

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM344616

<b>SUBMISSION TYPE:</b>	RESUBMISSION		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>RESUBMIT DOCUMENT ID:</b>	900327273		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
JMS Constructors, Inc		06/02/2015	CORPORATION:
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Beatituda Holding Company		
<b>Street Address:</b>	367 Beechwood Drive		
<b>City:</b>	Sellerville		
<b>State/Country:</b>	PENNSYLVANIA		
<b>Postal Code:</b>	18960		
<b>Entity Type:</b>	CORPORATION: PENNSYLVANIA		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	4592364	VALUE DRY	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	6104896970		
<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>			
<b>Phone:</b>	6104890700		
<b>Email:</b>	acl@kinglaird.com		
<b>Correspondent Name:</b>	Andrew C. Laird, Esquire		
<b>Address Line 1:</b>	360 W Main Street		
<b>Address Line 4:</b>	Trappe, PENNSYLVANIA 19426		
<b>NAME OF SUBMITTER:</b>	Andrew C. Laird		
<b>SIGNATURE:</b>	/Andrew C Laird Esquire/		
<b>DATE SIGNED:</b>	06/15/2015		
<b>Total Attachments: 50</b>			
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**ASSET PURCHASE AGREEMENT**

**by and among**

**BEATITUDA HOLDING COMPANY  
As "Buyer"**

**And**

**JMS CONSTRUCTORS, INC. D/B/A VALUE DRY,  
MICROBIOLOGICAL AIR SAFETY LABORATORIES, INC.,**

**And**

**VALUE DRY OF MASSACHUSETTS, LLC,**

**As "Sellers"**

**And**

**G. JAMES KESSLICK AND J. MATTHEW SALANSKY,  
As "Shareholders"**

**Dated May 9, 2015**

\*\*\*\*\*

The mailing, delivery or negotiation of this Agreement by Buyer or its agent or attorney shall not be deemed an offer by Buyer to enter into any transaction or to enter into any other relationship with Sellers and/or Shareholders, whether on the terms contained herein or on any other terms. This Agreement shall not be binding upon Buyer, nor shall Buyer have any obligations or liabilities or Sellers and/or Shareholders any rights with respect thereto, unless and until Buyer has executed and delivered this Agreement. Until such execution and delivery of this Agreement, Buyer may terminate all negotiation amid discussion of the subject matter hereof, without cause and for any reason, without recourse or liability.

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## LIST OF SCHEDULES

Schedule 2.1(a)	Property and Equipment
Schedule 2.1(c)	List of Purchased Inventory
Schedule 2.1(d)	Customer Contracts, Service Contracts and Sales Orders
Schedule 2.1(g)	Vendor Contracts, Equipment Leases and Purchase Orders
Schedule 2.1(j)	List of Work in Process
Schedule 2.1(k)	Assumed Liabilities
Schedule 2.2(i)	List of Excluded Assets
Schedule 2.3	Work in Process
Schedule 3.2	Allocation Schedule
Schedule 3.5	Expense Allocation Schedule
Schedule 4.4	Liens
Schedule 4.5	Real Property
Schedule 4.6	Leases
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Schedule 4.8	Governmental Consents, Approvals or Filings
Schedule 4.11	Service Marks, Trade Marks, Trade Names, etc.
Schedule 4.12	Litigation
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Schedule 7.11	List of Employees and Key-Employees
Schedule 9.3(b)	List of Excluded Inventory
Schedule 9.5(a)-(g)	Assignment of, and List of, Telephone Number/Website/Domain Name

## LIST OF EXHIBITS

Exhibit 3.1(c)	Form of Sellers' Subordinated Note
Exhibit 6.7	Non-Disclosure Agreement
Exhibit 8.1(a)	Bill of Sale
Exhibit 7.8	Assignment
Exhibit 7.9	Patent/Trademark Assignment
Exhibit 7.12	Consulting Agreement
Exhibit 9.4(a)	Non-Competition, Non-Solicitation and Non-Disparagement Agreement

## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") is made this        day of February, 2015, by and among JMS CONSTRUCTORS, INC. D/B/A VALUE DRY, a Pennsylvania business corporation, with its principal place of business located at 154 Hansen Access Road, King of Prussia, PA 19046; MICROBIOLOGICAL AIR SAFETY LABORATORIES, INC., a Pennsylvania business corporation, with its principal place of business located at 154 Hansen Access Road, King of Prussia, PA 19046; and VALUE DRY OF MASSACHUSETTS, LLC, a Massachusetts limited liability company, with a business address of 494 Franklin Street, Unit No. 8, Framingham, MA 01702; (hereinafter collectively referred to as "Sellers"); G. JAMES KESSLICK with a residence address of 133 Chinaberry Lane, Collegeville, PA 19426 and J. MATTHEW SALANSKY, with a residence address of 19 Shannon Way, Royersford, PA 19468 (hereinafter together referred as "Shareholders") and BEATITUDA HOLDING COMPANY, a Pennsylvania business corporation with a registered address of 367 Beechwood Drive, Sellersville, PA 18960 (hereinafter "Buyer").

### WITNESSETH:

**WHEREAS**, Sellers are presently engaged in the business of basement waterproofing and building foundation construction and repair, mold removal and remediation (the "Business"); and

**WHEREAS**, Shareholders are the record owners and holders of all the issued and outstanding shares of capital stock and/or membership interest of all the Sellers and constitute the sole Officers, Directors and Members of all of the Sellers; and

**WHEREAS**, Sellers have agreed to sell and Buyer has agreed to purchase the Assets of Sellers used or held for use by Sellers in the conduct of Sellers' Business, as well as to assume certain liabilities of Sellers relating to the Business, pursuant to the terms and conditions of this Agreement; and

**WHEREAS**, Sellers and Shareholders have agreed to enter into certain restrictive covenant agreements as to non-competition, non-solicitation and non-disparagement as hereinafter provided; and

**WHEREAS**, Sellers are the sole owners of the Assets intended to be sold hereunder and there are no other persons, corporations or entities other than Sellers having any right, title, claim or interest in and to the Assets intended to be sold by Sellers to Buyer hereunder; and

**WHEREAS**, Sellers and Shareholders have made certain warranties and representations to Buyer concerning the Assets being purchased by and assigned to Buyer hereunder, the rights arising out of which are intended to survive Closing for the period of time set forth below and which warranties and representations are being relied upon by the Buyer and are declared to be the vital, essential and moving cause inducing Buyer to enter into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements hereinafter contained, and intending to be legally bound hereby, the parties hereto agree as follows:

## **ARTICLE I CONSTRUCTION; DEFINITIONS**

Section 1.1 Definitions. Unless the context of this Agreement otherwise clearly requires, (a) references to the plural include the singular, and references to the singular include the plural, (b) the words "include," "includes" and "including" do not limit the preceding terms or words and shall be deemed to be followed by the words "without limitation", (c) the term "or" has the inclusive meaning represented by the phrase "and/or" and (d) the terms "hereof", "herein", "hereunder", "hereto" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise set forth herein, references in this Agreement to (i) any document, instrument or agreement (including this Agreement) (A) includes and incorporates all exhibits, schedules and other attachments thereto, (B) includes all documents, instruments or agreements issued or executed in replacement thereof and (C) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified or supplemented from time to time in accordance with its terms and in effect at any given time, and (ii) a particular Law (as hereinafter defined) means such Law as amended, modified, supplemented or succeeded, from time to time and in effect at any given time. All Article, Section, Exhibit and Schedule references herein are to Articles, Sections, Exhibits and Schedules of this Agreement, unless otherwise specified. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

Section 1.2 Definitions. The following terms, as used herein, have the following meanings:

"Affiliate" of any specified Person means any other Person directly or indirectly Controlling or Controlled by or under direct or indirect common Control with such specified Person.

"Agreement" has the meaning set forth in the introductory paragraph.

"Ancillary Documents" means any additional documents to be executed by Buyer at Closing.

"Applicable Benefit Laws" means all Laws or other legislative, administrative or judicial promulgations, other than ERISA and the Code, applicable to any Sellers Benefit Plan.

"Assets" has the meaning set forth in Section 2.1.

"Assumed Liabilities" means those contracts listed on Schedule 3.2.

"Business" has the meaning set forth in the recitals.

“Business Day” means any calendar day except Saturday, Sunday or any calendar day on which banks are generally not open for business in the city of Philadelphia, Pennsylvania.

“Buyer” has the meaning set forth in the introductory paragraph.

“Buyer Indemnified Parties” means the Buyer and its Affiliates, their respective officers, directors, employees, agents and representatives and the heirs, executors, successors and assigns of any of the foregoing.

“Buyer’s Broker” means Calder Associates.

“Charter Documents” means the certified articles of incorporation, certificate of organization, bylaws and operating agreement, as the case may be, of each of the Sellers.

“Claims Period” means the period during which a claim for indemnification may be asserted hereunder by an Indemnified Party.

“Closing” or “Closing Date” means May 31, 2015 or such date thereafter as the parties may mutually agree.

“COBRA Coverage” means continuation coverage required under Section 4980B of the Code and Part 6 of Title 1 of ERISA.

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

“Confidential Information” means any confidential data or information of the Sellers (including trade secrets) that is valuable to the operation of the Business and not generally known to the public or competitors.

“Consulting Agreement” means that certain Consulting Agreement had between Buyer and one or more of the Shareholders, in the form attached hereto as Exhibit 7.12, which Consulting Agreement shall set for the terms and conditions of the consulting services to be provided to the Buyer by each of the Shareholders who execute such Consulting Agreement, including, but not limited to, that each Shareholder who executes such Consulting Agreement shall provide at least two (2) weeks of onsite consultation services to Buyer and at least fifty (50) weeks of offsite, telephone, mail or electronic mail consultation services to Buyer.

“Control” means, when used with respect to any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

“Effective Date” means the date upon which this Agreement is legally effective by virtue of the execution of this Agreement by Sellers and Buyer.



“ERISA” means the United States Employee Retirement Income Security Act of 1974 and the rules and regulations promulgated thereunder.

“Excluded Assets” has the meaning set forth in Section 2.2.

“Governmental Approvals” means all permits and approvals from all governmental authorities and agencies having jurisdiction over the Business which are necessary in order to permit the transfer of the Business, and to permit the use of the Assets in furtherance of the Business.

“Governmental Entity” means any federal, state or local or foreign government, any political subdivision thereof or any court, administrative or regulatory agency, department, instrumentality, body, tribunal or commission or other governmental authority or agency, domestic or foreign.

“Indemnified Party” means a Buyer Indemnified Party or a Seller Indemnified Party.

“Laws” means any and all statutes, rules, codes, regulations, restrictions, ordinances, orders, decrees, approvals, directives, judgments, injunctions, writs, awards and decree of, or issued by, any Governmental Entity, including all amendments, modifications, extensions or reenactments thereof.

“Legal Dispute” means any action, suit or proceeding between or among the Parties and their respective Affiliates arising in connection with any disagreement, dispute, controversy or claim arising out of or relating to this Agreement or any related document.

“Liens” mean all mortgages, liens, pledges, security interests, charges, claims, restrictions and encumbrances (whether absolute or contingent) of any nature whatsoever.

“LOI” means the letter of intent dated November 27, 2014 between and among Mark Connelly, Bruce Zacharias and Daniel Connelly and Jim Kesslick and Matt Salansky related to the transactions contemplated herein.

“Obligations” has the meaning set forth in Section 2.3 (a).

“Party” and “Parties” have the meanings set forth in the introductory paragraph.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, trust, estate, unincorporated organization or other local entity or Governmental Entity.

“Purchase Price” has the meaning set forth in Section 3.1.

“Sellers” has the meaning set forth in the introductory paragraph.

“Sellers Benefit Plans” has the meaning set forth in Section 4.18(a).

“Sellers’ Broker” means SFG Business Services, LLC.

“Sellers’ Subordinated Note” that certain promissory note in the principal amount of Three Hundred Fifty Thousand and XX/100 (\$350,000.00) Dollars made by Buyer in favor of Sellers, the form of which is substantially set forth in Exhibit 3.1(c).

“Sellers Indemnified Parties” means the Sellers, Shareholders and the Sellers’ officers and directors and the heirs, executors, successors and assigns of any of the foregoing.

“Selling Parties” means the Sellers and the Shareholders.

“Shareholders” means G. James Kesslick and J. Matthew Salansky.

“Taxes” means any and all taxes, assessments, charges, duties, fees, levies and other governmental charges, including income, franchise, capital stock, real property, personal property, tangible, withholding, employment, payroll, social security, social contribution, unemployment compensation, disability, transfer, sales, use, excise, gross receipts, value-added and all other taxes of any kind for which the Sellers may have any liability imposed by any Governmental Entity, whether disputed or not, and any charges, interest, fines, assessments or penalties imposed by any Governmental Entity.

“Trade Name” means “Value Dry”, as such term is registered with the United States Patent and Trademark Office under Reg. No. 4,592,364.

“Treasury Regulations” means the rules and regulations promulgated under the Code, as such regulations are amended from time to time.

“Work in Process” means customer deposits accepted or work performed by the Sellers in connection with the Business for which a binding contract or obligation had been entered into prior to the Closing Date but which work is not substantially complete prior to the Closing Date.

Section 1.3 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved.

## ARTICLE II PURCHASE AND SALE

Section 2.1 Sale and Purchase of the Assets. Subject to the terms and conditions of this Agreement, Sellers shall sell, assign, grant, transfer, and deliver (or cause to be sold, assigned, granted, transferred and delivered) to Buyer, and Buyer shall purchase and accept from Sellers on the Closing Date (as defined herein), all of Sellers’ rights, title and interest in and to the “Assets”, as set forth below:

- (a) the property and equipment forth on Schedule 2.1(a) attached hereto;

(b) all intellectual property used or usable in connection with the Business, including, without limitation, any computer software and data, internet domain names and all derivatives thereof, trade secrets, patents, trademarks, copyrights, processes, designs, drawings, technical data, business and marketing plans, and marketing rights and the marks, including, but not limited to, the corporate and company names of each of the Sellers and the Trade Name, all as set forth on Schedule 4.11 attached hereto and hereby made a part hereof;

(c) the inventory set forth on Schedule 2.1(c) attached hereto and hereby made a part hereof (the "**Purchased Inventory**") as valued by physical examination as hereinafter set forth;

(d) customer lists, customer accounts, customer contracts, service contracts, unfilled sales orders, mailing lists and any databases related to any customers or prospective customers set forth on Schedule 2.1(d) ;

(e) all other assets of Sellers used in connection with the Business, tangible or intangible, wherever situated, other than those assets listed in Section 2.1 (a) and (b) hereof;

(f) real estate leases to the extent assignable;

(g) vendor lists, vendor contracts, subcontractor lists, equipment leases and purchase orders as set forth in Schedule 2.1(g);

(h) to the extent assignable, all licenses, manufacturer's warranties, manufacturer's guaranties and permits;

(i) all prepaid expenses, advance payments and deposits incurred or made in connection with the Business, together with any interest accrued thereon, the obligations for which Buyer is assuming;

(j) all deposits and security deposits for Work in Process, accounts receivable and notes receivable of the Business, except as limited by Section 2.2 or Section 2.3 hereof, which Work in Process shall be set forth in Schedule 2.1(j);

(k) the liabilities and obligations of the Sellers existing as of the Closing Date and arising out of the conduct of the Business, which are set forth Schedule 2.1(k) (collectively, the "**Assumed Liabilities**").

Section 2.2 Excluded Assets. Notwithstanding anything in this Agreement to the contrary, the term "Assets" shall not include the following assets, properties and rights of the Sellers, all of which are excluded from the sale under this Agreement (collectively the "**Excluded Assets**"):

(a) all ownership and other rights with respect to the Sellers Benefit Plans;

(b) any investment, ownership or partnership interest in another entity;

(c) the charter documents of the Sellers, minute books, stock ledgers, tax returns, financial statements prepared by the Sellers' outside accountants and all work papers related to the preparation thereof, all books of account, and other constituent records relating to the corporate organization of the Sellers;

(d) the rights that accrue to the Sellers hereunder and under the Ancillary Documents;

(e) except as limited by Section 2.1(j), any bank accounts and cash, cash equivalents or marketable securities and security deposits;

(f) any inventory not specifically set forth on Schedule 2.1(c) attached hereto and hereby made a part hereof, which excluded inventory is set forth in Schedule 9.3(b);

(g) all accounts receivable and other rights to payment for Business activity performed and completed by Sellers prior to the Closing Date, subject to the terms of Section 2.3 related to Work in Process;

(h) rights arising from any refunds due with respect to Taxes and rights under insurance claims;

(i) the assets set forth on Schedule 2.2(i) attached hereto and hereby made a part hereof; and

(j) deposits with utility companies and other deposits; refunds and rebates owed to Sellers; and any amounts owed or payable to Sellers by manufacturers and suppliers.

Section 2.3 Work in Process. Sellers shall provide, as Schedule 2.3, a list of Sellers' Work in Process, including labor and parts related thereto, which complete Schedule 2.3 shall be inventoried and valued at the sole cost of Sellers within twenty-four (24) hours immediately preceding the Closing Date. The parties hereby agree that (a) Buyer shall retain seventy (70%) percent of the ~~Net Receipts~~<sup>GROSS</sup> collected by Buyer of all Work in Process, including, but not limited to, any deposit made in connection with such Work in Process set forth in Schedule 2.3; and (b) Sellers shall be paid thirty (30%) percent of the ~~Net Receipts~~<sup>GROSS</sup> collected by Buyer of all Work in Process set forth in Schedule 2.3, which payment shall be made within ten (10) days after substantial completion and final payment for such Work in Process items is received by Buyer. For purposes of this Section 2.3, "~~Net Receipts~~<sup>GROSS</sup>" shall mean all receipts for the Work in Process, including all deposits, ~~less operating expenses, commissions, costs, and taxes~~ related thereto.

*Handwritten initials:*  
M  
DC  
P  
JK  
MS

**ARTICLE III**  
**PURCHASE PRICE AND ALLOCATION; ADJUSTMENTS; ALLOCATIONS**

Section 3.1 Purchase Price. The aggregate purchase price shall be Three Million Four Hundred Thousand (\$3,400,000.00) Dollars (the "**Purchase Price**") and shall consist of the following:

(a) Two Million Four Hundred Fifty Thousand (\$2,450,000.00) Dollars in Small Business Administration financing (the "**SBA Financing**");

(b) Six Hundred Thousand (\$600,000.00) Dollars in cash payable at Closing (the "**Down Payment**");

(c) Three Hundred Fifty Thousand (\$350,000.00) Dollars in the form of Sellers' Subordinated Note. The form of Sellers' Subordinated Note is attached hereto as Exhibit 3.1(c) and is incorporated herein.

(d) Deposit.

i. Upon execution of and in accordance with the LOI, representatives of the Buyer did pay to Sellers' Broker one thousand (\$1,000.00) Dollars (the "**Deposit**") by cash, check, money order or wire transfer as an initial earnest money deposit toward the transaction contemplated in the LOI and herein.

ii. Notwithstanding any other term set forth therein, the parties hereto expressly waive any requirement contained in the LOI for Buyer to pay to Sellers or Sellers' Broker any deposit in addition to the Deposit set forth in the immediately preceding paragraph.

iii. Upon Closing, the Deposit shall be applied to the Purchase Price as a credit against the Down Payment. In the event the Closing does not occur or this Agreement terminates prior to Closing as described below for any reason other than a default hereof by the Buyer, the Deposit shall be returned, in full, by Sellers to Buyer within twenty-four (24) hours of such event, in such manner as is set forth in Section 11.2 herein. In the event the Closing does not occur or this Agreement terminates prior to Closing as described below due to a default hereof by the Buyer, the Deposit shall be retained, in full, by Sellers as liquidated damages for such Buyer default, in such manner as is set forth in Section 11.2 herein.

Section 3.2 Allocation of Purchase Price. Sellers, Shareholders and Buyer agree that the Purchase Price shall be allocated among the Assets and the Assumed Liabilities set forth herein for all purposes (including tax and financial accounting) as shown on an allocation schedule (the "**Allocation Schedule**") created in accordance with the principles set forth on Schedule 3.2 attached hereto and in the form required by Section 1060 of the Code. The Allocation Schedule shall be prepared by Buyer and delivered to Sellers on or before the Closing Date.

Section 3.3 Cooperation. Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use commercially reasonable efforts to do all things necessary, proper or advisable, under this Agreement and all applicable laws and regulations, to consummate the transactions contemplated hereby, and to do all such things in a timely manner,

including, but not limited to, providing any assistance that may be necessary to transfer the telephone numbers, internet domain names and email addresses of the Business to Buyer.

Section 3.4 Treatment of Payments. It is warranted, acknowledged and agreed that there have been no representations, suggestions, consultations or advice given by either Sellers or Sellers' representatives or Buyer or Buyer's representatives to any of the parties hereto concerning any possible tax consequences to any of the parties hereto resulting from the execution of this Agreement and concluding Closing hereunder, in connection with the method of treatment of the payment of the Purchase Price provided for herein. Each of the parties expressly acknowledges that each has relied or has had the opportunity to rely solely upon independent tax advice obtained by each party, independent of the other in connection with any phase or provision of this entire transaction.

The parties represent and agree with each other that they will each be responsible as required or imposed by law, statute, rule or regulation to timely file all necessary tax returns and pay all taxes, interest and/or penalties due thereunder, whether deemed income, sales, use or other taxes, and that they will indemnify and hold the other parties harmless therefrom.

Both parties, however, agree that the Purchase Price payable as allocated in Section 3.2 hereof has been reached as the result of a good faith, arm's length negotiation. Both parties agree, therefore, to work and cooperate with each other to coordinate their completion of Form 8594, Asset Acquisition Statement (the "**Form**") under Section 1060 of the Code, and pursuant to regulations promulgated thereunder, so that the amounts allocated on the Form will be substantially consistent. In the event that the Purchase Price allocated to any of the Assets purchased and/or sold hereunder increases or decreases after the taxable year that includes the Closing Date, Sellers and Buyer shall work together to coordinate the filing of "**Supplemental Asset Acquisition Statements**" on Form 8594 with their income tax returns for the taxable year in which the increase or decrease is properly taken into account. The provisions of this paragraph shall survive Closing.

Section 3.5 Apportionment of Expenses. Except as otherwise specifically provided below and in Schedule 3.5, all expenses relating to the operation of the Business (including rents, costs, expenses and obligations arising pursuant to the Assumed Liabilities) shall be pro-rated between Sellers and Buyer, as the case may be, on a per diem basis as of midnight of the day preceding the Closing Date. Whether amounts are allocable for the above purposes for the period before or after Closing shall be determined in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved. In furtherance of the foregoing:

(a) Utilities. To the extent Sellers are obligated pursuant to any of the Assumed Liabilities, charges for water, sewer, electricity, gas, telephone and all other utilities shall be pro-rated on a per diem basis as of midnight of the day preceding the Closing Date, disregarding any discount or penalty and on the basis of the fiscal year or billing period of the authority, utility or other person levying or charging for the same. If the consumption of any of the foregoing is measured by meters, then in lieu of apportionment as aforesaid, Sellers shall, not earlier than the day preceding the Closing Date, obtain a reading of each such meter, and Sellers

shall pay all charges thereunder through the date of the meter readings plus an estimated amount with respect to the time between the meter reading and midnight of the day preceding the Closing Date based upon the charges for the period covered by the meter reading. If there is no such meter or if the bills for any of the foregoing have not been issued prior to the Closing Date, the charges therefor shall be adjusted on the Closing Date on the basis of charges for the prior period for which bills were issued and shall be further adjusted when the bills for the current period are issued.

(b) Rents. Sellers shall give Buyer a credit against the Purchase Price equal to the unpaid rent that Sellers owe with respect to each of the Assumed Liabilities relating to the period prior to the Closing Date. Sellers shall also give Buyer a credit against the Purchase Price equal to the prepaid rent that Sellers have received with respect to any tenant or sublessee, if any, relating to the period from and after the Closing Date. Buyer shall reimburse Sellers for: (1) any rent that was pre-paid by Sellers pursuant to the Assumed Liabilities that relates to the period from and after the Closing Date; and (2) any unapplied security deposit held by the any of the other landlords under the Assumed Liabilities.

Section 3.6 Due Diligence. During the period commencing on the date hereof and ending on the thirtieth (30th) day thereafter (the "**Due Diligence Period**"), Buyer shall have the right to enter the business and operating locations and offices of the Sellers, from time to time, to conduct due-diligence evaluations (the "**Due-Diligence Evaluation**") of the Business, as Buyer may deem desirable in Buyer's sole and absolute discretion, which Due-Diligence Evaluation may include, without limitation, conducting such examinations, inspections, review or audits of the Business, including, without limitation, reviews of financial reports and balance sheets, customer lists, employee lists and benefits plans, Work in Process, customer billing, and the inventory, as the Buyer may deem necessary or appropriate in the Buyer's sole and absolute discretion for purchase of the Business. Sellers shall make all facilities, financial information, audits, documents, agreements or other information relevant to the Business, if any, available to Buyer for inspection, and shall use commercially reasonable efforts to assist Buyer in obtaining such additional information as may be requested by Buyer. If Buyer determines in its sole and absolute discretion that, based on the results of the Due-Diligence Evaluations, Buyer wishes to terminate this Agreement, Buyer may do so within thirty (30) days after the date hereof by notice to Sellers and Shareholders given in accordance with Section 11.10 hereof. Buyer shall be entitled to the prompt return of the Deposit, as provided in Section 3.1(d) hereof, and the parties hereto shall have no further recourse against one another. In the event Buyer does not timely provide such notice within thirty (30) days after the date hereof, then this Agreement shall remain in full force and effect in accordance with its terms, subject to the default and termination provisions set forth in Article XI hereof.

Section 3.7 Bulk Sales; Escrow.

(a) The parties hereto acknowledge that certain laws of the Commonwealth of Pennsylvania (collectively, the "**Bulk Sales Laws**") require that the Pennsylvania Department of Revenue and the Pennsylvania Department of Labor and Industry be notified at least ten (10) days prior to the Closing Date, of the proposed sale and transfer of the Assets by Sellers to Buyer and that each of the Sellers obtain and deliver to Buyer clearance certificates evidencing the

payment by each of the Sellers of certain taxes, assessments and contributions to the Commonwealth of Pennsylvania. Each of the Sellers shall timely give all required notices to governmental agencies required under the Bulk Sales Law, and, subject to Section 3.7(b) hereof, each of the Sellers agree to deliver to Buyer all required clearance certificates as soon as possible but in no event later than the Closing Date. Sellers shall promptly pay any amounts required to be withheld from the Purchase Price by Buyer pursuant to the clearance certificate or other communication from the Pennsylvania Department of Revenue with respect to the Bulk Sales Law.

(b) In the event that each of the Sellers fails to deliver to Buyer all required clearance certificates on or before the Closing Date, a portion of the Purchase Price shall be deposited with Hill Wallack LLP (the "**Escrow Agent**") the aggregate amount of \$106,000.00 (the "**Escrow Deposit**"), which represents the estimated aggregate tax payment (including interest and penalties) owed by the Sellers to the Pennsylvania Department of Revenue and the Pennsylvania Department of Labor and Industry. The Escrow Deposit shall be held by the Escrow Agent in an interest bearing insured trust account in accordance with the terms of this Agreement. The Escrow Deposit and all interest earned thereon shall be held by the Escrow Agent until the first of the following to occur:

(i) receipt by the Buyer of all required clearance certificates of each of the Sellers, in which event Escrow Agent shall pay by bank check, certified check or wire transfer the Escrow Deposit, in full (including interest earned thereon), to Sellers as directed by Sellers, within one (1) business days of notice of such receipt; or

(ii) receipt by the Buyer of any demand from the Pennsylvania Department of Revenue and/or the Pennsylvania Department of Labor and Industry for any past due or unpaid tax amounts, charges, fees or expenses related to any of the Sellers, in which event Escrow Agent shall make payment of such funds to the Pennsylvania Department of Revenue and/or the Pennsylvania Department of Labor and Industry, as the case may be, to satisfy such demand (the "**Demand Payment**"). To the extent any amount of the Escrow Deposit (including interest earned thereon) remains with the Escrow Agent after Escrow Agent makes, in full, the Demand Payment (the "**Escrow Residue**"), Escrow Agent shall pay by bank check, certified check or wire transfer such Escrow Residue to Sellers, as directed by Sellers, within one (1) business day of such

(c) In the event that Section 3.7(b)(ii) is the first to occur and the Escrow Deposit is insufficient to satisfy, in full, the demand for payment made by the Pennsylvania Department of Revenue and/or the Pennsylvania Department of Labor and Industry for any past due or unpaid tax amounts, charges, fees or expenses related to any of the Sellers, then Buyer may make such additional payments as are necessary in order to satisfy such demand and shall be entitled to offset such additional payments against the remaining outstanding principal amount of Sellers' Subordinated Note.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES**



## OF THE SELLERS AND SHAREHOLDERS

Except as otherwise set forth in the schedules attached to this Agreement by reference to specific sections of this Agreement (hereinafter collectively referred to as the "**Disclosure Schedule**"), the Sellers and Shareholders hereby represent and warrant the following to the Buyer, which representations and warranties shall be true and correct as of the date hereof, continuing to and including the Closing Date:

Section 4.1. Organization and Good Standing. Each of the Sellers are corporate or limited liability company entities duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania, or of other states of their respective formations, and are duly qualified and in good standing to transact business in the states where they presently operate as a registered foreign corporation or limited liability company, as the case may be, and in the State of their formation and are in good standing in every jurisdiction in which the conduct of its business requires it to be so qualified. Certified copies of the Formation Documents, Articles of Incorporation and/or Certificate of Organization, Bylaws, Operating Agreement and Certificate of Good Standing of each of the Sellers and all amendments thereto as presently in effect have been delivered to the Buyer and are complete and correct.

Section 4.2. Authorization, etc. The Sellers and Shareholders have full corporate power and authority to enter into this Agreement, all exhibits and schedules hereto, and all agreements contemplated herein (this Agreement and all such exhibits, schedules, and other agreements being collectively referred to hereby as the "**Acquisition Documents**"), to perform its obligations hereunder and thereunder, to transfer the Assets, and to carry out the transactions contemplated hereby and thereby. The Board of Directors or Members of the Sellers have taken, or will take before the Closing Date, all actions required by law, its Certificate of Incorporation, Certificate of Organization, its Bylaws, its Operating Agreement or otherwise to authorize (i) the execution and delivery of this Agreement and the other Acquisition Documents, and (ii) the performance of its obligations hereunder and thereunder. This Agreement has been duly executed and delivered by the Sellers and upon the execution and delivery of the remaining Acquisition Documents by a duly authorized officer of the Sellers, the remaining Acquisition Documents will have been duly executed and delivered by the Sellers, and this Agreement is and such other Acquisition Documents will be, upon due execution and delivery thereof, the legal, valid, and binding obligations of the Sellers enforceable according to their terms, except (a) as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium general principle, or similar laws now or hereafter in effect relating to creditors' rights and (b) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding may be brought.

Section 4.3. Title to Assets. The Sellers own and have good and marketable title to all Assets, free and clear of all Liens.

Section 4.4. Title to Properties; Absence of Liens and Encumbrances. The Sellers have good and marketable title to or a valid leasehold interest in all of its properties and assets, tangible and intangible, free and clear of all Liens except for (i) Liens set forth in Schedule 4.4

hereto, (ii) Liens for current taxes not yet due and payable, and (iii) such other minor imperfections of title and encumbrances, if any, that do not, in the aggregate, have a material adverse effect on the business, assets, or financial condition of the Sellers (collectively hereinafter referred to as the "Permitted Liens"). There is no material Asset used or required by the Sellers in the conduct of its business which is not owned by the Sellers or licensed or leased to it pursuant to one of the licenses or leases listed in Schedule 4.6 hereto.

Section 4.5. Real Property. Except as set forth in Schedule 4.5 attached hereto, none of the Sellers own or hold, are not obligated under, or party to, any option, right of first refusal, or other contractual right to acquire any real property or interest therein.

Section 4.6. Leases. Schedule 4.6 hereto contains a complete list of (i) each lease pursuant to which the Sellers lease, as lessor or lessee, any real property interest and (ii) each lease pursuant to which the Sellers lease, as lessor or lessee, any type of property in which the Buyer's inability to acquire the Sellers' rights thereunder would have a material adverse effect upon the business assets or financial condition of the Sellers and in which the rental payments pursuant to such leases, in aggregate, equal or exceed \$110,461.00 per annum. Each such lease is valid and binding and is in full force and effect, subject only to exceptions based on bankruptcy, insolvency, or similar laws of general application, and there are no existing defaults by any party to any such lease, or any condition, event, or act known to the Sellers which, with notice or lapse of time or both, would constitute such a default. Without limiting the foregoing, the Sellers are not in default under any of such leases, and the Sellers have not received any notice from any person asserting a default by the Sellers under any such lease.

Section 4.7. No Violation. Except as set forth in Schedule 4.7 attached hereto, none of (i) the execution and delivery of this Agreement or any of the other Acquisition Documents by the Selling Parties, (ii) the performance by the Selling Parties of their obligations hereunder or thereunder, (iii) the consummation of the transactions contemplated hereby or thereby after the Closing, will (A) violate any provision of the Certificate of Incorporation, Certificate of Organization, Bylaws, Operating Agreement, Shareholder Agreement or Membership Agreement of the Sellers; (B) violate, or be in conflict with, or constitute a default under or breach of, or permit the termination of, or cause the acceleration of the maturity of, any indenture, mortgage, agreement, contract, commitment, debt or obligation of the Sellers or Shareholders, which violation, conflict, default, breach, termination, or acceleration, either individually or in the aggregate with all other such violations, conflicts, defaults, breaches, terminations, and accelerations, would have a material adverse effect on the operations, business, assets, or financial condition of the Sellers, the Shareholders or the Assets; (C) except for the consent of, require the consent of any other party to or result in the creation or imposition of any Lien upon any property or assets of the Sellers, the Shareholders or the Assets under any indenture, mortgage contract, commitment, debt or obligation of or to which the Sellers or the Shareholders are a party or by which the Sellers or Shareholders are bound; (D) violate any statute, law, judgment, decree, order, regulation, or rule of any court or governmental authority to which the Sellers, the Shareholders or the Assets is subject; or (E) result in the loss of any material license, privilege, or certificate benefiting the Sellers.

Section 4.8. Filings with and Consents and Approvals of Governmental Authorities. Except as listed in Schedule 4.8, no consent, approval, or authorization of, or declaration, filing, or registration with, any governmental or regulatory authority is required to be made or obtained by the Sellers in connection with the execution, delivery, and performance of this Agreement or any of the other Acquisition Documents by the Sellers or the Closing of the transactions contemplated herein.

Section 4.9. Financial Statements.

(a) Delivery. The Sellers have delivered to the Buyer true and complete copies of financial statements including balance sheets, statements of operations and retained earnings, and statements of changes in financial position, as of and for the years ended 2014, 2013 and 2012 (the "**Annual Financial Statements**") as well as its financial statements, including balance sheets, statements of operations and retained earnings, and statements of changes in financial position, as of and for the four-month period ending Apr. 30, 2015 (such financial statements of the Sellers and any notes thereto being hereinafter referred to as the Sellers' "**Monthly Financial Statements**", and, together with the Annual Financial Statements, the "**Financial Statements**").

(b) Accuracy. The Financial Statements are true and correct and fairly present the financial condition of the Sellers as of the respective dates thereof and the results of operations of the Sellers for the periods then ended in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved.

Section 4.10. Absence of Certain Changes. Since December 31, 2014 through and including the Closing Date, the Sellers have not:

(a) suffered any material adverse change in its working capital, condition, financial or otherwise, assets, liabilities, reserves, business operations, or prospects;

(b) suffered any damage, destruction, or loss, whether covered by insurance or not, materially adverse affecting its business operations, or prospects, assets, or condition, financial or otherwise;

(c) permitted or allowed any of its property or Assets (real, personal, or mixed, tangible or intangible) to be subjected to any mortgage, pledge, security interest, conditional sale, or other title retention agreement, encumbrance, lien, easement, claim, right-of-way, warrant, option, or charge of any kind (individually and collectively hereinafter referred to as a "**Lien**"), except Permitted Liens;

(d) created or incurred any liability (fixed, absolute, accrued, contingent, or otherwise) except for unsecured current liabilities incurred for other than money borrowed, and liabilities under contracts entered into in the ordinary course of business and for amounts and for terms consistent with past practice;

(c) canceled or compromised any debts, or waived or permitted to lapse, any material claims or rights, or sold, transferred, or otherwise disposed of any of its properties or Assets (real, personal, or mixed, tangible or intangible), except in the ordinary course of business and consistent with past practice;

(f) transferred or granted any concessions, leases, licenses, or agreements with respect to or disposed of or permitted to lapse any rights to the use of any patent, registered trademark, servicemark, trade name, or copyright material to the business of the Sellers (all of which are listed on Schedule 4.11), or disposed of or disclosed to any person any material, trade secret, formula, process, or know-how not theretofore a matter of public knowledge;

(g) entered into any material commitment or transaction not in the ordinary course of business and consistent with past practice or made any capital expenditures or commitments for any additions to property, plant, or equipment that in the aggregate exceed \$10,000.00;

(h) paid, loaned, or advanced any amount to, or sold, purchased, transferred, or leased any properties or Assets (real, personal, or mixed, tangible or intangible) to or from, or entered into any agreement or arrangement with, any of its officers, directors, members or employees, or any family member of any of its officers, directors, members or employees, or any corporation, limited liability company or other entity controlled by, controlling, or under common control with it, or any partner, officer, director, member or employee of any such corporation or other entity, or any such individual's family members;

(i) purchased, redeemed, issued, sold, or otherwise acquired or disposed of, directly or indirectly, any stock, stock options, warrants, bonds, notes, or other securities, or rights to purchase or convert into any securities of the Sellers;

(j) declared or paid, or set aside funds in anticipation of, any dividends or other distributions to the Sellers or any holder of any of its securities;

(k) made any acquisition or disposition of Assets except in the ordinary course of business, consistent with past practice;

(l) introduced any material change with respect to the operation of its business, including, without limitation, its method of accounting;

(m) except for sales of inventories in the ordinary course of business, sold or otherwise disposed of, or entered into or agreed to enter into any agreement or other arrangement to sell or otherwise dispose of, any of its assets, properties, or rights or any agreement or other arrangement that requires the consent of any party to the transfer and assignment of any such assets, properties, or rights;

(n) paid or agreed to pay any bonus or extraordinary payment to any employee or changed or agreed to change in any material respect the compensation of any employee; and

(o) agreed, whether in writing or otherwise, to take any action described in this Section 4.10;

Section 4.11. Patents, Trademarks, Trade Names. The Sellers own and have the full right to use all patents, trademarks, servicemarks, trade names, and copyrights used in the business of the Sellers as currently conducted. Schedule 4.11 hereto contains a complete and accurate list of (i) all patents, trademarks, servicemarks, trade names, copyrights, technology, know-how, recipes, and processes used or proposed to be used by the Sellers, all applications therefor, and all licenses and other agreements relating thereto, and (ii) all agreements relating to technology, know-how, recipes, or processes that the Sellers are licensed or authorized to use by others or licenses or authorizes others to use. Except as set forth in any of such licenses or agreements, the Sellers have the sole and exclusive right to use its patents, trademarks, servicemarks, trade names, copyrights, technology, know-how, recipes, and processes identified in Schedule 4.11 hereto, and no consent of any third party is required for the use thereof by the Sellers upon completion of the transfer of the Assets. No claims have been asserted by any person to the use of any such patents, trademarks, servicemarks, trade names, copyrights, technology, know-how, recipes, or processes, or challenging or questioning the validity or effectiveness of any such license or agreement, and the Sellers know of no valid basis for any such claims. The Sellers have not received any notice or is aware of any facts or alleged facts indicating that the use of such patents, trademarks, servicemarks, trade names, copyrights, technology, know-how, recipes, or processes by the Sellers infringes on the rights of any other person. No additional proprietary rights other than those listed on Schedule 4.11 hereto are necessary or material to the conduct of the business of the Sellers.

Section 4.12. Litigation. Schedule 4.12 hereto sets forth all actions, claims, causes of action, suits, proceedings, and investigations (“**Actions**”), including without limitation Actions for personal injuries, products liability, or breach of warranty arising from products sold by the Sellers, pending or threatened against the Sellers and/or the Shareholders, any properties or rights of the Sellers and/or the Shareholders (including, without limitation, the patents, trademarks, servicemarks, trade names, copyrights, technology, know-how, recipes, or processes listed in Schedule 4.11 hereto), or the transaction contemplated by this Agreement or any other Acquisition Document before any court, arbitrator, or administrative or governmental body. To the best knowledge of the Sellers and Shareholders, no state of facts exists or has existed that would constitute grounds for the institution of any Action against the Sellers or the Shareholders or against any properties or rights of the Sellers or Shareholders or the transactions contemplated by this Agreement or any other Acquisition Document. The Sellers and the Shareholders are not subject to any judgment, order, or decree entered in any lawsuit or proceeding that has materially adversely affected, or that can reasonably be expected to materially adversely affect, the transactions contemplated by this Agreement, the Sellers, the Shareholders or the Assets, including, without limitation, the Sellers’ business practices and its ability to acquire any property or conduct business in any way.

Section 4.13. Tax Returns and Payments. All of the tax returns and reports of the Sellers or respecting the operations of the Sellers required by law to be filed on or before the date hereof have been duly and timely filed and all taxes, charges or other fees shown as due thereon have

been paid. There are in effect no waivers of any applicable statute of limitations related to such returns. No liability for any tax will be imposed upon the Assets or the Sellers or their assets with respect to any period before the Closing Date for which there is not an adequate reserve reflected in the balance sheet. The provisions of this Section 4.13 shall include, without limiting the generality of this section, all reports, returns, and payments due under all federal, state, or local laws or regulations relating to income, sales, use and withholding taxes, withholding obligations, self-employment, unemployment insurance, Social Security, Sellers' obligations under the Patient Protection and Affordable Care Act, Public Law 111-148, workers' compensation, and other obligations of the same or of a similar nature. None of the Sellers are subject to any open audit in respect of its respective taxes, no deficiency assessment or proposed adjustment for taxes is pending, and none of the Sellers has any knowledge of any liability, whether or not proposed, for any tax with respect to any period through the date hereof to be imposed upon any of its properties or assets for which there is not an adequate reserve reflected in its respective balance sheets.

Section 4.14. Banks. Schedule 4.14 lists all the names and locations of all banks, trust companies, savings and loan associations, and other financial institutions at which each of the Sellers maintains accounts or lock boxes and the corresponding account numbers, if any, relating to the Sellers and the names of all persons authorized to draw on such accounts or who have access to such boxes.

Section 4.15. Insurance. Schedule 4.15 contains (i) a complete and accurate description of the Sellers' self-insurance practices and items covered by such self-insurance and (ii) a complete list of all material policies of fire, liability, workers' compensation, key-man insurance and other forms of insurance owned or held by or for the benefit of the Sellers (collectively, the "**Insurance Policies**"). The Sellers have delivered to the Buyer true and complete copies of the Insurance Policies, along with copies of all past Insurance Policies reasonably available after due and diligent search. The Sellers' tangible real and personal property and assets, whether owned or leased, are insured by reputable insurance companies licensed to do business in the state in which such property is located in such amounts customarily carried by comparable businesses, except to the extent that any failures to insure would not, in the event of a loss, have a material adverse effect upon the business of Sellers. All such Insurance Policies are and will remain in full force and effect through the Closing Date and, to the best knowledge of the Sellers, there is no notice of or basis for any modification, suspension, termination, or cancellation of any Insurance Policy. Notwithstanding the foregoing sentence, Sellers shall maintain a discontinued operations policy for each of the Sellers each of which shall survive the Closing Date, continuing for not less than five (5) years from the Closing Date, and shall name the Buyer, its affiliates, subsidiaries, shareholders, members, directors, officers, and employees as additional insureds thereunder.

Section 4.16. Contracts and Commitments.

(a) Schedule 4.16 hereto contains a complete list of each contract and commitment of the Sellers that is material to the operations, assets, business, or financial condition of each of the Sellers, including but not limited to the following:

(i) all employment contracts and commitments between any of the Sellers and its employees, other than those terminable by the Sellers at will and without payment or penalty;

(ii) all collective bargaining agreements and union contracts to which any of the Sellers are a party;

(iii) all contracts or commitments, written or oral, with distributors, brokers, manufacturers' representatives, sales representatives, service or warranty representatives, customers, and other persons, firms, or corporations engaged in the sale or distribution of the Sellers' products or services;

(iv) all purchase orders issued by the Sellers, all sales orders received by the Sellers and all purchase or sales orders that call for delivery or performance on a date more than six (6) months from the date of this Agreement;

(v) all contracts and arrangements between any of the Sellers or any person or entity that controls, is controlled by, or is under common control with, any of the Sellers or any family member of any such person (such entity or person being hereinafter referred to as an "Affiliate");

(vi) all contracts and arrangements, written or oral, under which any of the Sellers is either a bailor or bailee including, without limitation, contracts for the bailment of vehicles;

(vii) all agreements pursuant to which the Sellers acquired the Trade Name or a substantial portion of its assets; and

(viii) all other contracts and commitments of the Sellers (excluding leases for the purpose of this section 4.16(a)) and instruments reflecting obligations for borrowed money or for other indebtedness or guaranties thereof.

(b) At the Buyer's request, the Sellers shall deliver or cause to be delivered to the Buyer full and complete copies of the documents identified above and all such other agreements and instruments as the Buyer may reasonably request.

(c) The Sellers are not a party to any written agreement that would restrict it from carrying on the Business or any line of business anywhere in the world.

(d) Each of the contracts listed on Schedule 4.16 is valid and binding on one or more of the Sellers, and each of the contracts binding on one or more of the Sellers (whether or not listed on Schedule 4.16) has been entered into in the ordinary course of business, and none of the contracts binding on one or more of the Sellers contains terms or conditions that are materially adverse to any of the Sellers. Neither the Sellers nor any other party hereto is in default under or in breach or violation of, and neither the Sellers nor any other party hereto has received notice of any asserted claim of default by any other party under, or a breach or violation

of, any of the contracts, agreements, and commitments described in this section 4.16 including, without limitation, any licensing or usage agreements with respect to the technology that the Sellers now use or currently intend and plan to use.

Section 4.17. Distributors and Customers. To the Sellers' best knowledge, each of the Sellers enjoys good working relationships under all of its respective distributors, sales representatives, and similar agreements necessary to the normal operation of its business. The Sellers have no knowledge or basis for knowledge that any customer or group of related customers (i.e., any customers who are directly or indirectly through one or more intermediaries under common control), who, for the fiscal year ended December 31, 2014 and during each of the two preceding fiscal years accounted for more than \$50,000.00 in aggregate volume of gross sales of the Sellers, has terminated or expects to terminate a material portion of its normal business with the Sellers.

Section 4.18. Fringe Benefit Plans.

(a) List of Plans. Schedule 4.18 contains a true and complete list and summary description of, and the Sellers have delivered to the Buyer true and complete copies of, each pension, retirement, profit-sharing, stock purchase, stock option, vacation, deferred compensation, bonus, or other incentive plan, or other employee benefit program, arrangement, agreement, or understanding, or medical, vision, dental, or other health plan, or life insurance or disability plan, or any other employee benefit plans, including, without limitation, any "employee benefit plan" as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), whether formal or informal, written or oral, to which the Sellers contribute, or is a party, or is bound, or under which they may have liability, and under which employees or former employees of the Sellers (or their beneficiaries) are eligible to participate or derive a benefit (the "Sellers Benefit Plans"). Each employee benefit plan that is a "group health plan" as such term is defined in section 162(i)(2) of the Code, satisfies the applicable requirements of section 4980B of the Code, related to COBRA Coverage. Except as described on Schedule 4.18, the Sellers do not have the intention or commitment, whether legally binding or not, to create any additional plan, practice, or agreement, or to modify or change any existing plan, practice, or agreement that would affect any employee or terminated employee of the Sellers, and benefits under all employee benefit plans are as represented and have not been and will not be increased after the date on which documents have been provided.

(b) Representations with Respect to Plans. The Shareholders and Sellers have not, ever from the beginning of time through and including the Closing Date and do not sponsor, maintain, or contribute to any employee benefit plans within the meaning of Section 3(3) of ERISA, which are subject to Title I of ERISA (the "ERISA Plans") or any pension plans within the meaning of section 3(2) of ERISA ("Pension Plan"). The following representations are made with regard to the ERISA Plans, the Pension Plans and any other plan, agreement, arrangement, contract or document set forth in Schedule 4.18:

(i) the Sellers do not contribute to, or have an obligation to contribute to, or has at any time contributed to or had an obligation to contribute to, sponsor, or maintain, or at any time has sponsored or maintained, (1) a multiemployer plan within the meaning of section



3(37) of ERISA and the Sellers have not incurred any withdrawal liability, or suffered a “complete withdrawal” or a “partial withdrawal” with respect to a multiemployer plan; (2) a welfare plan within the meaning of section 3(1) of ERISA; or (3) a “defined benefit plan” within the meaning of section 3(35) of ERISA;

(ii) no action is pending or threatened with respect to any ERISA Plan, any Pension Plan or any other plan, agreement, arrangement, contract or document set forth in Schedule 4.18 before the IRS, the Department of Labor, the Pension Benefit Guaranty Corporation (“PBGC”) or before any federal, state or local governmental agency;

(iii) no act or omission constituting a breach of fiduciary duties has occurred with respect to any ERISA Plan, any Pension Plan or any other plan, agreement, arrangement, contract or document set forth in Schedule 4.18 or the assets thereof that would subject the Sellers, Shareholders or the Buyer, either directly or indirectly, to any liability;

(iv) the PBGC has not instituted any proceedings to terminate any Pension Plans of Sellers or any other plan, agreement, contract or document set forth in Schedule 4.18; and

(v) no liability, under any federal, state or local law or any contract, has been incurred by Sellers or Shareholders with respect to any ERISA Plan, any Pension Plan or any other plan, agreement, arrangement, contract or document set forth in Schedule 4.18 and the Sellers and Shareholders do not know of any facts or circumstances that might give rise to any liability, under any federal, state or local law or any contract, that could reasonably be anticipated to result in any claims being made against the Buyer or the Sellers by any Person.

(c) Plan Documents. The Sellers have delivered to the Buyer and its counsel true and complete copies of (i) all documents governing the ERISA Plans (if any), including all amendments thereto that will become effective at a later date, (ii) all plan, agreement, arrangement, contract or document listed on Schedule 4.18, (iii) the latest IRS determination letter obtained with respect to each of the Pension Plans (if any), (iv) Form 5500 for the most recent completed plan year for each of the ERISA Plans (if any), together with all schedules forming a part thereof, (v) the most recent actuarial valuation for any Defined Benefit Plan (if any), (vi) any form, other than Form 5500, required to be filed for the most recently completed plan year for any Defined Benefit Plan (if any) with any governmental agency, (vii) all summary plan descriptions relating to the ERISA Plans (if any), (viii) the annuity contracts funding obligations of any Defined Benefit Plan (if any), and (ix) all employment manuals.

Section 4.19. Labor Relations. No employee of the Sellers are represented by a labor union, and no petition has been filed or proceedings instituted by any employee or group of employees with any labor relations board seeking recognition of a bargaining representative. There are no matters pending before the National Labor Relations Board or any similar state or local labor agency, and the Sellers are neither engaged in nor subject to any penalties or enforcement action in respect of any unfair labor practices, and the Sellers believe that they enjoy good labor relations. There are no controversies or disputes pending between the Sellers and any of their employees, except for such controversies and disputes as do not and will not,

individually or in the aggregate, have a material adverse effect on its business, operations, assets, prospects, or condition, financial or otherwise.

Section 4.20. Environmental Matters.

(a) For purposes of Section 4.20, the property of the Sellers shall mean such property whether now or in the past owned or leased by it. Additionally, for purposes of this Section 4.20, "**Hazardous Substance**" means (i) a "hazardous substance" as defined in 42 U.S.C. § 9601(14), as amended from time to time, and all rules, regulations, and orders promulgated thereunder as in effect from time to time, (ii) "hazardous waste" as defined in 42 U.S.C. § 6903(5), as amended from time to time, and all rules, regulations, and orders promulgated thereunder as in effect from time to time, (iii) if not included in (i) or (ii) above, "hazardous waste constituents" as defined in 40 C.F.R. § 260.10, specifically including Appendix VII and VIII of subpart D of 40 C.F.R. § 261, as amended from time to time, and all rules, regulations, and orders promulgated thereunder as in effect from time to time, and (iv) "sources," "special nuclear," or "by-product material" as defined in 42 U.S.C. § 3011 et seq., as amended from time to time, and all rules, regulations, and orders promulgated thereunder as in effect from time to time. Further, "**Requirements of Law**" shall mean all applicable federal, state, local, or foreign laws, statutes, ordinances, rules, regulations, or court or administrative orders or processes, or arbitrator's orders or processes.

(b) The Sellers are and have been in compliance with all Requirements of Law relating to Hazardous Substances and applicable to any of its properties. Without limiting the foregoing, (i) neither the operations of the Sellers nor the development, manufacture, or sale of the services, processes, technology, results, or products of the Sellers violate or have violated any Requirements of Law relating to air, soil, water, or noise pollution, or the production, storage, processing, utilization, labeling, transportation, disposal, emission, or other disposition of Hazardous Substances, and (ii) the Sellers, or any current or former owner, occupant, or operator of any property at any time owned, leased, or operated by the Sellers, or any portion thereof, have never used any such property or any portion thereof in violation of any environmental Requirements of Law.

(c) Except for certain discharges, release, spillage, uncontrolled loss, seepage, or filtration caused by the lessor of certain properties leased by one or more of the Sellers and disclosed in Schedule 4.20(c), no discharge, release, spillage, uncontrolled loss, seepage, or filtration of any Hazardous Substance or any fuel, gasoline, or other petroleum product or by-product has occurred at, upon, or under any property at any time owned, leased, or operated by the Sellers in an amount that violates any Requirements of Law.

(d) The Sellers do not use, store, dispose of, treat, generate, process, transport, release, or own any Hazardous Substance, nor have the Sellers ever done so.

(e) The Sellers have in a timely manner obtained all Licenses and filed all reports required to be filed under or pursuant to any applicable environmental Requirements of Law.

(f) No property at any time owned, leased, or operated by the Sellers now contains, or, to the knowledge of the Sellers, in the past has contained, any underground or aboveground tanks for the storage of any Hazardous Substance or fuel oil, gasoline, or any other petroleum product or by-product.

(g) The Sellers have not received any notice of writs, injunctions, decrees, orders, or judgments outstanding, or suits, claims, actions, proceedings, or investigations instituted or threatened under any environmental Requirements of Law applicable to any of the properties at any time owned, leased, or operated by the Sellers, including but not limited to any notice from any governmental authority or private or public entity advising the Sellers that they are or are potentially responsible for response costs under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, with respect to a release or threatened release of Hazardous Substances.

(h) The Sellers have not received notice of any violation of any environmental, zoning, worker safety, or land use Requirements of Law relating to the operation of the Sellers or to any of the processes used or followed, results obtained, or products developed, made, or sold by the Sellers including, without limitation, under CERCLA, the Toxic Substances Control Act of 1976, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, or the Occupational Safety and Health Act of 1970, as amended.

Section 4.21. Compliance with Laws. None of the Sellers or Shareholders are in violation of, has not been charged with any violation of, or, to the best of its knowledge, is under any investigation with respect to any charge concerning any violation of any Requirements of Law, in which such violation either singly or in the aggregate with other violations would have a material adverse effect upon the operations, Assets, Business, or financial condition of the Sellers. The Sellers and the Shareholders are not in default with respect to any order, writ, injunction, or decree of any court, agency, or instrumentality. Without limiting the generality of the foregoing, the Sellers and Shareholders are in compliance with (A) all Requirements of Law promulgated by the Occupational Safety and Health Administration, and (B) all environmental Requirements of Law.

Section 4.22. Licenses, Permits, and Authorizations. The Sellers have all approvals, authorizations, consents, licenses, franchises, orders, and other permits (collectively, "Licenses") of (i) any governmental or regulatory agency, whether federal, state, local, or foreign, and (ii) all trade or industry associations, required to permit it to carry on its business as presently conducted, all of which are in full force and effect. Schedule 4.22 hereto sets forth all such Licenses required for the operation of the business of the Sellers.

Section 4.23. Inventory. The inventories of the Sellers reflected on their balance sheets which are part of the Financial Statements are in good and merchantable condition and are suitable and usable or saleable in the ordinary course of business for the purposes intended, net of the reserves stated on the Sellers' Financial Statements. The value of the inventory set forth on the Sellers' balance sheets or other inventory lists which are part of the Financial Statements (net of such reserves) was established in accordance with generally accepted accounting principles

Section 4.29. Absence of Undisclosed Liabilities. The Sellers and the Shareholders do not have any material debt, liability, or obligation of any nature, whether known or unknown, or fixed, absolute, accrued, contingent, or otherwise, except those that (i) are accrued or reserved against in the Financial Statements, (ii) have been specifically disclosed in the Disclosure Schedule hereto by reference to the specific section of this Agreement to which such disclosure relates, or (iii) have been incurred since December 31, 2014 and through and including the Closing Date in the ordinary course of business in amounts and for terms consistent, individually and in the aggregate, with the Sellers' past practice.

Section 4.30. Disclosure. No representation or warranty by the Sellers in this Agreement or any of the other Acquisition Documents (including, without limitation, the Disclosure Schedule), contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements herein or therein not misleading. There is no fact known to the Sellers that materially adversely affects, or that might in the future materially adversely affect, the operations, Business, Assets, properties, or condition, financial or otherwise, of the Sellers that has not been set forth in this Agreement or the Disclosure Schedule.

Section 4.31. Brokerage. The parties mutually acknowledge and agree that no broker has been instrumental in this transaction, except for the Sellers' Broker representing the Sellers and Buyer's Broker representing the Buyer. Sellers and Buyer shall be obligated to pay a commission to their respective brokers at the time of Closing. Except for Sellers' Broker and Buyer's Broker, the parties mutually warrant and represent to each other that no other broker has any right to receive any commission from any party hereto.

Section 4.32. Employment Obligations. Without limiting any other provision contained herein, there are no outstanding or unpaid obligations or liabilities of Sellers to any of its employees or independent contractors in the form of compensation due under employment agreements, wages, salaries, commissions, bonuses, vacations, specially negotiated or granted benefits provided to any employee or independent contractor or other compensation or employee benefits, including, but not limited to, payment for unused vacation time accrued or reimbursement for expenses incurred by any of Sellers' employees or independent contractors.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby represents and warrants to the Sellers as set forth below:

Section 5.1. Corporate Organization, etc. The Buyer is on the date hereof, and will be on the Closing Date, a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania.

Section 5.2. Authorization, etc. The Buyer has full corporate power and authority to enter into this Agreement and the other Acquisition Documents to which it is or will be a party, to perform its obligations hereunder and thereunder, and to carry out the transactions contemplated hereby and thereby. The Board of Directors of the Buyer has taken, or will take before the Closing Date, all actions required by law, its Certificate of Incorporation, its Bylaws

or otherwise to authorize (i) the execution and delivery of this Agreement and the other Acquisition Documents and (ii) the performance of its obligations hereunder and thereunder. This Agreement has been duly executed and delivered by the Buyer and, upon the execution and delivery of the remaining Acquisition Documents by a duly authorized officer of the Buyer, the remaining Acquisition Documents will have been duly executed and delivered by the Buyer, and this Agreement is, and such other Acquisition Documents will be, upon due execution and delivery thereof, the legal, valid, and binding obligations of the Buyer, enforceable according to their terms (A) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights, and (B) that the remedy of specific enforcement and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

Section 5.3. No Violation. None of (i) the execution and delivery of this Agreement or any other Acquisition Document by the Buyer, (ii) the performance by the Buyer of its obligations hereunder or thereunder, or (iii) the consummation of the transactions contemplated hereby or thereby will (A) violate any provision of the Certificate of Incorporation or Bylaws of the Buyer, (B) violate, or be in conflict with, or permit the termination of, or constitute a default under or breach of, or cause the acceleration of the maturity of, any agreement, contract, debt, or other obligation of the Buyer, which violation, conflict, default, breach, termination, acceleration, either individually or in the aggregate with all other such violations, conflicts, defaults, breaches, terminations, and accelerations, would have a material adverse effect on the business, assets, or financial condition of the Buyer, (C) except as set forth in Schedule 5.3 hereof, require the consent of any other party to, or result in the creation or imposition of any Lien upon any property or assets of the Buyer under any agreement or commitment to which the Buyer is a party or by which the Buyer is bound, or (D) to the best knowledge and belief of the Buyer, violate any statute of law or any judgment, decree, order, regulation, or rule of any court or governmental authority to which the Buyer is subject.

Section 5.4. Litigation. There is no action pending or, in the best knowledge and belief of the Buyer, threatened against the Buyer, or any properties or rights of the Buyer, that questions or challenges the validity of this Agreement or any of the other Acquisition Documents, nor any action taken or to be taken by the Buyer pursuant hereto or thereby and the Buyer does not know of any such action, proceeding, or investigation that may be asserted.

Section 5.5. Disclosure. No representation or warranty by the Buyer in this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements herein not misleading.

Section 5.6. Brokerage. The parties mutually acknowledge and agree that no broker has been instrumental in this transaction, except for the Sellers' Broker representing the Sellers and Buyer's Broker representing the Buyer. Sellers and Buyer shall be obligated to pay a commission to their respective brokers at the time of Closing. Except for Sellers' Broker and Buyer's Broker, the parties mutually warrant and represent to each other that no other broker has any right to receive any commission from any party hereto.

**ARTICLE VI  
OBLIGATIONS OF THE PARTIES**

The Sellers and Shareholders hereby covenant and agree with the Buyer and the Buyer hereby covenants and agrees with the Sellers and Shareholders that:

Section 6.1. Reasonable Access. The Sellers and the Shareholders shall or shall cause the Sellers to afford the Buyer and its counsel, accountants, and other authorized representatives reasonable access during normal business hours to its plants, properties, books, and records that the Buyer and its advisors may have the opportunity to make such reasonable investigations as they shall desire to make of the affairs of the Sellers; ~~provided, however,~~ except for the contact-permissible employees, as designated on Schedule 7.11, the Buyer shall not contact employees of the Sellers to discuss the transactions contemplated by this Agreement. The Sellers and Shareholders shall furnish to the Buyer any additional financial and operating data and other information as the Buyer and its counsel, accountants, and other authorized representatives shall from time to time reasonably request. The Buyer shall, upon reasonable request, provide the Sellers, their counsel, accountants, and other authorized representatives with such information concerning the Buyer as may be reasonably necessary for the Sellers to verify the Buyer's performance of the compliance with its representations, warranties, and covenants herein contained.

Section 6.2. Conduct Before Closing Date. Before the Closing Date, except as otherwise contemplated by this Agreement or as permitted by the prior written consent of the Buyer, but without making any commitment on the Buyer's behalf, the Sellers and Shareholders shall:

- (a) conduct its Business, activities and operations only in the ordinary course of business, including, without limitation, causing all transactions relating to the Business to be effected only in the ordinary course of business and maintaining inventories of finished goods, taken as a whole, at levels consistent with normal and customary operation of the Business through the Closing Date;
- (b) maintain all of its properties and assets in good condition, working order, and repair (except for ordinary wear and tear);
- (c) perform its obligations under all agreements binding upon it and maintain all of its Licenses in good standing;
- (d) continue in effect the Insurance Policies (or similar coverage) referred to in Section 4.15 hereof;
- (e) keep available the services of its current officers and employees;
- (f) maintain and preserve the good will of the suppliers, customers, and others having business relations with it;

(g) before the Closing Date, consult with the Buyer from time to time with respect to any actual or proposed material conduct of its business; and

(h) continue all capital expenditure programs in progress before the Closing Date;

(i) use commercially reasonable efforts to cooperate with Buyer's efforts to obtain the Governmental Approvals, to the extent applicable. Such cooperation shall include execution by Sellers and/or Shareholders, as the case may be, when and as reasonably requested by Buyer, of such documents, petitions, permit applications and the like as Buyer may consider appropriate to file in connection with such Governmental Approvals and affording representatives of governmental agencies with such access to the locations of Business operations as may be required in order to facilitate Buyer's efforts to obtain the Governmental Approvals;

(j) give Buyer prompt notice (within three (3) business days after its receipt of notice of same) of (i) any actual or threatened taking or condemnation of all or any portion of the Assets, (ii) any actual or threatened enforcement action by any governmental agency or authority relating to the Business; (iii) any actual or threatened lawsuit, legal or equitable proceeding, or other claims brought against any of Sellers or Shareholders in connection with the Business;

**Section 6.3. Prohibited Transactions Before Closing Date.**

Before the Closing Date, except as otherwise contemplated by this Agreement or permitted by the prior written consent of the Buyer, the Sellers shall not:

(a) become a party to any agreement that, if it had existed on the date hereof, would have come within the scope of the Disclosure Schedule pursuant to Section 4.16 hereof;

(b) do any of the things listed in Section 4.10 hereof;

(c) enter into any compromise or settlement of any litigation, proceedings, or governmental investigation relating to its properties or business; or

(d) directly or indirectly, in any way, contract, initiate, enter into, or conduct any discussions or negotiations, or enter into any agreements, whether written or oral, with any person or entity with respect to the sale of the Sellers' assets or shares of capital stock or a merger or consolidation of the Sellers with any other entity or a sale of any of the other Assets.

(e) further mortgage, convey, or encumber, or perform or permit any act which would result in an encumbrance of, the Assets;

(f) notwithstanding any other provision of this Section 6.3, (i) enter into any leases or subleases, or (ii) allow occupancy or use of any portion of any of the Seller's leased locations under any license or other agreement;

Section 6.4 Omitted.

Section 6.5 Covenant to Satisfy Conditions. Sellers and Buyer shall use their commercially reasonable efforts to ensure that the conditions set forth in Article VII hereof, are satisfied, insofar as such matters are within their respective control.

Section 6.6 Exclusivity. Prior to the Closing Date or termination of this Agreement, whichever shall occur first, none of the Sellers nor any of their Affiliates, agents, or representatives will (i) solicit, initiate or encourage the submission of any proposal or offer from any Person relating to the acquisition of any equity or other voting securities of any of the Sellers, or any substantial portion of the Assets (including any acquisition structured as a merger, consolidation or share exchange), or (ii) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in or facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing. In addition, the Shareholders will not (i) transfer any of the direct or indirect equity interests of any of the Sellers held or owned by them or (ii) vote any of the equity interests of any of the Sellers held or owned by them in favor of any such acquisition structured as a merger, consolidation or share exchange. The Sellers and Shareholders shall promptly provide Buyer with written notice of any third party solicitations to effect any of the transactions described in this Section 6.6, but in no event less than two (2) days after such solicitation.

Section 6.7 Confidentiality. The Sellers, the Shareholders and the Buyer acknowledge and agree that they have executed a separate confidentiality and non-disclosure agreement of even date herewith (the "**Non-Disclosure Agreement**"), which is attached hereto as Exhibit 6.7, and is incorporated herein as if set forth in full. Without limitation of the foregoing, the parties hereto acknowledge that all information exchanged and provided by Buyers to Sellers and Shareholders and by Sellers and Shareholders to Buyers will contain highly-sensitive and confidential information of the supplying party. All such information shall be held in the strictest of confidence and shall be returned to such supplying party at its request at Closing or upon the termination of this Agreement. Before and after the Closing, each party to this Agreement shall, and shall cause its officers, directors, members, accountants, counsel, and other authorized representatives and affiliated parties, to hold in strict confidence and not use or disclose to any other party without the prior written consent of the other party, all information obtained from the other parties in connection with the transactions contemplated hereby, except such information may be used or disclosed (i) when required by any regulatory authorities or governmental agencies, (ii) if required by court order or decree or applicable law, (iii) if it is publicly available other than as a result of a breach of this Agreement, (iv) if it is otherwise contemplated herein, or (v) by the Buyer from and after the Closing to the extent related to the Sellers or the Assets.

Section 6.8. Further Assurances. Before and after the Closing, each party hereto shall execute and deliver such instruments and take such other actions as any other party may reasonably request for the purpose of carrying out the intent of this Agreement and the other Acquisition Documents. Each party hereto shall use its best efforts to cause the transactions contemplated by this Agreement and the other Acquisition Documents to be consummated, and, without limiting the generality of the foregoing, to obtain all consents and authorizations of



government agencies and third parties and to make all filings with and give all notices to government agencies and third parties that may be necessary or reasonably required to effect the transactions contemplated by this Agreement and the other Acquisition Documents. The Sellers shall give prompt notice to the Buyer, after receipt thereof by the Sellers, of (i) any notice of, or other communication relating to, any default or event that, with notice or lapse of time or both, would become a default under any indenture, instrument, or agreement material to the Sellers, to which the Sellers are a party or by which the Sellers are bound, and (ii) any notice or other communication from any third party alleging that the consent of such third party is or may be required in connection with the transactions contemplated by this Agreement and the other Acquisition Documents. Each corporate party shall deliver to the other, by May 21, 2015, appropriate evidence of the approval of its Board of Directors and stockholders (if required by law) of this Agreement, the other Acquisition Documents and the transactions contemplated hereby and thereby.

## **ARTICLE VII CONDITIONS TO BUYER'S OBLIGATIONS**

The obligation of the Buyer under this Agreement to consummate the Closing on the Closing Date shall be subject to the satisfaction on or before the Closing Date, of each of the following conditions:

Section 7.1. Representations and Warranties True. The representations and warranties of the Sellers contained herein, in the other Acquisition Documents (including, without limitation, all schedules and exhibits thereto), and in all certificates and documents delivered by the Sellers shall be true and accurate as of the Closing Date, except for changes permitted or contemplated by this Agreement.

Section 7.2. No Material Changes.

(a) No portion of the assets material to the operation of the Business, including, but not limited to the Assets, shall, after December 31, 2014 and before the Closing Date, be damaged, destroyed, or taken by condemnation, whether or not by any Insurance Policy.

(b) After December 31, 2014 and before the Closing Date, the Sellers shall have suffered or become bound by changes of any kind or nature that either individually or in the aggregate have a material adverse effect on its ability to continue its business operations.

(c) No material adverse change in the business, assets, or financial condition of the Sellers shall have occurred after December 31, 2014 and be continuing.

Section 7.3. Performance. The Sellers shall have performed and complied in all material respects with all agreements, obligations, and conditions required by this Agreement or other Acquisition Documents to be performed or complied with them on or before the Closing Date, including, without limitation, those set forth in Article VI.

Section 7.4. Consents. All filings with and consents from government agencies and third parties required to consummate the transactions contemplated hereby and by the other Acquisition Documents shall have been made or obtained (including without limitation the consents of the lessors to the assignment by the Sellers to the Buyer under the leases referred to in section 4.6 hereof, subject to such modifications or changes of such leases as deemed appropriate by Buyer in its sole discretion), except to the extent that making any such filing or obtaining any such consent has been waived in writing by the Buyer or the failure to obtain any such consent or make any such filing would not have a material adverse effect on the assets, properties, operations, business, or condition, financial or otherwise, of the Sellers or the transactions contemplated hereby or by the other Acquisition Documents.

Section 7.5. Closing Documents. On or before the Closing Date, the Sellers and Shareholders shall have delivered, or caused to be delivered to the Buyer, the documents and instruments described below.

(a) The written opinion of King Laird, P.C., counsel for the Sellers and Shareholders, in form and substance reasonably satisfactory to the Buyer and its counsel and containing such assumptions and limitations as are customary or reasonable for opinion letters normally provided in similar transactions, covering at least the following:

(i) JMS Constructors, Inc. and Microbiological Air Safety Laboratories, Inc. (A) are each a duly organized and validly existing corporation formed and in good standing under the laws of the Commonwealth of Pennsylvania and each are qualified to do business under the laws of the States of PA, NJ, MA, CT, NY, DE; (B) have the power and authority and the legal right to own, operate and lease its respective property and assets and to conduct the business in which each is currently engaged; (C) have all requisite power and authority and the legal right to enter into and perform their respective obligations under the Agreement, the Acquisition Documents and any other documents or agreements related thereto, and to execute and deliver the Agreement, the Acquisition Documents and any other documents or agreements related thereto;

(ii) Value Dry of Massachusetts, LLC (A) is a duly organized and validly existing limited liability company formed and in good standing under the laws of the Commonwealth of Massachusetts and is qualified to do business under the laws of the States of MA, \_\_\_\_\_, \_\_\_\_\_; (B) has the power and authority and the legal right to own, operate and lease its property and assets and to conduct the business in which it is currently engaged; (C) has all requisite power and authority and the legal right to enter into and perform its obligations under the Agreement, the Acquisition Documents and any other documents or agreements related thereto, and to execute and deliver the Agreement, the Acquisition Documents and any other documents or agreements related thereto;

(iii) the execution, delivery, and performance of this Agreement, the other Acquisition Documents to which each of the Sellers and Shareholders are a party, and the other instruments or documents required to be executed by each of the Sellers in connection herewith and therewith have been authorized by all necessary corporate and other actions of each of the Sellers and have been duly executed and delivered by each of the Sellers and constitute

legal, valid, and binding obligations of such parties enforceable in accordance with their terms to the extent the Buyer should be able to realize the practical benefits thereof, except as such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium, or similar laws affecting the enforcement of creditor's rights and except as the availability of suitable remedies may be subject to judicial discretion;

(iv) the consummation of the transactions contemplated by this Agreement, the other Acquisition Documents to which each of the Sellers are a party, and all other instruments or documents required to be executed by each of the Sellers in connection herewith and therewith will not (A) violate or result in a breach of or constitute a default under any provision of the Certificate of Incorporation, Certificate of Organization, Bylaws, Operating Agreement, Shareholder Agreement or Membership Agreement of the Sellers; (B) violate, or be in conflict with, or constitute a default under or breach of, or permit the termination of, or cause the acceleration of the maturity of, any indenture, mortgage, agreement, contract, commitment, debt or obligation of the Sellers or Shareholders, which violation, conflict, default, breach, termination, or acceleration, either individually or in the aggregate with all other such violations, conflicts, defaults, breaches, terminations, and accelerations, would have a material adverse effect on the operations, business, assets, or financial condition of the Sellers, the Shareholders or the Assets; (C) except for the consent of, require the consent of any other party to or result in the creation or imposition of any Lien upon any property or assets of the Sellers, the Shareholders or the Assets under any indenture, mortgage contract, commitment, debt or obligation of or to which the Sellers or the Shareholders are a party or by which the Sellers or Shareholders are bound; (D) violate any statute, law, judgment, decree, order, regulation, or rule of any court or governmental authority to which the Sellers, the Shareholders or the Assets is subject; or (E) result in the loss of any material license, privilege, or certificate benefiting the Sellers; and

(v) except for such actions and proceedings as are disclosed to the Buyer in writing, counsel to the Sellers and Shareholders does not know of any limitation, governmental investigation, actions, or suits, pending or threatened, against or relating to the transactions contemplated by this Agreement or any other Acquisition Document to which any of Sellers or the Shareholders are a party.

(b) Certified copies of the resolutions adopted by the Board of Directors or members of each of the Sellers, or by appropriate committees thereof, authorizing this Agreement and the other Acquisition Documents and the transactions contemplated hereby and thereby.

(c) A certificate of amendment to the Certificate of Incorporation or Certificate of Organization of each of the Sellers, duly authorized and executed and in form and substance suitable for immediate filing by the Buyer with the Secretaries of State in each of the states in which the Sellers are formed and/or registered to conduct business changing the Sellers' name to one that does not include the Trade Name or any of the then-current corporate or company names, any variations thereof, or any other word that could be reasonably confused therewith.

(d) Certificates of the Secretary of State of each of the states in which the Sellers are formed and/or qualified to transact business as a foreign corporation, dated no earlier than ten (10) days prior to the Closing Date, respecting the good standing of the Sellers in each such jurisdiction.

(e) Bylaws and Operating Agreement of each of the Sellers certified as of the Closing Date by a secretary or assistant secretary of each of the Sellers.

(f) Such other documents, instruments, or certificates as shall be reasonably requested by the Buyer or its counsel.

Section 7.6. Environmental Report. If the Buyer shall choose at its expense to retain an environmental consulting firm to render an environmental audit report respecting the Sellers and such firm renders a report that details violations of federal, state, or local environmental Requirements of Law, the Sellers shall have cured or shall have caused the Sellers to cure such violations or the Buyer shall have waived such compliance with this section 5.6; provided,  however, that the Sellers shall not be obligated to cure any such violation.

Section 7.7. Certificates of the Sellers. The Sellers shall have furnished such certificates of its officers and others as may reasonably be required by the Buyer to evidence compliance with the conditions set forth in this Article 7.

Section 7.8. Tradename Assignment. The Buyer and the Sellers shall have entered into an Assignment or Assignments of the Trade Name and the current corporate or company names of the Sellers substantially in the form attached hereto as Exhibit 7.8 (the "Assignment").

Section 7.9. Assignment of Patents and Trademarks. The Sellers shall have entered into an Assignment Patents and Trademarks substantially in the form attached hereto as Exhibit 7.9 (the "Patent/Trademark Assignment").

Section 7.10. Financing. The Buyer shall have been able to obtain financing through the office of the Small Business Administration and other sources, to the extent deemed necessary, desirable or appropriate by Buyer, in amounts and upon terms and conditions acceptable to Buyer in order to purchase the Business as contemplated herein and commence operation of the Business after the Closing, including, but not limited to, satisfying Buyer's anticipated working capital needs.

Section 7.11. Employees.

(a) Sellers and Shareholders shall provide to Buyers on Schedule 7.11 a complete list of all employees of Sellers, respectively, who are employed in the Business, which schedule shall include, but not be limited to, the roles and functions of each named employee and shall identify key-employees and contact-permissible employees who Buyers may contact prior to the Closing Date, on the date of this Agreement (collectively, the "Employees"), which Schedule 7.11 may be updated by Sellers, Shareholders and Buyers from time to time upon mutual consent at any time up to and including the Closing Date.

(b) The Parties acknowledge and agree that, as part of the transactions contemplated herein, the Buyer may, but shall be under no obligation to, hire certain current employees, including, but not limited to, the key-employees and contact-permissible employees who are listed on Schedule 7.11, on the Closing Date. Sellers and Buyer consent and agree that Buyer shall have the right to negotiate with Sellers' existing contact-permissible employees, as designated in Schedule 7.11, prior to Closing Date for immediate positions with Buyer following Closing upon terms and conditions acceptable to both. Sellers agree to facilitate introductions and permit interviews between the Buyer and contact-permissible employees of Sellers' who Buyer, in its sole discretion, desires to interview. Notwithstanding Buyer, however, shall not be obligated to hire all or any employee of Sellers.

(c) Notwithstanding the foregoing, it is expressly agreed and understood that Buyer is purchasing the assets of Sellers as set forth in Article II and does not assume any liabilities of Sellers except for the liabilities and obligations which are expressly assumed by Buyer herein. The Sellers and Shareholders, as the case may be, shall be solely responsible for, and there shall be no assumption of liability by the Buyer of, any debt or liability of the Sellers or Shareholders whether disclosed or undisclosed accrued up to or after the Closing Date, including but not limited to the following:

(i) Any obligations or liabilities of Sellers to any of its employees or independent contractors in the form of compensation due under employment agreements, wages, salaries, commissions, bonuses, vacations, specially negotiated or granted benefits provided to any employee or independent contractor or other compensation or employee benefits; or

(ii) Any obligations or liabilities of Sellers with respect to any federal or state income, withholding, social security, unemployment or payroll taxes with respect to wages or salaries paid in connection with Sellers's operation of the Business, or any federal, state or local sales, use, franchise, excise, gross receipts or other tax in connection with the Business.

## **ARTICLE VIII DELIVERIES**

Section 8.1 Deliveries by Sellers and Shareholders to Buyer. Sellers and Shareholders shall deliver to Buyer at or prior to the Closing each of the following:

(a) an executed Bill of Sale in the form annexed hereto as Exhibit 8.1(a), and such other endorsements, assignments, and other good and sufficient instruments of conveyance and transfer, as shall be effective to vest in Buyer all of Sellers' and Shareholders' rights, title, and interest in and to the Assets;

(b) an assignment of (a) telephone numbers, (b) facsimile numbers, (c) website, (d) domain name, (e) email addresses, (f) any and all social media accounts of Sellers (for example, Twitter and Facebook accounts), and (g) any and all user names, passwords and account information related to any of the foregoing, all of which are listed on Schedules 9.5 (a) through (g) hereof.

(c) a Non-Competition, Non-Solicitation and Non-Disparagement Agreement in the form annexed hereto as Exhibit 9.4(a), duly executed by Sellers and Shareholders;

(d) a Consulting Agreement duly executed by Shareholders in the form attached hereto as Exhibit 7.12;

(e) a Non-Disclosure Agreement duly executed by the Sellers and Shareholders in the form attached hereto as Exhibit 6.7;

(f) a certificate from each of the Sellers, specifying their respective entity status and the requirements of each entity to transfer title by appropriate resolutions and member certifications, etc.

(g) a certificate issued by the Secretary of State or other appropriate officials in which each of the Sellers is formed or conducts any of the Business as to the good standing of such Seller in the jurisdiction of its formation, dated within ten (10) days of the Closing Date;

(h) the Motor Vehicle Titles;

(j) the assignment of leases by Sellers to Buyer, as consented to by the respective Landlords of Sellers, for the leased properties located at 154 Hansen Access Road, King of Prussia, PA and 494 Franklin Street, Unit No. 8, Framingham, MA;

(k) the Motor Vehicle Leases;

(k) the list of all inventory of jobs/work in progress;

(l) the list of inventory of materials and supplies necessary and required for the work in progress.

(m) the Assignment;

(n) the Patent/Trademark Assignment;

(o) all other documents and instruments or certificates that shall be reasonably requested by the Buyer and its counsel.

Section 8.2 Deliveries by Buyer to Sellers. Buyer shall deliver or cause to be delivered to Sellers at or prior to the Closing each of the following: (list deliverables by Buyer to Sellers).

(a) a certificate issued by the Secretary of State or other appropriate officials in which the Buyer is formed or conducts any of the Business as to the good standing of such Buyer in the jurisdiction of its formation, dated within ten (10) days of the Closing Date;

(b) the Seller's Subordinated Note; and

(c) Certified copies of the resolutions adopted by the Board of Directors of the Buyer, or by appropriate committees thereof, authorizing this Agreement and the other Acquisition Documents and the transactions contemplated hereby and thereby.

## ARTICLE IX COVENANTS

Section 9.1 Further Assurances; Required Consents; and Title. The Parties agree that from and after the Effective Date, each of them shall, and shall cause their respective Affiliates to execute and deliver and take such other action as may reasonably be requested by any party hereto to carry out the purposes and intents hereof. Sellers shall enforce for the benefit of Buyer, at the request of Buyer, any and all rights of the Sellers against any third party thereto. At Closing, the Sellers and Shareholders shall deliver to the Buyer evidence of the transfer to the Buyer of good and marketable title, free and clear of all Liens, of the Assets set forth on Schedule 2.1(a).

Section 9.2 Books and Records. Sellers have provided to Buyer all of the books and records of Sellers requested by Buyer (including but not limited to (i) dealings with customers, customer lists, supplier lists, invoices, inventories, personnel records and Taxes and (ii) computer software and data in computer-readable and human-readable form used to maintain such books and records, including the media on which such software and data are stored and all documentation relating thereto), which books and records accurately reflect and portray the Business, and all transactions of Sellers and have been maintained consistent with good business practice.

Section 9.3 Confidential Information. The Buyer, the Sellers and Shareholders shall hold in confidence at all times following the date hereof all Confidential Information of the other party and shall not disclose, publish or make use of such Confidential Information at any time following the date hereof and prior to Closing without the prior written consent of the other party. Disclosure of any Confidential Information shall cause immediate and irreparable injury for which the aggrieved party shall have no adequate remedy at law. A party shall be entitled to injunctive relief in addition to any other remedy that such party might have hereunder.

Section 9.4 Non-Competition, Non-Solicitation and Non-Disparagement.

(a) Sellers and Shareholders agree that they shall execute the Non-Competition, Non-Solicitation and Non-Disparagement Agreements, substantially as set forth in Exhibit 9.4(a) hereof, which is incorporated herein as if set forth in full.

(b) Excluded Inventory. The list of excluded inventory as set forth on Schedule 9.3(b).

Section 9.5 Assignment of Telephone Numbers/Website/Domain Name. Sellers each agree that they shall each assign to Buyer, to the extent that Sellers can assign, all of its rights, title and interest in and to its present (a) telephone numbers, (b) facsimile numbers, (c) website,

(d) domain name, (e) email addresses, (f) any and all social media accounts of Sellers (for example, Twitter and Facebook accounts), and (g) any and all user names, passwords and account information related to any of the foregoing, all of which foregoing are listed on Schedules 9.5 (a) through (g) hercof. Furthermore, Sellers and Shareholders expressly covenant, for a period of sixty (60) days after the Closing Date, to permit Buyers to access and assist and cooperate in the transfer, interface, conversion, mapping, relay, and migration of all data and databases used in connection with the Business and purchased by Buyer pursuant hereto, including, but not limited to, all data contained in the Sellers' customer relationship management tool or tools.

## ARTICLE X INDEMNIFICATION

### Section 10.1 Survival and Expiration of Representations and Warranties.

(a) Notwithstanding (i) the making of this Agreement, (ii) any examination made by or on behalf of the parties hereto, and (iii) the Closing hereunder, (A) the representations and warranties of the parties contained herein or in any certificate or other document delivered pursuant hereto or in connection herewith shall survive until the fifth (5<sup>th</sup>) anniversary of the Closing Date, except for the representations and warranties made in Section 4.20 hereof (Environmental Matters), and Section 4.13 hereof (Tax Returns and Payments), which in each case, shall survive until expiration of the applicable statute of limitations for the underlying cause of action, and (B) the covenants and agreements required to be performed after the Closing pursuant to any provision of this Agreement, including this Article 10, shall survive until fully performed or fulfilled. No action for indemnification pursuant to sections 10.2(c) or 10.3(c) may be brought after the applicable expiration date, provided, however, that if before such date one party hereto has notified the other party hereto of a claim for indemnity hereunder (whether or not formal legal action shall have been commenced based upon such claim), such claim shall continue to be subject to indemnification in accordance herewith.

(b) All covenants and agreements of the parties in this Agreement, including the obligations set forth in Sections 10.2 and 10.3 shall survive the Closing and continue in effect indefinitely unless otherwise specifically limited pursuant to the terms of this Agreement

(c) No Indemnifying Party (as such term is defined in Section 10.5(a) below) shall have any obligation under Sections 10.2 or 10.3 with respect to any Claim or Third Party Claim relating to a breach of a representation or warranty hereunder unless such Indemnifying Party is notified of such Claim or Third Party Claim on or before the expiration of the survival period of the underlying representation or warranty.

(d) Notwithstanding anything to the contrary herein, any Claim alleging any inaccuracy or breach of any representation or warranty made prior to the expiration period with respect to the applicable representation or warranty shall survive the expiration of such representation or warranty until final resolution of such Claim and payment of any Damages associated therewith.



Section 10.2. Indemnification by the Sellers and Shareholders. Each of the Sellers and Shareholders, their respective heirs, successors and assigns shall, on a joint and several basis, indemnify, defend, protect and hold the Buyer and its shareholders, members, officers, directors, employees, representatives, successors, assigns and affiliates (each a "**Buyer Indemnified Party**" and, collectively, the "**Buyer Indemnified Parties**") harmless in respect of any and all claims, losses, causes of actions, suits, administrative proceedings (including informal proceedings), investigations, audits, demands, assessments, adjustments, judgments, settlement payments, deficiencies, fees, taxes, penalties, fines, diminution of value, costs, damages, liabilities, and expenses (including, without limitation, settlement costs and legal, accounting, and other disbursements, fees and expenses in connection therewith) (collectively, the "**Damages**") incurred by the Buyer and its shareholders, members, officers, directors, employees, representatives, successors, assigns and affiliates in connection with each and all of the following:

(a) Any claim by any person or other entity, including, but not limited to, Seller's Broker, for any broker's or finder's fee or similar fee charged for commission that arises from any action, statement, or commitment made by the Sellers or their agents or Affiliates.

(b) Any breach or other failure to perform any covenant, agreement, or obligation of the Sellers or Shareholders contained in this Agreement, any other Acquisition Document or any other instrument, including all certificates, contemplated hereby or thereby.

(c) Any breach of any representation or warranty by any of the Sellers or Shareholders contained in this Agreement, any other Acquisition Document, or other instrument, including all certificates, contemplated hereby or thereby.

(d) Any Damages with respect to taxes based on or arising from the income, assets, capital, operations, employment or activities of any of the Sellers or Shareholders or any member of the group of business organizations at any time controlled by or under common control with the Sellers.

(e) Any breach or other failure to perform fully before the Closing Date any agreement that is required to be disclosed pursuant to Section 4.16(a)(vi) hereof.

(f) the acts or omissions of the Seller's Broker.

(g) any claim by a shareholder or member of any of the Sellers (including any Shareholder) or former shareholder or members of any of the Sellers, or any other Person: (i) seeking to assert ownership or rights to ownership of any shares of capital stock, membership interest or other equity securities of any of the Sellers or its predecessors; (ii) based upon any rights of a shareholder or member, including any option, preemptive rights or rights to notice or to vote; (iii) based upon any rights under the Charter Documents; or (iv) that his, her or its shares were wrongfully repurchased pursuant to the Merger or that the amount received by such shareholder pursuant to the Merger was inaccurate.

(h) any claim by a shareholder or member of any of the Sellers (including any Shareholder) or former shareholder or members of any of the Sellers, or any other Person relating to (i) payments made under any bonus and/or compensation schedule or that the amount received by such shareholder or member pursuant to any bonus and/or compensation schedule was inaccurate, (ii) the issuance of fractional shares of capital stock or membership interest of any of the Sellers, as the case may be, in contravention of such Seller's bylaws or operating agreement or the issuance of shares of capital stock or membership interest in excess of the total number of shares or membership interest which such Seller is authorized to issue pursuant to its Charter Documents.

(i) Any Damages (including, without limitation, costs of response, removal, remediation, investigation, corrective action, property damage, personal injury, economic loss, damage to natural resources, health assessments and health studies, settlement, interest accruing on recoverable amounts, penalties, and attorneys' fees) accruing to the Buyer or the Business from the operations of the Sellers, or the operations of the Business before the Closing Date or otherwise affecting any of the Sellers and/or the Shareholders before the Closing Date, including, but not limited to: (i) remedial work, monitoring, removal or other costs and expenses associated with environmental matters with respect to any Hazardous Substances required by any environmental Requirements of Law, (ii) injury, disease, or death of any person (including any employee, former employee, agent, or representative of any subcontractor of any of the Sellers or Shareholders) arising out of any environmental matters, or (iii) any damage to any property arising out of any environmental matters.

(j) Any liability to employees or to third parties for personal injury or death or damage to property arising out of or occurring in connection with products sold or services rendered by any of the Sellers or Shareholders on or before the Closing Date.

(k) Any claims made by former or current employees of the Sellers alleging the occurrence of, or arising out of, an allegation relating to any breach of any fiduciary obligation before the Closing Date under any employee benefit plan listed on Schedule 4.18 hereto.

(l) Any liability to or claims made by any Person, including but not limited to, Value Dry, LLC, a Maryland limited liability company, its successors or assigns or James A. Ketterer, his heirs, successors or assigns, related to the Value Dry service mark previously filed with the United States Patent and Trademark Office under Reg. No. 3,052,761 and Serial No. 76627502 or the service mark Value Dry previously filed with the United States Patent and Trademark Office under Reg. No. 3,147,396 and Serial No. 76649848.

(m) Any Damages arising, including but not limited to payments made by Buyer in excess of the Escrow Deposit, due to Sellers' filing of or compliance with (or the failure thereof) clearance certificates with the Pennsylvania Department of Revenue and/or the Pennsylvania Department of Labor and Industry, as required in Section 3.7 hereof.

(n) Any liability, claim or other Damages raised by any Person related to any obligation or liability related to the Sellers, Shareholders or the Business arising prior to the

Closing Date which is not set forth in Schedule 2.1(k) (related to Assumed Liabilities), including, but not limited to, amounts or accounts payable by Sellers, Shareholders or the Business not set forth in Schedule 2.1(k).

(o) Any claims, liability or other Damages arising from any litigation set forth on Schedule 4.12 hereto or arising from any action by any of the Sellers or Shareholders after the Closing Date, including but not limited to, any fundamental corporate or company change, dissolution or merger of any of the Sellers.

Section 10.3. Indemnification by the Buyer. The Buyer and its successors and assigns shall indemnify the Sellers, the Shareholder and their respective successors and assigns (each a "**Seller Indemnified Party**" and, collectively, the "**Seller Indemnified Parties**") in respect of any and all Damages incurred by the Sellers, the Shareholders and their respective successors and assigns in connection with each and all of the following.

(a) The claim by any person, including, but not limited to, Buyer's Broker, for any broker's or finder's fees or similar fee charged for commission that arises from any actions, statements, or commitments made by the Buyer or its agents or Affiliates.

(b) The breach or other failure to perform any covenant, agreement, or obligation of the Buyer contained in this Agreement or any other Acquisition Document or any other instrument, including all certificates contemplated hereby or thereby.

(c) Any breach of any representation or warranty by the Buyer contained in this Agreement or any other Acquisition Document or any other instrument, including all certificates, contemplated hereby or thereby but only to the extent that the Damages arising in connection with such breaches exceed \$10,000.00 in the aggregate.

Section 10.4. Limitation and Survival of Indemnification Obligations.

(a) Notwithstanding any other provision of this Agreement, there shall be no liability for indemnification under Section 10.2(a) unless the aggregate amount of Damages thereunder exceeds \$10,000.00 (the "**Seller Indemnification Threshold**"), at which time the indemnitee(s) will be obligated to indemnify the Buyer Indemnified Parties with respect to the entire amount of all such Damages (including all Damages incurred prior to exceeding the Seller Indemnification Threshold); provided, however, that the Seller Indemnification Threshold shall not apply to (1) any fraudulent misrepresentation or the intentional or willful breach of this Agreement by any of the Sellers or Shareholders, or (2) any breach or inaccuracy of any representation or warranty made by any of the Sellers or Shareholders in any of the following Sections: Section 4.1 (Organization and Qualification); Section 4.2 (Authorization); Section 4.7 (No Conflict); Section 4.29 (No Undisclosed Liabilities); Section 4.13 (Tax Matters); Section 4.3 (Assets); Section 4.32 (Employment Obligations) and Section 7.11 (Employees) (collectively, the "**Seller Specified Reps**").

(b) Notwithstanding any other provision of this Agreement, there shall be no liability for indemnification under Section 10.3(a) unless the aggregate amount of Damages

thereunder exceeds \$10,000.00 (the "**Buyer Indemnification Threshold**"), at which time Buyer will be obligated to indemnify the Seller Indemnified Parties with respect to the entire amount of all Damages (including all Damages incurred prior to exceeding the Buyer Indemnification Threshold); provided, however, that the Buyer Indemnification Threshold shall not apply to any fraudulent misrepresentation or the intentional or willful breach of this Agreement by the Buyer.

(a) With respect to claims made pursuant to Section 10.2, the Buyer Indemnified Parties shall first offset any such Damages against the Seller's Subordinate Note and second, if the entire outstanding principal and accrued but unpaid interest under such Seller's Subordinate Note is insufficient to satisfy the amount of Damages being claimed pursuant to Section 10.2, or if there are no remaining amounts outstanding under such Seller's Subordinate Note, the Buyer Indemnified Parties shall have recourse against all of the Sellers and the Shareholders, on a joint and several basis, for such excess amounts.

(d) Nothing in this Article 10, including the expiration of any survival period set forth in Section 10.1, shall limit any remedy or action that the Buyer or any other Buyer Indemnified Party may have against any Person for fraud, or any claim based upon intentional or willful breach of this Agreement.

(e) With respect to any such claims made pursuant to Section 10.3, the Seller Indemnified Parties shall have recourse against the Buyer directly for such amount.

(f) Notwithstanding anything to the contrary herein, the right of any party hereto to indemnification, payment of Damages or other remedies will not be affected in any way by any investigation conducted or knowledge (whether actual, constructive or imputed) acquired at any time by such party with respect to the accuracy or inaccuracy of or compliance with or performance of, any representation, warranty, covenant, agreement or obligation or by the waiver of any condition.

(g) For purposes of determining the amount of Damages resulting from any inaccuracy, misrepresentation, failure to satisfy a covenant or breach of a representation or warranty, all qualifications or exceptions in any representation or warranty relating to or referring to the terms "material", "materiality", "in all material respects", "Material Adverse Effect" or any similar term or phrase shall be disregarded, it being the understanding of the parties that for purposes of determining liability under this Article 10, the representations and warranties of the parties contained in this Agreement shall be read as if such terms and phrases were not included in them.

(h) Any Damages payable pursuant to this Article 10 shall be reduced by insurance proceeds actually received as a result of, and in compensation for, the subject matter of an indemnification claim by an Indemnified Party.

#### Section 10.5. Indemnification Procedures.

(a) Upon knowledge of any item of Damages not involving a Third Party Claim, the party seeking indemnification (the "**Indemnified Party**") shall, as promptly as practicable following the date the Indemnified Party has obtained such knowledge, give written

notice of such claim for which indemnification is sought pursuant to Sections 8.1, 8.2 or 8.3 (each, a "Claim") to the party from whom indemnification is sought (the "Indemnifying Party,"), but, subject to Section 10.1(c), no failure to give such notice shall relieve the Indemnifying Party of any liability hereunder (except to the extent the Indemnifying Party has suffered actual prejudice thereby). The Indemnified Party, at its cost, shall furnish to the Indemnifying Party in good faith and in reasonable detail such information as the Indemnified Party may have with respect to such Claim (including copies of any applicable invoice, billing or other document evidencing or asserting the same).

(b) Promptly after receipt by an Indemnified Party of notice of the commencement of any action, suit or proceeding involving a Claim by a third party (each, a "Third Party Claim") against it, such Indemnified Party will give written notice to the Indemnifying Party of the commencement of such Third Party Claim, and, at its cost, shall give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but, subject to Section 10.1(c), no failure to give such notice shall relieve the Indemnifying Party of any liability hereunder (except to the extent the Indemnifying Party has suffered actual prejudice thereby). If the Indemnifying Party establishes to the reasonable satisfaction of the Indemnified Party that such Third Party Claim plus all other pending Claims and Third Party Claims will not exceed the Indemnifying Party's applicable limitations on indemnification set forth in this Article 10, the Indemnifying Party shall have the right, but not the obligation, to assume the defense and control the settlement of such Third Party Claim, at the Indemnifying Party's sole cost and expense (and not as a reduction in the amount of indemnification available under Sections 10.2 or 10.3, as the case may be), using counsel selected by the Indemnifying Party and reasonably acceptable to the Indemnified Party. If the Indemnifying Party satisfies the requirements of the immediately preceding sentence and desires to exercise its right to assume the defense and control the settlement of such Third Party Claim, the Indemnifying Party shall give written notice (the "Notice") to the Indemnified Party within twenty (20) calendar days of receipt of written notice from the Indemnified Party of the commencement of or assertion of any Third Party Claim stating that the Indemnifying Party shall assume the defense and control of such Third Party Claim. Notwithstanding the foregoing, the Indemnified Party shall have the right to (i) assume the defense and control the settlement of a Third Party Claim, which settlement shall be subject to the consent of the Indemnifying Party (not to be unreasonably withheld) except as otherwise provided in Section 10.5(e), and (ii) employ separate counsel at the reasonable expense of the Indemnifying Party and control its own defense of a Third Party Claim if (x) the named parties to any such action (including any impleaded parties) include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have been advised by counsel that there are one or more legal or equitable defenses available to the Indemnified Party that are different from those available to the Indemnifying Party or (y) such Third Party Claim involves equitable or other non-monetary damages or in the reasonable judgment of the Indemnified Party, such settlement would have a continuing material adverse effect on the Indemnified Party's business (including any material impairment of its relationships with Clients). In addition, if the Indemnifying Party fails to give the Indemnified Party the Notice in accordance with the terms of this Section 10.5(b), the Indemnified Party shall have the right to assume control of the defense of and settle the Third Party Claim and, to the extent the Indemnified Party is finally determined to be entitled to

indemnification for Damages suffered in connection with such Third Party Claim, all costs incurred in connection therewith shall constitute additional Damages of the Indemnified Party.

(c) If at any time after the Indemnifying Party assumes the defense of a Third Party Claim, any of the conditions set forth in Section 10.5(b) above are no longer satisfied, the Indemnified Party shall have the same rights as set forth above as if the Indemnifying Party had never assumed the defense of such claim.

(d) Notwithstanding the foregoing, the Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate, at its own expense, in the defense of any Third Party Claim that the other party is defending.

(e) If the Indemnifying Party assumes the defense of any Third Party Claim in accordance with the terms of Section 10.1(b), the Indemnifying Party shall have the right, upon thirty (30) calendar days' prior written notice to the Indemnified Party, to consent to the entry of judgment with respect to, or otherwise settle such Third Party Claim; provided, however, that with respect to such consent to the entry of judgment or settlement, the Indemnified Party will not have any liability and will be fully indemnified with respect to all Damages related to such Third Party Claim. Notwithstanding the foregoing, the Indemnifying Party shall not have the right to consent to the entry of judgment with respect to, or otherwise settle a Third Party Claim if the judgment or settlement of such Third Party Claim involves equitable or other non-monetary damages or relief without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld. The Indemnified Party shall have the sole and exclusive right to settle any Third Party Claim for which it has assumed the defense and control of the settlement on such terms and conditions as it deems reasonably appropriate if such Third Party Claim involves only equitable or other non-monetary relief; provided, however, that if such settlement purports to impose equitable or other non-monetary relief on the Indemnifying Party, then the Indemnified Party shall not settle such Third Party Claim without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld. The Indemnified Party shall have the right to settle any Third Party Claim involving monetary damages with the consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(f) Whether or not the Indemnifying Party chooses to defend or prosecute any Third Party Claim, all the parties hereto shall cooperate in the defense or prosecution thereof and shall furnish such records, information and testimony and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested in connection therewith.

## **ARTICLE XI MISCELLANEOUS**

### **Section 11.1 Termination of Agreement.**

(a) This Agreement may be terminated:

(i) at any time prior to the Closing by mutual agreement of Sellers and Buyer;

(ii) by Buyer, on or after June 15, 2015 (the "**Outside Date**"), if any of the conditions provided in Article VII of this Agreement have not been met and have not been waived in writing by Buyer prior to such date; ~~provided, however,~~ that Buyer may not terminate this Agreement pursuant to this Section 11.1(a) if the Closing has not occurred on or before the Outside Date due to a breach by Buyer of any of its respective representations, warranties, covenants or agreements contained in this Agreement;

(iii) by Buyer upon a default of any of Sellers or Shareholders as described in Section 11.2 hereof;

(iv) by Buyer pursuant to Section 3.6 hereof; or

(v) at any time prior to the Closing by Buyer or Sellers, if there shall be in effect a final non-appealable order of a governmental authority of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(b) Procedure Upon Termination. If this Agreement is terminated pursuant to Section 11.1, the terminating party shall immediately give written notice thereof to the other parties and the transactions contemplated by this Agreement shall be terminated without further action by either party. If the transactions contemplated by this Agreement are terminated as provided herein:

(i) Selling Parties, on the one hand, and Buyer, on the other hand, shall return all documents, work papers and other material of the other party relating to the transactions contemplated hereby, including, but not limited to, the Sellers' Subordinated Note, whether obtained before or after the execution hereof, to the party furnishing such items;

(ii) all Confidential Information received by Sellers, Shareholders or Buyer with respect to the Business of the other party or its Affiliates shall be treated in accordance with Sections 6.7 and 9.3; and

(iii) except as provided below in Section 11.2, such termination shall not in any way limit or restrict the rights and remedies of the Selling Parties or Buyer against any party hereto that has willfully breached any of the agreements or other provisions of this Agreement.

In no event shall any Party hereto have any liability to any other Party for any consequential, indirect, exemplary, incidental, special or punitive damages.

Section 11.2 Default; Liquidated Damages.

(a) Anything in this Agreement to the contrary notwithstanding, if any of the Selling Parties or the Buyer, fails to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, then, unless such obligation is waived by the non-

defaulting party, such failure to perform shall constitute a default under this Agreement and the non-defaulting shall have available to it any and all rights and remedies at law or in equity, including, but not limited to, the right to seek a judgment compelling the specific performance hereof.

(b) The Selling Parties jointly and severally acknowledge that default by any of the Selling Parties under this Agreement would cause harm to Buyer that is incapable of accurate estimation. Therefore, in the event of such default, notwithstanding anything contained in this Agreement to the contrary, Buyer shall be entitled as liquidated damages to (1) recover from Sellers the full amount of the Deposit and (2) recover from the Sellers and Shareholders, jointly and severally, liquidated damages in the amount of Thirty Thousand (\$30,000.00) Dollars (collectively, the "**Liquidated Damages**"). Each of the Selling Parties specifically waives any and all remedies at law or in equity with respect to any default by Buyer, other than the Liquidated Damages provided in this paragraph, and in the event of such default, this Agreement shall terminate and become void and the parties shall have no further rights, responsibilities or obligations hereunder.

(c) The Buyer acknowledges that default by Buyer under this Agreement would cause harm to the Selling Parties that is incapable of accurate estimation. Therefore, in the event of such default, notwithstanding anything contained in this Agreement to the contrary, Selling Parties shall be entitled as liquidated damages to (1) retain the full amount of the Deposit and (2) recover from the Buyer, liquidated damages in the amount of Thirty Thousand (\$30,000.00) Dollars (collectively, the "**Liquidated Damages**"). The Buyer specifically waives any and all remedies at law or in equity with respect to any default by Selling Parties, other than the Liquidated Damages provided in this paragraph, and in the event of such default, this Agreement shall terminate and become void and the parties shall have no further rights, responsibilities or obligations hereunder.

Section 11.3 Expenses. All negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by Sellers and their counsel, accountants and other representatives directly with Buyer and its counsel, accountants and other representatives, without the intervention of any person in such manner that would give rise to any valid claim by any broker, finder or agent for any brokerage fees, finder's fees or commissions with respect to the transactions contemplated by this Agreement, and each party shall indemnify the other for any claims, costs, or expenses which may be suffered by the other party as a result of any breach or alleged breach of this provision.

Section 11.4 Amendments and Waivers. Any term of this Agreement may be amended or waived with the written consent of the parties or their respective successors and assigns. Any amendment or waiver effected in accordance with this Section 11.4 shall be binding upon the parties and their respective successors and assigns.

Section 11.5 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or



liabilities under or by reason of this Agreement, except as expressly provided in this Agreement or any amendments hereto.

Section 11.6 Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to the conflicts of law provisions thereof.

Section 11.7 Brokers. The parties mutually acknowledge and agree that no broker has been instrumental in this transaction, except for the Sellers' Broker representing the Sellers and Buyer's Broker representing the Buyer. Sellers and Buyer shall be obligated to pay a commission to their respective brokers at the time of Closing. Except for Sellers' Broker and Buyer's Broker, the parties mutually warrant and represent to each other that no other broker has any right to receive any commission from any party hereto.

Section 11.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. A faxed copy of this Agreement, or any portion hereof, shall have the same force and effect as an original copy.

Section 11.9 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

Section 11.10 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by recognized overnight delivery courier, such as Fedex, UPS, etc., or confirmed facsimile, or upon receipt or refusal to accept delivery of certified or registered mail with postage prepaid, if such notice is addressed to the party to be notified at such party's address or as subsequently modified by written notice:

As to Sellers:

JMS Constructors, Inc.  
d/b/a Value Dry  
154 Hansen Access Road  
King of Prussia, PA 19046

Microbiological Air Safety Laboratories, Inc.  
154 Hansen Access Road  
King of Prussia, PA 19046

Value Dry of Massachusetts, LLC  
494 Franklin Street, Unit No. 8  
Framingham, MA

As to Shareholders:

G. James Kesslick  
[TO BE PROVIDED]

J. Matthew Salansky  
[TO BE PROVIDED]

As to Buyer:

Beatituda Holding Company  
367 Beechwood Drive  
Sellersville, PA 18960

With a copy to:

Francis J. Sullivan, Esq.  
Hill Wallack LLP  
777 Township Line Road, Suite 250  
Yardley, PA 19067

Section 11.11 Survival of Representations and Warranties. Each of the representations and warranties set forth in this Agreement shall survive for a period of eighteen (18) months following the Closing Date. All covenants, agreements and obligations made in this Agreement shall survive the Closing in accordance with their terms.

Section 11.12 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith, in order to maintain the economic position enjoyed by each party as close as possible to that under the provision rendered unenforceable. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded, and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

Section 11.13 Entire Agreement. This Agreement and all documents referred to herein are the product of both of the parties hereto, and constitute the entire agreement between such parties pertaining to the subject matter hereof and thereof, and merge all prior negotiations and drafts of the parties with regard to the transactions contemplated herein and therein. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly canceled.

Section 11.14 Advice of Legal Counsel. Each party acknowledges and represents that, in executing this Agreement, it has had the opportunity to seek advice as to its legal rights from legal counsel and that the person signing on its behalf has read and understood all of the terms and provisions of this Agreement. This Agreement shall not be construed against any party by reason of the drafting or preparation thereof.

Section 11.15 Schedules and Exhibits. The Schedules and Exhibits are hereby incorporated into this Agreement and are hereby made a part hereof as if set out in full herein.

Section 11.16 Assignment; Successors in Interest. No assignment or transfer by any Party of such Party's rights and obligations hereunder shall be made except with the prior written consent of the other Party. This Agreement shall be binding upon and shall inure to the benefit of the Sellers and Buyer and their respective heirs, successors, administrators and permitted assigns, and any reference to a Party shall also be a reference to the successors and permitted assigns thereof.

Section 11.17 Waiver. Any agreement on the part of a Party to any extension or waiver of any provision hereof shall be valid only if set forth in an instrument in writing signed on behalf of such Party. A waiver by any Party of the performance of any act shall not constitute a waiver of the performance of any other act or an identical act required to be performed at a later time.

Section 11.18 Integration. This Agreement and the documents executed pursuant hereto supersede all negotiations, agreements and understandings among the Parties with respect to the subject matter hereof and constitute the entire agreement among the Parties with respect thereto.

Section 11.19 Transaction Costs. Except as provided above or as otherwise expressly provided herein, (a) the Buyer shall pay its own fees, costs and expenses incurred in connection herewith and the transactions contemplated hereby, including, but not limited to, the fees, costs and expenses of its financial advisors, accountants and counsel, and (b) the Sellers and Shareholders shall pay the respective fees, costs and expenses of the Sellers and Shareholders incurred in connection herewith and the transactions contemplated hereby, including, but not limited to, the fees, costs and expenses of their financial advisors, accountants and counsel.

Section 11.20 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto, the Seller Indemnified Parties, the Buyer Indemnified Parties and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 11.21 Mutual Drafting. This Agreement is the mutual product of the parties hereto, and each provision hereof has been subject to the mutual negotiation and agreement of the parties, which have been represented by counsel, and shall not be construed for or against any party hereto.

Section 11.22 Other Remedies. Except as otherwise set forth herein and, particularly, in Section 11.2 hereof, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered by the Shareholders and the duly authorized officers of Sellers and Buyer as of the date first above written.

**SELLERS:**

JMS CONSTRUCTORS, INC.  
D/B/A VALUE DRY

BY: J K President

ATTEST: \_\_\_\_\_

MICROBIOLOGICAL AIR SAFETY  
LABORATORIES, INC.

BY: J K President

ATTEST: \_\_\_\_\_

VALUE DRY OF MASSACHUSETTS, LLC

BY: J K  
Its Managing Member

**SHAREHOLDERS:**

J K President  
G. JAMES KESSLICK

J K  
J. MATTHEW SALANSKY

**BUYER:**

BEATITUDA HOLDING COMPANY

BY: M W President

ATTEST: \_\_\_\_\_

Daniel Ames  
WITNESS  
Paul Miller  
WITNESS

\* Page 26 contains a change to the language in the inventory section stating that the inventory received will be \$20,000 or more but could be \$20,000 exactly.

(Y0414408; 11)

TRADEMARK