



No. S245340
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE RECEIVERSHIP OF
G3 GENUINE GUIDE GEAR INC.**

ORDER MADE AFTER APPLICATION

)	THE HONOURABLE JUSTICE)	
BEFORE))	08/NOV/2024
)	CHAN)	

ON THE APPLICATION of Deloitte Restructuring Inc., in its capacity as court appointed receiver (in such capacity, the "**Receiver**") of the assets, undertakings and properties of G3 Genuine Guide Gear Inc. (the "**Debtor**"), coming on for hearing at Vancouver, British Columbia, on this 8th day of November, 2024, and on hearing Eamonn Watson and Cassandra Federico, counsel for the Receiver, and those parties listed on **Schedule "A"** hereto;

THIS COURT ORDERS that:

Service

1. The time for service of the Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those parties on the Service List (as defined in the Order granted by the Honourable Justice Loo on August 9, 2024) maintained by the Receiver for these proceedings is hereby dispensed with.

Approval of Purchase Agreement

2. The sale transaction (the "**Transaction**") contemplated by Asset Purchase Agreement dated November 1, 2024 (the "**Purchase Agreement**"), between the Receiver and Canadawide Sports Inc. (the "**Purchaser**"), a redacted copy of which is attached as **Schedule "B"** hereto and an unredacted copy of which is attached as Appendix "C" to the Confidential Supplement to the First Report of the Receiver dated November 7, 2024, is hereby approved and the Purchase Agreement is commercially reasonable. The execution of the Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the assets described in the Purchase Agreement (the "**Purchased Assets**").

3. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "C"** hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Purchase Agreement shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order granted by the Honourable Justice Loo on August 9, 2024 (the "**Receivership Order**"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**"); and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.

5. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.

6. Pursuant to Section 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser all personal information in the company's records pertaining to the Debtor's records. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. Subject to the terms of the Purchase Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Purchaser at 12:00 noon on the Closing Date (as defined in the Purchase Agreement), subject to the permitted encumbrances as set out in the Purchase Agreement.

8. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such other date as those parties may agree without the necessity of a further Order of this Court.

9. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

Distribution

10. The distributions authorized and approved by paragraph 11 of this Order shall at all times be subject to (a) the completion of the Transaction; (b) receipt by the Receiver of

the proceeds from the sale of the Purchased Assets (the "**Sale Proceeds**") net of any payment obligations under the Purchase Agreement (the "**Net Sale Proceeds**"); and (c) the Receiver retaining from the Net Sale Proceeds a reserve of funds (the "**Holdback Reserve**") in an amount satisfactory to the Receiver sufficient for the payment of:

- (a) the obligations secured by the Receiver's Charge as defined in the Receivership Order;
- (b) any borrowings permitted by the Receivership Order and secured by the Receiver's Borrowing Charge as defined in the Receivership Order;
- (c) amounts owing by the Receiver in respect of (i) its ordinary course post-appointment obligations incurred since the commencement of these receivership proceedings up to and including the date of this Order, and (ii) amounts incurred, or estimated to be incurred, by the Receiver in respect of its ordinary course post-appointment obligations from and after the date of this Order;
- (d) amounts required to be remitted to the Canada Revenue Agency in relation to payroll source deductions and goods and services tax;
- (e) wages and vacation pay owed to employees of the Debtor assessed by the Receiver prior to its appointment in accordance with the *Wage Earner Protection Program Act*; and
- (f) such other obligations or claims for which the Receiver deems it to be prudent in the circumstances to maintain a Holdback Reserve for.

11. Subject to the availability of sufficient Net Sale Proceeds, and the requirement to maintain the Holdback Reserve, the Receiver is authorized to make interim distributions to:

- (a) FWCU Capital Corp., up to the amount allocated to the IP Assets, as defined and set out in the Purchase Agreement; and
- (b) Royal Bank of Canada ("**RBC**"), up to the amount of the amount outstanding to RBC.

For clarity, the Receiver is authorized to make the interim distributions set out herein from any and all proceeds, including by not limited to the Net Sale Proceeds, subject to the requirement to maintain the Holdback Reserve.

Approval of Activities

12. The activities of the Receiver, as set out in the First Report of the Receiver dated November 4, 2024 (the "**First Report**"), are hereby approved.

13. The Receiver's statement of receipts and disbursements up to October 17, 2024, a copy of which is attached as Appendix "A" to the First Report, is hereby approved.

General

14. After the Closing Date, all of the Debtor's current and former directors, officers, employees, agents, shareholders, and all other persons having acted on its instructions or behalf, shall forthwith advise the Purchaser of the existence of any Purchased Assets in such person's possession or control and shall deliver all such Purchased Assets (excluding Purchased Assets subject to liens the validity of which is dependent on maintaining possession) to the Purchaser upon the Purchaser's request.

15. After the Closing Date, all Persons (as defined in the Receivership Order), other than governmental authorities, shall forthwith advise the Purchaser of the existence of any books, documents, securities, contracts, orders, documents evidencing ownership or registration, corporate and accounting records, and any other papers, records and information of any kind related to the Purchased Assets and/or the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or any other data storage media containing any such information (collectively, the "**Records**"), in that Person's possession or control, and shall, upon a request from the Purchaser and at the Purchaser's expense, provide the Purchaser with copies thereof and/or permit the Purchaser to make, retain and take away copies thereof together with any passwords, credentials or login information required in order to access any Records, subject to any lien rights, claims of privilege or any other conflicting legal right, entitlement, obligation or duty as may be asserted by such Persons.

16. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

17. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

18. Endorsement of this Order, other than by counsel for the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of Eamonn Watson
Lawyer for the Receiver

By the Court.



Registrar



SCHEDULE "A"

Counsel Appearing

Counsel	Party Represented

SCHEDULE "B"

Redacted Purchase Agreement

(see attached)

ASSET PURCHASE AGREEMENT

THIS AGREEMENT made the 1st day of November, 2024,

AMONG:

DELOITTE RESTRUCTURING INC., in its capacity as receiver of the assets, property and undertakings of G3 Genuine Guide Gear Inc., and not in its personal capacity

(hereinafter referred to as the "Vendor"),

- and -

CANADAWIDE SPORTS INC., a corporation incorporated under the laws of Ontario

(hereinafter referred to as the "Purchaser")

WHEREAS:

- (1) G3 Genuine Guide Gear Inc. (the "Debtor") is a corporation incorporated pursuant to the laws of the Province of British Columbia;
- (2) Deloitte Restructuring Inc. has been appointed as Receiver of certain assets, properties, and undertakings (collectively, the "Limited Property") of the Debtor by Court Order dated August 9, 2024 (the "Appointment Order");
- (3) The Purchaser seeks to purchase from the Receiver, all of the Receiver and Debtor's rights title and interest in and to all assets, property, interests and undertakings of the Debtor, including in and to any property, interests or undertakings of the Debtor as are not presently within the scope of the Receiver's Appointment pursuant to the terms of the Appointment Order (all such property, rights and interests, inclusive of but not limited to the Limited Property, being the "Property"); and
- (4) Subject to the foregoing and the terms herein, the Vendor desires to sell all or substantially all of the Property of the Debtor and the Purchaser has agreed to purchase such assets subject to the terms and conditions set forth in this Agreement.

THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants, agreements, representations, warranties and indemnities of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party), the parties agree as follows:

1. INTERPRETATION

- 1.1 Defined Terms.** For the purposes of this Agreement, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

- (a) **"Accounts Receivable"** means, on any date, all accounts receivable and tax refunds (including HST refunds) generated in the operation of the Debtor's business, together with any unpaid interest or fees accrued thereon which are outstanding on such date and the full benefit of all security or collateral for such amounts, including recoverable advances and deposits, and any proceeds of claims made by the Debtor against third parties;
- (b) **"Affiliate"** has the meaning given to the term "affiliate" in the *Canada Business Corporations Act*;
- (c) **"Agreement"** means this asset purchase agreement, as amended from time to time in accordance with the terms hereof;
- (d) **"Applicable Law"** means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event;
- (e) **"Approval and Vesting Order"** means an order by the Court substantially in the form attached as Schedule "D", expanding the appointment of the Receiver to include, together with the Limited Property, all Property which is not Limited Property, authorizing the Transaction and vesting in the Purchaser (or as the Purchaser may direct) all the right, title and interest of the Debtor in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances);
- (f) **"Assignment Order"** means an order or orders of the Court, in form and substance satisfactory to the Purchaser, acting reasonably, authorizing and approving (i) the assignment of any Consent Required Contract for which a consent, approval or waiver necessary for the assignment of such Consent Required Contract has not been obtained, (ii) the prevention of any counterparty to such Consent Required Contracts from exercising any right or remedy under such Consent Required Contracts by reason of any defaults arising from the Receivership Proceedings or the insolvency of the Debtor and (iii) the vesting in the Purchaser (or as it may direct) of all right, title and interest of the Vendor and the Debtor in such Consent Required Contracts;
- (g) **"Assumed Contracts"** means the Contracts set out at Schedule A;
- (h) **"Assumed Liabilities"** has the meaning set out in Section 2.4, but for greater certainty does not include the Excluded Liabilities;
- (i) **"BIA"** means the *Bankruptcy and Insolvency Act* (Canada);
- (j) **"Books and Records"** means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by, and in the possession of the Vendor, in connection with the ownership, or operation of the Purchased Assets, including the Contracts, customer lists, customer information and account records, sales records,

computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Purchased Assets, and, for greater certainty, excluding the minute books and corporate records of the Vendor;

- (k) **"Business Day"** means any day which is not a Saturday, a Sunday or a statutory holiday in British Columbia or Ontario;
- (l) **"Cash Portion of the Purchase Price"** means the Purchase Price, less the amount of the Deposit funds;
- (m) **"Claims"** means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;
- (n) **"Closing"** means the successful completion of the Transaction;
- (o) **"Closing Date"** means the fifth (5th) business day following the day that all of the conditions set out in Section 7.5 hereof are satisfied provided that such date shall not be later than the Outside Date, unless otherwise agreed by the parties hereto. Notwithstanding the foregoing, the Closing Date may also be such earlier or later date as may be mutually agreed upon by the parties hereto;
- (p) **"Closing Documents"** means all instruments of conveyance and other documentation and assurances relating to the purchase and sale of the Purchased Assets contemplated to be delivered on or prior to the Closing Time pursuant to the terms hereof;
- (q) **"Closing Time"** means 2:00 p.m. (Toronto time) on the Closing Date;
- (r) **"Consent Required Contract"** has the meaning set out in Section 2.2;
- (s) **"Contract"** means any written agreement, indenture, contract, lease, deed of trust, licence, option, instrument or other commitment, whether written or oral, to which the Debtor is a party constituting part of the Purchased Assets identified in writing by the Purchaser on or before Closing, including, for greater certainty, all Contracts listed in Schedule "A" to this Agreement, as may be amended from time to time;
- (t) **"Court"** means the Supreme Court of British Columbia;
- (u) **"Cure Costs"** means all amounts required to be paid pursuant to the Assignment Order to effectuate the assignment by the Vendor and assumption by the Purchaser of Consent Required Contracts under the Assignment Order.
- (v) **"Debtor"** has the meaning set out in the recitals hereto;

- (w) **“Deposit”** shall have the meaning assigned to it under Section 3.2 and shall be interpreted as including any interest which has accrued thereon while being held in trust by the Receiver, in accordance with the terms herein;
- (x) **“Employee Plans”** means each retirement, pension, bonus, stock purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or other compensation plan or arrangement or other employee benefit which is maintained, or otherwise contributed to or required to be contributed to, by the Debtor for the benefit of employees or former employees of the Debtor, whether oral or written;
- (y) **“Employees”** means all individuals who are employed by, or serve as independent contractors to, the Debtor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes all employees on short term or long-term disability leave;
- (z) **“Employment Legislation”** means, collectively, the *Labour Relations Act, 1995* (Ontario), the *Ontario Human Rights Code*, the *Occupational Health and Safety Act* (Ontario), the *Pay Equity Act* (Ontario), the *Employment Standards Act, 2001* (Ontario), the *Pension Benefits Act* (Ontario), the *Workers' Compensation Act* (Ontario) and the *Employment Insurance Act* (Canada), and any similar legislation in any other jurisdiction in which the Purchased Business is conducted;
- (aa) **“Encumbrance”** means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, restriction, right of occupation, any matter capable of registration against title, option, right of pre-emption, privilege or any Contract to create any of the foregoing, or any right of a third party of any nature or kind whatsoever whether by law, contract or otherwise capable of becoming any of the foregoing (including any conditional sale or title retention agreement, or any capital or financing lease);
- (bb) **“ETA” or “Sales Tax Legislation”** means Part IX of the *Excise Tax Act* (Canada) together with the regulations made thereunder, as amended from time to time as well as any similar provincial legislation;
- (cc) **“Excluded Assets”** has the meaning set out in Schedule B;
- (dd) **“Excluded Contracts”** means those Contracts which are not listed on Schedule “A”;
- (ee) **“Excluded Equipment”** means any equipment or machinery and any parts and components thereof, that are Excluded Assets.
- (ff) **“Excluded Liabilities”** has the meaning set out in Section 2.5;
- (gg) **“Governmental Authority”** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any

governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;

- (hh) **“GST”, “HST” or “Sales Taxes”** means all taxes payable under the ETA or under any provincial legislation similar to the ETA, and any reference to a specific provision of the ETA or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;
- (ii) **“Income Tax Act”** means the *Income Tax Act* (Canada);
- (jj) **“Intellectual Property”** means any or all of the following items, wherever located: all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, trade dress, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, recipes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, all pending applications for and registrations of patents, trademarks, service marks and copyrights, including all obligations of third parties relating to the protection of the foregoing, the goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored, including without limitation any specific intellectual property enumerated in Schedule “A” hereto, together with all of the Debtor’s and Vendor’s right, title and interest in and to the same;;
- (kk) **“Landlord”** means the Hallmark Holdings Ltd., and includes any other Person whose consent is required for the assignment of the Debtor’s interest in the Lease to the Purchaser;
- (ll) **“Lease”** means the Lease Agreement dated March 17, 2015, among the Landlord and the Debtor, as amended by a Lease Amending Agreement made as of January 27, 2020
- (mm) **“Login Credentials”** means the login credentials for any software or programs that form part of the Purchased Assets;
- (nn) **“Non-Assignable Interests”** means any Purchased Assets which, by their nature cannot be legally or practically sold and assigned by the Vendor to the Purchaser hereunder, including without limitation any Consent Required Contracts for which an Assignment Order or counterparty consent has not been obtained;
- (oo) **“Ordinary Course of Business”** means the ordinary course of business of the Debtor with respect to the Purchased Assets consistent with the conduct of

such business on the date hereof and consistent with the Orders of the Court in the Receivership Proceedings;

- (pp) **"Outside Date"** means November 30, 2024 or such later date as the Parties may agree from time to time;
- (qq) **"Party"** means the Purchaser or the Vendor, and collectively, the **"Parties"**;
- (rr) **"Permitted Encumbrances"** means those Encumbrances set forth in Schedule "C", and such additional Encumbrances as may be added to such Schedule "C" by the Purchaser at any time prior to the Closing Date;
- (ss) **"Person"** means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;
- (tt) **"Proceedings"** has the meaning set out in Section 2.5(f);
- (uu) **"Property"** means all assets, properties, rights, interests and undertakings of the Debtor;
- (vv) **"Purchase Price"** means [REDACTED], plus any applicable Transfer Taxes;
- (ww) **"Purchased Assets"** means all of the Receiver's right, title and interest, in and to the assets and other property used in the business of the Debtor as set forth in Schedule "A", but excluding the Excluded Assets.
- (xx) **"Purchaser"** has the meaning set out in the recitals hereto;
- (yy) **"Receiver"** means Deloitte Restructuring Inc, in its capacity as Receiver of the Property of the Debtor, and not in its personal capacity;
- (zz) **"Receiver's Certificate"** means the certificate of the Receiver contemplated by the Approval and Vesting Order certifying that the Receiver has received written confirmation in form and substance satisfactory to the Receiver from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties, that the Receiver has received the Cash Portion of the Purchase Price and that the Transaction has been completed to the satisfaction of the Receiver;
- (aaa) **"Receivership Proceedings"** means Supreme Court of British Columbia Action No. S245340 and any related proceedings to which the Debtor is currently subject;
- (bbb) **"Representative"** means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates;

(ccc) **"Transaction"** means the transaction of purchase and sale contemplated by this Agreement;

(ddd) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Taxes but excluding any taxes imposed or payable under the *Income Tax Act* and any other applicable income tax legislation; and

(eee) **"Vendor"** has the meaning set out in the recitals hereto.

- 1.2 **Currency.** Unless otherwise indicated, all dollar amounts in this Agreement are expressed in Canadian funds.
- 1.3 **Statutes.** Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.
- 1.4 **General Construction.** The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- 1.5 **Extended Meanings.** Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.
- 1.6 **Sections and Headings.** The division of this Agreement into Articles and Sections and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section or Schedule refers to the specified Article or Section of or Schedule to this Agreement.
- 1.7 **Number, Gender and Persons.** In this Agreement, words importing the singular number only shall include the plural and *vice versa*, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.
- 1.8 **Accounting Principles.** Any reference in this Agreement to generally accepted accounting principles refers to generally accepted accounting principles which have been established in Canada for private enterprises, including those approved at the applicable time by the Chartered Professional Accountants of Canada or any successor body thereto.
- 1.9 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

- 1.10 Paramountcy.** In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.
- 1.11 Time of Essence.** Time shall be of the essence of this Agreement.
- 1.12 Applicable Law.** This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of British Columbia and the federal laws of Canada applicable therein, and each of the parties hereto hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of British Columbia.
- 1.13 Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.
- 1.14 Best Efforts.** The parties acknowledge and agree that, for all purposes of this Agreement, an obligation on the part of any party to use its best efforts to obtain any waiver, consent, approval, permit, licence or other document shall not require such party to make any payment to any person for the purpose of procuring the same, other than payments for amounts due and payable to such person under the terms of any agreement as it stood prior to the date of this Agreement, payments for de minimis incidental expenses incurred by such person and payments required by any applicable law or regulation.
- 1.15 Schedules.** The following Schedules are attached to and form part of this Agreement:
- | | | |
|------------|---|------------------------------------|
| Schedule A | - | Purchased Assets |
| Schedule B | - | Excluded Assets |
| Schedule C | - | Permitted Encumbrances |
| Schedule D | - | Form of Approval and Vesting Order |
| Schedule E | - | Purchase Price Allocation |
- 2. PURCHASE AND SALE OF PURCHASED ASSETS**
- 2.1 Purchased Assets.** Subject to the provisions of this Agreement, the Vendor agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor, effective as of the Closing Time, the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances) pursuant to the Approval and Vesting Order.
- 2.2 Assignment of Contracts.** In the event that there are any Contracts which are not assignable in whole or in part without the consent, approval or waiver of another party or parties to them (each a "Consent Required Contract") and such consents, approvals or waivers have not yet been obtained as of the Closing Date, then:

- (a) nothing in this Agreement will be construed as an assignment of any such Contract;
- (b) until the Approval and Vesting Order is granted, the Vendor shall use its best efforts to obtain any such consent, approval or waiver and the Purchaser shall provide its reasonable cooperation to assist the Vendor in obtaining any such consent, approval or waiver;
- (c) if any consent, approval or waiver is not obtained for any Consent Required Contract prior to the service of the motion for the Approval and Vesting Order, the Purchaser may request that the Vendor bring a motion to the Court for issuance of an Assignment Order with respect to such Consent Required Contracts together with the motion for the Approval and Vesting Order; and
- (d) if the consent, approval or waiver to the assignment of a Consent Required Contract is obtained, or the assignment of such Contract has been ordered by the Court, such Consent Required Contract shall be deemed to be assigned to the Purchaser on Closing.

With respect to each Consent Required Contract, subject to Closing and to either (i) the consent of the other parties thereto to the assignment thereof, or (ii) in the absence of such consent, the obtaining of an Assignment Order, in addition to its other obligations under this Agreement, the Purchaser shall pay the applicable Cure Costs related to such Consent Required Contract on Closing.

2.3 “As is, Where is”. The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an “as is, where is” basis as they shall exist as at the Closing Time. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets. No representation, warranty or condition is expressed or can be implied as to title, Encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same save and except as expressly represented or warranted herein. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Article 4, no representation, warranty or condition has or will be given by the Vendor concerning completeness or accuracy of such descriptions.

2.4 Assumed Liabilities. The Purchaser shall assume and perform, discharge and pay when due the following obligations and liabilities of the Vendor (the “Assumed Liabilities”) after the Closing:

- (a) all debts, liabilities and obligations under the Contracts (to the extent assigned or transferred to the Purchaser on Closing) for the period from and after the Closing Time;
- (b) the obligations and liabilities of the Vendor pursuant to the licences, permits, approvals, consents, registrations, certificates and other authorizations forming part of the Purchased Assets;
- (c) the obligation and liability of the Vendor or the Debtor to pay Cure Costs in respect of any Contract; and

- (d) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Time.

2.5 Excluded Liabilities. Other than the Assumed Liabilities, the Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the Debtor, including, without limiting the generality of the foregoing:

- (a) all debts, liabilities, obligations or Claims related to any Employee Plans, Employees (including pursuant to Employment Legislation) or any Excluded Asset, including all obligations and liabilities owing by the Vendor or the Debtor pursuant to any Excluded Contract;
- (b) all debts, liabilities and obligations related to any Purchased Asset arising out of or related to the period prior to the Closing Time;
- (c) all obligations of the Vendor and the Debtor relating to Encumbrances on the Purchased Assets existing prior to the Closing Time, other than Permitted Encumbrances;
- (d) Claims in respect of any breach of any Contract to which the Debtor is a party or by which it may be bound occurring prior to the Closing Time;
- (e) all obligations and liabilities owing by the Debtor to any Affiliate;
- (f) all past, present or future obligations and liabilities of the Vendor under any court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal or criminal), arbitration or other dispute resolution procedure, investigation or inquiry by any governmental administrative, regulatory or similar body, or any similar matter or proceeding (collectively, "Proceedings");
- (g) all debts, liabilities and obligations for or related to any obligation for any taxes, including Sales Taxes, that are not expressly assumed by the Purchaser;
- (h) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes); and
- (i) all debts, liabilities and obligations of the Vendor arising under this Agreement,

with the foregoing being collectively referred to as the "Excluded Liabilities".

3. PURCHASE PRICE

3.1 Purchase Price. The aggregate purchase price (the "Purchase Price"), payable by the Purchaser to the Vendor for the Purchased Assets is:

- (a) the sum of [REDACTED]; plus
- (b) any applicable Transfer Taxes; and

- (c) assumption of the Assumed Liabilities.

3.2 Deposit

Concurrent with the Receiver's acceptance of the Purchaser's offer and this Agreement, the Purchaser shall pay to the Receiver's Solicitors, in trust, a deposit of [REDACTED] dollars ([REDACTED]), by wire (the "Deposit"), which Deposit shall be held by the Receiver in trust in accordance with the provisions of this Agreement pending completion or other termination of this Agreement and shall be applied against and towards the Purchase Price due on completion of the Transaction on the Closing Date.

In holding and dealing with the Deposit, the Receiver is not bound in any way by any agreement other than this Offer to Purchase, if and as accepted by the Receiver. The Receiver shall not be considered to have assumed any duty, liability or responsibility other than to hold the Deposit in accordance with the provisions hereof and to pay the Deposit (or any accrued interest thereon) to either the Receiver or the Purchaser in accordance with the terms hereof or any order of the Court. In the event of a dispute between the Parties as to the legal entitlement to the Deposit, the Receiver may, in its discretion, pay the Deposit into Court, whereupon the Receiver shall have no further obligations relating to the Deposit. The Receiver shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Receiver and the Receiver is hereby relieved of any liability or responsibility for any loss or damage which may arise as the result of the acceptance by the Receiver of any such notice or other document in good faith.

3.3 Satisfaction of Purchase Price. Provided that all conditions precedent to Closing have been satisfied or waived in accordance with Article 7, the Purchase Price shall be paid and satisfied on Closing as follows:

- (a) The Deposit shall be released from trust, together with any accrued interest thereon, and applied to the Purchase Price;
- (b) As to the Cash Portion of the Purchase Price, by wire transfer in immediately available funds paid to the Receiver or as the Receiver may direct in writing; and
- (c) as to the dollar value of the Assumed Liabilities, by the assumption by the Purchaser of the Assumed Liabilities.

3.4 Allocation of the Purchase Price

Shall be in accordance with Schedule "E" hereto.

3.5 Transfer Taxes.

- (a) The Parties agree that:
 - (i) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets;

- (ii) subject to Section 3.5(a)(iii), the Purchaser shall pay any applicable Transfer Taxes on the Purchaser's acquisition of the Purchased Assets in addition to the Purchase Price, either to the Receiver (as Vendor) or directly to the appropriate governmental Authority, as required by Applicable Law;
- (iii) if applicable, the Vendor and the Purchaser shall jointly elect that no Sales Taxes are payable pursuant to the Sales Tax Legislation with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Sales Tax Legislation, prepared by the Purchaser and made jointly by the Purchaser and the Vendor, in compliance with the requirements of the Sales Tax Legislation.

The Purchaser shall indemnify the Vendor for any Sales Tax, interest and penalties applicable to the Vendor on the sale of the Purchased Assets caused by the Purchaser's failure to file a valid election, whether under section 167 of the Sales Tax Legislation or otherwise, within the prescribed time.

- (b) If requested by the Purchaser, and to the extent such elections are appropriate, the Vendor shall make:
 - (i) a joint election(s) to have the rules in section 22 of the *Income Tax Act*, and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply in respect of the Accounts Receivable and other assets described in section 22 of the *Income Tax Act* to designate in such election an amount equal to the portion of the Purchase Price allocated to such assets pursuant to Schedule "E" as the consideration paid by the Purchaser therefor; and
 - (ii) a joint election(s) to have the rules in subsection 20(24) of the *Income Tax Act*, and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply to the obligations of the Vendor in respect of undertakings which arise from the operation of the business to which the Purchased Assets related and to which paragraph 12(1)(a) of the *Income Tax Act* applies.

4. REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying on such representations and warranties in connection with its purchase of the Purchased Assets:

- 4.1 Residency.** The Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada) or any Sales Tax Legislation.

With the exception of the Vendor's representations and warranties in this Article 4, neither the Vendor nor its Representatives shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendor or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

5. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Vendor as follows and acknowledges and confirms that the Vendor is relying on such representations and warranties in connection with its sale of the Purchased Assets:

5.1 Organization. As of the Closing Date, each of the corporations comprising the Purchaser shall be validly existing in good standing under the laws of its jurisdiction of incorporation.

5.2 Corporate Power and Authorization. As of the Closing Date,

- (a) the Purchaser shall have the corporate power and capacity to ratify its adoption of this Agreement pursuant to Section 21(2) of the *Ontario Business Corporations Act* and to perform its obligations hereunder;
- (b) this Agreement shall have been duly authorized by the Purchaser;
- (c) each of the agreements, contract and instruments required by this Agreement to be delivered by the Purchaser at the Closing Time has been or will be duly authorized by the Purchaser;
- (d) this Agreement shall have been duly executed and delivered by the Purchaser and shall be a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser by the Vendor in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction;
- (e) each of the agreements, contracts and instruments required by this Agreement to be delivered by the Purchaser will be duly executed and delivered by the Purchaser and will be legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser by the Vendor in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.

5.3 No Violation. The execution and delivery of this Agreement by the Purchaser and the consummation of the transactions herein provided for will not result in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of the Purchaser under:

- (a) any Contract to which the Purchaser is a party or by which it is bound;
- (b) any provision of the constating documents or by-laws or resolutions of the board of directors (or any committee thereof) or shareholders of the Purchaser;
- (c) any judgment, decree, order or award of any court, governmental body or arbitrator having jurisdiction over the Purchaser; or
- (d) any applicable law, statute, ordinance, regulation or rule, save and except for those matters set out as conditions to Closing.

- 5.4 GST Registration.** At the Closing Time, each of the corporations comprising the Purchaser shall be registrants for purposes of the ETA and shall provide the Vendor with evidence thereof.

6. COVENANTS

- 6.1 Access Rights.** Upon reasonable prior notice by the Purchaser to the Vendor and at any time prior to the Closing Date, the Purchaser may have reasonable access to the Purchased Assets, specifically any customer and source code directory or repository, and in each case prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets as it deems appropriate, acting reasonably. Such inspection shall only be conducted in the presence (including via screenshare) of a representative of the Vendor, if so required at the discretion of the Vendor, or via a "view only mode" login account established by the Vendor for inspection purposes. The Purchaser agrees to indemnify and save the Vendor and its Representatives harmless from and against all Claims incurred or arising from or in any way directly related to physical harm to property or people caused by the Purchaser's inspection of the Purchased Assets or the attendance of the Purchaser, its employees or agents at properties or in the software comprising part of the Purchased Assets or at or in which any of the Purchased Assets are situate. For greater certainty, other than a breach of this Agreement by the Vendor, the Vendor shall not be responsible to indemnify and save the Purchaser harmless from or against the findings of the Purchaser's inspection.

- 6.2 Conduct Prior to Closing.** Without in any way limiting any other obligations of the Vendor hereunder, during the period from the date hereof until such time as the Purchaser is confirmed as the Successful Bidder:

- (a) ***Commercially Reasonable Efforts*** The Vendor agrees to take all such actions as are within its power to control and shall use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, to:
 - (i) remain in possession of the Purchased Assets (including any third party licences therein) until Closing, use the Purchased Assets only in the Ordinary Course of Business, to the extent applicable, and maintain, preserve and protect the Purchased Assed in the conditions in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course of Business, to the extent applicable;
 - (ii) not dispose of any of the Purchased Assets (including any third-party licences therein); and
 - (iii) not amend in any material respect or in a manner outside the Ordinary Course of Business, to the extent applicable, any Assumed Contract or waive any material rights thereunder, or disclaim any Assumed Contract that is material to the business of the Debtor without the consent of the Purchaser.
- (b) ***Access to Documents:*** The Vendor agrees to take all such actions as are within its power to control and shall use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, to facilitate the Purchaser having access to the books, records, contract,

agreements, patents, trademarks, of other documents relating to the Purchased Assets such as the Purchaser may request for review in advance of the Closing Date

7. CONDITIONS OF CLOSING

7.1 Conditions of Closing in Favour of the Purchaser. The purchase and sale of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Purchaser, to be performed or fulfilled at or prior to the Closing Time:

- (a) ***Representations and Warranties*** The representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects at the Closing Time with the same force and effect as if such representations and warranties were made at and as of such time;
- (b) ***Covenants*** All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor at or before the Closing Time shall have been complied with or performed in all material respects;
- (c) ***Deliveries*** The deliveries of the Vendor under Section 8.4 shall have been completed in accordance with the terms thereof.

7.2 Non-Performance by the Vendor. The foregoing conditions are for the exclusive benefit of the Purchaser. If any of the conditions contained in Section 7.1 shall not be performed or fulfilled at or prior to the Outside Date in the opinion of the Purchaser, the Purchaser may, as its sole remedy against the Vendor, by notice to the Vendor, terminate this Agreement and the obligations of the Purchaser to complete the transactions contemplated by this Agreement shall be terminated and the Deposit shall be immediately returned to the Purchaser without deduction. Any such condition may be waived in whole or in part by the Purchaser or the Purchaser may extend the time for fulfillment of such condition.

7.3 Conditions of Closing in Favour of the Vendor. The purchase and sale of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of the Vendor, to be performed or fulfilled at or prior to the Closing Time:

- (a) ***Representations and Warranties.*** The representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects at the Closing Time with the same force and effect as if such representations and warranties were made at and as of such time;
- (b) ***Covenants.*** All of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser at or before the Closing Time shall have been complied with or performed in all material respects; and
- (c) ***Deliveries*** The deliveries of the Purchaser under Section 8.3 shall have been completed in accordance with the terms thereof.

7.4 Non-Performance by the Purchaser. The foregoing conditions are for the exclusive benefit of the Vendor. If any of the conditions contained in Section 7.3 shall not be performed or fulfilled at

or prior to the Outside Date to the satisfaction of the Vendor, the Vendor may, without prejudice to its other rights, by notice to the Purchaser, terminate this Agreement and the obligations of the Vendor and the Purchaser under this Agreement, shall be terminated the Deposit shall be kept by the Receiver without deduction. Any such condition may be waived in whole or in part by the Vendor without prejudice to any claims it may have for breach of covenant, representation or warranty.

7.5 Condition Precedent

The obligations of the Vendor and the Purchaser to complete the Transaction are subject to the following conditions precedent being fulfilled or performed at the Time of Closing:

- (a) **Appointment of Receiver over Property.** The Receiver shall have been appointed in respect of all of the Property which comprises the Purchased Assets;
- (b) **Assignment of Lease.** The Landlord shall have consented to the assignment of the Debtor's interest in the Lease, or an Assignment Order in respect of the Lease shall have been obtained; and
- (c) **Approval and Vesting Order.** An appropriate form of Approval and vesting Order shall have been agreed upon as between the Purchaser and the Vendor and the Approval and Vesting Order shall have been issued by the Court and shall not have been stayed, varied, or vacated;

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser. If the conditions set out in this Section 7.5 are not satisfied performed or mutually waived on or before the Outside Date, any Party shall have the option to terminate this Agreement upon written notice to the other Parties and the Deposit shall be immediately returned to the Purchaser without deduction.

8. CLOSING DATE AND TRANSFER OF POSSESSION

- 8.1 Transfer.** Upon the fulfillment of all the conditions set out in Article 7 which have not been waived in writing by the Purchaser or the Vendor, as the case may be, the transfer of possession of the Purchased Assets shall be deemed to take effect as at the Closing Time. The Purchaser acknowledges that the Vendor has no obligation to deliver physical possession of the Purchased Assets to the Purchaser. In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied or waived by the Purchaser or Vendor, as applicable, and the Purchaser has satisfied all delivery requirements outlined in Section 8.3. The Purchaser shall promptly notify the Vendor of any Excluded Assets which may come into the possession or control of the Purchaser, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to the Vendor, or to such other Person as the Vendor may direct in writing and, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets. The Vendor shall have no obligation to remove any Excluded Equipment from any premises that constitute part of Purchased Assets. All right, title and interest in any such Excluded Equipment which is not sold or removed from such premises after three months following Closing shall vest in the Purchaser unless the Purchaser objects to such title transfer in which case, right, title and interest shall continue to vest in the Vendor but the Purchaser shall be entitled to dispose of such Excluded Equipment at the Purchaser's expense.

8.2 Manner of Closing. The closing shall take place at the Closing Time via the electronic exchange of all necessary documents and other deliveries. Any funds payable to the Vendor as part of the closing shall be paid by wire transfer to the Receiver's solicitor. All Closing Documents and closing funds are to be held in escrow until, in each case, the signatories to such documents, or for whose benefits such documents are to be delivered, have agreed that such deliveries are satisfactory (with the exception of those agreements and documents noted as complete), each party to the Closing has agreed that all acts to be completed and all deliveries to be effected at Closing for the benefit of such party have been satisfactorily completed, effected or waived and all parties have agreed to terminate the escrow, or until the parties otherwise agree to release all such deliveries. When the parties agree to terminate the escrow, each of the Closing Documents shall be released from escrow and shall be deemed to have been delivered, and the transactions effected thereby shall be deemed to have occurred, in the order and sequence, and shall be released in the same order and sequence, set forth in this agreement or in a separate closing agenda. The escrow arrangements described herein are designed to facilitate the orderly completion of the transactions contemplated in this agreement and shall not serve to release any party from any obligation thereunder. All Closing Documents to be tabled or delivered and all transactions and acts to be performed at the Closing shall be deemed to take place simultaneously, such that no transaction will be deemed to have been completed and no instrument or document will be deemed to have been delivered or effective until all conditions of the Closing have been fulfilled or waived and all transactions are completed to permit contemporaneous closing and all instruments and documents are delivered, except as agreed between counsel for the each of the parties.

8.3 Purchaser's Deliveries on Closing. At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) the Cash Portion of the Purchase Price in accordance with Section 3.3(b);
- (b) payment of Transfer Taxes required by Applicable Law to be collected by the Vendor, or alternatively, if applicable, the election(s) referred to in Section 3.5(a)(iii) executed by the Purchaser;
- (c) an executed assignment and assumption agreement evidencing the assumption by the Purchaser of the Assumed Liabilities;
- (d) an executed assignment agreement evidencing the assumption by the Purchaser of all Intellectual Property;
- (e) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all respects the covenants to be performed by it prior to the Closing Time; and
- (f) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

8.4 Vendor's Deliveries on Closing. At or before the Closing Time, the Vendor shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing;
- (b) a copy of the Approval and Vesting Order that has been issued;
- (c) an executed assignment and assumption agreement evidencing the assignment by the Vendor of the Assumed Liabilities to the Purchaser;
- (d) an executed assignment agreement evidencing the assignment by the Vendor of all Intellectual Property to the Purchaser;
- (e) a true and complete copy of all Assignment Orders, if any, entered by the Court;
- (f) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Vendor contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendor has performed in all material respects the covenants to be performed by it prior to the Closing Time;
- (g) if applicable, the election(s) referred to in Section 3.5(a)(iii) executed by the Vendor;
- (h) the executed Receiver's Certificate; and
- (i) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

8.5 Further Assurances. From time to time subsequent to the Closing Date, each party to this Agreement covenants and agrees that it will at all times after the Closing Date, at the expense of the requesting party, promptly execute and deliver all such documents, including, without limitation, all such additional conveyances, transfers, consents and other assurances and do all such other acts and things as the other party, acting reasonably, may from time to time request be executed or done in order to better evidence or perfect or effectuate any provision of this Agreement or of any agreement or other document executed pursuant to this Agreement or any of the respective obligations intended to be created hereby or thereby.

8.6 Risk of Loss. From the date hereof up to the Closing Time, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the Closing Time, all or any part of the Purchased Assets which are necessary to carry on the Vendor's business as currently conducted are destroyed or damaged by fire or any other casualty or shall be appropriated, expropriated or seized by governmental or other lawful authority, unless the Purchaser terminates its obligations under this Agreement as contemplated by Section 7.2, the Purchaser shall complete the purchase without reduction of the Purchase Price, in which event all proceeds of insurance or compensation for expropriation or seizure shall be paid to the Purchaser at the Closing Time and all right and claim

of the Vendor to any such amounts not paid by the Closing Date shall be assigned at the Closing Time to the Purchaser.

8.7 Consents. Notwithstanding anything to the contrary herein, if by the Closing Time the consent, approval or waiver to the assignment of any Consent Required Contract has not been obtained, and the assignment of such Contract has not been ordered by the Court, then the Purchaser shall still be required to complete the purchase without reduction of the Purchase Price and:

- (a) the Purchaser may elect, by notice in writing to the Vendor given on or before the Closing Time, in respect of all or any the Contracts in respect of which such consents have not been obtained, to not have such Contracts assigned to the Purchaser at the Closing Time and to not take the benefit thereof, in which case such Contracts shall be deemed to be Excluded Assets for the purposes hereof and any liabilities associated therewith shall be deemed to be Excluded Liabilities; or
- (b) the Purchaser may elect that the Vendor shall continue after the Closing Time, at the sole cost of the Purchaser, to use its best efforts from time to time in order to obtain any such consents and approvals. In such case the Vendor will hold the benefit of any Contract for which such consent or approval has not been obtained in trust for the Purchaser (but only to the extent that holding such benefit in trust without first having obtained the consent or approval of the other contracting party does not constitute a breach of, or result in a default under such Contract) and use its best efforts to continue to perform such Contracts. All benefits derived under any such Contract after the Closing Time shall be for the benefit of the Purchaser, and the Vendor shall take or cause to be taken, at the sole cost of the Purchaser, all action that the Purchaser may reasonably require to provide the Purchaser with the benefit thereof, it being understood that at such time as such consent or approval is obtained, the said Contract shall be automatically assigned to the Purchaser. If such consent or approval is not obtained within 60 days from the Closing Time, or such other period as the Vendor may consent to in writing, the Purchaser shall be deemed to have made an election in accordance with Section 8.7(a) hereof to deem such Contract to be an Excluded Asset.

9. ASSIGNMENT.

No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, the Purchaser shall have the right, until the issuance of the Approval and Vesting Order, upon written notice to the Vendor, to:

- (a) assign, in whole or part, its rights to acquire the Purchased Assets herein to any company or companies affiliated (as that term is defined in the Ontario Business Corporations Act) with the Purchaser, provided that such assignment shall not release the Purchaser from its obligations under this Agreement; or
- (b) designate a nominee corporation to be the entity into which the Purchased Assets shall vest pursuant to the Approval and Vesting Order.

10. MISCELLANEOUS

- 10.1 Receiver's Certificate.** The Parties acknowledge and agree that the Receiver shall be entitled to deliver to the Purchaser, and file with the Court, the executed Receiver's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Receiver shall have no liability to the Parties in connection therewith. The Parties further acknowledge and agree that (i) upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived (other than the payments contemplated in Section 3.1(b) and the delivery of the executed Receiver's Certificate), the Receiver may deliver the executed Receiver's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Receiver's written confirmation that all such funds have been received, the Receiver's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred
- 10.2 Receiver's Capacity.** The Vendor and the Purchaser acknowledge and agree that the Receiver, acting in its capacity as Receiver of the assets, properties and undertakings of the Debtor, will have no liability, in its personal capacity or otherwise, in connection with this Agreement whatsoever as Receiver.
- 10.3 Termination by Agreement.** This Agreement shall automatically terminate at any time prior to the Closing Time by mutual written agreement of the Vendor and the Purchaser.
- 10.4 Termination in Other Circumstances.** This Agreement may be terminated at any time prior to the Closing Time upon the occurrence of any of the following:
- (a) a condition precedent has not been satisfied or waived pursuant to and in accordance with Article 7 and a Party entitled to terminate this Agreement as a result thereof has delivered written notice of termination pursuant to Article 7 (provided that the terminating Party has not failed to satisfy a closing condition under this Agreement); or
 - (b) Closing shall not have occurred on or prior to the Outside Date and any of the Parties shall have delivered written notice of termination to the other Parties terminating this Agreement as a result thereof (provided that the terminating Party has not failed to satisfy a closing condition under this Agreement).
- 10.5 Effects of Termination and Closing.**
- (a) If this Agreement is terminated pursuant to Sections 10.1 or 10.4, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of this Section 10.5 (Effects of Termination and Closing), each of which will survive termination.
 - (b) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

10.6 Notices.

- (a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by telecopier or sent by registered mail, charges prepaid, addressed as follows:

if to the Vendor:

Attention: Jeff Keeble

Telephone: [REDACTED]

Email Address: [REDACTED]

with a copy to:

Dentons Canada LLP
20th Floor, 250 Howe Street
Vancouver, BC V6C 3R8

Attention: Jordan Schultz

Email: [REDACTED]

if to the Purchaser:

Attention: [REDACTED]

Telephone: [REDACTED]

Email Address: [REDACTED]

with a copy to:

Tarkin Manes LLP
151 Yonge Street, Suite 1500
Toronto, Ontario M5C 2W7

Attention: Stewart Thom

Email: [REDACTED]

- (b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a business day, on the next following business day) or, if mailed, on the third business day following the date of mailing; provided, however, that if at the time of mailing or within three business days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by telecopier.
- (c) Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 10.6.

- 10.7 Dispute Resolution.** If any dispute arises with respect to any matter related to the Transaction or the interpretation or enforcement of this Agreement such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct or as mutually agreed by the Vendor and the Purchaser.
- 10.8 Commissions, etc..** It is understood and agreed that no broker, agent or other intermediary acted for the Vendor or the Purchaser in connection with the sale or purchase of the Purchased Assets. The Purchaser agrees to indemnify the Vendor and its Representatives against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction; and the Vendor shall indemnify the Purchaser and its Representatives for any third party or agent or broker fees or other commissions payable by the Vendor on the Purchase Price or otherwise in connection with the Transaction.
- 10.9 Consultation.** The parties shall consult with each other before issuing any press release or making any other public announcement with respect to this Agreement or the transactions contemplated hereby and, except as required by any applicable law or regulatory requirement, none of them shall issue any such press release or make any such public announcement without the prior written consent of the others, which consent shall not be unreasonably withheld or delayed.
- 10.10 Successors and Assigns.** This Agreement shall enure to the benefit of and shall be binding on and enforceable by the parties and, where the context so permits, their respective heirs, legal personal representatives, successors and permitted assigns. Except as provided in Article 10 and this Section 10.10, neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party.
- 10.11 Amendment and Waivers.** No amendment or waiver of any provision of this Agreement shall be binding on either party unless consented to in writing by such party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided.
- 10.12 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

[Remainder of Page Left Blank]

IN WITNESS WHEREOF this Agreement has been executed by the parties.

PURCHASER:

CANADAWIDE SPORTS INC.

Signed by: _____
Per: _____
Title: President

VENDOR:

**DELOITTE RESTRUCTURING
INC., solely in its capacity as Court-
appointed receiver of the assets,
property and undertakings of G3
Genuine Guide Gear Inc., and not in its
personal or corporate capacity**

DocuSigned by: _____
Per: _____
Title: Senior Vice President

SCHEDULE "A"
PURCHASED ASSETS

1. All assets, interests and Property of the Debtor that are not Excluded Assets;
2. All Intellectual Property;
3. The Assumed Contracts, being:
 - a. the Lease; and
 - b. such other agreements as may be particularized by the Purchaser in writing in advance of the Closing Date.

SCHEDULE "B"
EXCLUDED ASSETS

The Purchased Assets shall not include any of the following property and assets (collectively, the "Excluded Assets"):

- (a) The rights created under this Agreement;
- (b) All Contracts and agreements to which the Vendor or the Debtor is a party other than those Contracts or agreements set out in Schedule "A"
- (c) All of the Vendor's Employee Plans;
- (d) cash and cash equivalents of the Debtor;
- (e) all deposits held by any Person in favour of the Debtor, including but not limited to, deposits held by any landlord of the Debtor, utility providers as well as suppliers of goods and services to the Debtor;
- (f) all Accounts Receivable owed to the Debtor;
- (g) the Excluded Contracts;
- (h) any rights, interests or entitlements of the Debtor to or under any of the Debtor's commercial insurance policies, including but not limited to all insurance claims in respect of any Excluded Assets and Purchased Assets, in the case of the latter relating to the period prior to the Closing Date, and any proceeds therefrom;
- (i) any rights, interests or entitlements of the Debtor to or under any life insurance policies maintained by the Debtor;
- (j) original tax records and the Books and Records pertaining thereto, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor that do not relate exclusively or primarily to any of the Purchased Assets;
- (k) the benefit of any refundable Taxes payable or paid by the Debtor in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Debtor to any refund, rebate, or credit (including input tax credits and Scientific Research and Experimental Development credits, rebates or refunds) of Taxes or federal or provincial government grants in respect of the period prior to the Closing Date

SCHEDULE "C"
PERMITTED ENCUMBRANCES

None

SCHEDULE "D"
FORM OF APPROVAL AND VESTING ORDER

[to be agreed upon between Purchaser and Vendor prior to the Closing Date].

SCHEDULE "F"
PURCHASE PRICE ALLOCATION

Allocation of the Purchase Price to

- (a) Intellectual Property: [REDACTED];
- (b) All other Purchased Assets: [REDACTED].

SCHEDULE "C"

RECEIVER'S CERTIFICATE

Reference is made to the Asset Purchase Agreement dated November 1, 2024 (the "**Purchase Agreement**") among Deloitte Restructuring Inc., in its capacity as receiver of G3 Genuine Guide Gear Inc. and not in its personal capacity (in such capacity, the "**Receiver**"), as vendor, and Canadawide Sports Inc. (the "**Purchaser**"), as purchaser, a redacted copy of which is attached as Schedule "B" to the Order granted made November 8, 2024 (the "**Approval and Vesting Order**") and filed herein.

PURSUANT TO PARAGRAPHS 3 AND 4 OF THE APPROVAL AND VESTING ORDER the Receiver hereby certifies that all conditions of the Purchase Agreement have been satisfied or waived and upon filing this Certificate the sale transaction contemplated by the Purchase Agreement will have completed.

DATED at the City of Vancouver, in the Province of British Columbia, this ____ day of November, 2024.

DELOITTE RESTRUCTURING INC.,
in its capacity as court appointed
receiver of receiver manager of **G3**
GENUINE GUIDE GEAR INC. and
not in its personal capacity

By: _____

NO. S245340
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE RECEIVERSHIP OF
G3 GENUINE GUIDE GEAR INC.

ORDER MADE AFTER APPLICATION

DENTONS CANADA LLP
250 Howe Street, 20th Floor
Vancouver, BC V6C 3R8
Phone No.: (604) 687-4460
Attention: Jordan Schultz