

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Tan Envy, LLC		03/01/2011	LIMITED LIABILITY COMPANY: OHIO
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	MT Industries, Inc.		
<b>Street Address:</b>	8909 Freeway Drive		
<b>City:</b>	Macedonia		
<b>State/Country:</b>	OHIO		
<b>Postal Code:</b>	44056		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	77479582	TAN ENVY WHERE YOUR TAN TURNS HEADS	
<b>Serial Number:</b>	85032938	BEAUTY IN A BOTTLE	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(216)579-0212		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	216-586-7325		
<b>Email:</b>	jwiedemann@jonesday.com, pcyngier@jonesday.com		
<b>Correspondent Name:</b>	Jessica L. Wiedemann		
<b>Address Line 1:</b>	901 Lakeside Avenue		
<b>Address Line 2:</b>	JONES DAY		
<b>Address Line 4:</b>	Cleveland, OHIO 44114		
<b>ATTORNEY DOCKET NUMBER:</b>	560255-115460		
<b>NAME OF SUBMITTER:</b>	Jessica L. Wiedemann		
<b>Signature:</b>	/Jessica L. Wiedemann/		

CH \$65.00 77479582

Date:

08/19/2011

**Total Attachments: 26**

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**ASSET PURCHASE AGREEMENT**

**MT Industries, Inc., as Buyer**

**&**

**Tan Envy, LLC, as Seller**

**March 1, 2011**

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is entered into effective as of March 1, 2011, by and among (i) MT Industries, Inc., a Delaware corporation ("Buyer"), (ii) Tan Envy, LLC, an Ohio limited liability company ("Seller"), and (iii) Alison Bunch (the "Sole Member").

### RECITALS:

WHEREAS, Seller is in the business of direct to distributor marketing and management related to UV-free sunless tanning, which Seller operates out of Columbus, Ohio (the "Business"); and

WHEREAS, Seller desires to sell and Buyer desires to purchase from Seller, all of the assets of Seller related to the Business, upon the terms and subject to the conditions herein set forth.

### AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Seller, Sole Member and Buyer hereby agree as follows:

### ARTICLE I TERMS OF THE TRANSACTION

1.1 Assets to be Transferred. At the Closing, and on the terms and subject to the conditions set forth in this Agreement, Seller and the Sole Member will sell, assign, transfer, deliver, and convey to Buyer, and Buyer shall purchase from Seller and the Sole Member, all assets, personal and mixed, tangible and intangible, owned or used by Seller or the Sole Member and associated with, related to or employed in the operation of the Business, which shall include, without limitation, all the following assets and properties existing on the Closing Date:

- (a) all of Seller's or the Sole Member's rights in and to the fixed and tangible personal property owned by Seller and used in the operation of the Business;
- (b) all of Seller's or the Sole Member's rights and obligations under the contracts set forth on **Schedule 1.1(b)** (the "Contracts");
- (c) all right, title and interest in and to the names, trademarks, trademark applications, brand names, logos, and all additional intellectual property owned by Seller or the Alison Bunch, ("Sole Member") related to the Business, including the items listed on **Schedule 1.1(c)** hereto;
- (d) any accounts, notes and contracts receivable and all other rights of Seller to payment for services rendered in connection with the Business (collectively, "Accounts Receivable"); and

(e) all customer lists and customer data, vendor lists and vendor data, supplier lists and supplier data, and sales and promotional material and other sales-related material relating to, or used in connection with the operation of, the Business.

All the assets and properties being transferred to Buyer by Seller or the Sole Member pursuant to this Agreement are collectively referred to herein as the "Assets."

1.2 Excluded Assets. The following assets and properties of Seller will be excluded from the Assets to be transferred to Buyer hereunder (collectively referred to herein as the "Excluded Assets"):

- (a) the assets and properties identified on **Schedule 1.2**;
- (b) all cash, cash equivalents and short-term investments, less A/P;
- (c) all personnel Records and other Records that Seller is required by law to retain in its possession;
- (d) all claims for refund of Taxes and other governmental charges of whatever nature associated with Tan Envy through February 28, 2011;
- (e) any inventory of Seller, which will be purchased separately by Buyer in accordance with Section 5.1.1, except that which was previously purchased by Buyer;
- (f) all rights under or pursuant to this Agreement and the ancillary documents referenced herein; and
- (g) Seller's minute books, seals, ownership certificates and other similar limited liability company documents that are not necessary for Buyer to operate the Business.

1.3 Purchase Price and Payment; Earn-Out.

(a) *Purchase Price*. The following shall constitute the purchase price for the Assets (the "Purchase Price"): (i) \$80,000 in cash delivered on October 1, 2010, (ii) \$80,000 (the "Earn-Out Portion"), payable by Buyer to Seller pursuant to the terms of Section 1.3(b) and subject to adjustment as set forth therein related to inventory already purchased on behalf of Seller by Buyer, which is to reduce the Earn-Out over the 4 Quarters equally by the Total Purchases made by Buyer, (iii) Buyer's assumption of the Assumed Liabilities as of the Closing Date and (iv) execution of that certain Employment Agreement as set forth in Schedule 6.1.

(b) *Earn-Out*. The Earn-Out Portion is conditioned on the terms and conditions of this Section 1.3(b). For each of the four (4) calendar quarters ended during the period beginning March 1, 2011 and ending February 29, 2012, if the gross revenue attributable to the customers of the Business as of the Closing Date (the "Customers") equals or exceeds \$37,500 for such applicable quarter, then the following payments will be owed by Buyer to Seller:

1<sup>st</sup> Calendar Quarter (3/1/11 – 5/31/11) - \$20,000; less ¼ of Inventory Paid for by

Buyer

2<sup>nd</sup> Calendar Quarter (6/1/11 – 8/31/11) - \$20,000; less ¼ of Inventory Paid for by Buyer

3<sup>rd</sup> Calendar Quarter (9/1/11 – 11/30/11) - \$20,000; less ¼ of Inventory Paid for by Buyer and

4<sup>th</sup> Calendar Quarter (12/1/11 – 2/29/12) - \$20,000; less ¼ of Inventory Paid for by Buyer.

Each payment above will be due no later than thirty (30) days after the end of the applicable calendar quarter. If the \$37,500 gross revenue target is not met for any calendar quarter period, then the installment due for such calendar quarter shall be reduced by an amount determined by the following formula: (A)(i) the gross revenue actually attributable to the Customers for such quarter, divided by (ii) \$37,500, times (B) \$20,000. In the event that the \$37,500 gross revenue target is not met for a calendar quarter and the payment for such quarter is reduced, the Earn-Out Portion shall be reduced by the amount of the installment that was not payable by Buyer. Notwithstanding the foregoing, it is the intent of the parties that Seller shall be able to make up for any revenue shortfalls in any one quarter over the course of the other quarters. Therefore, the aggregate gross revenue attributable to the Customers for the entire four (4) calendar quarters shall be examined at the end of the 4<sup>th</sup> calendar quarter described above and Seller shall be entitled to receive additional amounts up to, but never more than, the full \$80,000 of the Earn-Out Portion. The final total amount of the Earn-Out Portion shall be determined as of the end of the 4<sup>th</sup> calendar quarter using the following formula (A)(i) the aggregate gross revenue actually attributable to the Customers for all four calendar quarters ended February 29, 2012, divided by (ii) \$150,000, times (B) \$80,000 (the “**Final Earn-Out Portion**”). In furtherance of the foregoing, the final payment due to Seller shall be the difference between (X) the Final Earn-Out Portion, and (Y) the sum of all amounts received by Seller for the previous 3 calendar quarters; provided however, that in no event shall Seller receive more than \$80,000 in the aggregate and the final payment shall be reduced accordingly, if necessary. As a condition precedent to determining Seller’s earn-out, Buyer must perform such marketing, advertising, and other promotion as is currently performed by Seller to maintain Seller’s current Customers. Failure to perform such condition precedent shall result in Seller automatically earning the Earn-Out as specified in this paragraph.

1.4 Certain Defined Terms. As used in this Agreement, each of the following terms has the meaning given it below:

“**Affiliate**” means any entity controlling, controlled by or under common control with the named party.

“**Ancillary Documents**” means each agreement, instrument, and document (other than this Agreement) executed or to be executed by Seller, the Sole Member or Buyer in connection with the transactions contemplated by this Agreement.

“**Applicable Law**” means any statute, law, rule, or regulation or any judgment, order, writ, injunction, or decree of any Governmental Entity to which a specified Person or property is subject.

“**Assets**” has the meaning set forth in **Section 1.1** of this Agreement.

“**Business**” has the meaning set forth in the recitals of this Agreement.

“**Closing**” has the meaning set forth in **Section 6.1** of this Agreement.

“**Closing Date**” has the meaning set forth in **Section 6.1** of this Agreement.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Encumbrances**” means any lien, mortgage, pledge, reservation, restriction, security interest, right of first refusal, option, conditional sale agreement, default of title, easement, encroachment, hypothecation, infringement, title retention or other security arrangement, or any adverse right or interest, charge, claim or other encumbrance of any nature whatsoever of, on, or with respect to any property or property interest whether imposed by law, agreement, understanding or otherwise, other than Permitted Encumbrances.

“**GAAP**” means accounting principles generally accepted in the United States of America.

“**Governmental Entity**” means any court or tribunal in any jurisdiction (domestic or foreign) or any federal, state, municipal, or other governmental body, agency, authority, department, commission, board, bureau, or instrumentality (domestic or foreign, federal or state).

“**IRS**” means the Internal Revenue Service.

“**Material Adverse Effect**” means a material adverse effect on the business, assets, results of operations, condition (financial or otherwise) or operation of the Business or any material portion thereof or on the ability of a party to perform on a timely basis any material obligations of such party under this Agreement or any Ancillary Document.

“**Permitted Encumbrances**” means (i) Encumbrances created by Buyer, (ii) liens for Taxes not yet due and payable, and (iii) statutory liens (including materialmen’s, mechanic’s, repairmen’s, landlord’s, and other similar liens) arising in connection with the ordinary course and securing payments not yet due and payable; provided, however, that at the Closing Permitted Encumbrances shall not include any liens for Taxes or statutory liens filed of record against the Assets, which, individually or in the aggregate, are material to the respective assets.

“**Person**” means any individual, corporation, partnership, venture, association, stock company, trust, enterprise, unincorporated organization, or Governmental Entity.

“**Proceedings**” means all proceedings, actions, claims, suits, investigations, and inquiries by or before any arbitrator or Governmental Entity.

“**Seller**” has the meaning set forth in the preamble of this Agreement.

“**Taxes**” means any income taxes or similar assessments or any sales, excise, occupation, use, ad valorem, property, production, severance, transportation, employment, payroll, franchise, or other tax imposed by any United States federal, state, or local taxing authority, including any interest, penalties, or additions attributable thereto.

“**Tax Return**” means any return or report, including any related or supporting information, with respect to Taxes.

“**To the knowledge**” of a specified Person (or similar references to a Person’s knowledge) means that the only information to be attributed to such Person is information actually known to (a) such Person in the case of an individual, or (b) in the case of a corporation or other entity, a current officer or employee who devoted substantive attention to matters of such nature during the ordinary course of his employment by such Person.

ARTICLE II  
LIABILITIES OF THE BUSINESS

2.1 Liabilities Assumed by Buyer. As further consideration for consummation of the transactions contemplated hereby, Buyer, without further action by any party, hereby assumes as of the Closing Date and agrees thereafter to pay when due the following liabilities:

(a) any obligations to Seller’s customers (incurred by Seller in the ordinary course) for orders outstanding as of the Closing Date as reflected on Seller’s books, other than any obligations (i) arising out of or relating to a breach that occurred prior to the Closing Date, or (ii) for which a payment in cash or some other cash equivalent has been received by Seller on or prior to the Closing Date;

(b) any obligations arising after the Closing Date under the Contracts listed on **Schedule 1.1(b)**, other than any obligations (i) arising out of or relating to a breach that occurred on or prior to the Closing Date, or (ii) for which a payment in cash or some other cash equivalent has been received by the Company on or prior to the Closing Date; and any additional liabilities or obligations set forth on **Schedule 2.1** (collectively, the “**Assumed Liabilities**”).

2.2 Liabilities Not Assumed by Buyer. Except as specifically enumerated as an Assumed Liability, Buyer is not assuming any debts, obligations or liabilities of Seller whatsoever, whether known or unknown, actual or contingent, matured or un-matured, currently existing or arising in the future, including without limitation (i) any accounts or notes payable, (ii) any liabilities relating to employment and employment practices, or relationships with independent contractors, subcontractors, consultants or other providers, including without limitation equal employment opportunity, nondiscrimination, terms and conditions of employment or contract relationship, wages and compensation, employment benefits, hours of work and overtime, worker classification, and employment-related immigration and authorization to work in the United States, notice of plant



closings or mass layoffs, employee waivers of liability, and employee privacy of medical information and otherwise, (iii) any accrued payroll, vacation or other employee expenses, (iv) any obligations on account of employee benefits, (v) any Taxes due, arising, or attributable to the Business or the Assets on or prior to the Closing Date, (vi) any equipment or other leases, (vii) any rework related to services performed prior to or on the Closing Date, or (viii) any other obligations to any vendors, independent contractors, subcontractors, consultants, other providers, employees or customers (collectively, the "Excluded Liabilities"), which shall remain the responsibility of Seller (whether or not Buyer is alleged to have liability as a successor to the Company).

### ARTICLE III SELLER AND SOLE MEMBER REPRESENTATIONS AND WARRANTIES

Seller and the Sole Member represents and warrant to Buyer that:

3.1 Organization. Seller is a limited liability company duly formed, validly existing, and in good standing under the laws of the State of Ohio and has all requisite power and authority to own, lease, and operate the Assets and to conduct the Business as now being conducted. No actions or proceedings to dissolve Seller are pending or threatened.

3.2 Authority Relative to This Agreement. Seller and the Sole Member each have full power and authority to execute, deliver, and perform this Agreement and the Ancillary Documents to which they are a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery, and performance by Seller of this Agreement and the Ancillary Documents, and the consummation by Seller of the transactions contemplated hereby and thereby, have or will have been duly authorized by all necessary action of Seller. This Agreement has been duly executed and delivered by Seller and the Sole Member and constitutes, and each Ancillary Document executed or to be executed by Seller or the Sole Member has been, or when executed will be, duly executed and delivered by Seller and the Sole Member and constitutes, or when executed and delivered will constitute, a valid and legally binding obligation of Seller and the Sole Member, enforceable against each of them in accordance with its terms.

3.3 Noncontravention by Seller. The execution, delivery, and performance by Seller of this Agreement and the Ancillary Documents and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (i) conflict with or result in a violation of any provision of, or constitute (with or without the giving of notice or the passage of time or both) a default under, or give rise (with or without the giving of notice or the passage of time or both) to any right of termination, cancellation, or acceleration under, or require any consent, approval, authorization, or waiver of, or notice to, any party to, any material bond, debenture, note, mortgage, indenture, lease, contract, agreement, or other instrument or obligation to which Seller is a party or by which Seller, the Business, or any of the Assets may be bound, (ii) result in the creation or imposition of any Encumbrance upon any of the Assets, or (iii) violate any Applicable Law binding upon Seller, the Business, or any of the Assets.

3.4 Title to Assets; Sufficiency of Assets. Seller and/or the Sole Member is the owner of, and has good and indefeasible title to, all the Assets, free and clear of all Encumbrances other than the Permitted Encumbrances. Upon Seller's and/or the Sole Member's transfer of the Assets to Buyer pursuant to this Agreement, Buyer will have good and marketable title to all the Assets, free and clear of all Encumbrances other than the Permitted Encumbrances. The Assets being transferred to Buyer constitute all of the assets of any type used to operate the Business and are all of the assets required or necessary to operate the Business as it is now being conducted.

3.5 Accounts Receivable. All Accounts Receivable are valid obligations of the respective makers thereof, have arisen in the ordinary course for goods or services delivered or rendered, are not subject to any valid defenses, counterclaims, or set offs, and are collectible in full at their recorded amounts in the ordinary course without resort to litigation.

3.6 Liabilities. Seller has no liabilities or obligations (whether accrued, absolute, contingent, un-liquidated, or otherwise, whether or not known to Seller and whether due or to become due), which might, individually, or in the aggregate, subsequent to the Closing in any manner have a Material Adverse Effect on Seller, the Assets, or the Business.

3.7 Financial Statements. The following financial statements (including the notes thereto) (collectively the "**Financial Statements**") have been provided to Buyer by Seller: (i) Seller's unaudited year-end balance sheets for 2008, and 2009 year end summary; has been prepared from the books and records in QuickBooks of Seller (which books and records are correct and complete in all material respects), present fairly the financial condition of Seller as of such dates and the results of operations of Seller for such periods; provided, however, that the most recent financial statements are subject to normal year-end adjustments (which will not be material, individually or in the aggregate) and lack footnotes. [**\*Please confirm what you have seen from the Seller\***]

3.8 No Material Change. Since January 1, 2010, there has not been any event or occurrence that could result in a Material Adverse Effect on Seller or the Assets.

3.9 Tax Matters. Seller has duly filed all federal, state, and local Tax Returns required to be filed by or with respect to it with the IRS or other applicable taxing authority. There are no liens for Taxes on any of the Assets (other than liens for Taxes not yet due).

3.10 Compliance With Laws. Seller has complied in all material respects with all Applicable Law relating to the ownership or operation of the Assets or the operation of the Business.

3.11 Legal Proceedings. There are no Proceedings pending or, to the knowledge of Seller, threatened against or involving Seller relating to the Assets or the operation of the Business.

3.12 Books and Records. All the books and records of Seller relating to the Assets or the Business are substantially complete and correct in all material respects and have been in all material respects maintained in accordance with good business practice and all Applicable Law.

3.13 Broker Fees. Seller has no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transaction contemplated by this Agreement.

3.14 Insurance. Seller has been covered since January 1, 2009 by insurance in scope and amount customary and reasonable for the businesses in which Seller has engaged during the aforementioned period. With respect to each such insurance policy: (A) the policy is legal, valid, binding, enforceable and in full force and effect; (B) the policy will continue to be legal, valid, binding, enforceable and in full force and effect on identical terms following the consummation of the transactions contemplated hereby; (C) neither Seller nor any other party to the policy is in breach or default (including with respect to the payment of premiums or the giving of notices); and (D) no party to the policy has repudiated any provision thereof.

3.15 Environmental Matters. Seller and Seller's predecessors have complied with all environmental, health, and safety laws, and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against any of them alleging any failure so to comply. Without limiting the generality of the preceding sentence, Seller and Seller's predecessors have obtained and been in compliance in all material respects with all of the terms and conditions of all permits that are required under, and have complied with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules, and timetables that are contained in, all environmental, health, and safety laws.

3.16 Disclosure. No representation or warranty made by Seller or the Sole Member in this Agreement and no statement of Seller or the Sole Member contained in any document, certificate, or other writing furnished or to be furnished by Seller or the Sole Member pursuant hereto or in connection herewith, contains or will contain, at the time of delivery, any untrue statement of a material fact or omits or will omit, at the time of delivery, to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading. Neither the Sole Member nor Seller knows of any matter (other than matters of a general economic character not relating solely to Seller, the Assets, or the Business in any specific manner) which has not been disclosed to Buyer pursuant to this agreement which materially and adversely affects, or will materially and adversely affect, the Business, the Assets, results of operations, condition (financial or otherwise), or prospects of the Business or the ownership or operation of the Assets or any material portion thereof or the ability of Seller or the Sole Member to consummate the transactions contemplated hereby.

ARTICLE IV  
BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to Seller that:

4.1 Authority Relative to This Agreement. Buyer has full power and authority to execute, deliver, and perform this Agreement and the Ancillary Documents to which Buyer is a party and to consummate the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Buyer and constitutes, and each Ancillary Document executed or to be executed by Buyer has been, or when executed will be, duly executed and delivered by Buyer and

constitutes, or when executed and delivered will constitute, a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms.

4.2 Legal Proceedings. There are no Proceedings pending or, to the knowledge of Buyer, threatened seeking to restrain, prohibit, or obtain damages or other relief in connection with this Agreement or the transactions contemplated hereby or that would hinder Buyer from performing its obligations pursuant to this Agreement or the Ancillary Documents to which it is or will be a party.

4.3 Broker Fees. Buyer has no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transaction contemplated by this Agreement. Buyer shall protect, defend, and hold Seller harmless from and against any liability, loss, cost, damage or expense incurred by Seller due to Buyer breaching this representation and warranty contained in this paragraph.

4.4 Due Diligence. Buyer is entering into this Agreement after having the opportunity to consult with its own counsel with regard to their rights and liabilities under this Agreement, with their accountant with regard to accounting of the financial statements proffered by Seller, and with their own appraisers with regard to the value of the Assets as based on the representations and information provided by Seller. Buyer further warrants that Buyer has had ample time to examine Seller's books and ample opportunity to ask questions and receive answers regarding the financial affairs of Seller, the terms and conditions of the sale of the Assets.

4.5 No Breach. The execution, delivery, and performance of this Agreement do not

(i) violate or conflict with, or permit the cancellation of, or constitute a default under any agreement to which Buyer is a party; or

(ii) permit the acceleration of the maturity of any indebtedness of, or any indebtedness secured by the property of, Buyer.

## ARTICLE V ADDITIONAL AGREEMENTS

5.1 Cooperation. Each party hereto agrees that it will not voluntarily undertake any course of action inconsistent with the provisions or intent of this Agreement and will take, or cause to be taken, all action and to do, or cause to be done, all things reasonably necessary, proper or advisable under Applicable Law to consummate the transactions contemplated by this Agreement.

5.2 Non-Compete and Non-Solicitation. In consideration of, among other things, the Purchase Price set forth in this Agreement and the protection of the trade secrets, confidential information, and goodwill being purchased under this Agreement, during the period from the date

hercof of this Agreement through the third anniversary of the Closing Date, neither Seller nor the Sole Member will:

- (a) directly or indirectly, engage or invest in, own, manage, operate, finance, control or participate in the ownership, management, operation, financing, or control of, be employed by, associated with, or in any manner connected with, lend Seller's or the Sole Member's credit to, or render services or advice to, any person, business, firm, corporation, partnership, association, joint venture or other entity that engages or conducts any business similar to the Business or any business engaged in or contemplated by Buyer to knowledge of Seller and/or Sole Owner as of the Closing Date anywhere in the United States of America; provided, however, that Seller or the Sole Member may own less than 1% of the outstanding shares of any class of securities of any enterprise (but without otherwise participating in the activities of such enterprise) if such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934, as amended, and Seller and sole owner may sell and distribute as a separate business the nutritional supplement Beauty in a Bottle and other related nutritional products; or
- (b) directly or indirectly, either for herself, itself or any other person or entity, hire any of the contractors, officers, directors, employees or other persons who are, or were at any time during the prior 36-month period, in a service relationship with Seller, Buyer, their respective Affiliates (as defined below) or their respective successors or assigns, or solicit or induce such persons to leave the employ of Buyer or its Affiliate, as applicable, or to terminate or curtail its relationship, contractual or otherwise, with Buyer or its Affiliates, as applicable; or
- (c) directly or indirectly, approach, or solicit business from, any Present Customer (as defined below), refer business from any Present Customer to any enterprise or business or be paid commissions based on business sales received from any Present Customer by any enterprise or business.

For purposes of this Section 5.2, the term "Present Customer" means any person, firm, corporation, partnership, association or other entity to which Seller, Buyer, any Affiliate of Seller or Buyer, or any of their successors or assigns, provided goods or services for the Business during the 36-month period prior to the time at which any determination shall be made that any such person, firm, corporation, partnership, association or other entity is a Present Customer.

Seller and the Sole Member each individually acknowledge that the restrictions imposed by this Agreement are fully understood by them, are fair and reasonable, and will not preclude such person from becoming gainfully employed following the execution of this Agreement. The provisions of this Section 5.2 are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or parts thereof shall nevertheless be binding and enforceable. In the event that any provision of this Section 5.2 is deemed unenforceable, a court of competent jurisdiction shall reform such provision to the extent necessary to cause it to be enforceable to the maximum extent permitted by law.

5.3 Fees and Expenses. Except as otherwise expressly provided in this Agreement, all fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such fees or expenses.

5.4 Allocation of Purchase Price. The Purchase Price shall be allocated among the Assets at the discretion of Buyer. Seller and Buyer shall report the transactions contemplated hereby on all Tax Returns (including information returns and supplements thereto required to be filed by the parties under Section 1060 of the Code) in a manner consistent with such allocation and the allocation shall be provided by Buyer to Seller for such purposes in a timely manner, no later than March 1, 2011.

5.5 Taxes; Other Charges. All sales, use and gross receipts taxes resulting from the consummation of the transactions contemplated hereby (other than income taxes of Buyer and its Affiliates) shall be borne by Seller, and the parties shall cooperate in obtaining all exemptions from such taxes. All ad valorem or similar taxes attributable to the Assets for the 2010 calendar year shall be pro-rated between Buyer and Seller on a daily basis as of the Closing Date.

5.6 Post-Closing Prorations and Cash Accounting. Within thirty (30) days following Closing, a post-Closing adjustment will be made to address invoices, receipts, disbursements and other matters not accounted for at the time of Closing, including cash in transit. The intent of the parties hereto is that Seller will receive the benefit (and will bear the cost) of the Assets prior to the Closing Date and Buyer will receive the benefit (and will bear the cost) of the Assets on and after the Closing Date, pursuant to the terms hereof. Notwithstanding anything to the contrary in this Section 5.6, Buyer shall receive the benefit of the Accounts Receivable. The purchase price allocation agreed upon in Section 5.4 shall be appropriately adjusted for the post-Closing adjustment.

5.7 Satisfaction of Excluded Liabilities. Within thirty (30) business days following the Closing Date, Seller shall pay or otherwise satisfy all Excluded Liabilities and all other liabilities and obligations relating to the operation and conduct of the Business, and use and ownership of the Assets, prior to Closing including, without limitation, liabilities to contractors, employees, vendors, and suppliers.

5.8 Notification to Third Parties. Within 30 days after the Closing, Buyer shall, with Seller's assistance, notify in writing all parties to any contract identified on Schedule 1.1(b) that the Seller is no longer a responsible party, and that Buyer has assumed responsibility for any remaining contract.

5.9 Collection of Accounts Receivable. After Closing, Seller and the Sole Member will cooperate with Buyer, at Buyer's reasonable request, to attempt to collect the Accounts Receivable, and agree that Buyer will have the right and authority to collect, for the account of Buyer, all Accounts Receivable and other items that are to be transferred to Buyer as provided herein, and to endorse with the name of Seller any checks received on account of any such Accounts Receivable or other items. Seller and the Sole Member agree that they will deliver to Buyer, from time to time, any cash or other property that Seller or the Sole Member may receive in respect of any claims, contracts, licenses, leases, commitments, sales orders, purchase orders, Accounts Receivable of any character

or any of the other Assets transferred to Buyer hereunder.

5.10 Insurance. Seller will cause the insurance companies with whom Seller has insurance contracts to name Buyer as an additional named insured on such contracts. Seller will cooperate with Buyer, at Buyer's request, in a post-Closing transfer to Buyer of any insurance contracts that Buyer desires to assume.

5.11 Inventory. Within fifteen (15) days after the Closing Date, Buyer shall purchase all of the inventory of Seller on hand, excluding Inventory Purchased by Buyer Prior to Closing, as of the Closing Date, which inventory shall be purchased at Seller's cost for such items, unless otherwise agreed by the parties.

5.12 Employment Agreement. In order to effect an orderly transition of the Business, to assist Buyer in training and/or providing advice as Buyer may deem necessary or appropriate, and as a material consideration to induce the sale of the Business, Buyer agrees to employ and Seller agrees to be available to work and provide consultation as requested by Buyer. A more complete Employment Agreement is attached as Schedule 6.1.

## ARTICLE VI CLOSING

6.1 Closing; Closing Date. The closing of the transactions contemplated hereby (the "**Closing**") shall take place on March 1, 2011 at the Macedonia, Ohio offices of Buyer, or at such other place as is mutually agreed, at 9:00 a.m., local time. The date on which the Closing is required to take place is herein referred to as the "**Closing Date**." All Closing transactions shall be deemed to have occurred simultaneously.

At the Closing, subject to the satisfaction or waiver of the conditions to its obligations set forth in this Agreement, Seller, Sole Member and Buyer shall make the deliveries, set forth in **Sections 6.2** and **6.3** hereof, respectively, or such deliveries in substitution therefore as are satisfactory to the indicated recipient.

6.2 Deliveries by Seller and the Sole Member.

(a) Seller and the Sole Member shall execute and deliver to Buyer a Bill of Sale, in the form of **Exhibit A** attached hereto, and other instruments in form and substance reasonably satisfactory to Buyer and sufficient to transfer to Buyer and effectively vest in Buyer all right, title, and interest of Seller and the Sole Member in the Assets and good and indefeasible title to the Assets, subject only to the Permitted Encumbrances.

(b) Seller shall execute and deliver to Buyer an Assignment and Assumption Agreement, in the form of **Exhibit B** attached hereto, and other instruments in form and substance reasonably satisfactory to Seller and sufficient to convey all rights and obligations under the Contracts as of the Closing Date.

- (c) Seller shall deliver the right of possession of the Assets to Buyer.
  - (d) Seller shall execute and deliver to Buyer such other certificates, instruments, and documents as may be reasonably requested by, and in form and substance reasonably satisfactory to, Buyer in order to effect the transactions contemplated by this Agreement to occur at the Closing.
- 6.3 Deliveries by Buyer.
- (a) Buyer shall execute and deliver to Seller an Assignment and Assumption Agreement, in the form of **Exhibit B** attached hereto, and other instruments in form and substance reasonably satisfactory to Seller and sufficient to convey all rights and obligations under the Contracts and assume the Assumed Liabilities as of the Closing Date.
  - (b) An Employment Agreement in the form of Schedule 6.1, as executed by Buyer;
  - (c) Buyer shall deliver to Seller such certificates, instruments, and documents as may be reasonably requested by, and in form and substance reasonably satisfactory to, Seller in order to effect the transactions contemplated by this Agreement to occur at the Closing.

ARTICLE VII  
INDEMNIFICATION

- 7.1 Indemnification Obligation of Seller and the Sole Member. Seller and the Sole Member shall jointly and severally indemnify and hold harmless Buyer and its Affiliates (collectively, the "**Seller Indemnified Parties**") in respect of any and all claims, proceedings, losses, damages, liabilities and expenses (including settlement costs, attorneys' fees and any other expenses of investigating or defending any actions or threatened actions, including with respect to enforcement of such indemnity) (collectively, "**Losses**"), whether or not due and payable, incurred by the Seller Indemnified Parties in connection with each and all of the following:
- (a) any breach of any representation or warranty of Seller or the Sole Member;
  - (b) any breach of any covenant or agreement of Seller or the Sole Member;
  - (c) the operation of the Business on or prior to the Closing Date;
  - (d) any and all Excluded Liabilities;
  - (e) any and all Taxes (including any interest, additions and penalties with respect thereto) imposed on Buyer, or for which Buyer is liable, with respect to all periods ending on or before the Closing Date, or that are imposed on the transactions pursuant to this Agreement which are to be payable by Seller, or a pro rata portion (based on an interim closing of the books) of any Taxes for any period that ends after but includes the Closing Date and any costs or expenses with respect to Tax indemnification arising hereunder; and



(f) any Proceeding, directly or indirectly, based upon, or arising from or in connection with acts, events or omissions that occurred, or conditions or circumstances that existed, on or before the Closing.

7.2 Indemnification Obligation of Buyer. Buyer shall indemnify and hold harmless the Seller and its Affiliates (collectively, the "**Buyer Indemnified Parties**") in respect of any and all Losses, whether or not due and payable, incurred by the Buyer Indemnified Parties in connection with each and all of the following:

(a) any breach of any representation or warranty of Buyer;

any breach of any covenant or agreement of Buyer;

the operation of the Business after the Closing Date; and

any and all Assumed Liabilities.

7.3 Manner of Indemnification. Buyer, on the one hand, and Seller and the Sole Member, on the other hand, shall send written notice of a claim to Seller or Buyer, respectively, at any time after a Loss has occurred or they reasonably determine that it is reasonably likely that a Loss will occur. Within thirty days of receipt of notice by Seller of a claim by the Seller Indemnified Parties, Seller and/or the Sole Member shall satisfy such claim by resolution of the claim or the payment of cash, in Seller's sole discretion, to the Seller Indemnified Parties for the full amount of such claim. Within thirty days of receipt of notice by Buyer of a claim by the Buyer Indemnified Parties, Buyer shall satisfy such claim by the payment of cash to the Buyer Indemnified Parties for the full amount of such claim.

7.4 Survival. Any claim for indemnification shall survive the Closing Date, subject to the time limitations set forth in this Section 7.4 with respect to certain of such claims. Any claim for indemnification shall survive the applicable termination date if a party, prior to such termination date, shall have advised the other party in writing of facts that constitute or may give rise to an alleged claim for indemnification, specifying in reasonable detail the basis under this Agreement for such claim.

Representations and Warranties. Subject to Sections 7.4(b) and (c), any claim for indemnification based on Section 7.1(a) or Section 7.2 shall be made during the period from the Closing Date until the first anniversary of the Closing Date.

Environmental Claims. Any claim based upon the breach by Seller or the Sole Member of any representation or warranty relating to environmental matters may be made at any time prior to the later of the seventh anniversary of the Closing Date or the expiration of any applicable statute of limitations:

(a) Claims Barred Only by the Applicable Statute of Limitations. Any claim based upon (a) any misrepresentation with respect to Sections 3.1, 3.2 or 3.7; (b) any willful, grossly negligent,

fraudulent or intentional misrepresentation of any Seller or the Sole Member contained in this Agreement or any other document, list, exhibit or instrument furnished in connection herewith, including any assessment by a Taxing authority alleged to arise from a willful, false or fraudulent intent to evade Taxes, or from any failure to file a return; or (c) any claim based on Section 7.1(e), including for the failure of Seller to pay Taxes for periods through and including the Closing Date or from a misrepresentation of Seller with respect to Section 3.9, may be made until barred by the applicable statute of limitations. The Tax representations contained in Section 3.9 shall survive until three months following the expiration of the limitation period under the applicable statute of limitations.

7.5 Indemnification Despite Negligence, Strict Liability or Liability Without Fault. It is the express intention of the parties hereto that each person to be indemnified pursuant to this Article VII shall be indemnified and held harmless from and against all Losses as to which indemnity is provided for under this Article VII notwithstanding that any such Losses arise out of or result from the (i) ordinary, strict, sole, or contributory negligence, or (ii) strict liability (or other liability without fault) of such person and regardless of whether any other person (including another party to this Agreement) is or is not also negligent or otherwise liable with respect to the matter in question, but a person will not be indemnified with respect to acts of gross negligence or intentional conduct.

#### ARTICLE VIII MISCELLANEOUS

8.1 Notices. All notices, requests, demands, and other communications required or permitted to be given or made hereunder by any party hereto shall be in writing and shall be deemed to have been duly given or made if (i) delivered personally, (ii) transmitted by first class registered or certified mail, postage prepaid, return receipt requested, (iii) sent by prepaid overnight courier service, (iv) sent by telecopy or facsimile transmission, confirmation of receipt requested, or (v) sent by electronic mail, with confirmation of receipt, to the parties at the following addresses (or at such other addresses as shall be specified by the parties by like notice):

If to BUYER:

MT Industries, Inc.  
8909 S. Freeway Drive  
Macedonia, OH 44056  
Attention: President  
Facsimile: [ ]

If to SELLER or the SOLE MEMBER:

Alison Bunch  
175 Glen Road  
Chagrin Falls, OH 44022

Such notices, requests, demands, and other communications shall be effective (i) if delivered personally or sent by courier service, upon actual receipt by the intended recipient, (ii) if mailed, upon the earlier of five days after deposit in the mail or the date of delivery as shown by the return receipt therefor, or (iii) if sent by telecopy or facsimile or electronic mail transmission, when the answer back or confirmation of receipt is received.

8.2 Entire Agreement. This Agreement, together with the Schedules, Exhibits, Ancillary Documents and other writings referred to herein or delivered pursuant hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings, whether written or oral, between the parties with respect to the subject matter hereof. This Agreement may not be modified, revised, altered, added to or extended in any manner, or superseded except by an instrument in writing signed by the parties hereto and including the Schedules and Exhibits identified and attached to this Agreement.

8.3 Binding Effect: Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either of the parties hereto without the prior written consent of the other parties.

8.4 Severability. If any provision of this Agreement is held to be unenforceable, this Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects this Agreement shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by Applicable Law.

**8.5 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF THAT WOULD REQUIRE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.**

8.6 Further Assurances. From time to time after the Closing, at the request of any party hereto and without further consideration, the other parties hereto shall execute and deliver to such requesting party such instruments and documents and take such other action (but without incurring any material financial obligation) as such requesting party may reasonably request in order to consummate more fully and effectively the transactions contemplated hereby.

8.7 Counterparts and Facsimile Execution. This Agreement may be executed by the parties hereto in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all, the parties hereto. In order to facilitate the execution of this Agreement, an executed counterpart of the signature page or pages to this Agreement may be delivered by facsimile transmission to the other parties hereto and such facsimile

signature shall be deemed an original signature for purposes of this Agreement and shall be binding on the parties hereto. An original executed counterpart of said signature page shall be promptly forwarded to the other parties hereto.

8.8 Preparation of this Agreement. All parties to this Agreement have participated equally in its preparation. Accordingly, if a dispute arises regarding or relating to the Agreement, the language or terms of the Agreement shall not be construed more or less favorable against one party over another.

8.9 Waiver. No failure of or failure to enforce a breach of this Agreement shall constitute a waiver of any other or subsequent breach.

8.10 Venue. Venue for the purpose of filing any legal case or action arising out of this Agreement or the transactions contemplated hereby shall lie in Cuyahoga County, Ohio.

8.11 Nondisclosure. Each party agrees for themselves, their agents and assigns not to disclose or divulge any proprietary or confidential information which may or has already come into their possession as a result of their participation in this transaction, except where necessary for tax reporting purposes.

**[Signature Page to Follow]**

IN WITNESS WHEREOF, the parties have executed this Agreement, or caused this Agreement to be executed by their duly authorized representatives, all as of the day and year first above written.

**Buyer:**

MT INDUSTRIES, INC.

By: Scott Thomas  
Name: Scott Thomas  
Title: President and CEO

**Seller:**

TAN ENVY, LLC

By: Alison Bunch  
Name: Alison Bunch  
Title: Sole Member

**Sole Member:**

Alison Bunch  
Alison Bunch, individually

**EXHIBIT A**  
**BILL OF SALE**

Exhibit A

**EXHIBIT B**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Exhibit B

**SCHEDULE 1.1(B)**

**CONTRACTS**

Any and all distributor agreements with current customers of the Business as of the Closing Date.



**SCHEDULE 1.1(C)**

**INTELLECTUAL PROPERTY**

**1. The Following Trademark:**

Serial Number: 77479582  
Mark: Tan Envy Where Your Tan Turns Heads  
Owner: Tan Envy, LLC  
Publication Date: Oct 21, 2008

**2. The Following Website Domains:**

Tanenvyusa.com  
Tanenvycanada.com  
Tanenvy.com

**3. The Following Websites:**

tanenvyusa.com/tan-envy-by-lisa  
tanenvyusa.com/bronzbodz  
tanenvyusa.com/tan-envy-of-pickerington  
tanenvyusa.com/shannonc  
tanenvyusa.com/micoleg  
tanenvyusa.com/saras  
tanenvyusa.com/grahamg  
tanenvycanada.com/roset

**4. Seller's Full Distributor/ Customer list, including all credit card information, address and other contact information and all other information held by Seller related thereto, which includes 520 active customers/distributors as of 9/19/10**

**5. The rights to the phone number: 866-297-3689**

**6. All authorize.net and paypal accounts held by the Company**

**SCHEDULE 1.2**

**EXCLUDED ASSETS**

1. Personal computer of Alison Bunch as used in the Business;
2. Beauty in a Bottle nutrition supplement and all distributorship contracts thereto;

**SCHEDULE 2.1**  
**ADDITIONAL ASSUMED LIABILITIES**

None.

Schedule 2.1

**SCHEDULE 3.1**

**Potential and/or threatened legal issues.**