ASSET PURCHASE AGREEMENT

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This Asset Purchase Agreement (the “Agreement”) takes effect on [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Purchaser") is 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 carries on the business of, *inter alia*, developing and manufacturing telecommunications equipment, components and technology for purposes of a product line known as [SPECIFY] (the “Business”) at locations in the Provinces of [COUNTRY] and [COUNTRY];

WHEREAS the Seller has agreed to sell, and the Purchaser has agreed to purchase certain assets relating to the Business upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED AND OTHER GOOD AND VALUABLE CONSIDERATION, THE [COMPANY NAME] HERETO AGREE AS FOLLOWS:

1. **INTERPRETATION**
   1. **Definitions**

Unless the subject matter or context otherwise requires:

“Accountants” has the meaning ascribed thereto in Section [NUMBER].

“Adjustment Amount” has the meaning ascribed thereto in Section [NUMBER].

“Affiliate” has the meaning ascribed to the term “affiliated bodies corporate” in the [COUNTRY] Business Company’s [ACT/LAW/RULE].

“Associate” has the meaning ascribed to the term “associate” in the [COUNTRY] Business Company’s [ACT/LAW/RULE].

“Assumed Liabilities” means liabilities accruing due as of and from the Effective Time under the Equipment Contracts, Real Estate Leases and other Contracts.

“Books and Records” means any books and records (originals or copies thereof) of the Seller relating exclusively to the Business including, without limitation, books and records relating to the purchase of materials and supplies, the manufacture, assembly and processing of products, sales of products, dealings with customers and franchises, invoices, customer lists, mailing lists, suppliers lists, trademarks and trade names, financial records, personnel records (to the extent permitted by [YOUR COUNTRY LAW]) and taxes (excluding the Seller’s income tax and other tax records unrelated to the Business).

“Business” means the business described in the preamble hereto;

“Business Day” means any day excluding Saturday, Sunday and any other day which in [COUNTRY], [COUNTRY] is a legal holiday or a day on which financial institutions are Authorised by law or by local proclamation to close.

“[COUNTRY] Business Company’s Act” means an [ACT/LAW/RULE] respecting [COUNTRY] business company’s.

“Claims” means any demand, action, cause of action, damage, loss, cost, liability, expense or requirements, governmental or otherwise, including the cost of legal representation *in re*spect thereof and any interest or penalty arising in connection therewith.

“Closing” means the completion of the sale to and purchase by the Purchaser of the Purchased Assets under this Agreement by the transfer and delivery of documents of title thereto and the payment of the Purchase Price therefore in accordance with this Agreement.

“Closing Date” has the meaning ascribed thereto in Section 4.1.

“Collective Agreement” has the meaning ascribed thereto in Subsection 5.1.17.

“Contaminants” means any of the following: (i) any substance, waste, solid, liquid or gaseous matter, fuel (including, without limitation, petroleum products, crude oil, natural gas, natural gas liquid, liquefied natural gas, synthetic fuel or any combination of the above), micro-organism, sound, vibration, ray, heat, odor, radiation, energy vector, plasma, organic or inorganic matter, whether animate or inanimate, container, transient reaction intermediate or any combination of the above deemed hazardous, hazardous waste, solid waste, toxic, a pollutant, a deleterious substance, a contaminant

or a source of pollution or contamination under any Environmental [YOUR COUNTRY LAW]including, without limitation, the Environmental Quality Act ([COUNTRY]), the ([COUNTRY]) Environmental Protection Act ([COUNTRY]), the Environmental Protection Act (([COUNTRY]), the Clean Air Act ([COUNTRY]), the Transportation of Dangerous Goods Act ([COUNTRY]), the Dangerous Goods Transportation Act, [DATE] ([COUNTRY]), the Hazardous Materials Information Review Act ([COUNTRY]), the Act Respecting Pesticides ([COUNTRY]), the Act Respecting Ecological Reserves ([COUNTRY]),

the Act Respecting Occupational Health and Safety ([COUNTRY]), the Use of Petroleum Products Act ([COUNTRY]), Regulation no. [NUMBER] ([COUNTRY] Urban Community), Regulation no. [NUMBER] [COUNTRY] Urban Community); or (ii) any substance, waste, solid, liquid or gaseous matter, fuel (including, without limitation, petroleum products, crude oil, natural gas, natural gas liquid, liquefied natural gas, synthetic fuel or any combination of the above), micro-organism, sound, vibration, ray, heat, odor, radiation, energy vector, plasma, organic or inorganic matter, whether animate or inanimate, container, transient reaction intermediate or any combination of the above deemed hazardous, hazardous waste, solid waste, toxic, a pollutant, a deleterious substance, a contaminant or a course of pollution or contamination by any Federal, Provincial, municipal or local government, government agency, minister, deputy-minister, governor-in-council, lieutenant governor-in-council, any tribunal, board or authority.

“Contracts” means those contracts, agreements, instruments, commitments, entitlements and engagements of the Seller relating to the Business and the Purchased Assets (and, for greater certainty, not including Equipment Contracts) whether with suppliers, customers or otherwise and including all quotations, orders or tenders for contracts which remain open for acceptance.

“Effective Time” means [SPECIFY] hours on the Closing Date or such other time on such date as the [COMPANY NAME] may agree as the time at which the Closing shall take place.

“Employees” has the meaning ascribed thereto in Subsection 5.1.15.

“Environment” means all components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and all land submerged under water), soil, water, (including, without limitation, surface and underground water), all organic and inorganic matter, living organisms, animal life, vegetation and property and the interacting natural systems that include components referred to above in this section.

“Environmental [YOUR COUNTRY LAW]” means all [YOUR COUNTRY LAW] applicable in [COUNTRY] relating in whole or in part to the Environment or its protection including, without limitation, any [YOUR COUNTRY LAW] relating to: (i) the natural or accidental release, emission, discharge, deposit, issuance, spraying, injection, inoculation, abandonment, burial, spilling, incineration, disposal, leaking, seeping, pouring, emptying, throwing, dumping, placing or exhausting of any Contaminant into the Environment or affecting or likely to affect the Environment

or any threat to do any of the above in connection with any Contaminant or likely to adversely affect the life, health, safety, welfare or comfort of human beings, to inflict damage or otherwise prejudice the Environment; (ii) preventive or remedial measures in connection with any event or occurrence referred to in i) above; (iii) the storage, disposal, destruction, incineration, burial, recycling, handling, transportation, use, manufacture, processing, advertising, display, packaging, labelling or sale of any Contaminant, or any solicitation or offer to do any activity referred to in iii) in connection with any Contaminant, or any solicitation or offer to do any activity referred to in iii) in connection with any Contaminant; or (iv) any nuisance or abuse of right in connection with the Environment.

“Equipment Contracts” means those equipment leases, conditional sales contracts, title retention agreements and other agreements between the Seller and third parties relating to equipment used by the Seller in connection with the Business as set forth in Annexure 2.2 hereto.

“Excluded Assets” has the meaning ascribed thereto in Section 2.3.

“Goodwill” has the meaning ascribed thereto in Subsection 2.1.11.

“Inventories” means any product held for sale by the Seller in connection with the Business and any materials (including components, spare parts, raw materials, work-in-process, finished products, packaging), held by the Seller in connection with the manufacturing, processing, assembly and sale of products *in re*spect of the Business, whether or not located on the Seller’s premises, on consignment to a third party or in possession of sub-contractors, in transit or in storage, including without limitation various component items held by the Seller for use in the development of the [SPECIFY] product line, the aggregate value of which does not exceed [AMOUNT] in [COUNTRY] funds.

“Laws” means all constitutions, treaties, [YOUR COUNTRY LAW], statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial, arbitral or administrative judgments, orders, decisions, rulings or awards, policies, voluntary restraints, guidelines, or any provisions of such [YOUR COUNTRY LAW], including, without limitation, general principles of common and civil [YOUR COUNTRY LAW], binding on or affecting the Person referred to in the context in which such words are used; and “[YOUR COUNTRY LAW]” shall mean any one of them.

“Liabilities” means all the liabilities, debts or obligations of the Seller whether present or future, whether pertaining to the Business, the Purchased Assets, the Equipment Contracts or the Real Estate Leases or otherwise, including, without limiting the generality of the foregoing:

1. liabilities under any service, management or other contract entered into by the Seller;
2. liabilities under any plans, programmes or arrangements of any kind with respect to the benefits provided to each person employed by the Seller at the Effective Time;
3. any liabilities for any accidents, breach of contract, unjust enrichment, delict and *quasi*-delict, occupational health and safety violations, 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 Effective Time;
4. liabilities relating to defects of any product sold at any time by the Seller prior to the Effective Time;
5. any liabilities under Environmental [YOUR COUNTRY LAW] to the extent that any such incident, occurrence or set of facts or circumstances arose prior to the Effective Time;
6. any liabilities due to facts or circumstances occurring prior to the Effective Time, constituting a violation of federal, provincial, local or foreign [YOUR COUNTRY LAW], or any regulation of requirement of any governmental body, other than those described in (v);
7. any liabilities of the Seller or related to the Purchased Assets, the Equipment Contracts or the Real Estate Leases arising prior to the Effective Time for any federal, provincial, local or foreign taxes (including interest and penalties);
8. any other liabilities of the Seller not expressly assumed by the Purchaser in this Agreement.

“Lien” means any interest in property or the income or profits therefrom securing an obligation owed to, or a claim by, a Person other than the owner (which for the purposes hereof shall include a possessor under a title retention agreement and a lessee under a lease hereinbelow described) of such property, whether such interest is based on common [YOUR COUNTRY LAW], civil [YOUR COUNTRY LAW], statute or contract, and including but not limited to any security interest, hypothec, mortgage, pledge, lien, claim, charge, cession, transfer, assignment, encumbrance, title retention agreement, lessor’s interest under a lease which would be capitalised on a balance sheet of the owner of such property or analogous interest in, of or on any property or the income or profits therefrom of a Person.

“Locations” means: (i) [FULL ADDRESS], [COUNTRY], and (ii) l, [COUNTRY], [COUNTRY], l (the “Locations”);

“Material Adverse Change” means an event that is materially adverse to the business, assets, liabilities, financial condition, results of operations or prospects of the Business [taken as a whole.]

“Prepaid Expenses” means the prepaid expenses of the Business paid by the Seller in the ordinary course of the Business but excluding any and all [COMPANY NAME] [SPECIFY] pre-payments, as detailed in Annexure [SPECIFY].

“Proprietary Rights” has the meaning ascribed thereto in Subsection [NUMBER].

“Person” or “persons” means any individual, company, company, partnership, firm, trust, sole proprietorship, government or entity howsoever designated or constituted.

“Purchase Price” has the meaning ascribed thereto in Section 3.1.

“Purchased Assets” has the meaning ascribed thereto in Section 2.1.

“Real Estate Leases” means all leases and agreements to lease *in re*spect of the properties as listed in Annexure 2.2.

“Receivables” means all accounts receivable, trade accounts receivable, notes receivable book debts and other debts due or accruing to the Seller in connection with the Business.

“Revenue Statement” has the meaning ascribed thereto by Section 3.7 hereof.

“this Agreement”, the “Agreement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions mean or refer to this Agreement as amended from time to time and any indenture, agreement or instrument supplemental or ancillary hereto or in implementation hereof, and the expressions “Section”, “Subsection” and “Clause” followed by a number or letter mean and refer to the specific section, subsection or paragraph of this Agreement.

“Time of Closing” has the meaning ascribed thereto in Section 4.1.

* 1. **Extended Meanings**

Words importing the singular number include the plural and *vice versa* and words importing the masculine gender include the feminine and neuter genders.

* 1. **Interpretation Not Affected by Headings**

The division of this Agreement into articles and insertion of headings is for convenience and reference only and shall not affect the construction or interpretation of this Agreement.

* 1. **Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the [YOUR COUNTRY LAW] of the Province of [COUNTRY] without regard to its conflicts of [YOUR COUNTRY LAW] rules. In the event that this Agreement is sought to be enforced in any jurisdiction other than the Province of [COUNTRY], the [COMPANY NAME] intend that the court of such jurisdiction shall apply [COUNTRY] [YOUR COUNTRY LAW]. Where actions or proceedings are instituted in a court of a jurisdiction other than [COUNTRY], the rules of procedure and process of such claims shall be those of said jurisdiction other than [COUNTRY] notwithstanding that the Agreement shall be interpreted in accordance with the [YOUR COUNTRY LAW] of [COUNTRY] without regard to its conflict of [YOUR COUNTRY LAW] rules.

Any legal action or proceeding with respect to this Agreement and any action for enforcement of any judgement  *in re*spect thereof may be brought in the courts of the Province of [COUNTRY] or of any other province of [COUNTRY] and, by execution and delivery of this Agreement, each of the [COMPANY NAME] hereto hereby accepts for itself and *in re*spect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts. Each of the parties hereto irrevocably consents to the service of process out of any of the aforementioned courts in any action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the parties hereto at their respective addresses set forth in Section 8.5 hereof.

Each of the parties hereto hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

* 1. **Funds**

All amounts referred to in this Agreement are in lawful money of the [COUNTRY], unless otherwise stated.

* 1. **Financial Documents**

All calculations and financial documents required to be made or produced under or pursuant to this Agreement shall be made or produced in accordance with generally accepted accounting principles which are from time to time approved by the [COUNTRY] Institute of Chartered Accountants as set forth in the publication known as the [SPECIFY] and applicable as at the date on which any calculation or financial document is required to be made or produced, save and except as may be specifically provided herein.

* 1. **Severability**

If any provision of this Agreement shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Agreement in any jurisdiction.

* 1. **Business Day**

In the event that any action to be taken hereunder falls on a day which is not a Business Day, then such action shall be taken on the next succeeding Business Day.

* 1. **Preamble**

The preamble forms an integral part of this Agreement.

1. **PURCHASED ASSETS**
   1. **Purchased Assets**

Subject to the terms and conditions hereof, the Seller agrees to sell, assign, convey and transfer to the Purchaser on the Closing Date and with effect from the Effective Time, as a going concern, the undertaking and all of the property and assets of the Business in connection with the [SPECIFY] product line, both tangible and intangible, moveable and immovable, of every kind and description and wheresoever situate (the “Purchased Assets”), other than the Excluded Assets, said Purchased Assets including, without limiting the generality of the foregoing:

* + 1. all Inventories as listed in Annexure 2.1.1 hereto;
    2. all machinery, equipment, moulds, dies, tools, small tools and parts used or required for purposes of the Business including, without limitation:
       1. maintenance items, in-store materials, handling equipment, accessories and supplies;
       2. all machinery, equipment, moulds, dyes and tools listed in Annexure 2.1.2.2 hereto;
       3. all machinery, equipment, moulds, dyes and tools in the possession of sub-contractors or other third parties;
       4. machinery and equipment which may fall into the category of immovables by destination including, without limitation [SPECIFY];
    3. all locomotive cranes, lift trucks, cars and other vehicles of all kinds of the Seller used by the Business;
    4. all data processing equipment and software programme including, without limitation, software programme relating to the [SPECIFY] product line;
    5. all furniture, furnishings, fixtures and office equipment;
    6. all trade names, trademarks, trademark applications, service marks, service mark applications, standard drawings, industrial designs, copyrights, patents, patent applications, know-how, trade secrets and other intellectual property rights of the Seller used in connection with the Business including, without limiting the generality of the foregoing, the name [SPECIFY] (collectively the “Proprietary Rights”).
    7. all licences and permits of the Business and all licences and permits required by government or regulatory authorities, to the extent transferable, and all rights of the Business against third parties (including all rights in connection with third-party guarantees, warranties and representations);
    8. all contracts in connection with the Business listed in Annexure 2.1.8;
    9. all books, records and documentation of the Business, including the Seller’s [NUMBER] year forecasts, true, complete and exact copies of which are attached as Annexure 2.1.9, customer lists, sales and sales promotional data and advertising material including, without limitation, templates therefore, credit information, cost and pricing information, supplier lists, product catalogues, and other similar data;
    10. all prepaid expenses and deposits actually advanced as at the Closing Date by the Seller;
    11. the goodwill of the Business, together with the exclusive right to the Purchaser to represent itself as carrying on the Business in continuation of and in succession to the Seller (the “Goodwill”);
    12. all other property, assets and rights, moveable and immovable, corporeal or incorporeal, owned by the Seller used or to which it is entitled in connection with the Business.
  1. **Equipment Contracts and Real Estate Leases**

Subject to the terms and conditions hereof, the Seller agrees to cede, assign and transfer to the Purchaser on the Closing Date and with effect from the Effective Time all its rights, titles, interests and obligations in leases, conditional sales agreements and other agreements with respect to moveable property used in connection with the Business and with respect to the property described therein. Attached as Annexure 2.2 is a list of the said Equipment Contracts and Real Estate Leases.

* 1. **Excluded Assets**

Notwithstanding anything to the contrary contained herein, the [COMPANY NAME] acknowledge and agree that the following property and assets of the Business (the “Excluded Assets”) are excluded from the sale, assignment, conveyance, and transfer by the Seller to the Purchaser herein contemplated:

* + 1. cash and securities;
    2. all prepaid items including, without limitation, insurance, taxes and other similar items;
    3. all assets of the Seller associated with its [SPECIFY] project, its [SPECIFY] project, and its [SPECIFY] transport project;
    4. all Equipment Contracts as listed in Annexure 2.3.4;
    5. all Real Estate Leases as listed in Annexure 2.3.5;
    6. any rights (including indemnification) and claims and recoveries under litigation of Seller against third parties arising out of or relating to events prior to the Effective Time;
    7. all Receivables; and
    8. any rights or interests in any employee benefit plan maintained by the Seller and any policy of insurance on or relating to Seller’s properties, products or business and all claims or rights thereunder.
  1. **Leases and Title Retention Agreements**

Attached as Annexure 2.4 hereto is a list of all leases of property and other title retention agreements with respect to moveable property used in connection with the Business. The Purchaser may, at any time prior to the Effective Time, require the Seller to provide it with a true, exact and complete copy of each document listed in Annexure 2.4 hereto. The Purchaser shall have the right, but not the obligation, to assume all rights, title, interest and obligations of the Seller under any such document accruing due as of and from the Effective Time. The Purchaser shall give written notice to the Seller as to each document which it wishes to assume no later than the [NUMBER] Business Day immediately preceding the Closing Date.

* 1. **Forward Commitments**

Attached as Annexure 2.5 hereto are true, exact and complete copies of all forward commitments by the Seller for supplies or materials for the Business. The Purchaser shall have the right, but not the obligation, to the full benefit of all such forward commitments provided that it assumes all obligations of the Seller thereunder accruing due as of and from the Effective Time. The Purchaser shall give written notice to the Seller as to the forward commitments it wishes to assume no later than the [SPECIFY] [NUMBER] Business Day immediately preceding the Closing Date.

* 1. **Assets Used in the Business**

Except as set forth in Annexure 2.6, all assets which individually or in the aggregate are material to the conduct of the Business as presently conducted are included in the Purchased Assets, Equipment Contracts or are listed in Annexure 2.3.4 and all Real Estate Leases which individually or in the aggregate are material to the conduct of the Business as presently conducted are listed in Annexures 2.2 or 2.3.5.

1. **PURCHASE AND SALE**
   1. **Purchase Price**

The aggregate purchase price for the Purchased Assets, the Equipment Contracts and the Real Estate Leases (the “Purchase Price”) shall, subject to the provisions of Section 3.7 hereof, be [AMOUNT], which shall be paid by the Purchaser to the Seller as set out below.

* 1. **Cash Portion of Purchase Price**

The Purchase Price, as to the sum of [AMOUNT] (the “Cash Portion”) shall be paid in accordance with the provisions of articles [NUMBER] and following of the Civil Code of [COUNTRY] (the “CC[COUNTRY]”), in the following manner:

* + 1. The Seller shall deliver to the Purchaser at Closing a sworn statement containing the names and addresses of all the creditors of the Seller (whether in connection with the Business or otherwise), indicating the amount and nature of each of their claims, specifying the amounts remaining to become due, and indicating the security attached to each claim (if any), the whole as required by article [NUMBER] CC[COUNTRY] (the “Seller’s Statement”);
    2. Provided that the total amount of the claims identified in the Seller’s Statement does not exceed the Cash Portion, the Purchaser shall pay the said claims to the said creditors out of such sum and shall remit the balance remaining after such payments to the Seller on the Closing Date by bank draught or wire transfer, as per the Seller’s written request;
    3. In the event that the total amount of the claims identified in the Seller’s Statement exceeds the Cash Portion, the Purchaser shall deposit the Cash Portion in trust with [SPECIFY], whom the [COMPANY NAME] hereby designate as their agent (the “Distribution Agent”) for purposes of distribution of the purchase price to the Seller’s creditors. The Distribution Agent shall hold the Cash Portion in escrow pursuant to an escrow agreement to be entered into between the [COMPANY NAME] hereto, and the Distribution Agent shall give or cause to be given written notice of the sale to each of the prior and hypothecary creditors identified in the Seller’s Statement, with a request to indicate to the Purchaser in writing within [NUMBER] days of such request, the amount of their claim and, in the case of a hypothec, the value which the hypothecary creditor attaches to such hypothec, taking into account its rank, the amount for which it is granted, and the value of the charged property;
    4. In such event, the Distribution Agent shall prepare a distribution statement and shall provide a copy of it to the Purchaser, the Seller and each of the creditors identified in the Seller’s Statement. If such distribution statement is not contested within ([NUMBER]) days of its sending, the Distribution Agent shall pay the creditors proportionately to their claims out of the Cash Portion.
    5. If, however, the distribution statement is contested, then the Distribution Agent shall withhold from the Cash Portion such amounts as are necessary to discharge the contested part of the claim until judgement  is rendered on the contestation, unless the contesting party is a creditor whose name the Seller failed to declare in the Seller’s Statement, and the Seller approves such contesting party’s claim, in which case the contesting creditor shall participate proportionately in the distribution of the Cash Portion.
  1. **Stock Portion of the Purchase Price**

The Purchase Price shall be payable as to the sum of [AMOUNT] [COUNTRY], by the creation of an employee stock bonus pool *in re*spect of such number of common shares in the capital stock of [SPECIFY] having a value equal to such amount as listed on [SPECIFY] at the end of the last Business Day prior to the Closing, in the form of the employee stock bonus plan annexed hereto as Annexure 3.3.

* 1. **Allocation of the Purchase Price**

The Purchase Price shall be allocated in the manner set forth in Annexure 3.4 hereto provided that if the additional consideration contemplated at Section 3.7 is paid hereunder, the allocation shall be adjusted to include same on account of Goodwill.

* 1. **No Assumption of Liabilities**

The Purchaser shall not assume and shall not be deemed to assume any Liabilities save and except [the Assumed Liabilities accruing due as of and from the Effective Time under the Equipment Contracts and the Real Estate Leases]. The Seller undertakes to pay all its obligations and Liabilities as same become due and payable and to indemnify and save harmless the Purchaser should any claim be made against the Purchaser in connection therewith.

[In consideration of the Seller’s foregoing undertaking to pay, the Purchaser hereby waives its right to require the Seller to provide it with a sworn statement as to its creditors conforming to the provisions of the [YOUR COUNTRY LAW] of [COUNTRY] in connection with the sale of an enterprise. Nevertheless in the event that any creditor of the Seller threatens to have the transaction contemplated by this Agreement set aside by reason of failure to comply with the said sale of an enterprise provisions, the Seller shall immediately, upon receipt of notice of such threat, pay to such creditor the amount claimed by it, irrespective of whether such amount is then due by the Seller to such creditor or whether there is any dispute between the Seller and creditor with respect to such claim. Should the Seller fail to make such payment, as herein provided, the Purchaser may do so, in which event the Seller shall reimburse the Purchaser the amount so paid by the Purchaser, within [NUMBER] Business Days of Purchaser’s written demand to the Seller, therefore].

This alternative to Section [NUMBER] should be secured either by an appropriate hold back or by a letter of credit, which in either case could be reduced after the [NUMBER] anniversaries of the Closing Date and cancelled immediately after the [NUMBER] anniversary of the Closing Date upon the expiry of the prescription period *in re*spect of a sale of an enterprise.

* 1. **Payment of Taxes**

The Purchaser shall be liable for and shall pay all land transfer taxes, federal taxes, goods and services tax, and provincial sales taxes, excise taxes and all other taxes, duties or other like charges properly payable upon and in connection with the conveyance and transfer of the Purchased Assets by the Seller to the Purchaser, provided that the Seller shall do or shall cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligations in an efficient manner.

The Seller represents and warrants to the Purchaser that it is duly registered for purposes of the [YOUR COUNTRY] goods and services tax (“[TAX NUMBER]”) under subdivision (d) of Part [SPECIFY] of the Excise Tax Act ([COUNTRY]) (“ETA”) under the number [SPECIFY] and that it is duly registered for purposes of the [COUNTRY] sales tax (“[TAX NUMBER]”) under the Act respecting the [COUNTRY] sales tax and amending various fiscal legislation (“[TAX NUMBER] Act”) under the number [SPECIFY].

The Purchaser represents and warrants to the Seller that it is duly registered for the purposes of the [TAX NUMBER] under subdivision (d) of Part [SPECIFY] [YOUR COUNTRY] ETA under the number [NUMBER] and that it is duly registered for purposes of the [TAX NUMBER] under the [TAX NUMBER] Act under the number [SPECIFY]. The Seller and the Purchaser agree and covenant to each other that they shall jointly elect, in accordance with subsection [SPECIFY] of the [YOUR COUNTRY] ETA and section [SPECIFY] of the [TAX NUMBER] Act, by completing at or prior to the Closing Date all prescribed forms and documents so that no [TAX NUMBER] or [TAX NUMBER] shall be payable in connection with the transactions contemplated hereby.

OR

The Seller shall collect from the Purchaser, and the Purchaser shall deliver to the Seller, on the Closing Date, a certified check or bank draught payable to the Minister of Revenue in the amount of the [COUNTRY] sales tax (“[TAX NUMBER]”) payable with respect to the Purchased Assets and a certified check or bank draught payable to the Seller in the amount of the goods and services tax (“[TAX NUMBER]”) payable with respect to the Purchased Assets. The Seller shall remit all amounts of [TAX NUMBER] and [TAX NUMBER] collected from the Purchaser to the appropriate government authorities pursuant to and in accordance with the delays prescribed by applicable [YOUR COUNTRY LAW].

It is agreed and understood that to the extent that [TAX NUMBER] or [TAX NUMBER] may be or become payable by the Purchaser, the Seller shall indemnify the Purchaser to the full extent of the Purchaser’s cost of funds with respect to any such payment of [TAX NUMBER] or [TAX NUMBER] between the time that such payment is made and the time upon which the Purchaser shall be reimbursed in accordance with the [YOUR COUNTRY LAW].

* 1. **Additional Consideration**

In the event that the aggregate revenues earned from or in connection with the [SPECIFY] product line between Closing and [DATE] by the Purchaser or any successor to the Purchaser operating the [SPECIFY] product line, other than an unrelated third party to whom the [SPECIFY] product line may subsequently be sold:

* + 1. are equal to or greater than [AMOUNT] [COUNTRY]. but less than [AMOUNT] [COUNTRY], then the Purchaser shall pay to the Seller an additional consideration in the amount of [AMOUNT] [COUNTRY] plus an amount equal to [PERCENTAGE %] of the revenues in excess of [AMOUNT] [COUNTRY] up to [AMOUNT] [COUNTRY]; or
    2. are equal to or greater than [AMOUNT] [COUNTRY] but less than [AMOUNT] [COUNTRY], then the Purchaser shall pay the Seller an additional consideration in the amount of [AMOUNT] [COUNTRY] plus an amount equal to [PERCENTAGE %] of the revenues in excess of [AMOUNT] [COUNTRY] up to [AMOUNT] [COUNTRY]; or
    3. are equal to or greater than [AMOUNT] [COUNTRY], then the Purchaser shall pay the Seller an additional consideration in the amount of [AMOUNT] [COUNTRY] plus an amount equal to [PERCENTAGE %] Percent of the revenues in excess of [AMOUNT] [COUNTRY].

The Purchaser shall cause a statement of revenue *in re*spect of the [SPECIFY] product line to be prepared for the Seller as at the close of business on [DATE] (the “Revenue Statement”), which statement shall be reviewed and commented on by the Purchaser’s auditors. The Revenue Statement shall be prepared in accordance with generally accepted accounting principles and shall be delivered to the Purchaser no later than [DATE]. The Seller and its representatives, including its independent accountants or other financial advisers, shall be given full and complete access to such books and records of the Purchaser in connection with the [SPECIFY] product line as the Seller or its financial advisors may reasonably deem necessary for purposes of reviewing and verifying the Revenue Statement.

Within [NUMBER] Business Days of receipt of the Revenue Statement, the Seller shall notify the Purchaser in writing as to whether it accepts the Revenue Statement or specifying, with reasonable particularity, the disputed items or amounts in question. The Seller shall be deemed to have accepted the Revenue Statement if no dispute is raised in writing with the Purchaser within such [NUMBER] Business Day period.

In the event that the Seller disputes any item in the Revenue Statement, the Seller and the Purchaser shall act expeditiously and in good faith in an attempt to resolve such disputes within [NUMBER] Business Days of the date of delivery by the Seller to the Purchaser of its written notice setting forth the disputes with respect to the Revenue Statement failing which, such disputes shall be submitted to arbitration, consisting of an independent accounting firm as may be agreed to by the Purchaser and the Seller (the “Accountants”) which firm does not perform material services for the Purchaser and the Seller or any of their respective affiliates, as promptly as practicable. The arbitration procedure shall be as set out in Annexure 3.7 hereto.

The Purchaser shall pay the additional consideration, if any, to the Seller on the [NUMBER]th Business Day following the acceptance or deemed acceptance of the Revenue Statement, or as the case may be, the rendering of the arbitration award in connection therewith.

1. **CLOSING ARRANGEMENTS AND CONDITIONS PRECEDENT TO THE SALE**
   1. **Closing Date**

The purchase herein contemplated shall take place at the offices of [INDIVIDUAL NAME], [FULL ADDRESS], [COUNTRY], at [HOUR] hours (the “Time of Closing”) on [DATE] or such other Business Day as is agreed to by the [COMPANY NAME] in writing. A pre-closing shall take place at the same location [NUMBER] Business Day prior thereto. Notwithstanding the Time of Closing, the sale and transfer of the Purchased Assets [the Equipment Contracts, Real Estate Leases] shall be deemed to take effect as of and from the Effective Time.

* 1. **Conditions Precedent to Closing in favour of the Purchaser**

The obligation of the Purchaser to purchase the Purchased Assets [the Equipment Contracts and the Real Estate Leases] and to perform its obligations hereunder is subject to the fulfilment of the following conditions precedent to its satisfaction on or before the Closing Date, it being understood that the said conditions are included for the exclusive benefit of the Purchaser and may be waived, in writing by the Purchaser, either in whole or in part at any time:

* + 1. Corporate Authorisation

The Purchaser shall have received from the Seller a certified copy of the certificate and articles of in company of the Seller and any certificate and articles of amendment issued to the Seller, a certified copy of a resolution of the board of directors and of the shareholders of the Seller authorising the execution and delivery of this Agreement and approving the sale of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] to the Purchaser, an incumbency certificate listing all of the officers and the directors of the Seller who sign any documents in connection with this Agreement, and authorising the issuance of the certificates and other documents required to be issued by the Seller hereunder.

* + 1. Truth of Representations and Warranties

The representations and warranties of the Seller to the Purchaser contained in this Agreement and the Annexures hereto shall be true, correct and complete in every detail at the Time of Closing on the Closing Date with the same force and effect as if such representations and warranties were made at and as of such time with respect to the state of facts then existing, and the Seller shall deliver to the Purchaser the solemn declaration of its President to such effect; provided that the closing of the transaction of purchase and sale herein provided for shall not be nor be deemed to be a waiver of the representations and warranties contained in this Agreement and Annexures, which representations and warranties shall continue in full force and effect for the benefit of the Purchaser.

* + 1. Compliance with Terms and Conditions

All the terms, covenants and conditions of this Agreement to be complied with or performed by the Seller on or before the Time of Closing on the Closing Date shall have been complied with or performed.

* + 1. Governmental Approvals

There shall have been obtained from all appropriate federal, provincial, municipal or other governmental or administrative bodies such approvals or consents as are required to permit the change of ownership of the Purchased Assets contemplated hereby, including, without limiting the generality of the foregoing, such certificates as the Purchaser’s counsel considers desirable pursuant to the Competition Act [COUNTRY] and the Investment [COUNTRY] Act ([COUNTRY]), and all applicable government or regulatory waiting periods under all applicable [YOUR COUNTRY LAW] or regulations shall have expired or terminated without adverse action.

* + 1. Approval of Counsel

All actions, proceedings, instruments and documents required to implement this Agreement, or instrumental thereto, and all other legal matters relating to the purchase of the Purchased Assets, including title of the Seller to the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] shall have been approved as to form and legality by counsel for the Purchaser, [INDIVIDUAL NAME].

* + 1. Prohibitive Actions

No action or proceeding at [YOUR COUNTRY LAW] or in equity, shall be pending or threatened by any person, firm, company, government, governmental authority, regulatory body or agency to enjoin, restrict or prohibit:

* + - 1. the purchase and sale of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] contemplated hereby, or
      2. the right of the Purchaser to conduct the Business.
    1. Delivery of Documents and Title Deeds

The Seller shall have delivered to the Purchaser all documents or copies thereof required to be delivered, all title documents, deeds, leases, contracts and agreements and other documents in its possession or under its control relating to any of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] or the Business, including all Books and Records, which documents, Books and Records shall become the property of the Purchaser.

* + 1. Legal Opinion

The Purchaser and its counsel, [INDIVIDUAL NAME], shall have received a legal opinion of [INDIVIDUAL NAME], counsel to the Seller, substantially in the form attached as Annexure 4.2.8 hereto.

* + 1. Non-Competition Agreements

The Seller, each Affiliate of the Seller, and each of their respective shareholders, shall enter into a non-competition agreement in the form of Annexure 4.2.9 hereof providing for non-solicitation and non-competition covenants with respect to l, for a term of ([NUMBER]) years from the Closing Date within [COUNTRY] and [SPECIFY] province(s) thereof and in the following states: [SPECIFY].

* + 1. Residence

The Seller shall have furnished the Purchaser with evidence in the form of a statutory declaration of a duly Authorised officer of the Seller, that the Seller is a resident of [COUNTRY] within the meaning of the Income Tax Act ([COUNTRY]).

* + 1. Seller’s Statement

The Seller shall have executed and delivered to the Purchaser the Seller’s Statement contemplated in Section 3.2.1 hereof, in the form of Annexure 4.2.11 hereof, the whole in conformity with articles [NUMBER] and following of the Civil Code of [COUNTRY].

* + 1. Tax Election Form

The Seller and Purchaser shall each execute [YOUR COUNTRY] tax form [NUMBER]) and [NUMBER] with respect to the sale of the debts receivable as contemplated by Section [NUMBER] of the Income Tax [ACT/LAW/RULE] [COUNTRY] and section [NUMBER] of the Taxation [ACT/LAW/RULE] [COUNTRY]

* + 1. Powers of Attorney

The Seller shall deliver by hand to the Purchaser not less than [NUMBER] days prior to the Closing Date a list showing the name of each person, firm or company or business organisation holding a general or special power of attorney from the Seller and a summary of the terms thereof.

* + 1. Consents

All consents of third parties, including without limitation any banker or other lender to the Seller, necessary to permit the transfer and assignment of any of the Purchased Assets, Equipment Contracts and Real Estate Leases shall have been obtained.

* + 1. Due Diligence

The Purchaser and its legal counsel shall have conducted a due diligence review of the Business, including its books and records, and shall have verified such information as the Purchaser and its legal counsel shall deem necessary, all of which shall be satisfactory to the Purchaser in all respects, including without limitation as to the segregation of the Excluded Assets contemplated in Section [SPECIFY] hereof.

* + 1. No Substantial Damage or Adverse Change

Subject to section 4.4, no substantial damage to the Purchased Assets [and property under the Equipment Contracts and the Real Estate Leases] shall have occurred prior to the Effective Time and no adverse material change in Purchased Assets [and property under the Equipment Contracts and the Real Estate Leases] or the financial condition or prospects of the Business shall have occurred prior to the Effective Time.

* + 1. No Adverse Legislation

No legislation (whether by statute, regulation, by-law or otherwise) shall have been enacted or introduced which [in the reasonable opinion of the Purchaser,] adversely affects or may adversely affect the Purchased Assets [the Equipment Contracts and the Real Estate Leases] or Business.

* + 1. Delivery of Documents

The Seller shall execute and deliver to the Purchaser all such bills of sale, assignments, instruments of transfer, assurances, consents and other documents as shall be necessary effectively to transfer to the Purchaser all the Seller’s rights, title and interest in, to and under, or *in re*spect of, the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] and shall deliver up to Purchaser possession of the Purchased Assets [and the property under the Equipment Contracts and the Real Estate Leases], free and clear of any liens, charges or encumbrances or rights of third Persons; and shall effect such registrations, recordings and filings with public authorities as may be required in connection with the transfer of ownership to the Purchaser of the Purchased Assets.

* + 1. License and OEM Agreements

The [COMPANY NAME] shall have executed an agreement whereby the Purchaser shall licence back to the Seller the [SPECIFY] and power supply (subject to market restrictions), as well as an original equipment manufacturing (OEM) agreement for the [SPECIFY] platform and the Seller’s [SPECIFY] product. In the event, such agreements have not been finalised and executed before or at Closing, the [COMPANY NAME] shall continue to negotiate same in good faith following Closing and shall use their respective best efforts to finalise and execute same as soon as possible thereafter.

* + 1. Transitional Issues

The [COMPANY NAME] shall have reached an agreement on various transitional issues, including without limitation the Purchaser’s use of the Seller’s remaining assets after Closing, which shall include but shall not be limited to its production assets, in such a manner so as not to disturb the development of the [SPECIFY] product line and the Seller’s ongoing operations.

* + 1. Employment Agreements

The Purchaser shall have executed an employment agreement with [INDIVIDUAL NAME] substantially in the form of Annexure 4.2.22 hereto, and shall have negotiated employment agreements with those employees of the Seller involved in the [SPECIFY] product line whom the Purchaser has identified as desirous of hiring, pursuant to which they shall be provided with the Purchaser’s normal employee benefit programs, including without limitation employee stock options commensurate with their respective levels of contribution and responsibility.

* 1. **Conditions Precedent to Closing in favour of the Seller**

The purchase and sale of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] is subject to the satisfaction on or before the Time of Closing on the Closing Date, of the following terms and conditions which are included herein for the exclusive benefit of the Seller and which may be waived in whole or in part, only by the Seller:

* + 1. Corporate Authorisation

The Seller shall have received from the Purchaser a certified copy of the certificate and articles of in company of the Purchaser and any certificate and articles of amendment issued to the Purchaser, a certified copy of a resolution of the board of directors of the Purchaser authorising the execution and delivery of this Agreement and approving the purchase of the Purchased Assets [and the assumption of the Equipment Contracts and the Real Estate Leases], an incumbency certificate listing all of the officers and the directors of the Purchaser who sign any documents in connection with this Agreement, and authorising the issuance of the certificates and other documents required to be issued by the Purchaser hereunder.

* + 1. Truth of Representations and Warranties

The representations and warranties of the Purchaser to the Seller contained in this Agreement and Annexures hereto shall be true, correct and complete in every detail at the Time of Closing on the Closing Date with the same force and effect as if such representations and warranties were made at and as of such time and the Purchaser shall deliver to the Seller the solemn declaration of its President to such effect; provided that the closing of the transaction of purchase and sale herein provided for shall not be contained in this Agreement and Annexures, which representations and warranties shall continue in full force and effect for the benefit of the Seller as provided in Article [NUMBER].

* + 1. Compliance with Terms and Conditions

All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser at or before the Time of Closing on the Closing Date shall have been complied with or performed.

* + 1. Legal Opinion

The Seller and its counsel shall have received a legal opinion of [INDIVIDUAL NAME], counsel to the Purchaser, substantially in the form attached as Annexure 4.3.4 hereto.

* 1. **Risk of Loss**

If prior to the Effective Time any part of the Purchased Assets [or the property under the Equipment Contracts and the Real Estate Leases] shall be destroyed or damaged by any cause whatsoever, including fortuitous events, or shall be expropriated or seized by governmental authority, the Purchaser and the Seller shall enter into negotiations to determine the amount by which the Purchase Price shall be reduced to compensate for such loss or damage. Negotiations shall continue for a period of [NUMBER] days.

If the [COMPANY NAME] has not reached agreement on the amount by which the Purchase Price shall be reduced within such period, the Seller shall give the Purchaser within a further period of [[NUMBER] days, a written notice stipulating the amount by which the Seller considers the Purchase Price should be reduced. The Purchaser shall have a period of [NUMBER] days from the giving of the Seller’s notice, to give written notice to the Seller of its acceptance or refusal of the amount of the reduction in the Purchase Price. Should the Purchaser accept the amount of the reduction, it shall proceed to purchase the Purchased Assets [the Equipment Contracts and the Real Estate Leases] for the agreed upon reduced Purchase Price and upon the other terms and conditions herein, save and except that the Closing Date shall be extended by a period equal to the period of the delay to reach agreement on the reduced Purchase Price.

Should the Purchaser refuse the amount of the reduction or not give written notice within the required delay, this Agreement shall be null and void and of no further effect and neither party shall have any recourse against the other.]

* 1. **Closing After [DATE]**

In the event that the Closing does not occur on or before [DATE], the Purchaser shall reimburse the Seller, at or promptly after Closing, for any incremental research and development expenses incurred by the Seller related to [SPECIFY] accelerated feature roll-out activities requested by the Purchaser between [DATE] and the Closing. Such expenses shall be claims in writing by the Seller and shall be accompanied by such justification as may be reasonably requested by the Purchaser and/or its counsel and/or financial advisors (the “Reimbursement Claim”).

The Purchaser and its representatives, including its independent accountants or other financial advisers, shall be given full and complete access to such books and records of the Seller in connection with the [SPECIFY] product line as the Purchaser or its financial advisors may reasonably deem necessary for purposes of reviewing and verifying the Reimbursement Claim.

Within [NUMBER] Business Days of receipt of the Reimbursement Claim, the Purchaser shall notify the Seller in writing as to whether it accepts the Reimbursement Claim or specifying, with reasonable particularity, the disputed items or amounts in question. The Purchaser shall be deemed to have accepted the Reimbursement Claim if no dispute is raised in writing with the Seller within such [SPECIFY] Business Day period.

In the event that the Purchaser disputes any item in the Reimbursement Claim, the Purchaser and the Seller shall act expeditiously and in good faith in an attempt to resolve such disputes within [NUMBER] Business Days of the date of delivery by the Purchaser to the Seller of its written notice setting forth the disputes with respect to the Reimbursement Claim, failing which, such disputes shall be submitted to arbitration, consisting of an independent accounting firm as may be agreed to by the Seller and the Purchaser (the “Accountants”) which firm does not perform material services for the Seller and the Purchaser or any of their respective affiliates, as promptly as practicable. The arbitration procedure shall be that set out in Annexure 3.7 hereto.

The Seller shall pay the additional consideration, if any, to the Purchaser on the [NUMBER]the Business Day following the acceptance or deemed acceptance of the Reimbursement Claim, or as the case may be, the rendering of the arbitration award in connection therewith.

* 1. **Notification**

If the Purchaser becomes aware that any of the foregoing conditions are not likely to be fulfilled at or before the Closing Date, it shall so notify the Seller with a view to permitting it to take such action as may be necessary to enable it to cause such conditions to be fulfilled at or before the Closing Date. In case any of the foregoing conditions shall not be fulfilled on or before the Closing Date to the reasonable satisfaction of the Purchaser,

the Purchaser may rescind this Agreement by notice to the Seller, and in such event the Purchaser shall be released from all obligations hereunder and, unless the condition for the non-performance of which the Purchaser has rescinded this agreement is reasonably capable of being performed or caused to be performed by the Seller, the Seller shall also be released from all obligations hereunder; provided that any such conditions, to the extent that it is for the benefit of the Purchaser, may be waived in whole or in part by the Purchaser without prejudice to its rights of rescission in the event of the non-fulfilment of any other condition or conditions, any such waiver to be binding on the Purchaser only if the same is in writing.

1. **REPRESENTATIONS AND WARRANTIES OF THE SELLER AND THE PURCHASER**
   1. **Representations and Warranties of the Seller**

The Seller hereby represents and warrants to the Purchaser and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the purchase by the Purchaser of the Purchased Assets [the Equipment Contracts and the Real Estate Leases]:

* + 1. Due In company and Qualification to Carry on Business

The Seller is a company duly incorporated and organised and is validly subsisting under the [YOUR COUNTRY LAW] of [COUNTRY]. The Seller has all necessary right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder. The entry into, execution and delivery of this Agreement and the performance by the Seller of its obligations hereunder have been duly Authorised and approved by all necessary corporate action of the board of directors of the Seller.

The Seller has the corporate power to own its property and to carry on the Business as now being conducted by it. The Seller is duly qualified (and has all required permits, licenses, certificates and authorisations necessary) to transact and carry on the Business in the manner and to the extent currently carried on in all jurisdictions in which it presently carries on business and is so duly licenced or qualified in each jurisdiction whereby by virtue of the nature of the Business, such licencing and qualification is necessary except for such failures to be so qualified or licensed, if any, which, in the aggregate, would not have a Material Adverse Effect. The only locations in which the Seller carries on Business or owns or leases property are the Locations.

* + 1. Binding Nature

This Agreement constitutes a legal, valid and binding obligation of the Seller enforceable in accordance with its terms.

* + 1. Title to Assets

The Purchased Assets are owned by the Seller by good and marketable title thereto, free and clear of all Liens or of any rights or privileges capable of becoming Liens, except statutory liens, if any, none of which prevent in any material way the use of any of the Purchased Assets. The Seller represents and warrants to the Purchaser that there are no such Liens. The Seller further undertakes, at its sole cost and expense, to free all of the Purchased Assets of all such Liens within a period of [NUMBER] days of becoming aware thereof.

* + 1. Options, Commitments

No person, firm or company has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming an agreement, for the purchase from the Seller of any of the Purchased Assets, [the Equipment Contracts and the Real Estate Leases], other than the Purchaser pursuant to this Agreement.

* + 1. No Violation

The entering into of this Agreement and the transactions contemplated hereby will not result in the violation of, or default under, any [YOUR COUNTRY LAW] or any of the terms and provisions of the constating documents or by-laws of the Seller or of any resolutions of the directors or shareholders of the Seller or of any indenture or other agreement, written or oral, to which the Seller may be a party or by which it is bound or in the creation of any lien or other encumbrance on any of the Purchased Assets [the Equipment Contracts and the Real Estate Leases].

* + 1. Books and Records

All accounts, books and records of the Seller kept in connection with the Business fairly and correctly set out and disclose, in all material respects, in accordance with generally accepted accounting principles, the financial position of the Business as at the date hereof and all material financial transactions of the Seller relating to the Business have been accurately recorded in such books and records.

* + 1. Ordinary Course

The Business has been carried on in the ordinary and normal course and will be carried on in the ordinary and normal course after the date hereof and up to the Closing Date, [save and except that the Seller shall not, after the date hereof issue quotations to, negotiate with or accept orders from any person in connection with the supply by the Seller to such person of any products manufactured or processed by the Business] and that the Seller shall use its best efforts to minimise the Inventories to be purchased by the Purchaser. The Seller undertakes that, after the date hereof, it shall refer all such persons as well as all inquiries with respect to products manufactured or processed by the Business to the Purchaser.

Seller will use commercially reasonable efforts to (i) preserve intact the present organisation and reputation of the Business, (ii) keep available (subject to dismissals and retirements in the ordinary course of business consistent with past practice) the services of the present officers, employees and consultants of the Business, and (iii) maintain the goodwill of customers, suppliers, lenders and other persons to whom it sells goods or provides services or with whom it otherwise has significant business relationships.

* + 1. Leases and Title Retention Agreements

The Seller is not a party, as lessee, to any lease or agreement in the nature of any lease or a conditional sale agreement, capitalised lease or other title retention agreement with respect to moveable property in connection with the Business except for those leases and other title retention agreements set forth and described in Annexure 2.4, which specify the [COMPANY NAME] to each lease, dates of execution and expiry dates, options to renew, description of the leased moveable property and the rental payable, and which leases are all the leases required in connection with the Business. Subject to obtaining the lessor consents, such leases are enforceable in accordance with their terms and the Seller is not in default under any such lease, which default would reasonably be expected to lead to cancellation of such lease, the eviction of the Seller or the payment of any additional amounts, excluding interest.

All property leased by the Seller in connection with the Business is in a state of good maintenance and repair and is adequate and suitable for the purposes for which it is presently being used. Each lease is in good standing and in full force and effect without amendment thereto, and the Seller is not in breach of any of the covenants, conditions or agreements contained in each such lease, except for breaches which are not, in the aggregate, material to the particular lease in question.

* + 1. Uses

The conduct of the operations of the Business and the uses to which the leased property referred to in Subsection 5.1.8 above have been put are not in breach of any [YOUR COUNTRY LAW], covenant, restriction or plans except for breaches with respect to any particular property which in the aggregate are not material.

* + 1. Work Orders

There are no outstanding work orders relating to any of the Purchased Assets from or required by any police or fire department, sanitation, health or factory authorities or from any other federal, provincial, or municipal authority or any matters under discussion with any such departments or authorities relating to work orders.

* + 1. Litigation

Except as described in Annexure 5.1.11a) there are no actions, suits or proceedings (whether or not purportedly on behalf of the Business), pending or threatened against or affecting the Seller at [YOUR COUNTRY LAW] or in equity or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign relating to the Business or any of the Purchased Assets, [the Equipment Contracts and the Real Estate Leases], which actions, suits or proceedings involve the possibility of any judgement  against or liability of the Seller or the Business for an amount not covered by insurance in excess of [AMOUNT] *in re*spect of any individual matter or group of related matters arising out of the same occurrence.

Except as disclosed in Annexure 5.1.11b), or otherwise disclosed to the Purchaser prior to the signing of this Agreement, there is no existing ground on which any such action, suit or proceeding, involving the possibility of a judgement  against or liability of the Seller or the Business for an amount not covered by insurance in excess of [AMOUNT] *in re*spect of any individual matter or group of related matters arising out of the same occurrence, might be commenced against the Seller, the Business or the Purchased Assets[, the Equipment Contracts and the Real Estate Leases], with any reasonable likelihood of success in whole or in part.

The Seller shall be entitled but not obliged to consult with the Purchaser with respect to any action proposed to be taken or omitted by it and if the Purchaser consents to or acquiesces in such action or omission then it shall be deemed to have waived its right to rescind this Agreement with respect to such action or omission.

* + 1. Proprietary Rights

The Seller owns by good and marketable title, free and clear of all Liens, all Proprietary Rights, which are necessary or desirable for the conduct of the Business as presently conducted and as proposed to be conducted. All Proprietary Rights are in full force and effect, and the Seller has taken all necessary action to protect its rights therein. None of the Proprietary Rights are now being challenged or threatened with a challenge. The Seller has not granted any licence or other permission to any third party to use any Proprietary Rights and no third party has infringed upon or misappropriated any Proprietary Right.

* + 1. Infringement of Proprietary Rights

None of the Purchased Assets nor the use thereof by the Seller infringes or conflicts with any proprietary rights, confidential information or trade secrets of any third party in [COUNTRY], the [COUNTRY] or elsewhere.

* + 1. Compliance with [YOUR COUNTRY LAW]

The Seller is conducting the Business in compliance with all applicable [YOUR COUNTRY LAW], rules and regulations, judgments and decrees of each jurisdiction in which the Business is carried on, is not in breach of any such [YOUR COUNTRY LAW], rules or regulations, judgments or decrees, except for breaches which in the aggregate are not material, and is duly licensed, registered or qualified in each jurisdiction in which the Seller owns or leases property or carries on the Business to enable the Business to be carried on as now conducted and its property and assets to be owned, leased and operated. All such licenses, registrations and qualifications are valid and subsisting and in good standing, and none of the same contains any burdensome term, provision, condition or limitation which has or may have an adverse effect on the operation of the Business.

* + 1. Employment Agreements

Attached as Annexure 5.1.15 is a list of all employees of the Business (the “Employees”). The information set forth therein with respect to position and title, age, base salary or hourly rate, benefits, bonus and years of service is true and complete. Each Employee has been identified in Annexure 5.1.15 as has each Employee on long-term or short-term disability or presently receiving payments under any occupational health and safety legislation.

All Employees have been employed on the basis of the standard form engagement letter annexed hereto as part of Annexure 5.1.15, except as expressly noted therein. The Seller has complied, in all material respects, with all [YOUR COUNTRY LAW] relating to the employment of labour, including, without limitation, provisions thereof relating to wages, hours and collective bargaining rights.

* + 1. Labor Unions

The Seller has not made any agreements with any labour union or employee association in connection with the Business nor made commitments to or conducted negotiations with any labour union or employee association with respect to any future agreement in connection with the Business [other than as set out in the Collective Agreement] and the Seller is not aware of any current attempts to organise or establish any labour union or employee association in connection with the Business.

* + 1. Collective Agreement

The only collective agreements to which the Seller is a party, and which relate to the Business are those annexed as Annexure 5.1.17. No collective agreement restricts the relocation or closing of any part of the Business. Except as described in Annexure 5.1.17, no trade union, council of trade unions, employee bargaining agency or affiliated bargaining agent holds bargaining rights with respect to any of the Business’s employees by way of certification, interim certification, voluntary recognition, or successor rights, or has applied or threatened to apply to be certified as the bargaining agent of any of such employees.

No material work stoppage or other material labour dispute *in re*spect of the Seller or the Business is pending or threatened. There are no outstanding arbitration awards, labour grievances, arbitration proceedings or other proceedings under such collective agreements; the Seller has committed no breaches of such collective agreements and is not aware of any grievances or arbitration proceedings under such collective agreements. There are no written or verbal agreements or courses of conduct which modify such collective agreements.

* + 1. Workers’ Compensation

There are no notices of assessment, provisional assessment, reassessment, supplementary assessment, penalty assessment or increased assessment relating to the Business (collectively, “Assessments”) or any other communications related thereto which the Seller 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 unpaid on the date hereof or which will be unpaid at the Effective Time and there are no facts or circumstances which may result in a material increase in liability to the Purchaser from any applicable workers’ compensation legislation, regulations or rules after the Effective Time.

* + 1. Labour Practices

No unfair labour practise complaint against the Seller in connection with the Business is pending before any labour relations board or similar government tribunal or agency. There are no disputes with labour unions, grievances, claims, demands, suits, actions, arbitration procedures or any other litigious matters generally relating to or emanating from, directly or indirectly, any labour agreement, petition to secure certification or any union certification applying to the employees of the Seller. There are neither any complaints of unfair labour practises pending against the Seller under the labour Code ([COUNTRY]) nor any civil action or complaint under the Act respecting labour Standards ([COUNTRY]), or any other applicable legislation in any relevant jurisdiction existing or pending against the Seller concerning its employees.

* + 1. Pension Plans

The only pension plans for the Employees are disclosed in Annexure 5.1.20; such plans are duly registered where required by, and are in good standing and in compliance with, all applicable taxation and pension legislation; all required employee contributions thereunder as of the date hereof have been made, and the respective pension funds under such pension plans are fully funded for past and future liabilities in accordance with the rules of the plans, and with federal and provincial regulations and no past service funding liabilities exist thereunder.

The Seller does not maintain or contribute to any other retirement plans, profit sharing, option or incentive plans, or insurance disability, medical, surgical, dental or other employee benefit plans for Employees except as set forth in Annexure 5.1.20.

* + 1. Restrictive Documents

The Seller is not subject to, or a party to, any charter or by-law provision, mortgage, demand, lien, lease, license, permit, agreement, contract, conditional sales contract, hire-purchase agreement, security interest agreement or other title retention agreement or lease of personal property, instrument, [YOUR COUNTRY LAW], rule, ordinance, regulation, order, judgement  or decree or any other restriction of any kind or character which would prevent consummation of the transactions contemplated by this Agreement or which would affect the continued operation of the Business after the Effective Time on substantially the same basis as heretofore operated.

* + 1. Outstanding Long-Term Indebtedness

Except as disclosed in the Financial Statements, the Seller has no outstanding bonds, debentures, mortgages, notes or other indebtedness maturing more than one year after the date of their creation or issuance nor is under any agreement to create or issue any bonds, debentures, mortgages, notes or other indebtedness maturing more than one year after the date of their creation or issuance.

* + 1. Outstanding Guarantees

The Seller is not a party to or bound by any agreement of guarantee, indemnification, assumption or endorsement or any other like commitment of the obligations, liabilities (contingent or otherwise) or indebtedness of any other person, firm or company.

* + 1. Insurance

The Seller has been and is insured by financially sound and reputable insurers unaffiliated with the Seller in such amounts and against such risks as are sufficient for compliance with [YOUR COUNTRY LAW] and as are adequate in the judgement  of the Seller to protect the properties and businesses of the Seller, which relate to the Business. A list of all policies (including the name of the insurer and policy number) pursuant to which the Seller is insured is attached as Annexure 5.1.24 including, without limitation, general liability, fire, casualty, worker’s compensation [business interruption insurance], product liability policies and such other insurance against such risks as is appropriate in the case of companies engaged in a similar business. Each of the policies permits claims to be made on an occurrence basis.

All outstanding claims with respect to such policies are accurately described in Annexure [SPECIFY]. All such policies and contracts of insurance are in full force and effect, and the Seller is in good standing with respect to such policy or contract to which it is a party.

All such policies shall be placed with such insurers and shall be upon such terms and conditions and in such amounts as shall be reasonably acceptable to the Purchaser and no policy shall contain a co-insurance clause requiring the Seller to bear more than [PERCENTAGE %] of any loss.

The Seller shall maintain the insurance in effect on the date hereof for a period of [NUMBER] years. The Seller is not in default with respect to any of the provisions contained in the insurance policies and shall present any claim in due and timely fashion.

The Seller has not been refused any insurance with respect to the Purchased Assets [property under the Equipment Contracts and the Real Estate Leases] nor has its coverage been limited by any insurance carrier to which it has applied for any such insurance or with which it has carried insurance. The Seller is not *in re*ceipt of any notice of default under such insurance policies, and there are not any facts, conditions, or circumstances which would likely result in a default under any of such insurance policies or in an increase in the premiums payable under any of such policies.

* + 1. Taxes

All domestic and foreign tax returns of the Seller which are required to be filed have been duly prepared and timely filed, and all taxes shown thereon, and all assessments, reassessments and all governmental charges, penalties, interest and fines due and payable have been paid, or full provision has been made therefore in the Financial Statements. The income tax returns of the Seller have all been reviewed and finally assessed by the appropriate government authorities up to and including [DATE], and all such assessments have been satisfied.

All taxes including real and personal, property and business taxes, sales or other taxes, rates, assessments, excise taxes or other governmental or regulatory levies of any nature or kind whatsoever payable by the Seller for their last completed fiscal period have been paid or are provided for in their books and are reflected in the Financial Statements and full provision has been made in the books of the Seller for all such taxes for the current period. No proceedings or other action has been taken against the Seller for the assessment or collection of additional taxes, levies or other assessments of any nature or kind whatsoever. All other tax returns of any nature and kind required to be filed and any and all corporate returns required under the [YOUR COUNTRY LAW] of [COUNTRY], or any province thereof, have been filed and such returns are complete and correct.

There are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return or the payment of any tax or governmental charge and there are no actions, suits, proceedings, investigations or claims now threatened or pending against the Seller *in re*spect of taxes, governmental charges or assessments or any matters under discussion with any governmental authorities respecting charges or assessments asserted by any such authority. The Seller is not liable for any [COUNTRY] federal, provincial, municipal or local taxes, assessments or other imposts due and unpaid, which might result in a claim or lien of any kind affecting the Purchased Assets.

* + 1. Withholdings

The Seller has withheld from each payment made to any of its shareholders, officers, directors, former directors, non-resident creditors and employees the amount of all taxes, including but not limited to income tax, and other deductions required to be withheld therefrom and has paid the same to the proper tax or other receiving officers within the time required under any applicable legislation and, if not due and payable, has accrued the same on its books.

* + 1. Condition of Purchased Assets

All of the Purchased Assets [and the property under the Equipment Contracts and the Real Estate Leases] are in good operating condition and are in a state of good repair and maintenance.

* + 1. Vacation Pay

All vacation pay, fringe benefits, source deductions, sick days, bonuses, furlough, travel, commissions and other emoluments in connection with the Business are or will be on the Closing Date reflected and have been, or will be on the Closing Date, accrued in the books of account of the Seller.

* + 1. Residence

The Seller is resident in [COUNTRY] within the meaning of the Income Tax [ACT/LAW/RULE] [COUNTRY].

* + 1. Knowledge

The Seller does not have any information or knowledge of any facts relating to the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] or the Business which might be reasonably expected to materially diminish any investor’s appreciation of the worth or profitability of such business, or which, if known to the Purchaser, might reasonably be expected to deter the Purchaser from completing the transactions herein contemplated.

* + 1. Approvals and Consents

No consents or approvals of any regulatory authority or agency having jurisdiction over the Seller or over the Purchased Assets, rights and assets of the Business, of any of the Seller’s creditors or of any party to any agreement to which the Seller is a party or by which it or any of its property, rights or assets are bound or affected is required to be obtained in connection with the execution and delivery of this Agreement or in connection with the performance of the Seller’s obligations thereunder.

* + 1. Liabilities

There are no Liabilities of the Seller of any kind whatsoever in connection with the Business, whether or not accrued and whether or not determinate or determinable, *in re*spect of which the Purchaser may become liable on or after the consummation of the transactions contemplated by this Agreement, other than (i) Liabilities disclosed on, reflected in or provided for in the Financial Statements, (ii) Liabilities disclosed or referred to in this Agreement or in the Annexures attached hereto. There shall be no limit on the representations and warranties of the Seller relating to any tax Liability of the Seller based upon any misrepresentation made or fraud committed in filing a return or in supplying information, and (iii) commercial Liabilities and obligations incurred since the date of the Financial Statements in the ordinary course of business and consistent with past practise since the date thereof.

* + 1. Inventories

The Inventories consist of items of a quantity usable in the ordinary course of business and are of merchantable quality, fit for their intended purpose and do not include obsolete items or items in need of repair.

* + 1. Financial Statements

The Financial Statements have been prepared in accordance with generally accepted accounting principles consistently applied and fairly present the financial position of the Business as at their respective dates and the results of its operations for the periods then ended. The respective statements of income included in the Financial Statements do not contain any items of special or non-recurring income except as expressly disclosed therein and the balance sheets included in the Financial Statements do not reflect any write-up or revaluation increasing the book values of the assets. The financial records of the Business are kept in accordance with generally accepted accounting principles and are complete and correct and fully and fairly reflect all transactions of the Business.

* + 1. Absence of Certain Developments

Since l, the Seller has not agreed to do or permit any of the following:

1. borrowed any amount or incurred or become subject to any material liabilities except (i) current liabilities incurred in the ordinary and normal course of the routine daily affairs of business and (ii) liabilities under contracts entered into in the ordinary and normal course of the routine daily affairs of the business;
2. discharged and satisfied any material lien or encumbrance or paid any material liability, other than current liabilities in the ordinary and normal course of the routine daily affairs of business, and current portions of term liabilities;
3. mortgaged, pledged or subjected to any lien, charge or any other encumbrance, any of the Purchased Assets except, [the Equipment Contracts and the Real Estate Leases] with respect to liens for current property taxes not yet due and payable;
4. sold, assigned or transferred any of the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] except in the ordinary and normal course of the routine daily affairs of business,
5. or which in the aggregate do not exceed [AMOUNT], or cancelled any material debts or claims;
6. sold, assigned or transferred any Proprietary Rights or disclosed any material proprietary information or other intangible assets to any competitor or affiliate thereof;
7. suffered any extraordinary losses or waived any rights of material value, whether or not in the ordinary course of business or consistent with past practice;
8. entered into any material transaction other than in the ordinary and normal course of the routine daily affairs of the business;
9. suffered any theft, damage, destruction or casualty loss in excess of [AMOUNT] to the Purchased Assets, the Equipment Contracts and the Real Estate Leases] whether or not covered by insurance;
10. or made any capital expenditures which in the aggregate exceed [AMOUNT];
11. made any material change in any method of accounting or any accounting limitation,
12. any change in depreciation or amortisation policies or rates; conducted the Business other than in the ordinary course;
    * 1. No Material Adverse Change

Since l there has been no Material Adverse Change and the Seller has no knowledge of any present condition or contingency which could result in a material adverse change in the Business or its financial condition, operating results, employee relations, customer relations or business process. The Seller shall promptly notify the Purchaser of changes in the Business of the Seller which might reasonably be regarded as material including major accidents, labour disputes or attempts to organise new bargaining units, significant rental losses and additions, threatened major lawsuits, cancellation of or material amendment to insurance or threats of such cancellation or amendment.

* + 1. Other Agreements
  1. Since [DATE], the Seller has not been a party to any outstanding agreement (excluding written employment agreements disclosed hereby), contract or commitment, assignments or transfers of properties or assets, whether written or oral, of any nature or kind whatsoever, except (a) agreements, contracts and commitments in the ordinary course of the routine daily affairs of the Business which can be terminated by the Seller,
  2. without any liability arising from such termination in excess of [AMOUNT] in the aggregate *in re*spect of all such agreements, contracts and commitments, (b) prepaid service contracts on office building and plant equipment, and (c) the contracts, leases and agreements listed in the Annexures hereto, including Annexure l, or referred to specifically herein.
  3. The Seller and the other [COMPANY NAME] hereto, have performed in all material respects all obligations required to be performed by them to date under the contracts listed at Annexure l and are not in breach or default in any respect thereunder, except for such breaches and defaults which, individually or in the aggregate, do not, and, insofar as reasonably can be foreseen, in the future will not, have a Material Adverse Effect.
  4. Except as set forth on Annexure [SPECIFY] or as otherwise contemplated by this Agreement, the Seller is not a party to any non-competition agreements.
  5. Except as otherwise contemplated by this Agreement, Seller will not do or omit to do any act, or permit any act or omission to act, which will cause a breach of any contract, commitment or obligation of the Seller which is material to the Business, taken as a whole, or any material breach of any representation, warranty, covenant or agreement made by the Seller herein.
  6. The Seller will not (a) grant any increase in the salary of any officer, employee or agent engaged in the operation of the Business, except normal wage
  7. or salary increases for employees (other than officers and other management employees) in the ordinary course of business and consistent with past practice, or (b) by means of any bonus or pursuant to any plan or arrangement or otherwise, increase by any amount the benefits or compensation of any such officer, employee or agent.
  8. Other than in the ordinary course of business and except as otherwise expressly provided in this Agreement, Seller will not create, or agree to create, any indebtedness for borrowed money, or permit or allow any of the properties or assets used by the Business, whether movable or immovable, to be mortgaged, pledged or subjected to any Liens other than those permitted herein.
     1. Environmental Matters

The Business has been and is being operated, and the Purchased Assets and the property under the Equipment Contracts and Real Estate Leases are being used in compliance with all applicable Environmental [YOUR COUNTRY LAW], and the Seller holds and the Business has been conducted in compliance with all environmental permits, certificates, licenses, approvals, certificates of authorisations, registrations, registered numbers and other authorisations (collectively, “Environmental Permits”) required under all applicable Environmental [YOUR COUNTRY LAW], and all such Environmental Permits are in full force and effect and are listed in Annexure 5.1.40. The Seller has not received any notice, nor is aware of any proposal, to amend, revoke or replace any such Environmental Permits or requiring the issuance of any additional Environmental Permits. Without limiting the generality of the foregoing:

* 1. no notice, citation, summons or order has been issued, no complaint has been filed, no penalty has been assessed, and no investigation or review is pending or threatened by any authority with respect to (i) any alleged violation in the conduct of the Business of any Environmental [YOUR COUNTRY LAW];
  2. or (ii) any alleged failure to have any Environmental Permits required in connection with the conduct of the Business; or (iii) any alleged violation to comply with any Environmental Permits, any generation, treatment, storage, recycling, transportation or disposal of any Contaminant in connection with the conduct of the Business;
  3. the Seller has not received any request for information, notice of claim, demand or other notification that it is or may be potentially responsible with respect to any investigation or clean-up of any threatened or actual release of any Contaminant in connection with the conduct of Business;
  4. the Seller has not, contrary to the Environmental [YOUR COUNTRY LAW], used, generated, treated, stored, recycled or disposed of any Contaminant on any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases, nor has anyone else treated, stored for more than one year, recycled or disposed of any Contaminants on any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases;
  5. no PCB’s, asbestos or urea-formaldehyde insulation is or has been present, at any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases, whether aboveground underground or within a structure thereon
  6. or contained in the Purchased Assets and property under the Equipment Contracts and the Real Estate Leases; nor are there any underground storage tanks, active or abandoned, at any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases;
  7. no Contaminant generated by the conduct of the Business has been recycled, treated, stored, disposed of or transported contrary to applicable Environmental [YOUR COUNTRY LAW];
  8. the Seller has not transported any Contaminant arising from the conduct of the Business or arranged for the transportation of any such substance to any location which is not listed and duly Authorised pursuant to the Environmental [YOUR COUNTRY LAW], or, which is the subject of federal, provincial, local
  9. or municipal enforcement actions or other investigations which may lead to claims against the Seller or the Purchaser for clean-up costs, remedial work, damages to natural resources or for personal injury claims, under any applicable Environmental [YOUR COUNTRY LAW];
  10. no Contaminant has been released, spilled, leaked, discharged, disposed of, pumped, poured, emitted, emptied, injected, leached, dumped or allowed to escape (“Released”) at, from, on or under any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases contrary to any Environmental [YOUR COUNTRY LAW];
  11. no oral or written notification of a Release of a Contaminant has been filed by or on behalf of the Seller in connection with the conduct of the Business or *in re*lation to any of the Purchased Assets or the property under the Equipment Contracts and the Real Estate Leases;
  12. there are no environmental charges, privileges or encumbrances (“Environmental Liens”) on any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases and no actions have been taken or are in process or pending which could subject any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases to such Environmental Liens;
  13. no consent, approval or authorisation of, or registration or filing with, any Person, including any authority, is required in connection with the execution and delivery of this Agreement or the consummation of the transaction contemplated hereby;
  14. there have been no environmental inspections, investigations, studies, audits, tests, reviews or other analyses conducted *in re*lation to any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases.
  15. the Seller knows of no facts or circumstances related to environmental matters concerning the conduct of the Business, the Purchased Assets or the property under the Equipment Contracts and the Real Estate Leases that could lead to any further environmental claims, liabilities or responsibilities;
  16. the Seller has kept all records and made all filings required to be kept or made by the Seller by all applicable Environmental [YOUR COUNTRY LAW];
  17. all Contaminants on, in or under the immovables have been removed and no natural or accidental release, emission, discharge, deposit, issuance, spraying, injection, inoculation, abandonment, burial, spilling disposal, leaking, seeping, pouring, emptying, throwing, dumping, placing or exhausting (collectively “Treatment”) of Contaminants on, in, under or,
  18. within the area covered by the Business will subject the Purchaser to corrective or response action or any other liability under any applicable [YOUR COUNTRY LAW], and the Seller is not aware of any such Treatment which may result in any Contaminants being located in the reasonably foreseeable future on, in or under the immovable;
  19. the Seller does not have any contingent Liabilities, under any Environmental [YOUR COUNTRY LAW], to federal, provincial, local or municipal governments or to any Person and whether or not such contingent Liability is required pursuant to generally accepted accounting principles to be reflected on the financial statements of the Seller
  20. and there is no past or present fact, condition or circumstance relating to the Seller or to the Purchased Assets and property under the Equipment Contracts and the Real Estate Leases or that would result in any Liability or potential Liability under any Environmental [YOUR COUNTRY LAW] for the Purchaser;
  21. none of the directors and the officers of the Seller or any of its affiliates has incurred any Liabilities or is subject to any fines or penalties under any applicable Environmental [YOUR COUNTRY LAW]; the Seller has complied with all requests for information made by the relevant environment protection authorities;
  22. the Seller has not received any notice of or is otherwise aware that any site which is currently or has been used in connection with any of the Purchased Assets and the property under the Equipment Contracts and the Real Estate Leases is listed,
  23. or proposed for listing, on a registry of inventory of inactive hazardous waste sites maintained by any province or jurisdiction. The Seller has not received notice with respect to any such of the foregoing that it is considered to be a potentially responsible Person;

-OR-

* + 1. Environmental Matters

The Seller and its officers, directors, agents and employees or any predecessor thereof is conducting its business in compliance with all Environmental [YOUR COUNTRY LAW] of each jurisdiction in which the Business is carried on. The Seller is not in breach of or in default under any Environmental [YOUR COUNTRY LAW] to which the Seller, the Business or the Purchased Assets [or the property under the Equipment Contracts and the Real Estate Leases] may be or are subject. The Seller does not use, store, handle, transport or dispose of any Hazardous Waste and Solid Waste (as these terms are defined respectively in the [YOUR COUNTRY] Hazardous Waste [ACT/LAW/RULE] [SPECIFY].

There has been no emission, deposit, issuance or discharge of a Contaminant in a greater quantity or concentration than that provided for by regulation of the Government or that the presence in the environment is prohibited or is likely to affect the life, health, safety, welfare or comfort of human beings or to cause any damages to or otherwise impair the quality of the soil, vegetation, wildlife or property on, in, onto, into, under or from any of the Purchased Assets [or the property under the Equipment Contracts and the Real Estate Leases].

Neither the Seller nor its officers, directors, agents and employees nor any predecessor thereof has conducted any evaluation, assessment, study or test relating to the presence of any contaminant at the request or on behalf of any governmental authority or third party. The Seller has no knowledge of any prior or current storage, release or threatened release of any hazardous substance, toxic materials or other pollutants on or from any immovable property owned or leased by the Seller.

* + 1. Reliance

The Seller hereby expressly acknowledges that the Purchaser is relying on the covenants, representations and warranties of the Seller contained in this agreement and in any certificates or other document delivered pursuant hereto in connection with the sale and purchase of the Purchased Assets, Equipment Contracts and the Real Estate Leases hereunder.

* + 1. Evidence

The Seller shall furnish the Purchaser with evidence satisfactory to the Purchaser that, except as otherwise contemplated hereby, the facts with respect to each of the respective representations and warranties of the Seller contained herein were as set out hereinabove at the Closing Date, provided that the receipt of such evidence and the closing of the transaction herein provided for shall not be a waiver of the representations and warranties of the Seller contained herein, which representations and warranties shall continue to have full force and effect as provided for herein.

* + 1. Standard of Conduct

In determining whether or not reasonable efforts have been used by the Seller, the standard of business judgement  to be expected from it shall be the same as that applied in its previous conduct of its affairs.

* 1. **Representations and Warranties of the Purchaser**

The Purchaser hereby represents and warrants to the Seller and acknowledges and confirms that the Seller is relying upon such representations and warranties in connection with the sale by the Seller of the Purchased Assets [the Equipment Contracts and the Real Estate Leases]:

* + 1. Due In company

The Purchaser is a company duly incorporated and organised and is validly subsisting under the laws of the Province of [COUNTRY]. The Purchaser has all necessary right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder. The entry, execution and delivery of this Agreement and the performance by the Purchaser of its obligations hereunder have been duly Authorised and approved by all necessary corporate action on the part of the Purchaser.

* + 1. Binding Nature

This Agreement constitutes a legal, valid and binding obligation of the Purchaser enforceable against it in accordance with its terms.

* + 1. No Violation

The entering into of this Agreement and the transactions contemplated hereby will not result in the violation of any terms and provisions of the constating documents or by-laws of the Purchaser or of any resolutions of the directors or shareholders of the Purchaser or of any indenture or other agreement, written or oral, to which either of them may be a party or by which it is bound.

* 1. **Survival**

The representations and warranties of the Seller and the Purchaser contained in this Agreement and in any certificates or documents delivered pursuant to or in connection with the transactions herein provided for shall survive the closing of the purchase and sale of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] herein provided for and, notwithstanding such closing, and regardless of any investigation by or on behalf of the Purchaser with respect thereto.

* 1. **Indemnification of the Purchaser**

The Seller shall indemnify the Purchaser and hold the Purchaser harmless against any Claims made upon, brought against, suffered or incurred by the Purchaser by reason of or arising from any incorrectness in, breach of or default under any representation, warranty or covenant contained herein or made by the Seller in connection herewith, provided that each such Claim is made upon, brought against, suffered or incurred by the Purchaser within [NUMBER] years of the Closing Date

or in the case of the representations and warranties contained in Subsection [NUMBER], such Claim is made upon, brought against, suffered or incurred by the Purchaser no later than [NUMBER] year after final judgement  in any such suit, action, litigation or proceeding. Notwithstanding the foregoing provisions of this Section 5.4, there is no time limit within which a Claim must be made based upon a breach of or inaccuracy in any representation or warranty set forth at Subsection [5.1] or in connection with a breach of a representation, warranty and covenant contained in Section [NUMBER].

The Seller further agrees that the Purchaser shall be indemnified on a [CURRENCY] for [CURRENCY] basis for any reduction in the assets or any increase in Purchaser’s liabilities which results from the incorrectness in, default under or breach of any representation, warranty or covenant. For the purposes of this Section, the determination of whether there has been a breach of any representation contained in Sections [SPECIFY] shall be determined as if such Section did not contain a qualifier that such representation is not breached if the effect would not have a Material Adverse Effect.

1. **EMPLOYEES**
   1. **Employment to Non-Unionised Employees**

The Purchaser has offered employment to the non-unionised Employees listed in Annexure [NUMBER] hereto.

* 1. **Claims by Non-Unionised Employees**

The Seller shall be responsible for and indemnify the Purchaser with respect to Claims with respect to employment with the Seller made by non-unionised Employees listed in Annexure 6.1 hereto who are not offered employment by the Purchaser and by non-unionised Employees listed in Annexure [NUMBER] hereto who shall refuse offers of employment made by the Purchaser pursuant to Section 6.2 hereof.

* 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 l (the “Pension Plans”) up to and including the Effective Time 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 accrued under the Pension Plans up to and including the Effective Time.

The benefits of the Employees accrued under the Pension Plans up to and including the Effective Time and the Seller’s obligations relating thereto shall be settled by the Seller, at no cost to the Purchaser, forthwith upon Closing in accordance with the provisions of the Pension Plans and the applicable pension legislation. Accordingly, the Seller shall at its own expense diligently comply with all of the requirements of the Supplemental Pension Plans Act ([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 and the termination of the active membership of the Employees in the Pension Plans and any notifications to the [SPECIFY] and to the Hired Employees required by the Pension Plans or by any [YOUR COUNTRY LAW].

The Purchaser shall assume no liability *in re*spect of the benefits of Employees accrued under the Pension Plans relating to the Hired Employees. However, the Purchaser will allow those Employees in classes of employment eligible for participation in the Purchaser’s pension plan for employees: (i) credit for employment with the Seller for the purposes of determining eligibility for participation in the Purchaser’s pension plan; and (ii) credit for membership and service in the Pension Plans for the purposes of the vesting only of benefits under the Purchaser’s pension plan.

* 1. **Assumption of Collective Agreement**

The Purchaser shall assume as of and from the Effective Time the obligations of the Seller under the Collective Agreement save and except as hereinafter provided. The Seller represents and warrants to the Purchaser that there are no pending grievances by any unionised employee of the Business. The [COMPANY NAME] acknowledge that the Collective Agreement terminates on [DATE]. Between the Closing Date and [SPECIFY TIME, DATE], should any unionised employee who has accepted employment with the Purchaser exercise his right pursuant to Section [NUMBER] of the Collective Agreement to early retirement, the Seller shall be responsible to pay as and when due to each such employee all amounts to which he is entitled or becomes entitled pursuant to the Collective Agreement.

The Seller shall indemnify the Purchaser with respect to any Claims made by any such employee against the Purchaser with respect to all payments of amounts due or falling due to such employee pursuant to the Collective Agreement other than with respect to wages owing to him for the period between the Closing Date and [SPECIFY TIME, DATE]. Furthermore, the [COMPANY NAME] agree that should the Purchaser lay off any unionised employee reporting to work between the Closing Date [SPECIFY TIME, DATE] the Seller shall reimburse the Purchaser for any amounts which the Purchaser is required to pay each such employee as a lay-off assistance package pursuant to the Collective Agreement.

* 1. **Benefit Plans**

The Seller has not implemented any bonus, profit sharing, pension, retirement, hospitalisation or other employee benefit arrangements or plans for unionised employees except as described in Annexure 6.5 hereto.

1. **MUTUAL COOPERATION**
   1. **Conduct of Business Prior to Closing**

During the period from the date of this Agreement to the Closing Date the Seller covenants and agrees to do the following:

* + 1. Conduct Business in Ordinary Course. Except as otherwise contemplated or permitted by this Agreement, conduct the Business in the ordinary and normal course thereof.
    2. Continue Insurance. Continue in full force and effect all existing policies of insurance presently maintained by the Seller *in re*spect of the Business.
    3. Perform Obligations. Comply with all [YOUR COUNTRY LAW], rules and regulations affecting the operation of the Business.
    4. Maintain Contracts. The Seller will not do or omit to do any act, or permit any act or omission, which will cause a breach of any contract, commitment or obligation of the Seller which is material to the Business, taken as a whole, or cause any breach of any representation or warranty, covenant or agreement made by the Seller herein.
    5. Employees. The Seller will not (i) grant any increase in the salary of any officer, Employee or agent engaged in the operation of the Business, except normal wage or salary increases for Employees (other than officers and other management employees) in the ordinary course of business and consistent with past practice, (ii) by means of any bonus or pursuant to any plan or arrangement or otherwise, increase by any amount the benefits or compensation of any such officer, Employee or agent, or (iii) terminate or hire any Employee in connection with the Business.
    6. Indebtedness. Other than in the ordinary course of business, the Seller will not create, or agree to create, any indebtedness for borrowed money, or permit or allow any of the Purchased Assets or property under the Equipment Contracts and Real Estate Leases to be mortgaged, pledged or subjected to any Liens other than those permitted herein.
    7. Material Changes. The Seller shall not do and shall use all reasonable efforts not to permit anything, including without limitation, the loss or reduction of the rate of business done with the Business by a client of the Business, that would result in any Material 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.
  1. **Access for Investigation Prior to Closing**

The Seller shall permit the Purchaser and its employees, agents, counsel, accountants, other representatives and investors between the date hereof and the Time of Closing, without interference to the ordinary conduct of the Business, to have free and unrestricted access during normal business hours to the premises used in the Business and to:

* + 1. all title documents, abstracts of title, deeds, leases, contracts and agreements and other documents in its possession or under its control relating to the Business and the Purchased Assets [the Equipment Contracts and the Real Estate Leases];
    2. all books of account, accounting records, documents, business, legal and accounting information and data relating to the Business, the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] including all audit working papers, tax return files and working papers for all past and current reporting years;
    3. to have access to the personnel employed by the Seller and to have access to and to inspect the property and assets of same, it being agreed that the exercise of any rights of access or inspection by or on behalf of the Purchaser under this clause shall not affect or mitigate the covenants, representations and warranties of the Seller hereunder which shall continue in full force and effect as provided in Article [NUMBER] hereof;

[The Seller and the Purchaser hereby agree that, so long as the books and records retained by the Seller relating directly to the Purchased Assets, [the Equipment Contracts and the Real Estate Leases] or the books and records delivered to the Purchaser hereunder, remain in existence and are available, each party shall have the right to inspect and, at its expense, to make copies of same at any time during business hours for any proper purpose.

The Purchaser will not destroy, without first having offered in writing to deliver to the Seller, any of the books and records delivered to the Purchaser hereunder for a period of [NUMBER] years following the Closing Date. Each party agrees that it shall make available to the other party, and to any accountants or attorneys or tax agents Authorised by such other party, at the expense of the party requesting same, any such records or information needed in connection with any tax, accounting, litigation or similar matters.]

* 1. **Actions to Satisfy Closing Conditions**

Each of the Seller and the Purchaser hereby agrees to take all such actions as are within its power to control and to use all reasonable efforts to cause other actions to be taken which are not within its power to control so as to ensure compliance with any conditions set forth herein which are for the benefit of the other party. [The Purchaser will use its reasonable best efforts to cooperate with the Seller in obtaining, prior to the Closing Date,

the required consents and such lessor consents as the Purchaser reasonably believes desirable; provided, however, the Purchaser shall not be required to make any other payment of any kind whatsoever to the Seller or any third party in connection with obtaining any such required consent or lessor consent. If the Seller fails to obtain any Required Consents, the Seller and the Purchaser will use their reasonable best efforts to enter into mutually satisfactory arrangements to place the Purchaser in substantially the same position as if such Required Consent had been obtained as of the Closing Date.]

* 1. **Transfer of Purchased Assets**

The Seller shall take all necessary steps and such proceedings as may be approved by counsel for the Purchaser, acting reasonably, to permit the Purchased Assets [the Equipment Contracts and the Real Estate Leases] to be duly and validly transferred to the Purchaser.

* 1. **Assistance in Judicial Claims**

The Purchaser shall reasonably cooperate with and assist the Seller with respect to the Seller’s involvement in any judicial claims or proceedings relating to the Business, its employees or the Purchased Assets [the Equipment Contracts and the Real Estate Leases]. The Seller shall indemnify the Purchaser for all expenses incurred with respect to such assistance.

1. **MISCELLANEOUS**
   1. **Successors and Assigns**

The provisions of this Agreement shall, except as otherwise provided herein, enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns and each and every person so bound shall make, execute and deliver all documents necessary to carry out this Agreement.

* 1. **Brokers**

The Seller represents and warrants to the Purchaser and the Purchaser represents and warrants to the Seller that no broker, agent or other intermediary acted for the Seller or the Purchaser, as the case may, in connection with the sale of the Purchased Assets [the Equipment Contracts and the Real Estate Leases] and the Seller and the Purchaser, as the case may be, agree to indemnify and save harmless the other party from and against any claims whatsoever for any commission or other remuneration payable or alleged to be payable to any such broker, agent or other intermediary. [The Seller and the Purchaser shall each bear and be responsible for all of its own costs and expenses, including legal fees, incurred in connection with this Agreement and the transaction hereby contemplated.]

* 1. **Public Announcement**

Except as required by law, no press release related to this Agreement or the transaction contemplated herein shall be issued without the joint written approval of the Seller and the Purchaser, such approval not to be unreasonably withheld.

* 1. **Entire Agreement**

This Agreement and the Annexures hereto constitute the entire agreement between the [COMPANY NAME] with respect to the subject matter hereof and the transactions herein contemplated and replaces all previous agreements and understandings, if any, between the [COMPANY NAME] with respect to the subject matter hereof and the transaction contemplated herein.

* 1. **Notices**

Any notice to be given under this Agreement shall be in writing and delivered or, except in the event of disruption of postal service, mailed by prepaid registered mail addressed to the party to whom it is to be given at the address as shown below and such notice shall be deemed to have been given on the day of delivery or on the [NUMBER] business day after mailing as aforesaid, as the case may be.

if to the Purchaser:

Attention: The President

with copy to:

[INDIVIDUAL NAME]

[FULL ADDRESS]

[COUNTRY]

Attention: [INDIVIDUAL NAME]

if to the Seller:

[COMPANY NAME]

[FULL ADDRESS]

[COUNTRY]

Attention: The President

with copy to:

[INDIVIDUAL NAME]

[FULL ADDRESS]

[COUNTRY]

Attention: [INDIVIDUAL NAME]

Notice of change of address may be given by any party in the same manner.

* 1. **Time of Essence**

Time shall be of the essence of this Agreement.

* 1. **Counterparts**

This Agreement may be executed in one or more counterparts each of which when so executed shall be deemed to be an original and such counterpart together shall constitute but one of the same instruments.

* 1. **No Waiver**

The waiver of any of the provisions, terms or conditions contained in this Agreement shall not be considered as a waiver of any of the other provisions, terms and conditions hereof. The failure of any party to seek redress for violation of or to insist upon the strict performance of any provision of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation

* 1. **Further Assurances**

Each party to this Agreement shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other party may in writing at any time and from time to time reasonably request be done or executed, in order to give full effect to the provisions of this Agreement.

1. **GUARANTEE**
   1. **Intervention of the Guarantor**

[SPECIFY] (the “Guarantor”), hereby acknowledges to have taken cognisance of the present Agreement and hereby guarantees to the Seller, jointly and severally with the Purchaser, without benefit of division and discussion, the prompt payment when due of the [Purchased Assets covered by guarantee] and the prompt and complete observance and performance by the Purchaser of all the terms, covenants, agreements, obligations and indemnities to be observed or performed by the Purchaser pursuant to Articles [NUMBER], [NUMBER] and [NUMBER] hereof (collectively, the “Purchaser’s Obligations”).

* 1. **Indulgence**

This guarantee shall not be affected by any indulgence, whether of time for payment or performance or otherwise, on the part of the Seller and shall remain in full force and effect notwithstanding any act or omission by the Seller that otherwise would, by operation of [YOUR COUNTRY LAW], partially or wholly relieve the Guarantor from its liability under this guarantee. Without limiting the generality of the foregoing, the Seller shall not be obliged to make any demand against, pursue any action against or exhaust its remedies against the Purchaser before making any demand upon or taking action against the Guarantor with respect to this guarantee and may take and give up guarantees of or security for the performance by the Purchaser of the Purchaser’s Obligations and may accept compositions from and may otherwise deal with the Purchaser and others without relieving the Guarantor from its liability under this guarantee or otherwise modifying such liability.

* 1. **Disability of Purchaser**

The Guarantor shall remain liable under this guarantee notwithstanding any disability or lack of status or power of the Purchaser or any impediment whatsoever to obtaining payment or performance from the Purchaser. In the event that any demand is made upon the Guarantor with respect to this guarantee, the Guarantor shall be bound to the Seller with respect to the payment of the sums or performance of the covenants and obligations hereby guaranteed as if the Guarantor had been principal and not a surety. No person other than the Seller, its successors and permitted assigns shall have or acquire any right under or by virtue of the provisions of this Article [NUMBER], whether as a third-party beneficiary or otherwise.

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

[GUARANTOR]

**LIST OF ANNEXURES**

Annexure 2.1.1: Inventories

Annexure 2.1.8:Contracts

Annexure 2.1.19: Forecasts

Annexure 2.1.22: Machinery, equipment, moulds, dies and tools

Annexure 2.2: Equipment Contracts and Real Estate Leases

Annexure [SPECIFY]: Prepaid Expenses

Annexure 2.3.4: Excluded Equipment Contracts

Annexure 2.3.5: Excluded Real Estate Leases

Annexure 2.4:Title Retention Agreements

Annexure 2.5: Forward Commitments

Annexure 2.6: Assets used in the Business but excluded

Annexure 3.3: Employee Stock Bonus Plan

Annexure 3.4: Allocation of Purchase Price

Annexure 3.7: Arbitration Procedure

Annexure 4.2.8: Opinion of [INDIVIDUAL NAME], counsel to the Seller

Annexure 4.2.9: Form of Non-Compete Agreements

Annexure 4.2.11: Seller’s Statement

Annexure 4.2.22: Employment Agreement for [INDIVIDUAL NAME]

Annexure 4.3.4: Opinion of [INDIVIDUAL NAME], counsel to the Purchaser

Annexure 5.1.11(a): Litigation

Annexure 5.1.11(b): Causes of action

Annexure 5.1.15: Employees

Annexure 5.1.17: Collective Agreement(s)

Annexure 5.1.20: Pension Plans

Annexure 5.1.40: Environmental Permits

Annexure 6.1: Employees Offered Employment by Purchaser

Annexure 6.5: Benefit Plans

**ANNEXURE 3.7**

# ARBITRATION PROCEDURE

1. There shall be one arbitrator who shall be a member of the [COUNTRY] Institute of Chartered Accountants.

2. The arbitration hearing shall be held in the City of [COUNTRY], Province of [COUNTRY] and commence no later than [NUMBER] Business Days following termination of the period of good faith negotiations.

3. The arbitration shall continue, if necessary, at any date and place to be fixed by the arbitrator.

4. The arbitration shall adjourn in the manner and during the hours fixed by the arbitrator.

1. Save as expressly modified herein, the present arbitration will be governed by Articles [NUMBER] and following of the [YOUR COUNTRY] Code of Civil Procedure and the arbitrator shall have the powers set forth therein.

6. Should the arbitrator for any reason refuse or be unable to continue his functions as arbitrator, then a replacement shall either be agreed upon by the [COMPANY NAME] within [NUMBER] week of their becoming aware of the arbitrator’s inability or refusal to continue or, in default of such agreement, a replacement shall be named by a judge of the Superior Court of the Province of [COUNTRY] on the application of any interested party.

7. The [COMPANY NAME] shall be entitled to be represented at the arbitration by legal counsel and shall be entitled to adduce evidence.

8. The arbitrator shall have the power, if he sees fit, to appoint experts to assist him in his decision. Any costs or fees charged by experts shall form part of the costs of the arbitration and be paid in the manner hereafter contemplated.

9. The arbitrator in his award may apportion costs in the manner he sees fit.

10. The arbitration shall render the award in writing and such award shall be final, binding and without appeal, but shall be subject to deposit and homologation pursuant to the [COUNTRY] Code of Civil Procedure and the arbitrator shall render his award within [NUMBER] days from the end of the hearing and the argument.

11. The [COMPANY NAME] waive any requirement that the arbitrator is sworn and waive any cause of action against such arbitrator except for gross negligence.

**ANNEXURE 5.11 (a)**

## LITIGATION

1. Plaintiff: [INDIVIDUAL NAME] [INDIVIDUAL NAME]

Defendant: [COMPANY NAME] [INDIVIDUAL NAME]

Court File No.: [NUMBER] (Superior Court[COUNTRY])

Nature: Damages

Amount: [AMOUNT]

Status: Writ and Declaration filed [DATE;

List of Exhibits filed [DATE];

Appearance by Defendant filed [DATE].