes not yet due and payable, and adequate and timely instalments of Taxes required to be made, and since the Annual Financial Statements, the Corporation and each of its Subsidiaries have only incurred liabilities for Taxes in the Ordinary Course of Business.
 - (h) The Corporation and each of its Subsidiaries have not acquired or had the use of property for proceeds greater than the fair market value thereof from, or disposed of property for proceeds less than the fair market value thereof to, or received or performed services for other than the fair market value thereof from or to any Person with whom it does not deal at arm's length within the meaning of the ITA and/or the Laws of any other jurisdictions.
 - (i) The Corporation and each of its Subsidiaries have complied in all respects (including maintaining appropriate contemporaneous documentation) with all transfer pricing rules applicable to the Corporation and its Subsidiaries under applicable Tax Laws.
- (31) *Privacy Laws.*
- (a) To the knowledge of the Vendors, other than as described in Section 31 of the Disclosure Letter, the Corporation and each Subsidiary has at all times complied with the Privacy Laws.
 - (b) All Personal Information handled by the Corporation and each Subsidiary:
 - (i) has been collected, used or disclosed in accordance with applicable Privacy Laws and with the consent of each individual to which such Personal Information relates, or other appropriate lawful grounds as permitted by the Privacy Laws (if such consent was required under applicable Privacy Laws) or for a purpose in respect of which consent may, under applicable Privacy Laws, be implied; and
 - (ii) has been used only for the purposes for which the Personal Information was initially collected or for a subsequent legitimate purpose for which consent was subsequently obtained, or as otherwise permitted under the Privacy Laws.
 - (c) To the knowledge of the Vendors, in the period of ten (10) years preceding the date of this Agreement, neither the Corporation nor any of the Subsidiaries or Processors has suffered any breach of security leading to the accidental or unlawful loss or theft of, or unauthorized access, destruction, alternation, use or disclosure of Personal Information, and each of the Corporation, the Subsidiaries and the Processors has passed all regulatory audits to which it has been subject.
 - (d) The Corporation and each Subsidiary has or is in the process of doing so as disclosed in Section 31 of the Disclosure Letter:
 - (i) introduced and applied appropriate data protection policies and procedures concerning the collection, use, storage, retention and security of Personal Information and implemented regular staff training, use testing, audits or other

- documented mechanisms to ensure and monitor compliance with such policies and procedures;
- (ii) appointed a data protection officer if required to do so under the Privacy Laws;
 - (iii) maintained complete, accurate and up to date records of all their Personal Information processing activities as required by the Privacy Laws;
 - (iv) carried out and maintained complete, accurate and up to date records of, all data protection impact assessments, as applicable and required by the Privacy Laws;
 - (v) issued appropriate privacy notices to data subjects which are aimed at complying with all applicable requirements of the Privacy Laws;
 - (vi) implemented appropriate technical and organizational measures to protect against the unauthorized or unlawful processing of, or accidental loss or damage to, any Personal Information processed by the Corporation or its Subsidiaries or Processors, and to ensure a level of security appropriate to the risk represented by the processing and the nature of the Personal Information to be protected; and
 - (vii) put in place an adequate data breach response plan that enables the Corporation, its Subsidiaries and Processors to comply with the related requirements of the Privacy Laws.
- (e) The Corporation and each Subsidiary has or is in the process of doing so as disclosed in Section 31 of the Disclosure Letter:
- (i) undertaken appropriate due diligence on any third parties it has appointed to process Personal Information; and
 - (ii) an agreement in place with each Processor which incorporates the terms stipulated by Article 28 of the GDPR, and complies with all other applicable requirements of the Privacy Laws including on international transfers.
- (f) The Corporation and each Subsidiary has measures in place, if they are required or appropriate under the Privacy Laws, to make lawful any and all transfers of Personal Information outside of the European Economic Area, and/or transfers of Personal Information outside of Switzerland.
- (g) The Corporation and each Subsidiary has complied with all data subject requests, including any requests for access to Personal Information, the cessation of specified processing activities or the rectification or erasure of any Personal Information, in each case in accordance with the requirements of the Privacy Laws, and there are, to the knowledge of the Vendors, no such requests outstanding at the date of this agreement.
- (h) To the knowledge of the Vendors, neither the Corporation nor any of the Subsidiaries has in the period of ten (10) years preceding the date of this Agreement received any:
- (i) notice, request, correspondence or other communication from any Supervisory Authority, or been subject to any enforcement action (including any fines or other sanctions), in each case relating to a breach or alleged breach of their obligations under the Privacy Laws; or

- (ii) claim, complaint, correspondence or other communication from any person claiming a right to compensation under the Privacy Laws, or alleging any breach of the Privacy Laws;

and, so far as the Vendors are aware, there is no fact or circumstance that may lead to any such notice, request, correspondence, communication, claim, complaint or enforcement action.

- (i) To the best knowledge of the Vendors, other than as disclosed in Section 31 of the Disclosure Letter, the Corporation and each Subsidiary has duly complied with all applicable notification or registration obligations and paid the appropriate level of fees or charges in respect of their processing activities, in each case as required by the Privacy Laws;

(32) *IT Systems.*

- (a) Except as set out in Section 32 of the Disclosure Letter, all elements of the IT Systems:
 - (i) adequately meet the data processing and other computing needs of the Business as presently conducted;
 - (ii) function, operate, process and compute in accordance with all Applicable Laws;
 - (iii) operate and perform in all material respects in accordance with their documentation and functional specifications and with the service levels set out in the IT Contracts;
 - (iv) have not materially malfunctioned or failed within the past three years.
- (b) Except as out in Section 2.2(32) of the Disclosure Letter:
 - (i) the Corporation or a Subsidiary is the owner of and is in possession of the IT Systems, including but not limited to the object and source code and user manuals for all Software comprised by the Owned Intellectual Property which is used in the Business and the source code and all documentation required for effective use thereof;
 - (ii) the Corporation or a Subsidiary has obtained all necessary rights from third parties to enable their exclusive and unrestricted use of the IT Systems as necessary or desirable to carry out its business, both before and after Closing;
 - (iii) the Corporation or a Subsidiary has not entered into any source code escrow agreements pursuant to which any Software that is Owned Intellectual Property has been deposited by the Corporation or a Subsidiary in favour of a third party;
 - (iv) the IT Contracts are valid and binding and no act or omission has occurred which would, if necessary with the giving of notice or lapse of time, constitute a breach of any such contract; and
 - (v) there are and have been no claims, disputes or proceedings arising or threatened under any of the IT Contracts;
- (c) None of the IT Contracts is liable to be terminated or otherwise materially affected by a change of control of the Corporation or any of the Subsidiaries, and the Vendors have no

reason to believe that any of the IT Contracts will not be renewed on the same or substantially the same terms when they expire.

- (d) The Corporation and the Subsidiaries have implemented appropriate procedures in accordance with best industry practice (including in relation to off-site working where applicable) for ensuring the security of the IT Systems and the confidentiality and integrity of the Data.
- (e) No open-source software (as defined at <http://opensource.org/docs/osd>) or any libraries or code licensed from time to time under the General Public Licence (as set out at <http://www.gnu.org/licenses/gpl.html>) or any similar licence has been included or used in, or in the development of, any element of the IT Systems and no element of the IT Systems operates in such a way that it is compiled with or linked to any of the foregoing;
- (f) The IT Systems were developed in accordance with all applicable Cybersecurity Requirements and comply with all such requirements as at the date of this agreement.

(33) *Commissions.* Except as set out in Section 2.2(33) of the Disclosure Letter, neither the Purchaser, the Corporation nor any Subsidiary will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by the Corporation or any Subsidiary.

(34) *Data Room.* Section 2.2(34) of the Disclosure Letter includes a list of the information posted in the Data Room. No material information regarding the Corporation, the Subsidiaries, the Business or the Shares has been omitted from the collective disclosures made in the Data Room and the Schedules to this Agreement, and (ii) the Data Room does not contain any materially incorrect or misleading information.

(35) *Full Disclosure.* None of the foregoing representations and warranties and no document furnished by or on behalf of the Vendors to the Purchaser in connection with the negotiation of the transactions contemplated by this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary to make any such statement or representation not misleading. To the knowledge of the Vendors there are no facts not disclosed in this Agreement which, if learned by the Purchaser, might reasonably be expected to materially diminish the Purchaser's evaluation of the value of the Shares or which, if learned by the Purchaser, might reasonably be expected to deter the Purchaser from completing the transactions contemplated by this Agreement on the terms of this Agreement.

2.3 Representations and Warranties of the Purchaser.

(1) *Organization of Purchaser.* The Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation. The Purchaser has full power and authority to execute and deliver this Agreement and all other agreements and instruments to be executed by it as contemplated herein and to perform its obligations hereunder and under all such other agreements and instruments.

(2) *Corporate Authorization.* The execution and delivery of this Agreement and all other agreements and instruments to be executed by it as contemplated herein and the completion of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of the Purchaser.

(3) *Enforceability of Purchaser's Obligations.* This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms, subject to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other Laws affecting the enforcement of the rights of creditors and others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are

sought. There is no Legal Proceeding in progress or, to the knowledge of the Purchaser, pending or Threatened against or affecting the Purchaser. To the knowledge of the Purchaser, there are no grounds on which any such Legal Proceeding might be commenced and there is no Order outstanding against or affecting the Purchaser which, in any such case, affects adversely or might affect adversely the ability of the Purchaser to enter into this Agreement or to perform its obligations hereunder.

(4) *No Brokers' Fees.* The Vendors will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any action taken by, or agreement or understanding reached by, the Purchaser.

SCHEDULE 1.15
METHODOLOGY FOR CALCULATING THE FINAL NET FINANCIAL DEBT AND THE FINAL NET
WORKING CAPITAL (see VDR 10.02.01)

[Redacted – Calculation methodology.]