

ASSET PURCHASE AGREEMENT

THIS AGREEMENT made this [REDACTED] day of August, 201[REDACTED].

B E T W E E N:

[REDACTED] **ONTARIO INC.**
a corporation incorporated
pursuant to the laws of the Province of Ontario
(the “**Purchaser**”)

-and-

[REDACTED]
a corporation incorporated
pursuant to the laws of the Province of Ontario
(the “**Vendor**”)

-and-

[REDACTED]
of the City of **Toronto**
(“[REDACTED]”)

-and-

[REDACTED]
of the City of **Toronto**
(“[REDACTED]”)

WHEREAS the Vendor is the owner and operator of the business located at [REDACTED] in the City of [REDACTED] (the “**Premises**”) under the firm name and style of [REDACTED] (the “**Business**”);

AND WHEREAS the Vendor wishes to sell and the Purchaser wishes to purchase the assets of the Business and specifically the operating style name, the chattels and equipment as per the attached Schedule ‘A’, client lists, client contracts and records, the goodwill telephone/fax numbers, domain names, websites, trade names associated with the Business (the “**Assets**”) of the Business and save and except accounts receivable and accounts payables. The Purchaser will not assume and will not be liable for, and the Vendor, [REDACTED] hereby jointly and severally indemnify the Purchaser from and against all obligations, commitments and liabilities of and claims against the Vendor, [REDACTED] (whether absolute, accrued or contingent) relating to the Business.

AND WHEREAS [REDACTED] is to provide consultation services to the Purchaser after closing as set out herein;

AND WHEREAS the Purchaser shall continue the employment of the employees of the Vendor at terms to be agreed upon.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants, representations, warranties, payments and agreements hereinafter contained, the parties hereto covenant and agree with each other as follows:

ARTICLE ONE ASSETS BEING PURCHASED

1.01 The Purchaser shall purchase from the Vendor the Assets as follows:

a) any and all client lists and contracts of the Business; and

- b) the name [REDACTED] phone and fax numbers of the Business;
- c) all goodwill, domain names and the website(s) of the Vendor.
- d) any and all chattels and equipment of the Business as per Schedule “A”;

ARTICLE TWO PURCHASE PRICE

- 2.01** The purchase price shall be the sum of [REDACTED] plus any applicable taxes and subject to usual adjustments;
- 2.02** Purchaser will also pay Vendor a commission of [REDACTED] on the first [REDACTED] of revenues invoiced by, and collected by, Purchaser, [REDACTED] on that portion of revenues between [REDACTED] and [REDACTED] plus an additional [REDACTED] on that portion of revenues greater than [REDACTED] for a period of one (1) year following Closing with respect to any and all accounts with whom Vendor has previously provided services, including any prospects with whom Vendor has provided quotations. The Vendor shall provide a comprehensive list of such clients prior to Closing.

ARTICLE THREE PAYMENT OF PURCHASE PRICE

- 3.01** The purchase price shall be payable as follows:
- a) The sum of [REDACTED] which was remitted to the Vendor’s lawyer, [REDACTED] in trust as a deposit to be held pending completion or other termination of this agreement and to be credited on account of the purchase price on completion shall be paid upon waiver of all conditions contained herein;
 - b) The balance of the Purchase Price to be remitted by certified cheque or bank draft on Closing.

CLOSING

- 4.01** The closing of this transaction shall take place on [REDACTED] at the offices of [REDACTED] Ontario, at 2:00 o’clock in the afternoon or by escrow deliveries.

ARTICLE FIVE VENDOR’S COVENANTS AND WARRANTIES

- 5.01** All of the warranties of the Vendor contained in Schedule “C” annexed hereto and forming part of this Agreement shall be true on and as of the date of closing and shall survive the closing date and the closing of the transaction shall continue in full force and effect.
- 5.02** The Vendor covenants and agrees with and represents to the Purchaser as set out in Schedule “C” and acknowledges and confirms that the Purchaser is relying on such covenants, agreements, representations and warranties in connection with the purchase by the Purchaser of the assets.

ARTICLE SIX CONDITIONS

- 6.01** This Agreement shall be conditional upon compliance with all of the conditions set out in Schedule “B” annexed hereto and forming part of this Agreement.

**ARTICLE SEVEN
RISK OF LOSS**

7.01 All of the assets being purchased shall remain at the risk of the Vendor until completion of this Agreement.

**ARTICLE EIGHT
*RETAIL SALES TAX ACT and WORKPLACE SAFETY AND INSURANCE ACT***

8.01 The Vendor will, immediately upon execution of this Agreement, apply for clearance certificates under the *Retail Sales Tax Act* and *Workplace Safety and Insurance Act* and will keep the Purchaser fully informed of all communications in that regard

**ARTICLE NINE
*BULK SALES ACT DECLARATION***

9.01 The Vendor agrees to comply with the provisions of the *Bulk Sales Act* and will provide on closing a Declaration pursuant to the said Act indicating that there are no secured or unsecured trade creditors of the Business or the Vendor shall provide the consent of said trade creditors as required by the Act.

**ARTICLE TEN
LICENCES**

10.01 The Vendor agrees that any licenses to be transferred (the “**Licenses**”) to the Purchaser are in full force and effect and that there have been no charges or proceedings instituted against the Vendor with respect to any license by any government authority or governing body.

**ARTICLE ELEVEN
EXCLUSIVE POSSESSION**

11.01 Upon the completion of this transaction, the Vendor shall deliver to the Purchaser exclusive possession of the assets being purchased.

**ARTICLE TWELVE
TIME**

12.01 Time shall remain of the essence.

**ARTICLE THIRTEEN
INDEMNITY**

13.01 The Vendor shall deliver to the Purchaser on closing an Indemnity in the form as set out in Schedule “D” annexed hereto and forming part of this Agreement.

**ARTICLE FOURTEEN
INVENTORY**

14.01 Purchaser agrees to buy from the Vendor [REDACTED] At the expiration of this period, Purchaser will indicate which inventory it wishes to purchase and will make payment accordingly. [REDACTED] Should there be a dispute, an independent third party, such as an accounting firm, will be retained to determine the fair market value. It is estimated that at time of close, the value of the inventory will be in the [REDACTED] range and the purchase price will be adjusted

accordingly. The Vendor shall provide a complete detailed listing of Inventory prior to Closing.

ARTICLE FIFTEEN TELEPHONE/FAX NUMBERS

15.01 The Vendor agrees to transfer the existing telephone and fax number(s) of the Business to the Purchaser if required on closing and agrees to indemnify the Purchaser from any and all claims for accounts outstanding with respect to charges incurred on this telephone number up to and including the closing date of this transaction.

ARTICLE SIXTEEN NON-COMPETITION

16.01 The Vendor and [REDACTED] (each, a “**Principal**”, together, the “**Principals**”) shall execute a non-competition agreement for a period of Two (2) years within one hundred kilometers of the current premises location, as more particularly set forth in Schedule “F” attached hereto.

ARTICLE SEVENTEEN DOCUMENTS TO BE DELIVERED ON CLOSING

17.01 On the closing of this transaction, the Vendor shall deliver to the Purchaser all of the documents set out in Schedule “E” which is annexed hereto and forms part of this Agreement.

ARTICLE EIGHTEEN MISCELLANEOUS

18.01 Prior to Closing, Purchaser shall determine which of the Vendor’s employees it shall to retain following the Closing Date. The Vendor shall bear the costs of termination of those employees that the Purchaser does not wish to retain. Any and all employees of the Vendor who are employed at Closing shall be employed by the Purchaser. Said employees shall be hired by Purchaser on the same terms and conditions as with their employment with the Vendor except for seniority and years of service.

18.02 [REDACTED] shall provide will provide an orderly transition and will continue providing services for the Purchaser following Closing on terms and conditions set forth in Consulting Agreements, in the form as set out in Schedules “G” and “H” annexed hereto and forming part of this Agreement.

18.03 The Vendor shall provide the style name [REDACTED] and logo styles to the Purchaser forthwith after closing for the Purchaser’s use, solely.

18.04 Any tender of documents or monies hereunder may be made upon the Vendor or Purchaser or upon the solicitors acting for the party on whom tender is desired and it shall be sufficient that a negotiable certified cheque is tendered instead of cash.

18.05 Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and words importing persons shall include the feminine and neuter genders and words importing persons shall include firms and corporations and vice versa.

18.06 This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the Courts of said province shall have the jurisdiction to hear all matters arising hereunder.

18.07 This Agreement including the schedules hereto constitute the entire Agreement between the parties.

18.08 There are not, and shall not be any verbal statements, representations, warranties, undertakings or agreements between the parties.

18.09 This Agreement may not be amended or modified in any respect except by written instrument signed by both parties.







18.10 This agreement may be executed by the parties in counterparts and if so signed, shall be valid as if executed on one document.

IN WITNESS WHEREOF, we have hereunto set out hands and seals.

SIGNED, SEALED AND DELIVERED
in the presence of

)
)
)
)
) per: _____
) _____ **PRESIDENT**
) I have authority to bind the corporation
)
) _____ **ONTARIO INC.**
)
)
)
) per: _____
) _____ **PRESIDENT**
) I have authority to bind the corporation

Witness _____

) 
) 
) 
) 
) 
) 

Witness _____

SCHEDULE "B"**CONDITIONS**

This Agreement is conditional upon the following:

1. That the Assets are owned outright by the Vendor as beneficial and legal owner thereof with good and marketable title thereto subject to all existing mortgages, liens, charges, pledges, security interests, encumbrances or other claims which are to be discharged on or before closing, unless agreed to be assumed by the Purchaser.
2. No person, firm or Corporation has any written or oral agreement, option, understanding or commitment or any right or privilege capable of becoming an agreement, for the purchase from the Vendor of the Vendor's interest in the Assets.
3. There are not any actions, suits or proceedings pending, or to the knowledge of the Vendor, threatened against or affecting the Vendor, which will prevent or impede the purchase and sale of the Vendor's interest in the Assets.
4. The Vendor shall not, prior to the closing date, dispose of any assets other than in the normal course of business.
6. That the Assets shall be free and clear of all encumbrances, liens, security interests or chattel mortgages on closing, save and except those willing to be assumed by the Purchaser.
7. That any leases or licenses to be assigned by the Vendor are in good standing and there are no equities existing between the Vendor and the Lessor.

SCHEDULE "C"**WARRANTIES**

The Vendor covenants, warrants and represents as follows:

1. That it will be on closing the absolute owner of all of the Assets.
2. That all of the Assets will be free and clear on closing of all liens, encumbrances, security interests, chattel mortgages, financing statements, leases, conditional sales contracts and any other encumbrances whatsoever either registered or unregistered, save and except those willing to be assumed by the Purchaser.
3. That until closing, the Vendor will carry on business in the usual manner and the Vendor will not take any action, which will adversely or materially, affect the operation of the stores.
4. That the assets being purchased will be in good working condition as of the date of closing.
5. That the Vendor is not a non-resident within the meaning of the *Income Tax Act*.
6. That the Vendor has the right to sell the assets and the business to the Purchaser.
7. That this agreement does not constitute the default of any agreement secured by a Charge on any of the assets being purchased.
9. That the Vendor shall give a written warranty on closing which encompasses all of the aforementioned warranties and which shall survive closing.

SCHEDULE “D”
INDEMNITY

It is hereby understood that the Purchaser does not assume and shall not be liable for and the Vendor does hereby agree to indemnify and save the Purchaser harmless from and against all obligations, commitments, liabilities, claims and demands arising out of and in any way connected with the Business or otherwise in existence or incurred or accruing as of the date of closing including all liabilities, benefits, claims and demands for income tax, sales tax, excise tax or other taxes, liens or charges arising out of the *Income Tax Act* of Canada, the *Worker’s Safety Insurance Board Act*, the *Ontario Retail Sales Tax Act*, the *Unemployment Insurance Act*, the *Canadian Pension Plan Act*, the *Employment Standards Act*, or any other municipal, provincial or federal legislation, which has arisen or might arise in future as a result of the Vendor’s operation of the Business. The provisions of this indemnity shall not merge and shall survive closing.

SIGNED, SEALED AND DELIVERED

in the presence of:

)
)
) **████████████████████ INC.**
)
) per:
) _____
) **██████████** President
)
)

SCHEDULE “E”**DOCUMENTS TO BE DELIVERED ON CLOSING**

The Vendor shall deliver among other things, the following documents to the Purchaser on closing:

1. Retail Sales Tax Certificate pursuant to section 6 of the Act, if applicable.
2. WSIB Purchase Certificate, if applicable.
3. *Bulk Sales Act* Declaration indicating that there are no secured or unsecured trade creditors, if applicable.
4. Bill of Sale for the assets being purchased.
5. All reasonable documentation required by the Purchaser’s solicitor to satisfy the conditions set out in Schedule “B” to this Agreement.
6. Warranties and covenants as set out in Schedule “C” to this Agreement.
7. Indemnity as set out in Schedule “D” to this Agreement.
8. Any other documentation as required by the Purchaser’s solicitor.
9. Consent to Assignment of any leases or licenses to the Purchaser as may be required by the Purchaser.
10. Statement of Adjustments.
11. Undertaking re: adjustments.
12. Consent to transfer of telephone/fax numbers.
13. Non-Competition Agreement as set out in Schedule “F” to this Agreement.

SCHEDULE “F”

NON-COMPETITION AGREEMENT

IN CONSIDERATION of the Closing of the above transaction:

1. The undersigned hereby covenant that they will not, for a period of Two (2) years from the date hereof either individually or in partnership or jointly or in conjunction with any person or persons, firm, association, syndicate, company, corporation or other entity either as principal, agent, shareholder, consultant, employee or in any other manner whatsoever directly or indirectly, carry on or be engaged in or be concerned with or interested in or advise or disclose any know-how to, guarantee the debts or obligations of or lend any money to or permit their names or any part thereof to used or employed by any person or persons, firm, association, syndicate, company, corporation or other entity engaged in or concerned with or interested in the business of direct marketing not-for-profit anywhere within one hundred kilometers of the current premises location.
2. The undersigned covenant and agree that if any provision of the foregoing covenant is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or other parts thereof, and each covenant herein and parts thereof are hereby declared to be separate and distinct.
3. The undersigned hereby agree that all restrictions in this covenant are reasonable and valid and waive all defences to the strictest enforcement thereof.

IN WITNESS WHEREOF the undersigned have executed this Agreement, this [redacted] day of [redacted]

SIGNED, SEALED AND DELIVERED

in the presence of:

)
)
) [redacted]
)
) per:
)
) [redacted] President
)
)
)
) [redacted]
) Principal of the corporation in his
) personal capacity.
)
)
)
) [redacted]
) Principal of the corporation in his
) personal capacity.

SCHEDULE "G"

[REDACTED] INDEPENDENT CONTRACTOR AGREEMENT

TO: [REDACTED] (the "Employee")

FROM: [REDACTED] Ontario Inc. (the "Purchaser")

RE: Purchase of Certain Assets of [REDACTED] Inc. (the "Business")

DATED: [REDACTED]

- 1 We are the purchaser of certain assets from your current employer, [REDACTED] Inc., (the "Vendor"), and have entered into an Agreement to purchase such assets from the Vendor in a transaction closing on or about [REDACTED] (the actual date of closing may vary) ("Closing").
- 2 We confirm our understanding that you are currently the majority shareholder and the Vendor.
- 3 We hereby offer to employ you as a temporary independent contractor of the Purchaser **commencing from and as of and conditional upon Closing** on the Terms as follows:
 - (a) You agree to provide an orderly transition and will continue working with the Purchaser for a minimum of twenty (20) business days at an all-inclusive consulting fee of [REDACTED]. Pre-approved direct business expenses will be reimbursed.
 - (b) In addition to any amounts set out above, and as part of the Agreement, the Purchaser will pay you a commission of (i) [REDACTED] of revenues invoiced by, and collected in full by, the Purchaser, (ii) [REDACTED]; and (iii) [REDACTED] plus an additional one-time payment of [REDACTED] for a period of one year from the date of Closing on all account revenues with whom Vendor has previously served including any prospects with whom Vendor has made quotations. You shall provide a list of such customers and prospects, including all names, contact parties and e-mail and telephone addresses and numbers, to the Purchaser prior to Close of the sale transaction. The only exception will be [REDACTED]
 - (c) Commission as set out in paragraph 3(b) above shall be paid on a quarterly basis and only upon satisfactory payment in full by customer to the Purchaser.
 - (d) Except as otherwise agreed by the Purchaser, you shall pay all of your own expenses in providing the services, including all of your own overhead costs and expenses.
- 4 It is acknowledged by the parties hereto that you are being retained by the Purchaser in the capacity of independent contractor and not as an employee of the Purchaser. You and the Purchaser acknowledge and agree that this agreement does not create a partnership or joint venture between them.
- 5 Please confirm your acceptance or rejection of this offer where noted below and return to us. We confirm this offer is open for your acceptance up and including the date of Closing, and then will be automatically revoked and terminated.

We hope you will accept our offer and look forward to working with you.

[REDACTED] ONTARIO INC.

per:

[REDACTED] President

Acceptance and Acknowledgement

The undersigned Employee hereby confirms his acceptance of the offer set out above on the Terms set out above **commencing from and conditional upon Closing**.

- 1 The Employment Terms set out above are true, correct and complete.
- 2 The Vendor will be responsible for and will be paying me all my salary, wages, benefits, compensation, termination pay, severance pay and vacation pay up and including the date of Closing, and I will advise the Purchaser within two (2) weeks after Closing if I have not received those payments in full to my satisfaction within that time period.
- 3 I will make not make and will not have any claim against the Purchaser for any salary, wages, benefits, compensation, termination pay, severance pay and vacation pay for the period prior to Closing.
- 4 I am aware that the Purchaser is relying upon this certificate to complete the purchase of the Business from its current owners.

DATED [REDACTED]

Witness

[REDACTED]

SCHEDULE “H”

INDEPENDENT CONTRACTOR AGREEMENT

TO: (the “Employee”)

FROM: Ontario Inc. (the “Purchaser”)

RE: Purchase of Certain Assets of Inc. (the “Business”)

DATED:

- 6 We are the purchaser of certain assets from your current employer, (the “Vendor”), and have entered into an Agreement to purchase such assets from the Vendor in a transaction closing on or about (the actual date of closing may vary) (“Closing”).
- 7 We confirm our understanding that you are currently employed by the Vendor and the Business on the following basis (“Employment Terms”):

| | |
|---|-----|
| Current position | |
| Current base salary | |
| Current benefits and perqs (if any) | |
| Other compensation issues (if any) | Nil |
| Arrears of salary or wages (if any) | Nil |
| Arrears of vacation pay (if any) | Nil |
| Special termination provisions (if any) | Nil |

- 8 We hereby offer to employ you as a temporary independent contractor of the Purchaser commencing from and as of and conditional upon Closing on the Terms as follows:
- 9 You agree to provide an orderly transition and will continue working with the Purchaser in a capacity as Production Manager and will provide assistance, as reasonably required by the Purchaser, for a fixed period of six (6) months following Closing. During this period, the Purchaser shall pay you an hourly rate of . You will not be entitled to any further salary, unemployment insurance, C.P.P., worker’s compensation, employee benefits or other related charges and deductions.
- 10 Except as otherwise agreed by the Purchaser, you shall pay all of your own expenses in providing the services, including all of your own overhead costs and expenses. However, you will be reimbursed for automobile expenses based upon the rate of per kilometre for itemized business travel that has been pre-approved in writing by the Purchaser.
- 11 To be reimbursed for your earnings and business expenses, you will be required to submit an invoice to either weekly, semi-monthly or monthly. You will need to instruct the Purchaser on your preference.
- 12 It is acknowledged by the parties hereto that you are being retained by the Purchaser in the capacity of independent contractor and not as an employee of the Purchaser. You and the Purchaser acknowledge and agree that this agreement does not create a partnership or joint venture between them.
- 13 Please confirm your acceptance of this offer where noted below and return to us. We confirm this offer is open for your acceptance up and including the date of Closing, and then will be

automatically revoked and terminated.

We hope you will accept our offer and look forward to working with you.

██████████ ONTARIO INC.

per:

██████████ President

Acceptance and Acknowledgement

The undersigned Employee hereby confirms his acceptance of the offer set out above on the Terms set out above **commencing from and conditional upon Closing**.

- 5 The Employment Terms set out above are true, correct and complete.
- 6 The Vendor will be responsible for and will be paying me all my salary, wages, benefits, compensation, termination pay, severance pay and vacation pay up and including the date of Closing, and I will advise the Purchaser within two (2) weeks after Closing if I have not received those payments in full to my satisfaction within that time period.
- 7 I will make not make and will not have any claim against the Purchaser for any salary, wages, benefits, compensation, termination pay, severance pay and vacation pay for the period prior to Closing.
- 8 I am aware that the Purchaser is relying upon this certificate to complete the purchase of the Business from its current owners.

DATED [REDACTED]

Witness

[REDACTED]