

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM301913

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Briarpatch, Inc.		03/11/2014	CORPORATION: NEW JERSEY
RECEIVING PARTY DATA			
Name:	University Games		
Street Address:	2030 Harrison Street		
City:	San Francisco		
State/Country:	CALIFORNIA		
Postal Code:	94110		
Entity Type:	CORPORATION: CALIFORNIA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	85153409	WONDER TUBES	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	(415) 503-1600		
Email:	hclehman@ugames.com		
Correspondent Name:	Harlan C. Lehman		
Address Line 1:	2030 Harrison Street		
Address Line 4:	San Francisco, CALIFORNIA 94110		
NAME OF SUBMITTER:	/Harlan C Lehman/		
SIGNATURE:	/Harlan C Lehman/		
DATE SIGNED:	04/17/2014		
Total Attachments: 38			
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AGREEMENT FOR THE PURCHASE AND SALE OF ASSETS

by and between

UNIVERSITY GAMES CORPORATION
("Purchaser")

And

BRIARPATCH INC.
("Seller")

dated as of February 19, 2014

AGREEMENT FOR THE PURCHASE AND SALE OF ASSETS

THIS AGREEMENT FOR THE PURCHASE AND SALE OF ASSETS (this "Agreement") is made as of February 19, 2014, by and between Briarpatch Inc., a New Jersey corporation, ("Seller") and University Games Corporation, a California corporation ("Purchaser").

RECITALS

A. Seller is engaged in the business of developing, manufacturing and distributing novelty items, board and card games (the "Acquired Business").

B. Seller owns certain assets relating to, necessary for or material to the Acquired Business and Seller desires to sell, transfer, convey and assign to Purchaser the specified assets and operations of the Acquired Business described in this Agreement for the purchase price and upon the terms and subject to the conditions contained in this Agreement, and Purchaser desires to purchase such assets from Seller for the purchase price and upon the terms and subject to the conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement and intending to be legally bound by this Agreement, the parties to this Agreement hereby agree as follows:

1. Definitions.

1.1 Defined Terms. For the purposes of this Agreement, the following words and phrases shall have the following meanings:

"Acquired Assets" has the meaning assigned by Section 2.1.

"Acquired Business" has the meaning assigned by Recital A.

"Acquired IP" shall mean all Intellectual Property Rights in the Acquired Products and all worldwide proprietary information and intellectual property rights of Seller that relate to the Acquired Assets or are used in the Acquired Business, including, without limitation: all (i) patents, copyrights and copyrightable works and works of authorship in any media, trademarks, service marks, trade names, service names, brand names, logos, trade dress, and Internet domain names; (ii) trade secrets, inventions, technology, know-how, proprietary information, research material, specifications, surveys, designs, drawings and processes; (iii) graphics, artwork, photography, editorial copy and materials, advertising and promotional materials, trademarks, service marks, trade names, brand names, domain names, logos, trade dress, labels, formats and designs, including without limitation all content currently or previously developed by Seller or displayed through Internet sites operated by Seller; (iv) customer, partner, prospect and marketing lists, market research data, sales data and traffic and user data; (v) registrations, applications, recordings, common law rights, and "moral" rights of authors relating to any of the foregoing; (vi) rights to obtain renewals, reissues, extensions, continuations, divisions or equivalent extensions of legal protection pertaining to the foregoing; and (vii) claims, causes of action or other rights at law or in equity arising out of or relating to any infringement, misappropriation, distortion, dilution or other unauthorized use or conduct in derogation of the foregoing occurring prior to the Closing; in each case, including, without limitation, all authors', moral, common law and other rights to any of the foregoing, and

whether or not registrable, patentable or copyrightable; and (viii) intellectual property rights relating to catalogues, product plans, designs and specifications, product prototypes (including prototypes of products which have not been commercially developed), product archives, mechanical designs and schematics, tooling, layouts, technical and business information.

"Acquired Products" shall mean and include the games and novelty items designed, developed, licensed or sold by Seller and the directly-related Intellectual Property Rights.

"Affiliate" of a Person means any Person controlling, controlled by, or under common control with, such Person. For purposes of this definition, "control" means the power to direct the management and policies of a Person, whether through the ownership of voting securities, by agreement or otherwise.

"Agreement" has the meaning assigned by the introduction.

"Assigned Contracts" means all Contracts listed on Schedule 2.5.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement attached hereto as Exhibit B.

"Assumed Liabilities" has the meaning assigned by Section 2.3.

"Bill of Sale" means the Bill of Sale attached hereto as Exhibit A.

"Business Day" means a day that is not a Saturday, a Sunday or a statutory or civic holiday in California or any other day on which the principal offices of either Seller or Purchaser are closed, whether in accordance with established company policy or as a result of unanticipated events and which began at 12:01 a.m. and ends at midnight on such day.

"Business Records" has the meaning assigned by Section 2.1(d).

"Closing" has the meaning assigned by Section 2.6.

"Closing Date" has the meaning assigned by Section 2.6.

"Closing Payment" has the meaning assigned by Section 2.7.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidential Information" has the meaning assigned by Section 6.2(a).

"Consulting Agreement" means that certain consulting agreement to be entered into between John Donofrio and Purchaser, whereby John Donofrio will act as a consultant for Purchaser for the period commencing as of the Closing Date through June 30, 2014 in consideration for \$10,000 per month. The Consulting Agreement shall be in the form of Exhibit D attached hereto.

"Contract" means any agreement, contract, lease, license, promissory note, conditional sales contract, indenture, mortgage, deed of trust, commitment, undertaking, instrument or arrangement of any kind, whether or not in writing, under which (in each case) any obligation is legally enforceable

against any Person, asset or right. Without limiting the generality of the foregoing, any agreement, commitment, undertaking or arrangement of any kind with a Governmental Body shall constitute a "Contract" whether it was entered into voluntarily or pursuant to applicable law or in settlement of a claim or possible claim by such Governmental Body, or otherwise.

"Encumbrance" means any encumbrance of any kind whatsoever, including, without limitation, any security interest, mortgage, deed of trust, lien, judgment, hypothecation, pledge, Tax lien, rent, assessment, mechanic's or materialmen's lien, assignment, easement, servitude, right-of-way, restriction, tenancy, encroachment or burden or any other right, license or claim of any Third Party affecting the Acquired Assets or any restrictive covenant or other agreement, restriction or limitation on the ownership, use or disposition of any Acquired Assets.

"Excluded Assets" has the meaning assigned by Section 2.2.

"Excluded Liabilities" has the meaning assigned by Section 2.4.

"Exclusivity Period" has the meaning assigned by Section 5.6.

"GAAP" means U.S. generally accepted accounting principles.

"Governmental Body" means any court, government (foreign, federal, state or local), department, commission, board, agency, bureau, official or other regulatory, administrative or governmental authority.

"Governmental Permits" means all governmental permits and licenses, certificates of inspection, approvals or other authorizations issued to Seller by a Governmental Body which are necessary for the use, enjoyment or exploitation of, or other derivation of the benefits from, the Acquired Assets.

"Indebtedness" shall mean all Liabilities for indebtedness of Seller, including all principal, interest, premiums, fees, expenses, penalties or repayment costs (including with respect to any prepayment thereof or any increased amount owed thereunder in connection with the transactions contemplated hereby) and including, all Liabilities (i) for indebtedness for borrowed money, (ii) evidenced by letters of credit, notes, bonds, drafts, debentures or similar instruments, (iii) for the deferred purchase price of goods or services (other than trade payables or accruals incurred in the ordinary course of business), (iv) under capital leases or (v) in the nature of guarantees of the obligations described in the preceding clauses (i)–(iv), inclusive, of any other Person.

"Indemnified Party" means the party seeking indemnification under Article 8 and any director, officer, stockholder, Affiliate or any successors or assignees of such party.

"Indemnifying Party" means the party against whom indemnification under Article 8 is sought.

"Intellectual Property Rights" shall mean and include all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark and trade name rights and similar rights (including domain name registrations); (c) trade secret rights; (d) patents and industrial property rights; (e) other proprietary rights in

intellectual property of every kind and nature; and (f) all registrations, renewals, extensions, combinations, divisions, or reissues of, and applications for, any of the rights referred to in clauses “(a)” through “(e)” above.

“**Inventory Book Value**” has the meaning assigned by Section 2.8.

“**Inventory Determination Date**” has the meaning assigned by Section 2.8.

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

“**Liabilities**” shall mean, with respect to any Person, any and all liabilities and obligations of any kind (whether known or unknown, contingent, accrued, due or to become due, secured or unsecured, matured or otherwise), including but not limited to accounts payable, all liabilities and obligations related to Indebtedness or guarantees, costs, expenses, royalties payable, and other reserves, accrued bonuses and commissions, accrued vacation and any other form of leave, termination payment obligations, employee expense obligations and all other liabilities and obligations of such Person or any of its subsidiaries or Affiliates, regardless of whether such liabilities are required to be reflected on a balance sheet in accordance with GAAP.

“**Material Adverse Effect**” means any fact, change, event, violation, inaccuracy, circumstance or effect (any such item, an “**Effect**”), that is or would reasonably be expected to have a material adverse effect on the Acquired Business, or the condition (financial or otherwise), results of operations taken as a whole or prospects of the Acquired Business, or on the ability of Purchaser or Seller to consummate the transactions contemplated in this Agreement or in the Other Transaction Documents; provided, however that Material Adverse Effect shall not be deemed to include the impact of (a) the implementation of changes in GAAP or interpretations thereof, including, without limitation, changes in revenue recognition policies, (b) actions or omissions of Seller taken or permitted in accordance with the provisions of this Agreement or with the prior written consent of Purchaser, and (c) changes affecting the general economic, financial or political conditions, to the extent such changes do not have a materially disproportionate impact on Seller, taken as a whole, relative to other comparable companies.

“**Non-Compete Agreement**” means the Noncompetition and Nonsolicitation Agreement attached hereto as Exhibit E.

“**Non-Paying Party**” has the meaning assigned by Section 5.4(c).

“**Other Transaction Documents**” means the Bill of Sale, Promissory Note, Consulting Agreement, Non-Compete Agreement, Proprietary Rights Assignment, Assignment and Assumption Agreement and any instruments of transfer or conveyance contemplated by and delivered at the Closing pursuant to this Agreement.

“**Paying Party**” has the meaning assigned by Section 5.4(c).

“**Person**” means any individual, corporation, partnership, firm, association, joint venture, joint stock company, trust or other entity, or any government or regulatory, administrative or political subdivision or agency, department or instrumentality thereof.

“Proceeding” shall mean any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

“Promissory Note” has the meaning assigned by Section 2.7.

“Proprietary Rights Assignment” means the Proprietary Rights Assignment attached hereto as Exhibit C.

“Purchase Price” has the meaning assigned by Section 2.7.

“Purchaser” has the meaning assigned by the introduction.

“Registered IP” shall mean all Intellectual Property Rights that are registered or filed with, or issued under the authority of, any Governmental Body, including all patents, registered copyrights, registered mask works, and registered trademarks and all applications for any of the foregoing.

“Required Licenses” shall mean all of Seller’s active licenses from third Parties, including without limitation, licenses from the following: Scholastic Entertainment Inc., Viacom Media Network, Cartoon Network Enterprises, Inc, Harper Collins et. Al., Character Arts, LLC and Patricia Palermino.

“Retained Computer Equipment” has the meaning assigned by Section 5.13.

“Seller” has the meaning assigned by the introduction.

“Seller Disclosure Schedule” has the meaning assigned by Section 3.

“Stockholder” means a stockholder of Seller.

“Tangible Personal Property” has the meaning assigned by Section 2.1(c).

“Tax” or **“Taxes”** means, or shall refer or relate to, any and all taxes, charges, fees, levies, imposts and other assessments, including, without limitation, all income, sales, use, goods and services, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including, without limitation, unemployment and employment insurance payments and workers’ compensation premiums, together with any installments with respect thereto, and any interest, fines and penalties imposed by any Governmental Body (including, without limitation, federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not.

“Tax Return” shall mean all required U.S. federal, state, local and non-U.S. returns, estimates, information statements and reports relating to Taxes, including any attachments thereto or amendments thereto.

“Third Party” means any Person not an Affiliate of the other referenced Person or Persons; provided that, as used in Sections 8.2, 8.3, 8.5 and 8.7, the term “Third Party” shall be deemed to

include and refer to an Affiliate of the Indemnifying Party.

“Third-Party Claim” has the meaning assigned by Section 8.3(a).

“Updated Disclosure Schedule” has the meaning assigned by Section 7.1(a).

1.2 Other Definitional and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(a) Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(b) Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa;

(c) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified.

(d) Knowledge of Seller. “Seller’s knowledge” and “knowledge of Seller,” with respect to any fact or matter in question, shall be deemed to exist to the extent that John Donofrio is actually aware or should, upon making due inquiry, be aware of such fact or matter.

(e) Schedules and Exhibits. The Schedules and Exhibits attached to this Agreement shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim in this Agreement.

2. Purchase and Sale of Assets.

2.1 Acquired Assets. Upon the terms and subject to the conditions of this Agreement and in reliance on the representations and warranties contained in this Agreement, on the Closing Date, Seller agrees to sell, transfer, assign, convey and deliver to Purchaser, and Purchaser agrees to purchase, acquire and accept from Seller, all of Seller’s right, title and interest (whether beneficial or of record) in, to and under the Acquired Assets as the same shall exist on the Closing Date, free and clear of any Encumbrance. For purposes of this Agreement and except as otherwise provided in Section 2.2, “Acquired Assets” shall mean all assets, properties and rights set forth or described in subsections (a) through (i) below, inclusive, subject in each and every case to such modification and changes to the identified Schedules as are agreed to by the parties, consistent with the terms of this Agreement and are necessary to reflect all of the Acquired Assets as of the Closing Date, including, without limitation:

(a) The Acquired Products, the Acquired IP and all of Seller’s rights to the Acquired Products and the Acquired IP;

- (b) all of Seller's rights under all Assigned Contracts;
- (c) all of Seller's inventory (including raw materials, work in process, goods in transit, finished products, spare or replacement parts and packaging supplies), whether in the possession of Seller or its agents, design tools, supplies, tooling, fixed assets (including computers, software, furniture and fixtures) and other tangible personal property owned by Seller, wherever located, including those items set forth on Schedule 2.1(c) (collectively, the "**Tangible Personal Property**");
- (d) all books and records of Seller (including, without limitation, all Contracts, accounting records, supplier, and customer lists, reports of examination and other records and information, including, without limitation, on discs, tapes and other data-storing media and other proprietary information) relating to the Acquired Assets, operations of Seller or the Acquired Business (collectively, "**Business Records**"), other than records that Seller is required by law to retain;
- (e) all claims and defenses of Seller against third parties relating to the Acquired Business, whether choate or inchoate, known or unknown, contingent or noncontingent, including, without limitation, the right to receive all proceeds and damages therefrom, to the extent transferable to Purchaser including, without limitation: (i) all transferable warranties and guarantees of third parties, and any claims rights, credits, causes of action, or rights of setoff, against third parties to the extent relating to or arising from any of the Acquired Business or the Acquired Assets; and (ii) all rights, claims, credits, causes of action or rights of set-off of Seller with respect to or arising out of the Acquired Assets or the Assumed Liabilities, including all rights to recover past, present, and future damages for the breach, infringement, violation, or misappropriation, as the case may be, of any of the Acquired Assets, and all claims and causes of action against third parties related to the Acquired Business, including those related to the Acquired Assets;
- (f) all Governmental Permits, to the extent transferable to Purchaser;
- (g) all rights of Seller relating to deposits and prepaid expenses (including, without limitation, prepaid software and software maintenance), claims for refunds and rights to offset in respect thereof;
- (h) all pre-paid expenses and deposits (including purchase order deposits), all current purchase orders not shipped and orders received or shipped after date of closing;
- (i) all goodwill of or relating to any of the foregoing, together with the right to represent to Third Parties that Purchaser is the owner to any and all of the foregoing; and
- (j) Seller's name, all URLs, domain names and websites and the look and feel, design, components and contents thereof and other rights of the Acquired Business related to the internet or other electronic medium.

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, Seller

shall retain and not transfer, and Purchaser shall not purchase or acquire, any of the following assets, properties or rights of Seller (collectively, the “**Excluded Assets**”):

- (a) all of the Contracts designated in Schedule 2.2(a);
- (b) the property and assets expressly designated in Schedule 2.2(b);
- (c) Seller’s corporate seal, minute books, stock record books, original general ledgers and books of original entry and other corporate records, and Seller’s financial and operational records designated in Schedule 2.2(c);
- (d) all cash and cash equivalents held by Seller (except for cash and cash equivalents relating to any deposits);
- (e) all Governmental Permits, to the extent not transferable or assignable;
- (f) all claims, causes of action, choses in action, rights of recovery and rights of set-off of any kind against any Person arising out of or relating to the Acquired Assets to the extent related to the Excluded Liabilities;
- (g) all claims, causes of action, choses in action, rights of recovery and rights of set-off of any kind Seller may have against its shareholders, officers or directors;
- (h) the right to Tax refunds for any tax periods prior to the Closing;
- (i) insurance policies or proceeds;
- (j) all of Seller’s depository accounts;
- (k) Seller’s rights under this Agreement; and
- (l) all accounts, notes, contracts or other receivables for moneys owed to Seller for products sold or services performed prior to the Closing that remain outstanding as of the Closing Date.

2.3 Assumed Liabilities. Upon the terms and subject to the conditions contained herein, at the Closing, Buyer shall assume those obligations and liabilities set forth on Schedule 2.3 (the “**Assumed Liabilities**”). Purchaser does not assume and will not be responsible or liable for any other liabilities of Seller, including, without limitation, any Excluded Liabilities.

2.4 Excluded Liabilities. Notwithstanding anything to the contrary contained in this Agreement, other than the Assumed Liabilities, Purchaser will not assume or be liable or otherwise be obligated to pay, perform or otherwise discharge, and Seller will retain and remain responsible for all of its debts, liabilities and obligations of any nature whatsoever with respect to any event, occurrence, circumstance or condition arising or occurring prior to or through the Closing (whether such liabilities become known prior to, on or after the Closing Date), whether accrued or unaccrued, whether absolute or contingent, whether known or unknown, whether due or to become due and whether related to the Acquired Assets or otherwise, and regardless of when asserted (collectively, the “**Excluded Liabilities**”). The Excluded Liabilities shall include, without limitation, the

following liabilities and obligations:

(a) any liability under any Assigned Contract assumed by Purchaser pursuant to Section 2.5 that arises after the Closing Date but that arises out of or relates to any breach or delinquency in performance that occurred prior to the Closing Date, specifically excluding deductions and charge backs from customers consistent with past practice and in accordance with the terms of Assigned Contracts with customers of Seller;

(b) any liability for Taxes, arising out of or relating to the operation of Seller's business including (A) any Taxes arising as a result of Seller's operation of its business or ownership of the Assets prior to the Closing Date, (B) any Taxes that will arise as a result of the sale of the Assets pursuant to this Agreement (except as set forth in Section 2.9 and (C) any deferred Taxes of any nature;

(c) any liability under any Contract not assumed by Purchaser under Section 2.5;

(d) any claim from customers for markdowns, slotting fees, allowances, discounts, advertisements, fees, freight, volume rebates, warehouse fees or other discounts related to shipments made by Seller prior to closing;

(e) any and all environmental and occupational health and safety liabilities arising out of or relating to the operation of Seller's business or Seller's leasing, ownership or operation of real property;

(f) any liability under or relating to payroll, vacation, sick leave, workers' compensation, unemployment benefits, pension benefits, employee stock option or profit-sharing plans, health care plans or benefits or any other employee plans or benefits of any kind for Seller's employees or former employees or both,

(g) any liability under any employment, severance, retention or termination agreement with any employee of Seller;

(h) any liability to distribute to any of Seller's stockholders or otherwise apply all or any part of the consideration received hereunder;

(i) any liability arising out of any Proceeding pending as of the Closing Date or commenced after the Closing Date and arising out of or relating to any occurrence or event happening prior to the Closing Date;

(j) any liability arising out of or resulting from Seller's compliance or noncompliance with any judgment, decree or order of any Governmental Body; and

(k) any liability of Seller based upon Seller's acts or omissions occurring after the Closing Date.

2.5 Assumption of Assigned Contracts. At the Closing, Seller shall assign to Purchaser all of Seller's rights, and Purchaser shall agree to assume all of the liabilities and obligations accruing and to be performed after the Closing Date (which have not been waived or excused prior to the Closing Date) under each of the Assigned Contracts. On Schedule 2.5, each Assigned Contract is

identified by the date of the Assigned Contract and the other Person(s) party to such Assigned Contract(s). To the extent any such information set forth on Schedule 2.5 is later determined by Seller to be inaccurate in any material respect, Seller shall promptly notify Purchaser of any such inaccuracy. It is expressly agreed to by the parties that the Purchase Price expressly includes any pre-paid expenses or other payments made by Seller with respect to the Assigned Contracts for periods that may extend past the Closing (the "**Pre-Paid Expenses**"). All Pre-Paid Expenses shall accrue solely to the benefit of Purchaser without any adjustment in the Purchase Price. Seller agrees to take no action to obtain any refunds or off-set with respect to any Pre-Paid Expenses.

2.6 Closing Date. Upon the terms and subject to the satisfaction of the conditions specified in Article 7 of this Agreement, the closing of the sale of the Acquired Assets and the assumption of the Assumed Liabilities contemplated by this Agreement (the "**Closing**") shall occur via the electronic exchange of documents, and the wire transfer of funds within three Business Days after all the conditions specified in Article 7 have been satisfied or waived (other than the conditions with respect to actions the respective parties to this Agreement will take at the Closing itself), or at such other place, time and date as Seller and Purchaser may agree upon in writing (such date and time being referred to in this Agreement as the "**Closing Date**").

2.7 Purchase Price. Subject to any adjustments, reductions or set offs as provided for in this Agreement, the consideration for the purchase and sale of the Acquired Assets (the "**Purchase Price**") will consist of (i) \$1,195,000 to be paid at Closing (the "**Closing Payment**"); and (ii) \$1,430,000 to be paid in 12 equal, quarterly installments (paid 15 days after the end of each calendar quarter), commencing on July 15, 2014 (the "**Deferred Purchase Price**"). The parties agree that at the election of Purchaser, portions of the Closing Payment may be paid directly to lenders and lienholders of Seller in order to release Encumbrances on the Acquired Assets to permit the transfer of the Acquired Assets to Purchaser with no Encumbrances. The Deferred Purchase Price shall be evidenced by a promissory note ("**Promissory Note**") in the principal amount of \$1,430,000 to be executed and delivered by Purchaser to Seller at Closing in the form attached hereto as Exhibit F.

2.8 Purchase Price Adjustment. The Closing Payment will be reduced on a dollar for dollar basis to the extent that the book value of Seller's inventory (the "**Inventory Book Value**") is less than \$800,000.00 as of two (2) business days prior to Closing, or at such other time as may be mutually agreed between the parties (the "**Inventory Determination Date**"). On the Inventory Determination Date, Seller shall provide Purchaser with documentation supporting Seller's determination of the Inventory Book Value setting forth the methods used to tally the number of items for each product and the methods used to determine the book value of each product in Seller's inventory. Purchaser shall be given the opportunity to conduct its own analysis and inventory count in order to verify the Inventory Book Value as determined by Seller. At the request of either party, the parties shall meet and confer to reach agreement as to the Inventory Book Value. The Inventory Book Value shall be mutually agreed to by the parties in order to be effective and the agreement as to the Inventory Book Value shall be a condition to Closing for each party as set forth in Section 7 of this Agreement. The Closing Payment will be increased on a dollar for dollar basis to the extent that the Inventory Book Value exceeds \$800,000.00. The Closing Payment will be increased for the amount of the Scholastic Entertainment, Inc. License Agreement for "I Spy" guarantee paid of \$32,073.

2.9 Purchase Price Allocation. Seller and Purchaser agree that the Purchase Price shall be allocated among the Acquired Assets in accordance with the principles and methodology set forth in Schedule 2.9 and as mutually agreed upon by the parties. In any Proceeding related to the

determination of any Tax, neither Purchaser nor Seller shall contend or represent that such allocation is not a correct allocation.

3. Representations and Warranties of Seller. Seller represents and warrants to Purchaser that, as of the date of this Agreement, each of the statements set forth in this Article 3 is true and correct in all respects, except as qualified by the disclosures made in this Agreement or as set forth in the attached schedules (which disclosures shall be deemed to qualify only the identified Section of this Article 3 and any other Section of this Article 3 that requires the same information without modification or additional explanation in order to provide effective notice of the nature and significance of the qualification).

3.1 Organization and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of New Jersey. Seller has full corporate power to execute and deliver this Agreement and the Other Transaction Documents required to be executed by it and to effect the transactions contemplated by this Agreement and such Other Transaction Documents, and the execution, delivery and performance of this Agreement and the Other Transaction Documents by Seller have been duly authorized by all necessary corporate action on the part of Seller, and no other action on the part of Seller is necessary to authorize this Agreement or the Other Transaction Documents or the consummation of the transactions contemplated by this Agreement and the Other Transaction Documents. Seller has all corporate power and authority necessary to operate the Acquired Business.

3.2 Authorization; Binding Obligation. This Agreement and the Other Transaction Documents to which Seller is a party have been duly executed and/or delivered, as applicable, by Seller, and such agreements constitute the valid and legally binding obligations of Seller, enforceable against it in accordance with their terms, except to the extent that enforcement of the rights and remedies created by this Agreement and such Other Transaction Documents may be limited by bankruptcy insolvency, reorganization, moratorium and other laws of general application affecting the rights and remedies of creditors and to general principles of equity (regardless of whether such enforcement is sought in a proceeding in equity or at law).

3.3 Subsidiaries and Joint Ventures.

(a) Seller does not own directly or indirectly any capital stock of or other equity interest in any corporation, limited liability company, partnership or other business entity.

(b) No other Affiliates or joint venture partners of Seller (a) are engaged in activities which are material to the use, manufacture or sale or offer for sale of any Acquired Products, (b) have entered into any Contract with Seller with respect to any Acquired IP (including, without limitation, the use, distribution or license of such Acquired IP) or (c) own or have any other interest in any of the Acquired Assets.

3.4 No Violations.

(a) Except as set forth on Schedule 3.4(a), the execution, delivery and performance of this Agreement and the Other Transaction Documents by Seller, and the consummation by Seller of the transactions contemplated by this Agreement and such Other Transaction Documents, do not and will not: (i) result in a breach or violation of any provision of Seller's articles of incorporation or by-laws (or other organizational documents), or in a material

violation of any statute, rule, regulation or ordinance applicable to Seller ; or (ii) materially violate or result in a material breach of, or constitute a material occurrence of default (or an event that could reasonably be expected to, upon the passage of time or the giving of notice, or both, constitute a material occurrence of default) under any provision of, result in the acceleration or cancellation of any material obligation under, give rise to a right by any party to terminate or amend in any material respect its obligations under, or result in the loss of material rights, incurrence of material obligations or other material modification of terms under, any Contracts of the Seller; or (iii) materially violate any order, judgment, decree, rule or regulation of any court or any Governmental Body having jurisdiction over Seller, any of its Subsidiaries or the Acquired Assets.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Person is required to be obtained or made by Seller in connection with its execution and delivery of this Agreement and the Other Transaction Documents or its consummation of the transactions contemplated by this Agreement or such Other Transaction Documents, except for consents of Third Parties (as specifically listed in Schedule 3.4(b)) which are required to transfer or assign to Purchaser any Acquired Assets or assign the benefits of or delegate performance with regard to any Acquired Assets or to preserve all rights of, and benefits to, Purchaser under the Assigned Contracts from and after the Closing..

3.5 Title to Assets. Except as set forth on Schedule 3.5, Seller is the sole and exclusive owner of and has good and marketable title to, or a valid leasehold interest in, all of the tangible Acquired Assets, free and clear of any Encumbrances and Seller has the right to transfer the Acquired Assets to Purchaser pursuant to the terms of this Agreement and the Other Transaction Documents. Except as set forth on Schedule 3.5, (i) the Acquired Assets are the only assets necessary for the conduct of the Acquired Business as presently conducted and are in such operating condition and repair as is appropriate for the conduct of the Acquired Business as presently conducted; (ii) there are no Contracts, written or oral, granting to any Person or Persons the right of use of any portion of the Acquired Assets; (iii) there are no outstanding options or rights of first refusal in favor of any other Person to purchase any of the Acquired Assets; (iv) there are no Persons (other than Seller) who are in possession of or who are using any of the Acquired Assets. No Encumbrances affecting any of the Acquired Assets will arise or would, with notice or lapse of time or both, arise as a result of the transactions contemplated by this Agreement and the Other Transaction Documents.

3.6 Intellectual Property.

(a) Registered IP. Schedule 3.6(a) accurately identifies (i) each item of Registered IP in which Seller has an ownership interest of any nature (whether exclusively, jointly with another Person, or otherwise); (ii) the jurisdiction in which such item of Registered IP has been registered or filed and the applicable registration or serial number; and (iii) any other Person that has an ownership interest in such item of Registered IP and the nature of such ownership interest. Seller has delivered or made available to Purchaser complete and accurate copies of all applications, material correspondence, and other material documents related to each such item of Registered IP.

(b) Inbound Licenses. Schedule 3.6(b) (i) accurately identifies each Contract under which Intellectual Property Rights or Intellectual Property is licensed to Seller; and (ii) specifies whether the rights licensed to Seller are exclusive or non-exclusive. Seller has delivered or made available to Purchaser an accurate and complete copy of each Contract identified, or required to be identified, in Schedule 3.6(b).

(c) Ownership Free and Clear. Seller exclusively owns all right, title, and interest to and in the Acquired IP (other than Intellectual Property Rights licensed to the Acquired Business, as identified in Schedule 3.6(b)) free and clear, to Seller's knowledge, of any Encumbrances (other than licenses granted pursuant to the Contracts listed in Schedule 3.6(b) and Permitted Encumbrances). Without limiting the generality of the foregoing:

(i) Perfection of Rights. To the knowledge of Seller, all documents and instruments necessary to vest or perfect the rights of Seller in the Acquired IP that is Registered IP have been validly executed, delivered, and filed in a timely manner with the appropriate Governmental Body.

(ii) Employees and Contractors. No current or former Stockholder, officer, director or contractor of Seller has any claim, right (whether or not currently exercisable), or interest to or in any Acquired IP. To Seller's knowledge, no employee or former employee or contractor of Seller is in breach of any Contract with Seller concerning Intellectual Property Rights or confidentiality

(iii) Sufficiency. Seller owns or otherwise has, and at Closing will continue to have, all Intellectual Property Rights needed to conduct the Acquired Business as currently conducted.

(d) Valid, Subsisting, and Enforceable. To Seller's knowledge, all Acquired IP is valid, subsisting and enforceable. Without limiting the generality of the foregoing:

(i) Legal Requirements and Deadlines. To Seller's knowledge, each item of Acquired IP (excluding Intellectual Property Rights licensed to Seller and listed on Schedule 3.6(b)) that is Registered IP is and at all times has been in compliance with all applicable Legal Requirements and all filings, payments, and other actions required to be made or taken to maintain such item of Acquired IP in full force and effect have been made or taken by the applicable deadline.

(ii) Interference Proceedings and Similar Claims. No interference, opposition, reissue, reexamination, or other Proceeding is pending or, to Seller's knowledge, threatened, in which the scope, validity, or enforceability of any Acquired IP is being, has been, or could reasonably be expected to be contested or challenged. To Seller's knowledge, there is no basis for any non-frivolous claim that any Acquired IP is invalid or unenforceable.

(e) No Third-Party Infringement of Acquired IP. Except as set forth in Schedule 3.6(e), to Seller's knowledge, since its incorporation, no Person has infringed, misappropriated, or otherwise violated, and no Person is currently infringing, misappropriating, or otherwise violating, any Acquired IP. Seller has provided to Purchaser a complete and accurate copy of each letter or other written or electronic communication or correspondence that has been sent or otherwise delivered since the date of incorporation by or to Seller or any representative of Seller regarding any actual, alleged, or suspected infringement or misappropriation of any Acquired IP. Schedule 3.6(e) provides a brief description of the current status of the matter referred to in each such letter, communication, or correspondence.

(f) Effects of This Transaction. To Seller's knowledge, neither the execution, delivery, or performance of this Agreement (or any of the Other Transaction Documents entered into by Seller, or required to be entered into by Seller, in connection with the transactions contemplated

hereby) nor the consummation of any of the transactions contemplated hereby will, with or without notice or lapse of time, result in, or give any other Person the right or option to cause or declare, (i) a loss of, or Encumbrance on, any Acquired IP; (ii) except as set forth in Schedule 3.6(f), a breach of any license agreement listed or required to be listed in Schedule 3.6(b) or Schedule 3.6(c), (iii) the release, disclosure, or delivery of any Acquired IP by or to any escrow agent or other Person; or (iv) the grant, assignment, or transfer to any other Person (other than Purchaser) of any license or other right or interest under, to, or in any Acquired IP.

(g) No Infringement of Third Party IP Rights. To Seller's knowledge, neither the Acquired Business nor any Acquired Business Product (excluding Intellectual Property Rights licensed to the Acquired Business and listed in Schedule 3.6(b)) has ever infringed (directly, contributorily, by inducement, or otherwise), misappropriated, or otherwise violated any Intellectual Property Right of any other Person. No claim of infringement or misappropriation or similar claim or Proceeding is pending or, to Seller's knowledge, threatened against Seller or against any other Person who may be entitled to be indemnified, defended, held harmless, or reimbursed by Seller with respect to such claim or Proceeding. Except as set forth in Schedule 3.6(e), since the date of incorporation, Seller has not received any notice or other communication (in writing or otherwise) relating to any actual, alleged, or suspected infringement, misappropriation, or violation of any Intellectual Property Rights of another Person. To Seller's Knowledge, Seller has, and following Closing, Purchaser will have the exclusive right to bring actions against any person that has infringed, or is infringing, any Acquired IP and to retain for Purchaser any damages recovered in any such action.

(h) Third Party Rights. To the extent that any Acquired IP was originally owned or created by, for or with any Third Party, (i) Seller has obtained to the fullest extent allowed under applicable law, waivers of moral rights and other similar rights of attribution, disclaimer of authorship or integrity in works of authorship; (ii) the transfers from Seller to Purchaser under this Agreement do not violate such Third Party agreements; (iii) such Third Parties have not retained and do not have any rights or licenses with respect to the Acquired IP; and (iv) no basis exists for such Third Party to challenge or object to this Agreement or to the transfers of Acquired IP contemplated hereunder.

3.7 Material Contracts.

(a) List of Material Contracts. Schedule 3.7(a) sets forth a complete and accurate list of any Contract described below to which Seller is a party and that relate primarily to the Acquired Assets or the Acquired Business:

(i) any indenture, mortgage, note, installment obligation, agreement or other instrument, in each case relating to the borrowing or loaning of money, or any capital lease or the guaranty of any obligation for the borrowing of money;

(ii) any lease;

(iii) all Contracts containing covenants limiting the freedom of Seller to compete in any line of business associated with the Acquired Business or, as relates to the Acquired Business, with any Person or in any geographic area or market;

(iv) any agency, sales representative, distribution or other similar

Contract;

- (v) any Contract for the purchase of inventory, supplies or materials in excess of \$25,000;
- (vi) all license agreements;
- (vii) any Contract relating to the purchase of goods or services in excess of \$25,000; and
- (viii) any Contract relating to the sale of goods or services in excess of \$25,000.

(b) **Binding Obligations; No Default.** All of the Contracts set forth in Schedule 3.7(a) are in full force and effect, and neither Seller nor to Seller's knowledge, any other party to such Contracts is in material breach of or in material default under any of them, nor does any event or condition exist that after notice or lapse of time or both could reasonably be expected to constitute a material breach of or material default under such Contracts on the part of Seller or, to Seller's knowledge, any other party to such Contracts. Seller has delivered to Purchaser true and complete copies of all such written Contracts.

3.8 Brokers. Except as set forth in Schedule 3.8, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

3.9 Books and Records. The books of account and other financial Business Records of Seller, all of which have been made available to Purchaser, are complete and correct in all material respects and represent actual, bona fide transactions and have been maintained in accordance with sound business practices. Without limiting any other provision of this Agreement, Seller has made available to Purchaser or its counsel complete and correct copies of (a) all documents identified on the Seller Disclosure Schedule, (b) the certificate of incorporation and bylaws of Seller, as currently in effect at the time of the Closing, (c) the minute books containing records of all proceedings, consents, actions and meetings of the Seller's Board, committees of the Seller's Board and stockholders of Seller to the extent the same exist and have been recorded, and (d) Governmental Permits, orders and material consents issued by any regulatory agency with respect to any of the Acquired Assets or Seller's use of the Acquired Assets and all applications for such Governmental Permits, orders and consents. The minute books of Seller made available to Purchaser contain a complete and accurate summary of all meetings of directors and stockholders or actions by written consent since the time of incorporation of Seller through the Closing Date, and reflect all transactions referred to in such minutes accurately in all material respects. The books, records and accounts of Seller (i) are true, correct and complete in all material respects, (ii) have been ^{reasonably} maintained ~~in accordance with reasonable business practices~~ on a basis consistent with prior years, and (iii) accurately identify the stockholders, directors and officers of Seller.

To the extent the meetings took place

for a privately closely held business

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3.10 Suppliers and Customers. Except as set forth on Schedule 3.10(a), since January 1, 2013, no supplier or customer of material importance to the Acquired Business has canceled or otherwise terminated, or threatened in writing to cancel or terminate, its relationship with Seller or has decreased materially, or threatened in writing to decrease or limit materially, its services, supplies

or materials to Seller or its usage or purchase of any Acquired Products, except for normal cyclical changes related to customers' businesses. Schedule 3.10(b) is a correct and complete list of Seller's top 10 customers (based on amount of sales) of the Acquired Products (including the amount of sales to each such customer) for the 12-month period ended December 31, 2013. Except as set forth on Schedule 3.10(c), Seller has not received any complaints in writing from any such customers concerning the Acquired Products sold or related services provided by Seller to such customers. Schedule 3.10(d) is a correct and complete list of the top 10 suppliers and vendors (based on amount of purchases from such suppliers and vendors) for the Acquired Business as of the date of this Agreement.

3.11 Seller Financial Statements. Schedule 3.11 of the Seller Disclosure Schedule sets forth the following financial statements of Seller (collectively, the "Seller Financial Statements"): (a) reviewed balance sheets and related statements of profit and loss and cash flows as of and for the fiscal years ended December 31, 2011 and 2012 (the "Reviewed Seller Financial Statements") (b) management prepared balance sheet as of September 30, 2013 (the "Management Balance Sheet" and such date, the "Seller Balance Sheet Date") and related management prepared statement of profit and loss and cash flows as of and for the period ended September 30, 2013 (the "Management Financial Statements"). Except as may be indicated in the notes thereto, the Reviewed Seller Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated. The Seller Financial Statements have been prepared on a consistent basis throughout the periods indicated and are correct in all material respects and present fairly the financial condition and operating results of Seller as of the date(s) and during the period(s) indicated therein; provided, however, the Management Balance Sheet and the Management Financial Statements lack footnotes and other presentation items normally included only with reviewed financial statements and the Management Balance Sheet and the Management Financial Statements are subject to normal year-end adjustments, which, to the Knowledge of Seller, will not be material in the aggregate.

3.12 No Undisclosed Liabilities. Seller does not have any Liabilities, except for (a) Liabilities set forth on the Seller Balance Sheet, (b) immaterial Liabilities incurred after the Seller Balance Sheet Date in the ordinary course of business consistent with past practice, and (c) Liabilities disclosed in this Agreement and the Disclosure Schedule. Schedule 3.12 lists all of Seller's outstanding Indebtedness. The information set forth in Schedule 3.12 is true, correct and complete and no Person has any right, title or interest in the Indebtedness of Seller other than the holders of such Indebtedness indicated in Schedule 3.12.

3.13 Absence of Changes. Since September 30, 2013, Seller has conducted the Acquired Business only in the ordinary course of business consistent with past practice, and there has not been:

(a) any event, occurrence, development or state of circumstances or facts that has had a Material Adverse Effect;

(b) except as set forth on Schedule 3.13(b), any cancellation or other termination, or any notice in writing or other written communication of any intent to cancel or terminate, a material business relationship with Seller by or from any distributor, customer, supplier or vendor listed on Schedule 3.10(b) or 3.10(c);

(c) except as set forth on Schedule 3.13(c), any entry by Seller into, or material modification, amendment or cancellation of, any Contract relating primarily to the Acquired Assets

or the Acquired Business, which is not terminable by Seller without penalty upon no more than 30 days' prior notice and provides for payments by or to Seller in an amount in excess of \$50,000 over the term of such Contract;

(d) amended or terminated, or waived any material right or remedy under, any Assigned Contract;

(e) any material revaluation by Seller of any of the Acquired Assets, taken as a whole, including, without limitation, any write off of any Accounts Receivable other than in the ordinary course of business;

(f) any incurrence by Seller of any material Encumbrances (other than Permitted Encumbrances) in connection with the Acquired Business or the Acquired Assets, other than in the ordinary course of business;

(g) any sale, transfer, loss or other disposition of any assets of Seller that, if still owned by Seller, would constitute Acquired Assets, except in the ordinary course of business consistent with past practice;

(h) any disposing of or permitting to lapse of any rights to the use of any Acquired IP, or disposing of or disclosing (except in the ordinary course of its business) to any Person (other than representatives of Seller or Purchaser) any trade secret or other Acquired IP that is not a matter of public knowledge;

(i) any entry by Seller into any Contract to take any action described in this Section 3.11.

3.14 Disclosure. This Agreement, together with the Schedules and any certificates furnished or to be furnished to Purchaser pursuant to this Agreement, when taken together, do not contain any untrue statement by Seller of a material fact or omit to state a material fact necessary to make the statements made in such document by Seller, in light of the circumstances under which they were made, not misleading.

3.15 Litigation. There is no Proceeding pending or, to the knowledge of Seller, threatened (i) against, brought by, relating to or directly affecting Seller or any of the Acquired Assets or any of the officers and directors of Seller, (ii) which seeks to enjoin or obtain damages in respect of the transactions contemplated hereby or by the Other Transaction Documents or (iii) which seeks to prevent Seller from consummating the transactions contemplated hereby.

3.16 Tax Matters. Seller has filed all Tax Returns which are required to be filed by Seller. All such Tax Returns were true and correct in all respects when filed and were prepared in substantial compliance with all applicable laws. Seller has paid all Taxes attributable to the periods covered by such Tax Returns (whether or not shown on any Tax Return). To the knowledge of Seller, there are no Encumbrances for Taxes (other than Taxes not yet due and payable) upon any of the Acquired Assets. There is no basis for the assertion of any Proceeding which, if adversely determined, would result in an Encumbrance on the Acquired Assets or otherwise adversely affect Purchaser. There is no dispute or claim concerning any Tax Liability of Seller threatened, claimed, raised or assessed by any taxing authority. There are no Encumbrances for Taxes upon the Acquired Assets of Seller other than Encumbrances for Taxes not yet due and payable.

3.17 Solvency. Seller is not now insolvent and will not be rendered insolvent by any of the transactions contemplated by this Agreement. As used in this section, "insolvent" means that the sum of the debts and other probable Liabilities of Seller exceeds the present fair saleable value of Seller's assets. Immediately after giving effect to the consummation of the transactions contemplated by this Agreement: (i) Seller will be able to pay its Liabilities as they become due in the ordinary course of business; (ii) Seller will not have unreasonably small capital with which to conduct its present or proposed business; (iii) Seller will have assets (calculated at fair market value) that exceed its Liabilities; and (iv) taking into account all pending and threatened litigation, final judgments against Seller in actions for money damages are not reasonably anticipated to be rendered at a time when, or in amounts such that, Seller will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum probable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered), as well as all other obligations of Seller. The cash available to Seller, after taking into account all other anticipated uses of the cash, will be sufficient to pay all such debts and judgments promptly in accordance with their terms.

3.18 No Additional Representations. SELLER IS NOT MAKING ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER WITH RESPECT TO SELLER, THE ACQUIRED BUSINESS OR THE ACQUIRED ASSETS, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE 3. Without limiting the generality of the foregoing, Seller is not making any representation or warranty with respect to any projections, estimates or budgets heretofore delivered to or made available to Purchaser of future results of operations of the Acquired Business.

4. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller that, as of the date of this Agreement, each of the statements set forth in this Article 4 is true and correct in all respects, except as qualified by the disclosures made in this Agreement or as set forth in the schedules of Purchaser attached to this Agreement (which disclosures shall be deemed to qualify only the identified Section of this Article 4 and any other Section of this Article 4 that requires the same information without modification or additional explanation in order to provide effective notice of the nature and significance of the qualification).

4.1 Organization and Authority. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of California, and has full corporate power to execute and deliver this Agreement and the Other Transaction Documents to which it is a party and to effect the transactions contemplated by this Agreement and such Other Transaction Documents, and the execution, delivery and performance of this Agreement and such Other Transaction Documents by Purchaser have been duly authorized by all necessary corporate action on the part of Purchaser, and no other action on the part of Purchaser is necessary to authorize this Agreement or the Other Transaction Documents or the consummation of the transactions contemplated by this Agreement and the Other Transaction Documents. Purchaser has all corporate power and authority necessary to carry on its business as now being conducted and to own or lease and operate its properties as, and in the places where, such business is now conducted and such properties are now owned, leased or operated.

4.2 Authorization; Binding Obligations. This Agreement and the Other Transaction

Documents have been duly executed and delivered by Purchaser, and this Agreement and the Other Transaction Documents to which Purchaser is a party constitute the valid and legally binding obligations of Purchaser, enforceable against it in accordance with their terms, except to the extent that enforcement of the rights and remedies created by this Agreement and such Other Transaction Documents may be limited by bankruptcy and other similar laws of general application affecting the rights and remedies of creditors and by general equity principles.

4.3 No Violations.

(a) The execution, delivery and performance of this Agreement and the Other Transaction Documents by Purchaser, and the consummation by Purchaser of the transactions contemplated by this Agreement and such Other Transaction Documents do not and will not result in a breach or violation of any provision of Purchaser's certificate of incorporation or by-laws, or in a material violation of any statute, rule, regulation or ordinances applicable to Purchaser, or materially violate or result in a material breach of or constitute a material occurrence of default (or an event that might, upon the passage of time or the giving of notice, or both, constitute a material occurrence of default) under any provision of, result in acceleration or cancellation of any obligation under, or give rise to a right by any party to terminate or amend its obligations under, any Contract to which Purchaser is a party or by which Purchaser or its assets or properties are bound, or materially violate any order, judgment, decree, rule or regulation of any court or any Governmental Body having jurisdiction over Purchaser or any of its properties.

(b) Except as disclosed on Schedule 4.3(b), no consent, approval, order or authorization of, or registration, declaration or filing with, any Person is required to be obtained or made by Purchaser in connection with its execution and delivery of this Agreement and the Other Transaction Documents or the consummation of the transactions contemplated by this Agreement or such Other Transaction Documents.

4.4 Solvency. Purchaser is, and immediately after the consummation of the transactions contemplated by this Agreement, Purchaser will be, Solvent. For the purposes hereof, "Solvent" means that from the date of this Agreement through the Closing Date and for a period of 90 days after the Closing Date, (a) Purchaser, pursuant to or within the meaning of any bankruptcy law, shall not (i) commence a voluntary case; (ii) consent to the entry of an order for relief against it in an involuntary case; (iii) consent to the appointment of a custodian of it or for all or substantially all of its property; (iv) make a general assignment for the benefit of its creditors or (v) admit in writing its inability generally to pay its debts as the same become due and (b) a court of competent jurisdiction shall not have entered an order or decree under any bankruptcy law that (i) is for relief against Purchaser in an involuntary case; (ii) appoints a custodian for Purchaser or for all or substantially all of its property or (iii) orders the liquidation of Purchaser.

4.5 Financial Wherewithal; Financial Statements. Schedule 4.5 consists of (i) audited financial statements of Purchaser as of and for the fiscal year ended December 31, 2012. Such financial statements have been prepared in accordance with GAAP and present fairly the financial condition of Purchaser as of the dates indicated and the results of operations for the periods then ended, and are true, complete, correct and consistent with the books and records of Purchaser.

4.6 Brokers. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based on arrangements made by or on behalf of

Purchaser.

4.7 Disclosure. This Agreement, together with the schedules of Purchaser attached to this Agreement and any certificates furnished or to be furnished to Seller pursuant to this Agreement, when taken together, do not contain any untrue statement by Purchaser of a material fact or omit to state a material fact necessary to make the statements made in such document by Purchaser, in light of the circumstances under which they were made, not misleading.

4.8 No Additional Representations. PURCHASER IS NOT MAKING ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER WITH RESPECT TO PURCHASER, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE 4.

5. Covenants.

5.1 Access; Further Assurances. From time to time following the Closing, at Seller's expense, Seller shall take, or cause to be taken, such actions and shall execute and deliver, or cause to be executed and delivered, to Purchaser such additional instruments of conveyance and transfer, in each case, as Purchaser may reasonably request or as may be otherwise reasonably necessary to more effectively convey or transfer to, and vest in, Purchaser or put Purchaser in possession of and/or control of any part of the Acquired Assets. Without limiting the generality of the foregoing: (i) in the event that, after the Closing, Seller and/or Purchaser identify any Intellectual Property Right previously unknown or not disclosed to Purchaser that, pursuant to this Agreement, is included in the Acquired Assets or used for the Acquired Business, Seller shall take such actions and shall execute and deliver such documents, or cause its employees, consultants and agents to take, execute and/or deliver such actions and documents, as Purchaser may reasonably request or as may be otherwise reasonably necessary to assign to, and vest in, Purchaser all right, title and interest in and to such Intellectual Property Right; and (ii) at the reasonable request of Purchaser and at Purchaser's cost, Seller shall use its reasonable best efforts to enforce the provisions of any Employee Confidentiality Agreements, Consultant Confidentiality Agreements and any other nondisclosure or confidentiality agreements with Third Parties relating to any Acquired Assets (copies of which agreements Seller shall retain for two years after the termination of such agreements).

(a) If there exists on the Closing Date any default under or breach of any Assigned Contract, from and after the Closing, Seller shall cooperate with Purchaser and, at Purchaser's request and at Seller's expense, use Seller's reasonable best efforts to cure, or cause its Subsidiaries to cure, such default as soon as practicable. Purchaser shall not be deemed to have waived any of its rights under this Agreement with respect to any such default unless specifically waived in writing.

5.2 Conduct of Business Prior to Closing. Seller shall conduct and carry on the Acquired Business (including, without limitation, development and maintenance of supplier and customer relationships and maintenance and protection of Acquired IP) in the ordinary course substantially in the same manner as currently conducted, consistent with Seller's past practice. Seller shall maintain the Tangible Personal Property in good operating condition and repair, reasonable wear and tear excepted, and make all necessary renewals and replacements to such Tangible Personal Property. Seller shall not take any action or fail to take any commercially reasonable action that could reasonably be expected to result in the occurrence of any of the events or actions described in Sections 3.11(a) to 3.11(i). Seller shall give prompt notice to Purchaser, and Purchaser shall give

prompt notice to Seller, of the occurrence or non-occurrence of any event that could reasonably be expected to cause any of the conditions set forth in Sections 7.1(a) and (b) and 7.2(a) and (b) not to be satisfied; provided that delivery of any notice pursuant to this Section 5.2 shall not limit or otherwise affect any remedies available to the party receiving any such notice.

5.3 Non-Competition. From and after the Closing for a period of three (3) years, Seller shall not directly or indirectly, for itself or any Third Party, make, have made, use, sell, offer for sale, import, export, design, develop, operate, control, manufacture, distribute or license any products or technology that compete with any Acquired Product or the Acquired IP.

5.4 Tax Reporting and Allocation of Consideration.

(a) Effective as of the Closing, Seller and Purchaser acknowledge and agree that Seller will be responsible for and will perform all Tax withholding, payment and reporting duties with respect to any wages and other compensation paid by Seller to any of its employees prior to or on the Closing Date and Purchaser will be responsible for and will perform all Tax withholding, payment and reporting duties with respect to any wages and other compensation paid by Purchaser after the Closing Date to any of such employees hired by Purchaser.

(b) Effective as of the Closing, Purchaser and Seller recognize their mutual obligations pursuant to Section 1060 of the Code to timely file IRS Form 8594 with each of their respective federal income Tax returns. Accordingly, Purchaser and Seller agree to file such forms consistent with the Purchase Price allocation determined in accordance with Section 2.8 hereof. Purchaser and Seller further agree to cooperate with each other in the preparation of such forms for timely filing with each of their respective federal income Tax returns. Each of Seller and Purchaser further agrees to file all of its other Tax returns in a manner consistent with such allocation and not to make any allocation or take any Tax position that is contrary to such allocation, unless required to do so by applicable law and after prior written notice thereof to the other party. Seller and Purchaser further agree to consult with each other with respect to all issues related to such allocation in connection with any Tax audits, controversies or litigation.

(c) In the case of any real or personal property taxes or any similar ad valorem taxes attributable to the Acquired Assets for which Taxes are reported on a Tax return covering a period commencing before the Closing Date and ending thereafter ("**Straddle Period Taxes**"), any such Straddle Period Taxes shall be prorated between Purchaser and Seller on a per diem basis. The party required by law to pay any such Straddle Period Taxes (the "**Paying Party**") to the extent such payment exceeds the obligation of the Paying Party hereunder, shall provide the other party (the "**Non-Paying Party**") with proof of payment, and within ten (10) days of receipt of such proof of payment, the Non-Paying Party shall reimburse the Paying Party for the Non-Paying Party's share of such Straddle Period Taxes. The party required by law to file a Tax Return with respect to Straddle Period Taxes shall do so within the time period prescribed by law.

5.5 Legal Conditions to Transactions. Each of Seller and Purchaser shall use its reasonable best efforts to comply promptly with all legal requirements which may be imposed with respect to the transactions contemplated by this Agreement and shall reasonably cooperate with and furnish such information to each other as reasonably necessary in connection with any such requirements imposed upon any of them. Each of Seller and Purchaser shall take all reasonable actions necessary to obtain (and will reasonably cooperate with each other in obtaining) any consent, authorization, order or approval of, or any exemption by, any Governmental Body required to be

obtained or made by Seller or Purchaser in connection with the transactions contemplated by this Agreement.

5.6 Exclusivity. From and after the date of this Agreement and ending on the earlier of the Closing Date or the date this Agreement is terminated pursuant to Section 9.1 (the “**Exclusivity Period**”), Seller (including, without limitation, for this purpose its officers, directors, representatives, affiliates, employees and agents) will not, directly or indirectly, solicit, induce, facilitate, respond to (other than to advise such party of Seller’s obligations hereunder), initiate, engage in or enter into discussions or negotiations with, or encourage, or provide any information to, any Person concerning any sale, exclusive license or other form of disposition of any Acquired Assets (other than sales of Acquired Products in the ordinary course of Seller’s business) or any transaction involving the Acquired Business similar to any of the transactions contemplated by this Agreement (an “**Acquisition Proposal**”). During the Exclusivity Period, neither Seller nor such designated persons will enter into any Contracts or make any commitments to do or in connection with any of the foregoing. If Seller or any such designated person receives an Acquisition Proposal or any request for non-public information relating to any Acquired Assets or the Acquired Business, Seller shall promptly notify Purchaser of such Acquisition Proposal or request (including, without limitation, the identity of the Person making, and the terms of, such Acquisition Proposal or request), subject to any confidentiality obligations existing as of the date hereof.

5.7 Notification. Between the date of this Agreement and the Closing, Seller shall as soon as reasonably practicable notify Purchaser in writing if it becomes aware of (a) any fact or condition that causes or constitutes a material breach of any of Seller’s representations and warranties made as of the date of this Agreement or (b) the occurrence after the date of this Agreement of any fact or condition that would or be reasonably likely to (except as expressly contemplated by this Agreement) cause or constitute a material breach of any such representation or warranty had that representation or warranty been made as of the time of the occurrence of, or Seller’s discovery of, such fact or condition. Should any such fact or condition require any change to any Schedules, Seller shall as soon as reasonably practicable deliver to Purchaser a supplement to the Schedules specifying such change. Such delivery shall not affect any rights or obligations of Purchaser under Articles 7 and 8. During the same period, Seller also shall notify Purchaser as soon as reasonably practicable of the occurrence of any breach of any covenant of Seller in this Article 5 or of the occurrence of any event that may make the satisfaction of the conditions in Article 7 impossible or unlikely.

5.8 Payment of Other Excluded Liabilities. In addition to payment of Taxes pursuant to Section 2.4(b), Seller shall pay, or make adequate provision for the payment, in full all of the Excluded Liabilities and other liabilities of Seller under this Agreement. If any such liabilities are not so paid or provided for, and Purchaser reasonably determines that failure to pay such liabilities will materially impair Purchaser’s use or enjoyment of the Acquired Assets or conduct of the business previously conducted by Seller with the Acquired Assets, Purchaser may, at any time after the Closing Date, elect to pay the applicable liabilities directly (but shall have no obligation to do so) and set off and deduct the full amount of all such payments from the next quarterly installment of the Deferred Purchase Price due and payable to Seller; provided that Purchaser shall have provided to Seller at least 30 days’ advance notice of its intention to make such payments during which period Seller shall have the opportunity to satisfy such obligations on its own; provided, further, that upon written request by Seller, Purchaser shall refrain from making such a payment if Seller contests the validity or amount of the applicable liabilities by appropriate proceeding diligently conducted in good faith so long as such proceeding or the delay in satisfaction of the obligation in question does not materially impair Purchaser’s use or enjoyment of the Acquired Assets or conduct of the business

previously conducted by Seller with any existing customer of Purchaser. Purchaser shall receive full credit under this Agreement for all payments so made.

5.9 Restrictions on Dissolution. Unless the parties otherwise mutually agree, Seller shall not dissolve until the later of (a) the lapse of more than three (3) year after the Closing Date or (b) the date on which any claim that has been made by Purchaser under Section 8.2 on or prior to, and remains unresolved as of, the third anniversary of the Closing Date is finally determined in accordance with Article 8.

5.10 Retention and Access to Records. For a period of at least three years from the Closing Date: (i) Purchaser shall maintain and make available to Seller and Seller's authorized representatives for inspection and to assist Seller, during normal business hours and on at least two days' written notice, all Business Records delivered to Purchaser as part of the Acquired Assets and all other information reasonably requested by Seller, to enable Seller to prepare tax returns or deal with tax audits; (ii) Purchaser shall permit Seller and Seller's authorized representatives to have reasonable access to such other information regarding the Acquired Business relating to periods up to and including the Closing Date as may be necessary to enable Seller to dissolve and liquidate and to collect any accounts receivable due to Seller as of the Closing Date; and (iii) Seller shall maintain and make available to Purchaser for inspection, during normal business hours and on at least two days' written notice, all Business Records retained by Seller as Excluded Assets: to the extent copies have not been previously provided to Purchaser and solely for a valid business purpose related to the Acquired Business and/or the Acquired Assets.

5.11 Bulk Sales Law. Seller and Purchaser shall comply with the provisions of any laws or tax laws with respect to bulk transfers of New Jersey in connection with the transactions contemplated by this Agreement. Purchaser and Seller shall cooperate with each other in completing and simultaneously filing the Notification of Sale, Transfer or Assignment in Bulk (Form C-9600) and the Asset Transfer Tax Declaration (Form TTD) with the State of New Jersey, Department of Treasury, Division of Taxation (the "Division"). Purchaser shall withhold from the Purchase Price and deposit with Purchaser's counsel the amount requested by the Division to be so withheld, if any. Such withheld amount shall not be released to the Seller until the Division informs the Purchaser that it may forward the withheld amount to the Seller without incurring liability to the State of New Jersey for doing so. Upon being so informed, Purchaser's counsel shall promptly deliver to Seller the withheld amount less any amount required to be paid to the Division.

5.12 Returns; Damages Goods and Discounts.

(a) Any products sold and shipped by Seller prior to the Closing Date that is returned to Purchaser after the Closing Date ("Post-Closing Returns") will be the responsibility of Purchaser. Purchaser will make such settlement with each customer returning such merchandise as Purchaser reasonably deems appropriate, and Purchaser will retain title to such products. Purchaser shall set-off against the Deferred Purchase Price owing to Seller the amount of any such Post-Closing Returns in accordance with the procedure set forth in Section 8.4.

(b) Purchaser and Seller understand and acknowledge that there may be unknown and undisclosed liabilities as to the Acquired Business such as damaged goods and year-end discounts related to the sale of products by Seller prior to Closing. Purchaser shall have one hundred and eighty (180) days from the Closing Date to provide Seller with written notification of any adjustment to the Purchase Price ("Post-Closing Adjustment") required as a result of such

liabilities, which written notification shall contain a detailed analysis of the basis for such adjustment. Purchaser shall set-off against the Deferred Purchase Price owing to Seller the amount of any such Post-Closing Adjustment in accordance with the procedure set forth in Section 8.4.

5.13 Temporary Retention of Computer Equipment. Seller shall retain the computer equipment set forth in Schedule 5.13 (the “Retained Computer Equipment”) until June 30, 2014. The Retained Computer Equipment is to remain from and after the Closing the property of Purchaser and Seller agrees not to damage, sell or destroy the Retained Computer Equipment or delete or alter any information stored on the Retained Computer Equipment without the prior written consent of Purchaser. On or about June 30, 2014, Seller shall coordinate with Purchaser regarding the delivery of the Retained Computer Equipment to Purchaser, via the delivery method directed by Purchaser and at Purchaser’s expense.

5.14 Change of Seller Corporate Name. Within three (3) Business Days after the Closing Date, Seller shall (a) change its corporate name and any trade or other names to names that are sufficiently dissimilar from “Briarpatch” (or any derivatives thereof) or any other previous corporate name or trade or other name previously used by Seller (or any derivatives thereof), in each case, to the satisfaction of Purchaser, in its sole discretion, and (b) discontinue its use of the name “Briarpatch” (or any derivatives thereof) or any other previous corporate name or trade or other name previously used by Seller (or any derivatives thereof), in each case, for any and all purposes whatsoever. Notwithstanding the foregoing, Seller may maintain a bank account under the name “Briarpatch” for the sole purpose of depositing accounts receivable and paying open invoices and other expenses until August 31, 2014.

6. Confidential Nature of Information.

6.1 Public Announcements. Neither Seller nor Purchaser shall issue any press release or publicly disseminate any information concerning this Agreement or the transactions contemplated by this Agreement without the other party’s prior written consent, except as provided in Section 10.6.

6.2 Protection of Confidential Information.

(a) Except as provided in Section 6.2(b), after the Closing and for a period of five years following the Closing Date, Seller agrees that Seller and its Affiliates will keep confidential all of the Confidential Information of Purchaser received from, or made available by, Purchaser in the course of the transactions contemplated by this Agreement and any and all Confidential Information of Seller that in any way relates to or pertains to the Acquired Assets. For purposes of this Section 6.2, “Confidential Information” shall mean any of the confidential information of Seller pertaining or relating in any way to the Acquired Assets and any confidential information transferred under this Agreement, including, without limitation, confidential information included in the Acquired IP and any trade secrets related to the Acquired Products, and other confidential data and formula, information about business plans and strategies, marketing ideas and concepts, especially with respect to unannounced products and services, present and future product plans, pricing, volume estimates, financial data, product enhancement information, business plans, marketing plans, sales strategies, customer information (including, without limitation, customers’ applications and environments), market testing information, development plans, specifications, customer requirements, configurations, designs, plans, drawings, apparatus, sketches, software, hardware, data, prototypes, connecting requirements or other technical and business information.

(b) Notwithstanding the foregoing, such Confidential Information shall not be deemed confidential and no party to this Agreement shall have any obligation with respect to any such Confidential Information that:

- (i) was already known to such party;
- (ii) is or becomes publicly known through publication, inspection of a product, or otherwise, and through no negligence or other wrongful act of such party;
- (iii) is received by such party from a Third Party without similar restriction and without breach of this Agreement;
- (iv) is independently developed by such party; or
- (v) is subject to Section 6.2(c), required to be disclosed under applicable law or judicial process;

provided, however, that the exceptions listed in clauses (i), (iii) or (iv) above shall not limit Seller's obligations to maintain the confidentiality of trade secrets or other Confidential Information which is conveyed to Purchaser as part of the Acquired Assets.

(c) If any party to this Agreement (or any of its Affiliates) is requested or required (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, subject to the confidentiality obligations under this Agreement, such party will promptly notify the other party of such request or requirement and will cooperate with such other party's efforts to seek an appropriate protective order or other appropriate remedy. If, in the absence of a protective order or the receipt of a waiver under this Agreement, any party (or any of its Affiliates) is in the written opinion of such party's counsel compelled to disclose the Confidential Information or else stand liable for contempt or suffer other censure or significant penalty, such party (or its Affiliate) may disclose only so much of the Confidential Information to the Third Party compelling disclosure as is required by law. In such case, such party will exercise (and will cause its Affiliates to exercise their) reasonable efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to such Confidential Information.

(d) The terms and conditions of this Agreement and the Other Transaction Documents, and all Schedules and other attachments and amendments to this Agreement and to the Other Transaction Documents, shall be considered Confidential Information protected under this Article 6.

7. Closing Conditions.

7.1 Conditions to Purchaser's Obligation to Close. The obligations of Purchaser to purchase and pay for the Acquired Assets and perform its obligations at the Closing are subject to the satisfaction, at or before the Closing, of all the conditions set forth in this Section 7.1. Seller shall use its reasonable best efforts to satisfy or cause to be satisfied each of such conditions. Purchaser may waive any or all of such conditions in whole or in part without prior notice. No such waiver of a condition shall, however, constitute a waiver by Purchaser of any of its other rights or remedies, at law or in equity, if Seller shall breach or be in default under any of its representations, warranties or

covenants made under or pursuant to this Agreement.


(a) Accuracy of Representations and Warranties. All representations and warranties made pursuant to Article 3 shall have been true and correct as of the date of this Agreement, and shall be true and correct as of the Closing Date as though made as of the Closing Date (except to the extent such representations or warranties specify an earlier date), except where the failure of such representations and warranties to be true or correct (without giving effect to any materiality qualifications contained in the text of such representation or warranty) would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Seller may prepare and deliver to Purchaser not later than two business days prior to the Closing amended and restated disclosure schedules pursuant to Article 3 (the "**Updated Disclosure Schedule**"), subject to Purchaser's approval in accordance with Section 7.1(h).

(b) Seller's Performance. Seller shall have performed, satisfied and complied in all material respects with all covenants, obligations and agreements required by this Agreement to be performed, satisfied or complied with by Seller at or before the Closing.

(c) No Seller Material Adverse Effect. There shall not have occurred on or prior to the Closing Date any change, event, violation, inaccuracy, circumstance or effect of any character that has had, or is reasonably likely to have, a Material Adverse Effect on the Acquired Business or the Acquired Assets.

(d) Certification. Purchaser shall have received a certificate, dated the Closing Date, signed by the chief executive officer of Seller certifying that the conditions specified in Sections 7.1(a) and 7.1(b) have been fulfilled. Such certificate shall constitute a representation and warranty of Seller under this Agreement.

(e) Agreement as to Inventory Book Value. The parties have mutually agreed to the Inventory Book Value in accordance with Section 2.8.

(f) Assignment of Required Licenses. Seller shall have obtained and provided evidence satisfactory to Purchaser that each of the Required Licenses have been assigned to Purchaser at no cost to Purchaser and on such terms and each with an assignment in a form that is acceptable to Purchaser *in its reasonable discretion.* 

(g) Instruments of Transfer. Purchaser shall have received instruments of transfer or conveyance (including, without limitation, bill of sale and assignments of Intellectual Property Rights), each in form and substance reasonably satisfactory to Purchaser and signed by Seller, as Purchaser may reasonably request or as may be otherwise necessary to evidence and effect the sale, transfer, assignment, conveyance and delivery of the Acquired Assets to Purchaser and to put Purchaser in actual possession or control of the Acquired Assets at such time as Seller has received payment of the Closing Payment as contemplated by Section 2.7.

(h) Transfer of Tangible Personal Property. Seller has delivered or is prepared to deliver to Purchaser promptly following the Closing, all at the sole cost and expense of Purchaser, all Tangible Personal Property (including, without limitation, all tangible embodiments of the Acquired IP and all of the other Acquired Assets and the Business Records) to Purchaser at such time and manner as mutually agreed upon prior to the Closing.

(i) Secretary's Certificate. Seller shall deliver a certificate of the Secretary of Seller, dated as of the Closing and in form and substance reasonably satisfactory to Purchaser, certifying (i) Seller's certificate of incorporation and Bylaws currently in effect, (ii) the resolutions adopted by Seller's board of directors and stockholders to authorize this Agreement and the Other Transaction Documents and the transactions contemplated hereby and thereby, and (iii) the incumbency and signatures of the officers of Seller executing this Agreement and the Other Transaction Documents, and the other instruments and documents executed by or on behalf of Seller pursuant to this Agreement or otherwise in connection with the transactions contemplated hereby copies of which actions shall be attached to such certificate.

(j) Release of Encumbrances. Proof satisfactory to Purchaser, in its reasonable discretion, of the release of all Encumbrances on the Acquired Assets and the delivery of evidence of termination of lien filings and other documents required to be filed with any Governmental Body in order to terminate all such Encumbrances.

(k) Evidence of Seller Name Change. Seller shall deliver evidence of the change to the corporate name of Seller in accordance with Section 5.14 hereof in a form reasonably acceptable to Purchaser.

7.2 Conditions to Seller's Obligation to Close. The obligations of Seller to sell and transfer the Acquired Assets and perform its obligations at the Closing are subject to the satisfaction, at or before the Closing, of all the conditions set forth in this Section 7.2. Purchaser shall use its reasonable best efforts to satisfy or cause to be satisfied each of such conditions. Seller may waive any or all of such conditions in whole or in part without prior notice. No such waiver of a condition shall, however, constitute a waiver by Seller of any of its other rights or remedies, at law or in equity, if Purchaser shall breach or be in default under any of its representations, warranties or covenants made under or pursuant to this Agreement.

(a) Accuracy of Representations and Warranties. All representations and warranties made pursuant to Article 4 shall have been true and correct as of the date of this Agreement, and shall be true and correct as of the Closing Date as though made as of the Closing Date (except to the extent such representations or warranties specify an earlier date), except where the failure of such representations and warranties to be true or correct (without regard to any materiality qualifications contained therein) would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Seller.

(b) Purchaser's Performance. Purchaser shall have performed, satisfied and complied in all material respects with all covenants and agreements required by this Agreement to be performed, satisfied or complied with by Purchaser at or before the Closing.

(c) Certification. Seller shall have received a certificate, dated the Closing Date, signed by the chief executive officer of Purchaser certifying that the conditions specified in Sections 7.2(a) and 7.2(b) have been fulfilled. Such certificate shall constitute a representation and warranty of Seller under this Agreement.

(d) Agreement as to Inventory Book Value. The parties have mutually agreed to the Inventory Book Value listed on Schedule 7.2(d) in accordance with Section 2.8.

(e) Approval of Documentation. Purchaser shall have delivered such other

certificates, instruments and other documents as Seller may reasonably request to consummate the transactions contemplated by this Agreement and the Other Transaction Documents.

(f) Consents to Assignment. All consents, approvals and waivers listed on Schedule 7.1(f) shall have been obtained by Seller.

(g) Promissory Note and Consulting Agreement. Purchaser shall have executed and delivered to Seller the Promissory Note, the Consulting Agreement and any Other Transaction Documents to which Purchaser is a party.

(h) Secretary's Certificate. Purchaser shall deliver a certificate of the Secretary of Purchaser, dated as of the Closing and in form and substance reasonably satisfactory to Seller, certifying (i) Purchaser's certificate of incorporation and Bylaws currently in effect, (ii) the resolutions adopted by Purchaser's board of directors and stockholders to authorize this Agreement and the Other Transaction Documents and the transactions contemplated hereby and thereby, and (iii) the incumbency and signatures of the officers of Purchaser executing this Agreement and the Other Transaction Documents, and the other instruments and documents executed by or on behalf of Purchaser pursuant to this Agreement or otherwise in connection with the transactions contemplated hereby copies of which actions shall be attached to such certificate.

7.3 Contemporaneous Effectiveness. All acts and deliveries prescribed by this Article 7, regardless of chronological sequence, will be deemed to occur contemporaneously and simultaneously on the occurrence of the last act or delivery, and none of such acts or deliveries will be effective until the last of the same has occurred.

8. Indemnification; Infringement.

8.1 Survival of Representations and Warranties. The representations and warranties of Purchaser and Seller contained in this Agreement shall survive the Closing for 12 months after the Closing Date, except that the representations and warranties contained in Sections 3.1 (Organization and Authority), 3.2 (Authorization: Binding Obligation), 3.5 (Title to Assets), 3.6 (Intellectual Property), 3.8 (Brokers) and 3.16 (Taxes) and Sections 4.1 (Organization and Authority) and 4.2 (Authorization: Binding Obligation) shall survive until the applicable statute of limitations.

8.2 General Agreement to Indemnify.

(a) Seller shall indemnify, defend and hold harmless Purchaser and the other Indemnified Parties of Purchaser (including any directors, officers, employees, representatives and other Affiliates of Purchaser) from and against any and all claims, actions, suits, proceedings, liabilities, obligations, losses, diminution in value and damages, amounts paid in settlement, interest, costs and expenses (including, without limitation, reasonable attorney's fees, court costs and other out-of-pocket expenses incurred in investigating, preparing or defending the foregoing) (collectively, "Losses") incurred or suffered by Purchaser or any other Indemnified Party of Purchaser to the extent that the Losses arise by reason of, or result from, in whole or in part:

(i) the failure of any representation or warranty of Seller contained in this Agreement to have been true in all respects when made and as of the date of this Agreement and

as of the Closing Date, except as expressly provided otherwise in this Agreement;

(ii) the material breach by Seller of any of its covenants contained in this Agreement; and

(iii) fraud, intentional misrepresentation or willful misconduct by Seller (or any of its agents) in connection with this Agreement or the transactions contemplated hereby; and

(iv) the Excluded Liabilities.

(b) Purchaser shall indemnify, defend and hold harmless Seller and the other Indemnified Parties of Seller (including any directors, officers, employees, representatives and other Affiliates of Seller) from and against any and all Losses incurred or suffered by Seller or any other Indemnified Party of Seller to the extent that the Losses arise by reason of, or result from, in whole or in part:

(i) the failure of any representation or warranty of Purchaser contained in this Agreement to have been true in all respects when made and as of the date of this Agreement and as of the Closing Date, except as expressly provided otherwise in this Agreement;

(ii) the material breach by Purchaser of any of its covenants contained in this Agreement;

(iii) the Assumed Liabilities; and

(iv) fraud, intentional misrepresentation or willful misconduct by Purchaser (or any of its agents) in connection with this Agreement or the transactions contemplated hereby; and

(v) any liability arising out of Purchaser's operation of the Acquired Business after the Closing (for which liability Seller is not obligated to indemnify Purchaser under this Agreement).

(c) Whether or not the Indemnifying Party chooses to defend or prosecute any Third-Party Claim or Infringement Claim, both parties to this Agreement shall cooperate in the defense or prosecution of such claim and shall furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested in connection therewith or as provided in Section 5.1.

(d) The parties' indemnity obligations under this Agreement shall survive the Closing Date.

8.3 General Procedures for Indemnification.

(a) The Indemnified Party seeking indemnification under this Agreement shall promptly notify the Indemnifying Party of the assertion of any claim, or the commencement of any action, suit or proceeding by any Third Party or other matter in respect of which indemnity may be sought under this Agreement and will give the Indemnifying Party such information with respect to such claim, action, suit, proceeding or matter as the Indemnified Party has or the Indemnifying Party

may reasonably request, but failure to give such notice shall not relieve the Indemnifying Party of any liability under this Agreement (except to the extent that the Indemnifying Party has suffered actual prejudice by such failure). The Indemnifying Party shall have the right, but not the obligation, exercisable by written notice to the Indemnified Party within 30 days of receipt of notice from the Indemnified Party of the commencement of or assertion of any claim, action, suit or proceeding by a Third Party in respect of which indemnity may be sought under this Agreement (a “**Third-Party Claim**”), to assume the defense and control the settlement of such Third-Party Claim.

(b) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate in (but not control), at its own expense, the defense of any Third-Party Claim that the other is defending, as provided in this Agreement.

(c) The Indemnifying Party, if it has assumed the defense of any Third-Party Claim as provided in this Agreement, shall not consent to a settlement of, or the entry of any judgment arising from, any such Third-Party Claim without the Indemnified Party’s prior written consent (which consent shall not be unreasonably withheld or delayed). Without limiting the foregoing, the Indemnifying Party shall not, without the Indemnified Party’s prior written consent, enter into any compromise or settlement that (i) commits the Indemnified Party to take, or to forbear to take, any action or (ii) does not provide for a complete release with respect to such Third-Party Claim by such Third Party of the Indemnified Party. The Indemnified Party shall have the right to settle any Third-Party Claim involving damages for which the Indemnifying Party has not assumed the defense pursuant to this Section 8.3 with the written consent of the Indemnifying Party, which shall not be unreasonably withheld or delayed.

(d) If the Indemnifying Party fails to provide the Indemnified Party written notice that the Indemnifying Party shall assume the defense of a Third-Party claim or otherwise fails to vigorously prosecute the defense of a Third-Party Claim, the Indemnified Party shall be entitled to assume the defense of such Third-Party Claim and any Losses incurred by the Indemnified Party in connection therewith shall be promptly paid by the Indemnifying Party.

8.4 Right of Set-Off.

(a) In order to satisfy any indemnification obligations of Seller pursuant to this Article 8, upon notice to the Seller specifying in reasonable detail the basis therefor, the Purchaser shall have the right, (subject to Section 8.6), to set-off the amount of any Losses incurred or suffered by Purchaser or the other Indemnified Parties of Purchaser against any portion of the Deferred Purchase Price otherwise due to Seller pursuant to Section 2.7. In the case of Third Party Claims brought but not resolved prior to the date that any portion of the Deferred Purchase Price is due, Purchaser will have the right (subject to Section 8.6) to set-off and withhold the total amount of any commercially reasonable reserve or write-off recorded by Purchaser with respect to any Losses. The exercise of such right of set off by the Purchaser shall not constitute an event of default under this agreement or the Promissory Note; provided, however, that if Seller reasonably disputes such right of set-off and it is later determined that Purchaser did not have any right of set-off, Seller shall be entitled to receive from Purchaser the fees incurred in connection with such dispute, including, without limitation, reasonable paralegals’, attorneys’ and experts’ fees and expenses, whether incurred without the commencement of a suit, in any trial, arbitration, or administrative proceeding plus interest due on the amount incorrectly set-off at the rate of 10% per annum. In the event that it is determined that Purchaser did have the right of set-off Purchaser shall be entitled to receive from Seller the fees incurred in connection with such dispute, including, without limitation, reasonable

paralegals', attorneys' and experts' fees and expenses, whether incurred without the commencement of a suit, in any trial, arbitration, or administrative proceeding. Notwithstanding the foregoing no money shall be set-off in excess of the liability cap set forth in Section 8.6(b).

(b) Purchaser shall exercise its rights to set-off set forth in Section 8.4(a) prior to seeking payment from Seller relating to any indemnification obligations of Seller pursuant to this Article 8.

(c) Any such set-offs by Purchaser shall represent a reduction of the Purchase Price to the extent ultimately determined to be Losses, subject to Section 8.6. The parties agree that to the greatest extent possible, the payment of any indemnity in accordance with this Section 8.4 shall be treated as an adjustment to the Purchase Price paid by Purchaser under this Agreement for Tax purposes.

8.5 Dispute Resolution.

(a) Prior to taking any formal legal action against each other, the parties shall first in good faith consult among appropriate officers of Purchaser and Seller and attempt to resolve the dispute, which consultation shall begin promptly after one party has delivered to the other a written request for consultation. If the dispute, claim or controversy cannot be settled or resolved amicably between the parties within sixty (60) days following the written request for consultation regarding same, then either party may pursue any remedies available to it, whether at law or equity.

(b) Notwithstanding anything to the contrary in Section 8.6, in the event of alleged violation or breach of this Agreement by a party (including, without limitation, unauthorized disclosure of Confidential Information), the other party may seek temporary injunctive relief from any court of competent jurisdiction.

(c) If any part of this Section 8.5 is held to be unenforceable, it shall be severed and shall not affect any other part of this Section 8.5.

8.6 Limitations on Indemnification Obligations.

(a) Seller shall not be obligated to indemnify Purchaser for any Losses incurred by Purchaser or other Indemnified Parties of the Purchaser under Section 8.2 until the Losses for which Purchaser is entitled to indemnification under this Agreement exceed \$15,000 in the aggregate, in which case, upon exceeding such threshold amount, Purchaser shall be entitled to recover all such Losses (including such initial threshold amount).

(b) Notwithstanding the foregoing and subject to the limitations set forth in Section 8.6(d) below, the maximum amount of aggregate Losses payable to Purchaser or other Indemnified Parties of the Purchaser hereunder with respect to indemnification hereunder pursuant to Section 8.2(a)(i) shall not exceed the actual aggregate amount of consideration received by Seller pursuant to this Agreement.

(c) The amount of any Losses for which indemnification is provided under this Agreement shall be net of any amounts actually recovered by the Indemnified Parties from third parties (including amounts recovered under insurance policies) with respect to such Losses.

(d) The limitations set forth in this Section 8.6 shall not apply to Seller's indemnification obligations under this Agreement arising out of, relating to or resulting from (i) the material breach by Seller of any of its covenants contained in this Agreement; (ii) fraud, intentional misrepresentation or willful misconduct by Seller (or any of its agents) in connection with this Agreement or the transactions contemplated hereby; and (iii) the Excluded Liabilities.

8.7 Sole and Exclusive Remedy. Following the Closing Date, except in the case of fraud, willful misconduct or intentional misrepresentation, the indemnification provided in this Article 8 shall be the sole and exclusive remedy after the Closing Date for damages available to the parties to this Agreement for breach of any of the terms, conditions, representations, warranties or covenants contained in this Agreement, or any right, claim or action arising from the transactions contemplated by this Agreement; provided, however, that the parties may seek an injunction or injunctions to prevent a breach of, or specific performance to enforce specifically the provisions of, any covenant contained in this Agreement in any court of competent jurisdiction.

9. Termination.

9.1 Right to Terminate. This Agreement may be terminated at any time prior to the Closing Date by written notice or agreement as follows:

(a) by mutual agreement of Seller and Purchaser;

(b) by either Purchaser or Seller if (i) there shall be a nonappealable order of a federal or state court in effect preventing consummation of the transactions contemplated by this Agreement or (ii) there shall be any action taken, or any statute, rule, regulation or order enacted, promulgated or issued or deemed applicable to the transactions contemplated by this Agreement by any Governmental Body that would make consummation of such transactions illegal or improper;

(c) by Purchaser if Seller shall have breached any of its representations or warranties, or failed to perform or otherwise breached any of its covenants or other agreements, contained in this Agreement which breach or failure to perform would cause the conditions set forth in Section 7.1(a) or 7.1(b) to not be satisfied and is not cured or performed within 15 days after Seller's receipt of Purchaser's written notice of such breach or failure;

(d) by Seller if Purchaser shall have breached any of its representations or warranties, or failed to perform or otherwise breached any of its covenants or other agreements, contained in this Agreement which breach or failure to perform would cause the conditions set forth in Section 7.2(a) or 7.2(b) to not be satisfied and is not cured or performed within 15 days after Purchaser's receipt of Seller's written notice of such breach or failure; or

(e) by either Purchaser or Seller if the Closing has not occurred on or prior to February 28, 2014; provided that a party to this Agreement may not terminate this Agreement pursuant to this Section 9.1(e) if the failure to close results primarily from such party's breach of any representation, warranty or covenant of such party contained in this Agreement.

9.2 Effects of Termination. If any party terminates this Agreement pursuant to Section 9.1, all obligations of the parties under this Agreement will terminate; provided that the provisions of Article 10 will survive termination and remain in full force and effect in accordance with their terms. In the event of any such terminations, the parties to this Agreement will remain liable for any

material breach of this Agreement occurring prior to the effective date of such termination.

10. Miscellaneous Provisions.

10.1 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) upon receipt if mailed by certified or registered mail, return receipt requested, (ii) the day after it is sent if sent for next day delivery via Federal Express or other recognized express carrier, fee prepaid, (iii) when transmitted if sent via facsimile or electronic mail with receipt confirmed, or (iv) upon receipt if delivered personally, addressed as follows or to such other address or addresses of which the respective party shall have notified the other.

(a) If to Seller, to:
Briarpatch Inc.
c/o John Donofrio
301 Glen Avenue
Short Hills, NJ 07078
Email: jdonofrio527@gmail.com

With a copy to:
Saiber LLC
18 Columbia Turnpike, Suite 200
Florham Park, NJ 07932
Fax: (973) 622-3349
Attn: Ira B Marcus, Esq.
Email: imarcus@saiber.com

(b) If to Purchaser:

University Games Corporation
2030 Harrison Street
San Francisco, CA 94110
Fax: (415) 503-0085
Attn: A. Robert Moog
Email: moog@ugames.com

With a copy to:
Doty Barlow Britt & Thieman LLP
260 Sheridan Avenue, Suite 200
Palo Alto, CA 94306
Fax: (650) 327-0101
Attn: Stanley E. Doty, Esq.
Email: stan@dotylaw.com

10.2 Expenses. Except as otherwise provided in this Agreement, each party to this Agreement will bear all the fees, costs and expenses that are incurred by it in connection with the transactions contemplated by this Agreement, whether or not such transactions are consummated.

10.3 Entire Agreement; Amendment; Waiver. The agreement of the parties, which is comprised of this Agreement, the Schedules and Exhibits to this Agreement and the Other Transaction Documents, sets forth the entire agreement and understanding between the parties and supersedes any prior oral or written agreements or contract relating to the subject matter of this Agreement (including, without limitation, that certain letter of intent, dated December 11, 2013, from Purchaser to Seller). This Agreement may be amended or modified only by a written instrument signed by the parties. The party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by the other party unless made by written instrument signed by the waiving party.

10.4 Assignment; Binding Effect; Severability. This Agreement may not be assigned by either party to this Agreement without the other party's written consent. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the permitted successors, legal representatives and permitted assigns of each party to this Agreement. The provisions of this Agreement are severable, and in the event that any one or more provisions are deemed illegal or unenforceable the remaining provisions shall remain in full force and effect.

10.5 Governing Law; Forum. This Agreement shall be governed by and construed and enforced in accordance with the applicable laws of the State of California without regard to any principles governing conflicts of laws. All actions and proceedings arising out of or relating to this Agreement initiated by Seller will be heard and determined in a state or a federal court located in Santa Clara County, California. All actions and proceedings arising out of or relating to this Agreement initiated by Purchaser will be heard and determined in a state or a federal court located in Essex County, New Jersey. The parties to this Agreement hereby irrevocably submit to the exclusive jurisdiction of such courts in any such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding.

10.6 Public Announcement. Neither Seller nor Purchaser shall, without the approval of the other party, make any press release or other public announcement concerning any terms of the transactions contemplated by this Agreement or any Other Transaction Document, except as and to the extent that any such party shall be so obligated by law, in which case the other party shall be advised and the parties shall use their reasonable best efforts to cause a mutually agreeable release or announcement to be issued; provided, however, that the foregoing shall not preclude communications or disclosures necessary to (a) implement the provisions of this Agreement or (b) following Closing, simply serve notice that the transaction took place.

10.7 No Third-Party Beneficiaries. Except as expressly provided by this Agreement, nothing in this Agreement, express or implied, is intended to or shall (a) confer on any Person other than the parties to this Agreement and their respective permitted successors or assigns any rights (including, without limitation, third party beneficiary rights), remedies, obligations or liabilities under or by reason of this Agreement or (b) constitute the parties to this Agreement as partners or as participants in a joint venture. Except as expressly provided by this Agreement, this Agreement shall not provide Third Parties with any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to the terms of this Agreement.

10.8 Specific Performance. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their

specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity and the parties hereby agree to waive any requirements for posting a bond in connection with any such action.

10.9 Other Remedies. Except as expressly provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy.

10.10 Attorneys' Fees. Should any proceeding, litigation or arbitration be commenced between the parties concerning the rights or obligations of the parties under this Agreement, any of its Exhibits or Schedules or any instruments of sale, transfer or conveyance entered into in conjunction with the Agreement, the party prevailing in such proceeding, litigation or arbitration shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees, court and other costs incurred in such litigation. This amount shall be determined by the court in such proceeding, litigation, arbitration or in a separate action brought for that purpose.


10.11 Counterparts and Signatures. This Agreement may be executed in one or more counterparts and each of such counterparts shall be deemed to be an original for all purposes, and all of such counterparts shall together constitute one and the same instrument. It is agreed that an original, photocopy, PDF or facsimile copy of a signature may serve as an original. No objection shall be raised as to the authenticity of any signature due solely to the fact that said signature is represented in a photocopy, PDF or facsimile copy.

IN WITNESS WHEREOF, each of Purchaser and Seller has caused this Agreement for the Purchase and Sale of Assets to be duly executed on its behalf by its duly authorized officer as of the date first written above.

BRIARPATCH INC.

By: 
Name: John Donofrio
Title: President

UNIVERSITY GAME CORPORATION

By: 
Name: A. Robert Moog
Title: President and Chief Executive Officer

Schedule 3.6(a)

Registered IP

Seller has registered the following trademarks with the United States Patent and Trademark Office:

1. "BRIARPATCH" broad form registered June 23, 1998, Registration Number 2167568/International Registration Number 1052908/Serial Number 75304101. This trademark was renewed in 2007 (20071218).
2. "BRIARPATCH" with Bee logo registered May 31, 2011, Registration Number 3969884/Serial Number 85139995.
3. "BRIARPATCH" in Color Blue without logo registered May 31, 2011, Registration Number 3969879/Serial Number 85139912.
4. FLIP 5 registered September 22, 2009, Registration Number 3685669/Serial Number 77682047.
5. FLIP FIVE registered April 14, 2009, Registration Number 3607156/Serial Number 77379168.
6. WONDER TUBES registered May 31, 2011, Registration Number 3970649/Serial Number 85153409.
7. TIC TAC TURN registered October 4, 2011, Registration Number 4035877/Serial Number 85045742.

Seller has registered the following copyrights with the United States Copyright Office:

1. Good Night Moon Game registered on February 11, 2009, Registration Number VA0001717082.
2. DINO DUEL CARD GAME registered on February 11, 2011, Registration Number VA0001717073.
3. Fancy Nancy Posh Bedroom Game registered on February 11, 2001, Registration Number VA0001717077.
4. Frog & Toad Adventure Game registered on March 30, 2009, Registration Number VA0001678272.

5. I Spy Eagle Eye, Jr. Game registered on February 11, 2009, Registration Number VA0001694841.
6. I Spy Private Eye Game registered on April 22, 2008, Registration Number VA0001669238.
7. I Spy – Ready Set Silhouette! registered on March 30, 2009, Registration Number VA0001678326.
8. Sudoku – the ultimate puzzle game registered on March 19, 2007, Registration Number VA0001428347.
9. Thomas & Friends TM Mix 'n' match bingo registered on March 19, 2007, Registration Number VA0001428345.
10. Thomas Great Race Game registered on April 22, 2008, Registration Number VA0001669239.
11. 24CTU: Undercover Game registered on April 22, 2008, Registration Number VA0001669237.**
12. Animal Soup There's Always One game registered on April 22, 2008, Registration Number VA0001669236.**
13. Dino Flip Five Game registered on February 11, 2009, Registration Number VA0001694840.**
14. I Spy Flip 5 Game registered on February 11, 2009, Registration Number VA0001717081.**
15. Nerdy Wordy TM registered on March 19, 2007, Registration Number VA0001428346.**
16. Newton's apples registered on March 13, 2007, Registration Number VA0001418154.**

**Please note that Seller no longer holds a license for these brands.

Other than Seller, no one has an ownership interest in the Registered IP.