ASSET PURCHASE AGREEMENT

The following Asset Purchase Agreement takes effect on the following date: [DATE]. The agreement is…

**BETWEEN: [YOUR COMPANY NAME]** (the "Purchaser"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

[YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Seller"), a company organised and existing under the laws of the [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

WHEREAS the Seller, through its [COMPANY NAME], is in the [SPECIFY] business;

AND WHEREAS the Seller desires to sell and the Purchaser desires to purchase as a going concern the undertaking and substantially all of the assets relating to the business of the Seller’s [COMPANY NAME], upon and subject to the terms and conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the covenants and agreements herein contained the parties hereto agree as follows:

1. INTERPRETATION
   1. Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“Accounting Records” means all books of account, accounting records and other financial data and information of the Seller relating to the Business for the current fiscal year and the three preceding fiscal years, including, without limitation, all records, data or information which are material to the operation of the Business, as well as all production, inventory, sales and customer records *in re*spect of such fiscal years. “Accounting Records” shall expressly exclude any records relating to Taxes of the Seller;

“Accounts Payable” means the trade accounts payable of the Business incurred in the ordinary and normal course of business and existing at the Closing Date (including those for which invoices are received after the Closing Date and prior to the Final Adjustment Date), excluding however, any and all accounts payable of the Business which are owing to any Associate or Affiliate of the Seller (other than the Assumed Intracompany Payable) and any and all accounts payable which are expressly described herein as being Excluded Liabilities. The Accounts Payable and accrued liabilities of the Business as at [DATE] are listed on Annexure [SPECIFY] hereto and Annexure [SPECIFY] hereto.

“Accounts Receivable” means:

1. all trade accounts receivable of the Business due or accruing to the Seller (including receivables from corporate account sales and layaways) which arise from invoiced sales by the Seller *in re*spect of the Business on or before the Closing Date and which are outstanding on the Closing Date, together with the full benefit of security for such trade accounts receivable, excluding however, any and all accounts receivable of the Business which at the Closing Date:
   1. arise from invoices that have been outstanding and unpaid for more than [NUMBER] days prior to the Closing Date; or
   2. which are owing to the Seller by any Associate or Affiliate of the Seller;
2. all supplier volume rebates which are owing to the Seller *in re*spect of the Business on the Closing Date and which have been earned by, and are due to, the Seller based on purchases of supplies and merchandise up to the Closing Date, but excluding however any and all volume rebates which are owing to the Seller from the [SPECIFY] Companies;
3. all co-op advertising recoveries owing to the Seller *in re*spect of the Business for co-op advertising relating to sales and promotions occurring up to and including the Closing Date; and
4. all advances made by the Seller to Hired Employees for travel and other business-related expenses only, which have not been repaid prior to the Closing Date.

The Accounts Receivable as at [DATE] are listed in Annexure [SPECIFY] hereto.

“Accrued Liabilities” means the accrued liabilities of the Business incurred in the normal course of business which exist on the Closing Date and which are exhaustively detailed hereafter:

1. all accrued liabilities and obligations of the Seller under each of the Assumed Contracts and the Equipment Leases;
2. all accrued liabilities and obligations of the Seller under each of the Leases assigned to and assumed by the Purchaser hereunder;
3. all accrued liabilities and obligations of the Seller *in re*spect of the Contractual Rights;
4. all accrued liabilities and obligations of the Seller *in re*spect of [SPECIFY], including any reserves or allowances, therefore;
5. all accrued liabilities and obligations of the Seller *in re*spect of warranties or repair contracts, including any reserves or allowances, therefore;
6. all accrued liabilities and obligations of the Seller for [SPECIFY INCENTIVES OR SALES PROMOTIONS], including any reserves or allowances, therefore;

The Accrued Liabilities exclude any and all accrued liabilities, which are expressly described herein as being Excluded Liabilities.

“Affiliate” and “Associate” shall have the respective meanings ascribed to those terms by the Business Company’s [ACT/LAW/RULE] of ([COUNTRY]) on the date hereof;

“Agreement” means this asset purchase agreement and all attached Annexures as supplemented, amended, restated or replaced from time to time;

“Assumed Intracompany Payable” means the intracompany payable owing by [COMPANY NAME] of the Seller to [COMPANY NAME] (“[COMPANY NAME]”), a division of the Seller, which payable shall be in the amount of the aggregate trade accounts payable of the Business incurred in the ordinary and normal course of business with the [COMPANY NAME] and which will have been paid to the [COMPANY NAME] by [COMPANY NAME] prior to the Closing Date in the course of terminating the [SPECIFY] Agreements. The amount of Assumed Intracompany Payable shall be verified by [COMPANY NAME] as part of its audit of the Closing Balance Sheet pursuant to Section 2.2 hereof. This amount is to be paid by the Purchaser to [COMPANY NAME] on the Closing Date.

“Assumed Liabilities” means the liabilities, debts and obligations of the Seller pertaining to the Business and the Purchased Assets which are exhaustively detailed hereafter:

1. the Accounts Payable;
2. the Accrued Liabilities; and
3. the Assumed Intracompany Payable.

“Assumed Contracts” means the contracts (other than the Leases, the Equipment Leases and the Excluded Warehouse Lease) pertaining to the Business and the Purchased Assets which are being assumed by the Purchaser and which are exhaustively listed on Annexure [SPECIFY] hereof. Without limiting the generality of the foregoing “Assumed Contracts” shall not include any and all [SPECIFY] Agreements and agreements with [COMPANY NAME] and [COMPANY NAME].

“Applicable [YOUR COUNTRY LAW]” means any domestic or foreign statute, [YOUR COUNTRY LAW], ordinance, rule, regulation, restriction or regulatory policy having the force of [YOUR COUNTRY LAW], by-law (zoning or otherwise), or Order that applies to the Seller, any of its predecessor companies, the Business, the way the Business is carried on or to any of the Purchased Assets;

“Audit Materiality” for the purpose of the audit of the Closing Balance Sheet, means any required accounting adjustments to such Closing Balance Sheet in excess of [AMOUNT] in aggregate in which event the amount of such adjustments including such [AMOUNT] will be included in the adjustment amount.

“Benefit Plans” means all bonus, deferred compensation, incentive compensation, share purchase, share appreciation and share option, severance or termination pay, hospitalisation or other medical benefits, life or other insurance, dental, disability, salary continuation, vacation, supplemental unemployment benefits, profit-sharing, mortgage assistance, pension, retirement or supplemental retirement plan, program, agreement or arrangement, and each other employee benefit plan, program, agreement or arrangement sponsored, maintained or contributed to or required to be contributed to by the Seller or any Affiliate of the Seller for the benefit of any Employee or former employee of the Business, whether or not insured or funded, whether formal or informal, whether or not subject to any applicable legislation and whether or not legally binding;

“Bulk Sales Legislation” means the provisions of the [ACT/LAW/RULE] of [COUNTRY] governing the sale of an enterprise and the Bulk Sales [ACT/LAW/RULE] of [COUNTRY];

“Business” means the business currently carried on by the [COMPANY NAME] of the Seller including, without limitation, the operation of retail establishments for the sale of [SPECIFY PRODUCTS] retail customers;

“Business Day” means a day other than a Saturday, Sunday or statutory holiday in [COUNTRY];

“Claim” has the meaning given to it in Section 5.1;

“Closing” means the completion of the sale to, and purchase by, the Purchaser of the Purchased Assets and the completion of all other transactions contemplated by this Agreement which are to occur contemporaneously with the purchase and sale of the Purchased Assets;

“Closing Balance Sheet” means the audited statement of Net Worth of the Business prepared in accordance with Generally Accepted Accounting Principles except as otherwise provided for in this Agreement;

“Closing Date” means [DATE] or such other Business Day as may be agreed to in writing between the Seller and the Purchaser as the date that the Closing shall take place;

“Closing Document” means any document, agreement, assignment or undertaking delivered *in re*lation to the Closing as provided in this Agreement except for the Non-Competition Agreement;

“Contractual Rights” means the full benefit of all unfilled customer purchase orders, sales contracts and engagements relating to the Business, to which the Seller is entitled at the Closing Date, whether written or oral, including any deposits made in connection therewith, and all forward commitments of the Seller for supplies or merchandise entered into in the ordinary course for use in the Business, excluding however, any and all forward commitments for supplies or merchandise which are at prices materially in excess of current market prices or are not terminable without penalty on [NUMBER] days’ notice or less or are in excess of the normal business requirements of the Business for the period ending [NUMBER] days after the Closing Date *in re*spect of minilab supplies and consumables or in excess of the normal business requirements of the Business for the period ending [NUMBER] days after the Closing Date *in re*spect of merchandise for resale.

“Documents” means all title documents, advertising, promotional and marketing materials, files, correspondence, technical information, agreements and other documents in the possession or control of the Seller relating to the Business or the Purchased Assets;

“Employees” means those individuals listed on Annexure [SPECIFY] hereto or who are hired during the Interim Period in accordance with subsection 4.1.6 and, in either case, who are employed by the Seller in the Business at the Time of Closing on a full-time or part-time basis (including any such individuals who are absent from work due to short-term disability, pregnancy, maternity or parental leave, sick leave, vacation, or any other reasonable cause);

“Encumbrance” means any encumbrance of any kind whatever and includes, without limitation, a security interest, mortgage, lien, hypothec, pledge, hypothecation, assignment, charge, trust or deemed trust (whether contractual, statutory or otherwise arising), any easement, right of way (registered or unregistered), restriction, encroachment or any other right or claim of others of any kind whatever affecting the Purchased Assets, any covenant or other agreement, restriction or limitation on the use or transfer of the Purchased Assets;

“Equipment” means all fixed assets and tangible movable or personal property owned by the Seller and used in connection with the Business (other than an Excluded Asset) and, without limiting the generality of the foregoing, include all machines, machinery, trucks and other mobile equipment, fixtures, tools, moulds, jigs, dies, furniture, furnishings, vehicles, material handling equipment, typewriters, computers, photocopiers, office equipment, implements, tools and spare parts owned by the Seller and used in the Business (other than an Excluded Asset), including without limitation, the machinery and equipment set forth and described in Annexure [SPECIFY] hereto;

“Equipment Leases” means the lease of movable or personal property listed on Annexure [SPECIFY];

“Excluded Assets” means:

1. all cash, bank balances, monies in possession of banks and other depositories, term deposits and similar cash property of, owned or held by or for the account of the Seller at the Closing Date, excluding, however, the change funds and the prepaid expenses and deposits referred to in Purchased Assets;
2. the corporate and Tax records of the Seller;
3. all non-transferable licences that relate to the Business;
4. the lease *in re*spect of the warehouse premises at [FULL ADDRESS], [COUNTRY] (the “Excluded Warehouse Lease”);
5. the benefit of any insurance claims or any litigation *in re*spect of the Purchased Assets or the Business;
6. the interest of the Seller in any Benefit Plans or any insurance policies covering the Purchased Assets or protecting the Business;
7. any amount receivable or other debt due to the Seller *in re*spect of refundable Taxes or Tax receivables and interest thereon;
8. the Seller’s right, title, benefit and interest in and to the licenced Mark, except to the extent that Purchaser is permitted to use the licenced Mark pursuant to the Trade Mark licence Agreement;
9. the [SPECIFY] Agreements including, without limitation, the volume rebates owing to the Seller from the [SPECIFY] Companies;
10. for greater certainty, the property and assets described in Annexure [SPECIFY], which property and assets are either (a) used, but not used exclusively, in the Business, or (b) are property and assets which, although used exclusively in the Business, are nevertheless excluded from the transactions contemplated hereby;
11. any Leases *in re*spect of which any necessary consent, waiver, acknowledgement or other conditions or events, as contemplated by Section 4.2, to the assignment thereof to the Purchaser, has not been obtained by the Closing Date, subject, however, to Section 7.1, and any of the assets referred to in subsection 7.1.3;
12. any Assumed Contract *in re*spect of which any necessary consent, approval or acknowledgement, as contemplated by Section 4.3, to the assignment thereof to the Purchaser, has not been obtained by the Closing Date;
13. any amounts receivable from the Seller, its Affiliates or Associates; and
14. the Lease and all assets (other than Inventories) in the related Leased Premises for Lease No. [FULL ADDRESS], [COUNTRY].

“Excluded Liabilities” means all the liabilities, debts or obligations of the Seller, other than the Assumed Liabilities and the Post Closing Liabilities, whether present or future, whether pertaining to the Business, the Purchased Assets or otherwise, including, without limiting the generality of the foregoing:

* + 1. liabilities under any services, management or other contract (including any Non-Assignable Lease) entered into by the Seller but excluding those liabilities relating to the Assumed Contracts, the Contractual Rights, Leases (other than the Non-Assignable Leases) and the Equipment Leases;
    2. liabilities to the Employees up to the Time of Closing for wages, accrued bonuses, earned vacations, vacation pay (accrued or otherwise), sick leave, and for notice of termination or pay in lieu of notice or severance pay (in each case, if the Employee is not offered employment pursuant to subsection 4.9.1 hereof or if the Employee refuses an offer of employment) or other remuneration, or for benefits under the Benefit Plans;
    3. liabilities for any accidents, breach of contract, delict and *quasi*-delict, occupational health and safety violations, illnesses, and all other types of claims and lawsuits connected with or arising out of any matter, incident, occurrence or set of facts or circumstances prior to the Closing Date;
    4. liabilities relating to product liability claims *in re*spect of any product sold at any time by the Seller prior to the Closing Date;
    5. liabilities under any federal, provincial or local [YOUR COUNTRY LAW], regulations, rules or provisions relating to the protection of the environment, including but not limited to the use, storage, handling, transportation or disposal of any hazardous waste or solid waste (as these terms are defined in the Hazardous Waste [YOUR COUNTRY ACT/LAW/RULE])
    6. or emission, deposit, issuance or discharge of a contaminant (as that term is defined in the Environment Quality [YOUR COUNTRY ACT/LAW/RULE], as amended from time to time) in a greater quantity or concentration than that provided for by regulation of the Governmental Agency to the extent that any such matter, incident, occurrence or set of facts or circumstances arose prior to the Closing Date;
    7. liabilities (other than those described in (v)) due to any matter, incident, occurrence or set of facts or circumstances, constituting any violation of federal, provincial, local or foreign [YOUR COUNTRY LAW], or any regulation or requirement of any governmental body, to the extent that any such matter, incident, occurrence or set of facts or circumstances arose prior to the Closing Date;
    8. liabilities of the Seller or related to the Purchased Assets, arising prior to the Closing Date, for any federal, provincial, local or foreign taxes, assessments, rates, charges or levies (including interest and penalties);
    9. liabilities for any claims, adjustments, assessments, experience rating or other charges (including interest on penalties) relating to any applicable legislation on workers’ compensation or occupational health and safety including [COMPANY NAME], connected with or arising out of any matter, incident, occurrence or set of facts or circumstances to the extent that any such matter, incident, occurrence or set of facts or circumstances arose prior to the Closing Date;
    10. liabilities (including without limitation any accounts payable) to any of the [SPECIFY] Companies;
    11. liabilities to the Seller or any Affiliate or Associate of the Seller, other than the Assumed Intracompany Payable; and
    12. all other liabilities (including those liabilities referred in subsection 7.1.3) of the Seller not expressly assumed by the Purchaser in this Agreement;

“Execution Date” means the date on which the [COMPANY NAME] has executed this Agreement;

“Final Adjustment Date” has the meaning given to it in subsection 2.2.2;

“Final Net Worth of the Business” means the lesser of (a) the Net Worth of the Business, as reflected on the Closing Balance Sheet and finally determined pursuant to this Agreement, and (b) [AMOUNT];

“Financial Statements” means the unaudited financial statements of the Seller relating to the Business for the fiscal year ended [DATE] and for the [NUMBER] month period ended [DATE], each consisting of a balance sheet and statement of earnings, copies of which are annexed hereto as Annexure [SPECIFY];

“Generally Accepted Accounting Principles” means generally accepted accounting principles from time to time approved by the [COUNTRY] Institute of Chartered Accountants, or any successor institute, applicable as at the date on which any calculation or determination is required to be made in accordance with generally accepted accounting principles, and where the [COUNTRY] Institute of Chartered Accountants includes a recommendation in its Handbook concerning the treatment of any accounting matter, such recommendation shall be regarded as the only generally accepted accounting principle applicable to the circumstances that it covers;

“Generally Accepted Auditing Standards” means generally accepted auditing standards from time to time approved by the [COUNTRY] Institute of Chartered Accountants, or any successor institute, applicable as at the audit report date.

“[TAX NUMBER]” means taxes, interest, penalties and fines imposed under Part [SPECIFY] of the Excise Tax [ACT/LAW/RULE] of [COUNTRY] and the regulations made thereunder as well as any Notice of Ways and Means Motion or Bill tabled in the [SPECIFY] or any press release or publicly disseminated statement by the Minister of Finance, which sets forth a proposal to amend or a proposed amendment to the Excise Tax [ACT/LAW/RULE] of [COUNTRY] or the Regulations made thereunder which, when enacted, shall have retroactive effect to the date of its enactment and all provincial sales taxes integrated with such federal taxes, as the case may be (collectively the “[TAX NUMBER] Legislation”);

“Governmental Agency” means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

“Hired Employees” means those Employees who accept or are deemed to have accepted the offer of employment from the Purchaser made pursuant to Section 4.9;

“Indemnified Losses” has the meaning ascribed thereto at Section 5.1;

“Indemnified Party” means a Party to the Agreement who is the beneficiary under the Agreement of an indemnity from another Party to the Agreement;

“Indemnifying Party” means a Party to the Agreement who has agreed herein to indemnify another Party to the Agreement;

“Intellectual Property Rights” means:

* + - 1. all intellectual property rights of or pertaining exclusively to the Business including, without limitation,
         1. all trademarks, trademark registrations, trademark applications, rights under registered user applications, trade names and other trademark rights;
         2. all copyrights and industrial designs and registrations thereof and applications therefor;
         3. all inventions, patents, patent applications and patent rights (including any patents issuing on such applications or rights);
         4. all licenses, sub-licenses and franchises;
         5. all trade secrets and confidential information;
         6. all computer software and rights related thereto; and
         7. all renewals, modifications and extensions of any of items (i) through (vi),
         8. and including, without limitation, those set forth in Annexure [SPECIFY]; and
      2. all patterns, plans, designs, research data, other proprietary know-how, processes, drawings, technology, unpatented blueprints, flow sheets, equipment and parts lists, instructions, manuals, records and procedures used in the Business, and all licenses, agreements and other contracts and commitments relating to any of the foregoing to which the Seller, or any predecessor company, is a party;

“Interim Period” means the period from the Execution Date to the Time of Closing;

“Inventories” means all inventories of goods of every kind and nature and wheresoever situate owned by the Seller on the Closing Date relating to the Business including without limitation, all finished goods, work in process, chemicals, paper and other raw materials, new and unused production and shipping supplies and new and unused major maintenance items and all other materials and supplies on hand or in transit to be used or consumed in the production of goods or services by the Business. Without limiting the generality of the foregoing, “Inventories” shall include any and all finished goods inventories which at the Closing Date arise from customers’ finishing orders that have been filled and remain uncollected for more than [NUMBER] days prior to the Closing Date and such finished goods inventories shall be valued at [AMOUNT] for the purposes of this Agreement and the calculation of Net Worth of the Business. “Inventories” shall exclude all items of inventory held *in re*spect of customer layaways;

[SPECIFY] Agreements means all agreements, contracts or commitments between the Seller and any of the [SPECIFY] Companies, other than unfilled purchase orders issued by the Seller for the purchase of Inventories from any of the [SPECIFY] Companies;

[SPECIFY] Companies means [SPECIFY] Company and its Affiliates, collectively.

“Leased Premises” means all premises leased by the Seller under the Leases and all fixtures and improvements thereon;

“Leases” means the leases or agreements in the nature of a lease of real property to which the Seller is a party, whether as lessor or lessee, which relate to the Business, including the leases listed in Annexure [SPECIFY];

“Letter of Credit” has the meaning given to it in Section 5.15;

“License” means any license, permit, approval, right, privilege, quota, concession or franchise issued, granted, conferred or otherwise created by a Governmental Agency;

“Licensed Mark” means the unregistered trademark [SPECIFY] and the trademark registration TMA [NUMBER] for the trademark [SPECIFY];

“Loss” has the meaning given to it in Section 5.1;

“Net Worth of the Business” means the excess, determined as of the Closing Date, of the book value of the Purchased Assets over the book value of the Assumed Liabilities, which Assumed Liabilities expressly exclude, without limitation:

* + - 1. the Excluded Liabilities;
      2. deferred income;
      3. any provision or liability for Taxes;
      4. any reserve for doubtful accounts; and
      5. any expenses referred to in Section 8.3 hereof.

“Non-Assignable Contract” means any of the Assumed Contracts, Contractual Rights, Equipment Leases, Warranty Rights or Transferable licences to be assigned to the Purchaser hereunder:

* + - 1. an assignment or attempted assignment of which, at the Time of Closing, would constitute a breach thereof;
      2. an assignment or attempted assignment of which would constitute a breach thereof without the consent of a third party and such consent has not been obtained by the Time of Closing;
      3. *in re*spect of which the remedies for the enforcement thereof available to the Seller would not pass to the Purchaser by the Closing; or
      4. an assignment of which would contravene any Applicable [YOUR COUNTRY LAW] at the Time of Closing;

“Non-Competition Agreement” means the non-competition agreement to be entered into between the Seller and the Purchaser at the Time of Closing in the form of Annexure [SPECIFY];

“Order” means any final and enforceable order or any judgment, injunction, decree, award or writ of any court, tribunal, arbitrator or Governmental Agency;

“Parties” means the Purchaser and the Seller collectively, and “Party” means any one of them;

“Pension Plan” means each of the Benefit Plans that is a “Registered Pension Plan” as that term is defined in [SPECIFY] of [YOUR COUNTRY INCOME TAX ACT/LAW/RULE]

“Permitted Encumbrances” means (i) the interest of the landlord or lessor under any Lease or Equipment Lease, including any Encumbrance securing the performance of the Seller’s obligations under any Lease or Equipment Lease, (ii) any Encumbrances set forth in any Lease, Equipment Lease, Assumed Contract or Contractual Right, (iii) any Encumbrance arising from any Applicable [YOUR COUNTRY LAW] or the application thereof, (iv) any Encumbrance securing the rights of the conditional Seller or consignor under any conditional sales agreement or consignment agreement constituting an Assumed Contract and (v) any Encumbrance arising under any License;

“Person” shall be broadly interpreted and includes, without limitation, an individual, body corporate, partnership, joint venture, trust, association, unincorporated organisation, the Crown, any Governmental Agency or any other entity recognised by [YOUR COUNTRY LAW];

“Phase I Assessment” means the phase I health, safety and environmental assessment of [NUMBER] retail outlets of the Seller dated [DATE] prepared for Seller’s legal counsel by [COMPANY NAME].

“Post Closing Liabilities” means

* + 1. the liabilities of the Business which arise after the Closing Date and are incurred by the Purchaser as a consequence of the operation of the Business by the Purchaser and
    2. the liabilities of the Business which arise after the Closing Date and are exhaustively detailed hereafter:
       1. all liabilities and obligations of the Seller under each of the Assumed Contracts and the Equipment Leases;
       2. all liabilities and obligations of the Seller under each of the Leases assigned to and assumed by the Purchaser hereunder;
       3. all liabilities and obligations of the Seller *in re*spect of the Contractual Rights;
       4. all liabilities and obligations of the Seller *in re*spect of processing, including any reserves or allowances, therefore;
       5. all liabilities and obligations of the Seller *in re*spect of warranties or repair contracts, including any reserves or allowances, therefore;
       6. all liabilities and obligations of the Seller for [SPECIFY INCENTIVES AND SALES PROMOTIONS], including any reserves or allowances, therefore;

The Post Closing Liabilities exclude any and all liabilities, which are expressly described herein as being Excluded Liabilities.

“Prime Rate” for any day means the rate of interest expressed as a rate per annum that Bank of [COUNTRY] establishes at its head office in [COUNTRY] as the reference rate of interest that it will charge on that day for [COUNTRY] [AMOUNT] demand loans to its customers in [COUNTRY] and which it at present refers to as its prime rate;

“Provincial Legislation” means the Retail Sales [YOUR COUNTRY ACT/LAW/RULE], the Revenue and Financial Services [YOUR COUNTRY ACT/LAW/RULE], the Workers’ Compensation [YOUR COUNTRY ACT/LAW/RULE], [YEAR], the Workers’ Compensation [YOUR COUNTRY ACT/LAW/RULE], the Retail Sales Tax [YOUR COUNTRY ACT/LAW/RULE], the Retail Sales Tax [YOUR COUNTRY ACT/LAW/RULE] and the Workers’ Compensation [YOUR COUNTRY ACT/LAW/RULE].

“Purchase Price” means the purchase price to be paid by the Purchaser to the Seller for the Purchased Assets as provided in subsection 2.1.1;

“Purchased Assets” means all of the assets, property and undertaking, other than the Excluded Assets, owned and used by the Seller or held by it for use in, or *in re*spect of the operation of, the Business, including the following:

* + - 1. all right, title and interest of the Seller in, to and under the Leases and the Leased Premises (other than the Non-Assignable Leases and the relevant Leased Premises), all tenant allowances payable to the Seller after the Closing Date, all leasehold improvements pertaining to the Leases and the Leased Premises, all fixtures located in, on or about the Leased Premises and all appurtenances thereto;
      2. the Accounts Receivable;
      3. the Inventories;
      4. the Contractual Rights to the extent they are assignable;
      5. to the extent they are assignable, all right, title and interest of the Seller in, to and under, and the full benefit of, the Assumed Contracts and the Equipment Leases and all options, including options to purchase, thereunder;
      6. the Equipment;
      7. all right, title and interest of the Seller in and to the Intellectual Property Rights (other than the licenced Mark);
      8. the goodwill of the Business, including the exclusive right of the Purchaser to represent itself as carrying on the Business in succession to the Seller and all right, title and interest of the Seller in, to and *in re*spect of the trade name [COMPANY NAME] and variations thereof (other than the licenced Mark) used in association with the Business (which trade name and variations thereof shall not be amended without the prior written consent of the Seller, acting reasonably) and all records and information relating to the suppliers, customers and Hired Employees of the Business and all pertinent files, catalogues and promotional materials relating to the Business and the Purchased Assets;
      9. to the extent the same are transferable, all deposits and prepaid expenses with any public utility or any municipal, governmental or other public authority relating to the Business or other deposits and prepaid expenses relating to the Business, excluding however any prepaid insurance premiums;
      10. to the extent same are transferrable, the Warranty Rights; the Transferable Licenses;
      11. the change funds, being petty cash amounts, for each retail outlet of the Seller *in re*spect of which the relevant Lease is assigned to the Purchaser at Closing; the Accounting Records;
      12. all other rights, properties and assets (other than any Excluded Assets) owned by the Seller and used or useful in the Business, of whatever nature or kind and wherever situated;

“Purchaser” means [SPECIFY];

“[TAX NUMBER]” means taxes, interest, penalties and fines imposed under the [COUNTRY] Sales Tax [ACT/LAW/RULE] and the regulations made thereunder including any proposed amendment to such legislation announced by way of press release from time to time by the Minister of Finance for the Province of [COUNTRY] or such other Minister charged with the administration of the [COUNTRY] Sales Tax [ACT/LAW/RULE], which announcement confirms that such proposed amendment, when enacted, shall have retroactive effect to a date prior to the date of its enactment (collectively, the “[TAX NUMBER] Legislation”).

“Store Asset Value” with respect to a particular Lease means the amount set forth on Annexure [SPECIFY] under the heading “Store Asset Value” constituting the net book value of the fixed assets of the store located in the Leased Premises subject to the particular Lease.

“Store Penalty” with respect to a particular Lease means the amount set forth on Annexure [SPECIFY] opposite each Lease under the heading “Store Penalty”.

“Taxes” means all federal, provincial, municipal, territorial, foreign or other taxes, imposts, rates, levies, assessments and government fees, licence fees, charges or dues lawfully levied, assessed or imposed *in re*spect of the Business, including, without limitation, all income, capital gains, sales, excise, use, property, capital, goods and services, business transfer and value-added taxes and custom and import duties and includes all interest, fines and penalties with respect thereto;

“Time of Closing” means [SPECIFY COUNTRY TIME] on the Closing Date;

“Transferable Licenses” means all rights and interest in and to all licenses, permits and approvals issued to the Seller by any Governmental Agency which are transferable, with or without the consent of such Governmental Agency; and

“Warranty Rights” means the full benefit of all unexpired warranties, warranty rights, guarantees, indemnities, undertakings and similar covenants (implied, express or otherwise) against manufacturers or sellers which apply to any of the Purchased Assets or to any products or services of the Business acquired by the Seller for resale and previously sold by the Seller to third parties and all security received by the Seller therefore.

* 1. Generally Accepted Accounting Principles

All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with Generally Accepted Accounting Principles.

* 1. Headings and References

The division of this Agreement into Articles, Sections and Annexures and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The Article, Section and Annexure headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and such headings, and the table of contents are not to be considered part of this Agreement. All uses of the words “hereto”, “herein”, “hereof”, “hereby” and “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion of it. Unless something in the subject matter or context is inconsistent therewith, references herein to an Article, Section or Annexure refer to the applicable Article, Section or Annexure of this Agreement.

* 1. Extended Meanings

In this Agreement, words importing the singular number only shall include the plural and *vice versa* and words importing the masculine gender shall include the feminine and neuter genders and *vice versa*.

* 1. Annexures

The following Annexures form part of this Agreement:

Annexure [SPECIFY] Accounts Payable

Annexure [SPECIFY] Accounts Receivable

Annexure [SPECIFY] Accrued Liabilities

Annexure [SPECIFY] Allocation of Purchase Price

Annexure [SPECIFY] Assumed Contracts

Annexure [SPECIFY] Employees

Annexure [SPECIFY] Equipment

Annexure [SPECIFY] Equipment Leases

Annexure [SPECIFY] Assets not used exclusively in the Business

Annexure [SPECIFY] Financial Statements

Annexure [SPECIFY] Intellectual Property Rights

Annexure [SPECIFY] Leases

Annexure [SPECIFY] Store Penalties and Store Asset Values

Annexure [SPECIFY] Benefit Plans

Annexure [SPECIFY] Litigation

Annexure [SPECIFY] Insurance Claims

Annexure [SPECIFY] Licenses

Annexure [SPECIFY] Environmental Permits, Etc.

Annexure [SPECIFY] Warranties

Annexure [SPECIFY] Incentives, Promotions

Annexure [SPECIFY] Employees Offered Employment

Annexure [SPECIFY] Non-Competition Agreement

Annexure [SPECIFY] Opinion of Counsel to Seller

Annexure [SPECIFY] Opinion of Counsel to Purchaser

Annexure [SPECIFY] Trade Mark licence Agreement

Annexure [SPECIFY] Trade Mark Assignment

Annexure [SPECIFY] Statement of Accounting Principles

Annexure [SPECIFY] Unusual Transactions

Annexure [SPECIFY] Material Contracts

Annexure [SPECIFY] Escrow Agreement

Annexure [SPECIFY] Aged and Non-Current Inventory

Annexure [SPECIFY] Required Contractual Consents

* 1. Currency

All statements of or references to amounts in this Agreement are to lawful money of [COUNTRY].

* 1. Tender

Any tender of documents or money hereunder may be made upon the [COMPANY NAME] or their respective counsel, and money shall be tendered by official bank draught was drawn upon a [COUNTRY] chartered bank or by negotiable check payable in [COUNTRY] funds and certified by a [COUNTRY] chartered bank.

* 1. Performance on Holidays

If any action is required to be taken pursuant to this Agreement on or by a specified date which is not a Business Day, then such action shall be valid if taken on or by the next succeeding Business Day.

* 1. 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 [HOUR] ([COUNTRY] time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at [HOUR] ([COUNTRY] time) on the next Business Day.

* 1. Ordinary Course

For the purposes of this Agreement a transaction or activity shall be considered to be in the ordinary or normal course of business if it constitutes either (a) an ordinary day-to-day or regular business activity of the Seller pertaining to the Business or (b) a business activity undertaken with the consent of the Purchaser in contemplation of the Closing or which is an obligation of the Seller under this Agreement, conducted in a commercially reasonable and business-like manner and, in the case of activities described in clause (a), consistent with past practises of the Seller *in re*spect of the Business.

* 1. “Material” and “Materially” Defined

For the purposes of this Agreement and the Annexures hereto, the terms “material” and “materially” when used *in re*ference to obligations, debts, liabilities or claims, shall mean an obligation, debt, liability or claim, as the case may be, which involves an amount in excess of [AMOUNT] or when used *in re*ference to prices, shall mean a variance in excess of [PERCENTAGE %] of such prices.

1. PURCHASE AND SALE
   1. Purchase and Sale and Purchase Price
      1. Term and Conditions

Subject to the terms and conditions hereof, the Seller agrees to sell, assign and transfer to the Purchaser, the Purchased Assets as a going concern and the Purchaser agrees to purchase them from the Seller on the Closing Date. The purchase price for the Purchased Assets (the “Purchase Price”) shall be the amount, which is equal to:

* + - 1. [AMOUNT], plus
      2. the Final Net Worth of the Business.
    1. The Purchase Price shall be paid and satisfied as follows:
       1. as to an amount (the “Closing Payment”) equal to (i) [AMOUNT] plus (ii) [PERCENTAGE %] percent of the Net Worth of the Business, not to exceed [AMOUNT], as determined from the [DATE] financial statements of the Business prepared by the Seller in accordance with Generally Accepted Accounting Principles and subsection 2.2.1(b), by delivery of a certified check payable on Closing in the said amount payable to or to the order of the Seller; and
       2. as to an amount (the “Adjustment Amount”) which when added or deducted, as the case may be, from the Closing Payment results in the Purchaser having paid the Seller by way of the Closing Payment and the Adjustment Amount an amount equal to [PERCENTAGE %] percent of the Purchase Price, by the delivery on the Final Adjustment Date of a certified check payable to or to the order of the Seller or the Purchaser, as the case may be, in the amount of the Adjustment Amount plus interest at the Prime Rate from the Closing Date to the Final Adjustment Date.
  1. Adjustments
     1. Net Worth Determination

1. Within [NUMBER] days of the Closing Date, the Seller shall arrange for the preparation by the Seller of the Closing Balance Sheet which shall be audited in accordance with Generally Accepted Auditing Standards by [COMPANY NAME] and upon completion shall provide a copy of same to the Purchaser. The audit shall be subject to Audit Materiality. The Purchaser shall have the right and may require [COMPANY NAME] to extend its audit procedures in the verification of certain balances beyond that which [COMPANY NAME] may have otherwise determined to be required to audit the Closing Balance Sheet, the extra cost of which shall be for the account of the Purchaser.
2. The Purchaser shall have access to the financial records of the Seller relating to the Business for the period ending on the day immediately prior to the Closing Date for the purpose of verifying the Closing Balance Sheet and [COMPANY NAME] shall have access to the working papers of [COMPANY NAME]. The fees of [COMPANY NAME] shall be for the account of the Seller (except for the extra cost referred to above), and the fees of [COMPANY NAME] and the extra cost of [COMPANY NAME] referred to above shall be for the account of the Purchaser.
3. The Closing Balance Sheet shall be prepared in accordance with Generally Accepted Accounting Principles and, notwithstanding the foregoing, fixed assets, Inventories and liabilities will be adjusted and evaluated, as the case may be, using the following criteria:
   1. each item of the Inventories listed on Annexure [SPECIFY] hereto still on hand at the Time of Closing as determined pursuant to paragraph (c) hereof will be valued at the item amount set forth on Annexure [SPECIFY] hereto;
   2. the net book value of fixed assets (as depreciated in the manner in which depreciation was taken in the Financial Statements) will be reduced by an amount of [AMOUNT], which amount will be increased at the rate of [AMOUNT] per week from [DATE] until the Closing Date;
   3. the minilab equipment will be valued at [AMOUNT] per each minilab in use in Leased Premises, for which the Lease is assigned at the Time of Closing to the Purchaser or a management contract pursuant to subsection 7.1.1 has been entered into;
   4. the net book value of computer equipment and applicable software on capital lease shall be deemed to be an amount of [AMOUNT]; and
   5. the book value of liabilities will include a reserve in the amount of [AMOUNT] to cover future cost of the liabilities described in paragraphs (e) and (f) of “Accrued Liabilities”.

The Closing Balance Sheet shall not include as assets any amounts for goodwill or as liabilities any amounts specifically to be excluded as provided for herein.

1. As an integral part of the preparation and audit of the Closing Balance Sheet, a physical inventory shall be taken by the Seller commencing at the closing of business on the Saturday immediately preceding the Closing Date and completed as soon as possible thereafter but not later than the Closing Date. Each retail outlet at which Inventories are located shall remain closed until the physical inventory for such retail outlet has been completed.
2. There shall be no deliveries from any warehouses or other suppliers of the Business other than for [SPECIFY] finishing to the retail outlets on the Saturday immediately preceding the Closing Date. Purchaser shall be entitled to have its representatives or their agents and those of [COMPANY NAME] present at the taking of the physical inventory. As part of the physical inventory count, there shall be produced by the Seller a store-by-store list of items of inventory held *in re*spect of customer layaways and such list of customer layaways shall be verified by [COMPANY NAME] against the Accounts Receivable for customer layaways as part of its audit of the Closing Balance Sheet pursuant to Section 2.2.
3. Any disputes arising during the taking of the physical inventory will be resolved by the [COMPANY NAME] or their agents during the taking of the physical inventory save and except if the Purchaser or its agents determine that there is an adverse discrepancy of [PERCENTAGE %] or more of the inventory value between their test counts and that of the Seller and its agents at [NUMBER] or more retail outlets of the Business, then in such case the Purchaser shall be entitled to have the Seller complete a new full physical count of the Inventories on the Saturday immediately following the Closing Date, or as soon as possible thereafter, and the results of such new count shall be binding on the [COMPANY NAME]. [COMPANY NAME] and [COMPANY NAME] shall be entitled to attend such recount.
   * 1. Final Determination of Purchase Price

Upon the determination of the Final Net Worth in accordance herewith, the [COMPANY NAME] shall make a final determination of the Purchase Price in accordance with Section 2.1 within [NUMBER] days of receipt of the Closing Balance Sheet (the “Final Adjustment Date”). If the Purchase Price as determined under this subsection 2.2.2 is greater than the Closing Payment, the Purchaser shall forthwith pay the Adjustment Amount to the Seller in accordance with subsection 2.1.2(b) hereof. If the Purchase Price as so determined is less than the Closing Payment, the Seller shall forthwith pay the Adjustment Amount to the Purchaser in accordance with subsection 2.1.2(b) hereof.

* + 1. Disputes

If either the Seller or the Purchaser disputes any of the amounts shown in the Closing Balance Sheet, it shall so notify the other Party within [NUMBER] days after receipt of the Closing Balance Sheet. If any matters are still in dispute within [NUMBER] days of such notification, such dispute shall be resolved by a partner of [SPECIFY] (or other nationally recognised firm of chartered accountants agreed to by the [COMPANY NAME] who shall be generally recognised as having knowledge and experience in the performance of services in or for retail businesses and shall not have previously performed services for either Party or any of its Affiliates and who shall not be a partner of a firm that has performed an audit or consulting services for either Party or any of its Affiliates (the “Valuator”).

The Valuator shall be selected by agreement of the Seller and the Purchaser within [NUMBER] days following the expiration of the aforementioned [NUMBER]-day period, provided that if the [COMPANY NAME] cannot agree then the Valuator shall be selected within such [NUMBER]-day period by lot from two names, one of which shall be proposed by each Party. If either Party fails to provide the name of a proposed Valuator for such selection by lot within such [NUMBER]-day period, the Valuator who shall resolve the matters in dispute shall be the one named within such [NUMBER]-day period by the other Party.

The Valuator shall proceed to resolve the matters in dispute by applying the relevant provisions of this Agreement. The determination of such Valuator, made as an expert and not as an umpire or arbitrator, shall be made within [NUMBER] days following his appointment and shall be final and binding on the [COMPANY NAME] hereto and no appeal shall lie therefrom.

The Valuator shall be given full access to all material reasonably of assistance and to all personnel who reasonably can assist in his understanding of such materials to allow him to arrive at a determination of any disputed amounts. The fees and expenses of such Valuator shall be borne equally by the Seller and the Purchaser. The payment of the Adjustment Amount as provided for in subsection 2.2.2 shall be delayed until receipt by the [COMPANY NAME] of the decision of the Valuator and shall be paid forthwith thereafter.

Any and all amounts received by the Purchaser pursuant to Article [NUMBER], whether from the Seller under the Letter of Credit or otherwise, shall be received by the Purchaser *in re*duction of the Purchase Price.

* 1. Closing

The sale and purchase of the Purchased Assets shall be completed at the Time of Closing at the offices of [INDIVIDUAL NAME], [FULL ADDRESS], [COUNTRY].

* 1. Allocation of Purchase Price

The Purchase Price shall be allocated among the Purchased Assets as provided in Annexure [SPECIFY]. The Purchaser and the Seller shall each execute and file a joint election under Section [SPECIFY] of [YOUR COUNTRY’S] Income Tax Act and the corresponding provisions of any other applicable taxing statute or regulation, within the prescribed time periods, *in re*spect of the Accounts Receivable. The Purchaser and the Seller agree to prepare and file their respective tax returns in a manner consistent with such elections, and the allocation of the Purchase Price set out in Annexure [SPECIFY].

The Seller agrees to indemnify and save harmless the Purchaser, and the Purchaser agrees to indemnify and save harmless the Seller, *in re*spect of any liability, loss, cost, expense, additional tax, interest, penalty or legal or accounting fees paid or incurred by the indemnified party as a result of the failure of the Seller or the Purchaser (as the case may be) to perform its respective obligations pursuant to this Section.

* 1. General Adjustments

The [COMPANY NAME] shall make, without duplication, the usual adjustments relating to the Business as of the Time of Closing and such adjustments shall be readjusted, if necessary, as soon as practicable after the Closing Date. Adjustments shall include:

* + - 1. Charges Under Leases. All amounts paid or payable to or by the Seller under the Leases including, without limitation, rental (including percentage rental, prepaid rent and security deposits), taxes (including contributions by lessees to real estate taxes), common area maintenance charges, utilities charges, business taxes, merchants’ association and advertising fees and occupancy costs.
      2. The percentage rent adjustments *in re*spect of the lease year during which the Closing Date occurs shall be made on the basis that the Seller on the one hand and the Purchaser on the other hand shall be responsible for an amount equal to the total percentage rent due under each Lease *in re*spect of such lease year multiplied by a fraction the numerator of which is equal to the sales made by such Party in the relevant retail outlet during the lease year and the dominator of which is equal to the total sales made by both Parties in such retail outlet during the lease year; and
      3. Fuel, Utilities, etc. All fuel, telephone and other utility charges paid or payable by the Seller other than those referred to in Section 2.5(a). Such adjustments and payment, therefore, shall be made by the appropriate Party on the Final Adjustment Date. Further adjustments shall be made on the six months anniversary and on the twelve months anniversary of the Closing Date, if necessary, *in re*spect of the items referred to above. The Purchaser or the Seller, as the case may be, shall promptly pay the amount of any such further
      4. Adjustments on such anniversary dates upon receipt of notice and evidence of the amount thereof. Failing agreement on any particular adjustment, the adjustments in dispute shall be determined jointly by the auditors of the Purchaser and the auditors of the Seller (whose joint decision shall be final and binding upon the [COMPANY NAME]) and shall be paid within [NUMBER] days following such determination. In the event of a dispute between the auditors, subsection 2.2.3 shall apply *mutatis mutandis*.
  1. Accounts Receivable

After the Time of Closing, the Purchaser shall use reasonable efforts to collect all of the Accounts Receivable, but the Purchaser shall not be obligated to institute legal action for the collection of any Account Receivable or to refer any Account Receivable to lawyers or collection agencies for collection. The Seller and the Purchaser agree that any amounts collected by the Purchaser on Accounts Receivable shall be applied to the oldest invoice unless the customer designates in writing that the payment is for a specific invoice.

Immediately after [NUMBER] days after the Closing Date, the Purchaser shall give the Seller a notice setting forth the particulars of all Accounts Receivable (other than Accounts Receivable relating directly to customer layaways) which remain unpaid in whole or in part. Within [NUMBER] business days after receiving such notice, the Seller shall repurchase all unpaid Accounts Receivable (other than Accounts Receivable relating directly to customer layaways) at a purchase price equal to the unpaid amount thereof together with interest thereon from the Closing Date to the date of payment at the Prime Rate. The Purchaser shall execute and deliver to the Seller an assignment of such Accounts Receivable in form and substance satisfactory to the Seller, acting reasonably.

* 1. Liabilities Not Assumed

The Purchaser shall assume and discharge, to the Seller’s exoneration, as and when due, all of the Assumed Liabilities and all of the Post Closing Liabilities. Other than the Assumed Liabilities and Post Closing Liabilities, the Purchaser is not assuming and shall not be responsible for any of the liabilities, debts or obligations of the Seller, whether present or future and whether or not relating to the Business and the Seller shall indemnify and save harmless the Purchaser from and against all such liabilities, debts and obligations.

* 1. Transfer Taxes

In addition to the Purchase Price, the Purchaser shall be liable for and shall pay, either to the Seller at Closing or directly to the Government Authorities at Closing, as required, all [TAX NUMBER], [TAX NUMBER] and provincial retail sales taxes and all other Taxes or other like charges properly payable upon and in connection with the transfer of the Business and the Purchased Assets to the Purchaser, including, but not limited to [TAX NUMBER] and [TAX NUMBER], but excluding any income taxes payable by the Seller as a result of the completion of the transactions herein contemplated.

The Seller and the Purchaser agree to jointly elect under Section [SPECIFY] of the [TAX NUMBER] Legislation and [SPECIFY] of the [TAX NUMBER] Legislation to have Section [SPECIFY] of the [TAX NUMBER] Legislation and Section [SPECIFY] of the [TAX NUMBER] Legislation apply to the sale under this Agreement, following the prescribed forms and including the prescribed information, with respect to the purchase and sale of the Purchased Assets pursuant to the provisions of this Agreement. The Purchaser shall file the joint elections in the manner and within the time prescribed by the [TAX NUMBER] Legislation and the [TAX NUMBER] Legislation. The Purchaser shall indemnify the Seller and hold it harmless from and against any claim or liability for [TAX NUMBER] or [TAX NUMBER] incurred in the event that the [COMPANY NAME] are not entitled to make or have not validly made such joint elections.

* 1. Non-Assignable Contracts

Neither this Agreement nor any Closing Document shall constitute an assignment or an attempted assignment of any Non-Assignable Contract. To the extent permitted by Applicable [YOUR COUNTRY LAW], each Non-Assignable Contract shall be held by the Seller in trust for the Purchaser and the covenants and obligations thereunder shall be performed by the Purchaser in the name of the Seller and all benefits and obligations existing thereunder shall be for the account of the Purchaser.

The Seller shall take or cause to be taken such action in its name or otherwise as the Purchaser may reasonably require so as to provide the Purchaser with the benefits thereof and to effect collection of money to become due and payable under the Non-Assignable Contracts and the Seller shall promptly pay over to the Purchaser all money received by it *in re*spect of all Non-Assignable Contracts. Upon the Closing, the Seller authorises the Purchaser, to the extent permitted by Applicable [YOUR COUNTRY LAW] and the terms of the Non-Assignable Contracts, at the Purchaser’s expense, to perform all of the Seller’s obligations under the Non-Assignable Contracts and constitutes the Purchaser its attorney to act in its name and on its behalf with respect thereto.

After the Closing Date, the Seller agrees to assign Non-Assignable Contracts to the Purchaser when such assignment is permitted and as the Purchaser may direct. The Seller shall use its commercially reasonable efforts to obtain all consents required for the assignment of the Non-Assignable Contracts. The Seller shall not, however, be obliged to make any payments to any Person or to pay any other charge or fee (except a payment to a contracting party to cover its expenses associated with the consent in question) or make additional payments, guarantees or financial contributions or arrangements (other than as remaining a party to the Non-Assignable Contracts) or to institute legal or arbitration or other proceedings to obtain such consents.

* 1. Increase *in Re*nt on Assignment

*In re*spect of each of those Leases assigned to the Purchaser hereby where the base or minimum rent payable thereunder has been increased due to the assignment provisions of the Lease based on the increase of the consumer price index (or similar or analogous provision) or based on the highest amount total of base or minimum rent and percentage rent (or similar or analogous provision) paid by the Seller over the term or portion of the term of the Lease, the Seller shall pay at the Time of Closing to the Purchaser an amount equal to the Present Value of the additional base or minimum rent payable due to said increase during the period from the Closing Date to the current expiration date of the term of the Lease without giving effect of any options to renew or extend the term of such Lease which have not been exercised prior to the Time of Closing. The amount as paid to the Purchaser shall constitute a reduction of the Purchase Price; such amount shall be deducted from that part of the Purchase Price allocated on Annexure [SPECIFY] to the Leases but, for greater certainty, shall not reduce the Final Net Worth of the Business.

“Present Value” shall mean the value at the Time of Closing of the stream of the additional base or minimum rent payable due to the increase during the aforesaid period of time, calculated by discounting each such payment at the annual rate of [PERCENTAGE %] percent from the date that payment is due. *In re*spect of each of the aforesaid Leases assigned to the Purchaser hereby, the Purchaser shall assume the obligations to pay such increase in base or minimum rent without recourse to the Seller.

1. REPRESENTATIONS AND WARRANTIES
   1. Representations and Warranties of the Seller

The Seller represents and warrants to the Purchaser as set out in the following subsections of this Section and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement.

* + 1. Corporate Matters
       1. The Seller is a company duly incorporated, organised and subsisting under the [YOUR COUNTRY LAW] of [COUNTRY] and has sufficient power, authority and right to enter into and deliver, and to observe and perform its covenants and obligations under this Agreement, the Closing Documents to which it is a party and under the Non-Competition Agreement. The Seller has taken all corporate action necessary to authorise the execution and delivery of, and the observance and performance of its covenants and obligations under this Agreement, the Closing Documents to which it is a party and under the Non-Competition Agreement.
       2. The Seller has all necessary power and authority to own or lease the Purchased Assets and to carry on the Business as at present carried on. The Seller possesses all licences material to the conduct of the Business. Neither the nature of the Business nor the location or character of any of the Purchased Assets requires the Seller to be registered, licenced or otherwise qualified as an extra-provincial or foreign company or to be in good standing in any jurisdiction other than jurisdictions where it is duly registered, licenced or otherwise qualified and in good standing for such purpose.
       3. This Agreement has been duly executed and delivered by the Seller, and this Agreement constitutes a valid and binding obligation of the Seller enforceable against the Seller in accordance with its terms.
    2. Title to Purchased Assets

Immediately prior to the Closing, the Seller shall be and, on Closing, the Purchaser shall become, the beneficial owner of the Purchased Assets, with good and marketable title thereto, free and clear of any title defects or Encumbrances other than the Permitted Encumbrances. The Seller is exclusively entitled to possess and dispose of the Purchased Assets (subject only to the necessity for obtaining any necessary consents to transfer in the case of the Leases, Equipment Leases, Contractual Rights, Warranty Rights, Transferable licences and the Assumed Contracts).

* + 1. No Options

No Person, other than the Purchaser, has any oral or written agreement, option, or right, or any other right capable of becoming an agreement or option for the purchase from the Seller of the Business or any of the Purchased Assets.

* + 1. The Financial Statements

The Financial Statements have been prepared from the books and records of the Seller and, in the case of the financial statements for the year ended [DATE], such financial statements served as the basis for the consolidation of the accounts of the Business with the other accounts of the Seller as at such date as presented in the audited financial statements of the Seller as at [DATE], and in accordance with the Statement of Accounting Principles annexed as Annexure [SPECIFY].

The Financial Statements:

* + - 1. accurately disclose and present fairly the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial condition of the Seller *in re*spect of the Business and the results of the operations of the Seller *in re*spect of the Business, as at the dates thereof and for the periods covered thereby except that the Financial Statements do not have any notes attached thereto, and do not disclose liabilities required by General Accepted Accounting Principles to be disclosed in such notes; and
      2. reflect all proper accruals (except as noted in the Statement of Accounting Principles annexed as Annexure [SPECIFY]), as at the dates thereof and for the periods covered thereby, of all amounts under employment arrangements or the Benefit Plans for employees of the Seller *in re*spect of the Business (including management fees and employee incentives) which, though not payable until a time after the end of the relevant period, are attributable to activities undertaken during that period.
    1. Undisclosed Liabilities

The Seller has no liabilities with respect to the Business (whether accrued, absolute, contingent or otherwise, matured or unmatured) of any kind except:

* + - 1. liabilities disclosed or provided for in the Financial Statements;
      2. liabilities incurred in the ordinary course of business since [DATE], which are consistent with past practice, are not, in the aggregate, material and adverse to the Business or the Purchased Assets, and do not violate any covenant contained in this Agreement or constitute a breach of any representation or warranty made in or pursuant to this Agreement; and
      3. liabilities disclosed in this Agreement.
    1. Absence of Changes

Since [DATE], except as disclosed in Annexure [SPECIFY]:

1. the Seller has conducted the Business in the ordinary course, has not incurred any debt, obligation or liability out of the ordinary course of business or of an unusual or extraordinary nature and has used its commercially reasonable efforts to preserve the Business and the Purchased Assets;
2. there has not been any change in the condition of the Purchased Assets or affairs, operations or condition (financial or otherwise) of the Business other than changes in the ordinary course of business, and such changes have not, either individually or in the aggregate, been materially adverse or have had or may be reasonably expected to have, either before or after the Time of Closing, a material adverse effect on the Business,
3. the Purchased Assets or the condition (financial or otherwise) of the Business except that operating losses have been incurred in the ordinary course of the Business as reflected on the [DATE] financial statements of the Business which have been provided to the Purchaser and operating losses in the ordinary course of the Business have continued to be incurred after [DATE]; and
4. except for those contemplated by this Agreement, there has not been any termination, amendment or revocation of any licence or any damage, destruction, loss, labour dispute or other event, development or condition of any character (whether or not covered by insurance) which has had, or could have, a material adverse effect on the Business or the Purchased Assets except for the operating losses referred to in (b) above or events or developments reflecting the seasonality of the Business or political, general economic or general retail industry conditions in [COUNTRY].
   * 1. The absence of Unusual Transactions

Except as disclosed on Annexure [SPECIFY], since [DATE], the Seller has not with respect to the Business:

* + - 1. transferred, assigned, sold or otherwise disposed of any of the Purchased Assets or cancelled any debts or claims of material value except in the ordinary course of business;
      2. paid or incurred any material obligation or liability (fixed or contingent) other than obligations or liabilities included in the Financial Statements and obligations and liabilities incurred since the date thereof in the ordinary course of business or disclosed in this Agreement;
      3. settled any liability, claim, dispute, proceedings, suit or appeal pending against it, the Business or against any of the Purchased Assets except for claims which in the aggregate were settled for less than [AMOUNT];
      4. suffered any extraordinary loss, or waived or settled any rights of material value, or entered into any commitment or transaction not in the ordinary course of business, where such loss, rights, commitment or transaction is material *in re*lation to the Business;
      5. except in the ordinary course of business, increased the compensation paid or payable to its existing employees or increased the benefits to which such employees are entitled under any Benefit Plan or created any new benefit or pension plan for any such employees;
      6. except for Permitted Encumbrances and Encumbrances discharged at or prior to the Closing, created any Encumbrance on the Purchased Assets or suffered or permitted any such Encumbrance that has arisen on the Purchased Assets since that date to remain;
      7. changed in any material respect its accounting practises or policies, including without limitation, any material changes or reduction in any reserves or accruals for liabilities below levels consistent with its past practises as reflected in the Financial Statements;
      8. become aware as of the date hereof (without having made any enquiry) of the passing of any Applicable [YOUR COUNTRY LAW] that might reasonably be expected to have a material adverse effect on the Business, the Purchased Assets or the future prospects the Business;
      9. entered into or become bound by any contract, agreement or arrangement, written or oral (other than the [SPECIFY] Agreements), not in the ordinary course of its business and involving or which may result in the payment of money by the Seller of an amount in excess of [AMOUNT] with respect to all such transactions;
      10. modified, amended or terminated any contract, agreement or arrangement to which it is or was a party, or waived or released any right of material value which it has or had, other than in the ordinary course of its business, other than those contracts to be cancelled on or before Closing in accordance with subsection 6.1.14;
      11. incurred any debt, liability or obligation for borrowed money, or incurred any other debt, liability or obligation except in the ordinary course of its business;
      12. entered into any agreement (other than the Assumed Intracompany Payable) with a Person who does not deal at arm’s length (within the meaning of the [YOUR COUNTRY’S INCOME TAX ACT/LAW/RULE] with the Seller (other than employment agreements with its officers and directors) or paid any bonus or consulting or management fees or any similar fees to any such Persons;
      13. made any capital expenditures exceeding [AMOUNT] in the aggregate, or authorised or agreed or otherwise become committed to do any of the foregoing.
    1. Tax Matters
       1. The Seller is not liable for any Taxes due and unpaid which might result in a lien or Encumbrance affecting any of the Purchased Assets.
       2. The Seller has withheld from each payment made to any of its present or former employees, officers and directors, and to all persons who are non-residents of [COUNTRY] for the purposes of [YOUR COUNTRY’S INCOME TAX ACT/LAW/RULE], all amounts required by [YOUR COUNTRY LAW], and has remitted such withheld amounts within the prescribed periods to the appropriate Governmental Agency.
       3. The Seller has remitted all [COUNTRY] Pension Plan and [COUNTRY] Pension Plan contributions, unemployment insurance premiums, employer health taxes and other Taxes payable by it *in re*spect of its employees to the proper Governmental Agency within the time required by Applicable [YOUR COUNTRY LAW]. The Seller has charged, collected and remitted on a timely basis all amounts as required by Applicable [YOUR COUNTRY LAW] on any sale, supply or delivery whatsoever, made by the Seller *in re*spect of the Business including, without limitation, sales and goods and services taxes.
       4. The Seller is a registrant for the purposes of the goods and services tax provided for under the [YOUR COUNTRY’S] Excise Tax [ACT/LAW/RULE], and its registration number is R [NUMBER]. The Seller is a registrant for the purposes of the Taxes provided for under the [COUNTRY] Sales Tax [ACT/LAW/RULE], and its registration number is [NUMBER].
       5. The Seller has paid all Taxes due under the Retail Sales Tax [ACT/LAW/RULE] [COUNTRY] on the acquisition of its tangible personal property (as defined in the Retail Sales Tax [ACT/LAW/RULE] ([COUNTRY]) constituting Purchased Assets. The foregoing is accurate, *mutatis mutandis*, with respect to all sales or transfer taxes imposed under the comparable legislation of other provinces.
       6. The Seller has never acquired or had the use of any of the Purchased Assets from a Person (“a Related Person”) with whom the Seller was not dealing at arm’s length, as determined under [YOUR COUNTRY’S INCOME TAX ACT/LAW/RULE]. The Seller shall neither acquire nor dispose of any of the Purchased Assets from or to any Related Person prior to the Time of Closing.
       7. The Seller is not a party to or bound by any agreement with, is not indebted to, and no amount is owing to the Seller by any Person, not dealing at arm’s length, within the meaning of the [YOUR COUNTRY’S INCOME TAX ACT/LAW/RULE], with the Seller except for oral contracts of employment with the officers of the Seller and the Assumed Intracompany Payable.
    2. Books and Records

The Accounting Records are complete and accurate in all material respects and the Seller’s books and records provide for all Taxes (other than income taxes, capital gains taxes, capital taxes or similar taxes) that have become or may become due and payable by the Seller *in re*spect of the Business on or before the Time of Closing or are *in re*spect of a period ending prior to the Time of Closing.

The computer and other systems used in the Business, function properly and provide information, which is accurate in all material respects as to the normal transactions of the Business. The Seller owns or holds valid licences for all software required to carry out its data processing requirements *in re*lation to the Business. The Documents are complete and accurate in all material respects.

* + 1. Leases, Material Contracts, etc.
       1. Except for the Assumed Contracts, the contracts and Contractual Rights listed on Annexure [SPECIFY], the contracts referred to in subsection 6.1.14, the Equipment Leases, the Leases and the Contractual Rights, the Seller is not a party to or bound by any material contract or commitment, whether oral or written, which relates to the Business. True and correct copies of the Assumed Contracts, the Equipment Leases, the Leases [and the Contractual Rights] have been made available for inspection by the Purchaser or its agents prior to the date hereof.
       2. With respect to the Leases,
          1. the rent and all other required payments under each Lease which have become due have been duly paid, and the covenants, obligations and conditions contained in each Lease have been duly observed and performed in all material respects by the Seller, except for those amounts to be adjusted under Section 2.5;
          2. subject to obtaining any necessary consents to assign the Lease and the fulfilment of any other conditions set forth in such Lease to assign the Lease, the Seller has the full right, power and authority to assign each such Lease and its interest in the Leased Premises related thereto to the Purchaser; and
          3. subject to obtaining any necessary consents to assign the Lease and the fulfilment of any other conditions set forth in such Lease to assign the Lease, and subject to payment of rent and other amounts payable by the Purchaser and performance by the Purchaser of the Seller’s covenants contained in each Lease upon assignment,
          4. the Purchaser may enter into and upon and hold the Leased Premises subject to and demised by that Lease for its own use and benefit for the residue of the term granted by such Lease and any renewals thereof, without interruption by the Seller or any other person claiming through or under the Seller.
       3. The Assumed Contracts, Leases, Equipment Leases and Contractual Rights are all in good standing and in full force and effect with no amendments (except as described in the applicable Annexures hereto) and are enforceable in accordance with their terms. The Seller has complied with all material terms thereof and has not waived any material rights thereunder, and no material default or breach exists *in re*spect thereof on the part of any of the [COMPANY NAME] thereto, and no event has occurred which, after the giving of notice or the lapse of time or both, would constitute such a material default or breach.
       4. The Seller has not permitted any other party to terminate, suspend or amend any Assumed Contract, Lease, Equipment Lease and Contractual Right. There has been no assignment, subletting or granting of any licence (or occupation or otherwise) of or *in re*spect of any of the Assumed Contracts, Leases, Equipment Leases and Contractual Rights.
       5. All amounts payable to the Seller after the Closing Date under the Assumed Contracts, Leases, Equipment Leases and the Contractual Rights are still due and owing to the Seller (unless adjusted for under Section 2.5) without any right of set off. There are no quotations, orders or tenders for contracts which remain open for acceptance. The Seller is not a party to any Assumed Contract or Contractual Right which it does not have the capacity to perform, including the necessary personnel, equipment and supplies.
    2. Accounts Receivable
       1. The Seller has the full right and authority to assign to the Purchaser the Accounts Receivable and the security held by the Seller which is related to such Accounts Receivable.
       2. Each Account Receivable and the security-related thereto shall be valid and subsisting at the Time of Closing.
       3. The rights of the Seller *in re*spect of each Account Receivable and under the security-related thereto will have been enforced by the Seller up to the Time of Closing in accordance with the Seller’s customary business practises and will not have been waived, modified or compromised in any manner which will affect the Purchaser’s ability to benefit from or enforce its rights under an Account Receivable or its related security.
       4. The amounts remaining to be paid under each Account Receivable at the Time of Closing will be due and owing to the Seller without any right of set-off or counterclaim or any reduction for any creditor or allowance made or given.
       5. To the knowledge of the Seller, but without prejudice of the Seller’s obligations under Section 2.6, the Accounts Receivable shall be good and collectable at the full-face value thereof within [NUMBER] days of the date they arose.
    3. Consents, Approvals, Etc.

Except as set out in the Leases, the Assumed Contracts, the Equipment Leases, the Contractual Rights and the Transferable licences (or the Applicable [YOUR COUNTRY LAW] related to such Transferable Licenses), no consent, approval, License, Order or authorisation, registration, declaration or filing with any Governmental Agency or other Person is required to be obtained or made by the Seller in connection with (a) the Closing, (b) the execution and delivery by the Seller of this Agreement, the Closing Documents to which it is a party or the Non-Competition Agreement or (c) the observance and performance by the Seller of its obligations under this Agreement, the Closing Documents to which it is a party and the Non-Competition Agreement except pursuant to the Competition Act ([COUNTRY]), the Bulk Sales Legislation, the Provincial Legislation or

as required by the Applicable [YOUR COUNTRY LAW] to perfect the assignment of the Accounts Receivable. There is no requirement under any Transferable License, Assumed Contract, Equipment Lease, Lease or Contractual Right to give any notice to, or to obtain the consent of, any party to such a contract or licence in connection with the Closing except as required by the terms thereof (or the Applicable [YOUR COUNTRY LAW] related to such Transferable Licenses). The Seller is not aware of any reason why any of the landlords of the Leased Premises would refuse to give such consent except by reason of a potential breach of the radius clauses which may be contained in such Leases or in a lease of one of Purchaser’s retail outlets.

* + 1. Absence of Guarantees

*In re*spect of the Business, the Seller has not given nor agreed to give or is a party to or bound by, any indemnification or guarantee of indebtedness or other obligations of third parties or any other commitment by which the Business is, or is contingent, responsible for such indebtedness or other obligations.

* + 1. Restrictions on Business

The Seller is not a party to any agreement, lease, mortgage, security document, obligation or instrument, or subject to any restriction imposed by any Governmental Agency or subject to any Applicable [YOUR COUNTRY LAW] or Order which restricts or interferes with the conduct of the Business as currently conducted or its current use of the Purchased Assets or which limits or restricts or otherwise materially adversely affects the Purchased Assets or the financial condition of the Business, other than Applicable [YOUR COUNTRY LAW] or Orders or restrictions of general application to the Business and any restrictions which may be contained in the Leases or the Equipment Leases.

* + 1. The absence of Conflicting Agreements

Neither the execution and delivery of this Agreement or any Closing Document by the Seller nor the consummation of the transactions contemplated hereby will:

* + - 1. contravene or violate in any material respect or result in any material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any obligation under:
         1. subject to giving the requisite notice of the proposed transaction under the Competition Act ([COUNTRY]), any Applicable [YOUR COUNTRY LAW];
         2. any License, permit, concession or franchise of the Seller;
         3. the articles, by-laws, directors or shareholders resolutions of the Seller;
         4. except for the Leases, the Equipment Leases, Contractual Rights, Warranty Rights and the Assumed Contracts listed on Annexure [SPECIFY], the consent to the assignment or transfer of which may be required from landlords
         5. or other third parties thereunder in connection with the Closing, the provisions of any material indenture, mortgage, lease, agreement, instrument, arrangement or understanding to which the Seller is a party or is bound;
      2. relieve any other party to any Lease, Equipment Lease, Assumed Contract, Contractual Right or Warranty Right, of that party’s obligations thereunder or enable it to terminate its obligations thereunder except as described in such Lease, Equipment Lease, Contractual Rights, Warranty Rights or Assumed Contract; or
      3. result in the creation or imposition of any material Encumbrance on the Business or any of the Purchased Assets other than the Permitted Encumbrances.
    1. Compliance with Applicable [YOUR COUNTRY LAW]

Prior to [DATE], the Seller has conducted the Business in compliance in all material respects with all Applicable [YOUR COUNTRY LAW], and not in breach of any Applicable [YOUR COUNTRY LAW] except for breaches which in the aggregate are immaterial or which are described in the Phase I Assessment. Since [DATE], the Seller is conducting the Business currently carried on by it in compliance in all material respects with all Applicable [YOUR COUNTRY LAW], and not in breach of any Applicable [YOUR COUNTRY LAW] except for breaches which in the aggregate are immaterial.

The Seller has received no orders, notices, complaints or similar requirements relating to the Business or the Seller relating to the Business issued by any building, environmental, fire, health, labour or police authorities or by any other Governmental Agency which have not been resolved to the satisfaction of the issuing body and there are no matters under discussion by the Seller or its agents with any Governmental Agency relating to orders, notices or similar requirements.

* + 1. Employees

Annexure 6 contains:

* + - 1. the names and titles of all existing Employees of the Business together with the location of their employment;
      2. the date of hiring of each existing Employee;
      3. a list of all written employment contracts between the Seller and its Employees *in re*spect of the Business;
      4. the rate of annual remuneration or of hourly pay of each existing Employee at the date hereof that is a full-time or part-time employee, as the case may be, any bonuses paid since the end of the last completed financial year and all other bonuses, incentive schemes and benefits to which such employee is entitled;
      5. the vacation policy of the Seller relating to the Business and the vacation entitlements of Employees if at variance to the policy;
      6. the names of any Employees who are absent from work due to long-term or short-term disability, pregnancy, maternity or parental leave, vacation, sick leave, workers’ compensation leave, or any other reasonable cause, whether they are expected to return to work and if so when they are expected by the Seller to return to work and the nature of the benefits to which such Employees are entitled from the Seller;
      7. particulars of all other material terms and conditions of employment or engagement of the Employees and the positions held by them; and consulting agreements, confidentiality agreements and restricted covenants, non-competition and non-solicitation agreements.

Each of the Employees of the Seller is employed under a contract of indeterminate term that can be terminated by the Seller with such notice as is required by Applicable [YOUR COUNTRY LAW] subject to such Employee’s right to seek reinstatement in those circumstances provided for by Applicable [YOUR COUNTRY LAW]. The amount of vacation pay sufficient to satisfy all vacation pay entitlements of its Employees as required by the [YOUR COUNTRY’S] Employment Standards [ACT/LAW/RULE] and similar laws of the other provinces as at [DATE] is [AMOUNT].

The Seller is in compliance in all material respects with all legislation, including without limitation pay equity, employment standards, human rights, workers’ compensation, occupational health and safety and labour relations legislation, applicable to the Business and its Employees. To the Seller’s knowledge (without having made any inquiry) no full-time management Employee of the Business has indicated his intention to terminate his employment with the Business after or on account of the Closing except [SPECIFY EMPLOYEE(S)].

* + 1. Collective Agreements

There is no collective agreement to which the Seller is a party *in re*spect of the Business or which relates to the Business. No trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent holds bargaining rights with respect to any Employees of the Business by way of certification, interim certification, voluntary recognition, related employer or successor rights, or has applied or, to the knowledge of the Seller, threatened to apply to be certified as the bargaining agent of any of such Employees. No work stoppage or other labour dispute *in re*spect of the Business is pending or, to the knowledge of the Seller, threatened.

* + 1. Benefit Plans
       1. Annexure [SPECIFY] contains a true and complete list of each Benefit Plan. Annexure [SPECIFY] also identifies each of the Benefit Plans that is a Pension Plan. There are no individual Pension Plans. No Person has a formal plan or commitment, whether legally binding or not, to create any additional Benefit Plan or to modify or change any existing Benefit Plan that would affect any current Employee of the Business, except such modification or amendment required to ensure the continued registration of any existing Benefit Plan with each applicable Governmental Agency.
       2. With respect to each of the Benefit Plans, Seller has delivered to the Purchaser true and complete copies of each of the following documents:
          1. a copy of the Benefit Plan (including all amendments thereto); and
          2. a copy of all employee handbooks relating to the Benefit Plan, whether or not such handbooks have been, or are required to be, filed with any applicable Governmental Agency.
       3. None of the Pension Plans is a multi-employer pension plan as defined under the provisions of any applicable federal or provincial legislation.
       4. No Benefit Plan provides benefits, including death or medical benefits (whether or not insured), to employees or former employees of the Business beyond retirement or other termination of service or requires employer contributions, other than as set out specifically in the Benefit Plan, a copy of which has been provided to the Purchaser in accordance with subsection (b) hereof.
       5. There are no pending or, to the knowledge of the Seller, threatened or anticipated claims involving any of the Benefit Plans, including, without limitation, claims by or on behalf of any of the Benefit Plans against any Person (other than routine claims for benefits).
       6. With respect to each Pension Plan that is a defined benefit plan, all contributions required to the date hereof in order for such Pension Plans to comply with the minimum funding standards imposed by applicable federal or provincial statutory and regulatory requirements have been made or properly accrued, and each such Pension Plan is fully funded on a “going concern” basis and on a “solvency” basis as determined in accordance with the actuarial assumptions and methods used in the most recent actuarial report filed with (and accepted for filing by) the applicable Governmental Agencies *in re*spect of each such Pension Plan.
       7. With respect to each Pension Plan that is a defined contribution pension plan, all employer contributions required to the date hereof have been made or properly accrued. All employee contributions to the Pension Plans to the date hereof have been properly withheld by the Seller and have been fully paid into the funding arrangements for the respective Pension Plan or have been properly accrued.
    2. Litigation

Except as disclosed in Annexure [SPECIFY], there is no claim, demand, suit, action, cause of action, dispute, proceeding, litigation, investigation, grievance, arbitration, governmental proceeding or other proceeding including appeals and applications for review, whether or not insured, in progress against, by or relating to the Seller, or affecting the Purchased Assets or the Business, nor are any of the same pending or, to the knowledge of the Seller, threatened. The Seller is not aware of any state of facts that would provide a valid basis for any of the foregoing. There is not at present outstanding against Seller any Order that materially and adversely affects the Seller, the Business or the Purchased Assets in any way or that in any way relates to this Agreement or the transactions contemplated hereby.

* + 1. Insurance

The Seller has the Purchased Assets insured by reputable insurers against loss or damage as is appropriate to the Business and the Purchased Assets in such amounts and against such risks as are customarily carried and insured against by owners of comparable businesses, properties and assets, and such insurance coverage will be continued in full force and effect to and including the Closing Date.

Annexure [SPECIFY] is a true and complete list of all material insurance claims or material pending insurance claims *in re*spect of the Business for the last [NUMBER] years made under any insurance policy of the Seller. True and complete copies of all of the most recent inspection reports, if any, received from insurance underwriters as to the condition of the Purchased Assets and the Business have been delivered to the Purchaser. The Seller is not in material default with respect to any of the provisions contained in any such insurance policy. All such policies of insurance are in full force, and effect and the Seller is not in material default, whether as to the payment of premium or otherwise, under the terms of any such policy.

* + 1. Leases

The Seller is not a party to or bound by any leases of real property other than the Leases and the Excluded Warehouse Lease *in re*spect of the Business and all interests held by the Seller as lessee under the Leases are free and clear of all Encumbrances other than the Permitted Encumbrances. The information set out in Annexure [SPECIFY] with respect to the Leases is complete and accurate in all material respects. Each of the Leases permits the Seller to carry on the Business as presently carried on.

* + 1. Premises
       1. Annexure [SPECIFY] sets out the addresses or the mall locations of each of the Leased Premises.
       2. There are no work orders issued to or received by the Seller which are outstanding against the Leased Premises, and the Seller has received no deficiency notices, requests or written advice of any breach of any Applicable [YOUR COUNTRY LAW] *in re*spect of the Leased Premises which could if not corrected, become a work order or could require performance of work or expenditure of money to correct. The leasehold improvements installed by the Seller in the Leased Premises are in compliance in all material respects with Applicable [YOUR COUNTRY LAW] and with the requirements of all insurance companies, which have written policies covering the Purchased Assets.
       3. To the best of the Seller’s knowledge, except as disclosed in Phase I Assessment *in re*spect of the Leased Premises in [SPECIFY LOCATION], none of the leasehold improvements installed by the Seller in the Leased Premises have been insulated with urea formaldehyde foam insulation nor have they been fireproofed or insulated with any asbestos fibre product.
       4. There are not outstanding against any of the Leased Premises any present or future capital levies, sewer impost charges, local improvement rates, special assessments, deferred or instalment charges of a capital nature or any other similar charges which have been assessed against the Seller by any Government Agency or which are specifically identified as such in any invoices received by the Seller from the landlords under the Leases.
       5. The operation of the Business at each of the Leased Premises is not subject to any material restriction or limitation except those arising from Applicable [YOUR COUNTRY LAW], licences or the Leases of such Leased Premises.
    2. No Expropriation

The Seller has not received any notice of expropriation of all or any of the Leased Premises or the Purchased Assets. The Seller is not aware of any expropriation proceeding pending or threatened against or affecting any of the Leased Premises or the Purchased Assets.

* + 1. Leased Equipment

Annexure [SPECIFY] sets forth a true and complete list of all fixed assets in the possession or custody of the Seller relating to the Business which, as of the date hereof, are leased or held under licence or similar arrangement other than fixtures and leasehold improvements located in the Leased Premises and of the equipment leases, licenses, agreements or other documentation relating thereto and all such leases, conditional sales contracts, licences and agreements are in full force and effect without, to the best of the Seller’s knowledge, any party thereto being in material default thereunder.

* + 1. Licenses

The only licences held by the Seller which are material or necessary for the operation of the Business and the ownership of the Purchased Assets are listed in Annexure [SPECIFY] and said licences are in full force and effect unamended. The Seller is in compliance in all material respects with all provisions of the Licenses, and there are no proceedings in progress, or to the best of the knowledge of the Seller, pending or threatened, which may result *in re*vocation, cancellation, suspension or any adverse modification of any of the Licenses.

* + 1. Intellectual Property Rights

Annexure [SPECIFY] sets forth a true and complete list of all Intellectual Property Rights, which are material to the operation of the Business as currently conducted. The Intellectual Property Rights set forth in Annexure [SPECIFY] are owned by or validly licenced to the Seller and are in good standing. Except with respect to the trade name [SPECIFY], all registrations and filings necessary to preserve the rights of the Seller in and to the Intellectual Property Rights in [COUNTRY] have been made and are in good standing.

The Seller is not aware of any infringement of, passing off related to, or other interference with the Intellectual Property Rights by third parties or any claim by any Person that any of the Intellectual Property Rights are, or maybe, invalid or unenforceable or non-distinctive of the Seller. The Intellectual Property Rights are sufficient to conduct the Business as it has been and is now being conducted.

None of:

* + - 1. the machinery and equipment operated by the Seller *in re*spect of the Business,
      2. the processes involved in the operation of any such machinery or equipment,
      3. the products or services produced or sold by the Seller *in re*spect of the Business, or
      4. the activities carried on by the Seller *in re*spect of the Business to the knowledge of the Seller, constitutes or involves an infringement of any trademark, patent, copyright, industrial design or proprietary or similar right of any other Person. The Seller is not a party to any claim, or subject to any liability, contingent or otherwise,
      5. for trademark, trade name, industrial design, patent or copyright infringements as to any products manufactured, produced, used or sold by the Seller *in re*spect of the Business, either as plaintiff or as defendant or any other claims or liability relating to trademarks (including trade dress and packaging get up), trade names, industrial designs, patents or copyrights owned or licenced by the Seller.
      6. The Seller has taken commercially reasonable precautions and made commercially reasonable efforts to secure the confidentiality of its proprietary information.
    1. Assets

Those Purchased Assets listed on the Annexures are accurately described on the Annexures and except for the Excluded Assets, constitute, together with the Purchased Assets otherwise described in this Agreement, all of the assets required to operate the Leased Premises and are sufficient to carry on the Business as same is presently carried on. Without limiting the generality of the foregoing, the Purchased Assets include all assets necessary for the operation of the [NUMBER] Copy Print Stations, [NUMBER] Digital Enhancement Stations and [NUMBER] Create-A-Print enlargement station currently being operated by the Seller *in re*spect of the Business. All tangible Purchased Assets are in good working condition and repair subject to ordinary wear and tear and comply with all applicable Governmental Agency standards or approvals in all material respects. All of the tangible Purchased Assets are located at the Leased Premises, the head office of the Seller in [COUNTRY] or in the warehouse, which is subject to the Excluded Warehouse Lease.

* + 1. Inventories

The Inventories shown on the Closing Balance Sheet will consist of items of a quantity usable or saleable in the normal course of the Business. Except for the Inventories described on Annexure [SPECIFY] hereto, the value of obsolete materials and of materials of below standard quality will have been written down on the Closing Balance Sheet to net realisable value, or adequate reserves have been provided, all in accordance with Generally Accepted Accounting Principles. The inventory level of the Business has been maintained at the level required for the operation of the Business as currently conducted and such level is adequate thereto.

* + 1. Forward Commitments

Except for the contracts referred to in subsection 6.1.14 and the supply agreements dated [DATE] and [DATE] between the Seller and [SPECIFY], no purchase commitment, order or supply contract of the Seller relating to the Business is in excess of its normal business requirements or at prices in excess of current market prices or is not terminable without penalty on [NUMBER] days notice.

* + 1. Copies of Documents

True, correct and complete copies of all Documents listed in Annexures [SPECIFY] have been delivered to or made available for inspection by the Purchaser or its solicitors prior to the date hereof.

* + 1. Residency

The Seller is not a non-resident person for the purposes of [YOUR COUNTRY’S INCOME TAX ACT/LAW/RULE].

* + 1. Environmental Matters

1. The Seller, *in re*spect of the Purchased Assets, has been and is in compliance in all material respects with all applicable federal, provincial, municipal and local [YOUR COUNTRY LAW], statutes, ordinances, by-laws and regulations, and orders, directives, policies and decisions having the force of [YOUR COUNTRY LAW], currently in force, rendered by any ministry, department or administrative
2. or regulatory agency and the Common [YOUR COUNTRY LAW] (“Environmental [YOUR COUNTRY LAW]”) relating to the protection of the environment, occupational health and safety or the manufacture, processing, distribution, use, treatment, storage, disposal, discharge, emission, deposit, issuance, elimination, transport or handling of any pollutants, contaminants, chemicals or industrial, toxic or hazardous wastes, materials or substances (“Hazardous Substances”).
3. The Seller has obtained all licenses, permits, approvals, consents, certificates, registrations and other authorisations under Environmental [YOUR COUNTRY LAW] (the “Environmental Permits”) which are material or necessary for the operation of the Business. Each Environmental Permit is valid, subsisting and in good standing, and the Seller is not in default or breach in any material respect of any Environmental Permit, and no proceeding is pending or, to the knowledge of the Seller, threatened to revoke or limit any Environmental Permit.
4. The Seller, in connection with the Business, has not used or permitted to be used, except in compliance in all material respects with all Environmental [YOUR COUNTRY LAW], any of its property or facilities to generate, manufacture, process, distribute, use, treat, eliminate, release, discharge emit, deposit, issue, store, dispose of, transport or handle any Hazardous Substance.
5. To the best of the Seller’s knowledge, except as described in Phase I Assessment *in re*spect of the Leased Premises in [NAME OF THE PLACE], none of the leasehold improvements installed by the Seller in the Leased Premises is or ever has been insulated with urea formaldehyde insulation, nor do they contain any aluminium wiring or friable asbestos or any other substance containing asbestos, nor do they contain any polychlorinated biphenyls, except in compliance in all material respects with Applicable[YOUR COUNTRY LAW].
6. Except as disclosed on Annexure [SPECIFY], the Seller has not in the three years preceding the date hereof received any notice of or been prosecuted for non-compliance with any Environmental [YOUR COUNTRY LAW], nor has the Seller settled any allegation of non-compliance short of prosecution. There are no outstanding and enforceable orders, claims or directions relating to environmental matters requiring any work, repair, clean-up, rehabilitation, restoration,
7. decontamination, containment or construction or capital expenditures to be made, or requiring that any activity be reduced, modified or eliminated, with respect to the Purchased Assets, nor has the Seller received notice of any of the same. To the best of the Seller’s knowledge, there are no facts which could give rise to any of the same that would be material.
8. The Seller has not caused or permitted, nor does it have any knowledge of, the release or disposal, in any manner whatsoever, of any Hazardous Substance on or from any of its properties or assets (including any of the Leased Premises) utilised in the Business except for the release or disposal of Hazardous Substances in compliance in all material respects with Environmental [YOUR COUNTRY LAW],
9. or any such release on or from a facility owned or operated by third parties but with respect to which the Seller in connection with the Business is or may reasonably be alleged to have liability. All Hazardous Substances and all other wastes and other materials and substances used in whole or in part by the Seller in connection with the Business or resulting from the Business have been disposed of, treated and stored in compliance in all material respects with all Environmental [YOUR COUNTRY LAW].
   1. The Seller has not received any written notice or, to its knowledge, oral notice that the Seller is potentially responsible for a federal, provincial, municipal or local clean-up site or corrective action under any Environmental [YOUR COUNTRY LAW] in connection with the Business.
   2. The Seller, in connection with the Business, has not received any request for information in connection with any federal, provincial, municipal or local inquiries as to disposal sites.
   3. The Seller has delivered to the Purchaser a true and complete copy of all environmental audits, evaluations, assessments, studies or tests relating to the Business or Purchased Assets which are in its possession or under its control.
   4. To the best of Seller’s knowledge, the Seller:
10. is not liable to any Person as a result of an actual or alleged release, discharge, deposit, emission or spill of any hazardous substance, pollutant or contaminant into the environment or into any facility or structure, nor are there any toxic substances, hazardous substances, pollutants or contaminants stored on any of the Leased Premises or used in the Business except in compliance in all material respects with Applicable [YOUR COUNTRY LAW],
    * 1. nor have there been any releases, discharges, deposits, emissions or spills of any hazardous substance, pollutant or contaminant into the environment or into any facility or structure, which after the giving of notice
      2. or the lapse of time or both, would give rise to any actions, charges, claims, suits, orders or judgments relating to the violation of any Applicable [YOUR COUNTRY LAW], nor is there, to the knowledge of the Seller, any basis for any such actions, charges, claims, suits, orders or judgments;
      3. has not provided notification to any Person of the release, discharge, deposit, emission or spill of any hazardous substance, pollutant or contaminant into the environment or on any of the Leased Premises, including notifications under Environmental [YOUR COUNTRY LAW];
      4. the Seller has complied in all material respects with all environmental reporting and inspection requirements of all Governmental Agencies having jurisdiction over the Business;
      5. has not used any of the Leased Premises as a waste disposal site, except in compliance in all material respects with all Environmental [YOUR COUNTRY LAW], nor is there any hazardous substance, pollutant, contaminant or
      6. waste deposited or disposed of on any of the Leased Premises, except as is used for the normal operation of the Business in compliance in all material respects with all Environmental [YOUR COUNTRY LAW]. All pollution control equipment operated as part of the Business is effective in meeting applicable emissions limits and effluent standards;
      7. except in compliance in all material respects with Applicable [YOUR COUNTRY LAW], has no equipment at any of the Leased Premises that contains PCBs, including transformers or capacitors, and has no PCB waste stored at any of the Leased Premises;
      8. except in compliance in all material respects with Applicable [YOUR COUNTRY LAW], has no asbestos-containing materials belonging to the Seller at any of the Leased Premises;
11. The Seller has adopted and enforces in all material respects an environmental management program, *in re*spect of the Business, including an environmental policy statement and procedures for implementation, in order to manage its environmental matters, prevent and respond to potential spills and unlawful discharges and ensure that such spills or discharges are properly reported to the appropriate Governmental Agencies;
12. Annexure [SPECIFY] lists and describes:
    * 1. all Environmental Permits the Seller has and is required to have *in re*spect of the Business; and
      2. all Hazardous Substances, toxic substances, pollutants or contaminants that are used, stored, handled, created, recycled or disposed of at
      3. or from any of the Leased Premises except for such substances as are used for the normal operation of the Business in compliance in all material respects with Applicable [YOUR COUNTRY LAW].

With respect to the representations and warranties set forth in subsections 3.1.16, 3.1.23(c), 3.1.28, 3.1.33 and 3.1.34, the Purchaser acknowledges that the Seller has disclosed that prior to the Execution Date, violations and breaches of Environmental [YOUR COUNTRY ACT/LAW/RULE] of the type described in the Phase I Assessment existed *in re*spect of the Business and that Environmental Permits of the type described in the Phase I Assessment had not been obtained *in re*spect of the Business (collectively the “Phase I Violations”) and accordingly the existence of such Phase I Violations shall be treated as a permitted exception to the representations and warranties in subsections 3.1.16, 3.1.28, 3.1.33 and 3.1.34 without however reducing in any manner whatsoever the Seller’s liability, subject to and in accordance with the provisions of Article [NUMBER], for any Third Party Claims which may be made or brought against the Purchaser or which it may suffer or incur as a result of, *in re*spect of or arising out of or related in any manner whatsoever to the Phase I Violations; the Seller shall have no liability to the Purchaser *in re*spect of Direct Claims by the Purchaser unless such Direct Claim results from a Third Party Claim made against the Purchaser. The Seller represents and warrants to the Purchaser that, except as contemplated by Section 7.7, the Seller has cured and remedied in all material respects all Phase I Violations *in re*spect of the Business and that no material Phase I Violations now exist *in re*spect of the Business.

* + 1. Occupational Health and Safety

The Seller has provided the Purchaser with all inspection reports which it has received during the last [NUMBER] years with respect to the Business under the Occupational Health and Safety [ACT/LAW/RULE] of the Province of [COUNTRY] and under similar legislation in the other provinces and there are no outstanding inspection orders made thereunder.

There are no materials on any of the Leased Premises which are designated substances under the Occupational Health and Safety [ACT/LAW/RULE] of the [COUNTRY] or under similar legislation in the other provinces, except for designated substances which are used for the normal operation of the Business in compliance in all material respects with all Applicable [YOUR COUNTRY LAW]. The Business complies with all occupational health and safety rules and regulations in all material respects, and there are no outstanding material violations, orders, prosecutions or complaints with respect to such rules and regulations.

* + 1. Workers’ Compensation

There are no notices of assessment, provisional assessment, reassessment, supplementary assessment, penalty assessment or increased assessment (collectively, “assessments”) or any other communications related thereto which the Seller *in re*spect of the Business has received from any workers’ compensation board or similar authorities in any jurisdictions where the Business is carried on and there are no assessments which are due and unpaid on the date hereof or which will be unpaid at the Time of Closing and to the best of the Seller’s knowledge there are no facts or circumstances which may result in a material increase in liability or assessments to the Seller relating to the Business from any applicable workers’ compensation legislation, regulations or rules after the Time of Closing.

* + 1. Disclosure

No representation or warranty in this Agreement contains any untrue statement of a material fact and the representations and warranties contained in this Agreement do not omit to state any material fact necessary to make any of the representations or warranties contained herein not misleading to a prospective purchaser of the Purchased Assets that is already engaged in the retail [SPECIFY] business in [COUNTRY] (such as the Purchaser) seeking full information as to the Business and the Purchased Assets.

* + 1. Obligations to Customers

Except as described in Annexure [SPECIFY], there is no outstanding warranties, repair contracts or other material maintenance obligations with or to customers or other users of the goods or services of the Business which are material to the conduct of the Business. Except as disclosed in Annexure [SPECIFY], the Seller has not established any customer club or clubs or other arrangements *in re*spect of the Business whereby, in exchange for the payment of membership dues, a fee or other payment in advance of the acquisition of the goods or services by the customer, the Seller has agreed to provide any goods or services for free, at a discount, with a rebate or credit or at a cost to the Seller other than that normally associated with the supply of those goods and services on usual commercial terms.

* + 1. Retail Outlets

As at the date of this Agreement, the retail outlets at the respective locations of the Leased Premises are operational and business is conducted therein in the ordinary course of the Business and no action has been commenced by the Seller to wind-up, discontinue or materially reduce the business at any such location or surrender all or part of or notify the relevant landlord of an intention not to renew, or not to exercise any option to renew, the Lease *in re*spect of such location except as may be required by the terms of the relevant Lease and except for a reduction of business consistent with a forthcoming expiration of the relevant Lease.

* 1. Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Seller as set out in the following subsections of this Section and acknowledges that the Seller is relying upon such representations and warranties in entering into this Agreement.

* + 1. Incompany

The Purchaser is a company duly continued, organised and subsisting under the [YOUR COUNTRY LAW] of [COUNTRY].

* + 1. Corporate Power and Due Authorisation

The Purchaser has good and sufficient power, authority and right to enter into and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorise the execution and delivery of, and the observance and performance of its covenants and obligations under, this Agreement and the Closing Documents to which it is a party.

* + 1. Enforceability of Obligations

This Agreement has been duly executed and delivered by the Purchaser, and this Agreement constitutes a valid and binding obligation of the Purchaser enforceable against it in accordance with its terms.

* + 1. Absence of Conflicting Agreements

None of the execution and delivery of, or the observance and performance by the Purchaser of any covenant or obligation under, this Agreement or any Closing Document to which it is a party or the Closing contravenes or results in (with or without the giving of notice or lapse of time, or both) or will contravene or violate in any material respect or result in any material breach or default of, or acceleration of any obligation under:

* + - 1. subject to giving the requisite notice of the proposed transaction under the Competition Act ([COUNTRY]) any Applicable [YOUR COUNTRY LAW];
      2. any licence of the Purchaser;
      3. the articles, by-laws, directors’ or shareholders’ resolutions of the Purchaser;
      4. any agreement, lease (except those consents required to be obtained pursuant to subsection 6.1.16), mortgage, security document, obligation or instrument to which the Purchaser is a party or by which the Purchaser or its assets is affected or bound.
    1. Consents and Approvals

1. No consent, approval, License, Order or authorisation, registration, declaration or filing with any Governmental Agency is required by the Purchaser in connection with (a) the Closing or (b) the execution and delivery by the Purchaser of this Agreement and the Closing Documents to which it is a party, or (c) the observance and performance by the Purchaser of its obligations under this Agreement and the Closing Documents to which it is a party except pursuant to the Competition Act ([COUNTRY]) and except for those consents under certain leases required to be obtained pursuant to subsection 6.1.16.
2. The Purchaser is not aware of any reason why any of the landlords of the Leased Premises would refuse to give such consent except by reason of a potential breach of the radius clauses which may be contained in such Leases or in a lease for one of the Purchaser’s retail [SPECIFY] outlets.
3. The Purchaser is a registrant for the purposes of the goods and services tax provided for under the [YOUR COUNTRY] Excise Tax [ACT/LAW/RULE], and its registration number is R [NUMBER]. The Purchaser is a registrant for the purposes of the Taxes provided for under the [COUNTRY] Sales Tax Act, and its registration number is [NUMBER].
   1. Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty *in re*spect of each statement made and, except in the event of inconsistency, the interpretation of any statement made shall not be restricted by reference to or inference from any other statement made in a representation and warranty of such Party.

* 1. Commission

Each Party represents and warrants to the other Party that the other Party will not be liable for any brokerage commission, finder’s fee or other like payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by the first Party. Without limiting the generality of the foregoing, the Seller shall be responsible for the payment of any commission or other remuneration due to [INDIVIDUAL NAME] of [COUNTRY] Limited in connection with the transactions contemplated hereby.

* 1. Qualification of Representations and Warranties

Any representation or warranty made by a Party as to the enforceability of this Agreement or any Closing Document or any other agreement or contract is subject to the following qualifications:

* + - 1. specific performance, injunction and other equitable remedies are discretionary and, in particular, may not be available where damages are considered an adequate remedy; and
      2. enforcement may be limited by bankruptcy, insolvency, liquidation, reorganisation, reconstruction and other [YOUR COUNTRY LAW] generally affecting enforceability of creditors’ rights.
  1. Non-Waiver

No investigations made by or on behalf of the Purchaser at any time shall waive, diminish the scope of or otherwise affect any representation or warranty made by the Seller in this Agreement or in any Closing Document. No waiver by the Purchaser of any condition, in whole or in part, shall operate as a waiver of any other condition.

* 1. Survival of Representations and Warranties of the Seller

All representations, warranties, covenants and agreements made by the Seller in this Agreement or in any Closing Document shall survive the Closing as follows:

* + - 1. the representations and warranties set forth in subsection 3.1.8 (other than subsection 3.1.8(c)) shall survive the Closing and shall:
         1. subject to clause B, terminate at the expiration of the last of the limitation periods contained in legislation imposing Taxes subsequent to the expiration of which, absent misrepresentation or fraud, an assessment, reassessment or other form of recognised document assessing liability for Taxes thereunder cannot be issued to the Seller; and
         2. *in re*spect of any misrepresentation made or fraud committed in supplying information for the purposes of any legislation imposing Taxes, be unlimited as to duration;
      2. the representations and warranties set out in subsections 3.1.1(a), 3.1.1(c), 3.1.2, 3.1.3, and 3.1.8(c), shall continue without time limit;
      3. the representations and warranties set out in subsection 3.1.33 shall survive for a period of [NUMBER] years from the Time of Closing. After such period the Seller shall not have any further liability hereunder with respect to such representations and warranties except with respect to claims properly made within such period;
      4. all of the other representations and warranties contained in this Agreement shall survive for a period of [NUMBER] years from the Time of Closing. After such period the Seller shall not have any further liability hereunder with respect to such representations and warranties except with respect to claims properly made within such period; and
      5. all covenants and agreements of the Seller contained herein shall survive the Closing and continue without time limit except as expressly provided herein to the contrary.
  1. Survival of Representations and Warranties of Purchaser

All representations, warranties, covenants and agreements made by the Purchaser in this Agreement or in any Closing Document shall survive the Closing as follows:

* + - 1. the representations and warranties set out in subsections 3.2.1, 3.2.2, 3.2.3 and 3.2.5(b) shall continue without time limit;
      2. all of the other representations and warranties in this Agreement shall survive for a period of [NUMBER] years from the Time of Closing. After such period, the Purchaser shall have no further liability hereunder with respect to such representations and warranties except with respect to claims properly made within such period; and
      3. all covenants and agreements of the Purchaser contained herein shall survive the Closing and continue without time limit except as expressly provided herein to the contrary.
  1. Knowledge of the Seller

Where any representation or warranty contained in this Agreement is expressly qualified by reference to the “knowledge” of the Seller, it shall be deemed to refer to the knowledge of each of the senior officers of the Seller, and the Seller confirms that at least one of its senior officers has made due and diligent inquiry of such Persons (including appropriate officers of the Seller) as it considers necessary as to the matters that are the subject of such representations and warranties.

1. OTHER COVENANTS OF THE COMPANY
   1. Conduct of Business Prior to Closing

During the Interim Period, except as otherwise contemplated by the terms of this Agreement, the Seller shall act as follows.

* 1. Conduct Business in Ordinary Course

The Seller shall:

* + - 1. use commercially reasonable efforts to preserve and protect the Business and its income, the goodwill and the reputation of the Business, and retain at its service the employees necessary to the operation of the Business, and maintain good business relationships with its customers, suppliers and distributors, except *in re*spect of the contracts, commitments and arrangements referred to in subsection 6.1.14 hereof;
      2. carry on the Business with reasonable diligence and in the ordinary course, keep accurate Accounting Records and not make any modification in its usual sales, purchasing, accounting or management practices, except *in re*spect of the contracts, commitments and arrangements referred to in subsection 6.1.14 hereof and, without limiting the generality of the foregoing, ensure that all accruals or reservations, taken or made, are consistent with prior years’ practices; and
      3. without the prior written consent of the Purchaser (not to be unreasonably withheld), not enter into any transaction which, if entered into before the date of this Agreement, could cause any representation or warranty of the Seller contained herein to be incorrect in any material respect or constitute a material breach of any covenant or agreement of the Seller contained herein.
  1. Contracts

Without the prior written consent of the Purchaser (not to be unreasonably withheld), except as required by Section 4.2, the Seller shall not enter into any new contracts, agreements, leases, obligations, or commitments relating to the Business or the Leased Premises which are not in the ordinary course of business nor shall it renew, cancel, or exercise rights or options *in re*spect of, any Leases, Equipment Leases, Assumed Contracts or Contractual Rights. The Seller shall observe and perform in all material respects in a timely manner all of its covenants and obligations under each Lease, Equipment Lease, Assumed Contract or Contractual Right up to the Time of Closing. The Seller shall enforce all of its rights under each Lease, Equipment Lease, Assumed Contract or Contractual Right up to the Time of Closing if there is a material default by another party thereto.

* 1. Continue Insurance

The Seller shall ensure that until the Closing Date all policies of insurance maintained by the Seller relating to the Business continue in force and good standing and that all claims under such policies are presented in a due and timely manner.

* 1. Comply with [YOUR COUNTRY LAW]

Except as disclosed in Section 7.7, the Seller shall comply in all material respects with all Applicable [YOUR COUNTRY LAW] affecting the operation of the Business.

* 1. Taxes

The Seller shall pay all Taxes relating to the Business, which arise prior to or are related to a period of time prior to the Time of Closing or ending on the Time of Closing and which are due and payable prior to or on the Time of Closing.

* 1. Employees

*In re*spect of the Business, the Seller may in the ordinary course during the Interim Period terminate any existing full-time or part-time employee whose annual salary is less than [AMOUNT] and hire an individual to replace any such terminated employee or to replace any employee whose annual salary is less than [AMOUNT] and whose employment terminates for any reason during the Interim Period so long as the terms of employment of such individual are not materially different from those of the employee replaced.

The Seller shall not hire any other individual without the prior written consent of the Purchaser, which consent may not be withheld unreasonably. *In re*spect of the Business, the Seller shall not during the Interim Period, make any general or specific increase in the remuneration of the employees, officers, directors, and service agents of the Seller, nor grant to them any additional benefits except as otherwise required by Applicable [YOUR COUNTRY LAW] or individual contracts of employment entered into prior to the date hereof, copies of which are annexed to Annexure [SPECIFY] hereto, and except for normal salary increases at normal review dates in accordance with the normal policy of the Business. During the Interim Period, the Seller shall not modify any existing Benefit Plan or create any new one without the prior written consent of the Purchaser (not to be unreasonably withheld) *in re*spect of the Business.

* 1. Material Changes

The Seller shall not do, and shall use all commercially reasonable efforts not to permit, anything that would result in any material adverse change in or to the Purchased Assets or the Business or sell, transfer or dispose of any of the Purchased Assets, except for Inventories disposed of in the ordinary course of business or as required by Section 4.17.

* 1. Liens

The Seller shall not suffer or permit any Encumbrance to attach to or affect any of the Purchased Assets other than the Permitted Encumbrances or Encumbrances which will be discharged at or prior to the Closing.

* 1. Action by Seller

The Seller shall at its expense take all commercially reasonable action, which may be necessary to ensure that its representations and warranties contained herein shall be true and correct in all material respects at the Time of Closing.

* 1. Capital Expenditures

The Seller shall not make any capital expenditure *in re*spect of the Business in excess of [AMOUNT] or any capital expenditures exceeding [AMOUNT] in the aggregate or purchase any real estate or securities without the prior written consent of the Purchaser, which consent, may not be withheld unreasonably.

* 1. [SPECIFY] Claim

The Seller shall have, at its cost and expense, settled the claim of [SPECIFY], described on Annexure [SPECIFY] prior to Closing, failing which the Seller shall remit to the Escrow Agent the greater of (i) [AMOUNT] or (ii) the amount of any claim set forth in formal legal proceedings against the Seller and such amount shall be treated as a Direct Claim hereunder.

* 1. Conduct of Business Prior to Closing

During the Interim Period, except as otherwise contemplated by the terms of this Agreement, the Seller shall act as follows.

* + 1. Conduct Business in Ordinary Course
  1. Lease Consents and Estoppel Certificates
     1. During the Interim Period, the Seller shall use commercially reasonable efforts to obtain from each lessor of each Lease which requires consent of the lessor to the assignment thereof to the Purchaser, a consent to the assignment of such Lease to the Purchaser without any conditions attached to such consent which are materially adverse to the Purchaser (other than an increase in the rent payable under the Lease) and, after receipt of the necessary consent, to obtain an estoppel certificate from the lessor with respect to such Lease, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably.
     2. *In re*spect of each Lease which does not require consent of the lessor to the assignment thereof to the Purchaser, the Seller shall comply with all requirements under such Lease and do all acts and things necessary to validly assign the Lease to the Purchaser without any conditions which are materially adverse to the Purchaser (other than an increase *in re*nt payable under the Lease), including without limitation sending any prescribed notice under the Lease to the lessor within the prescribed time period for giving such notice, which notice shall be in form and substance satisfactory to the Purchaser, acting reasonably. The Seller shall use commercially reasonable efforts to obtain during the Interim Period an estoppel certificate *in re*spect of such Leases, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably.
     3. Subject always to the requirements of subsections 4.2.1 or 4.2.2, as the case may be, *in re*spect of each Lease which has expired prior to the date hereof and has yet to be renewed or which expires prior to [DATE], the Seller shall use commercially reasonable efforts to renew such Lease prior to the Closing Date on terms mutually acceptable to the Seller and the Purchaser, acting reasonably (but in the event of failure to agree, on terms no less favourable to the tenant than those which reflect current rental market conditions for similar premises in the shopping centre in question leased to a major retail chain),
     4. and obtain and deliver to the Purchaser a duly executed lease, accepted offer to lease or extension or renewal agreement, in form and substance acceptable to the Purchaser, acting reasonably. In the event that the Seller is unable to obtain and deliver a duly executed lease, accepted offer to lease or extension or renewal agreement, pursuant to this subsection 4.2.3, such Lease shall not be assigned to the Purchaser pursuant to this Agreement and such Lease shall be deemed to be a Non-Assignable Lease for the purposes of Section 7.1 hereof.
     5. Subject always to the requirements of subsection 4.2.1 or 4.2.2, as the case may be, *in re*spect of each Lease which has yet to be executed by either the Seller or the lessor of such Lease, the Seller shall use commercially reasonable efforts to obtain and deliver to the Purchaser a duly executed lease or accepted offer to lease prior to the Closing Date. In the event that the Seller is unable to obtain and deliver a duly executed lease or accepted offer to lease pursuant to this subsection 4.2.4, such Lease shall not be assigned to the Purchaser pursuant to this Agreement and such Lease shall be deemed to be a Non-Assignable Lease for the purposes of Section 7.1 hereof.
     6. The Seller shall use commercially reasonable efforts to obtain during the Interim Period from the lessor of Lease [NUMBER] – [SPECIFY LOCATION], [COUNTRY] and from the lessor of Lease [NUMBER] - [SPECIFY LOCATION], [COUNTRY], respect of the offending Purchaser’s retail [SPECIFY] outlet (namely, the retail outlets of the Purchaser located in [SPECIFY LOCATION], [COUNTRY], the from the radius clause or similar negative covenant provisions of such Leases, which waiver shall be in form and substance satisfactory to the Purchaser, acting reasonably.
     7. In the event that the Seller is unable to obtain the required waiver *in re*spect of a Seller Radius Clause Lease, such Lease shall not be assigned to the Purchaser pursuant to this Agreement and such Lease shall be deemed to be a Non-Assignable Lease for the purposes of Section 7.1 hereof.
     8. Except as provided for in Section 2.10 hereof, this Section shall not obligate the Seller to make any payment to any Person or to pay any other charge or fee (except a payment to a lessor to cover the lessor’s expenses associated with the consent, waivers and the estoppel certificates related to the Lease) or make additional payments, guarantees or financial contributions or arrangements (other than as remaining a party to the assigned Lease) or to institute legal or arbitration or other proceedings to obtain such consents, waivers or estoppel certificates.
     9. The forms of consents, estoppel certificates, notices and waivers to be obtained from the other [COMPANY NAME] to the Leases, shall be subject to the prior approval of the Purchaser (not to be unreasonably withheld), provided that the Purchaser shall be deemed to have approved each such form if the Seller has not received written notice of disapproval within [NUMBER] Business Days after providing such form to the Purchaser or its legal counsel.
     10. The Purchaser shall give its full cooperation and assistance to the Seller and use its commercially reasonable efforts to assist the Seller in obtaining the consents, estoppel certificates, waivers, leases, accepted offers to lease or extension or renewal agreements referred to above.
     11. This Section shall not obligate the Purchaser to make any payment to any Person or to pay any other charge or fee or make additional payments, guarantees or financial contributions or arrangements to assist in obtaining such consents, estoppel certificates, waivers, leases, accepted offers to lease or extension or renewal agreements, except as required by Section 2.10,
     12. provided that the Purchaser will consider reasonable and in good faith to provide assistance to the Seller in obtaining such consents, waivers, leases, accepted offers to lease or extension or renewal agreements by way of granting lease extensions or other commercially reasonable lease adjustments to the landlord of a Lease, based on and consistent with the Purchaser’s standard leasing practices, which the Purchaser hereby represents are commercially reasonable leasing practises for retail chains of similar size to that of the Purchaser.
  2. Consents and Waivers

Except as provided for in Section 4.15, the Seller shall at its own expense, subject to obtaining the full cooperation and assistance of the Purchaser, use commercially reasonable efforts to obtain by the Time of Closing all consents or waivers of third parties required to assign the Assumed Contracts, the Equipment Leases, the Contractual Rights, the Transferable licences and the Warranty Rights to the Purchaser, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably.

For greater certainty, this Section shall not obligate the Seller to make any payment to any Person or to pay any other charge or fee or make additional payments, guarantees or financial contributions or arrangements or to institute legal or arbitration or other proceedings to obtain such consents or waivers. The forms of consent or waiver to be obtained from the other parties shall be subject to the prior approval of the Purchaser (not to be unreasonably withheld), provided that the Purchaser shall be deemed to have approved each form of consent or waiver if the Seller has not received written notice of disapproval within [NUMBER] Business Days after providing such form of consent to the Purchaser or its legal counsel.

* 1. Access for Investigation

The Seller shall permit the Purchaser and its employees, agents, counsel and accountants or other representatives to have reasonable access during business hours to the Leased Premises and to all Accounting Records and Documents, including environmental files, customer and supplier files, price lists, claim files, litigation files and employee files relating to the Business, the Purchased Assets and to the employees of the Business on condition that the Purchaser does not interfere with the operation of the Business in the ordinary course during such access.

The Seller shall furnish to the Purchaser such financial and operating data and other information with respect to the Business, which is in the possession of the Seller as the Purchaser shall from time to time reasonably request. The Seller agrees that the Purchaser may conduct such environmental investigations and tests on the Leased Premises (to the extent permitted under the applicable Lease) as the Purchaser considers necessary without causing material damage to the Purchased Assets or Leased Premises.

In no event may the Purchaser or its representatives make any inquiries with any Governmental Agencies specifically identifying the Seller, the Business or the Purchased Assets, or with head office employees of the Seller, without the prior written consent of the Seller, which may not be unreasonably withheld. At the Purchaser’s request, the Seller shall co-operate with the Purchaser in arranging such meetings as the Purchaser may reasonably request with the management employees, auditors, solicitors and consultants of the Business.

Until the Time of Closing and in the event of the termination of this Agreement without consummation of the transactions contemplated hereby, the Purchaser will use commercially reasonable efforts to keep and cause its employees and representatives to keep confidential any information (unless readily available from public or published information or sources) obtained from Governmental Agencies or the Seller or his agents or representatives.

If this Agreement is so terminated, promptly after such termination, all documents, work papers and other written material obtained from a Party or from Governmental Agencies in connection with this Agreement and not theretofore made public (including all copies thereof), shall be returned to the Party which provided such material.

* 1. Delivery of Books and Records

At the Time of Closing, the Seller shall deliver to the Purchaser copies of all the documents referred to in subsection 3.1.9 (except for the financial, Tax and corporate records of the Seller) including:

1. lists of suppliers, customers and sales records of the Seller which relate to the Business;
2. Accounting Records; and
3. advertising, promotional and marketing materials which relate to the Business.

The Purchaser agrees that it will retain all books and records and any other documents, information and files relating to the Business or the Purchased Assets delivered to it by the Seller and relating to any period ending on or prior to the Closing Date for a period of [NUMBER] years following the Closing Date and will not thereafter destroy any of the foregoing unless it has given prior notice to the Seller and the opportunity to take copies of such documentation as the Seller requires for any of the purposes set forth below.

So long as such books and records and such other documents, information and files are retained by the Purchaser, the Seller or its authorised representatives shall have reasonable access thereto in connection with the affairs of the Seller relating to its Tax matters and the prosecution or defence of any actual or threatened legal proceeding relating to the Business, the Purchased Assets or this Agreement, but the Purchaser shall not be responsible or liable to the Seller for or as a result of any accidental loss or destruction of or damage to any such books or records or such other documents, information and files.

* 1. Accounts Receivable

At the Time of Closing the Seller shall execute and deliver to the Purchaser an agreement assigning to the Purchaser the Accounts Receivable and, *in re*spect of the Province of [COUNTRY], an assignment of a universality of claims for the Accounts Receivable, which shall be published by the Purchaser after the Closing. The Accounts Receivable shall be completely and accurately described on a Annexure attached to such agreement, including details of the debtors for each Account Receivable, their business address, the amount of their Account Receivable as of the Time of Closing, the date the Account Receivable became payable and any security related to each Account Receivable, if any, and all registrations made to perfect such security.

* 1. Discharge of Obligations

If the Closing occurs, then from and after the Time of Closing the Purchaser shall observe, perform and discharge the covenants and obligations of the Seller under the Assumed Liabilities and the Post Closing Liabilities in accordance with their respective terms. All liability to any Person arising *in re*spect of the Excluded Liabilities shall remain the responsibility of the Seller and shall be fully discharged by the Seller in a timely manner after the Time of Closing regardless of when such liability arises including any liability, cost or expense due to a reassessment, supplementary assessment, penalty assessment or increased assessment or any other assessment made *in re*spect of the Business under applicable workers’ compensation legislation which was fixed or levied with respect to a period of time or an event occurring prior to the Time of Closing.

* 1. Cooperation

The Purchaser shall cooperate with the Seller during the Interim Period in order to permit the Closing to be consummated. In particular but without limiting the generality of the foregoing, the Purchaser shall provide to the lessors under the Leases all such information relating to the Purchaser [including financial information], information relating to its business experience and the business experience of the individuals who ultimately control and operate the Purchaser and with respect to their ability to perform their obligations under the Leases and operate the Business, as may be required in order to obtain the consents of such lessors to the transfers of the Leases to the Purchaser as well as the waivers, estoppel certificates and agreements referred to in Section 4.2, and Purchaser shall execute one or more assumption agreements *in re*spect of Leases, Assumed Contracts and Equipment Leases in form acceptable to the Parties, acting reasonably.

* 1. Employees
     1. Offer of Employment

Prior to the Time of Closing, but conditional upon the completion of the Closing, the Purchaser shall offer employment to all Employees listed on Annexure [SPECIFY] hereto, those Employees hired during the Interim Period pursuant to Section 4.16 and those head office Employees selected by the Purchaser, in its sole discretion, and notified to the Seller within [NUMBER] Business Days after the transaction contemplated by this Agreement has been disclosed to the head office Employees by the Seller.

The Purchaser has advised the Seller that it has identified approximately [NUMBER] head office positions which it intends to fill following the Closing either at [COUNTRY], [COUNTRY], or in [COUNTRY], [COUNTRY], and that it will interview the Seller’s head office Employees with a view to determining their suitability to fill these positions, the whole without limiting the discretion of the Purchaser to determine which head office Employees will be offered employment by the Purchaser or creating any liability by the Purchaser towards the Seller *in re*spect thereof.

These employment offers shall be on terms and conditions which substantially reflect the Purchaser’s current pay and benefit scale for its employees performing similar functions and having similar lengths of service to that of the Employees and shall be in form and substance satisfactory to the Purchaser and the Seller, acting reasonably. Any Employee to whom the aforesaid offer of employment has been made and who reports for work on the day after the Closing Date or, in the case of any Employee who is absent from work on the day after the Closing Date due to short-term disability, maternity, parental or pregnancy leave, sick leave, workers’ compensation leave, vacation or other reasonable cause and who reports for work within [NUMBER] months following the Closing Date (or [NUMBER] days, in the case of Employees on vacation or absent for other reasonable cause), shall be deemed to have accepted such offer of employment of the Purchaser.

Those Employees who accept or are deemed to have accepted such offer are referred to herein as the “Hired Employees”. The Seller shall continue to contribute to its employee benefit plans for all Employees who are absent from work on the day after the Closing Date to whom the Purchaser is obliged to offer employment and who thereafter become Hired Employees until such time as such Employees become Hired Employees, and the Purchaser shall reimburse the Seller for the amounts of such contributions if and when each such Employee becomes a Hired Employee.

* + 1. Employment Process

Until the Time of Closing, the Seller shall be responsible for and shall pay on or prior to the Closing Date to the Employees all wages, bonuses, earned vacations or vacation pay, sick leave and other remuneration benefits earned or accrued up to the Closing, and shall pay severance pay or pay in lieu of notice (if the Employee is not offered employment pursuant to subsection

4.9.1 or refuses employment) when due.

Notwithstanding the foregoing, the Purchaser will: (i) contribute for a total aggregate amount not to exceed [AMOUNT] to the severance pay or pay in lieu of notice and costs (including reasonable legal fees and disbursement) incurred by the Seller *in re*spect of the termination by the Seller within [NUMBER] days after the Closing Date of Employees who are not offered employment by the Purchaser pursuant to subsection 4.9.1 and shall pay same to Seller upon request therefore accompanied by supporting documentation; and (ii) indemnify the Seller for a total aggregate amount not to exceed [AMOUNT] *in re*spect of all amounts which the Seller is required to pay as severance pay, pay in lieu of notice, and costs (including reasonable legal fees and disbursements) under a final and unappealable judgement  of a court of competent jurisdiction or a settlement approved by the Purchaser (such approval not to be unreasonably withheld) to Employees offered employment by the Purchaser in accordance with subsection 4.9.1 who refuse the Purchaser’s offer of employment.

After the Time of Closing, the Purchaser shall be responsible for all wages, bonuses, earned vacations, sick leave, severance pay or pay in lieu of notice, and other remuneration benefits for all of the Hired Employees and shall recognise the service of the Hired Employees with the Seller for purposes of employee benefits as if the Hired Employees had been employed by the Purchaser since their individual dates of hire by the Seller.

* + 1. Indemnification for Severance Claims of Non-Hired Employees

Without limiting the generality of the provisions of subsection 4.9.4, the Seller shall indemnify and save the Purchaser harmless of and from all actions, causes of action, suits, demands, costs and claims, including without limitation, a claim for severance or pay in lieu of notice or a claim for reinstatement (which indemnity shall not exceed an amount equal to [NUMBER] months salary and benefits), which may be asserted by any Employee who is not offered employment by the Purchaser under subsection 4.9.1 or who refuses employment against the Purchaser and which arise by any reason whatsoever, including by reason of the employment of such Employee or the termination of the employment of such Employee by the Seller, excluding however any amounts for which the Purchaser is responsible pursuant to subsection 4.9.2.

* + 1. Claims Re: Employment Prior to Closing

The Seller shall indemnify and save the Purchaser harmless of and from all actions, causes of action, suits, claims, including without limitation, a claim for reinstatement (which indemnity shall not exceed an amount equal to [NUMBER] months salary and benefits), demands and any costs whatsoever which may be asserted by any Employee or former employee against the Purchaser and which arise by reason of the employment of such Employee or former employee by the Seller or the termination of the employment of such Employee or former employee by the Seller (including any wage adjustments for any period prior to the Closing imposed pursuant to any applicable pay equity or equal pay legislation), excluding however any amounts for which the Purchaser is responsible pursuant to subsections 4.9.2 or 4.9.6.

* + 1. Benefit Plans

The Seller shall indemnify and save the Purchaser harmless of and from all actions, causes of action, suits, claims, demands, and any costs whatsoever which may be asserted by any Employee *in re*spect of the Benefit Plans.

* + 1. Termination after Time of Closing

The Purchaser shall indemnify and save the Seller harmless of and from all actions, causes of action, suits, claims, demands, grievances, arbitration awards and any costs whatsoever which may be asserted by any Hired Employee against the Seller *in re*spect of any and all obligations and liabilities to the Hired Employees arising after the Closing Date and *in re*spect of any termination of employment or constructive termination of employment of such Hired Employee by the Purchaser after the Time of Closing.

* 1. Pension Plan for Employees

The Seller shall be responsible for the satisfaction of its obligations with respect to the benefits of the Employees accrued under the Pension Plans up to and including the Closing Date in accordance with the Pension Plans, as amended from time to time, and related trust agreements and applicable federal and provincial rules, regulations and legislation and the Seller agrees to indemnify and save harmless the Purchaser from and against any Claims that the Purchaser may suffer or incur in connection with or *in re*spect of the pension and other benefits of the Employees, including the Hired Employees, accrued under the Pension Plans up to and including the Closing Date.

The benefits of the Employees, including the Hired Employees, accrued under the Pension Plans up to and including the Closing Date and the Seller’s obligations relating thereto shall be settled by the Seller, at no cost to the Purchaser, in a timely manner after Closing in accordance with the provisions of the Pension Plans and the applicable pension legislation and the Seller shall terminate the Pension Plans *in re*spect of the Employees, including the Hired Employees. Accordingly, the Seller shall at its own expense diligently comply with all of the requirements of all Applicable [YOUR COUNTRY LAW], including the Supplemental Pension Plan [ACT/LAW/RULE] of ([COUNTRY]), resulting from the transaction hereby contemplated, including, without limitation, with respect to the partial termination of the Pension Plans in connection with the Employees, including the Hired Employees, and the termination of the active membership of the Employees, including the Hired Employees, in the Pension Plans and any notifications to the appropriate Governmental Agency, including [COMPANY NAME] and to the Employees, including the Hired Employees, required by the Pension Plans or by [YOUR COUNTRY LAW]. The Purchaser shall assume no liability *in re*spect of the benefits of Employees, including the Hired Employees, accrued under the Pension Plans up to and including the Closing Date and shall not receive or accept any assets of the Pension Plan relating to the Employees, including the Hired Employees.

* 1. Actions to Satisfy Closing Conditions

Each Party shall take all such commercially reasonable action as is within its power to control, and shall use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all conditions set forth in Article [NUMBER] which are for the benefit of the other Party. The [COMPANY NAME] will cooperate in exchanging such information and providing such assistance as may be reasonably required in connection with the foregoing. On Closing, each of the Seller and the Purchaser will represent and warrant to the other that the Non-Competition Agreement and each Closing Document to which it is a party has been duly executed and delivered by it, and each Closing Document to which it is a party constitutes a valid and binding agreement of it enforceable against it in accordance with its terms.

* 1. Disclosure

Each Party shall immediately disclose in writing to the other Party any matter, which becomes known to it prior to the Closing Date, which is inconsistent in any material respect with any of the representations or warranties of either Party contained herein. No such disclosure, however, shall cure any misrepresentation or breach of warranty for the purposes of subsection 6.1.1.

* 1. Injunctions

If any court having jurisdiction over either or both of the [COMPANY NAME] or the Business issues any injunction, decree or similar order before the Time of Closing which would prohibit or materially restrict or hinder the Closing, the [COMPANY NAME] shall use their respective reasonable efforts to have such injunction, decree or order dissolved or otherwise eliminated as promptly as possible and, in any event, prior to the Time of Closing.

* 1. Action by the Seller

During the Interim Period, the Seller shall at its expense take all commercially reasonable action which may be necessary and which is in its control to ensure that its representations and warranties contained herein shall be true and correct in all material respects at the Time of Closing.

* 1. Competition Act

The Purchaser and the Seller shall jointly give the requisite notice of the proposed transaction under the Competition [ACT/LAW/RULE] of [COUNTRY] within [NUMBER] Business Days following the execution date hereof.

* 1. Bulk Sales Legislation and Provincial Legislation

The Seller shall use commercially reasonable efforts to obtain an order under Section 3 of the Bulk Sales [ACT/LAW/RULE] of [COUNTRY] exempting the purchase and sale of the Purchased Assets from the application of such [ACT/LAW/RULE]. Such order is herein called “Bulk Sales Order”. The Seller shall use commercially reasonable efforts to obtain the necessary clearance or other certificates under the Provincial Legislation *in re*spect of the purchase and sale of the Purchased Assets hereunder. Such clearance or other certificates are herein called “Clearance Certificates”.

*In re*spect of those jurisdictions for which a Bulk Sales Order or a Clearance Certificate was not obtained by the Closing Date and in the event the Purchaser decides in its sole discretion to waive the relevant conditions precedent, the Seller agrees to indemnify and save the Purchaser harmless in accordance with Article [NUMBER] from and against any claim made by a creditor of the Seller or a Governmental Agency against either the Purchaser or the Purchased Assets which is wholly or partially based on the premise that the required Clearance Certificate was not obtained or that the sale of the Purchased Assets did not conform in any particular to the requirements of the Bulk Sales Legislation of any such jurisdiction, as the case may be. In addition, the Seller shall undertake at Closing to obtain as soon as possible the missing Clearance Certificates.

*In re*spect of the Province of [COUNTRY], the Seller agrees to indemnify and save the Purchaser harmless in accordance with Article [NUMBER] from and against any claim made by a creditor of the Seller against either the Purchaser or the Purchased Assets which is wholly or partially based on the premise that the sale of the Purchased Assets did not conform in any particular to the requirements of the Bulk Sales Legislation of any such jurisdiction.

* 1. Consignment Goods and Contractual Rights

On or prior to the Closing Date, the Seller shall have returned or removed from the Leased Premises for the purposes of returning, all goods, merchandise and supplies held on consignment or on similar arrangements to the supplier or manufacturer thereof; however, the Seller shall use its commercially reasonable efforts to insure, either by way of Contractual Rights or by way of purchases prior to the Closing Date for the account of the Business from the relevant supplier or manufacturer or by way of any combination thereof, that the Business has goods, merchandise and supplies which are sufficient to meet the normal business requirements of the Business for a period not to exceed [NUMBER] days after the Closing Date *in re*spect of minilab supplies and consumables and to meet the normal business requirements of the Business for a period not to exceed [NUMBER] days after the Closing Date *in re*spect of merchandise for resale. Any goods, merchandise and supplies purchased pursuant to this Section shall be included in “Inventories” for the purposes hereof and shall be valued on the Closing Balance Sheet at the invoice cost thereof.

* 1. [DATE] Financial Statements

The Seller shall provide the Purchaser with a copy of the unaudited financial statements relating to the Business for the period ended [DATE] not less than [NUMBER] days prior to the Closing Date.

* 1. Purchaser Radius Clauses

The Purchaser shall use commercially reasonable efforts to obtain during the Interim Period from the lessors for the Purchaser’s leases in [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY] and [COUNTRY], [COUNTRY], [COUNTRY] (collectively the “Purchaser Radius Clause Leases”), waivers *in re*spect of the offending Seller’s retail [SPECIFY] outlet (namely, the Seller’s retail [SPECIFY] outlets located in [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY], [COUNTRY] and [COUNTRY], [COUNTRY], [COUNTRY] (the “Seller’s Offending Leases”) from the radius clause or similar negative covenant provisions of such leases, which waiver shall be in form and substance satisfactory to the Purchaser, acting reasonably. In the event that the Purchaser is unable to obtain the required waiver *in re*spect of a Purchaser Radius Clause Lease, the corresponding Seller’s Offending Lease shall not be assigned to the Purchaser pursuant to this Agreement and such Lease shall be deemed to be a Non-Assignable Lease for the purposes of Section 7.1 hereof.

1. INDEMNIFICATION
   1. Definitions

As used in this Article [NUMBER]:

“Claim” means any act, omission or state of facts and any demand, action, suit, proceeding, claim, assessment, judgement  or settlement or compromise relating thereto which may give rise to a right to indemnification under Sections 5.2 or 5.3 hereof;

“Direct Claim” means any Claim by an Indemnified Party against an Indemnifier, which does not result from a Third Party Claim;

“Indemnifier” means any Party obligated to provide indemnification under this Agreement;

“Indemnified Party” means any Person entitled to indemnification under this Agreement;

“Indemnity Payment” means any amount of Loss required to be paid pursuant to Sections 5.2 or 5.3 hereof;

“Loss” means any and all loss, liability, damage, cost, expense, charge, fine, penalty or assessment, resulting from or arising out of any Claim, including the out-of-pocket costs and expenses of any action, suit, proceeding, demand, assessment, judgment, settlement or compromise relating thereto and all interest, punitive damages, fines and penalties and reasonable legal fees and expenses incurred in connection therewith; and

“Third Party Claim” means any Claim asserted against an Indemnified Party by any Person who is not a Party or an Affiliate of such a Party and includes any assessment or reassessment of Taxes by any applicable taxing authority.

* 1. Indemnification by the Seller

Subject to the limits set forth in Section 5.10, the Seller shall indemnify, defend and save harmless the Purchaser and each of its directors, officers and employees from and against any and all Loss, suffered or incurred by any one or more of them, as a direct or indirect result of, or arising in connection with:

* + - 1. subject to Section 3.7 hereof and the last paragraphs of subsections 3.1.33 and 7.7.2, any misrepresentation or breach of warranty made or given by the Seller in this Agreement;
      2. any misrepresentation or breach of warranty made or given by the Seller in any Closing Document;
      3. any failure by the Seller to observe or perform any covenant or obligation contained in this Agreement or any Closing Document to be observed or performed by it.
  1. Indemnification by the Purchaser

Subject to the limits set forth in Section 5.10, the Purchaser shall indemnify, defend and save harmless the Seller and the Seller’s directors, officers and employees from and against any and all Loss suffered or incurred by any one or more of them, as a direct or indirect result of, or arising in connection with:

* + - 1. subject to Section 3.8, any misrepresentation or breach of any warranty made or given by the Purchaser in this Agreement;
      2. any misrepresentation or breach of warranty made or given by the Purchaser in any Closing Document; or
      3. any failure by the Purchaser to observe or perform any covenant or obligation contained in this Agreement or any Closing Document to be observed or performed by it.
  1. Notice of and the defence of Third Party Claims

If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt written notice thereof, but in any event no later than [NUMBER] days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim *in re*asonable detail and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

The Indemnifier shall have the right to participate in or, by giving notice to that effect to the Indemnified Party not later than [NUMBER] days after receipt of such notice of such Third Party Claim and subject to the rights of any insurer or other third party having potential liability therefore, to elect to assume the defence of any Third Party Claim at the Indemnifier’s own expense and by such Indemnifier’s own counsel, and the Indemnified Party shall co-operate in good faith in such defense. The Indemnified Party shall have the right to participate at its own cost in the defence of any Third Party Claim assisted by counsel of its own choosing.

If the Indemnified Party has not received notice within such [NUMBER] day period that the Indemnifier has elected to assume the defence of such Third Party Claim, the Indemnified Party may, at its option, elect to settle or compromise the Third Party Claim (subject to the provisions of Section 5.6 hereof) or assume such defence, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith.

* 1. Assistance for Third Party Claims

The Indemnifier and the Indemnified Party will use all reasonable efforts to make available to the Party which is undertaking and controlling the defence of any Third Party Claim,

* + - 1. those employees whose assistance, testimony or presence is necessary to assist such Party in evaluating and in defending any Third Party Claim; and all documents, records and other materials in the possession of such Party reasonably required by such Party for its use in defending any Third Party Claim, and shall otherwise cooperate with the Party defending such Third Party Claim.
      2. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all reasonable expenses of any employees made available by the Indemnified Party to the Indemnifier hereunder, which expense shall be equal to an amount to be mutually agreed upon per person per hour or per day for each day or portion thereof that such employees are assisting the Indemnifier but such expenses shall not exceed the actual cost to the Indemnified Party associated with such employees.
  1. Settlement of Third Party Claims

If an Indemnifier elects to assume the defence of any Third Party Claim as provided in Section 5.4, the Indemnifier shall not be liable for any legal expenses subsequently incurred by the Indemnified Party in connection with the defence of such Third Party Claim. However, if the Indemnifier fails to take reasonable steps necessary to defend diligently such Third Party Claim within [NUMBER] days after receiving notice from the Indemnified Party that the Indemnified Party *bona fide* believes on reasonable grounds that the Indemnifier has failed to take such steps, the Indemnified Party may, at its option, elect to assume the defence of and to compromise or settle the Third Party Claim assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith. No settlement of any Third Party Claim shall be made by either the Indemnified Party or the Indemnifier nor shall the Indemnified Party or the Indemnifier decline to appeal any judgement  rendered with respect to a Third Party Claim without the prior written consent of the other (which consent shall not be unreasonably withheld).

* 1. Direct Claims

Any Direct Claim shall be asserted by giving the indemnifier reasonable, prompt written notice thereof, but in any event, not later than [NUMBER] days after the Indemnified Party becomes aware of such Direct Claim. The Indemnifier shall then have a period of [NUMBER] days within which to respond in writing to such Direct Claim. If the Indemnifier does not so respond within such [NUMBER] day period, the Indemnifier shall be deemed to have rejected such Claim, in which event the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party including, without limitation, if the Indemnified Party is the Purchaser, causing the Escrow Agent under the Escrow Agreement referred to in Section 5.9 to draw under the Letter of Credit.

* 1. Failure to Give Timely Notice

A failure to give timely notice as provided in this Article [NUMBER] shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure.

* 1. Payment and Interest

All Losses shall bear interest at a rate per annum equal to the Prime Rate, calculated annually in arrears, both before and after judgment, with interest on overdue interest at the same rate, from the date that the Indemnified Party has given written notice to the Indemnifier that the Indemnified Party has disbursed funds or suffered damages, losses or expenses *in re*spect of a Loss, to the date of payment by the Indemnifier to the Indemnified Party or the Escrow Agent referred to below. Each Indemnifier shall pay to [INDIVIDUAL NAME], in trust as Escrow Agent, the amount of any Loss set forth in any Claim with all accrued interest thereon within [NUMBER] Business Days of receiving notice of a Claim; the terms of such escrow, as well as the conditions for disbursement, shall be those set forth in the escrow agreement between the Seller, the Purchaser and the Escrow Agent in the form of Annexure 30 hereto (the “Escrow Agreement”). If such Claim is subsequently determined not to have been valid, the Indemnified Party shall reimburse the Indemnifier for the amount so paid together with interest at the Prime Rate per annum, provided, however, where the Claim relates to an assessment or reassessment of Taxes, the interest shall be payable at [PERCENTAGE %] of the Prime Rate.

* 1. Limitation
     + 1. No claims for indemnification may be made by the Purchaser against the Seller under Section 5.2(a) or (b) *in re*spect of any Loss arising in connection with any misrepresentation or breach of warranty made or given by the Seller in this Agreement or any Closing Document, unless and until the Loss suffered or incurred by the Purchaser and by all of its directors, officers and employees, collectively, *in re*spect of all such misrepresentations
       2. or breaches of warranty, exceeds [AMOUNT] in the aggregate, in which event the amount of all such Loss including such [AMOUNT] amount may be recovered by the Purchaser provided, however, that the aggregate liability of the Seller to indemnify the Purchaser and all of its directors, officers and employees, collectively, shall not exceed the aggregate amount of the Purchase Price less [AMOUNT].
       3. No claims for indemnification may be made by the Seller against the Purchaser under Section 5.3(a) or (b) *in re*spect of any Loss arising in connection with any misrepresentation or breach of warranty made or given by the Purchaser in this Agreement or any Closing Agreement, unless and until the Loss suffered or incurred by the Seller and by all of its directors, officers and employees, collectively,
       4. *in re*spect of all such misrepresentations or breaches of warranty, exceeds [AMOUNT] in the aggregate, in which event the amount of all such Loss including such [AMOUNT] may be recovered by the Seller. However, that the aggregate liability of the Purchaser to indemnify the Seller and all of its directors, officers and employees, collectively, shall not exceed the aggregate amount of the Purchase Price less [AMOUNT].
  2. Rights in Addition

Subject to the limitations set forth in Section 5.10 and the last paragraph of subsection 3.1.33 hereof, the rights of indemnity set forth in this Article [NUMBER] are in addition and supplemental to any other rights, actions, claims or causes of action which may arise *in re*spect of this Agreement, any Closing Document and the transactions contemplated hereby provided that in no event shall the Seller or the Purchaser, as the case may be, be entitled to recover any amount in excess of its Losses.

* 1. Survival

The provisions of this Article [NUMBER] shall survive the Closing and continue for the applicable time periods set out in Sections 3.7 and 3.8.

* 1. Subsequent Recovery

In the event that the Indemnified Party subsequently recovers all or part of a Third Party Claim for any other Person legally obligated to pay the same (whether as a result of a settlement or otherwise), the Indemnified Party shall forthwith repay to the Indemnifier the amounts so recovered up to an amount not exceeding the amount theretofore paid by the Indemnifier by way of indemnity. Furthermore, the amount of any net income tax benefit enjoyed by the Indemnified Party resulting directly from such particular indemnified Loss (determined after taking into account the income tax cost incurred by the Indemnified Party as a result of the receipt of such payment form the Indemnifier) shall be deducted from the amount of any claim for indemnification hereunder by the Seller or the Purchaser, as the case may be.

* 1. Subrogation

In the event that an Indemnifier pays any indemnification payment required under this Article [NUMBER], such Party, without any further action, shall be subrogated to the rights and claims that the Indemnified Party may have *in re*spect of the matters against which such indemnity was given. The Indemnified Party agrees to cooperate with such Indemnifier and to execute such further instruments to permit such Indemnifier to pursue such rights and claims as such Indemnifier may reasonably request.

* 1. Letter of Credit

As security for the payment of any and all amounts which may become payable from time to time by the Seller to the Purchaser under this Article [NUMBER], the Seller shall provide to the Purchaser on Closing an unconditional, irrevocable letter of credit, in form and substance satisfactory to the Purchaser and its legal counsel, acting reasonably, issued by one of the [NUMBER] largest Annexure [COUNTRY] chartered banks, in favour of the Escrow Agent, in its capacity as escrow agent under the Escrow Agreement, in the amount of [AMOUNT] which letter of credit will expire [NUMBER] years after the Closing Date or will be renewed annually for a total term of [NUMBER] years after the Closing Date (the “Letter of Credit”), provided that the Seller shall be responsible for the fees for the issuance, amendment or renewal of the Letter of Credit for the first [NUMBER] years and the Purchaser shall be responsible therefore for the third year and provided further that any amount drawn under the Letter of Credit shall be held and disbursed by the Escrow Agent in accordance with the terms of the Escrow Agreement and provided also that the Purchaser shall first cause the Escrow Agent to draw under the Letter of Credit for the Losses suffered by the Purchaser until it has been fully drawn before requiring payment from the Seller of any Losses that exceed the amount of the Letter of Credit.

* 1. Notices to Escrow Agent

A copy of any demand, notice or other communication given by either Party to the other Party pursuant to this Article [NUMBER] shall be sent to the Escrow Agent by the Party giving such demand, notice or other communication.

1. CONDITIONS PRECEDENT
   1. Purchaser’s Conditions

The Purchaser shall be obliged to complete the Closing only if each of the conditions precedent set out in the following subsections of this Section 6.1 has been satisfied in full at or before the Time of Closing. Each of such conditions precedent is for the exclusive benefit of the Purchaser, and the Purchaser may waive any of them in whole or in part in writing.

* 1. Accuracy of Representations and Performance of Covenants

At the Time of Closing, all of the representations and warranties of the Seller made in or pursuant to this Agreement shall be true and correct in all material respects as if made at the Time of Closing, except as such representations and warranties may be affected by events or transactions expressly permitted by this Agreement. At the Time of Closing, the Seller shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Time of Closing. The Purchaser shall have received immediately prior to Time of Closing a certificate from a senior officer of the Seller certifying, on behalf of the Seller, to the best of such officer’s knowledge, information and belief (after due enquiry) that the conditions in this subsection 6.1.1 have been satisfied.

* 1. Consents to Assignments

All consents, waivers or approvals from or notifications to any third Person required under the terms of any of the Assumed Contracts and the Equipment Leases and which are described on Annexure [SPECIFY], with respect to their assignment to the Purchaser, or otherwise in connection with the consummation of the transactions contemplated hereby, shall have been duly obtained or given, as the case may be, on or before the Time of Closing.

All material consents, approvals, orders and authorisations of any Governmental Agencies (or material registrations, declarations, filings or recordings with any of them) required in connection with the execution and delivery of this Agreement, the completion of any of the transactions contemplated by this Agreement, the Closing or the performance of any of the terms and conditions hereof (other than routine post-closing notifications or filings), shall have been obtained or made on or before the Time of Closing, and without limiting the generality of the foregoing:

1. the waiting period prescribed under the Competition [ACT/LAW/RULE] of [COUNTRY] shall have expired, and the Director of Investigation and Research under the said [ACT/LAW/RULE] shall have advised the Purchaser in writing that the Director shall not oppose the purchase and sale of the Purchased Assets hereunder,
2. nor make or threaten to make an application under said [ACT/LAW/RULE] *in re*spect thereof but the Director may reserve his right to review the transaction within the prescribed [NUMBER] year period provided under the Competition [ACT/LAW/RULE] of [COUNTRY]. No Order shall have been issued by the Competition Tribunal in connection with same;
3. the Seller shall have obtained the Bulk Sales Order; and
4. the Seller shall have obtained the Clearance Certificates.
   1. No Material Adverse Change

Since the execution date hereof, no material adverse change shall have occurred with respect to the Business or the Purchased Assets except for (i) events or developments reflecting the seasonality of the Business or political, general economics or general retail industry conditions in [COUNTRY], (ii) operating losses having occurred in the ordinary course of the Business in the nature of those reflected on the Seller’s [DATE] financial statements, or (iii) those event contemplated by this Agreement. The Purchaser shall have received immediately prior to Closing a certificate from a senior officer of the Seller certifying, to the best of that officer’s knowledge, information and belief (after due enquiry) that the condition in this subsection 6.1.4 has been satisfied.

* 1. Litigation

No court order shall have been entered that enjoins, restrains, prohibits or restricts the Closing. Neither of the [COMPANY NAME], nor any of their respective directors, officers, employees or agents, shall be a defendant or third party to or threatened with any litigation or proceedings before any court or Governmental Agency which, in the opinion of the Purchaser, acting reasonably, could prevent or restrict that Party from performing in any material respect any of its obligations in this Agreement, any of the Closing Documents or the Non-Competition Agreement or which could expose that Party to material damages.

* 1. Receipt of Closing Documentation

All instruments of conveyance and other documentation relating to the sale and purchase of the Purchased Assets including the Closing Documents, assignments of Accounts Receivable, assignments of the Leases, the Assumed Contracts, the Contractual Rights and the Equipment Leases (and consents thereto, where required and in the form approved or deemed approved by the Purchaser), bills of sale, motor vehicle transfers and safety inspection certificates and documentation, and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Seller of its obligations under this Agreement shall be satisfactory to the Purchaser and its counsel, acting reasonably,

and the Purchaser shall have received copies of the Closing Documents, including without limitation, the Letter of Credit and the Escrow Agreement, and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to the Purchaser and its counsel acting reasonably.

* 1. Non-Competition Agreement

The Seller shall have executed and delivered to the Purchaser, a Non-Competition Agreement in the form of Annexure [SPECIFY].

* 1. Opinion of Counsel for Seller

The Purchaser shall have received an opinion dated the Closing Date, in the form of Annexure [SPECIFY]. In giving such opinion, counsel to the Seller may rely on certificates of senior officers of the Seller as to factual matters, so long as they attach these certificates to the opinion. Such opinion shall also cover such other matters of law as the Purchaser may reasonably request.

* 1. Approval of the Board of Directors

The board of directors of the Purchaser, [COMPANY NAME] and [COMPANY NAME], [COUNTRY], [COUNTRY], shall have approved, on or before [DATE], the purchase of the Purchased Assets by the Purchaser on the terms and conditions set out in this Agreement. Purchaser shall notify the Seller in writing of such approval or non-approval, as the case may be, by [DATE].

* 1. Management Agreement

The Seller shall have entered into any management agreement as contemplated in the circumstances by Section 7.1.

* 1. Space and Facilities Agreement

The Seller shall have entered into Space and Facilities Agreement referred to in Section 7.2.

* 1. Trade Mark licence Agreement

The Seller shall have entered into a Trade Mark licence Agreement in the form of Annexure [SPECIFY].

* 1. Trade Mark Assignment

The Seller shall have entered into a Trade Mark Assignment in the form of Annexure [SPECIFY].

* 1. Cancellation of Certain Agreements

The [SPECIFY] Agreements and all commitments and agreements with [COMPANY NAME] and [COMPANY NAME] shall have been cancelled and shall be fully terminated at or prior to Closing, without penalty or liability to the Purchaser.

* 1. Environmental Audit

There shall be no materially adverse finding or results from environmental audits or tests performed by the Purchaser as provided for in Section 4.4 prior to [DATE]. This condition shall be deemed to have been waived by the Purchaser unless, on or before the earlier of [DATE] and the date on which the Purchaser gives notice to the Seller pursuant to subsection 6.1.9, the Purchaser shall have notified the Seller in writing that this condition has not been satisfied and accordingly the Purchaser has elected to terminate this Agreement.

* 1. Escrow Agreement

The Seller shall have entered into an Escrow Agreement in the form of Annexure [SPECIFY].

* 1. Minimum Number of Leases

*In re*spect of Leases which does not require consent of the lessor to the assignment thereof to the Purchaser, the Seller shall have complied with all requirements under a sufficient number of such Leases and have done all acts and things necessary to validly assign a sufficient number of Leases to the Purchaser, including without limitation having sent any prescribed notice under the Leases to the lessor within the prescribed time period for giving such notice and *in re*spect of Leases (including the Seller Radius Clause Leases), which requires consent or waiver of the lessor to the assignment thereof to the Purchaser, the Seller shall have obtained *in re*spect of a sufficient number of such Leases such necessary consents and waivers, as will permit Seller to assign [NUMBER] of the [NUMBER] Subcategory One Leases listed on Annexure [SPECIFY], an aggregate of [NUMBER] of the [NUMBER] Subcategory One Leases and Subcategory Two Leases listed on Annexure [SPECIFY] and an aggregate of [NUMBER] of the [NUMBER] Leases listed on Annexure [SPECIFY], to the Purchaser at the Time of Closing, without any conditions attached to such consents or waivers which are materially adverse to the Purchaser (other than any increase in the rent payable under the Lease).

Notwithstanding that the Seller is unable to obtain the waiver referred to in subsection 4.2.5 *in re*spect of one or more Seller Radius Clause Leases or that the Purchaser is unable to obtain the waiver referred to in Section 4.19 *in re*spect of one or more Purchaser Radius Clause Leases, such Seller Radius Clause Leases and such Seller’s Offending Leases shall be counted (if the required consent to assignment has been obtained, in the case of the Leases of the Seller’s Offending Stores) for the purposes of meeting the requirements of this subsection 6.1.17 only, as a Lease assigned to the Purchaser.

*In re*spect of each Lease which has expired prior to the date hereof and has yet to be renewed or which expires prior to [DATE] and which Seller proposes to assign to the Purchaser, the Seller shall, in addition to fulfilling the requirements of subsections 4.2.1 or 4.2.2, as the case may be, have renewed such Lease prior to the Closing Date on terms mutually acceptable to the Seller and the Purchaser, acting reasonably (but in the event of failure to agree, on terms no less favourable to the tenant than those which reflect current rental market conditions for similar premises in the shopping centre in question leased to a major retail chain), and shall have obtained and delivered to the Purchaser a duly executed lease, accepted offer to lease or extension or renewal agreement, in form and substance acceptable to the Purchaser, acting reasonably, failing which the Seller shall be deemed not to have obtained a required consent to the assignment of such Lease for purposes of this subsection 6.1.17.

*In re*spect of each Lease which has yet to be executed by either the Seller or the lessor of such Lease and which the Seller proposes to assign to the Purchaser, the Seller shall, in addition to fulfilling the requirements of subsections 4.2.1 or 4.2.2, as the case may be, have obtained and delivered to the Purchaser a duly executed lease or accepted offer to lease prior to the Closing Date, failing which the Seller shall be deemed not to have obtained a required consent to the assignment of such Lease for purposes of this subsection 6.1.17.

* 1. Seller’s Conditions

The Seller shall be obliged to complete the Closing only if each of the conditions precedent set out in the following subsections of this Section 6.2 has been satisfied in full at or before the Time of Closing. Each of such conditions precedent is for the exclusive benefit of the Seller, and the Seller may waive any of them in whole or in part in writing.

* + 1. Accuracy of Representations and Performance of Covenants

At the Time of Closing, all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct in all material respects as if made at the Time of Closing except as such representations and warranties may be affected by events or transactions expressly permitted in this Agreement. At the Time of Closing, the Purchaser shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Time of Closing. The Seller shall have received immediately prior to the Time of Closing a certificate from a senior officer of the Purchaser certifying, on behalf of the Purchaser, to the best of his knowledge, information and belief (after due enquiry) that the conditions in this subsection 6.2.1 have been satisfied.

* + 1. Litigation

No court order shall have been entered that prohibits or restricts the Closing. Neither of the [COMPANY NAME], nor any of their respective directors, officers, employees or agents, shall be a defendant or third party to or threatened with any litigation or proceedings before any court or Governmental Agency which, in the opinion of the Seller, acting reasonably, could prevent or restrict that Party from performing in any material respect any of its obligations in this Agreement or any of the Closing Documents or would subject such Party to material damages.

* + 1. Opinion of Counsel for Purchaser

The Seller shall have received an opinion dated the Closing Date, in the form of Annexure [SPECIFY]. In giving such opinion, counsel to the Purchaser may rely on certificates of senior officers of the Purchaser as to factual matters, so long as they attach these certificates to the opinion. Such opinion shall also cover such other matters of law as the Seller may reasonably request.

* + 1. Competition Act

The Purchaser and the Seller shall have given the requisite notice of the proposed transaction under the Competition [ACT/LAW/RULE] of [COUNTRY] and the waiting periods prescribed thereunder shall have expired, and the Director of Investigation and Research under the said [ACT/LAW/RULE] shall have advised the Purchaser in writing that the Director shall not oppose the purchase and sale of the Purchased Assets hereunder, nor make or threaten to make an application under said [ACT/LAW/RULE] *in re*spect thereof but the Director may reserve his right to review the transaction within the [NUMBER] year period provided under the Competition [ACT/LAW/RULE] of [COUNTRY]. No Order shall have been issued by the Competition Tribunal in connection with same.

* + 1. Minimum Number of Leases

*In re*spect of Leases which does not require consent of the lessor to the assignment thereof to the Purchaser, the Seller shall have complied with all requirements under a sufficient number of such Leases and have done all acts and things necessary to validly assign a sufficient number of Leases to the Purchaser, including without limitation having sent any prescribed notice under the Leases to the lessor within the prescribed time period for giving such notice and *in re*spect of Leases (including the Seller Radius Clause Leases), which requires consent or waiver of the lessor to the assignment thereof to the Purchaser, the Seller shall have obtained *in re*spect of a sufficient number of such Leases such necessary consents and waivers, as will permit Seller to assign [NUMBER] of the [NUMBER] Subcategory One Leases listed on Annexure [SPECIFY], an aggregate of [NUMBER] of the [NUMBER] Subcategory One Leases and Subcategory Two Leases listed on Annexure [SPECIFY] and an aggregate of [NUMBER] of the [NUMBER] Leases listed on Annexure [SPECIFY], to the Purchaser at the Time of Closing, without any conditions attached to such consents or waivers which are materially adverse to the Purchaser (other than any increase in the rent payable under the Lease).

Notwithstanding that the Seller is unable to obtain the waiver referred to in subsection 4.2.5 *in re*spect of one or more Seller Radius Clause Leases or that the Purchaser is unable to obtain the waiver referred to in subsection 4.19 *in re*spect of one or more Purchaser Radius Clause Leases, such Seller Radius Clause Leases and such Seller’s Offending Leases shall be counted (if the required consent to assignment has been obtained, in the case of the Leases of the Seller’s Offending Stores) for the purposes of meeting the requirements of this subsection 6.2.5 only, as a Lease assigned to the Purchaser.

*In re*spect of each Lease which has expired prior to the date hereof and has yet to be renewed or which expires prior to [DATE] and which Seller proposes to assign to the Purchaser, the Seller shall, in addition to fulfilling the requirements of subsections 4.2.1 or 4.2.2, as the case may be, have renewed such Lease prior to the Closing Date on terms mutually acceptable to the Seller and the Purchaser, acting reasonably (but in the event of failure to agree, on terms no less favourable to the tenant than those which reflect current rental market conditions for similar premises in the shopping centre in question leased to a major retail chain), and shall have obtained and delivered to the Purchaser a duly executed lease, accepted offer to lease or extension or renewal agreement, in form and substance acceptable to the Purchaser, acting reasonably, failing which the Seller shall be deemed not to have obtained a required consent to the assignment of such Lease for purposes of this subsection 6.2.5. *In re*spect of each Lease which has yet to be executed by either the Seller or the lessor of such Lease and which the Seller proposes to assign to the Purchaser, the Seller shall, in addition to fulfilling the requirements of subsections 4.2.1 or 4.2.2, as the case may be, have obtained and delivered to the Purchaser a duly executed lease or accepted offer to lease prior to the Closing Date, failing which the Seller shall be deemed not to have obtained a required consent to the assignment of such Lease for purposes of this subsection 6.2.5.

* + 1. Approval of [SPECIFY] Board of Directors

The Purchaser shall have notified the Seller in writing by [DATE] that the board of directors of the Purchaser, [COMPANY NAME] and [COMPANY NAME] [COUNTRY], [COUNTRY], have approved the purchase of the Purchased Assets by the Purchaser on the terms and conditions set out in this Agreement.

* + 1. Escrow Agreement

The Purchaser shall have entered into an Escrow Agreement in the form of Annexure [SPECIFY].

* + 1. Management Agreement

The Purchaser shall have entered into any management agreement as contemplated in the circumstances by Section 7.1.

* 1. Waiver

A Party may waive, by notice to the other Party, any condition set forth in this Article [NUMBER] which is for its benefit (except that neither Party may waive the conditions set forth in subsections 6.1.9 and 6.2.6). No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

* 1. Failure to Satisfy Conditions

If any condition set forth in subsections 6.1 or 6.2 is not satisfied at the Time of Closing, or if it becomes apparent that any such condition cannot be satisfied on or before the Time of Closing, the Party entitled to the benefit of such condition may send notice in writing to the other Party that this Agreement is terminated. Upon termination of this Agreement all rights, obligations and liabilities of each Party to the other hereunder shall terminate and the [COMPANY NAME] shall be released from all obligations hereunder, unless the Party sending such notice of termination can show that the condition or conditions which have not been satisfied and for which that Party has terminated this Agreement are reasonably capable of being performed or caused to be performed by the other Party and is the obligation of the other Party to perform or to cause to be performed or have not been satisfied by reason of a default by the other Party.

* 1. Destruction or Expropriation

Up to the Time of Closing, all risk of loss or damage by fire or other cause or hazard to the Purchased Assets shall remain with the Seller and the Seller shall hold all insurance policies and any proceeds thereof in trust for the Seller and the Purchaser. If, prior to the Time of Closing, there occurs any material destruction or damage by fire or other cause or hazard to any material part of the Purchased Assets, or if the Purchased Assets or any material part of them are expropriated or forcefully taken by any Governmental Agency or if notice of intention to expropriate a material part of the Purchased Assets has been filed in accordance with Applicable [YOUR COUNTRY LAW], then the Purchaser, at its option, may:

* + - 1. terminate this Agreement by notice to the Seller, in which case all obligations of the [COMPANY NAME] hereunder shall terminate on the giving of such notice, and each of the [COMPANY NAME] shall have no liability to any other Party hereto;
      2. reduce the Purchase Price by notice to the Seller, by an amount equal to the cost of repair, or, if such assets are destroyed or damaged beyond repair, by an amount equal to the replacement cost of the assets forming part of the Purchased Assets so damaged or destroyed, and to complete the purchase; or
      3. elect to complete the purchase and sale of the Purchased Assets without the reduction to the Purchase Price, in which case all insurance proceeds or expropriation proceeds, as the case may be, shall be assigned or paid by the Seller to the Purchaser.
      4. In the event of a non-material damage, destruction or expropriation, the Purchaser shall complete the purchase and sale of the Purchased Assets, in which event all insurance proceeds or expropriation proceeds, as the case may be, shall be assigned or paid by the Seller to the Purchaser and the Purchase Price shall be reduced to the extent that such proceeds do not compensate for the replacement cost of the Purchased Assets damaged, destroyed or expropriated.

1. POST CLOSING OPERATIONS
   1. Failure to Obtain Consent to Assignment of Lease
      1. If with respect of any Lease described in Annexure [SPECIFY], the Seller is unable to obtain any necessary consent, substantially in form or forms approved or deemed approved pursuant to subsection 4.1.10, to the assignment thereof to the Purchaser as herein contemplated at the Time of Closing (a “Non-Assignable Lease”), then the Non-Assignable Lease shall not be assigned and the Purchaser shall, in accordance with the terms of a management agreement to be entered into by the parties at Closing, manage the Business as it is carried on at the location covered by the Non-Assignable Lease for the account of the Seller provided that such agreement does not result in a violation of any Applicable [YOUR COUNTRY LAW] or result in the early termination of the Non-Assignable Lease.
      2. Such arrangements shall continue until such time (the “Interim Lease Period”) as the necessary consent, approval or acknowledgement to the assignment to the Non-Assignable Lease to the Purchaser is obtained (at which time the Non-Assignable Lease shall be deemed to be a Purchased Asset and shall be assigned to the Purchaser) or until the expiration or termination of the Non-Assignable Lease, whichever first occurs, provided that the Seller may only terminate the Non-Assignable Lease on the written direction of the Purchaser.
      3. As consideration for the provision by the Purchaser of the management services contemplated by subsection 7.1.1, the Purchaser shall earn a fee equal to substantially all of the profits generated at the location of the relevant Non-Assignable Lease during the Interim Lease Period while assuming and paying all monetary obligations *in re*spect of that location during said period, and all operating losses at that location during the Interim Lease Period shall be assumed by the Purchaser.
      4. In the event that a management agreement as described in subsection 7.1.1 above is not possible *in re*spect of a Non-Assignment Lease as it would violate Applicable [YOUR COUNTRY LAW] or result in the early termination of the Non-Assignable Lease or *in re*spect of a Lease which is deemed pursuant to Section 4.2 hereof to be a Non-Assignable Lease, the Seller shall close the retail outlet operating in the Non-Assignable Lease and cease its operation (if not prohibited by the terms of the Non-Assignable Lease) in a timely manner after Closing, and the Purchased Assets and Assumed Liabilities associated with that location shall be excluded, with effect from the Closing Date, from the transactions contemplated by this Agreement and the Purchase Price shall be reduced by an amount equal to the Store Asset Value of the said Lease.
      5. The Purchaser shall not lease the Leased Premises or any part thereof which were formerly occupied by the Seller’s closed retail outlet for a period of [NUMBER] months following the Closing Date. If the closure of the retail outlet in question is prohibited by the terms of the Non-Assignable Lease, then the Seller shall retain the location and operate it for its own account and benefit as a licensee of and under the control of the Purchaser on terms and conditions to be mutually agreed by the Parties acting reasonably and the Purchase Price shall be reduced as contemplated by this subsection 7.1.3 and subsection 7.1.4. Notwithstanding the provisions of subsection 4.9.2, the Purchaser shall be deemed not to have offered employment to those Employees who normally report for work at the retail outlet operating in a Non-Assignable Lease referred to in this subsection 7.1.3 and such Employees shall be deemed not to be Hired Employees.
      6. *In re*spect of each Non-Assignable Lease, the Seller shall pay the Purchaser an amount which is equal to the greater of (y) [AMOUNT] and (s) the amount equal to [NUMBER] times the Store Penalty for the Lease which is a Non-Assignable Lease as a reduction of the Purchase Price (but, for greater certainty, shall not reduce the Final Net Worth of the Business) to compensate the Purchaser for the loss of operating profits from the retail outlet operated in the Leased Premises subject to the Non-Assignable Lease and to serve as a penalty in order to induce the Seller to exercise its efforts to effect the assignment of the Lease, and not as compensation or consideration for the value of the Lease in question (this, in addition to any reduction of Purchase Price contemplated by subsection 7.1.3 hereof), which amount shall be proportionately refunded to the Seller upon the successful future assignment of the Non-Assignable Lease to the Seller prior to the expiry thereof.
      7. Notwithstanding the foregoing, no reduction of the Purchase Price under this subsection 7.1.4 shall be made *in re*spect of a Non-Assignable Lease which is a Subcategory Four Lease listed on Annexure [SPECIFY] hereto and the reduction of the Purchase Price *in re*spect of a Non-Assignable Lease that is a Subcategory One, Subcategory Two or Subcategory Three lease, which results from application of the provisions of subsection 4.2.5 or 4.19, shall be an amount which is equal to the greater of (y) [AMOUNT] and (s) the amount equal to [NUMBER] time the Store Penalty for the Lease. The aggregate amount, which Seller may be required to pay under this subsection 7.1.4, shall not exceed [AMOUNT].
   2. Delivery of Space and Facilities Agreement

The Seller shall use commercially reasonable efforts to assist the Purchaser in taking over the Business and to ensure a smooth transition of ownership. Without limiting the generality of the foregoing, the Seller shall execute and deliver to the Purchaser at the Time of Closing an agreement providing for the provision of the [SPECIFY] Division’s existing office space, records storage space, equipment and facilities to the Purchaser at the head office of the Seller (the “Space and Facilities Agreement”), as well as the temporary full-time services of selected head office personnel, accounting and payroll support and access to all appropriate head office personnel,

the computer mainframe or other hardware and software, for successive [NUMBER] day periods (not to exceed [NUMBER] days in total) unless terminated by written notice of the Purchaser [NUMBER] Business Days before the end of any [NUMBER] day period, at a cost to be mutually agreed upon by the Seller and the Purchaser (acting reasonably) before the Closing Date. Such agreement shall be in a form and terms mutually satisfactory to the [COMPANY NAME] acting reasonably.

* 1. Release of Seller from Lease Covenants

The Purchaser agrees that if, after the Closing, it exercises any option to extend the term of or to renew any Lease, it will use its commercially reasonable efforts to obtain the landlord’s release of the Seller from all obligations under such Lease *in re*spect of the extension or renewal term provided that the refusal of the Purchaser to provide economic incentives or guarantees other than as required by the terms of Lease to or in favour of the other parties to the Lease will not be deemed to be unreasonable. The Seller shall be entitled to participate with the Purchaser in the latter’s efforts to obtain such releases.

* 1. No Hiring of Employees

The Purchaser shall not hire or offer employment to any of the Employees to whom it did not offer employment pursuant to subsection 4.9.1 hereof for a period of [NUMBER] months from the Closing Date.

* 1. Access for Taxes

After Closing, the Purchaser shall furnish or cause to be furnished to the Seller, upon request and at Seller’s cost, as promptly as practicable, such information (including access to Accounting Records) and assistance relating to the Business or the Purchased Assets as is reasonably necessary for the filing by the Seller of any Tax return, for the preparation for any audit or for the prosecution or defence of any actual or threatened legal proceeding or proposed adjustment relating to Taxes of the Seller.

* 1. Volume Rebates

The Purchaser and the Seller agree that, *in re*spect of each supplier offering a volume rebate to the Business, the Seller shall be entitled to receive the Seller’s Share of the supplier volume rebate (other than those described in paragraph (b) under Accounts Receivable and those from the [SPECIFY] Companies) earned *in re*spect of the Business and paid to the Purchaser after the Closing Date for the rebate year which began prior to and terminates after the Closing Date (the “Rebate Year”) as follows:

Seller Share= RR x VP

Where:

“TP” means the total purchases of merchandise from the supplier by the Business during the Rebate Year;

“RR” means the rebate rate for TP as *per Se*ller’s current rebate Annexure for the Rebate Year; and

“VP” means the total purchases of merchandise from the supplier by the Seller from the commencement date of the Rebate Year to the Closing Date.

The Purchaser shall pay the Seller’s Share of any volume rebates to the Seller within [NUMBER] Business Days after receipt, together with reasonable supporting evidence from the Purchaser.

* 1. Remediation of Certain Outstanding Phase I Violations
     1. The Purchaser and the Seller agree that the following Phase I Violations have not been adequately remediated:
        1. Recovery Units - the [SPECIFY] systems require upgrades in approximately [NUMBER] percent of the systems and all the [SPECIFY] Recovery systems require repair and retrofit additions;
        2. Training - training is not complete *in re*spect of the [SPECIFY] and the [SPECIFY] procedures;
        3. Protective Equipment - personal protective equipment remains, in certain instances, in disrepair and requires repair and upgrades;
        4. Sewers - approximately [PERCENTAGE %] percent of the Leased Premises do not comply with liquid waste or sanitary sewer requirements of Applicable [YOUR COUNTRY LAW]; and
        5. Spill Containment - spill/release containment is not in place at most locations and shall be put in place as it is required for compliance with Applicable [YOUR COUNTRY LAW].
     2. The Purchaser and the Seller agree that the Purchaser shall remediate the aforementioned Phase I Violations after Closing at the Seller’s cost and expense. The Purchaser shall provide the Seller with a short description of the work to be performed by the Purchaser and an estimate of the cost breakdown thereof before it commences remediation work and the same shall be subject to the Seller’s prior written approval, acting reasonably. The Purchaser shall perform the work between the Closing Date and the Final Adjustment Date and the Seller shall reimburse the cost and expense of such remediation to the Purchaser on the Final Adjustment Date against delivery of reasonable supporting evidence from the Purchaser, provided that the maximum amount Seller may be required to pay under this Section 7.7 shall not exceed [AMOUNT].

The Seller shall have no liability to the Purchaser *in re*spect of any Loss suffered or incurred by the Purchaser to the extent that it results from, arises out of or is related to (i) the continuance of the Phase I Violations described in subsection 7.7.1 following the Final Adjustment Date or (ii) the remediation work undertaken by or on behalf of the Purchaser pursuant to this subsection 7.7.2, except for the obligation of the Seller to reimburse the Purchaser for the cost of such remediation work to the extent of the maximum amount provided for in this subsection 7.7.2.

1. GENERAL
   1. Further Assurances

Each of the Seller and the Purchaser shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement, the Closing Documents and the Non-Competition Agreement.

* 1. Time of the Essence

Time shall be of the essence of this Agreement.

* 1. Expenses

Each of the [COMPANY NAME] hereto shall pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

* 1. Benefit of the Agreement

This Agreement shall ensure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the [COMPANY NAME] hereto.

* 1. Entire Agreement

This Agreement, together with the Closing Documents and the Non-Competition Agreement constitutes the entire agreement between the [COMPANY NAME] with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the [COMPANY NAME] with respect thereto. There are no other representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the [COMPANY NAME] other than as expressly set forth in this Agreement, in the Closing Documents or in the Non-Competition Agreement.

* 1. Amendments and Waiver

No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both Parties and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, shall be limited to the specific breach waived. No failure on the part of either Party to exercise, and no delay in exercising, any right under this Agreement, under the Closing Documents or under the Non-Competition Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of any such right or the exercise of any other right.

* 1. Assignment

This Agreement may not be assigned by either Party prior to Final Adjustment Date without the prior written consent of the other Party and may only be assigned by either Party after the Final Adjustment Date without the consent of (but upon prior written notice to) the other Party to an Affiliate of the assignor, provided that such Affiliate enters into a written agreement with the other Party to be bound by the provisions of this Agreement in all respects and to the same extent as the assignor is bound and provided that the assignor shall continue to be bound by all the obligations hereunder as if such assignment had not occurred and shall be required to perform such obligations to the extent that such Affiliate fails to do so.

* 1. Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered mail or by electronic means of communication addressed to the recipient as follows:

To the Seller:

[COMPANY NAME]

[FULL ADDRESS]

[COUNTRY]

Fax: [FAX NUMBER]

Attention: The President

To the Purchaser:

[COMPANY NAME]

[FULL ADDRESS]

[COUNTRY]

Fax: [FAX NUMBER]

Attention: The President

or to such other address, individual or electronic communication number as may be designated by notice given by either Party to the other. Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the third Business Day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. If the Party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such demand, notice or other communication shall not be mailed but shall be given by personal delivery or by electronic communication.

* 1. Confidentiality

Except to the extent required by [YOUR COUNTRY LAW] or by the rules of any stock exchange, the [COMPANY NAME] hereto agree that no disclosure or public announcement with respect to this Agreement or the transactions herein contemplated shall be made by any Party hereto prior to the Closing without the prior written consent of the other Party. Where either Party intends to make such disclosure or public announcement, it shall only do so after consulting with the other Party.

The [COMPANY NAME] hereby agree that they will be bound by and will be entitled to the benefit of the terms of their confidentiality agreement dated [DATE]. Unless required by [YOUR COUNTRY LAW] or the rules of any stock exchange, each Party hereto agrees, subject to the foregoing, not to disclose to any Person other than its board of directors, senior managers and professional advisors, on a confidential and need to know basis for the purpose of the transactions contemplated by this Agreement, or, at such time as the Purchaser and the Seller mutually agree, to the employees of the Business for the purpose of facilitating their employment by the Purchaser, that it has entered into an agreement with the other Party with respect to the sale of the Business.

* 1. Governing [YOUR COUNTRY LAW]

This Agreement shall be governed by and construed in accordance with the [YOUR COUNTRY LAW] of the Province of [COUNTRY] and the [YOUR COUNTRY LAW] of [COUNTRY] applicable therein.

* 1. Attornment

For the purpose of all legal proceedings, this Agreement shall be deemed to have been performed in the Province of [COUNTRY], and the courts of the Province of [COUNTRY] shall have jurisdiction to entertain any action arising under this Agreement. The Seller and the Purchaser each hereby attorns to the jurisdiction of the courts of the Province of [COUNTRY].

* 1. Counterparts

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

PURCHASER SELLER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title