

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM416098

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Asset Purchase Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Sawyer Nursery, Inc.		09/21/2015	Corporation: MICHIGAN
RECEIVING PARTY DATA			
Name:	Perennials, LLC		
Street Address:	5401 Port Sheldon Road		
City:	Hudsonville		
State/Country:	MICHIGAN		
Postal Code:	49426		
Entity Type:	Limited Liability Company: MICHIGAN		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	2045715	SAWYER NURSERY	
Registration Number:	2045801		
CORRESPONDENCE DATA			
Fax Number:	6169578196		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	616-949-9610		
Email:	jrleigh@priceheneveld.com		
Correspondent Name:	James K. Leonard, Price Heneveld LLP		
Address Line 1:	695 Kenmoor SE, PO Box 2567		
Address Line 4:	Grand Rapids, MICHIGAN 49501		
NAME OF SUBMITTER:	James K. Leonard		
SIGNATURE:	/James K. Leonard/		
DATE SIGNED:	02/14/2017		
Total Attachments: 18			
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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of this 21st day of September, 2015, by and between PERENNIALS, LLC, a Michigan limited liability company (the "Buyer"), and SAWYER NURSERY, INC., a Michigan corporation ("Seller"), and Scott R. Sawyer, individually and as trustee of the Scott R. Sawyer Trust, and Craig E. Sawyer, individually and as Trustee of the Craig E. Sawyer Trust, constituting all of the Shareholders of Seller (the "Seller Shareholders"). This Agreement is joined in by Robert Sawyer ("Robert Sawyer") for the purposes set forth herein. Robert Sawyer and Seller Shareholders are collectively referred to herein as the "Sawyers". The Seller and the Sawyers are collectively referred to herein as the "Seller Parties".

RECITALS

A. Seller is engaged in the business of growing and selling at wholesale perennial plants, ground covers, ornamental grasses, herbs, ferns, small fruits and other flowering plants which Seller cultivates in containers from very small plug sizes to finish sizes for sale to retailers and growers (the "Business").

B. The Sawyers will receive an economic benefit derived from Buyer's purchase of the assets from Seller. In exchange, the Sawyers agree to make the representations, warranties and covenants set forth in this Agreement.

C. Seller desires to sell, and Buyer desires to purchase, all the assets of Seller for the consideration and on the terms set forth in this Agreement.

AGREEMENT

In consideration of the Recitals and the terms and conditions set forth in this Agreement, the parties hereto agree as follows:

ARTICLE I PURCHASE AND SALE OF ASSETS

Section 1.1 Acquired Assets. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing Seller shall sell, transfer, convey, assign and deliver to Buyer, and Buyer shall purchase and acquire from Seller, free and clear of all Liens, except Permitted Liens, all of Seller's right, title and interest in and to all of Seller's property and assets, real, personal or mixed, tangible and intangible, of every kind and description, wherever located, including without limitation the following (collectively, the "Acquired Assets"):

- (a) All cash and cash equivalents;
- (b) All inventory of Seller (collectively, the "Inventory"), including, without limitation, all live goods, all hard goods, accessories, merchandise for resale, spare parts, packaging materials, and all other materials and supplies used or consumed by Seller, wherever located, including consigned Inventories, Inventory previously

purchased and in transit and any such Inventory paid for but not yet delivered or received by Seller;

(c) All accounts, accounts receivable and other rights to payments from customers of Seller arising on or prior to the Closing Date ("Accounts Receivable");

(d) All tangible personal property of Seller, including, without limitation, vehicles, fixtures, equipment and machinery, parts, tools, office furniture and equipment, computers, printers and other similar personal property;

(e) All Intellectual Property Rights of Seller (including all related documentation and data in all forms and formats in which it exists) used in, or related to, the Business;

(f) The rights of Seller under each Contract, which includes all purchase orders with Seller's customers, all quoted jobs for which no purchase order has been issued but for which Seller reasonably expects to receive a purchase order and all jobs Seller has started but for which no quote or purchase order has been issued (the "Assigned Contracts");

(g) All Documents that are used in, held for use in or intended to be used in, or that arise out of, the Business, including documents relating to services, marketing, advertising, promotional materials, and all files, customer files and documents (including credit information), supplier lists, books and records, literature and correspondence, whether or not physically located at any of the facilities used by the Seller in the Business (the "Facilities");

(h) All Permits used in connection with the operation of the Business and any and all pending applications relating to any of the foregoing, in each case to the extent transferable under applicable Law (collectively, the "Acquired Permits");

(i) The right to control and use the name "Sawyer Nursery, Inc.," the domain name "www.sawyernursery.com", and all telephone numbers, facsimile numbers and email addresses and listings used by the Seller;

(j) All pre-paid expenses, advanced payments, prepayments, security deposits, deferred charges, letters of credit and other deposits, included in pre-paid assets and other current assets in respect of any of the Acquired Assets;

(k) All rights of first refusal, including the First Right of Refusal affecting The Brian Sawyer Trust property dated January 2, 2004, and recorded at Libor 4419, Page 27 of the Ottawa County Register of Deeds;

(l) All rights to a parking easement to the property described on the attached Exhibit A and that is recorded as "First Amendment to Easement" recorded with the Ottawa County Register of Deeds at Document No. 2009-0040390;

ARTICLE III
ASSUMPTION OF LIABILITIES

Section 3.1 Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, Buyer agrees, effective at the Closing, to assume only the following liabilities of Seller (the "Assumed Liabilities"):

(a) all liabilities of Seller under the Assigned Contracts arising after the Closing Date (other than any Liability arising out of or relating to a breach that occurred prior to the Closing Date); and

(b) the accounts payable (other than an account payable to any Sawyer or any relative of any such Persons or any corporation or other entity in which any such Person is an officer, director, manager, partner, shareholder or otherwise owns an equity interest or any other financial or profit interest), accrued payroll and taxes and accrued expenses reflected on the Seller's balance sheet as of the Closing Date (the "Assumed Current Liabilities").

Section 3.2 Excluded Liabilities. Except for the Assumed Liabilities, Buyer does not assume and shall not in any manner become responsible or liable for, and Seller shall retain, all other liabilities of Seller of any nature whatsoever, whether known or unknown, fixed, contingent or otherwise, (collectively, the "Excluded Liabilities"). All of the Excluded Liabilities shall remain the responsibility of, and shall be retained, paid, performed and discharged solely by Seller.

ARTICLE IV
CLOSING

Section 4.1 The Closing. The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Miller Johnson in Grand Rapids, Michigan on the later of (a) November 2, 2015 or (b) the fifth business day after the satisfaction, or waiver by the applicable party, of all conditions to Closing or on such other date at such other location as is mutually agreed by the parties. The parties hereto agree that the Closing shall be deemed effective as of 12:01 a.m. on the Closing Date. The date on which the Closing occurs is herein referred to as the "Closing Date."

Section 4.2 Closing Obligations. At the Closing:

(a) Seller will deliver to Buyer the following (collectively, the "Seller's Closing Deliveries"):

(i) Bills of sale, certificates of title, vehicle certificates, endorsements, assignments, and other instruments of conveyance, reasonably acceptable to Buyer, for the Acquired Assets, in forms sufficient to transfer good and valid title to the Acquired Assets to Buyer free and clear of all Liens, other than Permitted Liens, executed by the Seller;

(ii) Payoff letters setting forth all amounts due and payable by Seller to fully discharge any and all obligations under the Existing Bank Debt;

(iii) A certificate executed by _____, on behalf of the Seller Parties, certifying that the conditions to Closing specified in Sections 8.1 and 8.2 have been satisfied;

(iv) A correct and complete copy of resolutions of the shareholders and directors of Seller authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated herein;

(v) An amendment to the Articles of Incorporation of Seller terminating Seller's use of the name "Sawyer Nursery, Inc." and all derivations thereof;

(vi) Such other documents and instruments as Buyer and its counsel may reasonably request to consummate the transactions contemplated by this Agreement.

(b) Buyer will deliver to Seller (except as otherwise noted), duly executed by Buyer, as applicable, the following ("Buyer's Closing Deliveries"):

(i) The Cash Payment;

(ii) The Payoff Amount which will be paid on Seller's behalf directly to the banks as set forth in the payoff letters;

(iii) A duly executed instrument of assignment providing for Buyer's assumption of the Assigned Contracts;

(iv) A certificate executed by a Manager of Buyer certifying that the conditions to Closing specified in Sections 9.1, 9.2 and 9.3 have been satisfied; and

(v) Such other documents and instruments as Seller and its counsel may reasonably request to consummate the transactions contemplated by this Agreement.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF SELLER

To the best of their knowledge and belief, the Seller Parties, jointly and severally, represent and warrant to Buyer as of the date hereof and as of the Closing Date as follows:

Section 5.1 Organization, Standing and Corporate Power. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of

Michigan, and has all requisite power and authority to own, lease or otherwise hold and operate its properties and other assets and to carry on the Business.

Section 5.2 Authority. Seller has all requisite corporate power and authority to execute and deliver this Agreement and the other agreements and instruments executed and delivered in connection with this Agreement (the "Transaction Documents") to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery of the Transaction Documents will prior to the Closing be, duly authorized by all necessary corporate action on the part of Seller, and no other corporate proceedings on the part of Seller are necessary to authorize this Agreement and the other Transaction Documents or to consummate the transactions contemplated hereby or thereby. This Agreement has been, and, by the Closing, the other Transaction Documents will have been, duly executed and delivered by the Seller and, assuming the due authorization, execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and the other Transaction Documents will constitute as of the Closing, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their terms subject to bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

Section 5.3 No Conflicts. The execution and delivery of this Agreement does not, and the execution and delivery of the other Transaction Documents will not, and the consummation of the transactions contemplated hereby and thereby and compliance with the provisions of this Agreement and the other Transaction Documents will not violate any provision of the Seller's Articles of Incorporation or Bylaws.

Section 5.4 Capitalization. The authorized capital stock of the Seller consists of 50,000 shares of common stock, \$ 1.00 par value, of which 3,000 shares are issued and outstanding (the "Company Shares"). All of the outstanding Company Shares have been duly authorized, are validly issued and fully paid, and are held of record and beneficially owned by the Selling Shareholders, of which 1,500 shares are held by the Craig E. Sawyer Trust and 1,500 shares are held by the Scott R. Sawyer Trust. There are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights or other contracts, commitments or rights that could require Company to issue, sell or otherwise cause to become outstanding any of its equity securities. There are no outstanding or authorized unit appreciation, phantom stock, profit participation or similar rights with respect to Company. There are no voting trusts, proxies or other Contracts with respect to the voting of the Company Shares.

Section 5.5 No Subsidiaries. Seller does not have any subsidiaries or directly or indirectly own any interest or have any investment in any other corporation, partnership or other entity.

Section 5.6 Title of Assets. Seller has good and valid title to or valid leasehold or sublease interests or other comparable contract rights in or relating to all of the Acquired Assets. At the Closing, all the Acquired Assets shall be free and clear of all Liens, other than Permitted Liens.

Section 5.7 Related Party Transactions. Except with respect to loans to or from the Sawyers, Seller has no Contract with, any outstanding loans to or from, or any outstanding liabilities (except for salary and benefits owed in the ordinary course of business consistent with past practice) to any Sawyer or any relative of any such Persons or any corporation or other entity in which any such Person is an officer, director, manager, partner, shareholder or otherwise owns an equity interest or has any other financial or profit interest. None of the Sawyers or any relative of any such Persons or any corporation or entity in which such Person is an officer, director, manager, partner, or shareholder owns or otherwise has any rights in any of the Acquired Assets.

Section 5.8 Brokers. Seller Parties have not (i) dealt with any broker, finder or other third party in connection with the transactions contemplated by this Agreement or (ii) caused or created any Liability to any broker, finder or third party in connection with the transactions contemplated by this Agreement.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller Parties as of the date hereof and as of the Closing Date as follows:

Section 6.1 Organization, Standing and Corporate Power. Buyer is a limited liability duly organized, validly existing and in good standing under the laws of the State of Michigan, and has all requisite power and authority to own, lease or otherwise hold and operate its properties and other assets.

Section 6.2 Authority. Buyer has all requisite power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery of the Transaction Documents will prior to the Closing be, duly authorized by all necessary action on the part of Buyer, and no other proceedings on the part of Buyer are necessary to authorize this Agreement and the other Transaction Documents or to consummate the transactions contemplated hereby or thereby. This Agreement has been, and, by the Closing, the other Transaction Documents to which Buyer is a party will have been, duly executed and delivered by Buyer and, assuming the due authorization, execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and the other Transaction Documents will constitute as of the Closing, legal, valid and binding obligations of Buyer, enforceable against it in accordance with their terms subject to bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

Section 6.3 No Conflicts. The execution and delivery of this Agreement does not, and the execution and delivery of the other Transaction Documents will not, and the consummation of the transactions contemplated hereby and thereby and compliance with the provisions of this Agreement and the other Transaction Documents will not violate any provision of the Buyer's Articles of Formation or Operating Agreement.

Section 6.4 Brokers. Buyer has not (i) dealt with any broker, finder or other third party in connection with the transactions contemplated by this Agreement or (ii) caused or created any Liability to any broker, finder or third party in connection with the transactions contemplated by this Agreement.

ARTICLE VII COVENANTS

Section 7.1 Further Actions. Upon the terms and subject to the conditions hereof, each of the parties hereto agrees to use commercially reasonable efforts and to do or cause to be done all commercially reasonable things necessary, proper and advisable to consummate the transactions contemplated by this Agreement, and shall use commercially reasonable efforts to obtain all necessary waivers, consents and approvals and to effect all necessary registrations and filings.

Section 7.2 Exclusivity. None of the Seller Parties or any of their representatives will, during the period commencing on the date of this Agreement and ending with the earlier to occur of the Closing or the termination of this Agreement in accordance with its terms, directly or indirectly: (a) solicit, encourage or initiate the submission of proposals or offers from any third party for, (b) engage in any discussions pertaining to or (c) furnish any information to any third party other than the Buyer relating to, any acquisition or purchase of all or a material amount of the assets of, or any equity interest in, the Seller or a merger, consolidation or business combination of the Seller. In addition to the foregoing, if any of the Seller Parties receives any unsolicited offer or proposal, or has actual knowledge of any unsolicited offer or proposal, relating to any of the above, such Seller Party shall immediately notify the Buyer thereof, including the identity of the party making such offer or proposal and the specific terms of such offer or proposal.

Section 7.3 Non-Disparagement. After the date hereof, none of the parties hereto will make any communication of any kind which tends to disparage or damage the character or reputation of any other party or, to the extent applicable, any of its respective shareholders, members, officers, directors, employees, representatives or agents.

Section 7.4 Employee Matters.

(a) On the Closing Date, Seller by its manager shall terminate the employment of each of its employees (the "Seller Employees") in compliance with all applicable Laws and subject to the terms of all agreements binding on Seller, and Seller shall be solely responsible for any and all Liability related to such terminations.

(b) Buyer has no obligation to hire or offer employment to any of Seller Employees. After Seller Employees are terminated by Seller, Buyer is free, without obligation, to interview, seek employment applications from, and employ any of Seller Employees, and Seller agrees to assist Buyer in all reasonable respects in connection with Buyer's efforts to hire any of Seller Employees as designated by Buyer. Without limitation of the foregoing, Buyer intends to hire substantially all of the Seller

Employees. Such Seller employees hired by Buyer shall be referred to as "Buyer Employees".

(c) The terms and conditions of employment, if any, offered by Buyer to any Seller Employee shall be determined by Buyer in Buyer's sole discretion.

Section 7.5 Environmental Assessment. Buyer and its agents and consultants shall be entitled to conduct such studies, tests and inspections of the Leased Real Property as the Buyer deems necessary, including, but not limited to, topographical or other surveys, Phase I and Phase II environmental assessment audits. The costs related to any such environmental assessments shall be paid by Seller prior to Closing.

Section 7.6 Name Change. On the Closing Date, Seller shall make, or cause to be made, all necessary filings required to amend its organizational documents and otherwise take all other actions necessary, to change its name and all names under which it does business to a name that does not include "Sawyer Nursery" or a variation thereof.

Section 7.7 Termination of Existence. Following the Closing Date, the manager of the Seller will dissolve and wind up the operations of Sawyer Nursery, Inc. and shall be responsible for filing all final tax returns of Sawyer Nursery, Inc. To the extent that the Seller does not have (or has not reserved) sufficient funds to cover the cost of such dissolution, the costs shall be paid by Buyer.

ARTICLE VIII BUYER'S CONDITIONS

The obligation of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, prior to or concurrently with the Closing Date or prior to such earlier date as may be specified below with respect to a particular condition, of each of the following express conditions precedent, unless waived in writing by Buyer:

Section 8.1 Accuracy of Representations. The representations and warranties of Seller Parties contained in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date as if made on the Closing Date.

Section 8.2 Performance of Obligations. Seller Parties shall have performed or complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by it on or before the Closing Date.

Section 8.3 No Proceedings. No Proceeding shall be pending or overtly threatened which seeks to enjoin, restrain, or prohibit Buyer, or to obtain damages from Buyer, in respect of the consummation of the transactions contemplated by this Agreement or the other Transaction Documents.

Section 8.4 Consents. All of the consents, waivers, approvals or authorizations ("Consents") of third parties necessary to consummate the transactions contemplated by this

Agreement and the other Transaction Documents shall have been obtained, and such Consents shall be reasonably satisfactory to Buyers.

Section 8.5 Satisfactory Due Diligence Review. Buyer shall be satisfied, in its sole discretion, with the results of its due diligence investigation of the financial, accounting and legal aspects of Seller, the Business and the Acquired Assets, including, without limitation, the environmental condition of the Leased Real Property.

Section 8.6 Financing. Buyer shall have obtain financing from Macatawa Bank and GreenStone Farm Credit Services, ACA necessary to fully pay and discharge all amounts owed under the Existing Bank Debt on terms and conditions satisfactory to Buyer in its sole discretion, including, without limitation, an option to purchase the real property located at 5401 Port Sheldon Street, Hudsonville, Michigan 49426.

Section 8.7 Forgiveness of Sawyer Indebtedness and Obligations. On or before October 31, 2015, each of the Sawyers shall provide Buyer with written evidence, reasonably satisfactory to Buyer, that such Sawyer has forgiven any and all outstanding indebtedness or other amounts owed by the Seller to such Sawyer, except (i) in the case of Robert Sawyer, an amount of indebtedness equal to \$162,000 and (ii) in the case of each Selling Shareholder, the accrued dividend payment owed to each Selling Shareholder in an amount equal to \$40,500 each, which in each case shall be paid by Seller to such Sawyers out of the Cash Payment.

Section 8.8 Permits. Buyer shall have received all Acquired Permits.

Section 8.9 Closing Documents Delivered. Seller shall have executed and delivered the Seller's Closing Deliveries and done the acts required of Seller in connection with the Closing as described in this Agreement.

Section 8.10 [Intentionally Omitted].

Section 8.11 Water Rights Agreement. Buyer shall have entered into a Water Rights Agreement with Scott R. Sawyer, individually and as the trustee of the Scott R. Sawyer Trust, and his spouse, on terms acceptable to the Buyer, to withdrawal water from the pond on their property.

Section 8.12 Water Use Agreement. Buyer shall have entered into an agreement with Chris and Dana Vuyst, on terms acceptable to the Buyer, to use and withdrawal water from the well located on their property located at 5375 Port Sheldon Road, Hudsonville, Michigan.

Section 8.13 Leases. Buyer shall have received from each lessor of the Leased Real Property the written consent of the lessor to the assignment to Buyer by Seller of the applicable lease on the same terms thereof and, in the case of the lessors of the Alabama leases, an amendment to such lease agreements, satisfactory to the Buyer, providing the Buyer with the option to extend the term of such lease for three additional five-year periods.

Section 8.14 Parking Easement. Buyer shall have confirmed to its satisfaction the validity and existence of the Parking Easement referred to in Section 1.1(1).

ARTICLE IX
SELLER'S CONDITIONS

The obligation of Seller to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, prior to or concurrently with the Closing Date or prior to such earlier date as may be specified below with respect to a particular condition, of each of the following express conditions precedent, unless waived in writing by Seller.

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date as if made on the Closing Date.

Section 9.2 Performance of Obligations. Buyer shall have performed or complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by it on or before the Closing Date.

Section 9.3 No Proceedings. No Proceeding shall be pending or overtly threatened which seeks to enjoin, restrain, or prohibit Seller, or to obtain damages from Seller, in respect of the consummation of the transactions contemplated by this Agreement or the other Transaction Documents.

Section 9.4 Water Rights Agreement. Scott R. Sawyer, individually and as the trustee of the Scott R. Sawyer Trust, and his spouse shall have entered into a Water Rights Agreement with Buyer, on terms acceptable to them, to withdrawal water from the pond on their property.

Section 9.5 Bank Approval. Macatawa Bank and GreenStone Farm Credit Services, ACA shall have consented to the terms of this Agreement, including the distribution of \$162,000 to Robert Sawyer and \$40,500 to each of the Selling Shareholders out of the proceeds from this transaction.

Section 9.6 Closing Documents Delivered. Buyers shall have executed and delivered the Buyer's Closing Deliveries and done the acts required of Buyers in connection with the Closing, as described in this Agreement.

ARTICLE X
SURVIVAL; INDEMNIFICATION

Section 10.1 Survival. The representations and warranties made by the parties in this Agreement shall survive the Closing for a period of time ending on the third (3rd) anniversary of the Closing Date. The covenants of the parties contained in this Agreement shall survive indefinitely.

Section 10.2 Indemnification by Seller Parties. The Seller Parties, jointly and severally, shall indemnify, defend and hold harmless the Buyer, its successors and assigns and their respective managers, directors, officers, members, shareholders, affiliates and agents (the "Buyer Indemnified Persons"), at all times from and after the Closing Date, against and in respect of any claim, Liability, obligation, loss, diminution in value, damage, penalty, assessment, judgment, cost and expense (including, without limitation, reasonable attorneys' and accountants' fees and costs and expenses reasonably incurred in investigating, preparing, defending against or prosecuting any litigation or claim, action, suit, proceeding or demand), of any kind or character (collectively, "Losses"), from, arising out of or in any manner incident, relating or attributable to:

(a) Any inaccuracy in or breach of any representation or warranty made by Seller Parties contained in this Agreement; and

(b) Any breach of any agreement or covenant of Seller contained in this Agreement or any Transaction Document.

Section 10.3 Indemnification by Buyer. Buyer shall indemnify, defend and hold harmless the Seller Parties and their respective successors and assigns at all times from and after the Closing Date, against and in respect of any actual Losses from, arising out of or in any manner incident, relating or attributable to:

(a) Any inaccuracy in or breach of any representation or warranty made by Buyer contained in this Agreement;

(b) Any breach of any agreement or covenant of such Buyer contained in this Agreement or any Transaction Document;

(c) The Assumed Liabilities; and

(d) Any corporate federal or state income taxes (or nonpayment thereof) of Sawyer Nursery, Inc. for any tax period for which the statute of limitations has not yet expired.

Section 10.4 Limits on Indemnification. Notwithstanding anything in this Agreement to the contrary, the maximum indemnification obligation of the Seller Parties and the Buyer pursuant to this Article X shall not exceed \$243,000, except with respect to fraud, willful misconduct or intentional misrepresentation.

Section 10.5 Exclusive Remedy. The provisions of this Article X shall provide the sole recourse and exclusive remedy with respect to any and all claims related to the transactions contemplated by this Agreement, except (i) with respect to a party's right to seek specific performance or other equitable relief as provided for in Section 13.15, and (ii) with respect to fraud, willful misconduct or intentional misrepresentation.

ARTICLE XI DEFINITIONS

"Contract" means, with respect to any Person, any written or oral contract, agreement, lease, undertaking, license, option, mortgage, note, indenture or other arrangement or obligations, in each case to which such Person is a party or subject or by which such Person or its assets are bound

"Documents" means all files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, ledgers, journals, title policies, customer lists, regulatory filings, operating data and plans, technical documentation (design specifications, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials related primarily to the Acquired Assets in each case whether or not in electronic form.

"Governmental Body" shall mean any Federal, state, local or foreign government, any court, administrative, regulatory or other governmental agency, commission or authority or any non-governmental self-regulatory agency, commission or authority.

"Intellectual Property Rights" means (i) all inventions (whether or not patentable and whether or not reduced to practice), records of inventions, test information, developments, applications, improvements, formulae, concepts, ideas, methods or processes, research property rights, all improvements to any of the foregoing, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (ii) all trademarks, trademark rights, service marks, service mark rights, trade dress, logos, slogans, trade names, trade name rights, corporate names, Internet domain names and subdomains (including all website content associated therewith), and rights in telephone numbers, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (iv) all mask works and all applications, registrations, and renewals in connection therewith, (v) all trade secrets and confidential information (including all ideas, concepts, research and development, know-how, composition information and embodiments, manufacturing and production processes, techniques and information, technical and business data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (vi) all computer software, firmware and applications (including source code, executable code, data, databases, programming and notes and documents and other related documentation), other than commercial off-the-shelf software, (vii) all advertising and promotional materials, (viii) all other proprietary rights, and (ix) all copies and tangible embodiments of the foregoing in whatever form or medium.

"Law" shall mean any federal, state, provincial, national, local, municipal, foreign, international, multinational, administrative order, constitution, law, statute, operational memorandum, guidance documents, policy, charter, ordinance, rule, code, principle of common law, case, decision, regulation or treaty.

"Liability" or "Liabilities" shall mean any claim, indebtedness, Lien, expense commitment, duties, responsibilities, assessments, fines, penalties, damages, losses, suits, options, licenses, obligation or other liability, whether or not absolute, accrued, matured, contingent, liquidated, known, suspected, fixed or otherwise, and including all costs and expenses related thereto.

"Liens" means any liens, pledges, mortgages, liabilities, possessory rights of any Person, security interests, interests and encumbrances of any nature whatsoever.

"Permitted Liens" means (i) Liens included in the Assumed Liabilities, (ii) Liens for taxes not due and payable or that are being contested in good faith by appropriate proceedings, (iii) Liens of warehousemen, mechanics and materialmen and other similar Liens incurred in the ordinary course of business that are not material in amount or effect on the Business, (iv) Liens with respect to the Existing Bank Debt which shall be released at Closing.

"Permits" means any approvals, authorizations, certificates, filings, franchises, licenses, notices and permits of or with any Governmental Body.

"Person" shall mean any individual, corporation, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Body.

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

ARTICLE XII **TERMINATION**

Section 12.1 Termination. In addition to any other rights of termination expressly provided in this Agreement, this Agreement may be terminated prior to the Closing:

(a) by the mutual written consent of the Buyer and the Seller Parties at any time;

(b) by the Buyer (i) if any conditions in Article VIII have not been satisfied as of the Closing (other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement) and Buyer has not waived in writing such condition, (ii) if any Seller Parties breaches any provision of this Agreement and fails to cure such breach within five (5) days of written notice by Buyer, or (iii) pursuant to Section 13.16 in the event of loss or damage to the Acquired Assets;

(c) by the Seller Parties (i) if any conditions in Article IX have not been satisfied as of the Closing (other than as a result of a breach by Seller Parties of any covenant or agreement contained in this Agreement) and Seller Parties have not waived

in writing such condition, or (ii) the Buyer breaches any provision of this Agreement and fail to cure such breach within five (5) days written notice by Seller Parties; or

(d) by either the Buyer or Seller Parties if the Closing has not occurred by November 15, 2015; provided, however, if the Closing shall not have occurred on or before such date due to a material breach of any representation, warranties, covenants or agreements contained in this Agreement by Buyer, on the one hand, or Seller Parties, on the other hand, then the breaching party may not terminate this Agreement pursuant to this Section 12.1(d).

Section 12.2 Procedure Upon Termination. In the event of termination by Buyer or Seller Parties, or both, pursuant to Section 12.1 hereof, written notice thereof shall forthwith be given to the other party or parties, and this Agreement shall terminate, and the purchase of the Acquired Assets hereunder shall be abandoned, without further action by Buyer or Seller Parties. If this Agreement is terminated as provided herein each party shall redeliver all documents, work papers and other materials of any other party relating to the transactions contemplated hereby, whether so obtained before or after the execution hereof, to the party furnishing the same.

Section 12.3 Effect of Termination.

(a) In the event that this Agreement is validly terminated in accordance with Section 12.1 or as otherwise expressly provided in this Agreement, then the parties shall be relieved of their duties and obligations arising under this Agreement after the date of such termination and such termination shall be without liability to Buyer or Seller Parties; provided, however, that the obligations of the parties set forth in this Section 12.3 and Article XIII hereof shall survive any such termination and shall be enforceable hereunder.

(b) The termination of this Agreement shall not affect the Buyer's or Seller Parties' right to recover damages sustained by such party as a result of any breach by the other party of any covenant or agreement in this Agreement or fraud or willful misrepresentation.

ARTICLE XIII
MISCELLANEOUS

Section 13.1 Waiver. Any party hereto may (a) agree to extend the time for the performance of any of the obligations or other acts of the other parties hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto or waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of the party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the authorized representative of such party.

Section 13.2 Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement must be in writing and will be deemed to have been duly given on the day of delivery if delivered by hand, on the day of

transmission if sent by facsimile or electronic mail with confirmation of receipt (or on the next business day if not sent on a business day), on the first business day following deposit with a nationally recognized overnight mail service, delivery charges prepaid, or on the third business day following first class mailing, with postage prepaid:

If to Seller:

Sawyer Nursery, Inc.
c/o Robert Sawyer
5825 60th Avenue
Hudsonville, MI 49426
Email: bobshirleysawyer@gmail.com

with a copy, which shall not constitute notice, to:

Robert F. Wardrop II
Wardrop & Wardrop, P.C.
300 Ottawa Avenue NW
Suite 150
Grand Rapids, MI 49503
Fax: (616) 459-7273
E-mail: Robb@wardroplaw.com

If to Buyer:

Perennials, LLC
5401 Port Sheldon Road
Hudsonville, MI 49426
Attn: Thomas E. Kowieski
Fax: (616) 669-9310
E-mail: tkowieski@sawyernursery.com

with a copy, which shall not constitute notice to:

Miller Johnson
250 Monroe Avenue NW
Suite 800
Grand Rapids, MI 49503
Attn: Christopher L. Edgar
Fax: (616) 988-1784
E-mail: edgarc@millerjohnson.com

or such other address as the Person to whom notice is to be given has furnished in writing to the other parties.

Section 13.3 Delivery of Notices. After the Closing Date, each party shall promptly deliver to the other party any notices, correspondence and other documents relating to the Acquired Assets being conveyed hereunder and the Business, which are, from time to time, received by that party.

Section 13.4 Entire Agreement: Binding Effect. This Agreement (together with the Exhibits hereto, and the other agreements, documents and instruments executed at the Closing) sets forth the entire integrated understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements whether written or verbal. This Agreement may not be modified, amended or terminated except in a writing signed by all of the parties hereto.

Section 13.5 Assignment. No party to this Agreement shall have the right to assign any of its rights and obligations hereunder without the prior written consent of the other parties hereto. To the extent that any such assignment occurs in accordance with the terms hereof, this Agreement and all provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 13.6 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute the same instrument. Copies (facsimile or otherwise) of signatures to this Agreement shall be deemed to be originals and may be relied on to the same extent as the originals.

Section 13.7 Governing Law and Rules of Construction. This Agreement is being made in and shall be governed by and construed and enforced in accordance with the internal laws of the State of Michigan without application of conflicts of laws principles. The parties hereto agree that all parties have equally participated in the drafting of this Agreement and that if any term, condition or provision of this Agreement is deemed or construed to be ambiguous or vague, such ambiguity or vagueness shall not be construed in favor of or against any party to this Agreement.

Section 13.8 Severability. Should any terms, provision or clause hereof or of any other agreement or document which is required by this Agreement, be held to be invalid, such invalidity shall not affect or render invalid any other provisions or clauses hereof or thereof the consideration or mutuality of which can be given effect without such invalid provision, and all of which shall remain in full force and effect. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable under applicable law.

Section 13.9 Headings. The headings to the sections of this Agreement are inserted for convenience and reference only and are not intended to define or limit the substance of any section.

Section 13.10 Singular and Plural. Singular terms in this Agreement may be deemed to include plural, and plural terms to include the singular.

Section 13.11 Exhibits. The exhibits referenced in this Agreement and attached hereto shall be deemed to be a part of this Agreement and are incorporated herein by this reference.

Section 13.12 No Third Party Rights. This Agreement and the other agreements entered into at the Closing are solely for the benefit of the parties hereto. No third party shall acquire any rights or claims by reason of or under this Agreement.

Section 13.13 Amendment. This Agreement may be amended only by a writing executed by the party against which such amendment is to be asserted.

Section 13.14 Expenses. The Seller will pay on or prior to the Closing Date the expenses, costs and fees (including legal and other professional fees and costs) incurred in connection with the negotiation, preparation, execution and delivery of this Agreement and the other transaction documents and the consummation of the transactions contemplated hereby and thereby.

Section 13.15 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed by a party in accordance with the terms hereof and that in addition to any other remedy to which a party is entitled at law or in equity, the non-breaching party will be entitled to injunctive relief to prevent breaches of this Agreement and will be entitled to specifically enforce the performance of the provisions hereof.

Section 13.16 Loss or Damage to Acquired Assets. Seller shall bear the risk of loss up to and including the Closing. In the event of any loss or damage to the Acquired Assets whether by fire, theft, vandalism, the elements or otherwise prior to the Closing (i) the Purchase Price shall be reduced to reflect the reduction in value of the Acquired Assets as of the Closing (and, for clarity, Buyer shall have no claim to any insurance proceeds as a consequence of any loss or damage), and (ii) in the event such loss or damage is material, then Buyers shall have the option of terminating this Agreement pursuant to Section 12.1(b)(iii) hereof.

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

SELLER

SAWYER NURSERY, INC.

By: Robert Sawyer
Its: President

BUYER

PERENNIALS, LLC

By: Richard H. Brolick
Richard H. Brolick

By: Thomas E. Kowieski
Thomas E. Kowieski

SELLER SHAREHOLDERS

Scott Sawyer
Scott Sawyer, individually and as trustee of the
Scott R. Sawyer Trust

Craig Sawyer
Craig Sawyer, individually and as trustee of the
Craig E. Sawyer Trust

ROBERT SAWYER

Robert Sawyer
Robert Sawyer