

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM484247

SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	Asset Purchase Agreement		
RESUBMIT DOCUMENT ID:	900451675		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Natures Best Organics of Tennessee, LLC		10/25/2017	Limited Liability Company: TENNESSEE
RECEIVING PARTY DATA			
Name:	The LETCO Group, LLC		
Street Address:	1901 California Crossing		
City:	Dallas		
State/Country:	TEXAS		
Postal Code:	75220		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	2990839	NATURE'S BEST ORGANICS	
Registration Number:	3009871	NATURE'S BEST ORGANICS	
CORRESPONDENCE DATA			
Fax Number:	2253818029		
<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>			
Phone:	2253874000		
Email:	scott.hensgens@bswllp.com		
Correspondent Name:	Scott N. Hensgens		
Address Line 1:	P.O. Box 3197, 301 Main Street, 23rd Flo		
Address Line 4:	Baton Rouge, LOUISIANA 70821		
ATTORNEY DOCKET NUMBER:	8442/21294		
NAME OF SUBMITTER:	Scott N. Hensgens		
SIGNATURE:	/Scott N. Hensgens/		
DATE SIGNED:	08/01/2018		
Total Attachments: 38			
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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement") is dated and made effective as of this 25th day of October, 2017 by and between **The LETCO Group LLC**, a Delaware limited liability company ("**Buyer**"); **Natures Best Organics of Tennessee, LLC**, a Tennessee limited liability company ("**Seller**").

RECITALS

WHEREAS, Seller is a Tennessee limited liability company, that among other things, is in the business of producing, marketing and distributing of mulch, compost and soil products derived from green-waste and purchased saw mill byproducts, along with the resale of items such as landscape stone, sand, gravel and other products used in landscaping and gardening (the "**Business**"); and

WHEREAS, the Buyer wishes to buy and the Seller wishes to sell all of the assets and rights related to the Business on the terms and conditions as set-forth herein.

NOW, THEREFORE, in consideration of the premises, mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound thereby, the Buyer and Seller agree as follows:

PURCHASE AND SALE OF ASSETS

1.1. Purchase and Sale. On the terms and subject to the conditions set forth in this Agreement, for the consideration set-forth in Section 1.3 below, as well as based on Seller's representations, warranties, covenants and agreements also contained herein, the Seller shall, on the Closing Date (as defined in Section 1.6 below) transfer to Buyer all of Seller's rights, title and interests in and to the assets set forth in Section 1.2 below, free and clear of all liens, claims, security interests, pledges, restrictions on transfer, charges, easements and other encumbrances of every kind or nature, whether arising under Law, Contract or otherwise ("**Encumbrances**"). "**Law**" means any federal, state, county, city or local law (including common law), statute, constitution, treaty, code, ordinance, regulation, rule, decree, edict, pronouncement, writ, binding interpretation or order enacted, promulgated or imposed by any Governmental Body (as defined in Section 2.2.1 below).

1.2. Assets Purchased. The Seller agrees to sell, transfer and/or assign (as applicable) and Buyer agrees to purchase and/or assume (as applicable) under the terms and conditions hereof all of the tangible and intangible assets comprising the Business that are used in, or necessary for the operation of the Business, and including, without limitation: (i) Inventory (as defined in Section 2.18); (ii) assignment or transfer of municipal Contracts (iii) the fixed assets of Seller including machinery and equipment and software; (iv) any and all customer lists; (v) any and all Proprietary Rights (as defined in Section 2.2 below); and (v) the goodwill associated therewith, all free and clear of any Encumbrances, in each case, other than the Excluded Assets (the "**Purchased Assets**"). For purposes of clarification only, certain of the Purchased Assets are more specifically listed in **Schedule 1.2** and certain of the Seller's rights and interest in and

under any and all contracts are specifically listed in **Schedule 1.6** and all intellectual property and proprietary rights are listed in **Schedule 2.2.1**, all of which are attached hereto and made a part hereof by reference

1.3 Purchase Price and Payment. In consideration for the transfer of the Purchased Assets, Buyer shall pay to Seller the total sum of \$15,000,000.00, without adjustment or offset (subject only to Section 1.8), in cash payments as described below (the “**Purchase Price**”):

1.3.1 Deposit. Within three (3) days of the effective date of this Agreement, Buyer shall deliver the sum of Five Hundred Thousand Dollars (\$500,000.00) (the “**Deposit**”) to the non-interest bearing account of Citibank, N.A. (the “**Escrow Agent**”). The Deposit will be held by the Escrow Agent in accordance with the terms of an escrow agreement, in form and substance reasonably acceptable to Buyer and Seller (the “**Escrow Agreement**”), to be entered into among Buyer, Seller and the Escrow Agent. In the event that the Closing occurs, the Deposit shall be applied to (and credited against) the Purchase Price obligation of Buyer under this Agreement and the Agreement upon Closing, on the terms and subject to the conditions set forth in this Agreement. Buyer shall be responsible for the fees and expenses of the Escrow Agent. Otherwise, the Deposit shall be paid to Buyer or Seller in accordance with Section 4.2 and Section 8.2, as applicable.

1.3.2 Balance. In the event that the Closing occurs, on the terms and subject to the conditions set forth herein, the balance of the Purchase Price (i.e., \$14,500,000.00) shall, subject to Section 1.8, be payable by Buyer to Seller in immediately available funds on the Closing Date.

1.4 Allocation of Purchase Price. Buyer and Seller agree that the Purchase Price shall be allocated among the Purchased Assets based on the adjusted tax basis of such assets, with any excess allocated to goodwill, in the manner set forth in **Schedule 1.4** as mutually determined in good faith by Seller and Buyer. Seller and Buyer shall file all of their future tax returns and reports in a manner consistent with the allocations set forth in the schedule (and any future revised versions of the schedule, as contemplated by this Section 1.4). The Buyer and Seller will provide the other with such information and records and make such of its officers, directors, employees and agents available as may reasonably be requested by the Buyer or Seller in connection with the preparation of any tax return, audit, tax contest or other proceeding that relates to the Business. The Seller and the Buyer agree to reflect the Purchase Price allocation specified in a closing and disbursement Statement (to be prepared at Closing) on the Form 8594 (Asset Acquisition Statement) to be filed by each party with the Internal Revenue Service for the tax year in which the Closing occurs, in accordance with the rules prescribed under Section 1060 of the Internal Revenue Code of 1986 (the “**Code**”) and Treasury Reg. §1.1060-1T. Such Form 8594 shall be attached hereto and incorporated herein as **Schedule 1.4**. Seller shall prepare and deliver to the Buyer, from time to time, revised or supplemental copies of the Asset Acquisition Statement so as to report any matters on the Asset Acquisition Statement that need updating or as may be required by Section 1060 of the Code or applicable Treasury Regulations promulgated thereunder (including Purchase Price adjustments, if any). Neither party will take any position inconsistent with such allocation unless otherwise required by applicable law. Each party will

provide the other party with a copy of any information to be furnished to the Secretary of the Treasury as required by Section 1060 of the Code.

1.5 Sales Taxes. The parties do not anticipate that there will be any sales taxes due that are directly attributable to this transaction, however, in the event that such taxes do become due and payable Buyer shall pay any sales tax in connection with this transfer. Further, Buyer shall reimburse Seller for the sales tax which may be imposed or payable on or in connection with the transfer of the Purchased Assets pursuant to this Agreement.

1.6 Contracts. **Schedule 1.6** attached hereto sets forth each Contract to which Seller is a party or any of its assets are bound that is used in, or is necessary for the operation of, the Business (the "**Acquired Contracts**"). The Acquired Contracts are to be assigned to the Buyer and Buyer agrees to assume and pay for all charges incurred thereunder subsequent to Closing, and Buyer shall reimburse Seller at Closing for any deposits and unused out of pocket prepayments made by Seller. Notwithstanding the foregoing, Buyer agrees to assume the remaining obligations from and after the Closing Date under the contracts listed on **Schedule 1.6** attached hereto, copies of which have been provided to Buyer. Seller and Buyer each agree to use their respective reasonable business efforts and cooperate with each other and Seller's vendors under such contracts in obtaining any necessary consents to such assignments. In the event that, under a specific municipal contract, Seller is required to obligate itself to additional responsibility and related liability in order to ensure the assignment of such contract to Buyer then Buyer agrees to pay Seller for any cost to provide the necessary insurance or performance bond to protect Seller (it being understood that the cost of obtaining any consent hereunder shall be for the account of Seller). "**Contracts**" means all written or oral contracts, leases, Licenses, agreements (including any amendments and other modifications thereto) or commitments, obligations, purchase orders, bids, promises, arrangements, or undertakings.

1.7 Lease/Sublease of Real Property. Contemporaneously with sale of the Business, Buyer shall lease or sublease from Seller certain real property on the terms and conditions in substantially the same form as outlined in the Lease and Sublease Agreements attached hereto collectively as **Exhibit "A"**.

1.8 Liabilities Assumed. The Buyer shall not assume or otherwise be obligated to pay, perform or discharge any Liabilities (including Liabilities relating to Seller, the Business or the Purchased Assets) other than the Liabilities specifically set forth in **Schedule 1.8** (the "**Assumed Liabilities**," and all of such Liabilities not so expressly assumed by Buyer being referred to herein as the "**Excluded Liabilities**"). For the avoidance of doubt, the "Excluded Liabilities" shall expressly include Excluded Taxes (as defined in Section 10.7), capitalized leases, all accounts payable, secured obligations, sales taxes, income or property taxes of any kind, accrued employee vacation, severance payments and other benefits, unemployment or worker's compensation Liabilities, indebtedness for borrowed money, fees or expenses incurred by Seller in connection with the transaction, and any other third-party claims against the Business arising or incurred prior to the Closing Date. All Excluded Liabilities shall be paid by Seller on the Closing Date or promptly thereafter as they become due or, in lieu thereof, assumed by Buyer with Buyer receiving a credit (and an offset against the Purchase Price payable pursuant to Section 1.3.2 in the amount of any such Assumed Liability at Closing. "**Liability**" means any direct or indirect debt, liability or obligation of any kind, whether known or unknown,

asserted or unasserted, fixed, absolute or contingent, accrued or unaccrued, liquidated or unliquidated and whether due or to become due, regardless of when asserted.

1.9 Transitional Support Agreements; Transitional Services Agreement. Contemporaneously with sale of the Business, Buyer shall have entered into Transitional Support Agreements for the independent consultation services of Sidney B. “Blake” Brian and Brandi Dykes on the terms and conditions outlined in the form attached hereto collectively as **Exhibit “B”**. Buyer and Seller shall negotiate a transitional services agreement in good faith for Seller to perform, or cause to be performed, certain transitional services (including, but not limited, to the transition of certain IT services) (the “**Transitional Services Agreement**”).

1.10 Excluded Assets. Notwithstanding anything in this Section 1.10 to the contrary, the following assets and property shall be retained by Seller and shall not be sold or transferred to Buyer (the “**Excluded Assets**”):

1.10.1 Accounts receivable, notes receivable, marketable securities, notes, cash, bank deposits and cash equivalents, in each case, generated or acquired by the Business prior to Closing and, with respect to any outstanding receivables, subject to Section 1.15.

1.10.2 Credits or refunds from any source in respect services or products obtained prior to Closing and actually received by the Business within sixty (60) days following Closing.

1.10.3 Insurance or benefit plans.

1.10.4 Real property owned by Seller.

1.10.5 Any amounts owed by Seller to a related party or obligations owed to Seller by a related party.

1.10.6 Supplies consumed and other Inventory used or sold in the normal course of business prior to the Closing Date.

1.10.7 Any contracts, leases, franchises, concessions or other assets of Seller not specifically included in this Agreement.

1.10.8 Books and records relating to tax returns of Seller, its owners, as well as minute books, stock registers, or other books and records relating to changes in ownership of Seller.

1.10.9 Such items of personal property, whether used in connection with the operation of the Business or not, as disclosed in writing to Buyer in **Schedule 1.10.6**.

1.11 Closing Date. The completion of the purchase of the Purchased Assets (the “**Closing**”) shall occur on a date (the “**Closing Date**”), which shall be the later of (i) three days following Buyer’s notice of approval of Contract assignments as set forth in Section 5.4, or (ii) December 13, 2017 (the “**Outside Date**”). Closing shall be subject to the satisfaction of the

conditions set forth in Sections 5 and 6, at Seller's offices, or at such other place or at such other time as shall be agreed upon in writing by Buyer and the Seller.

1.11.1 In the event that all conditions to the consummation of the Closing have been satisfied (or, at the Closing, will be satisfied) or waived, other than the condition set forth in Section 5.4, then the Seller shall have the absolute right to extend the Outside Date until either: (i) the third day following the satisfaction or waiver of the condition set forth in Section 5.4; or (ii) January 31, 2018 (the “**Extended Outside Date**”), which right shall be exercisable by providing written notice thereof (an “**Extension Notice**”) to the Buyer not sooner than December 11, 2017.

1.12 Closing Deliveries.

1.12.1 Seller's Deliveries. At the Closing, the Seller shall deliver to Buyer, (i) title to all the Purchased Assets free and clear of all Encumbrances (other than assumed equipment leases), (ii) a good standing certificate of the Seller from the Secretary of State of Tennessee not more than two (2) weeks prior to the closing Date, (iii) a copy of the resolutions adopted by Seller authorizing and approving the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby; and (iv) the Assignment Agreement and Bill of Sale (as defined in Section 1.15 below) and those documents, instruments and opinions required to be delivered by Seller to Buyer pursuant to Section 5.

1.12.2 Buyer's Deliveries. On the Closing Date, Buyer shall deliver to the Seller (i) the total cash Purchase Price in accordance with the terms of Section 1.3; (ii) certificate of the secretary of Buyer setting forth a copy of the resolutions adopted by Buyer authorizing and approving the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, and (iii) the Assignment Agreement and Bill of Sale and all of the documents, instruments and opinions required to be delivered by Buyer to Seller pursuant to Section 6.

1.13 Further Assurances. On the Closing Date, the Seller shall deliver or cause to be delivered to the Buyer other assignments and other good and sufficient instruments of conveyance and transfer as the Buyer may reasonably request or as may be otherwise reasonably necessary to vest in the Buyer all the right, title and interest in the Purchased Assets.

1.14 Withholding. Buyer may be entitled to deduct and withhold from any amounts otherwise payable to the Seller under this Agreement and any other Transaction Document, only as Buyer and Seller mutually agree, must be deducted and withheld with respect to the making of such payment under the Code or any applicable provisions of U.S. federal, state, local or non-U.S. law. Such amounts so deducted and withheld shall be treated for all purposes of this Agreement as having been paid to the Seller in respect of which such deduction and withholding was made by Buyer.

1.15 Method of Conveyance. The transfer and conveyance by Seller of the Purchased Assets to Buyer in accordance with this Agreement shall be effected on the Closing Date at the Closing by Seller's execution and delivery to Buyer of instruments of transfer, including the Assignment Agreement and Bill of Sale substantially in the form of **Exhibit "D"** hereto (the

"Assignment Agreement and Bill of Sale"). The assumption by Buyer of the Assumed Liabilities from Seller in accordance with this Agreement shall be effected on the Closing Date at the Closing by Buyer's execution and delivery to Seller of the Assignment Agreement and Bill of Sale.

1.16 Receivables and Other Business Matters. Following the Closing, Seller shall promptly remit to Buyer any amounts (including receivables, refunds and credits), and any notices, documents or other communications, received by Seller relating to the post-Closing operation of the Business. For a period of sixty (60) days following the Closing, Buyer shall promptly remit to Seller any amounts received by Seller constituting an Excluded Asset pursuant to Section 1.10.1.

1.17 Intellectual Property.

1.17.1 All uses of the trademarks, tradenames, service marks, service names and domain names included in the Purchased Assets, in any of their forms or spellings, including, but not limited to, "Nature's Best Organics" and any derivations thereof (collectively, the "**Assigned Marks**"), are being transferred to Buyer hereunder as part of the Purchased Assets. Seller will not take any action that reasonably could be expected to adversely affect Buyer's right to such Assigned Marks or cause confusion with respect to Buyer's use of such Assigned Marks. Seller will not have any rights to sue or recover against any Person with respect to the use of such Assigned Marks.

1.17.2 As soon as practicable after the Closing, but in no event later than twenty (20) business days after the Closing, Seller shall transfer all registered and applications for registration of copyrights and trademark or trade name filings to the Buyer and shall eliminate the use of all of the trademarks, tradenames, service marks, service names and domain names included in the Purchased Assets, in any of their forms or spellings, on all advertising, stationery, business cards, checks, purchase orders and acknowledgments, customer agreements and other Contracts and business documents, and Seller shall amend its organizational documents to change the name of Seller and to a name that does not reference any of the Assigned Marks (and Seller shall promptly deliver to Buyer written evidence confirming the foregoing).

REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

As an inducement to the Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, the Seller hereby represents, warrants and covenants to Buyer and agrees as follows, which representations and warranties are true as of the date hereof and as of the Closing Date;

2.1 Ownership of Assets. The Purchased Assets are transferred to Buyer free and clear of any liens or Encumbrances or any claims of any third parties, except as set forth on **Schedule 2.1.**

2.2 Intellectual Property. The Seller either owns or is otherwise entitled to use all Proprietary Rights (as defined below) necessary to conduct the Business as presently conducted. For purposes of this Agreement, "**Proprietary Rights**" means all (a) trademarks, service marks,

trade dress, logos, trade names and corporate names and registrations and applications for registration thereof (including, without limitation, the Assigned Marks), (b) copyrights and registrations and applications for registration thereof, (c) mask works and registrations and applications for registration thereof, (d) computer software data and documentation, trade secrets and confidential business information (including ideas, formulas, compositions, inventions (whether patentable or un-patentable and whether or not reduced to practice), copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information), (e) other proprietary rights or any intellectual property, and (g) copies and tangible embodiments thereof (in whatever form or medium).

2.2.1 Ownership of Intellectual Property. **Schedule 2.2.1** includes all registrations or applications for registration of Proprietary Rights, and all other Proprietary Rights which are owned by the Seller (the "**Intellectual Property**"). To the best of Seller's knowledge, all Intellectual Property that is currently registered with any Governmental Body complies in all material respects with all applicable Laws. Unless otherwise disclosed on **Schedule 2.2.1**, (i) to the best of Seller's knowledge, no Intellectual Property has been infringed or challenged in any way, nor has any proceeding been threatened with respect thereto, and (ii) neither the operation of the Business, nor the manufacture, use, sale, offer to sell, or import of any products/services offered by the Seller, nor any of such Intellectual Property has infringed or infringes upon the rights of any other person nor has been alleged to infringe upon the rights of any person. The Seller has taken reasonable measures to protect the secrecy, confidentiality and value of all trade secrets and other confidential information owned by the Seller or used by the Seller in the Business. For purposes of this Agreement, "**Governmental Body**" means any (i) nation, state, county, city, district or other similar jurisdiction of any nature, (ii) federal, state, local or foreign government, (iii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, commission, board, bureau, instrumentality, department, official, entity, court, tribunal or judicial or arbitral body), or (iv) body or other person (including accreditation agencies or licensure boards) entitled by applicable Law to exercise any arbitral, administrative, executive, judicial, legislative, police, regulatory (including any securities exchange) or taxing authority or power.

2.3 Due Organization; Power and Authority. The Seller is a limited liability company duly organized, validly existing and in good standing under the laws or the State of Tennessee and is qualified or licensed to do business and is in good standing in each other jurisdiction which, due to the nature of the Business or Seller's ownership of the Purchased Assets, requires such qualification or licensure, if any. The Seller has full power and authority to own, lease or otherwise hold and to operate and use the Purchased Assets and to carry on the operation of the Business as now conducted and proposed to be conducted. The Seller's operating documents and minutes provided to Buyer are the true and correct records of the Seller, as currently in effect (the "**Governing Documents**").

2.4 Authority. The Seller has full power and authority to (i) enter into this Agreement, the Escrow Agreement, the Assignment Agreement and Bill of Sale, any transitional support agreement, the Transitional Services Agreement and each other agreement, document, instrument or certificate contemplated by this Agreement or to be executed or delivered by any party hereto (other than employee agreements) in connection with the consummation of the

transactions contemplated by this Agreement (collectively, the "**Transaction Documents**") to which Seller is a party (ii) consummate the transactions contemplated hereby and thereby and (iii) comply with the terms, conditions and provisions hereof and thereof.

2.4.1 No third-Party Consent. The execution, delivery and performance of this Agreement by the Seller (including, without limitation, the deliveries and each Transaction Document and other agreements of the Seller) and the consummation by the Seller of the transactions contemplated hereby and thereby have been duly authorized and, as of the Closing Date, do not require any further authorization, notice, approval or consent of any third party or of any Governmental Body, except as set forth on **Schedule 2.4.1**.

2.4.2 Binding Agreement. This Agreement and each Transaction Document to which Seller is a party has been duly executed and delivered by Seller and constitutes a legal, valid and binding agreement of the Seller, enforceable against the Seller in accordance with their respective terms except (a) to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or similar Law affecting the enforcement of creditors' rights generally or (b) to the extent that such enforceability is subject to the principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law) (the "**Enforceability Exceptions**").

2.4.3 No Violations. Neither the execution nor the delivery of this Agreement or any other Transaction Document nor the consummation of the transactions contemplated hereby or thereby will (i) conflict with or result in any breach or violation of or constitute a default under any term, condition or provision of the Governing Documents of the Seller, (ii) conflict with or result in any breach or violation of, cause acceleration or constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation or acceleration) under any term, condition or provision of any Contract, mortgage, debt instrument, indenture, franchise, Licenses, lease or other instrument, judgment, decree, order, law or regulation by which the Seller or the Purchased Assets of the Seller are bound, (iii) result in the creation of any lien, security interest, charge or Encumbrance upon any of the Purchased Assets, (iv) violate any injunction or Law of any Governmental Body having jurisdiction over the Seller or any of its material properties or assets or (v) give rise to any payment or compensation to any employee or other service provider to the Seller.

2.5 Seller Operations.

2.5.1 No Material Change. Except as set forth on **Schedule 2.5.1** attached hereto and made a part hereof by reference, there are, and since December 31, 2016, there have been (i) no material adverse changes in the operations of the Seller (individually or in the aggregate), and (ii) no damage, destruction, loss, theft, casualty or claim, whether or not covered by necessary insurance, or condemnation or other taking in excess of \$50,000.00, individually, or \$150,000.00, in the aggregate, or otherwise, adversely affecting in any material respect the Business, the Purchased Assets or the Seller.

2.5.2 Ordinary Course of Business. Except as set forth on **Schedule 2.5.2** attached hereto and made a part hereof by reference, since the Last Balance Sheet, the Seller has

conducted the Business in the ordinary course of business consistent with its historical operating procedures and practices (including any conduct that is reasonably related, complementary or incidental thereto). Without limiting the generality of the foregoing, the Seller has not:

2.5.2.1 sold, leased, transferred, assigned, abandoned, licensed or otherwise disposed of (except in the ordinary course of business), or mortgaged or pledged, or imposed or suffered to be imposed any lien, charge or Encumbrance on any of the assets;

2.5.2.2 cancelled, discharged, compromised or satisfied any debts owed to, or claims held by, the Seller in connection with the Business (including, but not limited to, the settlement of any claims or litigation and waiver of any rights) and all shareholder, equityholder, employee, officer or director Liability whether or not in the ordinary course of business;

2.5.2.3 canceled or terminated or suffered the cancellation or termination of any Contract, relationship, lease or agreement in connection with the Business or entered into and become bound by any Contract, relationship, lease or agreement in connection with the Business, in each case providing for payments by or to the Seller in excess of \$50,000 in the aggregate;

2.5.2.4 changed or authorized any change in its accounting practices or method of accounting for any items in the preparation of the financial statements of the Seller and there has been no acceleration or discounting in the collection of accounts receivable or customers advances, or any delayed payment of any account payable or other liability of the Business beyond its due date or the date when such liability would have been paid in the ordinary course of business consistent with the past practice;

2.5.2.5 borrowed any amount or incurred or become subject to any indebtedness (including contingently as a guarantor or otherwise) or become legally committed to any new capital expenditures requiring expenditures following the Closing Date in excess of \$100,000 dollars in the aggregate;

2.5.2.6 amended or authorized any amendment to the Governing Documents of the Seller, or adopted or entered into a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Seller, other than the transactions contemplated by this Agreement;

2.5.2.7 except for new hires in the ordinary course of business and current employees in the ordinary course of business, entered into any written employment agreement with any employees of the Seller;

2.5.2.8 modified or amended any employee plans in any manner that materially increases the amount of compensation or benefits payable to employees or independent contractors of the Seller;

2.5.2.9 engaged in any plant closing or employee layoff activities that could implicate the WARN Act;

2.5.2.10 made any Contracts, written or oral, to perform any of the above, other than this Agreement, which agreements are not terminated, canceled and held for naught.

2.6 No Undisclosed Liabilities. Except as otherwise disclosed on **Schedule 1.8**, the Seller is not subject to any Liability, commitment or obligation (including, without limitation, unasserted claims), whether absolute, contingent, accrued or otherwise, in connection with the Business except for (i) normal Liabilities incurred in the ordinary course of business consistent with past practices since the Latest Balance Sheet (none of which relates to any breach of Contract, violation of Law, tort, infringement or environmental matter) and (ii) Liabilities reflected, reserved against or otherwise disclosed on the face of the Latest Balance Sheet (as opposed to in the notes thereto).

2.7 Taxes. The Seller has filed and will timely file all required federal, state, county and local Tax returns, declarations and reports with respect to or affecting the Business which are required to be filed on or before the date hereof and the Closing, and, except as set forth on **Schedule 2.7** hereof, has paid or reserved for all Taxes which have become due pursuant to such returns or pursuant to any assessment which has become payable with respect to or affecting the Business. All monies required to be withheld by the Seller from employees of the Business for Taxes have been collected or withheld, and either paid respective Governmental Body, set aside in accounts for such purpose, or accrued, reserved against and entered upon the books of the Seller. The returns, declarations and reports referred to in the previous sentences of this Section 2.7 are or will, be true and correct and reflect or will reflect accurately all taxable income or Tax liabilities for the periods covered thereby. Seller has received any notices of, any examination of or proceeding with respect to any Tax return or report relating to the Business has been scheduled or conducted. There are no outstanding agreements or waivers extending the statutory period of limitations applicable to any Tax return of the Seller. The proceeds from the sale of the Purchased Assets by the Seller shall be utilized by the Seller in a timely manner and in good faith to pay the obligations due the governmental Taxing authorities, city, county, state and federal, if any. There are no Encumbrances for Taxes (other than Taxes not yet due and payable) upon any of the Purchased Assets.

2.8 Availability of Purchased Assets and Legality of Use. Except as otherwise disclosed in writing on **Schedule 2.8** hereof, the Purchased Assets are in operating condition, ordinary wear and tear excepted. The Purchased Assets constitute all of the assets (i) necessary, used, held for use and useful in connection with the ownership and operation of the Business consistent with the Seller's prior operating practices, as presently conducted and as proposed to be conducted and (ii) necessary to permit Buyer, immediately following the Closing, to carry on the Business as presently conducted and proposed to be conducted.

2.9 Licenses. **Schedule 2.9** hereof lists all licenses, franchises, registrations, permits, approvals, consents, certificates and other authorizations of and from all, and have made all declarations and filings with, Governmental Bodies (including any pending applications for such licenses, franchises, registrations, permits, consents, approvals, certificates and other authorizations (each, a "**Licenses**") necessary for the lawful conduct of the Business as presently

conducted, correct copies of which have previously been delivered to Buyer. The Licenses are in full force and effect and there are no defaults or breaches, or events which, with or without notice or lapse of time or both, would constitute a breach or default under the Licenses. There are no other material Licenses or assignments of Licenses necessary in order to properly conduct the Business which have not been obtained. The Seller operates and has been operated in compliance in all material respects with all applicable Laws and Licenses.

2.10 Title to Property. Seller has good and marketable title to all of the Purchased Assets free and clear of all liens, claims, charges, Encumbrances or security interests except for purchase money security interests for equipment incurred in the ordinary course of business which will be satisfied at Closing.

2.11 Status of Contracts.

2.11.1 **Schedule 2.11.1** sets forth as of the date of this Agreement each of the following current Contracts of the Business:

2.11.1.1 Contracts which involved payment(s) by the Seller in excess of \$50,000 during the Seller's fiscal year 2016 or are expected to involve payment(s) by the Seller in excess of \$50,000 during the Seller's fiscal year 2017 between the Seller and any of its customers (the "**Key Customers**"). Since the Latest Balance Sheet to the date hereof, the Seller has not received any written notice, or to the Seller's knowledge any verbal notice, that any Key Customer has ceased or materially reduced, or is contemplating ceasing or materially reducing, the use or distribution of the products, goods or services of the Seller;

2.11.1.2 Contracts which involved payment(s) to the Seller in excess of \$50,000 during the Seller's fiscal year 2016 or are expected to involve payment(s) to the Seller in excess of \$50,000 during the Seller's fiscal year 2017 between the Seller and any of its suppliers (the "**Key Supplier**"). Since the Latest Balance Sheet to the date hereof, the Seller has not received any written notice, or to the Seller's knowledge any verbal notice, that any Key Supplier has ceased or materially reduced, or is contemplating ceasing or materially reducing, the supply of raw materials, supplies, merchandise or other goods or services to the Seller.;

2.11.1.3 Contracts for the employment of any current employee or other person (including, but not limited to, independent contractors, consultants, temporary employees, or leased employees employed or used by the Seller and classified by the Seller as other than employees, (each, a "**Contingent Worker**") on a full-time, part-time, consulting or other basis (i) which provided annual cash or other compensation in excess of \$75,000 during and with respect to the Seller's fiscal year 2016 or whose total compensation during and with respect to the Seller's fiscal year 2017 is reasonably expected to be \$75,000 or more, (ii) providing for the payment of any cash or other compensation or benefits upon the consummation of the transactions contemplated by this Agreement, (iii) providing for severance or similar termination payments, or for the acceleration of vesting or grant of any incentive equity or similar compensation, or (iv) otherwise restricting the ability to terminate the employment of any employee or engagement of any other person (including but not limited to Contingent Workers)

at any time for any lawful reason without penalty or severance obligations (subject to or unless same is required under any applicable Law);

2.11.1.4 Contracts relating to indebtedness or to mortgaging, pledging or otherwise placing of an Encumbrance on any asset;

2.11.1.5 Any collective bargaining agreement or Contract with any labor union;

2.11.1.6 Contracts pursuant to which any of the Seller lease real property;

2.11.1.7 Any other Contract pursuant to which Seller made total payments in 2016 in excess of \$50,000.00 or which is reasonably expected to involve payment(s) in excess of \$50,000.00 during the Seller' fiscal year 2017 (other than any Contract required to be disclosed or excepted pursuant to Sections 2.11.1.1 through 2.11.1.7 above and other than leases of real property).

2.11.1.8 Any partnership or joint venture Contract;

2.11.1.9 Any Contract which contains any provisions requiring Seller to indemnify any other party, other than commercial contracts entered into in the ordinary course consistent with past practices;

2.11.1.10 Any acquisition agreement, whether by merger, stock or asset sale or otherwise; or

2.11.1.11 Any Contract prohibiting Seller from competing in any line of business or containing an exclusivity obligation of Seller, most-favored-nation provision or "best price" obligation enforceable against Seller.

2.11.2 The Seller has made available to the Buyer true and complete copies of all of the foregoing Contracts (collectively with all Leases/Subleases, the "**Material Contracts**"). Each Material Contract constitute legal, valid and binding obligations of the parties thereto subject to the Enforceability Exceptions and is in full force and effect, and will not be affected by the transfer of the Purchased Assets and will continue in full force and effect, thereafter, in each case without breaching the terms thereof or resulting in the forfeiture or impairment of any rights thereunder and without the consent, approval or act of, or the making of any filing with, any other party. Since January 1, 2016, (i) the Seller has performed its obligations under all Material Contracts, (ii) Seller is not in and has not been, and there is no alleged basis for, termination, breach or default under any of the Material Contracts, (iii) there has been no and there is no alleged basis for termination, default or breach of any of the Material Contracts, (iv) to the best knowledge of the Seller, no other party to any of the Material Contracts has terminated, breached or defaulted thereunder and (v) no event has occurred and no condition or state of facts exists which, with the passage of time or the giving of notice or both, would constitute such a termination, default or breach by the Seller or, to the best of the knowledge of the Seller, by any

such other party to any of the Material Contracts. The Seller is not currently renegotiating any of the Material Contracts and is not paying liquidated damages in lieu of performance thereunder.

2.12 No Violations, Litigation or Regulatory Action.

2.12.1 Seller is in compliance with and, for the past three (3) years, has complied in all material, respects with all Licenses, Laws, regulations, rules, writs, injunctions, ordinances, franchises, decrees or orders of any court or of any federal, state, municipal or other government, governmental department, commission, board, bureau, agency, instrumentality or other Governmental Body which are applicable or related to the Purchased Assets or the Business;

2.12.2 There are no and, for the past three (3) years, have not been any lawsuits, claims, suits, proceedings, arbitrations, audits, actions or investigations (each a "**Proceeding**") pending or, to the best of Seller's knowledge, threatened against or affecting the Seller relating or arising from the Business or the Purchased Assets, and there are no and has not been lawsuits, claims, suits or Proceedings pending or threatened in which the Seller is the plaintiff or claimant relating to or arising from the Business or the Purchased Assets;

2.12.3 There is no and, for the past three (3) years, has not been any Proceeding pending or, to the best of Seller's knowledge, threatened which questions the legality or propriety of the transactions contemplated by this Agreement or which, individually or in the aggregate, has or may have a material adverse effect on the Seller's ability to perform its obligations hereunder; and

2.12.4 Seller is and, for the past three (3) years, has been not subject to any outstanding award, assessment, judgment, writ, decree, injunction, subpoena, order, compliance agreement, settlement agreement or other decision of, by or with any Governmental Body or arbitrator.

2.13 Environmental Disclosures. Except as and to the extent disclosed in **Schedule 2.13**, (i) Seller has not permitted any polluting, toxic or Hazardous Materials to be used, generated, treated, stored, released, discharged or disposed of at, on, to, under or from any real property owned, leased or operated by the Business or on adjacent sites at any time, nor permitted any person to transport any such Hazardous Materials under, from or across any such real property, in either case in violation of, or so as to impose liability under, applicable Environmental Laws and (ii) Seller has no knowledge of any release, generation, treatment, storage or disposal of any Hazardous Materials at, on, to, under or from any real property owned, leased or operated by the Business in violation of, or so as to impose liability under, applicable Environmental Laws. For purposes of this Agreement, "**Hazardous Materials**" means any chemicals, materials or substances regulated or defined as "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous substances," "toxic substances", "pollutants" or "contaminants" under any Environmental Law, and includes petroleum (including derivatives thereof), petroleum products, oil, waste oil, polychlorinated biphenyls, and asbestos or asbestos-containing materials. For purposes of this Agreement, "**Environmental Laws**" means any and all Laws relating to: (i) pollution or protection of the environment, human health, or worker

health and safety, or (ii) the generation, manufacture, processing, use, handling, treatment, storage, disposal, release, distribution or transportation of, or exposure to, Hazardous Materials.

2.14 Environmental and Other Compliance Notices. Seller has received no written claim, request for information, complaint, demand, administrative, inquiry, notice of responsibility, notice of intent, notice of violation or other written notice advising Seller of any defects, defaults or non-compliance with, or liability under, Environmental Laws in connection with the Purchased Assets and/or the Business, except notices which have been previously complied with or expressly waived in writing by the Governmental Body. Seller represents to Buyer that the Business now complies and will at the Closing comply with all applicable Environmental Laws, as well as the requirements established by all Governmental Bodies governing its operation, and the requirements of all applicable state, city and/or county permit and license departments, environmental regulatory authorities and other agencies. The Business is not subject to any outstanding judgment, order or decree of any Governmental Body pursuant to Environmental Laws. Seller holds all permits, licenses, approvals, certifications, registrations and authorizations required under applicable Environmental Laws in connection with the Purchased Assets and/or the Business (“**Environmental Permits**”), and is in compliance in all material respects with all such Environmental Permits. Seller has undertaken, or will undertake prior to the Closing Date, all measures reasonably necessary to effect the transfer of the Environmental Permits to the Buyer.

2.15 Employee Matters.

2.15.1 The Seller is not a party to any collective bargaining agreement or labor contract. The Seller has complied in all material respects with applicable Laws with respect to the payment of social security and unemployment taxes, the withholding of income taxes, employment, employment practices, terms and conditions of employment, wages, hours or other labor-related matters, discrimination, wages and hours, labor relations, leave of absence requirements, occupational health and safety, privacy, harassment, retaliation, immigration, wrongful discharge, and the Seller is not liable for or in arrears with respect to any wages, or taxes (including interest and penalties thereon) for failure to comply with any of the foregoing.

2.15.2 There are no Proceedings pending for union certification or representation before the National Labor Relations Board nor, to the best of Seller's knowledge, has there been any attempt within the past three (3) years to organize the employees of Seller into a collective bargaining unit. There is no labor strike, dispute, slowdown or stoppage actually pending or, to the best of Seller's knowledge, threatened against or involving Seller, and no grievance which might have an adverse effect on Seller or the conduct of its business is pending. None of Seller's key employees have advised Seller that they are planning to terminate their employment with Seller at any time within one year of the date of this Agreement. There are no pending or, to the best of Seller's Knowledge, threatened Proceedings against Seller under any worker's compensation policy or otherwise with respect to any employment or labor matters (including allegations of employment discrimination, harassment, retaliation of unfair labor practices). Seller has not engaged in any policies or practices that could foreseeably give rise to liability in a

discrimination, harassment, retaliation, wage and hour or other individual or putative class action lawsuit related to any labor, wage and hour or employment matters.

2.15.3 **Schedule 2.15.3(a)** contains a list of all current employees of the Seller who are primarily engaged in the Business (“**Business Employees**”) as of the date of this Agreement, and correctly reflects: (i) their start date; (ii) their current job titles; (iii) their current salaries; (iv) any other compensation payable to them (including housing allowances, compensation payable pursuant to bonus, deferred compensation or commission arrangements or other compensation); (v) any promises or commitments made to them with respect to material changes or additions to their compensation or benefits; (vi) their exempt/non-exempt status under the Fair Labor Standards Act or applicable state law; (viii) severance entitlements or notice requirements to terminate; (ix) visa status; if applicable and (x) leave status, if applicable. **Schedule 2.15.3(b)** contains a list of all current independent contractors who are primarily engaged in the Business (“**Business Contractors**”) and correctly reflects (i) date of engagement; (ii) services provided; (iii) compensation information; and (iv) notice requirements prior to termination.

2.15.4 Benefit Plans.

2.15.4.1 Neither the Seller nor any ERISA Affiliate has ever maintained, contributed to, or been required to contribute to (i) any employee benefit plan that is or was subject to Title IV of ERISA, Section 412 of the Code, Section 302 of ERISA, (ii) a “multiemployer plan” (as defined in Section 3(37) of ERISA), (iii) any funded welfare benefit plan within the meaning of Section 419 of the Code, (iv) any “multiple employer plan” (within the meaning of Section 210 of ERISA or Section 413(c) of the Code), or (v) any “multiple employer welfare arrangement” (as such term is defined in Section 3(40) of ERISA), and neither the Seller nor any ERISA Affiliate has ever incurred any liability under Title IV of ERISA that has not been paid in full.

2.15.4.2 None of the Employee Plans, nor any Liability of any kind thereunder or with respect thereto, will be required by operation of law or otherwise (except as expressly provided herein) to be transferred to Buyer and/or its affiliates as a result of the transactions contemplated hereby.

2.15.4.3 For purposes of this Agreement:

2.15.4.3.1 “**Employee Plan**” means (A) an employee benefit plan within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA; (B) stock option plans, stock purchase plans, bonus or incentive award plans, severance pay plans, programs or arrangements, deferred compensation arrangements or agreements, change in control plans, programs or arrangements, supplemental income arrangements, vacation plans, and all other employee benefit plans, agreements or arrangements not described in (A) above; and (C) plans or arrangements providing compensation to employees and non-employee directors, in each case in which the Seller sponsors, contributes to, or provides benefits under or through such plan, or has any obligation to contribute to or provide benefits under or through

such plan, or if such plan provides benefits to or otherwise covers any current or former employee, officer or director of the Seller (or their spouses, dependents or beneficiaries).

2.15.4.3.2 “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

2.15.4.3.3 “**ERISA Affiliate**” means any entity that would have ever been considered a single employer with the Company under Section 4001(b) of ERISA or part of the same “controlled group” as the Company for purposes of Section 302(d)(3) of ERISA.

2.15.5 On the Closing Date, the Seller shall terminate the employment of all of its Transferred Employees working at or for the Seller, and shall fully pay and satisfy all outstanding obligations or liabilities of the Seller for wages and other compensation with respect to all such employees, including without limitation any sick leave or vacation leave earned and payable by the Seller to the employees as of the Closing Date (collectively, “**Employee Compensation**”), consistent with the Seller’s then existing policies and procedures.

2.16 Condition of Assets. The Purchased Assets, take as a whole, are in and will be on the Closing Date (i) in good operating condition and repair (ordinary wear and tear excepted), (ii) current in all inspections to which the Purchased Assets are subject, (iii) adequate and suitable for the purposes for which such Purchased Assets are presently used or held for use, owned and leased, (iv) maintained in the ordinary course of business and (v) are free from any material defects. The Seller will transfer to the Buyer all existing manufacturer’s warranties on the Purchased Assets, except as set forth on **Schedule 2.16**. Except as set forth on **Schedule 2.16**, no affiliate or equityholder of Seller, and each of their respective affiliates, officers, directors, employees, limited partners or equityholders has any direct or indirect right, title or interest in or to any Purchased Asset.

2.17 No Broker or Finder. Seller represents to Buyer that no other brokers, financial advisor, investment banker or finders have been employed who would be entitled to a fee or commission by reason of the transaction contemplated by this Agreement.

2.18 Inventory. All Inventory less inventory allowances as disclosed on the Latest Balance Sheet or thereafter acquired by the Seller is of good, merchantable and usable quality and is reflected on the Latest Balance Sheet and, with respect to Inventory acquired after the date of the Latest Balance Sheet, as reflected on the books and records of the Seller at the lower of cost (on a first-in, first-out basis) or market value. Provided however, this clause shall not be construed as an implied warranty of fitness for use or merchantability of the products by Seller with respect to the future conduct of the Business. For purposes of this Agreement, “**Inventory**” means all inventories of the Business, which are held at, or are in transit from or to, the locations at which the Business is conducted, or located at suppliers’ premises on consignment, including all inventories of raw materials, work in process, finished products, goods, spare parts and replacement and component parts, in each case, which are used or held for use by the Seller in the conduct of the Business, including any of the foregoing purchases subject to any conditional

sales or title retention agreement in favor of any other person, together with all rights of the Seller against suppliers of such inventories and other third parties.

2.19 Financial Statements. Attached hereto as **Schedule 2.19** are true and complete copies of the following financial statements (such financial statements, collectively, the "**Financial Statements**"):

2.19.1 (i) the unaudited balance sheet of the Seller as of December 31, 2016, and the related reviewed statements of income and cash flows for the period then ended and (ii) the unaudited balance sheet of the Seller as of December 31, 2015, and the related reviewed statements of income and cash flows for the period then ended and (iii) the unaudited balance sheet of the Seller as of December 31, 2014, and the related reviewed statements of income and cash flows for the period then ended;

2.19.2 the unaudited balance sheet of the Seller as of September 30, 2017 (the "**Latest Balance Sheet**") and the related unaudited statements of income and cash flows for the 9-month period then ended (collectively, the "**Unaudited Financial Statements**");

2.19.3 Except as set forth on **Schedule 2.19.3**, the Financial Statements (x) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, except as may be indicated in the notes thereto and except, in the case of Unaudited Financial Statements, for the absence of footnotes and subject to year-end adjustments and (y) fairly present, in all material respects, the financial position of the Seller as of the dates thereof and their results of operations and cash flows for the periods then ended (subject, in the case of the Unaudited Financial Statements, to the absence of customary footnotes and to normal year-end adjustments) .

2.20 Transactions with Affiliates. Except as set forth on **Schedule 2.20**, no officer, director, manager, employee, shareholder or affiliate of any of the Seller or any individual related by blood, marriage or adoption to any such individual, or any entity in which any such person owns any beneficial interest, is a party to any Contract with the Seller (other than Contracts set forth on **Schedule 2.11.1** and other than employment at-will arrangements) or has any beneficial interest in any material assets or property used by the Seller (each such Contract required to be set forth on **Schedule 2.20**, an "**Affiliate Agreement**"). Each Affiliate Agreement will be terminated effective as of the Closing Date (except as otherwise expressly set forth on **Schedule 2.20**).

2.21 Insurance. The Seller has in full force and effect such appropriate insurance policies with coverages customary for similarly situated companies in the same or similar industries and as required by applicable Law. **Schedule 2.21** sets forth a list of each insurance policy currently maintained by the Seller with respect to its properties, assets and business, and, except as set forth on **Schedule 2.21**, such policies are, and immediately following the Closing will continue to be, in full force and effect (it being acknowledged by the Buyer that no representation or warranty is made as to insurance coverage on and after the Closing Date). All premiums with respect to such insurance policies are currently paid, and the Seller are in material compliance with the terms thereof. Except as set forth on **Schedule 2.21**, neither this Agreement

nor the consummation of the Transactions will affect or result in the loss of coverage under any such policy. Except as set forth on **Schedule 2.21**, there is no claim by the Seller under any such policy as to which coverage has been denied or disputed by the underwriters of such policy during the past three (3) years.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE BUYER

As an inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer hereby represents, warrants and covenants to the Seller:

3.1 Due Organization. The Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to do business and is in good standing in the area where Buyer presently conducts its business. The Buyer's corporate documents and minutes provided to Seller are the true and correct records of the Buyer:

3.2 Authority. The Buyer has full power and authority to enter into this Agreement, to consummate the transactions contemplated hereby and to comply with the terms, conditions and provisions hereof.

3.2.1 No Third Party Consent. The execution, delivery and performance of this Agreement by the Buyer; including, without limitation, the deliveries and other agreements of the Buyer, contemplated hereby, have been authorized, or on the Closing Date do not require any further authorization or consent of any third party or of any Governmental Body except as may be expressly provided herein.

3.2.2 Binding Agreement. This Agreement is and each other agreement, instrument or other Transaction Document of the Buyer contemplated hereby is the legal, valid and binding agreement of the Buyer, enforceable against the Buyer in accordance with their respective terms subject to the Enforceability Exceptions.

3.2.3 No Violations. Neither the execution nor the delivery or this Agreement or any other Transaction Document nor the consummation of the transactions contemplated hereby or thereby will conflict with or result in any violation of or constitute a default under any term of the corporate documents of the Buyer, or any agreement, mortgage, debt instrument, indenture, franchise, License, permit, authorization, lease or other instrument, judgment, decree, order, law or regulation by which the Buyer or the assets of the Buyer are bound, or result in the creation of any lien, security interest, charge or Encumbrance upon any of Buyer's Assets.

3.3 Intentionally left blank.

3.4 Employees of Seller.

3.4.1 Interviews. At Buyer's request, Seller will permit Buyer to interview Seller's employees and to otherwise meet with Seller's employees, either individually or in groups, as Buyer may determine prior to the Closing Date. Seller shall use reasonable best

efforts to cooperate with Buyer in scheduling interviews and making Seller's employees available at times reasonably requested by Buyer.

3.4.2 Hiring by Buyer at Closing. On or before the Closing Date, Buyer shall offer employment to all Business Employees (including the "**Key Management Employees**" comprised of Michael Stanton, Jeannie Young, Corey Jones, and Claudia Stetter) of Seller who are primarily engaged in the Business, a list of which employees is set forth as **Schedule 3.4.2** hereof. Said offer of employment shall include a base salary not less than those in effect as of immediately prior to the date hereof, and shall contain other terms and conditions (including benefits) consistent with those provided to other employees of Buyer. Employment of Seller's employees is conditional on employees adhering to Buyer's employee policies, procedures, and hiring practices. Each employee of Seller who accepts an offer of employment with Buyer is referred to as a "**Transferred Employee**" and each other employee of Seller is referred to as a "**Non-Transferred Employee**". At or following the Closing, Seller shall terminate each Transferred Employee on the date that such Transferred Employee accepts employment with Buyer. Buyer shall have no Liabilities for any Transferred Employee prior to the Closing and shall have no Liabilities in respect of any Non-Transferred Employee.

3.4.3 COBRA. Except as otherwise set forth in this Section 3.4.3, the Seller shall retain all liabilities in respect of the Employee Plans, whether incurred on, prior to, or after the Closing Date. As of the Closing Date, Buyer shall offer to provide group health plan continuation coverage pursuant to Section 4980B of the Internal Revenue Code of 1986, as amended and Sections 601 and 609 of ERISA (together with the regulations promulgated thereunder, "COBRA") under the group health plan of Buyer with respect to each COBRA Eligible Individual (as defined below) during each such individual's COBRA Coverage Period (as defined below). A "COBRA Eligible Individual" is (i) an individual who (A) was an employee of the Seller prior to the Closing Date and who had or has a "qualifying event" (within the meaning of Section 4980B(f)(3) of the Code) while covered under Seller's group health plan and (B) has elected or is eligible to elect as of the Closing Date continuation coverage with respect to such qualifying event and (ii) each individual who is a qualified beneficiary under COBRA with respect to individuals described in clause (i). The "COBRA Coverage Period" with respect to each COBRA Eligible Individual shall be the period during which continuation coverage would be required to be provided to such individual under COBRA and shall be deemed to commence on the date of such individual's qualifying event. At or prior to Closing, the Company shall provide to Employer a list of the names, address, social security numbers and date and type of qualifying event for each individual described in (i) or (ii) above. Except as expressly set forth in this Section 3.4.3, no assets or liabilities of any Employee Plan shall be transferred to Buyer or any of its affiliates or any employee benefit plan maintained by any of them. All claims incurred by any employee of Seller and/or any COBRA Eligible Individuals (and their covered dependents) on or prior to the Closing Date under the Employee Plans shall be covered pursuant to the terms and conditions of the Employee Plans. For purposes of this paragraph 3.4.3, a claim shall be deemed to be incurred on the date on which medical or other treatment or service is rendered and not the date of the submission of the claim related thereto.

3.5 No Broker or Finder. Buyer represents to Seller that no brokers or finders have been employed who would be entitled to a fee by reason of the transaction contemplated by this Agreement (including, without limitation, the Leases/Subleases contemplated by Section 1.7).

3.6 Financing Contingency. Buyer warrants and represents that Buyer has secured the necessary financing to close this transaction and understands that Buyer's ability to acquire such financing shall not be a condition to Closing under this Agreement.

ACTIONS PRIOR TO THE CLOSING DATE

Seller and Buyer covenant and agree to take the following actions between the date hereof and the Closing Date:

4.1 Investigation of the Seller by the Buyer. Buyer shall have until November 17, 2017 to conduct at its sole cost and discretion a review and analysis of the Seller (the "**Due Diligence Period**"), including a review of the Seller's Federal and State tax returns, books and records, verification and analysis of financial information, contracts and agreements, inspection and review of the Purchased Assets, and the right to contact and communicate with the Seller's vendors, customers, lessors, employees, independent contractors and others having a business relationship with the Seller (collectively, the "**Interested Persons**"); provided, however, that no contacts shall be made with Interested Persons without advance notice to, and coordination with, the Seller. Without limiting the generality of the foregoing, Seller shall provide Buyer and its advisors (including any environmental consultants) with reasonable access to the real property and fixtures used in the Business for purposes of conducting physical inspections and investigations of the properties and assets used in the Business, including (without limitation) environmental site assessments. Buyer agrees that it will keep and maintain any and all information obtained by it, its agents, and counsel, confidential, and will not make use of any such information other than for its evaluation of the proposed transaction.

4.2 Expiration of Due Diligence Period. Buyer shall have until November 17, 2017 to terminate this Agreement (for any reason, in its sole and absolute discretion) in accordance with Section 8.1.4. In the event of a Due Diligence Termination, the Deposit shall be returned to Buyer and Buyer and Seller shall take all action reasonably necessary to cause the Deposit to be paid to Buyer (including by delivering joint written instructions to the Escrow Agent instructing the Escrow Agent to release the Deposit to Buyer). In the event that this Agreement is not terminated pursuant to Section 8.1.4, then the Deposit shall remain in the escrow account established by the Escrow Agent and shall be released in accordance with Section 8.2.

4.3 Preservation of the Accuracy of Representations and Warranties. Each of the, parties hereto Shall refrain from taking any action which would render any of the representations, warranties or covenants contained in Section 2 or Section 3 of this Agreement inaccurate as of the Closing Date. Each party shall promptly notify the other of any (a) event or condition which would render any representation or warranty of either the Seller or Buyer set forth in Section 2 or Section 3 untrue or in breach or would cause any covenant in Section 2 or Section 3 to be unfulfilled or (b) any action, suit or proceeding that shall be instituted or threatened against such party to restrain, prohibit or otherwise challenge the legality of any

transaction contemplated by this Agreement. Not in limitation of the foregoing, between the date of execution of this Agreement and the Closing Date, the Seller shall not make any material changes outside the ordinary course of business in connection with the Business without first obtaining the prior written approval of Buyer.

4.4 Contracts. Seller shall make all of its Contracts for services currently being provided to Seller available to Buyer for inspection and shall assign and transfer to Buyer any or all such Contracts which Buyer may request be assigned, provided that (i) the obligations to be assumed by Buyer shall have been incurred in the ordinary course of Seller's business prior to Closing, (ii) Seller shall not be in default under such Contracts, (iii) all payments due thereunder prior to Closing shall have been made by Seller or are credited to Buyer to the Closing Date, and (iv) all obligations required to be performed by Seller thereunder prior to Closing shall have been performed on or before the Closing of this Agreement.

4.5 Consents and Approvals. Promptly after the execution hereof, the Seller shall obtain any and all consents required of any third parties (without increasing any financial or other burden on the Buyer) and all consents, amendments or permits from Governmental Body, any of which may be required by the terms thereof, this Agreement or otherwise for the due and punctual consummation of the transactions contemplated by this Agreement (each, a "**Required Consent**").

CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligations of the Buyer under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date of the conditions set forth below. In the event of the non-satisfaction of a condition precedent, Buyer may waive such condition precedent and proceed to Closing without limiting its rights under this Agreement, or terminate the Agreement without any further liability unless otherwise described herein and, in the case of termination, the Deposit shall be returned to the Buyer and, in the case of Buyer choosing to proceed to Closing then said Deposit shall be credited to the Buyer at Closing.

5.1 No Misrepresentation or Breach of Covenants and Warranties. There shall have been no material breach by the Seller in the performance of any of its covenants and agreements herein; each of the representations and warranties of the Seller contained or referred to herein shall be meant correct in all respects on the Closing Date as though made on the Closing Date except for changes therein specifically permitted by this Agreement or resulting from any transaction expressly consented to in writing by the Buyer and there shall have been delivered to the Buyer a certificate or certificates to that effect, dated the Closing Date signed by the Seller.

5.2 Non-Compete Agreement. At Closing, the Seller and Trinity Business Group, LLC, a Louisiana limited liability company ("**Trinity**"), shall deliver a non-compete agreement from Seller and Trinity, in the form attached hereto as **Exhibit "C"**.

5.3 Leases. The parties shall have entered into Leases/Subleases in accordance with Section 1.7 and in substantially the form as provided and attached herein **Exhibit "A"** and all conditions to the effectiveness of such Leases/Subleases shall have been satisfied in a manner

satisfactory to Buyer which allows the Buyer to immediately use and occupy the space leased/subleased thereunder.

5.4 Contract Assignments. The Seller shall have obtained all required consents necessary for the assignment of the Contracts identified in **Schedule 1.6** or otherwise required to be obtained in connection with the consummation of the transactions contemplated by this Agreement (including the sale and transfer of the Purchased Assets), to specifically include the Metro Nashville Municipal Yard Waste Processing Contract and the City of Knoxville Municipal Yard Waste Processing Contract. Buyer shall use commercially reasonable efforts to assist the Seller in obtaining such consents.

5.5 No Restraint or Litigation. No action, suit, investigation or Proceeding shall have been instituted or threatened by any third party, Governmental Body to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

5.6 Other Documentation. Buyer shall have received all of the documents and deliveries required to be delivered by the Seller at the Closing pursuant to this Agreement.

5.7 Change of Conditions. There have not been nor is there any information in the possession of the Seller that would in any manner indicate that any event, occurrence, fact, circumstance, or change has occurred or would reasonably be likely to occur that, individually or in the aggregate with any other events, occurrences, facts, circumstances or changes, has had or would reasonably be expected to have adverse changes to the assets, Liabilities, operations or financial condition or business of Seller, the Business or the Purchased Assets.

5.8 Required Consents. The Seller shall have obtained all Required Consents and executed copies thereof shall have been delivered to Buyer.

5.9. Transitional Services Agreement. The Seller executed and delivered the Transitional Services Agreement.

CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

The obligations of the Seller under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date of the conditions set forth below. In the event of failure on the part of the Buyer or the non-satisfaction of a condition precedent, the Seller may waive such condition precedent and proceed to Closing without limiting their rights under this Agreement, or terminate the Agreement without any further liability and the Deposit as described in Section 1.3.1 shall be paid to the Seller.

6.1 No Misrepresentation or Breach of Covenants and Warranties. There shall have been no material breach by the Buyer in the performance of any of its covenants and agreements herein; each of the representations and warranties of the Buyer contained or referred to herein shall be true and correct in all material respects on the Closing Date as though made on the Closing Date except for change therein specifically permitted by this Agreement or resulting from any transaction expressly consented to in writing by the Seller or any transaction

contemplated by this Agreement; and there shall have been delivered to the Seller a certificate or certificates to such effect, dated the Closing Date and signed by the Buyer.

6.2 Leases. The parties shall have entered into a Leases/Subleases in accordance with Section 1.7 and in substantially the form as provided and attached herein **Exhibit "A"**.

6.3 Transitional Support Agreements. Buyer shall have delivered executed counterparts into Transitional Support Agreements for the independent consultation services of Sidney B. "Blake" Brian and Brandi Dykes, in the form attached hereto as **Exhibit "B"**.

6.4 Hiring of Seller's Employees at Closing. Buyer shall have delivered executed counterparts to offers of employment for each of Seller's existing employees in a manner consistent with Section 3.4.3 or otherwise made offers of employment to such individuals in accordance therewith. The Seller shall use reasonable best efforts to assist Buyer in the transition, hiring and onboarding of all such employees.

6.5 No Restraint or Litigation. No action, suit or Proceeding shall have been instituted or threatened by any third party or Governmental Body to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

6.6 Other Documentation. The Seller shall have received the payment of the Purchase Price and all of the documents and showings required to be delivered by the Buyer at the Closing pursuant to this Agreement.

INDEMNIFICATION

7.1 Indemnification by Seller. Seller shall indemnify and hold Buyer and its affiliates and its and their respective directors, officers, employees, equityholders, partners, managers, members, advisors, representatives and agents, and their respective successors and assigns (the "**Buyer Indemnified Parties**") harmless from, against or in respect of the aggregate of all indemnifiable damages of Buyer. For purposes of this Section 7.1, the term "indemnifiable damages" means the aggregate of any and all damage, loss, deficiency, Liability, Tax, expense (including, but not limited to, any reasonable attorneys' fees, court costs and expenses), Proceeding, demand, settlement, assessment or judgment to or against Buyer arising out of or in connection with:

7.1.1 All Excluded Liabilities, including all Liabilities or obligations of or arising out of the activities of the Seller, prior to closing, whether discovered or disclosed prior or subsequent to the Closing including the Closing Date; or

7.1.2 Any breach, inaccuracy or violation of, or non-performance by Seller of any of its representations, warranties, covenants or agreements contained in this Agreement or in any document, certificate or schedule required to be furnished pursuant to this Agreement; provided, that for purposes of determining whether any breach has occurred or the amount of any Loss resulting therefrom, the representations and warranties of the Seller shall be read without reference or giving effect to qualifiers such as "material," or other qualifiers of similar import or effect.

Without limiting the generality of the foregoing, with respect to the measurement of indemnifiable damages, Buyer shall have the right to be put in the same financial position as it would have been had each of the representations and warranties of the Seller been true and correct and had each of the covenants and agreements of the Seller been performed in full.

7.2 Indemnification by Buyer. Buyer and its successors and assigns shall indemnify and hold harmless the Seller, its successors, assigns and personal representatives from and with respect to all indemnifiable damages suffered by the Seller. For purposes of this Section 7.2, the term "indemnifiable damages" means the aggregate of any and all damage, loss, deficiency, liability; expense (including, but not limited to, any reasonable attorneys' fees, court costs and expenses), Proceeding, demand, settlement, assessment or judgment to or against Buyer arising out of or in connection with any breach, inaccuracy or violation of, or non-performance by, Buyer of any of its representations, warranties, covenants or agreements contained in this Agreement or in any document, certificate or schedule required to be furnished pursuant to this Agreement.

Without limiting the generality of the foregoing, with respect to the measurement of indemnifiable damages, the Seller shall have the right to be put in the same financial position as it would have been had each of the representatives and warranties of Buyer been true and correct and had each of the covenants and agreements of Buyer been performed in full.

7.3 Indemnification Cap. Neither party shall be liable under Section 7.1.2 or Section 7.2 of this Agreement, as applicable, for any amount in excess of One Million and No/100^{ths} Dollars (\$1,000,000.00); provided, that in the case of any breach or inaccuracy of any Fundamental Representation, the aggregate liability of the Seller shall be capped at the Purchase Price. "**Fundamental Representation**" shall mean any of the representations or warranties of Seller set forth in the following Sections: 2.1 (Ownership of Assets); 2.3 (Due Organization; Power and Authority); 2.4 (Authority); 2.8 (Availability of Purchased Assets and Legality of Use); 2.10 (Title to Property); and 2.17 (No Broker or Finder).

7.4 Notice of Claims. If any claim is made against a party which, if sustained, would give rise to a liability of the other hereunder, the party seeking indemnification (the "claiming party") shall promptly cause notice of the claim to be delivered to the other party (the "non-claiming party") and shall afford the non-claiming party and its counsel, at its sole expense, the opportunity to defend or settle the claim (provided that the claiming party and its counsel may participate at their sole cost and expense); provided, that the non-claiming party shall not have the right to defend or settle (a) any claim that relates to or arises in connection with any proceeding, action, indictment, allegation or investigation alleging criminal, quasi-criminal or fraudulent actions on the part of any Buyer Indemnified Party, (b) any claim that involves any material customer or supplier of the Buyer or (c) any claim that seeks monetary damages which, when taken together with (i) all indemnifiable damages reasonably likely to be incurred in connection with the resolution of such claim and (ii) the aggregate amount of all other indemnifiable damages subject to other unresolved claims for indemnification, would reasonably be expected to exceed more than 150% of the amount for which the non-claiming party could be liable for indemnification hereunder. Any notice of a claim shall state specifically the representation, warranty, covenant or agreement with the alleged basis for the claim, and the amount of liability asserted against the other party by reason of the claim (if such amount can be

reasonably estimated). If such notice and opportunity are not given, or if any claim is compromised or settled without notice to and consent of the non-claiming party, no liability shall be imposed on the non-claiming party by reason of such claim to the extent that such non-claiming party is actually and materially prejudiced thereby, but if notice is given and the non-claiming party receiving the notice fails to assume the defense of the claim or fails to admit in writing its liability with respect to such claim, the claim may be defended, compromised or settled by the claiming party without the non-claiming party's consent and the non-claiming party shall remain liable under this Section 7. Notwithstanding anything contained in this Section 7.3 to the contrary, the claiming party may retain control over the defense of any claim hereunder if such claim is non-monetary or is for injunctive or other equitable relief.

7.5 Survival of Representations and Warranties. All representations and warranties contained herein shall survive the consummation of the transactions contemplated by this Agreement from the Closing Date through the date that is eighteen months (18) months following the Closing Date and shall thereafter terminate, in each case, other than Fundamental Representations, which shall survive through the date that is three (3) years following the Closing Date. Claims first asserted within the period referred to above shall not be barred and shall survive indefinitely until such claims are resolved. All covenants shall survive the Closing in accordance with their terms.

7.6 Tax Treatment. All indemnification payments made hereunder shall be treated by all parties as adjustments to the Purchase Price for U.S. federal and applicable state and local income tax purposes, except as otherwise required by applicable law.

TERMINATION

8.1 Termination. This Agreement may be terminated at any time before the Closing Date:

8.1.1 By mutual written consent of the Buyer and Seller;

8.1.2 By either party, on or after the Outside Date if the Closing has not occurred on or before the Outside Date; provided, however, that if the Seller has timely delivered an Extension Notice as described in Section 1.11.1, then the parties shall only have the right to terminate this Agreement pursuant to this Section 8.1.2 on or after the Extended Outside Date if the Closing has not occurred on or before the Extended Outside Date;

8.1.3 By either Buyer or Seller if there has been a material breach on the part of the other party of any representation, warranty or covenant set forth in this Agreement that is not cured within ten (10) business days after such other party has been notified of the intent to terminate this Agreement pursuant to this Section 8.1.3 (or is otherwise not capable of being cured prior to the Closing Date or, if an Extension Notice has been delivered, the Extended Outside Date, or if so capable, is not actually cured prior to such date); or

8.1.4 By Buyer, at any time on or prior to the last day of the Due Diligence Period (i.e., November 17, 2017) for any reason upon written notice to Seller (a "**Due Diligence Termination**").

8.2 Effect of Termination.

8.2.1 In the event of termination of this Agreement as expressly permitted under Section 8.1.1 or Section 8.1.4 hereof, this Agreement shall forthwith become void, and there shall be no further liability on the part of either Buyer or Seller or their respective officers or directors to each other and the Deposit shall be returned to the Buyer.

8.2.2 In the event of termination of this Agreement pursuant to Section 8.1.2 at a time when all of the conditions set forth in Section 5 and Section 6 have been satisfied, Seller stood ready, willing and able to consummate the Closing and Buyer failed to consummate the Closing within two (2) business days after the Outside Date (or, if an Extension Notice has been delivered, the Extended Outside Date), then (x) the Deposit as described in 1.3.1 shall become immediately nonrefundable to the Buyer and (y) prior to a termination of this Agreement, Seller shall be entitled to seek specific performance of Buyer's obligation to consummate the Closing. The parties acknowledge that remedies at law will be inadequate remedies for such breach of this Agreement and consequently agree that this Agreement shall be enforceable by specific performance prior to any termination of this Agreement. The remedy of specific performance shall be in addition to all other rights and remedies at law or in equity available to Seller. In all other circumstances in which this Agreement is terminated pursuant to Section 8.1.2, the Deposit shall be returned to the Buyer.

8.2.3 In the event of termination of this Agreement pursuant to Section 8.1.3, and if such termination results from the willful and intentional misrepresentation or breach by a party of any of the material covenants of such party contained in this Agreement, such party shall be fully liable for any and all damages sustained or incurred as a result of such breach. The parties acknowledge that remedies at law will be inadequate remedies for breach of this Agreement and consequently agree that this Agreement shall be enforceable by specific performance prior to termination. The remedy of specific performance shall be in addition to all other rights and remedies available to the parties at law or in equity. In the event of termination of this Agreement pursuant to Section 8.1.3, the Deposit shall either (x) be returned to the Buyer, in the event of a termination resulting from Seller's misrepresentation or breach or (y) be immediately non-refundable and immediately payable to the Seller, in the event of a termination resulting from Buyer's misrepresentation or breach.

8.3 Confidentiality Obligations. Any and all confidentiality obligations of the parties hereto shall survive any termination of this Agreement, regardless of the cause of the termination, for a period of five (5) years from such termination.

8.4 Public Announcement. Neither Seller nor Buyer will make any announcement of the proposed transaction contemplated by this Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed. The foregoing shall not restrict in any respect Seller's or Buyer's ability to communicate information concerning this Agreement to their respective affiliates and equityholders, and its and their respective affiliates, officers, directors, employees, limited partners, financing sources or other prospective, current or former investors and professional advisers, and, to the extent relevant, to third parties whose consent is required in connection with this Agreement.

GENERAL PROVISIONS

9.1 Confidential Nature of Information. Each party hereto agrees that it will hold in, strict confidence, all documents, materials and other information which it shall have obtained regarding any other party during the course of the negotiations leading to the consummation of the transactions contemplated hereby, the investigation provided for herein and the preparation of this Agreement and other related documents, and, in the event the transactions contemplated hereby shall not be consummated, all copies of non-public documents and material which have been furnished in connection therewith shall be promptly returned to the party furnishing the same or shall be destroyed, shall continue to be treated as confidential information and shall not be used for the benefit of the party who returned such confidential information; provided, however, that each party may retain one copy of the other party's confidential information for legal and compliance purposes (it being understood that any information so retained shall remain subject to the terms hereof).

9.2 Governing Law. This Agreement shall be governed by, enforceable and interpreted in accordance with the substantive laws of the State of Tennessee. Buyer agrees that all actions and proceedings arising directly or indirectly from this Agreement shall be exclusively litigated in the Courts of Knox County, Tennessee.

9.3 Dispute Resolution; Mediation; Binding Arbitration. The parties hereto agree that the following alternative dispute resolution procedure shall be followed with respect to any dispute arising between the parties which in any manner arises out of or relates to the subject matter of this Agreement except where a dispute resolution mechanism is set forth in other provision of this Agreement or the conduct of the parties in the performance of this Agreement.

9.3.1 Mediation. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by and through non-binding mediation. Any party may give the other party written notice of any dispute not resolved in the ordinary course of business. Within fifteen (15) days after delivery of the notice the party receiving the notice shall submit to the other a written response. The notice and the response shall include a statement of each party's position regarding the matter in dispute and a summary of arguments in support thereof. Within thirty (30) days after delivery of the notice, the designated parties shall meet at a mutually acceptable time and place using a mutually acceptable mediator to attempt to resolve the dispute. All reasonable requests for information made by one party to the other shall be honored in a timely fashion. If the matter in dispute has not been resolved within sixty (60) days after delivery of the notice, or if the parties fail to meet within thirty (30) days, either party may initiate arbitration proceedings as contemplated herein.

9.3.2 Binding Arbitration. In the event the parties are unable to resolve any dispute arising hereunder as provided above, either party (the "**claimant**") may give written notice to the other (hereinafter "**respondent**") of its intention to arbitrate, which notice shall contain a statement setting forth the nature of the dispute, the amount involved, if any, and the remedy sought, and shall submit the appropriate documents to the office of the American Arbitration Association (the "**AAA**") located in Knoxville, Tennessee or the office which is the closest to Knoxville, Tennessee if there is no office in Knoxville, Tennessee, together with the

appropriate filing fee. The AAA Commercial Arbitration Rules, as modified or revised by the provisions herein, shall govern the arbitration proceedings, which shall be held in Knoxville, Knox County, Tennessee before a single arbitrator selected from the AAA Commercial Arbitration Panel according to AAA procedures; should the parties otherwise agree, the arbitration proceedings may be held and conducted in a mutually convenient location acceptable to the parties. Any award rendered by the arbitrators pursuant to the procedure provided above shall be final and binding on the parties. Such award shall be enforceable under the Federal Arbitration Act and applicable state law. The parties shall each bear all of their respective arbitration costs and expenses and shall share equally the costs and expenses of the arbitrator. However, in the discretion of the arbitrator, the prevailing party may be awarded and allowed to recover from the other party its expenses of the arbitration proceedings, including reasonable attorney's fees. The provisions hereof shall be a complete bar and defense to any suit, action or Proceeding instituted in any court or before any administrative tribunal with respect to any dispute or controversy arising out of or in connection with this Agreement. The arbitration provisions hereof shall, with respect to any such dispute or controversy, survive the termination or expiration of this Agreement.

9.4 **Buyer's Right To Exclusivity.** Seller agrees not to take, and to cause its officers, directors, employees, representatives, consultants, financial advisors, attorneys, accountants or other agents to refrain from taking, any action to solicit, encourage, initiate or engage in discussions or negotiations with, or provide any information to or enter into any agreement with any person (other than Buyer and/or its affiliates or their respective agents and representatives) the transfer, disposition, sale or Encumbrance, in whole or in part, of the Purchased Assets contemplated under this Agreement for the duration of the Exclusivity Period (as defined herein). "**Exclusivity Period**" means the period commencing on the date of execution of this Agreement and expiring on the earlier of the Closing and the date on which this Agreement is validly terminated in accordance with Section 8.1. It is the expressed intention of the parties to permit the Exclusivity Period to proceed concurrently with the terms and provisions contained in this Agreement.

9.5 **Notices.** All notices or other communications required or permitted hereunder shall be in writing and shall be deemed given or delivered when delivered personally, or when sent by registered or certified mail or prepaid overnight courier or by confirmed legible facsimile with confirming copy sent by regular mail, addressed as follows:

If to the Buyer, to:

The LETCO Group, LLC
Attn.: Mr. Mark Rose
1901 California Crossing Road
Dallas, TX 75220

With a copy to (which shall not constitute notice):

Goodwin Procter LLP

The New York Times Building
620 Eighth Avenue
New York, NY 10018
Attn: Paul N. Cicero, Esq.
Email: PCicero@goodwinlaw.com

If to Seller to:

Natures Best Organics of Tennessee, LLC
Attn.: Mr. Sidney Brian
5800 One Perkins Place, Suite 6A
Baton Rouge, LA 70808

With a copy to:

David A. Draper, Esq.
Lewis, Thomason, King, Krieg & Waldrop, P.C.
One Centre Square, Fifth Floor
620 Market Street
Knoxville, TN 37902

or to such address as such party may indicate by a notice delivered to the other parties hereto. Notice is deemed received the same day (in the case of personal delivery), the next day if sent by facsimile.

9.6 Successors and Assigns.

9.6.1 The rights of the Buyer under this Agreement shall not be assignable except by express written permission of the Seller, and in any event, the Buyer shall remain liable for all of its obligations under this Agreement; provided, that Buyer may assign this Agreement without Seller's consent in connection with a change of control of Buyer or to any of its affiliates and may collaterally assign its rights hereunder (in whole or in part) to any financing source (including any lender); provided, further, that any such assignment shall not relieve Buyer of its obligations hereunder.

9.6.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person other than the parties and successors and assigns permitted by this Section 9.5 any right, remedy or claim under or by reason, of this Agreement.

9.7 No Third-Party Beneficiaries. Except as specifically set forth in Section VII with respect to the Buyer Indemnified Parties, nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this Agreement.

9.8 Entire Agreement: Amendments. This Agreement and the Schedules referred to herein and the documents delivered pursuant hereto, contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersedes all prior deal memoranda, agreements, understandings, negotiations and discussions, whether oral or written, between such parties and there are no warranties, representations or agreements between the parties hereto in connection with the subject matter hereof except as expressly set forth in this Agreement.

9.9 Maintenance of Corporate Existence; Insurance. During the period commencing as of the Closing and expiring on the third (3rd) anniversary of the Closing Date (the "**Maintenance Period**"), Seller shall maintain its separate corporate existence and shall not liquidate, dissolve or otherwise transfer all or substantially all of its remaining assets to any other person. Seller shall further grant Buyer a right of first refusal to purchase any of the real property owned by Seller for the duration of the Maintenance Period. During the Maintenance Period, Seller shall maintain a reasonable level (considering the nature of Seller's operations and the aggregate value of the assets and properties owned thereby) of general liability insurance to cover all of the assets and properties owned, leased or held for use by Seller following the Closing.

MISCELLANEOUS PROVISIONS.

10.1 Headings. The headings of the various paragraphs and subparagraphs of this Agreement are for convenience and easy reference only and do not define, limit, augment or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement. Each gender includes the other genders and each includes a person as the context so requires.

10.2 No Exclusive Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

10.3 Severability. Should any provision or portion of this Agreement be held unenforceable or invalid for any reason by a proper court, the remaining provisions and portions of this Agreement shall be unaffected by such holding; and shall remain in full force and effect.

10.4 Professional Fees; Expenses. Except as otherwise expressly provided herein, each party hereto will pay all costs and expenses incident to its negotiation and preparation of this Agreement and to its performance and compliance with all agreements and conditions contained herein on its part to be performed or complied with, including the fees, expenses and disbursements of its counsel and accountants.

10.5 Attorney Fees; Dispute Resolution. Should any Party hereto institute any action or proceeding in court or otherwise to enforce or interpret this Agreement by reason of or with respect to an alleged breach of any provision hereof, the prevailing party shall be entitled to receive from the non-prevailing party or parties such amount as determined to be reasonable attorneys' and paralegals' fees for the services rendered to the prevailing party in such action or proceeding, plus the prevailing party's costs and expenses therein.

10.6 Execution of Counterparts. This Agreement may be executed in one or more counterparts, via facsimile, email, or other format, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been agreed upon by each of the parties and delivered to Seller and Buyer.

10.7 Certain Tax Matters.

10.7.1. For purposes of this Agreement,

“**Excluded Taxes**” means (i) except as provided in Section 1.5, any liability of the Seller and its owners for Taxes; (ii) all Taxes relating to the Excluded Assets or Excluded Liabilities for any taxable period; and (iii) all Taxes relating to the Purchased Assets, the Business, or the assumed liabilities (described in Schedules 1.6 and 1.8) for any taxable period (or portion thereof) ending on or prior to the Closing Date;

“**Taxes**” means, without limitation, any and all U.S. federal, state, local or foreign income, gross receipts, capital gains, franchise, alternative or add-on minimum, estimated, sales, use, goods and services, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, unclaimed property or escheat, windfall profit, environmental, customs, duties, real property, ad valorem, special assessment, personal property, equity, social security, unemployment, employment, disability, payroll, license, employee or other withholding, contributions or other tax of any kind whatsoever, whether disputed or not, imposed by any Governmental Body, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing and including any obligations to indemnify or otherwise assume or succeed to the tax liability of any other person.

10.7.2. For purposes of allocating liability for Taxes pursuant to this Agreement (including Taxes described in clause (iii) of the definition of Excluded Taxes), in the case of any taxable period that includes (but does not end on) the Closing Date (a “**Straddle Period**”), the amount of any Tax based on or measured by income or receipts of a person that is allocable to the portion of such Straddle Period ending on and including the Closing Date shall be determined based on an interim closing of the books as of the close of business on the Closing Date, and the amount of any other Tax that is allocable to the portion of such Straddle Period ending on and including the Closing Date shall be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of the Straddle Period ending on and including the Closing Date and the denominator of which is the total number of days in the entire Straddle Period.

10.8 Exhibits; Schedules

10.8.1 The exhibits and schedules to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement. All exhibits and schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this

Agreement as if set forth in full herein. Any capitalized terms used in any schedule or exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

10.8.2 The schedules delivered by the Seller to Buyer in connection with this Agreement and attached hereto shall be subject to the following terms and conditions: (i) any item disclosed in any particular part or section of the schedules shall be deemed to be disclosed in any other part or section of the schedules only to the extent that it is reasonably apparent from a reading of the face of such disclosure that such disclosure is related to such other particular part or section of the schedules and (ii) headings and introductory language have been inserted on the sections of the applicable schedules for convenience of reference only and shall to no extent have the effect of amending or changing the express description of the sections as set forth in this Agreement.

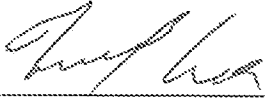
10.8.3 Seller shall, following the date hereof, deliver drafts of the schedules to this Agreement as promptly as possible. The parties shall work in good faith to finalize the schedules to this Agreement as promptly as possible and Seller shall, prior to November 15, 2017, deliver to Buyer a written notice attaching the final version of the schedules to this Agreement (which shall be the version of the schedules used for all purposes of this Agreement).

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed as of the date first written above.

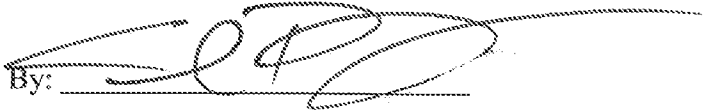
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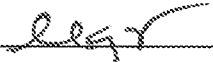
THE LETCO GROUP, LLC

By: 
Name: Mark Rose
Title: President

SELLER:

**NATURES BEST ORGANICS OF
TENNESSEE, LLC**

By: 

Its: 

Schedule 2.2.1

Ownership of Intellectual Property

1. Trademark Registration documentation attached
2. **WEB SITE** www.naturesbestorganicstn.com hosted by slamdot (www.slamdot.com) SERVER: rambi.slamdot.com; FTP username: naturesbes; IP address: 67.228.48.40; Name server 1: nsl.slamdot.com; Name server 2: ns2.slamdot.com
3. **EMAIL ADDRESS** www.nbotn.com



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Word Mark	NATURE'S BEST ORGANICS
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: organic potting soil. FIRST USE: 20000801. FIRST USE IN COMMERCE: 20000801
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	05.03.25 - Leaf, single; Other leaves 26.17.13 - Letters or words underlined and/or overlined by one or more strokes or lines; Overlined words or letters; Underlined words or letters 27.03.04 - Plants forming letters or numerals
Serial Number	76266468
Filing Date	June 5, 2001
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 14, 2005
Registration Number	2990839
Registration Date	September 6, 2005
Owner	(REGISTRANT) Natural Resources Recovery, Inc. CORPORATION LOUISIANA 5800 One Perkins Place, Suite 6-A Baton Rouge LOUISIANA 70808 (LAST LISTED OWNER) NATURAL RESOURCES RECOVERY, LLC LIMITED LIABILITY COMPANY LOUISIANA 5800 ONE PERKINS PLACE SUITE 6A BATON ROUGE LOUISIANA 70808
Assignment Recorded	ASSIGNMENT RECORDED

Attorney of Record Claude F. Reynaud, Jr.
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15 SECT 8 (6-YR) SECTION 8(10-YR) 20151021.
Renewal 1ST RENEWAL 20151021
Live/Dead Indicator LIVE

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NATURE'S BEST ORGANICS

Word Mark	NATURE'S BEST ORGANICS
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: organic potting soil. FIRST USE: 20000801. FIRST USE IN COMMERCE: 20000801
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76266474
Filing Date	June 5, 2001
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	August 9, 2005
Registration Number	3009871
Registration Date	November 1, 2005
Owner	(REGISTRANT) Natural Resources Recovery, Inc. CORPORATION LOUISIANA 5800 One Perkins Place Suite 6-A Baton Rouge LOUISIANA 70808 (LAST LISTED OWNER) NATURAL RESOURCES RECOVERY, LLC LIMITED LIABILITY COMPANY LOUISIANA 5800 ONE PERKINS PLACE SUITE 6A BATON ROUGE LOUISIANA 70808
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Claude F. Reynaud, Jr.
Type of Mark	TRADEMARK
Register	PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20151013.
Renewal 1ST RENEWAL 20151013
Live/Dead
Indicator LIVE

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