

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM650114

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
TILITE, LLC		05/01/2021	Limited Liability Company: TENNESSEE
Scott Carroll		05/01/2021	INDIVIDUAL: UNITED STATES
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	ARDEX, L.P.		
<b>Street Address:</b>	400 Ardex Park Drive		
<b>City:</b>	ALIQUIPPA		
<b>State/Country:</b>	PENNSYLVANIA		
<b>Postal Code:</b>	15001		
<b>Entity Type:</b>	Limited Partnership: PENNSYLVANIA		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	90256556	TILITE USA	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	4122091845		
<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>	4122974900		
<b>Email:</b>	iptrademark.dcg@dentons.com		
<b>Correspondent Name:</b>	Dentons Cohen & Grigsby P.C.		
<b>Address Line 1:</b>	625 Liberty Avenue		
<b>Address Line 4:</b>	Pittsburgh, PENNSYLVANIA 15222-3152		
<b>ATTORNEY DOCKET NUMBER:</b>	16.0842		
<b>NAME OF SUBMITTER:</b>	Robyn A. Shelton		
<b>SIGNATURE:</b>	/Robyn A. Shelton/		
<b>DATE SIGNED:</b>	05/27/2021		
<b>Total Attachments: 42</b>			
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ASSET PURCHASE AGREEMENT

by and among

TILITE, LLC

as Seller,

SCOTT CARROLL,

as the Owner,

and

ARDEX L.P.

as Buyer

May 1, 2021

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of May 1, 2021, is entered into by and among TILITE LLC, a Tennessee limited liability company ("Seller"), SCOTT CARROLL, the sole member of Seller (the "Owner" and, together with the Seller, the "Seller Parties"), and ARDEX, L.P., a Pennsylvania limited partnership ("Buyer").

### RECITALS

WHEREAS, Seller is engaged in developing and manufacturing high quality shower pans and waterproofing accessories (the "Purchased Business"); and

WHEREAS, Seller wishes to sell and assign to Buyer, and Buyer wishes to purchase and assume from Seller, substantially all the assets of the Purchased Business, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I PURCHASE AND SALE

Section 1.01 **Purchase and Sale of Assets.** Subject to the terms and conditions set forth herein, at the Closing, Seller hereby agrees to sell, assign, transfer, convey and deliver to Buyer, and Buyer hereby agrees to purchase from Seller, free and clear of any Encumbrances, all of Seller's right, title and interest in, to and under all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets), which relate to, or are used or held for use in connection with, the Purchased Business (collectively, the "Purchased Assets"), including, without limitation, the Inventory, equipment and other assets as well as those particular Purchased Assets described on Schedule 1.01 and excluding the Excluded Assets. Seller also hereby agrees to assign its rights to the Sales Representative Agreement by and between Seller and Pro Marketing Sales, Inc. dated as of September 1, 2020 (the "Assigned Contract") to Buyer and Buyer agrees to assume all of Seller's obligations under the Assigned Contract arising after the Closing.

Section 1.02 **Excluded Assets.** Notwithstanding the foregoing, the Purchased Assets shall not include the assets identified on Schedule 1.02 (collectively, the "Excluded Assets"). With regard to the International Inventory (as defined on Schedule 1.02), Buyer has agreed to purchase these items from Seller as they are ordered by Buyer in the course of regular business requirements. Notwithstanding anything herein to the contrary, all International Inventory remaining as of November 30, 2021 will be purchased by the Buyer at Seller's cost at that time. Notwithstanding anything herein to the contrary, Buyer shall permit Seller to store all of its Profile Items (as defined in Schedule 1.02) at the Leased Real Property free of charge following the Closing for so long as Buyer leases the Leased Real Property.

Section 1.03 **Liabilities.** Except for the obligations arising under the Assigned Contract following the Closing, in connection with the purchase and sale contemplated herein, Buyer shall not assume or agree to pay, perform or discharge any liabilities, indebtedness, accounts payable, obligations or commitments of any nature whatsoever of any Seller Party, asserted or unasserted, known or unknown, absolute or

contingent, accrued or unaccrued, secured or unsecured, liquidated or unliquidated, fixed or unfixed, matured or unmatured or otherwise ("Liabilities").

Section 1.94 Excluded Liabilities. Except for the obligations arising under the Assigned Contract following the Closing, Buyer shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of Seller or any of other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person ("Affiliates") of any kind or nature whatsoever (the "Excluded Liabilities"). The Seller Parties shall pay and discharge all Excluded Liabilities as and when such Excluded Liabilities become due and payable, or as otherwise provided in this Agreement. Any Liability arising or accrued prior to the Closing Date, which is an Excluded Liability for periods prior to the Closing Date, and which continues to accrue after the Closing Date, will be fairly and equitably apportioned between Seller and Buyer as of the Closing Date. To the extent any Excluded Liabilities are not satisfied by Seller when due and payable, Buyer shall, upon ten (10) days prior written notice and Seller having failed to satisfy the Excluded Liability within such ten (10) day period, have the right to satisfy any such Excluded Liability (for the benefit of Seller) and Seller shall thereafter indemnify Buyer for any amounts paid or Losses incurred in satisfaction of such Excluded Liabilities.

Section 1.95 Purchase Price.

REDACTED

(a) Estimated Purchase Price. The term "Estimated Purchase Price" means [REDACTED] (which represents the parties' good faith estimate of (a) the book value of fixed assets, equipment, raw goods, supplies, and inventory of Seller, which for purposes of clarity will include inventory in transit (the "Inventory") at Closing (the "Estimated Inventory Value"), plus (b) the Pay-Off Amount, plus (c) the royalties to be paid to Seller pursuant to the Know-How License Agreement.

(b) Pre-Closing Statement. The Seller shall deliver to the Buyer three (3) days prior to Closing a certificate (the "Pre-Closing Statement") setting forth the Seller's good faith estimates of (i) the Estimated Inventory Value, and (ii) the Pay-Off Amount, together with supporting documentation for such estimates and any additional information reasonably requested by the Buyer. The Pre-Closing Statement shall be prepared in consultation with the Buyer and shall be reasonably acceptable to the Buyer.

(c) Payment of Estimated and Final Purchase Price. Upon and subject to the terms and conditions set forth in this Agreement, the Buyer shall pay the Seller as follows:

(i) On the Closing Date, (a) the Estimated Inventory Value as represented on the Pre-Closing Statement; and (b) the amount payable as set forth in payoff statements or letters delivered by the third parties to which the Seller has indebtedness outstanding ("Pay-Off Letters"), shall be paid to or for the account of the Person(s) identified in such Pay-Off Letter (such payments, in the aggregate, the "Pay-Off Amount"), by wire transfer of immediately available funds in accordance with the wire instructions set forth in such Pay-Off Letter; and

(ii) Also on the Closing Date, an amount equal to the remaining Estimated Purchase Price, after deducting the amounts in (i) above, shall be paid to the Seller upon Closing by wire transfer of immediately available funds to an account designated in writing by Seller to Buyer.

(d) Closing Inventory Procedures and Final Accounting. On the Closing Date, Seller shall arrange for a full physical count of the Inventory, which Buyer shall have the right to observe. Within thirty (30) days of Closing, Seller shall prepare and deliver to Seller a certificate confirming the final Inventory count and value as of the Closing Date as well as the final Pay-Off Amount (if different from the Pay-Off Amount reflected in the Pre-Closing Certificate). To the extent there is any difference between the

Estimated Inventory Value or the Pay-Off Amount as represented in the Pre-Closing Certificate and the final values thereof, the parties shall make an appropriate adjustment by wire transfer of immediately available funds within five (5) days of final determination under this Section. In the event of a dispute in connection with such values, the provisions of Section 7.07 shall apply. The Estimated Purchase Price, as adjusted pursuant to this section, shall be referred to herein as the "Purchase Price."

Section 1.06      **Allocation of Purchase Price.** Seller and Buyer agree that the Purchase Price (plus other relevant items) shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as shown on the allocation schedule set forth on Schedule 1.06 (the "Allocation Schedule").

Section 1.07      **Bulk Sales Laws.** The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer, or similar laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer. Any Liabilities arising out of the failure of Seller or Buyer to comply with the requirements and provisions of any bulk sales, bulk transfer, or similar laws of any jurisdiction shall be treated as Excluded Liabilities.

Section 1.08      **Third Party Consents.** To the extent that Seller's rights under any Contract or permit constituting a Purchased Asset, or any other Purchased Asset, may not be assigned to Buyer without the consent of another Person which has not been obtained prior to Closing, and Buyer is not requiring the consent or approval of such other Person prior to the Closing, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Seller and the Buyer shall use their reasonable best efforts after the Closing to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer's rights under the Purchased Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller and Buyer shall cooperate in a mutually agreeable arrangement to the maximum extent permitted by law and the Purchased Asset, after the Closing in order to obtain the benefits thereunder for the benefit to Buyer.

## ARTICLE II CLOSING

Section 2.01      **Closing.** Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place via electronic exchange of documents (by facsimile or electronic mail transmission). The date on which the Closing is to occur is herein referred to as the "Closing Date". For tax and accounting purposes, the Closing shall be effective as of 12:01 A.M. EST on the Closing Date.

Section 2.02      **Closing Deliverables and Closing Conditions.**

- (a) At the Closing, the Seller Parties shall deliver to Buyer the items listed on Schedule 2.02(a).
- (b) At the Closing, the Buyer shall deliver to Seller Parties the items listed on Schedule 2.02(b).
- (c) At or prior to the Closing, and as a condition to Buyer's obligation to close, the Buyer shall have entered into a new Lease for the Leased Real Property in a form and substance satisfactory to Buyer and its counsel, and (ii) entered into an Employment Agreement with Owner (the "Employment Agreement").

(d) At or prior to the Closing, and as a condition to Seller Parties' obligation to close, (i) the Seller's existing lease with CCD Inc. for the Leased Real Property shall have been terminated, (ii) Owner shall have entered into the Employment Agreement with Buyer in a form and substance satisfactory to Owner and his counsel, and (iii) Buyer shall have entered into an employment agreement with Timothy Erwin, in form and substance acceptable to Seller Parties.

### ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER

The Seller Parties, jointly and severally, represent and warrant to Buyer that the statements contained in this Article III are true and correct as of the date hereof.

Section 3.01 **Organization and Qualification of Seller.** Seller is limited liability company duly organized, validly existing and in good standing under the laws of Tennessee and has full power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Purchased Business as currently conducted. Schedule 3.01 sets forth each jurisdiction in which Seller is licensed or qualified to do business, and Seller is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the ownership of the Purchased Assets or the operation of the Purchased Business as currently conducted makes such licensing or qualification necessary.

Section 3.02 **Authority of Seller.** Seller has full power and authority to enter into this Agreement and the other Transaction Documents to which Seller is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Seller of this Agreement and any other Transaction Document to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite company action on the part of Seller. This Agreement has been duly executed and delivered by Seller, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms. When each other Transaction Document to which Seller is or will be a party has been duly executed and delivered by Seller (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Seller enforceable against it in accordance with its terms.

Section 3.03 **No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement, the Bill of Sale, Assignment and Assumption Agreement, Intellectual Property Assignments, the Know-How License Agreement, the Employment Agreement and the other agreements, instruments and documents required to be delivered at the Closing (the "Transaction Documents") to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Articles of Organization or operating agreement or other organizational documents of Seller; (b) conflict with or result in a violation or breach of any provision of any law or any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any governmental authority ("Governmental Order") applicable to Seller, the Purchased Business or the Purchased Assets; (c) except as set forth on Schedule 3.03, require the consent, notice or other action by any individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, estate, association or other entity or organization ("Person") under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract or permit to which Seller is a party or by which Seller or the Purchased Business is bound or to which any of

the Purchased Assets are subject (including any Assigned Contract); or (d) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on the Purchased Assets.

Section 3.04 **Financial Statements.** Complete copies of the financial statements consisting of the balance sheet of the Purchased Business as at December 31 in each of the years 2020, 2019, and 2018 and the related statements of income and retained earnings, owners' equity and cash flow for the years then ended (the "Full Fiscal Year Financial Statements"), and financial statements consisting of the balance sheet of the Purchased Business as at February 28, 2021, and the related statements of income and retained earnings, owners' equity and cash flow for the quarterly period then ended (the "Interim Financial Statements" and together with the Full Fiscal Year Financial Statements, the "Financial Statements") have been delivered to Buyer. The Financial Statements fairly present the financial condition of the Purchased Business in all material respects as of the respective dates they were prepared and the results of the operations of the Purchased Business for the periods indicated.

Section 3.05 **Undisclosed Liabilities.** Seller has no Liabilities with respect to the Purchased Business, except (a) those which are adequately reflected or reserved against in the Balance Sheet as of December 31, 2020, (b) those which have been incurred in the ordinary course of business consistent with past practice since December 31, 2020 and which are not, individually or in the aggregate, material in amount, and (c) those which are being retained by Seller as Excluded Liabilities under Section 1.04 hereof.

Section 3.06 **Material Contracts.**

(a) Schedule 3.06(a) lists each of the following contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, understandings, options, rights and interests, indentures, joint ventures, employment agreements, and all other agreements, commitments and legally binding arrangements, whether written or oral, including any amendments, supplements and other modifications thereto ("Contracts") (x) by which any of the Purchased Assets are bound or affected or (y) to which Seller is a party or by which it is bound in connection with the Purchased Business or the Purchased Assets (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Leased Real Property (including without limitation, brokerage contracts), being "Material Contracts").

(b) Each Material Contract is valid and binding on Seller in accordance with its terms and is in full force and effect. None of Seller or, to the actual knowledge of the Owner ("Seller's Knowledge"), any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Material Contract. Except as set forth in Section 3.02 as to any required consents of third parties, no event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements thereto and waivers thereunder) have been made available to Buyer. There are no material disputes pending or threatened under any Contract included in the Purchased Assets.

Section 3.07 **Title to Purchased Assets.** Seller has good and valid title to, or a valid leasehold interest in, all of the Purchased Assets. All such Purchased Assets (including leasehold interests) are free and clear of all liens, claims and encumbrances of any nature whatsoever ("Encumbrances") except as otherwise specified on Schedule 3.07 (collectively referred to as "Permitted Encumbrances").

Section 3.08 **Condition and Sufficiency of Assets.** The machinery, equipment, vehicles and other items of personal property included in the Purchased Assets are structurally sound, are in good



operating condition and repair (ordinary wear and tear excepted) and / or are adequate for the uses to which they are being put, and none of such furniture, fixtures, machinery, equipment, vehicles and other items of personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs. Subject to the execution and occupancy of the Leased Real Property under the Lease, the Purchased Assets are sufficient for the continued conduct of the Purchased Business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets necessary to conduct the Purchased Business as currently conducted.

Section 3.09      **Real Property.** Seller does not own and has never owned any parcel of real property. Buyer acknowledges and agrees that contemporaneously with Closing, it will enter into a mutually acceptable Lease with CCD Inc., for the property identified therein that is used by the Purchased Business (the "Leased Real Property"). The Leased Real Property is the only real property owned, leased, occupied or used by Seller. To Seller's Knowledge, all buildings and other improvements located on the Leased Real Property (including without limitation all water, sewer, gas, electrical and HVAC systems servicing the same) are in good repair and operating condition, are suitable for the purposes for which they are used and are in compliance with all Governmental Rules and all easements, covenants and other restrictions applicable thereto.

Section 3.10      **Intellectual Property.**

(a)      Schedule 3.10 lists all patents, registered and unregistered trademarks, service marks, logos, corporate and trade names, domain names and registered and common law copyrights, and all applications therefor, all inventions, discoveries, techniques, processes, methods, formulae, designs, computer software, trade secrets, customer lists, confidential information, know-how and ideas, in each case, used or useful in connection with the Purchased Business ("Intellectual Property"),

(b)      Seller's rights in the Intellectual Property are valid, subsisting and enforceable.

(c)      There are no Actions (including any oppositions, interferences, re-examinations, inter-party reviews, or other post-grant proceedings) settled, pending or, to Seller's Knowledge, threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, dilution or violation of the Intellectual Property of any Person by Seller in connection with the Purchased Business; (ii) challenging the validity, enforceability, registrability or ownership of the Intellectual Property or Seller's rights with respect to any Intellectual Property; or (iii) by Seller or any other Person alleging any infringement, misappropriation, dilution or violation by any Person of any Intellectual Property. Seller is not subject to any outstanding or prospective Governmental Order (including any motion or petition therefor) that does or would restrict or impair the use of any Intellectual Property.

Section 3.11      **Inventory.** All Inventory, whether or not reflected in the Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice, except for routine loss/shrinkage, obsolete, damaged, defective or slow-moving items. All Inventory is owned by Seller free and clear of all Encumbrances, and no Inventory is held on a consignment basis. The quantities of each item of Inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of Seller. All of the Inventory of Seller has been valued at cost.

Section 3.12      **Legal Proceedings; Governmental Orders.**

(a)      There are no claims, actions, causes of action, demands, lawsuits, arbitrations, inquiries, audits, notices of violation, proceedings, litigation, citation, summons, subpoenas or investigations of any

nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity ("Actions") pending or, to Seller's Knowledge, threatened against or by Seller (a) relating to or affecting the Purchased Business or the Purchased Assets; or (b) that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against, relating to or affecting the Purchased Business.

Section 3.13 **Compliance With Laws.** To Seller's Knowledge, Seller has complied, and is now complying, with all laws applicable to the conduct of the Purchased Business as currently conducted or the ownership and use of the Purchased Assets.

Section 3.14 **Employee Benefit Matters.** Schedule 3.14 sets forth a correct and complete list of all "employee benefit plans" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder, as amended ("ERISA")) and all other bonus, pension, incentive, welfare, profit sharing, retirement, disability, paid time off, severance, hospitalization, insurance, deferred compensation, compensation, fringe benefit or other employee benefit plans, funds, trusts, programs or agreements with respect to which Seller has any current or potential liability or which are otherwise maintained for the benefit of any of Seller's current or former employees (collectively, "Benefit Plans").

Section 3.15 **Employment Matters.** Schedule 3.15 contains a list of all persons who are employees, independent contractors or consultants of the Purchased Business as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full or part time); (iii) hire date; and (iv) current annual base compensation rate; (v) commission, bonus or other incentive-based compensation. Seller is and has been in material compliance with all applicable laws pertaining to employment and employment practices to the extent they relate to employees of the Purchased Business, including all laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence and unemployment insurance. All individuals characterized and treated by Seller as consultants or independent contractors of the Purchased Business are properly treated as independent contractors under all applicable laws.

Section 3.16 **Taxes.** Except as set forth in Schedule 3.16:

(a) All return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof ("Tax Returns") required to be filed by Seller for any taxable period ending before the Closing Date and, with respect to any taxable period beginning before and ending or after the Closing Date, the portion of such taxable period ending before the Closing Date ("Pre-Closing Tax Period") have been, or will be, timely filed. Such Tax Returns are, or will be, true, complete and correct in all material respects. All federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, documentary, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with

respect thereto and any interest in respect of such additions or penalties ("Taxes") due and owing by Seller (whether or not shown on any Tax Return) have been, or will be, timely paid.

(b) Seller has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied with all information reporting and backup withholding provisions of applicable Law.

(c) There are no Encumbrances for Taxes upon any of the Purchased Assets nor, to Seller's Knowledge, is any taxing authority in the process of imposing any Encumbrances for Taxes on any of the Purchased Assets (other than for current Taxes not yet due and payable).

(d) Seller has not deferred the deposit and payment of Seller's portion of social security payroll taxes as permitted by Section 2302 of the Coronavirus, Aid, Relief and Economic Security Act (the "CARES Act").

Section 3.17 **Brokers.** Except as set forth on Schedule 3.17, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Seller.

Section 3.18 **Product Liability.** Except as disclosed on Schedule 3.18, Seller does not have any existing liability for personal injuries, replacement or repair of any products, breach of warranty or other damages in connection therewith, in each case, which are not fully covered by either insurance or reserves reflected in the Financial Statements. Except as disclosed on Schedule 3.18, no products or services sold, manufactured, distributed or delivered by Seller are subject to any guaranty, warranty (except for implied warranties under applicable law) or other indemnity beyond the applicable standard terms and conditions of sale or service provided by Seller to its customers in the forms previously delivered to Buyer.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES OF OWNER

The Owner represents and warrants to Buyer that the statements contained in this Article IV are true and correct as of the date hereof.

Section 4.01 **Ownership of Seller.** Schedule 4.01 sets forth a true and correct list of the names and capitalization of the Seller. Other than those persons listed on Schedule 4.01, no other Person has any ownership or control over the Seller.

Section 4.02 **Authority of Owner.** The Owner has the legal capacity to enter into this Agreement and the other Transaction Documents to which such Owner is a party, to carry out its, his or her obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by each Owner, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of each such Owner enforceable against the Owner in accordance with its terms. When each other Transaction Document to which each Owner is or will be a party has been duly executed and delivered by each such Owner (assuming due authorization, execution and delivery by each other party thereto, including each other Owner), such Transaction Document will constitute a legal and binding obligation of such Owner enforceable against it, he or she in accordance with its terms.

Section 4.03 **No Conflicts; Consents.** Except for, and subject to the receipt of, the consents set forth on Schedule 4.03, the execution, delivery and performance by each Owner of this Agreement and the other Transaction Documents to which such Owner is a party and the consummation of the transactions contemplated hereunder and thereunder (with or without the giving of notice, lapse of time or both): (a) will not conflict with in any respect, violate, result in a breach of or constitute a default under any Law and will not violate any Judgment; (b) will not conflict with in any respect, constitute grounds for termination of, result in the breach of, constitute a default under, give rise to a third party's right of first refusal or similar right in respect of, or adversely affect the rights or obligations of such Owner under any Contract to which such Owner is a party or by which he or his properties are or may be bound or affected; or (c) result in the creation or imposition of any Encumbrance against or upon any Purchased Assets, other than a Permitted Encumbrance.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

The Buyer represents and warrants to Seller and Owner that the statements contained in this Article V are true and correct as of the date hereof.

Section 5.01 **Organization and Qualification of Buyer.** Buyer is limited partnership duly organized, validly existing and in good standing under the laws of the state of Pennsylvania and has full power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Purchased Business as currently conducted following the Closing.

Section 5.02 **Authority of Buyer.** Buyer has full power and authority to enter into this Agreement and the other Transaction Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any other Transaction Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms. When each other Transaction Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms.

Section 5.03 **No Conflicts; Consents.** The execution, delivery and performance by Buyer of the Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the limited partnership agreement or other organizational documents of Buyer; (b) conflict with or result in a violation or breach of any provision of any Governmental Order applicable to Buyer.

## ARTICLE VI ROYALTY PAYMENTS

Section 6.01 **Royalty Payment.** As additional consideration, the Owner shall be entitled to receive from Buyer a royalty as more particularly set forth in the Know-How License Agreement (the "Royalty Payment").

## ARTICLE VII COVENANTS

### Section 7.01 Employees and Employee Benefits.

(a) Commencing on the Closing Date, Seller shall terminate all employees of the Purchased Business who are actively at work on the Closing Date, and each of Scott Carroll and Timothy Erwin shall have entered into employment agreements with Buyer.

(b) Seller shall be solely responsible, and Buyer shall have no obligations whatsoever for, any compensation or other amounts payable to any current or former employee, officer, director, independent contractor or consultant of the Purchased Business, including, without limitation, hourly pay, commission, bonus, salary, accrued vacation, fringe, pension or profit sharing benefits or severance pay for any period relating to the service with Seller at any time on or prior to the Closing Date and Seller shall pay all such amounts to all entitled persons on or prior to the Closing Date.

(c) Seller shall remain solely responsible for the satisfaction of all claims for medical, dental, life insurance, health accident or disability benefits brought by or in respect of current or former employees, officers, managers, independent contractors or consultants of the Purchased Business or the spouses, dependents or beneficiaries thereof, which claims relate to events occurring on or prior to the Closing Date. Seller also shall remain solely responsible for all workers' compensation claims of any current or former employees, officers, managers, independent contractors or consultants of the Purchased Business which relate to events occurring on or prior to the Closing Date. Seller shall pay, or cause to be paid, all such amounts to the appropriate persons as and when due.

### Section 7.02 Accounts Receivable/Other Funds.

From and after the Closing, if Seller or any of their Affiliates receives or collects any funds relating to any Purchased Asset, including any accounts receivable of Seller or its Affiliates arising out of the sale of any goods or services occurring after the Closing, Seller shall remit such funds to Buyer on a monthly basis within five (5) business days of the completion of each calendar month.

From and after the Closing, if Buyer or any of its Affiliates receives or collects any account receivable (for the benefit of Seller) or any funds related to any other Excluded Asset, Buyer shall promptly and within a reasonable period of time remit such funds to Seller.

Section 7.03 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne by the Buyer when due. Seller and Buyer shall, at their own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and the parties shall cooperate with respect thereto as necessary).

Section 7.04 Indebtedness. Prior to or in conjunction with the Closing, all outstanding, and without duplication, with respect to Seller (a) all obligations for borrowed money or with respect to deposits or advances of any kind; (b) all obligations evidenced by bonds, debentures, notes or similar instruments; (c) all obligations upon which interest charges are customarily paid; (d) all obligations under conditional sale or other title retention Contracts relating to any property purchased by such Person; (e) all obligations issued or assumed as the deferred purchase price of property or services (excluding obligations of such Person to creditors for raw materials, inventory, services and supplies incurred in the ordinary course of

business); (f) all lease obligations capitalized on the books and records of such; (g) all obligations of others secured by a lien on property or assets owned or acquired by such Person, whether or not the obligations secured thereby have been assumed; (h) all obligations under interest rate, currency or commodity derivatives or hedging transactions; (i) all letters of credit or performance bonds issued for the account; and (j) all guarantees and other arrangements having the economic effect of a guarantee of any indebtedness of any other Person, in each case including all principal, interest, penalties, premiums and other expenses relating thereto ("Indebtedness") shall be satisfied and Seller shall have delivered to Buyer written evidence, in form satisfactory to Buyer in its sole discretion, of the release of such Encumbrances, other than Permitted Encumbrances (or in the event the Indebtedness is to be satisfied at Closing, the promise by the applicable creditor to release such Encumbrances upon satisfaction of the Indebtedness).

Section 7.85      **Future Payments.** Buyer agrees to use its commercially reasonable efforts to market and sell all TILite Products included in the sale of the Purchased Assets and to cultivate, maintain, and grow private label sales of the TILite Products.

Section 7.86      **Name Change.** Promptly and within a reasonable period of time not to exceed six months following the Closing Date, the Seller shall amend its organizational documents and take all other actions necessary to change its name to one sufficiently dissimilar to their present name to avoid confusion and take all actions requested by Buyer to enable Buyer to use the Seller's names, or derivatives thereof, in connection with the operation of the Purchased Business.

Section 7.87      **Non-competition; Non-solicitation; Non-hire; Non-service.**

(a) For a period of five (5) years commencing on the Closing Date (the "Restricted Period"), Seller and the Owner shall not directly or indirectly, (i) except on behalf of and for the benefit of Buyer, engage in or assist others in engaging in the Purchased Business (the "Restricted Business") in the United States (the "Territory"); (ii) have an interest in any Person that provides services to, or engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, member, contractor, lender, employee, principal, agent, trustee or consultant; or (iii) intentionally interfere in any material respect with the business relationships (whether formed prior to or after the date of this Agreement) between the Seller or Buyer and customers or suppliers of the Seller or Buyer. Notwithstanding anything in this Agreement, the Employment Agreement, or the Know-How License Agreement to the contrary, it shall not be a violation of any non-competition restrictions for Seller and/or Owner to sell the Profile Items at any point following the 2<sup>nd</sup> anniversary of the Closing Date.

(b) During the Restricted Period, Seller and the Owner shall not, directly or indirectly, hire or solicit any employee of Buyer or Seller or encourage any such employee to leave such employment or hire any such employee who has left such employment.

(c) During the Restricted Period, Seller and the Owner shall not, directly or indirectly, solicit or entice, or attempt to solicit or entice, or service any clients or customers of Buyer or Seller for purposes of diverting their business or services from the Purchased Business.

(d) Seller and the Owner acknowledge that a breach or threatened breach of this Section 7.87 would give rise to irreparable harm to Buyer, for which monetary damages would not be an adequate remedy, and each hereby agrees that in the event of a breach or threatened breach by Seller the Owner of any such obligations, Buyer shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

(e) Seller and the Owner each acknowledge that the restrictions contained in this Section 7.07 are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated by this Agreement. Seller and the Owner further acknowledge that the Seller presently conducts business in the Territory. In the event that any covenant contained in this Section 7.07 should ever be adjudicated to exceed the time, geographic, product or service, or other limitations permitted by applicable Law in any jurisdiction, then any court is expressly empowered to reform such covenant, and such covenant shall be deemed reformed, in such jurisdiction to the maximum time, geographic, product or service, or other limitations if and to the extent permitted by applicable Law. The covenants contained in this Section 7.07 and each provision hereof are severable and distinct covenants and provisions. The invalidity or unenforceability of any such covenant or provision as written shall not invalidate or render unenforceable the remaining covenants or provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

### ARTICLE VIII INDEMNIFICATION

Section 8.01 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is eighteen (18) months from the Closing Date; *provided, that* the representations and warranties in Section 3.01 (Organization and Qualification of Seller), Section 3.02 (Authority of Seller), Section 3.07 (Title to Purchased Assets), Section 3.16 (Taxes), Section 3.17 (Brokers), Section 4.01 (Ownership of Seller), Section 4.02 (Authority of Owner), Section 5.01 (Organization and Qualification of Seller), and Section 5.02 (Authority of Seller) (collectively, the "Fundamental Representations") shall survive until the fifth (5<sup>th</sup>) anniversary of the Closing Date. All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein.

Section 8.02 Indemnification by Seller Parties. Subject to the other terms and conditions of this Article VIII, the Seller Parties shall, jointly and severally, indemnify and defend each of Buyer and its Affiliates and their respective representatives (collectively, the "Buyer Indemnitees") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all indebtedness, losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees, court costs and expenses, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers ("Losses") incurred or sustained by, or imposed upon, the Buyer Indemnitees to the extent based upon, arising out of, or resulting from:

(a) any inaccuracy in or breach of any of the representations or warranties of any of the Seller Parties contained in this Agreement, the other Transaction Documents or in any certificate or instrument delivered by or on behalf of any of the Seller Parties pursuant to this Agreement or any other Transaction Documents, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by any of the Seller Parties pursuant to this Agreement, the other Transaction Documents or any certificate or instrument delivered by or on behalf of any of the Seller Parties pursuant to this Agreement;

(c) any Excluded Asset or any Excluded Liability (including any unsatisfied Indebtedness or any fees or expenses of brokers, finders, advisors, lawyers, accountants or other service providers incurred in connection with the transactions contemplated herein ("Transaction Expenses"); or

(d) any Third Party Claim based upon, resulting from or arising out of the business, operations, properties, assets or obligations of Seller or any of its Affiliates (other than the Purchased Assets) conducted, existing or arising prior to the Closing Date.

Section 8.03 Indemnification by Buyer. Subject to the other terms and conditions of this Article VIII, Buyer shall indemnify and defend each of Seller and its Affiliates and their respective representatives and Owner (collectively, the "Seller Indemnitees") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement or any other Transaction Documents, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement, the other Transaction Documents or any certificate or instrument delivered by or on behalf of any of the Seller Parties pursuant to this Agreement; or

(c) any Third Party Claim based upon, resulting from, or arising out of the business, operations, properties, assets or obligations of Buyer or any of its Affiliates, including any Purchased Assets or Assigned Contract, conducted or existing or arising on or after the Closing Date.

Section 8.04 Limits on Indemnification.

(a) Except as provided in Section 8.04(b), below, the Seller Parties shall not be required to provide indemnification under Section 8.02(a) or Section 8.02(d), above, for any claim for indemnification until the Losses of the Buyer Indemnitees for all such claims exceed in the aggregate [REDACTED] Dollars [REDACTED] (the "Basket Amount"), in which event the Seller Parties shall be required to pay the amount of all Losses in respect of indemnified claims under Section 8.02(a) and Section 8.02(d), above, from the first dollar of such Losses irrespective of the Basket Amount, and not just Losses in excess of the Basket Amount. Further, the Seller Parties shall not be required to provide indemnification under Section 8.02(a) and Section 8.02(d), above, for any claim for indemnification to the extent the aggregate amount of Losses relating thereto for which the Sellers would otherwise be required to provide indemnification exceeds on a cumulative basis an amount equal to the Purchase Price (the "Cap Amount").

(b) In no event shall a breach of the Fundamental Representations, be subject to the Basket Amount or the Cap Amount. In addition, neither the Basket Amount nor the Cap Amount or Fundamental Cap shall apply in the case of fraud, in which case a cause of action outside of this Agreement shall exist and such action shall not be subject to the limitations described herein.

Section 8.05 Set-off. The Parties acknowledge and agree that the Buyer shall be entitled, in addition to any other remedies which may be available to it hereunder or otherwise, to set-off against any



other amount due and owing by the Buyer or any of its affiliates to any of the Seller Parties, including, without limitation any payments owed under this Agreement, the Know-How License Agreement or the Employment Agreement, the amount of any claim by a Buyer Indemnified Party for indemnification under this Article VIII, and such set-off shall not be deemed a breach by the Buyer of its obligations with respect to such payment provided, however that Buyer shall not be permitted to set off as provided in this Section 8.05 unless the obligation and the amount of such obligation has been agreed to in writing by the Seller Parties or has been reduced to a judgment against the relevant Seller Party in favor of the Buyer by the appropriate court.

Section 8.06      Procedure for Indemnification of Third Party Claims.

(a) In the event that any party hereto shall claim that it is entitled to be indemnified pursuant to the terms of this Article VIII, it (the "Claiming Party") shall so notify the party or parties against which the claim is made (the "Indemnifying Party") in writing of such claim as soon as possible, but in no event more than thirty (30) days after receipt of a notice of such claim or notice of any claim of a third party that may reasonably be expected to result in a claim by such party against the party to which such notice is given; provided, however, that failure to give such notice shall not affect the indemnification provided hereunder unless such failure actually and materially prejudices the Indemnifying Party's ability to defend such claims, which shall include any increase in damages resulting from such failure. Such notice shall specify the misrepresentation or breach of warranty, nonfulfillment of agreement or covenant or other nonperformance claimed by the Claiming Party, the factual basis for the claim and the liability, loss, cost or expense incurred by, or imposed upon the Claiming Party on account thereof. If the amount of such liability, loss, cost or expense is determined, the notice shall so state and such amount shall be deemed the amount of the claim of the Claiming Party. If the amount is not determined, the notice shall so state and in such event a claim shall be deemed asserted against the Indemnifying Party on behalf of the Claiming Party, but no payment shall be made on account thereof until the amount of such claim is determined and the Indemnifying Party's liability for the claim is finally determined.

(b) The Indemnifying Party shall, upon receipt of such written notice and at its expense, defend such claim in its own name or, if necessary, in the name of the Claiming Party; provided, however, that if the proceeding involves a matter solely of concern to the Claiming Party in addition to the claim for which indemnification under this Article VIII is being sought, such matter shall be within the sole responsibility of the Claiming Party and its counsel. The Claiming Party will cooperate with and make available to the Indemnifying Party such assistance and materials as may be reasonably requested of it, and the Claiming Party shall have the right, at its expense, to participate in the defense. If the Indemnifying Party has taken control of the defense of the claim (i) the Indemnifying Party will not be liable for any settlement of such claim effected without its consent, which consent will not be unreasonably withheld or delayed; (ii) the Indemnifying Party may settle such claim without the consent of the Claiming Party only if (A) all monetary damages payable in respect of the claim are paid by the Indemnifying Party, unless the Indemnifying Party is not required to pay the monetary damages by reason of Section 8.04, (B) the Claiming Party receives a full, complete and unconditional release in respect of the claim without any admission or finding of obligation, liability, fault or guilt (criminal or otherwise) with respect to the claim, and (C) no injunctive, extraordinary, equitable or other relief of any kind is imposed on the Claiming Party or any of its Affiliates; and (iii) the Indemnifying Party may otherwise settle such claim only with the written consent of the Claiming Party, which consent will not unreasonably be withheld, conditioned, or delayed.

(c) In the event the Indemnifying Party (i) is not entitled to defend a claim made against the Claiming Party pursuant to the provisions of this Article VIII; or (ii) shall refuse to conduct a defense against such claim and/or fail to defend such claim actively and in good faith, then the Claiming Party, upon ten (10) days notice to Indemnifying Party and the Indemnifying Party failing to conduct the defense of

such claim actively and in good faith, shall have the right to assume the defense against such claim and shall have the right to settle and compromise such claim in good faith upon ten (10) days' notice to, but without the consent of, the Indemnifying Party. Once the amount of such claim is determined and the claim is finally determined, the Claiming Party shall be entitled to pursue each and every remedy available to it at law or in equity to enforce the indemnification provisions of this Article VIII and, in the event it is determined, or the Indemnifying Party agrees, that it is obligated to indemnify the Claiming Party for such claim, the Indemnifying Party agrees to pay all costs, expenses and fees, including all reasonable attorneys' fees, which may be incurred by the Claiming Party in attempting to enforce indemnification under this Article VIII, whether the same shall be enforced by suit or otherwise.

(d) Notwithstanding anything to the contrary contained in this Article VIII, the Indemnifying Party shall have no right to defend or control the settlement of any claim unless each of the following conditions are satisfied: (i) the claim seeks only monetary damages and does not seek any injunction or other equitable relief against the Claiming Party; and (ii) the Indemnifying Party unconditionally acknowledges, in writing within ten (10) days after the Claiming Party gives the Indemnifying Party notice of such claim, that the Indemnifying Party is (jointly and severally in the case of multiple Indemnifying Parties) obligated to indemnify the Claiming Party in full with respect to the claim.

Section 8.07 Knowledge of Breach. None of the Buyer Indemnitees shall be entitled to indemnification for any Losses incurred by reason of a breach of a warranty or representation set out in Article III or Article IV if any of the Buyer Indemnitees had actual knowledge of the breach or the set of circumstances or facts that lead to the breach before the time of Closing. The Seller Parties have the burden of proof to prove that the Buyer Indemnitee had actual knowledge.

Section 8.08 Exclusive Remedy.

(a) Buyer Seller Parties acknowledge and agree that, except for the remedies provided herein to address disputes or objections to the calculations and adjustments described herein or as otherwise specifically provided herein, the indemnification and related provisions in this Article VIII shall be the exclusive remedy for monetary damages of Buyer and Seller Parties with respect to this Agreement; provided, however, that no limitation set forth in this Agreement, including the limitations set forth in this Article VIII, shall limit (i) any remedy that may be available to Buyer, or Seller Parties against any other Party on account of fraud or willful misconduct, (ii) rights or remedies expressly provided for in this Agreement, the other Transaction Documents or any certificate or instrument delivered pursuant to this Agreement or rights or remedies that, as a matter of applicable Law or public policy cannot be limited or waived; or (iii) either Party's right at any time to seek injunctive or equitable relief.

(b) The provisions of this Section 8.08, together with the other provisions of this Article VIII, were specifically bargained for among Buyer and Seller Parties in arriving at the Purchase Price. In agreeing to the Purchase Price and in agreeing to provide the specific representations and warranties set forth in this Agreement and in any other agreement, instrument, certificate or document delivered under the terms of this Agreement, Buyer and Seller Parties have specifically relied upon this Section 8.09 and the limitations on remedies provided in this Article VIII.

ARTICLE IX  
MISCELLANEOUS

Section 9.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants,

incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party or parties incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 9.02 **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 9.02):

If to Seller Parties: Mr. Scott Carroll  
1046 Carter Drive  
Chattanooga, TN 37415  
E-mail: scott@tilliteusa.com

with a copy to: Patrick, Beard, Schulman & Jacoway, PC  
537 Market Street, Suite 300  
Chattanooga, TN 37402  
E-mail: jtempleton@pbsjlaw.com.com  
Attention: John H. Templeton, Esq

If to Buyer: 400 Ardex Park Drive  
Aliquippa, PA 15001  
Email: lori.angelo@ardexamericas.com  
Attention: Lori P. Angelo  
CFO, VP Shared Services

with a copy to: Dentons Cohen & Grigsby, PC  
625 Liberty Avenue, Suite 500  
Pittsburgh PA 15222-3152  
E-mail: chris.carson@dentons.com  
Attention: Christopher B. Carson, Esq.

Section 9.03 **Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 9.04 **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 9.05 **Entire Agreement.** This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter

contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits delivered by the Seller Parties and Buyer concurrently with the execution and delivery of this Agreement delivered by the Seller Parties and Buyer concurrently with the execution and delivery of this Agreement, the statements in the body of this Agreement will control.

Section 9.06 Disclosure Schedule. Any matter set forth in Schedules to this Agreement shall be deemed to be referred to on all other Schedules to which such matter logically relates and where such reference would be appropriate and can reasonably be inferred from the matters disclosed on such Schedule as if set forth on such other Schedules. Any such disclosure Schedule may respond to a particular representation and warranty, but it shall not vary, change or alter the literal meaning of the representations and warranties of the Sellers contained in this Agreement, other than creating exceptions thereto which relate to the language of the specific warranty or representation. The Schedules to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement. Any capitalized terms used in any Schedule but not otherwise defined therein shall be defined as set forth in this Agreement. The inclusion of any item on any Schedule to this Agreement shall not be construed as an indication that such item should have been disclosed.

Section 9.07 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. None of the parties may assign its rights or obligations hereunder without the prior written consent of the other parties, which consent shall not be unreasonably withheld or delayed; *provided, however*, that prior to the Closing Date, Buyer may, without the prior written consent of the Seller Parties, assign all or any portion of its rights under this Agreement to one or more of its direct or indirect wholly-owned subsidiaries. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 9.08 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

Section 9.09 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction).

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY SHALL BE INSTITUTED IN THE APPLICABLE COURT OF THE COMMONWEALTH OF PENNSYLVANIA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR

CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 9.10 **Specific Performance.** The parties agree that irreparable damage would occur if any provisions of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 9.11 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.


Section 9.12 **Third Party Beneficiary.** Owner's estate is an intended third-party beneficiary of this Agreement and shall have the right to enforce its provisions to the same extent as if it was a party to this Agreement.

[SIGNATURE PAGE FOLLOWS]

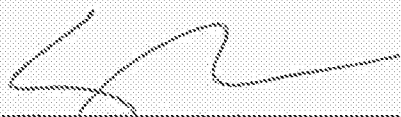
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

SELLER:

FILITE, LLC

By:   
Name: Matt Carroll  
Title: Member


OWNER:

  
Scott Carroll

BUYER:


ARDEX, L.P.

By: ARDEX HOLDING, INC., its general partner

By:   
Name: Lori T. Arnold  
Title: CEO, VP Share Services

BUYER:

ARDEX, L.P.

By:   
Name: Jesse C. David  
Title: President

(Signature Page to Asset Purchase Agreement)

Schedule 1.01

Purchased Assets

Schedule 1.01

Excluded Assets

1. Cash
2. Accounts receivable pertaining to product sold and delivered prior to Closing, purchase orders received and material deliveries under way prior to Closing, or otherwise not included in the calculation of Inventory.
3. Items of purely personal effect located in Seller's office.
4. Inventory currently stored at warehouse of international suppliers in China, Egypt, or any other location outside the United State of America with an approximate value of \$123,563 (collectively the "International Inventory").
5. All of Seller's profiles and profile tooling with an approximate value of \$161,433.33 (collectively the "Profile Items").



Schedule 1.06

Allocation Schedule

<u>Asset Class</u>	<u>Basis for Allocation</u>
Class I (Cash and Deposit Accounts)	N/A
Class II (Actively Traded Personal Property)	N/A
Class III (Accounts Receivable)	N/A.
Class IV (Inventory)	Book value of inventory as finally determined.
Class V (Depreciable Tangible Property)	Book Value of fixed assets and equipment as finally determined.
Class VI (Section 197 Intangibles)	N/A.
Class VII	The remaining Purchase Price to goodwill as a Class VII asset.

Schedule 2.02(a)

Seller Parties' Closing Deliverables

- (i) a bill of sale, assignment and assumption agreement (the "Bill of Sale, Assignment and Assumption Agreement") and duly executed by Seller, transferring the personal property included in the Purchased Assets to Buyer and effecting the assignment to and assumption by Buyer of the Purchased Assets and the Assigned Contract;
- (ii) an assignment and duly executed by Seller, transferring all of Seller's right, title and interest in and to the Intellectual Property to Buyer the ("Intellectual Property Assignments");
- (iii) executed contract assignments from the customers listed on Schedule 3.03 (the "Required Consents");
- (iv) a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that Seller is not a foreign person within the meaning of Section 1445 of the Code, duly executed by Seller;
- (v) certified copies of the resolutions of the Seller authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby;
- (vi) the executed Pay-Off Letters;
- (vii) the Employment Agreement executed by Owner in form acceptable to Buyer;
- (viii) a Know-How License Agreement executed by Owner whereby Owner licenses his know-how to Buyer in return for a 1% royalty on net sales of the TiLite Products in form acceptable to Buyer ("Know-How License Agreement");
- (ix) an employment agreement between Timothy Erwin and Buyer, in form and substance acceptable to Buyer; and
- (x) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.

*Schedule 2.02(b)*

*Buyer's Closing Deliverables*

- (i) the Estimated Purchase Price less the Pay-Off Amount and Transaction Expenses;*
- (ii) the Bill of Sale, Assignment and Assumption Agreement duly executed by Buyer;*
- (iii) the Lease duly executed by Buyer;*
- (iv) the Employment Agreement duly executed by Buyer, in form and substance acceptable to Seller Parties;*
- (v) the employment agreement with Timothy Erwin duly executed by Buyer, in form and substance acceptable to Seller Parties;*
- (vi) the Know-How License Agreement duly executed by Buyer, in form and substance acceptable to Seller Parties; and*
- (vii) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement.*

SCHEDULES to the ASSET PURCHASE AGREEMENT

by and among

TILYE, LLC,  
SCOTT CARROLL

and

ARDEX, L.P.

Dated as of May 1, 2021

TRADEMARK

REEL: 007308 FRAME: 0629

Schedule 3.01 Organization and Qualification of Seller

1. Tennessee.
2. Seller is not qualified in Georgia despite operating the Purchased Assets in that state.

Schedule 3.03 No Conflicts: Consents

*The execution, delivery and performance by Seller of this Agreement, the Bill of Sale, Assignment and Assumption Agreement, Intellectual Property Assignments, the Employment Agreements and the other agreements, instruments and documents required to be delivered at the Closing (the "Transaction Documents") to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the Articles of Organization or operating agreement or other organizational documents of Seller; (b) conflict with or result in a violation or breach of any provision of any law or any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any governmental authority ("Governmental Order") applicable to Seller, the Purchased Business or the Purchased Assets; (c) except as set forth on Schedule 3.03, require the consent, notice or other action by any individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, estate, association or other entity or organization ("Person") under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract or permit to which Seller is a party or by which Seller or the Purchased Business is bound or to which any of the Purchased Assets are subject (including any Assigned Contract), or (d) result in the creation or imposition of any Encumbrance other than Permitted Encumbrances on the Purchased Assets.*

1. Sales Representative Agreement by and between Seller and Pro Marketing Sales, Inc. dated as of September 1, 2020.

Schedule 3.06(a) -- Material Contracts

*Schedule 3.06(a) lists each of the following contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, understandings, options, rights and interests, indentures, joint ventures, employment agreements, and all other agreements, commitments and legally binding arrangements, whether written or oral, including any amendments, supplements and other modifications thereto ("Contracts") (x) by which any of the Purchased Assets are bound or affected or (y) to which Seller is a party or by which it is bound in connection with the Purchased Business or the Purchased Assets (such Contracts, together with all Contracts concerning the occupancy, management or operation of any Leased Real Property (including without limitation, brokerage contracts), being "Material Contracts").*

1. Lease with CCD, Inc. for the Leased Real Property.
2. Sales Representative Agreement by and between Seller and Pro Marketing Sales, Inc. dated as of September 1, 2020.
3. Oral Agreement with Surface Arts related to its purchases.
4. Oral Agreement with Tile Shop related to its purchases.
5. The Company's Insurance Policies.
6. Factoring Agreement with JD Factors.
7. Agreement with OPCO to supply foam. Terms are net 30, FOB from their factory in Pennsylvania.
8. Agreement with Jaeger to supply waterproof membrane. Terms are net 60, FOB from their factory in New Hampshire.
9. Agreement with Marmox to supply backer board products. Terms are 20% due upon order confirmation, 80% due upon order completion, FOB from their factory in Egypt, 9% import duty.
10. Agreement with Amaxim to supply plastic drain components and stainless steel drain assembly. Terms are 70% due upon order confirmation, 30% due upon order completion. Duty rate varies from 6% to 39% based on composition of material.

Schedule 3.07 - Permitted Encumbrances

*Seller has good and valid title to, or a valid leasehold interest in, all of the Purchased Assets. All such Purchased Assets (including leasehold interests) are free and clear of all liens, claims and encumbrances of any nature whatsoever ("Encumbrances") except as otherwise specified on Schedule 3.07 (collectively referred to as "Permitted Encumbrances").*

1. None.



Schedule 3.10 – Intellectual Property

*Schedule 3.10 lists all patents, registered and unregistered trademarks, service marks, logos, corporate and trade names, domain names and registered and common law copyrights, and all applications therefor, all inventions, discoveries, techniques, processes, methods, formulae, designs, computer software, trade secrets, customer lists, confidential information, know-how and ideas, in each case, used or useful in connection with the Purchased Business ("Intellectual Property"),*

1. Domain name: <https://tilliteusa.com/>
2. Seller's rights to the design of its preformed shower bases and drains. There is no current patent for any of the TiLite Products, but upon Seller's information and belief, there is a current application for a patent filed by Buyer with the USPTO (Application Number 17/196,782).

Schedule 3.14 - Employee Benefits Matters

*Schedule 3.14 sets forth a correct and complete list of all "employee benefit plans" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder, as amended ("ERISA")) and all other bonus, pension, incentive, welfare, profit sharing, retirement, disability, paid time off, severance, hospitalization, insurance, deferred compensation, compensation, fringe benefit or other employee benefit plans, funds, trusts, programs or agreements with respect to which Seller has any current or potential liability or which are otherwise maintained for the benefit of any of Seller's current or former employees (collectively, "Benefit Plans").*

- i. None.

### Schedule 3.15 -- Employees Matters

*Schedule 3.15 contains a list of all persons who are employees, independent contractors or consultants of the Purchased Business as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full or part time); (iii) hire date; and (iv) current annual base compensation rate; (v) commission, bonus or other incentive-based compensation. Seller is and has been in material compliance with all applicable laws pertaining to employment and employment practices to the extent they relate to employees of the Purchased Business, including all laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence and unemployment insurance. All individuals characterized and treated by Seller as consultants or independent contractors of the Purchased Business are properly treated as independent contractors under all applicable laws.*

1. Geri Gilbert is a part-time laborer. She was hired on January 1, 2021. She makes \$10.00 per hour and has no commission, bonus, or other incentive-based compensation.

Schedule 3.16 - Taxes

*Except as set forth in Schedule 3.16:*

- (a) *All return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof ("Tax Returns") required to be filed by Seller for any taxable period ending before the Closing Date and, with respect to any taxable period beginning before and ending or after the Closing Date, the portion of such taxable period ending before the Closing Date ("Pre-Closing Tax Period") have been, or will be, timely filed. Such Tax Returns are, or will be, true, complete and correct in all material respects. All federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, documentary, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties ("Taxes") due and owing by Seller (whether or not shown on any Tax Return) have been, or will be, timely paid.*
- (b) *Seller has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, shareholder or other party, and complied with all information reporting and backup withholding provisions of applicable Law.*
- (c) *There are no Encumbrances for Taxes upon any of the Purchased Assets nor, to Seller's Knowledge, is any taxing authority in the process of imposing any Encumbrances for Taxes on any of the Purchased Assets (other than for current Taxes not yet due and payable).*
- (d) *Seller has not deferred the deposit and payment of Seller's portion of social security payroll taxes as permitted by Section 2302 of the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act").*
1. None.

Schedule 3.17 Brokers

*Except as set forth on Schedule 3.17, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Seller.*

- i. None.