

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM479442

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Exclusively Pet, Inc.		03/14/2018	Corporation: WISCONSIN
RECEIVING PARTY DATA			
Name:	Central Garden & Pet Company		
Street Address:	1340 Treat Blvd, Suite 600		
City:	Walnut Creek		
State/Country:	CALIFORNIA		
Postal Code:	94597-7578		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 5			
Property Type	Number	Word Mark	
Serial Number:	87436244	"IT'S TURKEY TIME"	
Serial Number:	87436235	FIDO'S FOOD TRUCK TREATS ON WHEELS	
Registration Number:	4461182	LICKORISH CHEWS	
Registration Number:	3303606	BEST BUDDY BONES	
Registration Number:	2980477	COOKIE NIBBLERS	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Email:	feickstaedt@central.com		
Correspondent Name:	Filomena Eickstaedt		
Address Line 1:	301 West Osborn Road		
Address Line 4:	Phoenix, ARIZONA 85013		
NAME OF SUBMITTER:	Filomena Eickstaedt		
SIGNATURE:	/fe/		
DATE SIGNED:	06/26/2018		
Total Attachments: 64			
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AGREEMENT OF PURCHASE AND SALE

Dated as of March 14, 2018

among

THE MERCO GROUP, INC.,

GENERAL PET SUPPLY, INC.,

GENERAL PET SUPPLY MIDWEST, LLC,

GENERAL PET SUPPLY OHIO VALLEY, LLC,

EXCLUSIVELY PET, INC.

ROBERT MERAR and DAVID MERAR

and

CENTRAL GARDEN & PET COMPANY

TABLE OF CONTENTS

	Page
ARTICLE I Sale and Purchase of Assets; Assumption of Assumed Liabilities	1
Section 1.01. Sale of Assets.....	1
Section 1.02. Assumption of Liabilities.....	1
Section 1.03. Non-Assignable Assets	1
Section 1.04. Closing	1
Section 1.05. The Purchase Price.....	1
Section 1.06. Physical Inventory	1
Section 1.07. Allocation of Portion of the Purchase Price Paid for the Purchased Assets	1
Section 1.08. Further Cooperation.....	1
ARTICLE II Representations and Warranties	1
Section 2.01. Representations and Warranties of Seller.....	1
Section 2.02. Representations and Warranties of the Shareholders.....	1
Section 2.03. Representations and Warranties of Buyer.....	1
ARTICLE III Additional Agreements.....	1
Section 3.01. Expenses	1
Section 3.02. Press Releases	1
ARTICLE IV Indemnification.....	1
Section 4.01. Indemnification Claims.....	1
Section 4.02. Procedures Relating to Indemnification for Direct Losses; Notice of Claim	1
Section 4.03. Defense of Third Party Claims	1
ARTICLE V Tax Matters.....	1
Section 5.01. Transfer Taxes; Withholding of Tax.....	1
Section 5.02. Cooperation and Assistance.....	1
Section 5.03. Character of Payments	1
Section 5.04. Dispute Resolution for Tax Matters.....	1
ARTICLE VI Labor and Employment Matters.....	1
Section 6.01. Employment.....	1
Section 6.02. Employment and Benefit Contracts	1
ARTICLE VII Covenants Relating to Conduct of Business; Reasonable Efforts.....	1

TABLE OF CONTENTS

(continued)

	Page
Section 7.01. Covenants of Seller	1
Section 7.02. Reasonable Efforts	1
ARTICLE VIII Conditions Precedent	
Section 8.01. Conditions to Each Party's Obligation	1
Section 8.02. Conditions of Obligations of Buyer	1
Section 8.03. Conditions of Obligations of Seller and the Shareholders	1
ARTICLE IX Termination, Amendment and Waiver	
Section 9.01. Termination	1
Section 9.02. Effect of Termination	1
Section 9.03. Amendment	1
ARTICLE X General Provisions	
Section 10.01. Survival of Representations, Warranties and Agreements	1
Section 10.02. Notices	1
Section 10.03. Interpretation	1
Section 10.04. Counterparts	1
Section 10.05. Miscellaneous	1
Section 10.06. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial	1
Section 10.07. No Waiver	1
Section 10.08. Construction	1
Section 10.09. Severability	1
Section 10.10. Counterparts	1
EXHIBIT A NONCOMPETITION AGREEMENT WITH ROBERT MERAR	A-1
EXHIBIT B NONCOMPETITION AGREEMENT WITH DAVID MERAR	B-1
EXHIBIT C PURCHASE PRICE ALLOCATION	C-1
EXHIBIT D EMPLOYMENT AGREEMENT WITH ROBERT MERAR	D-1
EXHIBIT E EMPLOYMENT AGREEMENT WITH DAVID MERAR	E-1
EXHIBIT F GOODWILL PURCHASE AGREEMENT	F-1
EXHIBIT G LEASE AGREEMENT	G-1

THIS AGREEMENT OF PURCHASE AND SALE (this “**Agreement**”) is entered into as of March 14, 2018 by and among CENTRAL GARDEN & PET COMPANY, a Delaware corporation (“**Buyer**”), THE MERCO GROUP, INC., a Wisconsin corporation (“**Merco**”), GENERAL PET SUPPLY, INC., a Wisconsin corporation (“**General Pet**”), GENERAL PET SUPPLY MIDWEST, LLC, a Wisconsin limited liability company (“**Midwest**”), GENERAL PET SUPPLY OHIO VALLEY, LLC a Wisconsin limited liability company (“**Ohio Valley**”), EXCLUSIVELY PET, INC., a Wisconsin corporation (“**EPI**”), and ROBERT MERAR and DAVID MERAR (collectively, the “**Shareholders**”). Merco, General Pet, Midwest and Ohio Valley are hereinafter collectively referred to as “**Seller.**” Certain capitalized terms used herein but not otherwise defined shall have the meanings set forth in Section 10.03(b).

WHEREAS, Buyer wishes to purchase from the Shareholders their personal goodwill relating to Seller, including the goodwill arising from their relationships and reputation within the pet supplies and pet food industry (the “**Goodwill**”);

WHEREAS, Buyer wishes to purchase from Seller the assets of Merco set forth on Schedule 1.01(a)(i) under the heading “Merco Assets” and substantially all of the assets of General Pet, Midwest and Ohio Valley, subject to the terms and conditions hereinafter set forth;

WHEREAS, the shareholders and Boards of Directors of Merco and General Pet and the holders of equity interests in and managers of Midwest and Ohio Valley have approved the acquisition of the Purchased Assets by Buyer on the terms and conditions hereinafter set forth; and

WHEREAS, the Board of Directors of Buyer has approved Buyer's acquisition of the Purchased Assets from Seller and the acquisition of the Goodwill from the Shareholders on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the representations, warranties and agreements herein contained, the parties agree as follows:

ARTICLE I

Sale and Purchase of Assets; Assumption of Assumed Liabilities

SECTION 1.01. Sale of Assets.

(a) Purchased Assets. Subject to the terms and conditions set forth herein, at the Closing (as defined below), Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall accept and purchase all of Seller's right, title and interest in and to the following assets, properties and rights of Seller, to the extent such assets, properties and rights exist as of the Closing Date (collectively, the "**Purchased Assets**"):

(i) All assets, properties and rights of General Pet, Midwest, Ohio Valley and EPI reflected in the Schedule of Purchased Assets attached hereto and labeled Schedule 1.01(a)(i), including without limitation all of the assets of EPI; and

(ii) All leasehold interests of Seller in the Leased Real Property (as defined in Section 2.01(g)) pursuant to Real Property Leases (as defined in Section 2.01(g)), together with all improvements and fixtures thereon owned by Seller, if any; and

(iii) All other assets, properties and rights (real or personal, tangible or intangible) of General Pet, Midwest and Ohio Valley required for, used in, or incident to the conduct of the business of such Seller, including, but not limited to, all machinery, equipment, spare parts, computer equipment, office furniture and equipment, supplies, fixtures, motor vehicles, sales and promotion materials, rights to royalties, internet web

sites, names and related property, customer lists, trade lists, books, business records, goodwill, all trademark or trade name rights in and to the name, "General Pet" or "General Pet Supply" or any variation thereof, all rights under the Hill's Agreement, the Nestle Agreement or, except as set forth in Section 6.02 and subject to Section 1.03, any other contract, purchase order, lease, commitment or other agreement of General Pet, Midwest or Ohio Valley (collectively, the "**Assigned Contracts**"), technical information, trade secrets, trademarks, logos, trade names, patents, formulas, processes, know-how, personnel records, clearances, licenses, permits, federal and state or other governmental registrations, governmental license or regulatory registration data, accounts receivable, prepaid assets and unliquidated claims and all inventory of General Pet, Midwest and Ohio Valley, including inventory ordered by such Seller prior to the Closing and in transit on the Closing Date).

(b) Excluded Assets. The foregoing notwithstanding, the Purchased Assets do not include, and Buyer is not purchasing, and Seller shall not be deemed to have sold, (i) all cash and cash equivalents and all bank accounts other than the bank accounts to be transferred as listed under "Bank Accounts" on Schedule 1.01(a), provided that Seller shall be entitled to any cash balance as of the Closing in any such bank accounts to be transferred, (ii) the corporate seals, Organizational Documents, minute books, stock books, tax returns, books of account or other records having to do with the corporate or limited liability company organization of Seller, books and records which Seller is prohibited from disclosing or transferring to Buyer under applicable law or is required by applicable law to retain, (iii) all tax assets of Seller (including refunds) for any pre-closing tax period, (iv) Seller's rights under this Agreement or any other document or agreement delivered to or received by Seller in connection herewith, (v) any assets

of Merco not listed on Schedule 1.01(a)(i) and (vi) those assets of Seller which are listed in the Schedule of Excluded Assets attached hereto and labeled Schedule 1.01(b), including without limitation any and all interests in the Owned Real Property (the assets in clauses (i) through (iv) are collectively referred to as the “**Excluded Assets**”).

(c) Goodwill. At the Closing, the Shareholders shall assign, transfer, convey and deliver to Buyer and Buyer shall accept and purchase all of the Goodwill.

SECTION 1.02. Assumption of Liabilities.

(a) Assumed Liabilities. As of the Closing Date, Buyer shall assume and shall subsequently pay, honor and discharge when due and payable in accordance with and subject to the terms and conditions of any relevant governing contracts the following, and only the following, liabilities of Seller (the “**Assumed Liabilities**”):

- (i) any liability arising under the Assigned Contracts; and
- (ii) all current liabilities of General Pet, Midwest or Ohio Valley reflected in the Recent Balance Sheet (as defined in Section 2.01(u)) or arising in the ordinary course of business since the date of the Recent Balance Sheet.

(b) Excluded Liabilities. Notwithstanding Section 1.02(a), Buyer shall not assume, nor does Buyer agree to pay, any debts, liabilities or obligations of Seller for any of the following:

- (i) Any indebtedness for borrowed money, including without limitation, amounts outstanding pursuant to Seller’s bank credit agreement.
- (ii) Any fees, expenses or obligations incurred by Seller in connection with this Agreement and the transactions contemplated hereby.

(iii) Any finders fee or similar charge or commission due to any person or organization which has acted for Seller or any of Seller's shareholders, directors or officers in connection with the transactions contemplated by this Agreement.

(iv) Any taxes of Seller of any kind whatsoever and any penalties and interest thereon for pre-closing tax periods and, except as otherwise set forth in this Agreement, taxes that arise out of the consummation of the transactions contemplated hereby or are the responsibility of Seller pursuant to Article V.

(v) Any obligations to pay or contribute any sums to any pension or retirement or similar plan.

(vi) Any severance, termination, change in control or related benefits of any kind due to employees of Seller who are not hired by Buyer.

(vii) Any salary or bonus payments or vacation pay or fringe benefits of any kind or other compensation of any kind relating to periods ending prior to the Closing Date but unpaid as of the Closing.

(viii) Products shipped prior to the Closing Date.

(ix) Any liability which would be required by GAAP to be reflected on a balance sheet which is incurred prior to Closing and not reflected on the Recent Balance Sheet or in Final Net Asset Value.

SECTION 1.03. Non-Assignable Assets. In those cases where any of the Purchased Assets are not by their terms assignable or which require the consent of a third party in connection with the transactions contemplated by this Agreement and such consent has not been obtained as of the Closing Date, Seller shall use commercially reasonable efforts, and Buyer shall cooperate in all reasonable respects with Seller, to obtain all consents and waivers

and to resolve all impracticalities of assignments and transfers necessary to convey any such Purchased Assets to Buyer or give Buyer the right to any Purchased Assets which are leased or licensed pursuant to the terms of any such leases or licenses covering such Purchased Assets. Anything contained herein to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any of the Purchased Assets if any actual or attempted assignment or transfer thereof without the consent of any party thereto other than Seller would constitute a breach thereof or otherwise not be permitted under applicable laws, increase any obligation of Seller thereunder in any material respect or create any additional material obligation of Seller thereunder (“**Non-Assignable Assets**”). If any such Non-Assignable Assets are not able to be assigned or transferred, Seller shall use commercially reasonable efforts to provide or cause to be provided to Buyer, to the extent permitted by applicable law, the benefits of any such Non-Assignable Assets and (a) Seller shall (to the extent Buyer has assumed in writing all duties and responsibilities thereunder) (i) promptly pay or cause to be paid to Buyer all monies received by Seller with respect to any such Non-Assignable Asset (other than any portion of the Purchase Price) and (ii) enforce, at the written request and at the sole expense of Buyer, any rights of Seller arising with respect thereto (including the right to terminate in accordance with the terms thereof upon the advice of Buyer) and (b) provided that Buyer receives the benefit of any such Non-Assignable Assets, Buyer shall perform and discharge on behalf of Seller all of Seller's liabilities, if any, thereunder, in accordance with the provisions thereof.

SECTION 1.04. Closing. The consummation of the transactions contemplated by this Agreement, including the purchase and sale of the Purchased Assets and the Goodwill (the “**Closing**”), will take place on the first business day after all of the conditions to Closing set forth in Article VIII are either satisfied or waived (other than conditions which, by their nature,

are to be satisfied on the Closing Date), or at such other time or date as mutually agreed to in writing by the parties. The date on which the Closing is to occur is herein referred to as the "**Closing Date.**"

(a) Seller Deliveries. Seller has delivered, or caused to be delivered, to Buyer at or prior to the Closing the following:

(i) Properly executed Bills of Sale, Assignment and Assumption Agreement, Certificates of Title or other instruments of conveyance of title, in form reasonably acceptable to Buyer, sufficient to pass title to all personal property to be conveyed hereunder, free and clear of all liens or encumbrances of any type or nature, except for Permitted Liens.

(ii) Subject to Section 1.03, consents executed by all necessary parties to permit Buyer to assume Seller's interest in any contracts, which require consents, acquired among the Purchased Assets. Such consents are described in Schedule 1.04(a)(ii) hereto.

(iii) [Intentionally omitted].

(iv) The Master Warehouse and Delivery Agreement, dated as of January 1, 2018, between Hill's Pet Nutrition Sales, Inc. ("**Hill's**") and General Pet (the "**Hills' Agreement**"), which is/shall be in full force and effect.

(v) A lease in the form attached hereto as Exhibit G for Merco to lease to Buyer the premises at 7711 North 81st Street, Milwaukee, Wisconsin, duly executed by Merco (the "**Lease Agreement**").

(vi) Except with respect to any Assumed Liability, evidence reasonably satisfactory to Buyer of the release of any security interests which encumber any of the Purchased Assets.

(vii) An employment agreement in form and substance satisfactory to Buyer with each of the following employees of Seller: Bruce Seefeldt, Brian (B.J.) Cohn, and Jay Nickel (collectively, the “**General Employment Agreements**”).

(viii) Such other resolutions, certificates, consents or other documents of authority as provided for herein, or as may be otherwise necessary to convey and transfer, and all other instruments or documents that counsel for Buyer may reasonably request in order to assure sufficient transfer of the Purchased Assets to Buyer or compliance with the terms and conditions of this Agreement.

(b) Shareholder Deliveries. The Shareholders have delivered, or caused to be delivered, to Buyer at or prior to the Closing the following:

(i) A noncompetition agreement between Buyer and Robert Merar in the form attached hereto as Exhibit A (the “**Robert Merar Noncompetition Agreement**”), duly executed by Robert Merar;

(ii) A noncompetition agreement between Buyer and David Merar in the form attached hereto as Exhibit B (the “**David Merar Noncompetition Agreement**” and, collectively with the Robert Merar Noncompetition Agreement, the “**Noncompetition Agreements**”), duly executed by David Merar;

(iii) An employment agreement between Robert Merar and Buyer in the form attached hereto as Exhibit D (the “**Robert Merar Employment Agreement**”), duly executed by Robert Merar.

(iv) An employment agreement between David Merar and Buyer in the form attached hereto as Exhibit E (the “**David Merar Employment Agreement**” and, collectively with the General Employment Agreements and the Robert Merar Employment Agreement, the “**Employment Agreements**”), duly executed by David Merar.

(v) A goodwill purchase agreement among David Merar, Robert Merar and Buyer in the form attached hereto as Exhibit F (the “**Goodwill Purchase Agreement**”), duly executed by David Merar and Robert Merar.

(c) Buyer Deliveries. Buyer has delivered, or caused to be delivered, to Shareholders at or prior to the Closing the following:

(i) Each Shareholder's Goodwill Payment, by wire transfer of immediately available funds to an account designated in writing by the Shareholder to Buyer.

(ii) The Closing Payment, by wire transfer of immediately available funds to an account designated in writing by Seller.

(iii) The Noncompetition Agreements, duly executed by Buyer.

(iv) Each Shareholder's Noncompetition Payment, by wire transfer of immediately available funds to an account designated in writing by the Shareholder to Buyer.

(v) The Employment Agreements, duly executed by Buyer.

(vi) The Lease Agreement, duly executed by Buyer.

(vii) The Assignment and Assumption Agreement, duly executed by Buyer.

(viii) The Goodwill Purchase Agreement, duly executed by Buyer.

(ix) Such other resolutions, certificates or other documents of authority as provided for herein, or as may be otherwise necessary to convey and transfer, and all other instruments or documents that counsel for Seller may reasonably request in order to assure sufficient transfer of the Assumed Liabilities and the Purchased Assets to Buyer or compliance with the terms and conditions of this Agreement.

SECTION 1.05. The Purchase Price.

(a) Determination of Purchase Price. Subject to adjustment as provided in this Section 1.05, the purchase price shall consist of \$ [REDACTED] for the Goodwill, \$ [REDACTED] for the Noncompetition Agreements and \$ [REDACTED] 0 for the purchase of the Purchased Assets (the “**Purchase Price**”).

(b) Payment of Purchase Price. Subject to adjustment as provided in this Section 1.05, the Purchase Price shall be paid as follows: (i) [REDACTED] payable to each of the Shareholders for the Goodwill, in cash at Closing (the “**Goodwill Payment**”), (ii) \$ [REDACTED] payable to each of the Shareholders for the respective Noncompetition Agreement, in cash at Closing (the “**Noncompetition Payment**”), (iii) \$ [REDACTED] minus \$ [REDACTED] payable to Seller, in cash at Closing, for the Purchased Assets, and (iv) \$ [REDACTED], plus or minus the difference between the Target Net Asset Value and the Final Closing Net Asset Value, as finally determined pursuant to Sections 1.05(c), 1.05(d) and 1.05(e) hereof (the “**Delayed Payment**”), payable to Seller, in cash within ten days of such final determination.

(c) Adjustment of the Portion of the Purchase Price Paid for the Purchased Assets.

(i) Closing Net Asset Value; Target Net Asset Value; Final Closing Net Asset Value. As used in this Agreement: (i) “**Net Asset Value**” shall mean the current assets

of Seller (consisting of the line item accounts specified on attached Schedule 1.05(c)), minus the current liabilities of Seller (consisting of the line item accounts specified on attached Schedule 1.05(c)), each determined in accordance with Seller's historical financial statements, including in accordance with the accounting principles, methodologies, procedures and assumptions used in preparing the Target Net Asset Value, including those set forth on Schedule 1.05(c) (collectively, the "**Accounting Principles**") and in a form (including the line item accounts of current assets and current liabilities included) and manner consistent with the Estimated Closing Statement;

(ii) "**Closing Net Asset Value**" shall mean the Net Asset Value of Seller as of the Effective Time; (iii) "**Target Net Asset Value**" shall mean \$ [REDACTED]; (iv) "**Final Closing Net Asset Value**" shall mean the Closing Net Asset Value as finally determined in accordance with the provisions of this Section 1.05(c) and Section 1.05(d) and (v) "**Effective Time**" means 11:59 p.m. (central time) on the day before the Closing Date.

(ii) Estimated Closing Statement. No more than 5 days prior to the Closing Date, the Shareholders shall deliver to Buyer an unaudited statement prepared by the Shareholders in cooperation with Buyer (the "**Estimated Closing Statement**") that sets forth the Shareholders' good faith determination of the Closing Net Asset Value (the "**Estimated Net Asset Value**").

(iii) Preliminary Closing Statement. Within 45 days after the Closing, Buyer shall prepare and deliver to the Shareholders an unaudited statement (the "**Preliminary Closing Statement**") setting forth a calculation of the Closing Net Asset Value, which shall be prepared in accordance with the Accounting Principles in a form and manner consistent with the Estimated Closing Statement. The Preliminary Closing Statement

shall (A) not reflect any changes or deviations from the Accounting Principles or the manner in which the Target Net Asset Value was calculated, (B) reflect no assets or liabilities other than those included in the Purchased Assets and the Assumed Liabilities and (C) entirely disregard (i) any and all effects on the assets or liabilities of Seller as a result of the transactions contemplated hereby or of any financing or refinancing arrangements entered into at any time by Buyer or any other transaction entered into by Buyer in connection with the consummation of the transactions contemplated hereby, and (ii) any of the plans, transactions, or changes which Buyer intends to initiate or make or cause to be initiated or made after the Closing with respect to Seller's business, the Purchased Assets or the Assumed Liabilities, or any facts or circumstances that are unique or particular to Buyer or any of its assets or liabilities. For purposes of preparing the Preliminary Closing Statement, Buyer shall complete a physical inventory as of the close of business on the day immediately following the Closing Date to confirm the amount of inventory included in the Closing Net Asset Value, and the Shareholders shall have the right to monitor such physical inventory.

(iv) Objection to Preliminary Closing Statement. Within 30 days after the Preliminary Closing Statement is delivered pursuant to Section 1.05(c)(iii), the Shareholders shall complete their review of the Closing Net Asset Value calculated in the Preliminary Closing Statement. Buyer will (A) assist the Shareholders in the review of the Preliminary Closing Statement and provide the Shareholders and their representatives with reasonable access during normal business hours to the books, records (including work papers, schedules, memoranda and other documents relating to the Preliminary Closing Statement), supporting data, facilities and employees of Buyer for purposes of

their review of the Preliminary Closing Statement, and (B) cooperate fully with the Shareholders and their representatives in connection with such review, including providing on a timely basis all other information necessary or useful in connection with the review of the Preliminary Closing Statement as is reasonably requested by the Shareholders or their representatives. If the Shareholders have any objections to the Preliminary Closing Statement, then the Shareholders shall inform Buyer on or prior to the last day of such 30-day period by delivering a written notice to Buyer (a “**Closing Statement Objection**”) setting forth a reasonably detailed description of the basis of the Closing Statement Objection and the adjustments to the calculation of the Closing Net Asset Value that the Shareholders believe should be made. If no Closing Statement Objection is delivered to Buyer within such 30-day period, then the Shareholders shall be deemed to have accepted the Preliminary Closing Statement and the calculation of the Closing Net Asset Value therein; provided that, in the event Buyer does not provide any papers or documents reasonably requested by the Shareholders or any of its authorized representatives within five days of request therefor (or such shorter period as may remain in such 30-day period), such 30-day period will be extended by one day for each additional day required for Buyer to fully respond to such request.

(d) Dispute Resolution Following Closing Statement Objection.

(i) Negotiation. If a Closing Statement Objection is delivered pursuant to Section 1.05(c), then the Shareholders and Buyer shall promptly attempt in good faith to resolve any dispute or disagreement relating to the Preliminary Closing Statement and the calculation of the Closing Net Asset Value (the “**Closing Statement Dispute**”);

provided, however, that any such negotiations shall not be discoverable or communicated to the CPA Firm.

(ii) Resolution by CPA Firm. If the Shareholders and Buyer are unable to resolve the Closing Statement Dispute within 30 days after the delivery of a Closing Statement Objection to Buyer, then the Shareholders and Buyer shall have any remaining accounting-related disputed items included in the Closing Statement Dispute resolved by CliftonLarsonAllen LLP, or if CliftonLarsonAllen LLP is unwilling or unavailable or has performed work for Seller, Buyer or any of their respective affiliates in the previous three years, then a nationally recognized firm of independent certified public accountants as to which the Shareholders and Buyer mutually agree (in any case, the “CPA Firm”), which shall, acting as an expert and not as an arbitrator, determine on the basis of the standards set forth in this Section 1.05, and only with respect to the remaining accounting-related differences so submitted to the CPA Firm (and not by independent review), whether and to what extent, if any, the Closing Net Asset Value as derived from the Preliminary Closing Statement requires adjustment. In connection with the engagement of the CPA Firm, the Shareholders and Buyer shall execute reasonable engagement letters and supply such other documents and information as the CPA Firm reasonably requires or as such Party deems appropriate. The CPA Firm shall be instructed to use every reasonable effort to perform its services within 15 days after submission of the Closing Statement Dispute to it and, in any case, as soon as practicable after such submission. In resolving the Closing Statement Dispute, the CPA Firm (A) shall utilize the criteria set forth in this Section 1.05 and (B) shall not assign a value to any item greater than the greatest value for such item claimed by the Shareholders or Buyer, or less than the smallest value for

such item claimed by the Shareholders or Buyer, as set forth in the Preliminary Closing Statement and the Closing Statement Objection. The Shareholders (collectively) and Buyer shall each pay 50% of the fees and expenses of the CPA Firm in connection with the services provided pursuant to this Section 1.05(d)(ii). In no event shall the CPA Firm award any party consequential, incidental or punitive damages. The Preliminary Closing Statement properly disputed under this Section 1.05(d) will, after resolution of such dispute pursuant to this Section 1.05(d), be final, binding and conclusive on all parties hereto and shall be subject to confirmation and entry of judgment in accordance with applicable law.

(iii) Cooperation. Neither the Shareholders nor Buyer shall take any action with respect to any accounting books, records, policies and procedures that would obstruct or prevent the preparation and review of the Preliminary Closing Statement.

(e) The Purchase Price shall be increased or decreased by the amount, if any, by which the Final Closing Net Asset Value is greater or less than the Target Net Asset Value, respectively. In the event of a reduction to the Purchase Price pursuant to this Section 1.05, Buyer shall offset such reduction amount against the Delayed Payment and, to the extent applicable, pay the remainder of the Delayed Payment to Seller in cash by wire transfer of immediately available funds, within ten business days of the Preliminary Closing Statement being declared final pursuant to Section 1.05(c) or Section 1.05(d) (the “**Closing Statement Date**”). In the event of a reduction to the Purchase Price pursuant to this Section 1.05 in excess of the Delayed Payment amount (such excess amount, the “**Delayed Payment Excess**”), Seller will be obligated to pay in cash by wire transfer of immediately available funds, the amount of such Delayed Payment Excess to Buyer within ten business days of the Closing Statement Date.

In the event of an increase to the Purchase Price pursuant to this Section 1.05, Buyer will be obligated to pay Seller in cash by wire transfer of immediately available funds to such accounts as are designated in writing to Buyer by Seller, an amount equal to the sum of (i) the Delayed Payment, and (ii) the amount of such increase, within ten business days of the Closing Statement Date. Any amount to be paid pursuant to this Section 1.05(e) will be treated as an adjustment to the Purchase Price for all purposes, and each of the parties to this Agreement acknowledges and agrees that, if the party obligated to make payment to the other party (parties) under this Section 1.05(e) does not make the payment within ten business days after the Closing Statement Date, such payment shall bear interest at 10% per annum, calculated from the Closing Statement Date through the actual date of payment.

SECTION 1.06. Physical Inventory. The joint physical inventory described in Section 1.05(c)(iii) shall occur as close as practicable to the Closing Date. All inventories of Seller shall be valued at the lower of cost or market in accordance with GAAP, consistently applied in accordance with the past practices of Seller.

SECTION 1.07. Allocation of Portion of the Purchase Price Paid for the Purchased Assets. The portion of the Purchase Price paid to Seller for the Purchased Assets shall be allocated among the Purchased Assets using the methodology set forth on Exhibit C attached hereto. The parties shall report their applicable taxes on the basis of such allocation and shall not take any position inconsistent with such allocation in any filing with or reports made to any taxing authority, or in any judicial or administrative proceedings. Any dispute between the parties as to the allocation of the Purchase Price paid to Seller for the Purchased Assets (and other relevant items) shall be resolved by the determination of the CPA Firm in a manner consistent with Section 1.05(d)(ii), which determination shall be binding on the parties.

SECTION 1.08. Further Cooperation. From time to time after the Closing, Seller at Buyer's request and without further consideration, and Buyer and Seller at Shareholders' request and without further consideration, agree to take or cause to be taken such further or other action as may reasonably be necessary or appropriate in order to effectuate the transactions contemplated by this Agreement.

ARTICLE II

Representations and Warranties

SECTION 2.01. Representations and Warranties of Seller. Subject to the exceptions noted in the Schedules delivered by Seller concurrently herewith (the "**Seller Disclosure Schedules**"), which Seller Disclosure Schedules shall be organized into parts corresponding to the numbering set forth below, each Seller jointly and severally represents and warrants to Buyer as follows:

(a) Organization. Each of Merco, General Pet, and EPI is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation. Each of Midwest and Ohio Valley is a limited liability company duly organized, validly existing and in good standing under the laws of its state of incorporation.

(b) Authority To Do Business. Seller has all requisite corporate or limited liability company power and authority to own or lease and operate its properties and to carry on its business as now conducted.

(c) Binding Obligation. Seller has all requisite corporate or limited liability company power and authority to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated hereby. The Board of Directors and shareholders of Merco, General Pet, and EPI and the holders of equity interests in and managers of Midwest and Ohio Valley have duly authorized the execution and delivery of this Agreement and the other

transactions contemplated hereby, and no other corporate or limited liability company proceedings on the part of Seller are necessary to authorize this Agreement and the transactions contemplated hereby. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except that such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium and other similar laws affecting the rights and remedies of creditors generally and by general principles of equity (including the availability of specific performance or injunctive relief and the application of concepts of materiality, reasonableness, good faith and fair dealing) (the "**Bankruptcy and Equity Exception**"). The execution, delivery and performance by Seller of this Agreement does not and will not conflict with, or result in any violation of or default under, (i) any provision of the Organizational Documents of Seller or (ii) any ordinance, rule, regulation, judgment, order, decree, agreement, instrument or license applicable to Seller or to any of its respective properties or assets. No consent, approval, order or authorization of, or registration, declaration or filing with, any court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, is required by or with respect to the Seller in connection with Seller's execution and delivery of this Agreement or the performance by Seller of the obligations contemplated hereby.

(d) Sufficiency of Purchased Assets. Except for assets disposed of in the ordinary course of business and Excluded Assets, the Purchased Assets consist of all assets which have been used by General Pet, Midwest, Ohio Valley or EPI since January 1, 2017. The Purchased Assets are sufficient for the continued conduct of Seller's business after the Closing in

substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Seller's business as currently conducted.

(e) Inventories. Except as set forth in Schedule 2.01(e), the inventories on the Recent Balance Sheet (as defined in Section 2.01(u)) were valued at the lower of cost or market, in accordance with GAAP. Except as set forth on Schedule 2.01(e), all inventory classified as such in the Recent Balance Sheet which is on hand and all additions to inventory since the date of the Recent Balance Sheet consist of items of a quantity and quality usable or salable in the ordinary course of Seller's business as conducted prior to the Closing Date, except for obsolete items, damaged items and materials at below standard quality, all of which Seller has written off or written down to net realizable value.

(f) Accounts Receivable. All accounts and notes receivable of Seller represent valid obligations arising from sales actually made in the ordinary course of business, have been accounted for in accordance with GAAP, and are collectible in the ordinary course of business, net of reserves set forth on the Recent Balance Sheet (which reserves are adequate and calculated consistent with past practice).

(g) Real Property. Seller owns no real property other than the Real Property described on Schedule 2.01(g) (the "**Owned Real Property**"). Schedule 2.01(g) includes a complete list of all real property leased by Seller (the "**Leased Real Property**") pursuant to the leases described on Schedule 2.01(g) ("**Real Property Leases**"). Except as set forth on Schedule 2.01(g), Seller has good and marketable title to the Owned Real Property and valid leasehold interests in all Leased Real Property, free and clear of all mortgages, liens claims, charges, easements, covenants, rights of way and other encumbrances or restrictions of any nature whatsoever, except the following encumbrances or restrictions, which together with those

encumbrances or restrictions disclosed in Schedule 2.01(g) shall be referred to herein as “**Permitted Liens**”: (i) municipal, zoning and other similar restrictions and ordinances; (ii) easements, covenants, rights of way or other restrictions which do not materially adversely affect the use of the property to which they relate as such property was used in the ordinary course of business immediately prior to the Closing Date; (iii) mechanics’, carriers’, workmen’s, repairmen’s or other like liens arising or incurred in the ordinary course of business; (iv) liens for taxes, assessments and other governmental charges which are not due and payable or which may thereafter be paid without penalty; (v) matters affecting any lessor’s interest in the Leased Real Property; and (vi) other liens, imperfections of title or encumbrances, if any, none of which liens, title imperfections or encumbrances (including, without limitation, matters that would be disclosed by an accurate survey), are substantial in amount, materially detract from the usefulness of the property subject thereto as used in the ordinary course of business immediately prior to the Closing Date, or individually or in the aggregate have a Material Adverse Effect.

(h) Title to Personal Property. Except for Permitted Liens and as described in Schedule 2.01(h), Seller has good and marketable title to, or valid leasehold interest in, all of the tangible personal property included in the Purchased Assets, in each case free and clear of all mortgages, liens, security interests, pledges, charges or encumbrances of any nature whatsoever.

(i) Contracts. Except as described in Schedule 2.01(i), Seller is not a party to or bound by any of the types of lease, agreement, contract or other commitment, whether written or oral, enumerated below (the “**Contracts**”):

(i) any agreement with a term of one year or more, unless such agreement can be terminated by Seller without penalty on 30 days’ (or less) notice;

(ii) any agreement that requires payment by or to Seller of more than \$100,000, unless such agreement can be terminated by Seller without penalty on 30 days' (or less) notice;

(iii) any employee collective bargaining agreement or other contract with any labor union; or

(iv) any agreement or contract with any Shareholder, officer, director or employee of Seller or any of its subsidiaries.

Except as described in Schedule 2.01(i), each Contract is a valid and binding obligation of Seller and is in full force and effect, except for the Bankruptcy and Equity Exception. Except as described in Schedule 2.01(i), Seller has performed all material obligations required to be performed by it to date under the Contracts, is not (with or without the lapse of time or the giving of notice, or both) in breach or default in any material respect thereunder and, to the Knowledge of Seller, is not alleged to be in breach or default in any material respect thereunder. All Contracts are in the name of Seller and, except as described in Schedule 2.01(i), all Contracts included in the Assumed Liabilities will be effectively transferred to and assumed by Buyer at the Closing.

(j) Litigation. Except as set forth in Schedule 2.01(j), there are no lawsuits, claims, proceedings or investigations pending against Seller, or, to the Knowledge of Seller, threatened by or against or affecting Seller or any of its properties, assets, operations or business which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and Seller is not aware of any reasonable basis for any such lawsuit, claim, proceeding or investigation.

(k) Permits. Schedule 2.01(k) contains a true and correct listing of each material governmental license, permit or other governmental authorization (collectively hereinafter referred to as “**Permits**”) held by Seller. Except as set forth on Schedule 2.01(k), Seller holds all Permits which are required for the operation of its business as conducted immediately prior to the Closing Date, and all such Permits which are material to the operation of Seller’s business as conducted immediately prior to the Closing Date will remain in full force and effect notwithstanding the closing of the transactions contemplated hereby and will be effectively transferred to Buyer at the time of Closing.

(l) Employee and Related Matters. There are no employment-related claims, actions, proceedings or investigations pending or, to the Knowledge of Seller, threatened against or relating to Seller before any court, governmental, regulatory or administrative authority or body, or arbitrator or arbitration panel. Seller is not subject to any outstanding employment-related order, writ, judgment, injunction, decision, award, compliance order, consent decree, conciliation agreement, settlement agreement, affirmative action plan, determination letter or advisory of any court, governmental, regulatory or administrative authority or body, or arbitrator or arbitration panel. Seller is in compliance in all material respects with all collective bargaining agreements, contracts, and all laws and regulatory requirements pertaining to employment and employment practices. The representations and warranties set forth in this Section 2.01(l) are the Seller's sole and exclusive representations and warranties with respect to employment and labor matters.

(m) Absence of Changes or Events. Since January 1, 2017, except as set forth on Schedule 2.01(m), the business of Seller has been conducted in the ordinary course and there

has not been any Material Adverse Effect. Without limiting the generality of the foregoing, since May 31, 2017 except as set forth on Schedule 2.01(m), Seller has not:

- (i) acquired or agreed to acquire any assets which are material, individually or in the aggregate, to Seller, except in its ordinary course of business consistent with prior practice;
- (ii) sold, leased or otherwise disposed of any of its assets, which are material, individually or in the aggregate, to Seller, except in the ordinary course of business consistent with prior practice;
- (iii) adopted or amended in any material respect any agreement with employees or benefit plans, other than in the ordinary course of business consistent with prior practice;
- (iv) increased the regular compensation of any employee other than in the ordinary course of business consistent with Seller's past practices;
- (v) sustained any material loss or damage to its properties, whether or not insured;
- (vi) issued capital stock or declared or paid a dividend or made any other payment from capital or surplus other distribution of any nature, or directly or indirectly, redeemed, purchased or otherwise acquired or recapitalized or reclassified any of its capital stock or liquidated in whole or in part;
- (vii) merged or consolidated with another corporation;
- (viii) except for draws under that certain Line of Credit Note dated September 22, 2015, as amended, issued by Midwest, General Pet and Ohio Valley in favor of JPMorgan Chase Bank, N.A., created, incurred or assumed or committed to create, incur

or assume indebtedness or other liability, except for accounts payable or other current liabilities which (A) are not for borrowed money, (B) were incurred in the ordinary course of business and (C) have not had and will not have, individually or in the aggregate, a Material Adverse Effect;

- (ix) altered or amended its Organizational Documents;
- (x) entered into, materially amended or terminated any Contract; or
- (xi) accelerated collection of receivables which in the ordinary course of business would be expected to occur after the Closing Date or delayed payment of payables which in the ordinary course of business would be expected to occur prior to the Closing Date.

(n) Compliance with Laws. Seller is in compliance in all material respects with all applicable laws, orders, ordinances, rules and regulations of any governmental authority, except as set forth in Schedule 2.01(n).

(o) No Broker's or Finder's Fees. Except as set forth on Schedule 2.01(o), no agent, broker, investment banker, person or firm acting on behalf of Seller or the Shareholders is or will be entitled to any broker's or finder's fee or any other commission or similar fee in connection with any of the transactions contemplated herein.

(p) Employee Benefit Plans. Except as set forth in Schedule 2.01(p) (which plans/agreements listed thereon shall all be included in Assigned Contracts), neither Seller nor any entity under common control with Seller, within the meaning of section 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended (the "**Code**") or section 4001(a)(14) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**") (a "**Plan Affiliate**"), maintains, is required to contribute to, or is required to provide benefits under, any

plan, fund or program providing any pension, profit sharing, deferred compensation, severance pay, bonuses, incentive compensation, stock options, stock purchases, or any other form of retirement or deferred benefit, or any health, accident, dependent care, or other welfare benefit (a “Plan”).

(i) Seller and all Plan Affiliates are administering the Plans in material compliance with their terms and all laws and regulations relating to the Plans, including but not limited to compliance with all applicable provisions of the Code and ERISA relating to the Plans. Neither Seller nor any Plan Affiliate is in default in performing its obligations under any Plan or related agreement and all contributions and other payments required to be made under any Plan with respect to the period prior to the date of the Recent Balance Sheet have been made (or reserves adequate for such payments have been set aside). Neither Seller nor any Plan Affiliate has engaged in any non-exempt “prohibited transaction” (as defined in section 4975 of the Code or section 406 of ERISA) with respect to any Plan.

(ii) Seller has not agreed to any material future increases in benefit levels not otherwise required under the terms of a Plan in effect as of the date hereof or the creation of new benefits with respect to any Plan.

(iii) No Plan is a multiemployer plan (as defined in section 4001(a)(3) of ERISA) (a “**Multiemployer Plan**”). Neither Seller nor any Plan Affiliate has ever been obligated to contribute to a Multiemployer Plan. No Plan is subject to Title IV of ERISA, and neither Seller nor any Plan Affiliate has ever been obligated to contribute to a Plan which is or was subject to Title IV of ERISA.

(iv) Except as set forth in Schedule 2.01(p), no Plan is, or is intended to be, a qualified plan under section 401(a) of the Code. Each Plan, if any, listed on Schedule 2.01(p) has received a determination letter or may rely on an opinion letter from the IRS to the effect that it meets the applicable requirements for qualification under Section 401(a) of the Code; and, to the Knowledge of Seller, no event has occurred that would reasonably be expected to give rise to the disqualification of any such Plan.

(v) Seller has provided to Buyer complete and correct copies of all Plans, related trust agreements, insurance contracts or other related agreements, the current summary plan description for each Plan subject to ERISA, and any similar description of any other Plan.

(vi) There are no plans of Seller in effect for pension, profit sharing, deferred compensation, severance pay, bonuses, stock options, stock purchases, or any other form of retirement or deferred benefit, or for any health, accident or other welfare plan, as to which Buyer will become liable as a result of the transactions contemplated hereby, other than continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and any similar state statute (“**COBRA**”) to those individuals who are M&A qualified beneficiaries (as defined in Treasury Regulation Section 54.4980B-9, Q&A-4(a)) with respect to the transactions contemplated by this Agreement (collectively, the “**M&A Qualified Beneficiaries**”), but solely to the extent required by COBRA in the event that no member of the Seller Group (as defined in (as defined in Treasury Regulation Section 54.4980B-9, Q&A-3(a)) maintains a group health plan after the Closing. Seller further agrees and acknowledges that in the event that all members of the Selling Group (as defined in Treasury Regulation Section 54.4980B-9, Q&A-8(a)) cease

to provide any group health plan to any individual prior to the expiration of the continuation coverage period for all M&A Qualified Beneficiaries (pursuant to Treasury Regulation Section 54.4980B-9, Q&A-8(c)), then Seller shall provide Buyer with (a) written notice of such cessation as far in advance of such cessation as is reasonably practicable (and, in any event, at least thirty (30) days prior to such cessation), and (b) all information necessary or appropriate for Buyer to offer continuation coverage to such M&A Qualified Beneficiaries.

(vii) The representations and warranties set forth in this Section 2.01(p) are the Seller's sole and exclusive representations and warranties with respect to employee benefit plan matters.

(q) Customers. Schedule 2.01(q) contains a true and correct list of Seller's largest 10 customers (in terms of gross revenue) for each of the last two fiscal years. Seller has not received any written notice stating that any such customer will terminate or materially reduce its volume of business with Seller after the Closing.

(r) Condition of Equipment. Except as set forth in Schedule 2.01(r), the material equipment used by Seller in the ordinary course of business is in good operating condition, normal wear and tear excepted.

(s) Trademarks and Other Intellectual Property. Schedule 2.01(s) lists all (i) patents, trademark registrations, copyright registrations, domain name registrations and applications for any of the foregoing and any material unregistered trademark or service mark owned by Seller (collectively, "**Registered Intellectual Property**"), and (ii) material Intellectual Property used by Seller pursuant to a license, sublicense, consent, waiver or other agreement (whether written or oral) from a third party (other than "shrink wrap" licenses or other licenses

for “off-the-shelf” software). Except as set forth in Schedule 2.01(s), Seller has exclusive title to all material items of Intellectual Property owned by Seller, without any liens, encumbrances or restrictions whatsoever, except for Permitted Liens, and upon closing of the transactions contemplated hereby, Buyer will possess exclusive title to all material items of Intellectual Property owned by Seller, without any liens, encumbrances or restrictions whatsoever, except for Permitted Liens. Seller is not and, during the last two years, has not (i) infringed or violated any Intellectual Property right of a third party; or (ii) unlawfully or improperly used any trade secrets belonging to any third party. Except as set forth in Schedule 2.01(s), Seller has not, since January 1, 2015, received any written complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that Seller must license or refrain from using any Intellectual Property of any third party). To the Knowledge of Seller, except as set forth in Schedule 2.01(s), since January 1, 2015, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any of the material Intellectual Property owned or used by Seller. The representations and warranties set forth in this Section 2.01(s) are the Seller's sole and exclusive representations and warranties with respect to intellectual property matters.

(t) Environmental Matters. Except as set forth in Schedule 2.01(t):

(i) Seller has not received written notice of any claims, citations, or notices of violation made against, or issued to, Seller by any governmental entity or private party for damage, injury or other adverse effects to the environment resulting, in whole or in part, from the ownership, use or operation of any of the facilities which have been owned, leased, occupied or operated by Seller and are included in the Purchased Assets (the “**Property**”) which remains unresolved.

(ii) The Property has not been used by Seller or by any other person, for the disposal of Hazardous Materials.

(iii) Seller has not caused a "release" or "discharge" of a "hazardous substance," as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* on, above or below the Property, and there has been no release or discharge of a hazardous substance at any real property currently owned or leased by Seller that could reasonably be expected to require remediation under applicable Environmental Laws.

(iv) Seller is in compliance in all material respects with all applicable Environmental Laws.

(v) Seller has been issued, and will maintain until the Closing Date, all material Permits required under applicable Environmental Laws in connection with the operation of the business of Seller as it was operated immediately prior to the Closing Date.

(vi) Seller has provided Buyer with complete copies of the written reports from any material environmental investigations, studies, audits, or tests in the possession of Seller which pertain to the environmental condition of the Property. Seller shall also promptly furnish to Buyer complete copies of any sampling and test results which may be obtained by Seller prior to the Closing from all environmental samples collected by or on behalf of Seller at the Property.

(vii) As used in this Agreement, "**Hazardous Materials**" means any hazardous or toxic substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental

Protection Agency as a hazardous substance (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or may become regulated under any applicable local, state or federal law related to the protection of the environment, including, without limitation, any material, waste or substance which is (A) petroleum, (B) polychlorinated biphenyls, (C) defined as a “hazardous waste,” “extremely hazardous waste,” “restricted hazardous waste” or “hazardous material” under applicable state laws and regulations, or (D) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, but excluding asbestos, mold, bacteria, fungi and/or lead-based paint. As used in this Agreement, “**Environmental Laws**” means any and all applicable laws in effect as of the Closing relating to pollution or the protection of the environment, including laws relating to emissions, spills, discharges, generation, storage, releases or threatened releases of Hazardous Materials into the environment or otherwise regulating the treatment, storage, disposal, transport or handling of Hazardous Materials.

(viii) The representations and warranties set forth in this Section 2.01(t) are the Seller's sole and exclusive representations and warranties with respect to environmental matters.

(u) Financial Statements. Seller has delivered to Buyer the consolidated balance sheets of Merco as of May 31, 2015, May 31, 2016, and May 31, 2017 and the related consolidated statements of operations and stockholders' equity, for each of the three fiscal years then ended, which have been audited by Merco's independent public accountants (the “**Audited Financial Statements**”), as well as the unaudited consolidated balance sheet of Merco as of January 31, 2018 (the “**Recent Balance Sheet**”) and the related unaudited consolidated

statements of operations and stockholders' equity for the eight-month period then ended (the "**Interim Financial Statements**") (the Audited Financial Statements and the Interim Financial Statements being hereinafter collectively referred to as, the "**Financial Statements**"). Except as stated in Schedule 2.01(u), the Financial Statements are based on the books and records of Seller in all material respects, have been prepared in conformity with GAAP applied on a consistent basis in accordance with Seller's past practices throughout the periods covered thereby and present fairly, in all material respects, the financial position and the results of operations and changes in stockholders' equity of Seller as of the dates and for the periods indicated, subject in the case of the Interim Financial Statements to normal and recurring year-end adjustments and the absence of notes.

(v) Absence of Undisclosed Liabilities. Seller has no liabilities that would be required by GAAP to be reflected in the consolidated balance sheet of Merco except: (i) those liabilities reflected in the Recent Balance Sheet, (ii) liabilities arising in the ordinary course of business since the date of the Recent Balance Sheet, (iii) liabilities arising under this Agreement or in connection with the transactions contemplated by this Agreement, and (iv) any other liabilities described in the Disclosure Schedule (except to the extent such matters are, by the terms of any specific monetary, time period or materiality threshold expressly, not required to be disclosed therein). For purposes of this Agreement, the term "**liabilities**" shall mean any direct or indirect indebtedness, guaranty, endorsement, claim, loss, damage, deficiency, cost, expense, obligation or responsibility, fixed or unfixed, asserted or unasserted, liquidated or unliquidated, secured or unsecured.

(w) Tax Returns and Payments. Except as set forth in Schedule 2.01(w), all federal, state, local and foreign tax returns and reports of Seller required by law to be filed have

been duly and timely filed (taking into account any valid extensions), and all taxes, fees or other governmental charges of any nature shown on such returns and reports have been timely paid or, in the case of amounts not yet due, properly accrued. All such filed tax returns and reports were correct and complete in all material respects when filed. Except as set forth on Schedule 2.01(w), there is no asserted (in writing), or to the Knowledge of Seller proposed (in writing), deficiency for additional tax, and there is no tax proceeding pending before any agency or court to which Seller is a party. There are no unpaid taxes of Seller which are a lien on its properties and assets, except Permitted Liens. No consents extending the statute of limitations have been filed by Seller with respect to Seller's tax liability for any taxable year that remains open. Seller is currently not a beneficiary of any extension of time within which to file a tax return or report. Seller has no tax liability for the taxes of any other taxpayer, including as a transferee or successor, by contract or otherwise, except pursuant to leases incurred in the ordinary course of business. For purposes of this clause (w), "taxes" includes only taxes for which Buyer could be liable as a successor in interest or a transferee or which could result in a lien against the assets of Buyer. The representations and warranties set forth in this Section 2.01(w) are the Seller's sole and exclusive representations and warranties with respect to tax matters.

(x) Related Party Transactions. Except as disclosed in Schedule 2.01(x), since January 1, 2016, all of the transactions of Seller have been conducted with persons or entities who are not controlled, directly or indirectly, by the Shareholders or any member of the immediate family of the Shareholders or any affiliate of the Shareholders or any such family member, and who are not members of the immediate family of the Shareholders or affiliates of the Shareholders or any such family member. Seller does not have outstanding loans or other advances to the Shareholders or any officer, director or other employee of Seller or to any entity

in which the Shareholders or Seller has a direct or indirect interest, other than travel advances in the usual and ordinary course of business.

(y) Employee Terminations. Schedule 2.01(y) lists any officer or Key Employee of Seller who terminated employment with Seller since January 1, 2017. For this purpose, "Key Employee" means an employee whose annual base compensation or annual salary exceeded \$ [REDACTED]. To the Knowledge of Seller, no officer or Key Employee of Seller is considering the termination of employment.

(z) Shareholders List. Set forth as Schedule 2.01(z) is a true and accurate copy of the list of Shareholders of Merco.

(aa) Hill's Agreement. (i) Hill's has not provided General Pet with any notice of any breach by General Pet of the Hill's Agreement, nor does General Pet have any reason to believe any such notice is forthcoming; and (ii) other than as has been disclosed to Buyer by General Pet, General Pet has no knowledge/expectation that Hill's has any plans/intentions to terminate or otherwise materially alter the terms and conditions of the Hill's Agreement.

(bb) Nestle Agreement. (i) Nestle Purina PetCare Company ("Nestle") has not provided General Pet with any notice of any breach by General Pet of the Distribution Agreement dated as of January 1, 2018 (the "Nestle Agreement"), nor does General Pet have any reason to believe any such notice is forthcoming; and (ii) General Pet has no knowledge/expectation that Nestle has any plans/intentions to terminate or otherwise materially alter the terms and conditions of the Nestle Agreement.

(cc) No Other Representations.

(i) NONE OF SELLER, THE SHAREHOLDERS OR ANY OF THEIR
RESPECTIVE AFFILIATES OR REPRESENTATIVES HAVE MADE ANY

REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER RELATING TO SELLER, THE BUSINESS OF SELLER, THE SHAREHOLDERS OR OTHERWISE IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY, OTHER THAN THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTIONS 2.01 AND 2.02 HEREOF.

(ii) Without limiting the generality of the foregoing, none of Seller, the Shareholders nor any of their respective affiliates or representatives have made, and shall not be deemed to have made, any representations or warranties in the materials relating to Seller or Seller's Business made available to Buyer, including any memoranda or offering materials, any due diligence materials and the materials made available in person, via e-mail or other virtual data room or otherwise, or in any presentation of Seller or Seller's business by management of Seller or others in connection with the transactions contemplated hereby, and no statement contained in any of such materials or made in any such presentation shall be deemed a representation or warranty hereunder or otherwise or deemed to be relied upon by Buyer in executing, delivering and performing this Agreement and the transactions contemplated hereby. It is understood that any cost estimates, projections or other predictions, any data, any financial information or any memoranda or offering materials or presentations, including but not limited to, any offering memorandum or similar materials made available by Seller and its representatives are not and shall not be deemed to be or to include representations or warranties of Seller, and are not and shall not be deemed to be relied upon by Buyer in

executing, delivering and performing this Agreement and transactions contemplated hereby.

SECTION 2.02. Representations and Warranties of the Shareholders. Subject to the exceptions noted in the Schedules delivered by the Shareholders concurrently herewith (the “**Shareholder Disclosure Schedules**” and, collectively with the Seller Disclosure Schedules, the “**Disclosure Schedules**”), which Shareholder Disclosure Schedules shall be organized into parts corresponding to the numbering set forth below, each Shareholder severally (and not jointly) represents and warrants to Buyer, solely as to such Shareholder, as follows:

(a) Binding Obligation. This Agreement has been duly executed and delivered by the Shareholder and constitutes a valid and binding obligation of the Shareholder enforceable in accordance with its terms. No consent, approval, order or authorization of, or registration, declaration or filing with, any court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, is required by or with respect to the Shareholder in connection with the Shareholder's execution and delivery of this Agreement or the performance by the Shareholder of the obligations contemplated hereby, except where failure to obtain such consent or approval would not prevent or materially delay the consummation of the transactions contemplated hereby or prevent or materially delay the Shareholder from performing his obligations under this Agreement.

(b) Other Activities of the Shareholder. Except as set forth in Schedule 2.02(b), the Shareholder does not own, directly or indirectly, any interest or have any investment or profit participation in a corporation or other entity which is a competitor of or which otherwise, directly or indirectly, does business with Seller, except for ownership of no more than 10% of the outstanding capital stock of a publicly traded company.

SECTION 2.03. Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

(a) Organization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) Binding Obligation. Buyer has all requisite corporate power and authority to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated hereby. The Board of Directors of Buyer has duly authorized the execution and delivery of this Agreement and the other transactions contemplated hereby, and no other corporate proceedings are necessary to authorize the execution, delivery and performance by Buyer of this Agreement and the transactions contemplated hereby. This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except the Bankruptcy and Equity Exception. The execution, delivery and performance by Buyer of this Agreement does not and will not conflict with, or result in any violation of, (i) any provision of the Organizational Documents of Buyer, or (ii) any law, ordinance, rule, regulation, judgment, order, decree, agreement, instrument or license applicable to Buyer or to its property or assets, except, with respect to clause (ii) above, where such conflict, violation or default would not prevent or materially delay the consummation of the transactions contemplated hereby or prevent or materially delay Buyer from performing its obligations under this Agreement. No consent, approval, order or authorization of, or registration, declaration or filing with, any court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, is required by or with respect to Buyer in connection with its execution, delivery or performance of this Agreement, except where the failure to obtain such consent or

approval would not prevent or materially delay the consummation of the transactions contemplated hereby or prevent or materially delay Buyer from performing its obligations under this Agreement.

(c) Litigation. There are no lawsuits, claims, proceedings or investigations pending or, to the knowledge of Buyer, threatened by or against or affecting Buyer or any of its properties, assets, operations or business which would prevent or materially delay the consummation of the transactions contemplated hereby or prevent or materially delay Buyer from performing its obligations under this Agreement.

(d) Independent Investigation. Buyer has conducted its own independent investigation, review and analysis of Seller's business and the Purchased Assets, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Seller for such purpose; provided, however, that such investigation and access shall not impair the rights of Buyer for indemnification as provided in Article IV. Buyer acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of Seller and the Shareholders set forth in Sections 2.01 and 2.02 of this Agreement (including related portions of the Disclosure Schedules); (ii) neither Seller nor any other person has made any representation or warranty as to Seller, Seller's business, the Assets or this Agreement, except as expressly set forth in Sections 2.01 and 2.02 of this Agreement (including the related portions of the Disclosure Schedules) and (iii) any cost estimates, projections or other predictions, any data, any financial information or any memoranda or offering materials or presentations, including but not limited to, any offering memorandum or similar materials made

available by Seller and its representatives are not and shall not be deemed to be or to include representations or warranties, and are not and shall not be deemed to be relied upon by Buyer in executing, delivering and performing this Agreement and transactions contemplated hereby.

ARTICLE III

Additional Agreements

SECTION 3.01. Expenses. Except as otherwise provided herein, all costs and expenses incurred by Buyer or the Shareholders or Seller in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs. Without limiting the generality of the foregoing, the Shareholders shall be solely responsible for the fees and expenses of their counsel in connection with the transactions contemplated hereby.

SECTION 3.02. Press Releases. None of the parties hereto shall issue a press release or other publicity announcing the sale of the Purchased Assets or any other aspect of the transactions contemplated hereby without the prior written approval of the other party, unless such disclosure is required by applicable law.

ARTICLE IV

Indemnification

SECTION 4.01. Indemnification Claims. Subject to the limitations hereinafter set forth, from and after the Closing, Seller and the Shareholders shall jointly and severally indemnify and hold harmless Buyer and its successors and their respective officers, directors, shareholders, employees and agents (collectively, "**Buyer Indemnitees**"), against, and in respect of, any and all damages, claims (including third party claims), losses, liabilities and expenses, including, without limitation, reasonable legal and accounting expenses (such damages, claims, losses, liabilities and expenses, collectively, "**Losses**"), which arise out of: (i) any breach or violation of any covenant of Seller or Shareholders in this Agreement by the Shareholders,

provided that each Shareholder shall be severally and not jointly responsible only for his own breach of a post-Closing covenant of such Shareholder; (ii) any breach of any of the representations or warranties made in Section 2.01 by Seller or Section 2.02 the Shareholders, provided that each Shareholder shall be severally and not jointly responsible only for his own breach of a representation or warranty contained in Section 2.02; (iii) any failure to pay, perform and discharge the Excluded Liabilities (collectively, “**Indemnification Claims**”); subject to the following limitations; or (iv) any liability for taxes, penalties or interest imposed on the Buyer Indemnitees relating to the allocation of a portion of the payments by Buyer hereunder to the Noncompetition Agreements or for Goodwill.

(a) Buyer shall be entitled to indemnification hereunder only when, and only with respect to amounts by which, the aggregate of all such Indemnification Claims exceeds [REDACTED] (the “**Deductible**”); except that this Deductible limitation shall not apply with respect to (i) tax representations made under Section 2.01(w), (ii) tax payments required by Article V, (iii) any amounts payable under Section 4.01(iv) above, (iv) payment of the Excluded Liabilities; or (v) the representations set forth in Sections 2.01(e) and 2.01(f).

(b) Neither Seller nor the Shareholders shall be liable to Buyer (or any other Buyer Indemnitee) after the Closing Date for any amounts in excess of [REDACTED] (the “**Cap**”).

(c) Buyer shall not be entitled to indemnification under this Article IV unless such breach occurs, and unless a related Notice of Claim (defined below) is duly delivered, within the applicable survival period set forth in Section 10.01.

(d) Payments by Seller or the Shareholders pursuant to this Article IV in respect of any Loss shall be limited to the amount of any liability or damage that remains after

deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received by the Buyer Indemnitees in respect of any such claim.

(e) Payments by a Seller or the Shareholders in respect of any Loss shall be reduced by an amount equal to any tax benefit realized or reasonably expected to be realized as a result of such Loss by the Buyer Indemnitees (taking into account any tax cost to Buyer resulting from the indemnification payment).

(f) In no event shall Seller or the Shareholders be liable to any Buyer Indemnitees – except to the extent in each case the Buyer is obligated to pay any such amount to a third party – for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple.

(g) Buyer acknowledges and agrees that its sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article IV. In furtherance of the foregoing, Buyer hereby waives, to the fullest extent permitted under law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against Seller or the Shareholders and each of their respective affiliates and representatives arising under or based upon any law, except pursuant to the indemnification provisions set forth in this Article IV. Nothing in this Section 4.01(g) shall limit any person's right to seek and obtain any equitable relief to which any person shall be entitled.

SECTION 4.02. Procedures Relating to Indemnification for Direct Losses:

Notice of Claim. Upon obtaining knowledge of any facts or conditions that could reasonably be expected to give rise to a Loss or Losses for which indemnification under this Article IV can be obtained, Buyer shall promptly provide written notice to the Shareholders setting forth the facts and circumstances, in reasonable detail, relating to such Loss or Losses, the amount of Loss or Losses (or a non-binding, reasonable estimate thereof if the actual amount is not known or not capable of reasonable calculation) and the Section(s) of this Agreement upon which Buyer is relying in seeking such indemnification (such written notice being hereinafter referred to as a “**Notice of Claim**”).

SECTION 4.03. Defense of Third Party Claims.

(a) With respect to any claim or demand set forth in a Notice of Claim relating to a claim or demand made by any third party (a “**Third Party Claim**”), Buyer shall provide a Notice of Claim to the Indemnifying Party relating to the Third Party Claim as soon as reasonably possible after the Buyer’s receipt of notice of the Third Party Claim, but in no event later than 30 days thereafter and in no event more than five business days after being served with any summons, complaint, or similar legal process.

(b) If a Third Party Claim is made against an Indemnified Party, then the Shareholders shall be entitled to participate in the defense of the Third Party Claim and, if the Shareholders so choose, to assume the defense of the Third Party Claim, in good faith and at the Shareholders’ expense. If the Shareholders so elect to assume the defense of a Third Party Claim, then:

(i) the Shareholders shall not be liable to any Buyer Indemnitee for legal expenses subsequently incurred by Buyer in connection with the defense of such Third

Party Claim, unless Buyer reasonably concludes that there is a conflict of interest which makes it reasonable and appropriate for Buyer to be represented by separate counsel;

(ii) Buyer, at its own expense (except as referenced in clause (i) above), shall have the right to participate in the defense of any such Third Party Claim, it being understood, however, that the Shareholders shall control such defense; and

(iii) Buyer and the Shareholders shall cooperate in the defense of such Third Party Claim, and such cooperation shall include the retention and (upon the Shareholders' request) the provision to the Shareholders of records that are reasonably relevant to the Third Party Claim and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided.

(c) If the Shareholders, within a reasonable time after receipt of a Notice of Claim relating to a Third Party Claim, choose not to assume the defense of the Third Party Claim or fail to defend the Third Party Claim actively and in good faith, then Buyer shall (upon further notice to the Shareholders) have the right to undertake the defense of the Third Party Claim, at the expense of the Shareholders.

ARTICLE V Tax Matters

SECTION 5.01. Transfer Taxes; Withholding of Tax. All transfer, sales and use, registration, documentary recording, value added, stamp and similar taxes and fees (including any penalties and interest) incurred, imposed, assessed or payable in connection with the transfer of the Purchased Assets (collectively, the "Transfer Taxes"), shall be borne 50% by Seller and 50% by Buyer.

SECTION 5.02. Cooperation and Assistance. Buyer, Seller, and the Shareholders shall reasonably cooperate, and shall cause their respective affiliates, directors,

officers, employees, agents, auditors and other representatives to reasonably cooperate, in preparing and filing all Tax Returns and in resolving all Tax Claims with respect to all taxable periods relating to taxes, including by maintaining and making available to each other all records necessary in connection with taxes, making employees available on a mutually convenient basis to provide additional information or explanation of any material provided hereunder or to testify at proceedings relating to such Tax Claim, and preparing such work papers, schedules, and other materials used in the preparation of Tax Returns in a time and manner consistent with past practice.

SECTION 5.03. Character of Payments. Any payments made with respect to adjustments or otherwise pursuant to Section 1.05(c), 1.05(d), and 1.05(e) on indemnity payments shall be deemed to be, and each of Buyer, the Shareholders and Seller shall treat such payments as, an adjustment to the Purchase Price for all tax purposes, unless otherwise required by applicable law.

SECTION 5.04. Dispute Resolution for Tax Matters. With respect to any dispute, controversy or claim relating to taxes between Buyer, on the one hand, and Seller or the Shareholders, on the other hand, the Parties shall cooperate in good faith to resolve such dispute, controversy or claim between them for a period of 20 business days from the date written notice of such dispute, controversy or claim is received by Buyer or Seller and the Shareholders, as the case may be; but if the parties are unable to resolve such dispute, controversy or claim, the parties shall submit the dispute, controversy or claim for resolution, which resolution shall be final, conclusive and binding on the parties, to a mutually agreed-upon tax lawyer or accountant who is (a) familiar with transactions or operations of the sort at issue; and (b) independent with respect to each party (such neutral tax lawyer or accountant, the “**Tax Arbitrator**”). The Tax

Arbitrator shall be instructed to prepare and deliver to Seller, the Shareholders and Buyer, as soon as reasonably practicable (and in any event within 20 business days after its engagement), its resolution of the matter. Notwithstanding anything in this Agreement to the contrary, the fees and expenses of the Tax Arbitrator relating to any dispute as to the amount of taxes owed shall be paid by Buyer, on the one hand, and Seller and the Shareholders, on the other hand, in proportion to each party's respective liability for the portion of the taxes in dispute, as determined by the Tax Arbitrator.

ARTICLE VI

Labor and Employment Matters

SECTION 6.01. Employment.

(a) Employees. Attached as Schedule 6.01(a) is a schedule listing all of the employees of Seller (each an "**Employee**"), as of the business day immediately prior to the date hereof, including the name of each Employee who is on an authorized leave of absence as of such date. Schedule 6.01(a) shall be updated and re-delivered by Seller to Buyer at Closing to reflect all Employees as of the business day immediately prior to the Closing Date.

(b) Offer of Employment. Effective upon consummation of the Closing, Buyer shall offer employment to each Employee, other than the Shareholders, under terms and conditions that are, in the aggregate, substantially similar to the then-current terms and conditions of each such Employee's employment with Seller. Buyer shall not be obligated to hire any Employee unless an offer of employment is accepted by such Employee.

(c) All Employees who actually commence employment with Buyer are referred to as "**Continuing Employees.**"

(d) Buyer shall have no obligation whatsoever to provide severance benefits or any other benefit to any Employee other than continuation coverage as set forth in Section 2.01(p)(vi) above.

(e) With respect to any employee benefit plan maintained by Buyer or an affiliate of Buyer for the benefit of any Continuing Employee, effective as of the Closing, Buyer shall, or shall cause its affiliate to, recognize all service of the Continuing Employees with Seller, as if such service were with Buyer, for vesting, eligibility and accrual purposes (but not for purposes of defined benefit pension benefit accruals); provided, however, such service shall not be recognized to the extent that such recognition would result in a duplication of benefits.

(f) The parties hereto acknowledge and agree that all provisions contained in this Section 6.01 are included for the sole benefit of the parties, and that nothing in this Agreement, whether express or implied, shall create any third-party beneficiary or other rights (i) in any other Person, including any employee or former employee of Seller (including the Continuing Employees), any participant in any employee benefit plan maintained by Buyer or any of its affiliates, or any dependent or beneficiary thereof, or (ii) to continued employment with Buyer or any of its affiliates. Nothing in this Agreement shall change the nature of any at-will employment relationship between Buyer and any Continuing Employee.

SECTION 6.02. Employment and Benefit Contracts. Buyer shall not assume any employment contracts of whatever nature or any obligations arising out of any employment contracts, express or implied, oral or written, individual or collective, between Seller and any of Seller's employees. Nor, except as set forth in Schedule 6.02, shall Buyer assume any obligations arising out of any pension benefit, employee welfare benefit, bonus, deferred compensation, stock purchase, stock option, severance, fringe benefit, medical insurance, life

insurance or similar plan, policy or program of Seller, whether or not covered or excluded from coverage under ERISA, which arose prior to the Closing. Seller shall be solely responsible for complying with all of its obligations, if any, to its employees, including compliance with the provisions of ERISA, the Multi-Employer Pension Plan Amendments Act of 1980, COBRA, and the Worker Adjustment and Retraining Notification Act; provided, however, all liabilities under the Worker Adjustment and Retraining Notification Act or any similar state or local law (including, without limitation, the law commonly known as the Wisconsin Plant Closing Law) caused in whole or in part by the failure by Buyer to make an offer to and hire Seller's employees as specified in Section 6.01(b) or by any other action of Buyer after the Closing Date shall be the sole responsibility of Buyer. Seller shall notify Buyer prior to Closing of any layoffs of any Employee in the 90-day period prior to Closing.

ARTICLE VII

Covenants Relating to Conduct of Business; Reasonable Efforts

SECTION 7.01. Covenants of Seller. During the period from the date of this Agreement and continuing until the Closing, the Shareholders agree (except as expressly contemplated by this Agreement or to the extent that Buyer shall otherwise consent in writing) that:

(a) Ordinary Course. They shall cause Seller to carry on its business, in all material respects, in the usual, regular and ordinary course in substantially the same manner as heretofore conducted and, to the extent consistent with such business, in all material respects, use all reasonable efforts consistent with past practice and policies to preserve intact its present business organization, keep available the services of its present officers and key employees, and preserve its relationships with customers, suppliers and others having business dealings with it to

the end such that its goodwill and ongoing business shall be unimpaired as a result of the transactions contemplated hereby.

(b) No Other Bids. Neither they, nor Seller, nor any of their or its affiliates shall, nor shall they authorize any officer, director or employee of or any investment banker, attorney, accountant or other representative retained by any of them to, solicit or encourage (including by way of furnishing information or entering into discussions or negotiations of any kind) any inquiries or the making of any proposal which may reasonably be expected to lead to any takeover proposal. The Shareholders and Seller shall promptly advise Buyer orally and in writing of any such inquires or proposals. As used in this paragraph, "takeover proposal" shall mean any proposal for a merger or other business combination involving Seller or for the acquisition of a substantial equity interest in Seller or all or a portion of the Purchased Assets other than the transactions contemplated by this Agreement.

SECTION 7.02 Reasonable Efforts. Each of the parties hereto shall use its respective commercially reasonable efforts to take or cause to be taken all appropriate action, do or cause to be done all things necessary, proper or advisable and execute and deliver such documents and other papers, as may be required to carry out the provisions of this Agreement, consummate and make effective the transactions contemplated by this Agreement and expeditiously satisfy the closing conditions set forth in Article VIII.

ARTICLE VIII

Conditions Precedent

SECTION 8.01. Conditions to Each Party's Obligation. The respective obligation of each party hereunder shall be subject to the satisfaction prior to the Closing Date of the following conditions:

(a) Approvals. All authorizations, consents, orders or approvals of, or declarations or filings with, or expiration of waiting periods imposed by, any governmental entity necessary for the consummation of the transactions contemplated by this Agreement shall have been filed, occurred or been obtained.

(b) Legal Action. No action, suit or proceeding shall have been instituted or threatened before any court or governmental body seeking to challenge or restrain the transactions contemplated hereby.

SECTION 8.02. Conditions of Obligations of Buyer. The obligations of Buyer to effect the transactions contemplated hereby are subject to the satisfaction of the following conditions unless waived by Buyer:

(a) Representations and Warranties. The representations and warranties of Seller and the Shareholders set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date, except as otherwise contemplated by this Agreement, and Buyer shall have received a certificate signed by the Shareholders to such effect.

(b) Performance of Obligations of Seller. Seller and the Shareholders shall have performed all obligations required to be performed by it or them under this Agreement prior to the Closing Date, and Buyer shall have received a certificate signed by the Shareholders to such effect.

(c) No Material Adverse Effect. Since the date of this Agreement, there shall have occurred no event or events that, individually or in the aggregate, have resulted in a Material Adverse Effect.

(d) Consents and Actions. All consents of any third parties to the transactions contemplated by this Agreement set forth on Schedule 8.02(d), including the consent of the lessor of the Leased Real Property to the assignment to Buyer of the lease(s) for the Leased Real Property, shall have been obtained.

(e) Closing Deliveries. Seller and the Shareholders shall deliver, or cause to be delivered, to Buyer at or prior to the Closing such documents as may be required to convey all of Seller's right, title and interest in the Purchased Assets, and such other documents, instruments or certificates as set forth in Sections 1.04(a) and (b).

(f) Release of Security Interests. Provision satisfactory to Buyer shall have been made for the release of any security interests which encumber any of the Purchased Assets, except with respect to any Assumed Liability.

SECTION 8.03. Conditions of Obligations of Seller and the Shareholders. The obligations of Seller and the Shareholders to effect the transactions contemplated hereby are subject to the satisfaction of the following conditions unless waived by Seller:

(a) Representations and Warranties. The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date, except as otherwise contemplated by this Agreement, and Seller shall have received a certificate signed by the chief executive officer and by the chief financial officer of Buyer to such effect.

(b) Performance of Obligations of Buyer. Buyer shall have performed all obligations required to be performed by it under this Agreement prior to the Closing Date, and Seller shall have received a certificate signed by a duly authorized officer of Buyer to such effect.

(c) Consents and Actions. All requisite consents of any third parties or governmental agencies to the transactions contemplated hereby shall have been obtained.

(d) Closing Deliveries. Buyer shall have delivered to Seller, at or prior to the Closing, undertakings and other good and sufficient instruments of assumption, in form and substance reasonably satisfactory to Seller's counsel, as may be required to effect the assumption of liabilities referred to in Section 1.02 hereof, and such other documents, instruments or certificates as set forth in Section 1.04(c)

ARTICLE IX

Termination, Amendment and Waiver

SECTION 9.01. Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written consent of Buyer and Seller;
- (b) by either Buyer or Seller (if such party is not then in material breach of any provision of this Agreement) if there has been a material misrepresentation or material breach of covenant or agreement contained in this Agreement on the part of the other and such breach of a covenant or agreement has not been promptly cured;
- (c) by Buyer (if Buyer is not then in material breach of any provision of this Agreement) if any of the conditions set forth in Sections 8.01 and 8.02 shall not have been satisfied before April 30, 2018 or such later date as Buyer and Seller may mutually agree in writing; or
- (d) by Seller (if Seller is not then in material breach of any provision of this Agreement) if any of the conditions set forth in Section 8.03 or shall not have been satisfied before April 30, 2018 or such later date as Buyer and Seller may mutually agree in writing.

SECTION 9.02. Effect of Termination. In the event of termination of this Agreement by either Seller or Buyer as provided in Section 9.01, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Buyer, or Seller or their respective officers or directors or shareholders except as set forth in Section 3.01 and except to the extent that such termination results from the willful breach by a party hereto of any of its representations, warranties, covenants or agreements set forth in this Agreement.

SECTION 9.03. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

ARTICLE X

General Provisions

SECTION 10.01. Survival of Representations, Warranties and Agreements. The parties, intending to contractually shorten the applicable statute of limitations, agree that all representations, warranties, covenants and indemnification obligations of Seller and the Shareholders in this Agreement shall survive the Closing until the expiration of 24 months from the Closing Date, and thereafter, to the extent an Indemnification Claim is made in accordance with Article IV prior to such expiration with respect to any breach of such representation, warranty or covenant or any other matter subject to indemnification pursuant to Article IV, until such Indemnification Claim is finally determined or settled; provided, however, that all claims relating to the tax matters set forth in Section 2.01(w) or resulting from any action or threatened action by any federal, state, local or foreign taxing authority shall expire when the applicable period under the statute of limitations therefor (including any waivers thereof) shall have expired and all claims relating to environmental matters set forth in Section 2.01(t) shall survive the Closing until the expiration of five years from the Closing Date.

SECTION 10.02. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by registered or certified mail (return receipt requested) or private overnight courier service (such as Federal Express, UPS or DHL) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

if to Buyer or Buyer Parent, to:

CENTRAL GARDEN & PET COMPANY
1340 Treat Boulevard, Suite 600
Walnut Creek, CA 94597
Attention: Chief Executive Officer

with a copy to:

CENTRAL GARDEN & PET COMPANY
1340 Treat Boulevard, Suite 600
Walnut Creek, CA 94597
Attention: General Counsel

and to: John F. Seegal, Esq.

ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, California 94105

if to Seller or the Shareholders, to

ROBERT MERAR
7711 North 81st Street
Milwaukee, WI 53224

and to:

DAVID MERAR
7711 North 81st Street
Milwaukee, WI 53224

with a copy to: Benjamin G. Lombard, Esq.

REINHART BOERNER VAN DEUREN S.C.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202

All notices given hereunder shall be deemed given at the time of personal delivery or, if mailed, on the earlier of actual receipt as shown on the registry receipt or three business days after the date of such mailing.

SECTION 10.03. Interpretation.

(a) When a reference is made in this Agreement to Sections or Exhibits, such reference shall be to a Section or Exhibit to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(b) For purposes of this Agreement, the following terms shall have the meanings set forth below:

(i) “**GAAP**” means generally accepted accounting principles in the United States.

(ii) “**Intellectual Property**” means all of the rights arising from or in respect of the following: [a] patents; [b] trademarks, service marks, trade names, brand names, Internet domain names and goodwill associated therewith; [c] copyrights; [d] trade secrets; [e] inventions, technology, formulas, know-how, confidential information, computer software programs and applications, tangible and intangible proprietary information or materials; and [f] all applications filed, applications to be filed, and registrations relating to any of the foregoing clauses [a]-[e] above.

(iii) “**Knowledge**”, when used with reference to Seller, means the actual knowledge of a particular fact or other matter by either Robert Merar or David Merar.

(iv) “**Material Adverse Effect**” means any event, occurrence, fact, condition or change that [a] is or could be reasonably expected to be materially adverse to the business, prospects, results of operations, financial condition or assets of Seller, taken as a whole, or [b] that would prevent or materially delay the consummation of the transactions contemplated hereby or prevent or materially delay Seller from performing its obligations under this Agreement; provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (A) changes in conditions in the United States or global economy or the capital or financial markets generally (provided that the Seller's business is not disproportionately affected as compared to other participants in the same industry); (B) changes in general industry, legal, regulatory, political, economic or business conditions or changes in GAAP (provided that Seller's business is not disproportionately affected as compared to other participants in the same industry); (C) acts of God or any hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any such hostilities (provided that Seller's business is not disproportionately affected as compared to other participants in the same industry); (D) any failure to meet financial projections, forecasts, estimates or budgets, provided that the exception in this clause shall not exclude a determination that a change, event, development, effect, condition, action, effect, violation, inaccuracy, circumstance or occurrence underlying such failure has resulted in a Company Material Adverse Effect; or (E) any action or

forbearance from taking an action, required by the terms of this Agreement, or which Buyer requests.

(v) “**Organizational Documents**” mean: [a] the articles or certificate of incorporation and the bylaws of a corporation; [b] the partnership agreement and any statement of partnership of a general partnership; [c] the limited partnership agreement and the certificate or articles of limited partnership of a limited partnership; [d] the limited liability partnership agreement and the certificate or articles of limited liability partnership of a limited liability partnership; [e] the operating agreement or limited liability company agreement and the articles of organization or certificate of formation of a limited liability company; [f] any charter or similar document adopted or filed in connection with the creation, formation or organization of a person; and [g] any amendment to any of the foregoing.

(vi) “**Tax Claim**” means any written notice of any pending or threatened audit or assessment, suit, proposed adjustment, deficiency, dispute, administrative or judicial proceeding or similar claim relating to taxes.

(vii) “**Tax Return**” means any return, declaration, report, estimate, claim for refund or information return or statement relating to, or required to be filed in connection with, any taxes, including any schedule, form attachment or amendment.

SECTION 10.04. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

SECTION 10.05. Miscellaneous. This Agreement and the documents and instruments and other agreements between the parties hereto (a) constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; (b) are not intended to confer upon any other person any rights or remedies hereunder; and (c) shall not be assigned by operation of law or otherwise except as otherwise specifically provided.

SECTION 10.06. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement shall be governed in all respects, including validity, interpretation and effect, by the internal laws of the State of Delaware.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, ANY OTHER AGREEMENT EXECUTED AND DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF WISCONSIN IN EACH CASE LOCATED IN THE CITY OF MILWAUKEE AND COUNTY OF MILWAUKEE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY

OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED AND DELIVERED IN CONNECTION HERewith IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (II) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (IV) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.06(c).

SECTION 10.07. No Waiver. No term or provision of this Agreement shall be waived or any breach of this Agreement excused except in writing signed by the party that is

claimed to have so waived or excused. No waiver of any provision of this Agreement shall constitute a waiver of any other provision. Any consent or waiver by any party to any breach of this Agreement by the other party, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach. The failure of any party to give notice to the other party, or to take any other step in respect of, any breach of any provision of this Agreement shall not constitute a waiver thereof. Acceptance of payment by a party after the breach of any provision of this Agreement by the other party shall not constitute a waiver thereof.

SECTION 10.08. Construction. The parties have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The Parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant. Any fact or item disclosed on any Schedule to this Agreement shall be deemed disclosed on all other Schedules to this Agreement to which such fact or item may reasonably apply, so long as such disclosure is in sufficient detail for a reasonable person to identify the facts or items to which it applies.

SECTION 10.09. Severability. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to such end, the provisions of this Agreement are agreed to be severable.

SECTION 10.10. Counterparts. This Agreement may be executed in one or more identical counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement, to the extent signed and delivered by means of a facsimile machine, electronic portable document format signatures or other electronic transmission, shall be treated in all respects as an original contract and shall have the same binding legal effect as if it were the original signed version thereof delivered in person.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BUYER:

CENTRAL GARDEN & PET COMPANY

BY [Signature]
Its Secretary and Genl (Genl)

SELLER:

THE MERCO GROUP, INC.

BY _____
David Merar, President

GENERAL PET SUPPLY, INC.

BY _____
Robert Merar, President

GENERAL PET SUPPLY MIDWEST, LLC

BY _____
Robert Merar, President

GENERAL PET SUPPLY OHIO VALLEY, LLC

BY _____
Robert Merar, President

EXCLUSIVELY PET, INC.

BY _____
Robert Merar, President

SHAREHOLDERS:

Robert Merar

David Merar

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BUYER:

CENTRAL GARDEN & PET COMPANY

BY _____
Its _____

SELLER:

THE MERCO GROUP, INC.

BY David L. Merar
David Merar, President

GENERAL PET SUPPLY, INC.

BY Robert Merar
Robert Merar, President

GENERAL PET SUPPLY MIDWEST, LLC

BY Robert Merar
Robert Merar, President

GENERAL PET SUPPLY OHIO VALLEY, LLC

BY Robert Merar
Robert Merar, President

EXCLUSIVELY PET, INC.

BY Robert Merar
Robert Merar, President

SHAREHOLDERS:

Robert Merar
Robert Merar

David L. Merar
David Merar

[Signature Page to Agreement of Purchase and Sale]