ACQUISITION AGREEMENT

THIS AGREEMENT dated as of September 20, 2004

AMONG:

3091790 NOVA SCOTIA COMPANY, a company incorporated under the laws of Nova Scotia

(the "**Purchaser**")

OF THE FIRST PART,

- and -

DANAHER CORPORATION, a Delaware corporation

("**Danaher**")

OF THE SECOND PART,

- and -

TROJAN TECHNOLOGIES INC., a corporation incorporated under the laws of Ontario

(the "**Company**")

OF THE THIRD PART.

WHEREAS the boards of directors of each of the Purchaser and Danaher has approved this Agreement and the transactions contemplated hereby;

AND WHEREAS the Board of Directors of the Company (the "**Board**") has approved this Agreement and the transactions contemplated hereby;

AND WHEREAS certain capitalized terms in this Agreement have the meanings ascribed thereto in this Agreement or in Schedule "A" hereto, as appropriate;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby Danaher, the Purchaser and the Company hereby agree as follows:

ARTICLE I
THE OFFER

1.1 Covenants of Danaher and the Purchaser

(a) **Timing** - Danaher agrees to cause the Purchaser make an offer (the "**Offer**") on the terms set forth in Schedule "B" forming part of this Agreement to all holders and for 100% of the Company's issued and outstanding Common Shares including any Common Shares that may become outstanding pursuant to the exercise of currently outstanding options to acquire Common Shares of the Company (collectively, the "**Shares**") at a price of $10.65 per share within ten (10) business days after the date of this Agreement (the "**Offer Deadline**"). Notwithstanding the foregoing, if the mailing of the Offer is delayed by (i) an injunction or order made by a Governmental Entity or (ii) the Purchaser not having obtained any regulatory waiver, consent, approval, ruling or order which is necessary to permit the Purchaser to mail the Offer, then provided that such injunction or order is being diligently contested or appealed or such regulatory waiver, consent or approval is being diligently sought, as applicable, the Offer Deadline shall be extended to the date that is the earlier of (x) the fifth business day following the date on which such injunction or order ceases to be in effect or such waiver, consent or approval is obtained, as applicable and (y) 60 days from the date of this Agreement. Danaher and the Purchaser represent, warrant and covenant that the Purchaser has and shall have all adequate arrangements (as such term is understood for purposes of Section 96 of the *Securities Act* (Ontario) (the "**OSA**")) for financing in place to make and complete the Offer. Danaher and the Purchaser shall publicly announce the Offer in accordance with the agreement of the parties following the execution of this Agreement by the Company on or before 9:30 a.m. (Toronto time) on September 20, 2004, the text of such announcement to be approved by the Company in advance, acting reasonably.

(b) **Offer Documents** – Danaher and the Purchaser shall prepare the Offer, the take-over bid circular and the related letter(s) of transmittal and notice(s) of guaranteed delivery (collectively, the "**Offer Documents**") with respect to the Offer in both English and French in compliance with the OSA and all other applicable provincial securities laws, rules and regulations and published policies thereunder (collectively, the "**Securities Laws**"). Prior to being mailed to holders of record of Shares (the "**Shareholders**") and filed with the Securities Authorities (as hereinafter defined), the Company and its counsel shall be given an opportunity to review the Offer Documents, which shall be delivered in accordance with the notice provisions of Section 6.3 hereof, and comment thereon. Danaher and the Purchaser shall provide the Company with a final copy of the Offer Documents to be mailed to all Shareholders prior to the mailing to Shareholders. Danaher shall cause the Purchaser to file the Offer Documents on a timely basis with the appropriate securities commissions and other regulatory authorities in Canada (the "**Securities Authorities**"). Danaher shall cause the Purchaser to deliver to the Company, Attention: Chairman of the Board of Directors, 100 copies of the Offer Documents and of any other document sent to the holders of Shares in connection with the Offer. The Offer Documents, when filed with the Securities Authorities and mailed to the Shareholders, shall contain all information that is required to be included therein in accordance with any applicable

Canadian law, including, without limiting the generality of the foregoing, the Securities Laws, and shall in all material respects comply with the requirements of applicable Canadian law, including the Securities Laws. The terms of the Offer shall comply with the terms of this Agreement. In making the Offer, Danaher and the Purchaser shall comply in all material respects with the provisions of applicable Canadian law, including the Securities Laws.

(c) **Dealer Manager** – Danaher shall cause the Purchaser to appoint a dealer manager in connection with the Offer and to solicit acceptance of the Offer. The dealer manager will be required to form a soliciting dealer group comprised of members of the Investment Dealers Association of Canada and of the stock exchanges in Canada and their affiliates to solicit acceptance of the Offer in Canada and the United States.

1.2 Approval of the Company

(a) The Company hereby represents and warrants that its Board, after consultation with its advisers, by a resolution of such Board, and upon receiving the recommendation of the Strategy Review Committee of the Board, has unanimously: (i) determined that the Offer, including the price per Share offered pursuant to the Offer, is fair to the holders of the Shares from a financial point of view and that this Agreement and the transactions contemplated hereby are in the best interests of the Company; (ii) approved this Agreement and the transactions contemplated thereby; and (iii) resolved to recommend that the Shareholders accept the Offer and tender their Shares to the Purchaser unless there is another offer that is a Superior Proposal (as hereinafter defined) at the time the recommendation is made.

(b) Subject to Section 4.4, the Company (i) shall prepare and make available to Danaher and the Purchaser, for mailing by the Purchaser, at its option, concurrently with the Offer Documents, sufficient copies of a directors' circular (together with all amendments, supplements and exhibits thereto, the "**Directors' Circular**") in English and in French, which shall reflect the determinations and recommendation referred to in Section 1.2(a) together with a fairness opinion of RBC Dominion Securities Inc., a member of RBC Capital Markets and (ii) shall take all reasonable action to support the Offer. The Company shall comply in all material respects with all Securities Laws in respect of the Offer. Prior to being mailed to Shareholders and filed with the Securities Authorities, Danaher, the Purchaser and their counsel shall be provided with a copy of the Directors' Circular for their review and comment thereon, which shall be delivered in accordance with the notice provisions of Section 6.3 hereof. Each of Danaher and the Purchaser, on the one hand, and the Company, on the other hand, agrees to provide the other and their respective counsel in writing with any written comments, notice or communications either of them or their respective counsel may receive from the Securities Authorities with respect to the Offer, the Offer Documents and the Directors' Circular promptly after the receipt of such comments.

ARTICLE II
REPRESENTATIONS AND WARRANTIES OF DANAHER AND THE PURCHASER

Danaher and the Purchaser hereby jointly and severally represent and warrant to the Company that:

2.1 Corporate Organization

Each of Danaher and the Purchaser is a company duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has all necessary corporate power, authority, capacity and right to enter into this Agreement and complete the transactions contemplated by this Agreement.

2.2 Authority; Enforceability of Agreement

Each of Danaher and the Purchaser has the requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by each of Danaher and the Purchaser, the performance by them of their respective obligations hereunder, and the consummation by them of the transactions contemplated hereby have been duly and validly authorized and no other corporate proceedings on the part of Danaher or the Purchaser are necessary to authorize this Agreement and the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by each of Danaher and the Purchaser and, assuming the due and valid authorization, execution, and delivery of this Agreement by the Company, constitutes a legally valid and binding agreement enforceable by the Company against them in accordance with its terms, subject, however, to the usual limitations with respect to enforcement imposed by law in connection with bankruptcy or similar proceedings and the availability of equitable remedies.

2.3 Conflicting Provisions

Neither Danaher nor the Purchaser is, and at the date of the Offer and the Effective Time will not be, a party to, bound or affected by or subject to, and none of their respective properties or assets are, and at the date of the Offer and the Effective Time none will be, bound or affected by or subject to, any agreement, charter or by-law provision, statute, regulation, judgment, order, decree, Law, note, bond, mortgage, indenture, contract, lease, license, permit, franchise or other instrument or obligation that would (assuming the receipt of the regulatory approvals referred to in Section 3 of Schedule “B”) be violated, contravened, breached by, or under which default would occur as a result of, or that would give to others any rights of termination, amendment, acceleration or cancellation of, or result in any loss of any benefit, or the creation of any Lien on any of the properties or assets of Danaher or the Purchaser as a result of, the execution and delivery of this Agreement, the performance of their respective obligations hereunder, and the consummation of the transactions contemplated hereby and which

default, violation, contravention or breach would materially impair or would prevent them from consummating the transactions contemplated hereby.

2.4 Consents

No consent, waiver, approval, authorization, permit, exemption, registration, licence or declaration of or by, or filing (other than pursuant to the Securities Laws) with, or notification to any domestic, foreign or supranational government or subdivision thereof, administrative, governmental or regulatory authority, agency, commission, court, tribunal or body or self-regulatory organization or any elected or appointed official (each, a "**Governmental Entity**") is required to be made or obtained by Danaher or the Purchaser in connection with: (i) the execution and delivery by them of this Agreement; (ii) the consummation by them of any of the transactions contemplated hereby; or (iii) the performance by them of any of their obligations hereunder, except for or in connection with the regulatory approvals referred to in Section 3 of Schedule "B" hereto and except for any consent, waiver, approval, authorization, exemption, registration, licence, declaration, filing or notification, of which the failure to have, make or receive, individually or in the aggregate, would not prevent them from consummating the transactions contemplated hereby.

2.5 Sufficient Funds

The Purchaser now has and will have at the date of the Offer sufficient funds or adequate arrangements (as such term is understood for purposes of Section 96 of the OSA) for financing in place to provide sufficient funds to purchase all Shares tendered under the Offer.

2.6 Ownership of Shares

The Purchaser, together with its associates and affiliates, is the registered or beneficial owner of, or directly or indirectly exercises control or direction over, no Shares. No person is acting jointly or in concert with Danaher or the Purchaser in connection with the Offer. In addition, neither Danaher nor the Purchaser has entered into an agreement or made arrangements of any kind to acquire Shares (other than as contemplated in this Agreement).

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to Danaher and the Purchaser that:

3.1 Corporate Organization

The Company is a company duly incorporated and validly existing under the OBCA. Each of the Company's Subsidiaries is a corporation or other business entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization. Each of the Company and each of its Subsidiaries (a) has all necessary corporate power, authority, capacity and right (i) to enter into this Agreement, (ii) to

complete the transactions contemplated hereby, (iii) to own, operate or lease its properties and assets, and (iv) to carry on its business as it is now being conducted and (b) is duly qualified or licensed to do business, and is in good standing, in each jurisdiction in which the nature of its business or the properties and assets owned, operated or leased by it makes such qualification, licensing or good standing necessary, except where the failure to have such power or authority, or the failure to be so qualified, licensed or in good standing, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as set forth on Schedule 3.1(a), the Company has provided to the Purchaser a complete and correct copy of the articles of incorporation and the by-laws or comparable organizational documents, each as amended to the date hereof, of the Company and each of its Subsidiaries. The Company is not in default under, or in violation of, its articles of incorporation or by-laws, and each of its Subsidiaries is not in violation of its comparable organizational documents.

3.2 Capitalization; Subsidiaries

(a) The authorized Share Capital of the Company consists only of an unlimited number of Shares. The rights and privileges of the Shares are set forth in the Company's articles of incorporation, as amended and/or restated to the date hereof, heretofore provided to the Purchaser. As of the date hereof, there are 21,820,532 Shares issued and outstanding. As at the date hereof, up to a maximum of 1,404,816 Shares may be issued pursuant to outstanding share option entitlements. Schedule 3.2(a) sets forth, as of the date hereof, the holders of all outstanding Company share options and the number, exercise prices, and expiration dates of each grant to such holders. All the outstanding Shares are, and all Shares that may be issued pursuant to the exercise of outstanding Company share options will, when issued in accordance with the respective terms of the applicable share options, be, duly authorized, validly issued, fully paid and non-assessable and are not and will not be subject to or issued in violation of any pre-emptive rights. There are no bonds, debentures, notes or other Indebtedness having voting rights (or convertible into securities having such rights) in respect of the Company or any of its Subsidiaries ("**Voting Debt**"), whether issued by the Company or any of its Subsidiaries, issued and outstanding. Except as described in the fourth sentence of this Section 3.2(a) or in Schedule 3.2(a), there are no options, warrants, conversion privileges or other rights, agreements, arrangements or commitments obligating the Company or any of its Subsidiaries to issue, transfer, or sell, or to cause to be issued, transferred, or sold, any shares of the Share Capital or Voting Debt of, or other equity interest in, the Company or any of its Subsidiaries or securities or obligations of any kind convertible into or exchangeable for any shares of the Share Capital or Voting Debt of, or other equity interest in, the Company, any of its Subsidiaries or obligating the Company or any of its Subsidiaries to grant, extend or enter into any such option, warrant, call, subscription or other right, agreement, arrangement or commitment, nor is there outstanding any stock appreciation rights, phantom equity or similar rights, agreements, arrangements or commitments based upon the book value, income or any other attribute of the Company or any of its Subsidiaries. Except as set forth in Schedule 3.2(a), there are no outstanding contractual obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any shares of the Share Capital of any of its Subsidiaries. No Subsidiary of the Company owns any Shares. Except as contemplated by this Agreement, there are no registration rights, and

there is no rights agreement, "poison pill" anti-takeover plan or other agreement or understanding to which the Company or any of its Subsidiaries is a party or by which it or they are bound with respect to the Share Capital of the Company or any of its Subsidiaries.

(b) Schedule 3.2(b) lists all the Subsidiaries of the Company. Except as indicated on Schedule 3.2(b), all outstanding shares of the Share Capital in each Subsidiary: (i) are owned, directly or indirectly, by the Company free and clear of all pledges, claims, liens, charges, mortgages, hypothecs, assignments, conditional sales, encumbrances or security interests of any kind or nature whatsoever (whether statutory or otherwise) (collectively, "**Liens**"); (ii) have been duly authorized and validly issued and are fully paid and non-assessable; and (iii) are free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such Share Capital or other ownership interests) that would prevent the Purchaser from operating the business of such Subsidiary immediately after the Effective Time in materially the same manner as operated on the date hereof. Other than the Subsidiaries of the Company or as set forth on Schedule 3.2(b), the Company does not own or control, directly or indirectly, any equity interest in any Person.

3.3 Authority; Enforceability of Agreement

The Company has the requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Company, the performance by the Company of its obligations hereunder, and the consummation by the Company of the transactions contemplated by this Agreement have been duly and validly authorized by the Board and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Company and, assuming the due and valid authorization, execution, and delivery of this Agreement by the Purchaser and Danaher, constitutes a legally valid and binding agreement enforceable by the Purchaser and Danaher against the Company in accordance with its terms, subject, however, to the usual limitations with respect to enforcement imposed by Law in connection with bankruptcy or similar proceedings and the availability of equitable remedies.

3.4 Conflicting Provisions

Neither the Company nor any of its Subsidiaries is a party to, bound or affected by or subject to, and none of their properties or assets is, and at the date of the Offer and the Effective Time none will be, bound or affected by or subject to, any agreement, charter or by-law provision, statute, regulation, judgment, order, decree, Law, note, bond, mortgage, indenture, contract, lease, license, permit, franchise or other instrument or obligation that would (assuming the receipt of the regulatory approvals referred to in Section 3 of Schedule "B") be violated, contravened, breached by, or under which default would occur as a result of, or that would give to others any rights of termination, amendment, acceleration or cancellation of, or result in any loss of any benefit, or the creation of any Lien on any of the properties or assets of the Company or any of its Subsidiaries as a result of, the execution and delivery of this Agreement, the

performance of the Company's obligations hereunder, and the consummation of the transactions contemplated hereby and, with respect only to all such defaults, violations, contraventions, and breaches other than those of any charter or by-law provision, which default, violation, contravention or breach would constitute a Material Adverse Effect or would prevent the Company from consummating the transactions contemplated hereby.

3.5 Consents

No consent, waiver, approval, authorization, permit, exemption, registration, licence or declaration of or by, or filing (other than pursuant to the Securities Laws) with, or notification to any Governmental Entity is required to be made or obtained by the Company in connection with: (i) the execution and delivery by the Company of this Agreement; (ii) the consummation by the Company of any of the transactions contemplated hereby; or (iii) the performance by the Company of any of its obligations hereunder, except for or in connection with the regulatory approvals referred to in paragraphs (e) and (f) of Section 3 of Schedule "B" hereto and except for any consent, waiver, approval, authorization, exemption, registration, licence, declaration, filing or notification, of which the failure to have, make or receive, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

3.6 Public Disclosure

(a) The Company has complied in all material respects with its obligations to file all forms, reports, statements, schedules, proxy statements, certifications, and documents required to be filed by the Company with the Securities Authorities (as they have been amended since the time of their filing, and including any documents filed as exhibits, annexes or schedules thereto, collectively, the "**Reports**"), and complete and correct copies of all such Reports are available to the Purchaser through public sources. Each Report complied in all material respects with the applicable requirements of the Securities Laws, as in effect on the date so filed. None of such Reports (including any financial statements, schedules, documents or exhibits included or incorporated by reference therein) or any other document, as of the date of filing pursuant to the Securities Laws and of any amendment or supplement and, in the case of any proxy statement, at the date mailed to shareholders and at the date of the meeting, contained any misrepresentation (as defined in the OSA).

(b) The audited consolidated financial statements of the Company (including any related notes thereto) for the fiscal year ended December 31, 2003 and the unaudited financial statements for the fiscal interim period ended June 30, 2004 (collectively, the "**Financial Statements**"), which have previously been furnished to the Purchaser and are included in the Reports, have been prepared in accordance with Canadian generally accepted accounting principles, applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto) and fairly present the consolidated financial position of the Company and its Subsidiaries at the dates thereof and the consolidated results of its operations and changes in cash flows for the periods indicated.

(c) The management of the Company has (i) implemented appropriate procedures to ensure that material information relating to the Company, including its Subsidiaries, is made known to the management of the Company by others within those entities, which procedures are effective at the reasonable assurance level in timely alerting the Company's principal executive officer and its principal financial officer to material information required to be included in the Company's periodic reports required under the OSA or any other Law, and (ii) disclosed, based on its most recent evaluation, to the Company's outside auditors and the audit committee of the Board (A) all significant deficiencies and material weaknesses known to management of the Company in the design or operation of internal control over financial reporting that could adversely affect the Company's ability to record, process, summarize and report financial data and (B) any fraud known to management of the Company, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

(d) Since December 31, 2003, neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any director, officer, employee, auditor, accountant or representative of the Company or any of its Subsidiaries has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or any of its Subsidiaries or their respective internal accounting controls, including any complaint, allegation, assertion, or claim that the Company or any of its Subsidiaries has engaged in questionable accounting or auditing practices.

(e) Except as and to the extent set forth on the consolidated balance sheet of the Company and its Subsidiaries at June 30, 2004, including the notes to the financial statements of the Company for its fiscal period then ended, neither the Company nor any of its Subsidiaries has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) that would be required to be reflected on a balance sheet or in the notes thereto prepared in accordance with Canadian generally accepted accounting principles, except for liabilities or obligations incurred in the ordinary course of business consistent with past practice since June 30, 2004 that would not reasonably be expected to constitute, individually or in the aggregate a Material Adverse Effect.

3.7 Absence of Changes

From December 31, 2003 to the date hereof, except as set forth in the Reports filed at least five (5) business days before the date hereof:

(a) there has not been any Material Adverse Effect; and

(b) the businesses of the Company and each of its Subsidiaries have been conducted only in the ordinary course of business consistent with past practice.

Except as set forth on Schedule 3.7, since five (5) business days prior to the date hereof, there has been not any action taken by the Company or any of its Subsidiaries that, if taken during the

period from the date of this Agreement through the Effective Time, would constitute a breach of Section 4.1.

3.8 Absence of Litigation

Except as set forth on Schedule 3.8 or in the Reports filed at least five (5) business days before the date hereof, there are no suits, claims, grievances, actions, proceedings or investigations pending or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries, or any properties, assets or rights of the Company or any of its Subsidiaries, before any Governmental Entity or arbitrator, that: (i) individually or in the aggregate constitute or would reasonably be expected to constitute a Material Adverse Effect; or (ii) seek to delay or prevent the consummation of the transactions contemplated hereby, and as to each of the foregoing, to the knowledge of the Company, there are no bases or grounds on which such a suit, claim, action, proceeding or investigation could be commenced with a reasonable likelihood of success. As of the date hereof, neither the Company nor any of its Subsidiaries nor any of their respective properties or assets is or are subject to any order, writ, judgment, injunction, decree, determination or award which would, individually or in the aggregate, constitute or would reasonably be expected to constitute a Material Adverse Effect or that could prevent or delay the consummation of the transactions contemplated hereby.

3.9 Environmental

(a) Neither the Company nor any of its Subsidiaries has received notice of, or, to the knowledge of the Company, is subject to, any investigation by, order from or claim by any Person (including without limitation any Governmental Entity or prior owner or operator of any real property, plant, building or facility now or previously owned, leased, used, or operated by the Company of any of its present or former Subsidiaries (the "**Company Property**")) respecting (i) any Environmental Law, (ii) any remedial action or (iii) any claim arising from the Release or threatened Release of a Contaminant into the environment, except, in the case of each of the foregoing, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has been served with or otherwise received notice of any pending judicial or administrative proceeding, order, judgment or decree, or entered into a settlement alleging or addressing a violation of or liability under any Environmental Law, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) There is not now with respect to the operations of the Company or any of its Subsidiaries, nor to the knowledge of the Company has there ever been, on, under, or in any Company Property: (A) any Release, (B) any treatment, recycling, disposal or storage, other than short term storage prior to removal by a licensed transporter for off-site disposal, of any hazardous waste, as that term is defined under Regulation 347 under the *Environmental Protection Act* (Ontario) and other Environmental Laws or any foreign, provincial, state, or local equivalent, (C) any underground storage tank or surface impoundment or landfill or waste pile, or (D) any event, condition, or circumstance that could give rise to liability under any applicable

Environmental Law, except, in the case of each of the foregoing, for such events that would not reasonably be expected to have, individually or in the aggregate, Material Adverse Effect.

(c) To the knowledge of the Company, any asbestos-containing material or presumed asbestos-containing material which is on or part of any Company Property presently owned, leased or operated by the Company or any of its Subsidiaries, as currently configured and operated, is in good repair according to the current standards and practices governing such material, and its presence or condition does not violate any currently applicable Environmental Law. None of the products manufactured, distributed, or sold by the Company or any of its Subsidiaries contained or contains asbestos or asbestos-containing material.

(d) There are no reports and documents relating to environmental matters materially adversely affecting the Company or any of its Subsidiaries or any of the Company Property that are in the possession or under the control of the Company or any of its Subsidiaries. Copies of all such reports and documents have been provided to the Purchaser.

3.10 Owned and Leased Real Properties

(a) Schedule 3.10(a) sets forth a complete and accurate list of (i) the addresses of all real property owned by the Company or any Subsidiary (the "**Real Estate**") and (ii) all material liabilities, liens, encumbrances, easements, restrictions, reservations, tenancies, agreements or other obligations affecting the Real Estate. There is no pending or, to the Company's knowledge, threatened condemnation, expropriation or eminent domain proceeding with respect to the Real Estate. There are no taxes or material betterment assessments other than ordinary real estate taxes pending or payable against the Real Estate.

(b) The Company has good and marketable title to the Real Estate free and clear of all Liens, easements, title retention agreements or arrangements, conditional sales, deemed or statutory trusts, restrictive covenants or other encumbrances of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation (the "**Real Estate Liens**"), except for the Liens set out in Schedule 3.10(a).

(c) Schedule 3.10(c) sets forth a complete and accurate list of all title opinions, title insurance policies, surveys, engineering reports and hazardous waste reports prepared with respect to the Real Estate.

(d) Schedule 3.10(d) sets forth a complete and accurate list of all real property leased, subleased or licensed by the Company or any of its Subsidiaries pursuant to the leases, amendments, extensions, agreements and other documents related thereto (collectively "**Company Leases**") and the location of the premises subject to the Company Leases. Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any other party to any Company Lease, is in default, nor with the giving of notice, the lapse of time or the happening of any other event or condition, will be in default, under any of the Company Leases, except where the existence of such defaults, individually or in the aggregate, has not had, and would not reasonably be expected to have a Material Adverse Effect. Each of the Company

Leases creates a good and valid leasehold estate in the property thereby demised, is in full force and effect and is enforceable in accordance with its terms and shall not cease to be in full force and effect as a result of the transactions contemplated by this Agreement, except to the extent any failure to be in full force and effect would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of the Company, all of the covenants to be performed by any other party under the Company Leases have been fully performed, except for any failure to perform that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries leases, subleases or licenses any real property to any Person other than the Company and its Subsidiaries.

3.11 Material Contracts

(a) Except as previously provided or made available to the Purchaser or as permitted pursuant to Section 4.1, neither the Company nor any of its Subsidiaries is a party to or bound by (i) any agreement relating to the incurring of Indebtedness by the Company or any of its Subsidiaries in an amount in excess in the aggregate of $250,000 (collectively, "**Instruments of Indebtedness**"), (ii) any "material contract" (as such term is used in National Instrument 51-102-Continuous Disclosure Obligations), (iii) any non-competition or exclusive dealing agreement, or any other agreement or obligation that purports to limit or restrict in any respect (A) the ability of the Company or its Subsidiaries to solicit customers, (B) the ability of any non-Subsidiary affiliate of the Company to solicit customers, or (C) the manner in which, or the localities in which, all or any portion of the business of the Company and its Subsidiaries or, following consummation of the transactions contemplated by this Agreement, the Purchaser and its Subsidiaries, is or would be conducted, (iv) any agreement providing for the indemnification by the Company or a Subsidiary of the Company of any Person other than standard form indemnity provisions (or provisions that impose substantially similar obligations on the Company or any of its Subsidiaries as the standard form indemnity provisions) in agreements with customers of the Company or any of its Subsidiaries entered into in the ordinary course of business consistent with past practice, (v) any joint venture or partnership agreement, (vi) any agreement that grants any right of first refusal or right of first offer or similar right or that limits or purports to limit the ability of the Company or any of its Subsidiaries to own, operate, sell, transfer, pledge or otherwise dispose of any assets or business, (vii) any contract or agreement providing for any payments that are conditioned, in whole or in part, on a change of control of the Company or any of its Subsidiaries, (viii) any collective bargaining agreement, shop agreement or other similar agreement, (ix) any Employment Agreement (other than agreements terminable by the Company or any Subsidiary of the Company on not more than thirty (30) days' notice without penalty and that will not in any respect be affected by a change of control of the Company), with, or any agreement or arrangement that contains any severance pay or post-employment liabilities or obligations (other than as required by Law) to, any current or former employee of the Company or its current or former Subsidiaries, and (x) any agreement material to the Company and its Subsidiaries, taken as a whole, pertaining to the use of or granting any right to use or practice any rights under any Intellectual Property (the agreements, contracts and obligations listed in clauses (i) through (x) being referred to herein as "**Material Contracts**").

None of the Material Contracts contains a "most favoured nation" clause or other term providing preferential pricing or treatment to a third party.

(b) Each Material Contract is valid and binding on the Company (or, to the extent a Subsidiary of the Company is a party, such Subsidiary) and, to the knowledge of the Company, any other party thereto, and each Material Contract is in full force and effect. Neither the Company nor any of its Subsidiaries is in breach or default under any Material Contract or is aware of any condition that with the passage of time or the giving of notice or both would result in such a breach or default, except in each case where any such breaches or defaults would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary of the Company knows of, or has received notice of, any breach or default under (nor, to the knowledge of the Company, does there exist any condition which with the passage of time or the giving of notice or both would result in such a breach or default under) any Material Contract by any other party thereto except where any such violation or default would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Prior to the date hereof, the Company has made available to the Purchaser true and complete copies of all Material Contracts.

(c) Except as set forth on Schedule 3.11(c), there are no provisions in any Instrument of Indebtedness that provide any restrictions on the repayment of the outstanding Indebtedness thereunder, or that require that any financial payment (other than payment of outstanding principal and accrued interest) be made in the event of the repayment of the outstanding Indebtedness thereunder prior to expiration. For purposes of this Agreement, "**Indebtedness**" of a Person shall mean (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes and similar instruments, (iii) all leases of such Person capitalized in accordance with Canadian generally accepted accounting principles, and (iv) all obligations of such Person under sale-and-lease back transactions, agreements to repurchase securities sold and other similar financing transactions.

3.12 Employee Benefit Plans

(a) Schedule 3.12(a) includes a complete list of all material Employee Benefit Arrangements and all Material Employment Agreements.

(b) All of the Employee Benefit Arrangements are and have been established, registered, qualified, invested and administered, in all material respects and to the extent required, in accordance with their terms and all Laws. Neither the Company, any of its Subsidiaries, nor, to the knowledge of the Company, any agent or delegate of any of the foregoing has breached any fiduciary obligation with respect to the administration or investment of any Employee Benefits Arrangement. Except as set forth on Schedule 3.12(b), the Company may unilaterally amend or terminate, in whole or in part, each Employee Benefits Arrangement subject only to approvals required by Laws.

(c) All obligations regarding the Employee Benefit Arrangements, including contribution obligations, have been satisfied; there are no outstanding defaults or violations by

any party to any Employee Benefit Arrangement; and no penalties or fees are owing or exigible under or in respect of any Employee Benefit Arrangement. Except as set forth in Schedule 3.12(c), no commitments to improve or otherwise amend any Employee Benefit Arrangement have been made by the Company or any of its Subsidiaries (as applicable) except as required by applicable Laws.

(d) No Employee Benefit Arrangement is subject to any pending investigation, examination or other proceeding, action or claim initiated by any Governmental Entity, or by any other party (other than routine claims for benefits), and to the knowledge of the Company, there exists no state of facts that could reasonably be expected to give rise to any such investigation, examination or other proceeding, action or claim or to affect the registration of any Employee Benefit Arrangements required to be registered.

(e) No insurance policy or any other agreement affecting any Employee Benefits Arrangement requires or permits a retroactive increase in contributions, premiums or other payments due thereunder. The level of insurance reserves under each insured Employee Benefit Arrangement is reasonable and sufficient to provide for all incurred but unreported claims.

(f) Except as set forth on Schedule 3.12(f), to the knowledge of the Company, no employee or former employee (or beneficiary of either) of the Company or any of its Subsidiaries is now, or after completing additional service or applying at a future date will be, entitled to receive any benefits (other than benefits under any pension or retirement plans), including death or medical benefits (whether or not insured) beyond retirement or other termination of employment, other than as applicable Law requires.

(g) Except as set forth on Schedule 3.12(g), to the knowledge of the Company, no Employee Benefit Arrangement contains any provision or is subject to any Law that would accelerate or vest any benefit or require severance, termination or other payments or trigger any liabilities as a result of the transactions this Agreement contemplates; no employee, officer or director has been promised or paid any bonus or incentive compensation related to the transactions contemplated pursuant to this Agreement; and no payments under any Employee Benefit Arrangement would, individually or collectively, be nondeductible under applicable Law.

3.13 <u>Labour and Employees</u>

(a) Schedule 3.13(a) includes a complete list of all directors, officers, employees and Significant Independent Contractors working for the Company or any of its Subsidiaries, whether actively at work or not, together with their salaries, wage rates, commissions, consulting fees, positions, status as full time or part time employees and date of hire. For purposes of this Section 3.13(a), “Significant Independent Contractor” means an independent contractor who is either an individual or the sole person employed by an entity and who provides services for which, in the twelve (12) month period ending on August 31, 2004, such independent contractor is paid more than $75,000. The aggregate amounts paid to independent contractors who are either individuals or the sole person employed by an entity, other than such independent

contractors listed on Schedule 3.13(a), do not exceed $500,000 for the preceding twelve (12) months.

(b) No employees of the Company or of any of its Subsidiaries are represented by any labour union or any collective bargaining organization. No labour organization or group of employees of the Company or any of its Subsidiaries has made a pending demand for recognition or certification, and there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or threatened to be brought or filed, with the U.S. National Labor Relations Board or the Ontario Labour Relations Board or any other labour relations Governmental Entity nor has there been any such events in the last three (3) years.

(c) With respect to employees of and service providers of the Company and its Subsidiaries: except as would not reasonably be expected to have a Material Adverse Effect or as set forth on Schedule 3.13(c), the Company and its Subsidiaries comply and have complied with all Laws relating to employees, employment, and employment practices, terms and conditions of employment and wages and hours, including any such Law relating to employment standards, vacation pay, overtime pay, occupational health and safety, pay equity, employment equity, employment discrimination, workers' compensation, family and medical leave, and immigration, and no claims or investigations are pending or, to the Company's knowledge, threatened with respect to such Law or agreements, either by private individuals or by governmental agencies; and all United States employees are at will.

(d) To the Company's knowledge, neither it nor any of its Subsidiaries is, nor has it been, engaged in any unfair labour practice. There is not now, nor within the past three (3) years has there been, any unfair labour practice complaint against the Company or any of its Subsidiaries pending or, to the Company's knowledge, threatened, before the U.S. National Labor Relations Board or the Ontario Labour Relations Board or any other comparable Governmental Entity or any workers' council. No labour strike, lock-out, slowdown, or work stoppage is or has been directly affecting or pending or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries nor has there been any such events in the last three (3) years.

(e) There are no outstanding loans made by the Company or any of its Subsidiaries to any director, officer, or independent contractor (for greater certainty, travel advances or advances against commissions of less than $20,000 are not considered as a loan for the purposes of this paragraph).

3.14 Intellectual Property and Confidentiality

(a) Set forth on Schedule 3.14(a) is a list of all patents, patent applications, trademark registrations and trademark applications, service mark registrations and service mark applications, certification mark registrations and certification mark applications, copyright registrations and copyright registration applications, domain names, mask works registrations and mask works registration applications, both domestic and foreign, that are owned by the Company or any of its Subsidiaries (collectively, "**Registered Intellectual Property**"), in each

case enumerating specifically the applicable filing or registration number, title, jurisdiction in which filing was made or from which registration issued, date of filing or issuance, names of all registrant(s) and current registered owner(s), as applicable. Schedule 3.14(a) also lists (i) any inter partes proceedings or actions before any court, tribunal (including the United States and Canadian Patent and Trademark Offices), Internet registration authority or equivalent authority anywhere in the world related thereto and (ii) the date on which such registrations will expire or by which time the rights therein will have to be renewed or extended to prevent expiration, lapse or other loss. The Registered Intellectual Property and all other material computer software, trade secrets, trademarks, trade names, service marks, certification marks, copyrights, know-how, methods, processes, procedures, apparatus, equipment, industrial property, discoveries, inventions, patent disclosures, designs, drawings, plans, specifications, engineering data, manuals, development projects, research and development work in progress, technology or other proprietary rights or confidential information, whether foreign or domestic, that are owned by the Company or any of its Subsidiaries are referred to as the "**Owned Intellectual Property**." Except as set forth on Schedule 3.14(a), the Company and its Subsidiaries own all right, title and interest in and to the Owned Intellectual Property validly and beneficially, free and clear of all material Liens, with the sole and exclusive right to use the same, subject to those licenses granted to others by the Company or any of its Subsidiaries and listed on Schedule 3.14(b). The names of all joint owners of any jointly owned Owned Intellectual Property are listed in Schedule 3.14(a). The Company and Subsidiaries have complied with their duty of candour and disclosure to the United States and Canadian Patent and Trademark Offices and any relevant foreign patent office with respect to all patent applications filed by or on behalf of the Company or any of its Subsidiaries (the "**Patent Applications**") and have made no material misrepresentation in the Patent Applications. Except as set forth on Schedule 3.14(a), the Company and its Subsidiaries have no knowledge of any information which would impact the patentability or enforceability of any Registered Intellectual Property.

(b) Set forth on Schedule 3.14(b) is a list of (i) all material licenses, assignments and other transfers of rights or interests (including any covenants not to asserts rights) in or to Owned Intellectual Property granted to others by the Company or any of its Subsidiaries, other than "shrinkwrap" license agreements, and (ii) all material licenses, assignments and other transfers of rights or interests in or to patents, patent applications, trademark registrations and trademark applications, service mark registrations and service mark applications, certification mark registrations and certification mark applications, copyright registrations and copyright registration applications, domain names, mask works registrations, mask works registration applications, computer software, trade secrets, trademarks, trade names, service marks, certification marks, copyrights, know-how, methods, processes, procedures, apparatus, equipment, industrial property, discoveries, inventions, patent disclosures, designs, drawings, plans, specifications, engineering data, manuals, development projects, research and development work in progress, technology or other proprietary rights or confidential information, whether foreign or domestic, granted to the Company or any of its Subsidiaries by others, other than as granted pursuant to the Company's or its Subsidiaries' purchase of products or services in the ordinary course of business or off-the-shelf software programs that are licensed to the Company or any of its Subsidiaries pursuant to "shrinkwrap" license agreements (such

items in this clause (ii), "**Licensed Intellectual Property**," and, together with the Owned Intellectual Property, the "**Intellectual Property**"). None of the Intellectual Property is subject to termination or cancellation or change in its terms or provisions as a result of this Agreement or the transactions contemplated by this Agreement.

(c) To the knowledge of the Company, except as set forth on Schedule 3.14(c), there is no unauthorized use, infringement or misappropriation of any Intellectual Property. The Intellectual Property constitutes all the intellectual property necessary or appropriate to conduct the businesses of the Company and its Subsidiaries as presently conducted in all material respects, and upon consummation of the transactions contemplated by this Agreement, the Purchaser and its Subsidiaries shall (i) have good, valid and, except as set forth on Schedule 3.14(a), unencumbered title to all Owned Intellectual Property and (ii) have valid right to use all Licensed Intellectual Property to the same extent such Licensed Intellectual Property and Owned Intellectual Property are currently used in the businesses of the Company and its Subsidiaries.

(d) Except as set forth on Schedule 3.14(d), no claim has been asserted or, to the knowledge of the Company, is threatened by any Person nor does the Company have knowledge of any valid ground for any bona fide claims (i) to the effect that the manufacture, sale, offer for sale, importation or use of any trademark, service mark, certification mark, domain name, product, service or process as used (currently or in the past) or offered or proposed for manufacture, use, offer for sale, importation or sale by the Company infringes, misappropriates, violates, dilutes or constitutes the unauthorized use of any copyright, trade secret, patent, trademark, tradename or other intellectual property right of any Person, except where such assertion or threat would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (ii) challenging the ownership, scope, validity or enforceability of any Intellectual Property. The Company has provided or made available to the Purchaser complete and accurate copies of all written documentation in the possession of the Company or any of its Subsidiaries related to any claim or dispute concerning Owned Intellectual Property. To the knowledge of Company, all items set forth on Schedule 3.14(a) are valid, enforceable and subsisting.

(e) No Intellectual Property is subject to any Law or agreement restricting in any manner the licensing, assignment or other transfer, use or enforceability thereof by the Company. Except as set forth on Schedule 3.14(e), the Company has not entered into any agreement to indemnify any other Person against any charge of infringement of any intellectual property. The Company and its Subsidiaries have the exclusive right to file, prosecute and maintain all applications and registrations with respect to the Owned Intellectual Property.

(f) Each employee of the Company and each Subsidiary and each independent contractor of the Company and each Subsidiary has executed valid and binding written agreements expressly assigning to the Company or a Subsidiary all right, title and interest in any inventions and works of authorship, whether or not patentable, invented, created, developed, conceived and/or reduced to practice during the term of such employee's employment or such

independent contractor's work for the Company or the relevant Subsidiary, and all intellectual property rights therein, and has waived all moral rights therein to the extent legally permissible.

(g) (i) The Company and each of its Subsidiaries has the right to use all trade secrets, customer lists, hardware designs, programming processes, databases, software and other information required for its products, services or its business as presently conducted or contemplated; (ii) the Company and each of its Subsidiaries has taken all reasonable measures to protect and preserve the security and confidentiality of its trade secrets and other confidential information; (iii) all trade secrets and other confidential information of the Company or its Subsidiaries are not part of the public domain or knowledge, nor, to the knowledge of the Company, have they been misappropriated by any Person having an obligation to maintain such trade secrets or other confidential information in confidence for the Company or its Subsidiaries; and (iv) to the knowledge of the Company, no employee or consultant of the Company or any of its Subsidiaries has used any trade secrets or other confidential information of any other Person in the course of their work for the Company or any such Subsidiary; (v) no university, government agency (whether federal or state) or other organization sponsored research and development conducted by the Company or any of its Subsidiaries pursuant to which such entity has any claim of right to or ownership of or other encumbrance upon any of the Intellectual Property.

(h) No Intellectual Property of the Company or any of its Subsidiaries or product, technology or service of the Company or any of its Subsidiaries is subject to any inter partes proceeding or outstanding decree, order, judgment, settlement agreement or stipulation that restricts in any manner the use, transfer or licensing thereof by the Company or such Subsidiary. No (i) product, technology, service or publication of the Company or any of its Subsidiaries, or (ii) material published or distributed by the Company or any statement of the Company or any of its Subsidiaries, constitutes false advertising or otherwise violates any applicable Law or regulation.

(i) As used herein, “Open Source Materials” shall mean all software or other material that is distributed as “free software”, “open source software” or under a similar licensing or distribution model, including the GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), BSD Licenses, the Artistic License, the Netscape Public License, the Sun Community Source License (SCSL), the Sun Industry Standards License (SISL) and the Apache License. Neither the Company nor a Subsidiary has used any Open Source Materials in any way. Neither the Company nor any Subsidiary has (i) incorporated any Open Source Materials into, or combined Open Source Materials with, any products or services offered by the Company or any of its Subsidiaries to its customers, (ii) distributed Open Source Materials in connection with any product or services offered by the Company or any of its Subsidiaries, or (iii) used Open Source Materials that (with respect to either clause (i), (ii) or (iii) above) (A) create, or purport to create, obligations for the Company or a Subsidiary with respect to software developed or distributed by the Company or a Subsidiary or (B) grant, or purport to grant, to any third party any rights or immunities under intellectual property rights. Without limiting the generality of the foregoing, neither the

Company nor any Subsidiary has used any Open Source Materials that require, as a condition of use, modification and/or distribution of such Open Source Materials, that other software incorporated into, derived from or distributed with such Open Source Materials be (1) disclosed or distributed in source code form, (2) licensed for the purpose of making derivative works, or (3) redistributable at no charge.

3.15 Tax Matters

(a) **Definitions**. For purposes of this Agreement, the following definitions shall apply:

(i) The term "**Taxes**" shall mean (A) taxes, charges, fees, levies or other assessments, including any interest, penalties or other additions that may become payable in respect thereof, imposed by any federal, territorial, provincial, state, municipal, local or foreign government or any agency or political subdivision of any such government or any other Governmental Entity, which taxes shall include, without limiting the generality of the foregoing, capital taxes, all income or profits taxes (including, but not limited to, federal income taxes and provincial income taxes), payroll and withholding taxes, unemployment and employment insurance contributions, social insurance taxes, Canada Pension Plan and Provincial Pension Plan contributions, sales and use taxes, ad valorem taxes, excise taxes, franchise taxes, gross receipts taxes, business license taxes, environmental taxes, customs duties, transfer taxes, property taxes, license taxes, capital stock taxes, workers' compensation and other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing; and (B) any liability for the payment of any amounts of the type described in clause (A) above as a result of any express or implied obligation to indemnify any other Person or as a result of any obligations under any agreements or arrangements with any other Person with respect to such amounts and including any liability of a predecessor entity.

(ii) The term "**Returns**" shall mean all reports, estimates, declarations of estimated Tax, information statements, returns, and other information and documents relating to, or required to be supplied or filed in connection with, any Taxes.

(b) **Returns Filed and Taxes Paid**. All material federal, provincial, state, municipal, local, and foreign Returns required to be filed by or on behalf of the Company and each of its Subsidiaries have been filed on a timely basis, and all such Returns are true, complete and correct in all material respects; all Taxes shown to be payable on these Returns or on subsequent assessments with respect thereto have been paid in full on a timely basis, and no other Taxes are payable by the Company or any of its Subsidiaries with respect to items or periods covered by such Returns; the Company and each of its Subsidiaries have made adequate and timely instalments of Taxes required to be made; and the Company and each of its Subsidiaries have

only incurred liabilities for Taxes in the usual, ordinary and regular course of business and consistent with past practice.

(c) **Tax Reserves**. The Company has paid or provided adequate accruals for the material Tax liability of the Company and each of its Subsidiaries, including for income taxes and related deferred taxes, through the date hereof in conformity with generally accepted accounting principles applicable in Canada. The June 30, 2004 Financial Statement reflects such accruals.

(d) **Additional Tax Matters**. Each of the Company and its Subsidiaries has timely withheld and paid all material Taxes required to have been withheld and paid in connection with amounts paid or owing to any of its past and present employees, creditors, independent contractors, shareholders, customers or other third parties. Neither the Company nor any of its Subsidiaries is currently the beneficiary of any extension of time within which to file any material Return or for the payment of any tax. There are no material Liens on any of the assets of the Company or any of its Subsidiaries that arose in connection with any failure to pay any Tax. There is no assessment, reassessment, claim or dispute concerning any material Tax liability of the Company or its Subsidiaries either (i) claimed or raised by any authority in writing or (ii) as to which the Company and its Subsidiaries has knowledge. No issue has been raised in any examination by any authority with respect to the Company or any Subsidiary which, by application of similar principles, reasonably could be expected to result in a proposed material increase in Tax, in excess of that provided for in any reserve for Taxes, for any other period not so examined. All Returns required to be filed with the Canada Revenue Agency ("**CRA**") by or with respect to the Company or any of its Subsidiaries through the year 2002 have been assessed by the CRA. All material deficiencies and assessments asserted as a result of such examinations or other audits by federal, provincial, state, municipal, local or foreign taxing authorities have been paid, fully settled or adequately provided for in the Company's financial statements, and no issue or claim has been asserted in writing for material Taxes by any taxing authority for any prior period, other than those heretofore paid or provided for in the Company's financial statements. There are no outstanding agreements or waivers extending the statutory period of limitation applicable to any Return of the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries (i) has been a member of a group filing consolidated returns for United States income Tax purposes, (ii) has any liability for the Taxes of any Person (other than the Company and its Subsidiaries) under United States Treasury Regulation Section 1.1502-6 (or any similar provision of federal, provincial, state, municipal, local or foreign Law), as a transferor or successor, by contract or otherwise, or (iii) is a party to a Tax sharing or Tax indemnity agreement or any other agreement of a similar nature involving a material amount of Taxes that remains in effect.

(e) **Tax Attributes**. The Company's cost amount, as defined in the Tax Act, in respect of its assets is accurately reflected in the Returns. The aggregate amount of expenditures qualifying as research and development expenditures under the Tax Act and the relevant provincial legislation incurred by the Company in years ending on or prior to 2003 which were not deducted for income Tax purposes and which are still available to be applied against taxable

income for years subsequent to the year ending 2003 for federal Canadian income Tax purposes and for provincial income Tax purposes are accurately reflected in the Returns. All research and development investment tax credits ("**ITCs**") were claimed by the Company in accordance with the Tax Act and the relevant provincial legislation and the Company satisfied at all times the relevant criteria and conditions entitling it to such ITCs. All ITCs received, receivable or still available for a refund by the Company in any financial year were claimed in accordance with the Tax Act and the relevant provincial legislation and the Company satisfied at all times the relevant criteria and conditions entitling it to claim a refund of such ITCs. The available ITCs carry forward for Canadian income Tax purposes and for provincial Tax purposes is accurately reflected in the Returns. The Company's aggregate non-capital losses as defined in the Tax Act are accurately reflected in the Returns.

3.16 Compliance with Laws

Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) each of the Company and its Subsidiaries holds all permits, registrations, clearances, franchises, authorizations, licenses, variances, exemptions, orders and approvals of all Governmental Entities necessary for it to own, lease or operate its properties and assets and to carry on its business in the manner currently conducted in all respects (the "**Permits**");

(b) no Person other than the Company or its Subsidiary owns or has any proprietary, financial or other interest (direct or indirect) in any of the Permits;

(c) each of the Company and its Subsidiaries is in compliance in all respects with the terms of the Permits, and all such Permits are in full force and effect; and

(d) the businesses and operations of the Company and its Subsidiaries have been and are being conducted in compliance in all respects with all Laws.

3.17 Information

None of the information supplied by the Company specifically for inclusion or incorporation by reference in any document to be filed with any Governmental Entity or distributed to the Company's shareholders in connection with the transactions contemplated by this Agreement (the "**Other Filings**") will, at the respective times filed with the Governmental Entity and at the date of any amendment or supplement and at the time of distribution to the Company's shareholders, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, except that no representation is made by the Company with respect to statements made therein based on information regarding the Purchaser supplied by the Purchaser in writing specifically for

inclusion or incorporation by reference therein. All such Other Filings will comply as to form with the provisions of all applicable Laws.

3.18 Insurance

Each of the Company and its Subsidiaries maintain all forms of insurance as are reasonable in amount and scope in light of the nature of their business and operations. Each of such policies and other forms of insurance is in full force and effect on the date hereof. All premiums with respect thereto due and payable on or prior to the Effective Time have been paid or will be paid prior to the Effective Time, and no written (or to the knowledge of the Company other) notice of cancellation or termination has been received with respect to any such policy. The Company and each of its Subsidiaries have complied in all material respects with the provisions of each of such policies under which it is the insured party. No insurer under any of such policies has cancelled or generally disclaimed liability under any such policy or indicated any intent to do so or not to renew any such policy. All material claims under such policies have been filed in a timely fashion.

3.19 Customers, Suppliers, Distributors, and Sales Representatives

Except as has not had and would not reasonably be expected to have a Material Adverse Effect, the Company has not received any notice that any customer, supplier, distributor or sales representative intends to cancel, terminate or otherwise materially modify or not renew its relationship with the Company or any Subsidiary, and, to the Company's knowledge, no such action has been threatened.

3.20 Product Recalls

Except as set forth on Schedule 3.20, the Company is not aware of any pattern or series of claims against the Company or any of its Subsidiaries that reasonably could be expected to result in a generalized product recall relating to products sold by the Company or any of its Subsidiaries, regardless of whether such product recall is formal, informal, voluntary or involuntary.

3.21 Assets

One or more of the Company and its Subsidiaries owns or leases all tangible assets necessary for the conduct of their businesses as presently conducted. Except as set forth on Schedule 3.21, all of such tangible assets that are owned, are owned free and clear of all material Liens. The tangible assets of the Company and its Subsidiaries, taken as a whole, (i) are free from material defects, (ii) have been maintained in material accordance with normal industry practice, and (iii) are in good operating condition and repair (subject to normal wear and tear).

3.22 Warranty

Except for the standard product warranty terms attached as to Schedule 3.22 and immaterial deviations therefrom or as otherwise set forth on Schedule 3.22, no product or service manufactured, sold, leased, licensed, delivered or otherwise provided by the Company or any of its Subsidiaries is subject to any guaranty, warranty, right of return or other indemnity.

3.23 Government Contracts

Neither the Company nor any of its Subsidiaries has been suspended or debarred from bidding on contracts or subcontracts with any Governmental Entity ("**Government Contracts**"); no such suspension or debarment has been initiated or, to the knowledge of the Company, threatened; and the consummation of the transactions contemplated by this Agreement will not result in any such suspension or debarment. Except as set forth on Schedule 3.23, neither the Company nor any of its Subsidiaries has been audited or investigated nor is it now being audited or, to the knowledge of the Company, investigated by any Governmental Entity or any prime contractor with a Governmental Entity nor, to the knowledge of the Company, has any such audit or investigation been threatened.

3.24 Investment Canada Act

Neither the Company nor any of its affiliates in Canada provides any of the services or engages in any of the activities of a business described in subsection 14.1(5) of the *Investment Canada Act* (Canada) or Schedule IV of the regulation thereunder. The value of the assets of the Company and of all other entities in Canada the control of which is acquired as a result of the transactions contemplated by this Agreement, calculated in accordance with the *Investment Canada Act* and the regulations thereunder, is less than $237 million.

3.25 Brokers

Except for the engagements of RBC Dominion Securities Inc. and The Nassau Group, Inc., none of the Company, any of its Subsidiaries, or any of their respective officers, directors or employees has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement. On or prior to the date hereof, the Company has delivered to the Purchaser complete and correct (except that information relating to the calculation of certain brokerage fees, commissions or finder's fees may be redacted if a summary is included that sets forth the maximum liability of the Company, the Purchaser, and Danaher, taken together, for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement, assuming the taking up of the Shares by the Purchaser in accordance with the terms hereof) copies of the Company's engagement letters with RBC Dominion Securities Inc. and The Nassau Group, Inc., including all amendments and modifications thereto and all related agreements.

ARTICLE IV
COVENANTS

4.1 Conduct of Business of the Company

The Company covenants and agrees that, during the period from the date of this Agreement to the time (the "**Effective Time**") the Shares are taken up by the Purchaser as contemplated herein unless Danaher or the Purchaser shall otherwise agree in writing or as otherwise expressly contemplated or permitted by this Agreement or as set forth on Schedule 4.1:

(a) the Company shall, and shall cause each of its Subsidiaries to, conduct its and their respective business only in and not take or omit to take any action except in, the usual, ordinary and regular course of business and consistent with past practice;

(b) the Company shall, and shall cause each of its Subsidiaries to:

(i) use its commercially reasonable best efforts to preserve intact its business operation, business organization and goodwill, to keep available in all material respects the services of its officers and employees as a group and to preserve the good will of those having business relationships with it, including maintaining satisfactory relationships with suppliers, agents, distributors, customers and others having business relationships with it;

(ii) not take any action, (A) that would render, or that reasonably may be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect at any time prior to the Effective Time if then made, (B) that would be reasonably likely to result in any of the conditions set forth in Schedule B to not be satisfied or (C) that would be reasonably likely to result in a violation of any provision of this Agreement; and

(iii) promptly notify the Purchaser orally and in writing of any Material Adverse Effect that becomes known to the Company;

(c) the Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly do or permit to occur any of the following, whether directly or indirectly:

(i) issue, sell, pledge, lease, dispose of, grant of any interest in, encumber or agree to issue, sell, pledge, lease, dispose of, grant any interest in or encumber (or permit any of its Subsidiaries to issue, sell, pledge, lease, dispose of, grant any interest in, encumber or agree to issue, sell, pledge, lease, dispose of, grant any interest in or encumber):

(A) any additional shares of, or any options, warrants, calls, conversion privileges or rights of any kind to acquire any shares of the Share Capital of the Company or any of its Subsidiaries (other than pursuant to the exercise of share option entitlements currently outstanding), or

(B) any assets of the Company or any of its Subsidiaries (except for (i) sales of inventory in the ordinary course of business and (ii) sales and other dispositions of equipment and other personal property not required in running the current business operations of the Company and having an aggregate acquisition cost not in excess of $250,000);

(ii) amend or propose to amend the articles of incorporation, by-laws or other comparable organization documents of the Company or those of any of its Subsidiaries;

(iii) split, combine or reclassify any outstanding Shares, or declare, set aside or pay any dividend or other distribution payable in cash, share, property or otherwise with respect to the Shares or other securities of the Share Capital of the Company or any of the Company's non-wholly-owned Subsidiaries or take or authorize any action in order to implement any of the foregoing;

(iv) redeem, purchase or offer to purchase (or permit any of its Subsidiaries to redeem, purchase or offer to purchase) any Shares or other securities of the Share Capital of the Company or any of its Subsidiaries except to satisfy legally binding commitments existing as of the date of this Agreement;

(v) acquire or agree to acquire (by merger, amalgamation, acquisition of share or assets or otherwise) any Person, corporation, partnership or other business organization or division or, except in the ordinary course of business consistent with past practice, any significant assets;

(vi) (A) incur, commit to incur any Indebtedness or issue any debt securities or amend the terms and conditions of any existing Indebtedness, except for the borrowing of working capital in the ordinary course of business consistent with past practice, (B) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other Person (including any Indebtedness), (C) pay, discharge or satisfy any liabilities or obligations (absolute, accrued, contingent or otherwise), except in the ordinary course of business consistent with past practice and in accordance with their terms, (D) make any loans, advances or capital contributions to, or investments

in, any other Person, except for loans, advances, capital contributions or investments between any wholly-owned Subsidiary of the Company and the Company or another wholly-owned Subsidiary of the Company or (E) cancel or forgive any Indebtedness owed to the Company or any of its Subsidiaries;

(vii) make or commit to make any capital expenditures, or enter into any agreement obligating the Company or its Subsidiaries to make capital expenditures, exceeding $500,000 in the aggregate.

(viii) (A) pay, discharge, settle or compromise any claim, action, litigation, arbitration or proceeding brought by any current, future, former or purported holder of any securities of the Company in connection with the transactions contemplated by this Agreement or the Offer prior to the Effective Time or (B) pay, discharge, settle or compromise any claim, action, litigation, arbitration or proceeding, other than (x) any such payment, discharge, settlement or compromise that involves solely a monetary payment not in excess of $250,000 individually or $500,000 in the aggregate or (y) any settlement, in the ordinary course of business consistent with past practice, of customer warranty claims consistent with the Company's warranty claim policies in effect as of the date hereof;

(ix) (A) other than in the ordinary course of business consistent with past practice, terminate, modify, renew or waive any material provision of any Material Contract other than normal renewals of such Material Contracts without materially adverse changes, additions or deletions of terms, or (B) enter into or renew any agreement, contract, lease, license or other binding obligation of the Company or any of its Subsidiaries (i) containing (1) any limitation or restriction on the ability of the Company or any of its Subsidiaries to engage in any type of activity or business, (2) any limitation or restriction on the manner in which, or the localities in which, all or any portion of the business of the Company or any of its Subsidiaries is or would be conducted, or (3) any limit or restriction on the ability of the Company or any of its Subsidiaries to solicit customers or employees, (ii) that would reasonably be expected to materially delay or prevent the consummation of the Offer or any of the transactions contemplated by this Agreement, (iii) that involves or would reasonably be expected to involve payments by the Company or any of its Subsidiaries in excess of $250,000 annually or $500,000 in the aggregate over the term of the contract and that is not terminable within thirty (30) days of the Effective Time without additional payment, or (iv) that, if effective as of the date hereof, would have been a Material Contract.

(x) except in the ordinary course of business consistent with past practice, make or change any Tax elections (unless required by applicable Law),

file any amended Return, enter into any closing agreement, settle or compromise any material liability with respect to Taxes, agree to any adjustment of any Tax attribute, file any claim for a refund of Taxes or consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment;

(xi) change in any material respect its Tax or financial accounting methods (or underlying assumptions), principles or practices affecting its assets, liabilities or business, in each case, in effect on the date hereof, except as required by changes in Canadian generally accepted accounting principles or regulatory accounting principles; and

(d) the Company shall not, and shall cause each of its Subsidiaries to not (otherwise than as may be contemplated in Section 4.11 of this Agreement):

(i) enter into or modify any Employee Benefit Arrangements with, any officers, directors, or employees of the Company or any Subsidiary or grant any bonuses, salary increases, severance or termination pay to, any officers or directors of the Company other than pursuant to agreements in effect (without amendment) on the date hereof, except in each case as may be required by Law, or

(ii) in the case of the employees who are not officers or directors of the Company, take any action other than in the ordinary course of business consistent with past practice (none of which actions shall be unreasonable or unusual) with respect to the grant of any bonuses, salary increases or with respect to any increase of benefits payable otherwise than pursuant to agreements, policies or arrangements in effect (without amendment) on the date hereof;

(e) the Company shall not permit its or its Subsidiaries' current insurance (or re-insurance) policies to be cancelled or terminated or any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, replacement policies underwritten by insurance and re-insurance companies of nationally recognized standing providing coverage equal to or greater than the coverage under the cancelled, terminated or lapsed policies for substantially similar premiums are in full force and effect;

(f) the Company shall not, and shall not permit its Subsidiaries to, agree to take, make any commitments to take, or adopt any resolutions of its board of directors in support of any of the actions prohibited by this Section 4.1.

4.2 Board of Directors

Provided that at least a majority of the outstanding Shares on a fully-diluted basis are acquired pursuant to the Offer, if requested by the Purchaser, the Company shall as soon as practicable following the first take-up of and payment for the Shares pursuant to the Offer, cause all the directors (and members of each committee of the Board and members of the board of directors of each Subsidiary as may be requested by the Purchaser) of the Company identified by written notice given to the Company in accordance with Section 6.3 to resign and these persons to be replaced by persons designated or selected by the Purchaser.

4.3 Access to Information

Subject to the confidentiality agreement dated June 7, 2004 between Hach Company and the Company (the "**Confidentiality Agreement**") (and to which Danaher and the Purchaser hereby agree to be bound as if they were signatories thereto), following the Offer, the Company and each of its Subsidiaries shall afford the officers, employees, auditors and other agents of Danaher and the Purchaser, reasonable access at reasonable times to the offices and facilities, as necessary, of the Company and each of its Subsidiaries and to their books and records, and shall furnish Danaher and the Purchaser and such other Persons with such financial, operating and other data and information as Danaher or the Purchaser, through their respective officers, employees or agents, may from time to time reasonably request.

4.4 No Solicitation

(a) The Company shall not, directly or indirectly, through any officer, director, employee, representative or agent of the Company or any of its Subsidiaries or any of its affiliates, solicit, encourage, or knowingly facilitate (including by way of furnishing information or negotiating or entering into any form of agreement, arrangement or understanding) the initiation of a Transaction Proposal, participate in any discussions or negotiations regarding any Transaction Proposal, or otherwise cooperate in any way with, or assist or participate in, knowingly facilitate or encourage, any effort or attempt by any other Person to do or seek to do any of the foregoing, withdraw or modify, or propose to do so, the approval of the Board relating to the transactions contemplated hereby in a manner adverse to the Purchaser, or approve or recommend any Transaction Proposal or enter into any agreement related to any Transaction Proposal; provided that nothing contained in this Section 4.4 or other provisions of this Agreement shall prevent the Board from taking such actions as the Board reasonably determines are required in the exercise of its fiduciary duties to respond to an unsolicited bona fide written Transaction Proposal that the Board determines in good faith (after consultation with its financial advisors and taking into account (i) all of the terms of such proposal and this Agreement, (ii) the likelihood of consummation of the transactions contemplated in such proposal, and (iii) the advice of outside counsel to the effect that the Board is required to do so in order to discharge properly its fiduciary duties) would, if consummated in accordance with its terms, result in a transaction more favourable to the shareholders of the Company from a financial point of view than the transaction contemplated by this Agreement (any such Transaction Proposal being referred to herein as a "**Superior Proposal**"); provided, further, that no Transaction Proposal

shall be deemed a Superior Proposal if any such Transaction Proposal is not fully financed or reasonably likely to be fully financed.

(b) The Company shall immediately cease and cause to be terminated any existing discussions or negotiations with any parties other than the Purchaser with respect to any potential Transaction Proposal. The Company agrees not to release any third party from any confidentiality or standstill agreement to which the Company and such third party is a party, or consent to a Transaction Proposal thereunder except as expressly contemplated in this Agreement (provided that the Company may release a third party from any standstill obligation if the Company reasonably believes that such release is reasonably likely to lead to a Superior Proposal being made by such third party following such release), and shall take reasonable steps to enforce such agreement. The Company shall immediately cease to provide any other party with access to information concerning the Company and request the return or destruction of all information provided to any third party that has entered into a confidentiality agreement with the Company relating to any potential Transaction Proposal and shall use all reasonable efforts to ensure that such requests are honoured.

(c) The Company shall immediately notify the Purchaser of (i) any proposal or inquiry it or any of its Subsidiaries receives, or of which it or any of its Subsidiaries becomes aware, that the Company reasonably believes could lead to a *bona fide* Transaction Proposal or (ii) any written request for information relating to the Company or any of its Subsidiaries or for access to the properties, books or records, of the Company or any of its Subsidiaries by any Person or entity that informs any member of the Board or the board of directors of any Subsidiary (or any officer or authorized agent or representative of the Company or any of its Subsidiaries) that it is considering making, or has made, a Transaction Proposal. Such notice to the Purchaser shall be made, from time to time, orally and, if requested, in writing and shall indicate such details of the proposal, inquiry or contact known to such Person as the Purchaser may reasonably request.

(d) The Company covenants that it will not enter into any agreement regarding any Superior Proposal (a "**Proposed Agreement**") (i) unless the Company shall have performed in all respects all covenants to be performed by it under Section 4.4 and (ii) without providing the Purchaser with an opportunity to amend this Agreement and the Offer to provide for at least equivalent financial terms and for the same or equivalent conditions to those offered or included in the Proposed Agreement as determined by the Board acting in good faith and in accordance with its fiduciary duties. In particular, the Company covenants to provide the Purchaser with a copy of any Proposed Agreement within twenty-four (24) hours of receipt, and in any event not less than forty-eight (48) hours (or at least six business hours during the last two days of the Offer) prior to its proposed execution by the Company. In the event that the Purchaser agrees to amend this Agreement and the Offer to provide for at least equivalent financial terms and for the same or equivalent conditions to those offered or included in the Proposed Agreement as determined by the Board acting in good faith and in accordance with its fiduciary duties, the Company covenants not to enter into the Proposed Agreement.

4.5 Further Action; Reasonable Best Efforts

Upon the terms and subject to the conditions hereof, each of the parties hereto shall use its reasonable best efforts to take, or cause to be taken, all appropriate action, and to do or cause to be done, all things necessary, proper or advisable under applicable Laws to consummate and make effective the transactions contemplated by this Agreement, including:

(a) cooperation in the preparation and filing of the Offer Documents and the Directors' Circular and any regulatory and governmental, filings or submissions, including under the *Competition Act* (Canada), *Hart-Scott-Rodino Antitrust Improvements Act of 1976*, as amended (the "**HSR Act**"), the *Investment Canada Act* and any amendments to any such filings; and

(b) to diligently make all required regulatory filings and applications and to obtain all licences, permits, consents, approvals, authorizations, qualifications and orders of governmental authorities and parties to contracts with the Company and its Subsidiaries as are necessary for the consummation of the transactions contemplated by this Agreement and to fulfil the conditions to the Offer.

Notwithstanding anything herein to the contrary, (i) neither the Company nor any of its Subsidiaries shall make any agreement or understanding affecting any of the businesses of the Company or any of its Subsidiaries as a condition for obtaining any such licences, permits, consents, approvals, authorizations, qualifications and orders of governmental authorities and parties to contracts except with the prior written consent of Danaher or the Purchaser, and (ii) neither the Purchaser nor any of its affiliates shall have any obligation to sell or otherwise dispose of any of its, the Company's, or any Company Subsidiary's properties or assets or to shut down any of its, the Company's, or any Company Subsidiary's facilities or accept any restrictions with respect to the operation of any of the foregoing.

4.6 Regulatory Approvals

(a) Danaher agrees to cause the Purchaser to diligently take such reasonable steps as are necessary to satisfy the conditions contemplated by paragraphs (d) and (e) of Section 3 of Schedule "B" hereto and shall file all notices in connection therewith as soon as practicable (but not later than ten (10) business days after the date of this Agreement), and shall keep the Company informed with respect to the status of applications for all such approvals, including providing all relevant documentation to the Company to allow it to assess the status of such applications. The Company shall provide its cooperation and assistance to Danaher or the Purchaser in connection with satisfying such conditions. The Company shall pursue any and all regulatory approvals or other filings reasonably required on the part of the Company with respect to the Offer including, without limitation, if and to the extent applicable, those that may be required or advisable under the *Competition Act* (Canada) and shall file all notices in connection therewith as soon as practicable (but not later than ten (10) business days after the date of this Agreement).

(b) Danaher, the Purchaser and the Company shall file as soon as practicable (but not later than ten (10) business days after the date of this Agreement, in the case of filings under the HSR Act) notifications under the HSR Act or under any material applicable non-Canadian Laws applicable to the transactions contemplated herein and shall respond as promptly as practicable to all inquiries or requests received from the U.S. Federal Trade Commission or the Antitrust Division of the U.S. Department of Justice or such other domestic or foreign antitrust Governmental Entity, as applicable, for additional information or documentation and shall respond as promptly as practicable to all inquiries and requests received from any State Attorney General or other Governmental Entity in connection with antitrust matters. The parties shall cooperate with each other in connection with the making of all such filings or responses, including providing copies of all such documents to the other party and its advisors prior to filing or responding.

4.7 Take Up and Payment

Subject to the terms and conditions hereof, Danaher agrees to cause the Purchaser to take up the Shares deposited under the Offer and pay for such Shares as soon as reasonably practicable (and, in any event, within one (1) business day) after being permitted to do so in accordance with applicable Securities Laws.

4.8 Increase in Consideration

Danaher and the Purchaser covenant that, in the event the Purchaser increases the consideration per Share offered under the Offer (but for greater certainty, excluding any greater consideration paid as a result of any proceeding in respect of fair value under the OBCA or any other Subsequent Acquisition Transaction), the Purchaser will pay such increased consideration to each Shareholder in respect of all Shares tendered, notwithstanding that such Shares have previously been taken up and paid for by the Purchaser.

4.9 Purchase and Option Plans

The Company confirms and covenants that the Board has determined unanimously to use its reasonable efforts to encourage all Persons holding share options to exercise such options prior to the Expiry Time of the Offer which, by their terms, are otherwise exercisable and to tender all Shares issued in connection therewith to the Offer. Danaher and the Purchaser agree to implement a reasonable arrangement to enable participants in the Company's option plans to participate in the Offer, which arrangements may include the tendering of Shares issued or issuable pursuant to such options by way of notice of guaranteed delivery, and the Company agrees to use its reasonable efforts (including seeking any necessary consent, approval, waiver, or exemption of any Governmental Entity) to cause any options that would not otherwise be exercisable to become exercisable for this purpose.

4.10 Employment Agreements

Danaher and the Purchaser covenant and agree, and after the Effective Time will cause the Company and any successor to the Company to agree, to honour and comply with the terms of those existing (as of the date hereof) employment, retirement and severance agreements, arrangements and policies of the Company that are legally binding on the Company, copies of which have been provided or made available the Purchaser, including any requirement to continue funding obligations thereunder that are in existence prior to the date hereof.

4.11 Directors' and Officers' Insurance

Danaher and the Purchaser shall use reasonable efforts to secure and/or continue paying all premiums for directors' and officers' insurance coverage for the Company's current and former directors and officers on a six year "trailing" (or "run off") basis. If a trailing policy is not available at a reasonable cost (a "reasonable cost" being not greater than the estimated cost of providing the coverage referred to in this and the next sentence), and in any event not greater than $400,000.00 plus applicable taxes, then from the Effective Time and ending three years after the Effective Time, Danaher and the Purchaser shall cause the Company or any successor to the Company to maintain the Company's current directors' and officers' insurance policy or an equivalent policy, subject in either case to terms and conditions no less advantageous to the directors and officers of the Company than those contained in the policy in effect on the date hereof for all current and former directors and officers of the Company, covering claims made prior to or within three years after the Effective Time. Further, Danaher and the Purchaser agree that after the expiration of that three year period, Danaher and the Purchaser shall use their reasonable efforts to cause such directors and officers to be covered under Danaher's then existing directors' and officers' insurance policy, provided such coverage can be obtained at a reasonable cost. Notwithstanding the foregoing, Danaher or the Purchaser may substitute for the foregoing policies of Danaher or its affiliates (including self-insurance) containing terms with respect to coverage and amount no less favourable to such directors or officers.

4.12 401(K) Plan

Prior to the Effective Time, the Company shall have delivered to Danaher and the Purchaser evidence satisfactory to them that the Company has terminated or caused to be terminated the Trojan Technologies, Inc. 401(k) Plan.

4.13 Options

The Company shall use its best efforts (not involving any payment to any holder of options to acquire Common Shares of the Company) to cause the exercise or cancellation of all options to acquire Common Shares of the Company that are outstanding as of the date of the Agreement and shall cooperate in implementing the Compulsory Acquisition of any Shares remaining after the completion of the Offer and that are issuable pursuant to unexercised options to acquire Common Shares of the Company.

ARTICLE V
TERMINATION, AMENDMENT AND WAIVER

5.1 Termination

This Agreement shall terminate at the Effective Time and may be earlier terminated at any time prior to the Effective Time:

(a) by the mutual agreement of Danaher, the Purchaser and the Company;

(b) by the Company, Danaher or the Purchaser if any court of competent jurisdiction or other governmental body located or having jurisdiction within Canada or the United States shall have issued a final order, decree or ruling or taken any other final action restraining, enjoining or otherwise prohibiting the Offer and such order, decree, ruling or other action is or shall have become final and non-appealable; provided that such right of termination shall not be available to any party if such party shall have failed to make reasonable efforts to prevent or contest the imposition of such injunction or action and such failure materially contributed to such position;

(c) by the Company, when not in default in the performance of its material obligations under this Agreement, if: (i) the Offer has not been made by the date required in paragraph 1.1(a) hereof; (ii) the Offer (or any amendment thereto other than as specifically contemplated by Schedule "B" hereto or any amendment thereof that has been mutually agreed to by the parties) does not conform in all material respects with the description in Schedule "B" or any amendment thereof that has been mutually agreed to by the parties; (iii) Shares deposited under the Offer have not, for any reason whatsoever, been taken up and paid for on or before the Expiry Time; (iv) the Offer has been terminated, withdrawn or expires; (v) there shall have been a material breach of any representation or warranty on the part of Danaher or the Purchaser contained herein; or (vi) there shall have been a material breach of any covenant or agreement on the part of Danaher or the Purchaser contained herein that, if capable of cure, has not been cured within five (5) business days after written notice thereof;

(d) by Danaher and the Purchaser, when not in default in the performance of their material obligations under this Agreement, if: (i) any condition of the Offer has not been satisfied or waived on or before the Expiry Time; (ii) any representation or warranty on the part of the Company contained herein that is qualified by a reference to a Material Adverse Effect or materiality or words of similar import is not true and correct in all respects, (iii) any representation or warranty on the part of the Company contained herein that is not so qualified is not true and correct in all material respects, (iv) any covenant to be performed by the Company and/or any of its Subsidiaries under this Agreement that is qualified by a reference to a

Material Adverse Effect or materiality or words of similar import shall not have been so performed in all respects and that, if capable of cure, has not been so performed in all respects within five (5) business days after written notice of non-performance or (v) any covenant to be performed by the Company and/or any of its Subsidiaries under this Agreement that is not so qualified shall not have been so performed in all material respects and that, if capable of cure, has not been so performed in all material respects within five (5) business days after written notice of non-performance; and

(e) by the Company, if (i) the Board approves or recommends a Superior Proposal in compliance with the provisions of Section 4.4, (ii) the Company has complied in all respects with its obligations under Section 4.4 and (iii) prior to such termination it has paid the Termination Fee to the Purchaser in accordance with Section 5.3;

(f) by Danaher or the Purchaser, if, prior to the Expiry Time, the Board shall for any reason have withdrawn its recommendation in favour of the Offer or changed its recommendation in a manner adverse to the Purchaser or that has substantially the same effect as the withdrawal thereof, or shall have approved or recommended acceptance of any Superior Proposal;

(g) by Danaher and the Purchaser, if, prior to the Expiry Time, the Company enters into an agreement related to any Superior Proposal;

(h) by Danaher and the Purchaser, if, prior to the Expiry Time, the Board shall have failed to reaffirm its recommendation of the Offer by press release within three (3) business days after the public announcement or commencement of any Transaction Proposal (or in the event that the Offer is scheduled to expire within such five business day period, prior to the scheduled Expiry Time); or

(i) by Danaher and the Purchaser, if, prior to the Expiry Time, any of the Company's covenants in Section 4.4 shall not have been performed in all respects.

5.2 <u>Effect of Termination</u>

In the event of the termination of this Agreement pursuant to Section 5.1, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto or their respective shareholders, officers or directors except as expressly provided herein and; provided, however, that nothing herein shall relieve any party from liability for any breach of any provision of this Agreement that occurred on or before the date of such termination. Notwithstanding the foregoing, if this Agreement is terminated the Company's obligations to the Purchaser pursuant to Section 5.3 and obligation(s) that survive termination of this Agreement by their terms shall continue in full force and effect. The termination of this Agreement shall not affect the obligations of the parties under the Confidentiality Agreement.

5.3 <u>Fees and Expenses</u>

The Purchaser shall be entitled to a termination fee in the amount of $7,296,824.00 (the "**Termination Fee**"), upon the occurrence of any of the following events (each a "**Termination Fee Event**") which shall be paid to the Purchaser by the Company within the period of time specified in respect of each such Termination Fee Event (provided there shall be no duplication of the Company's obligation to pay the Termination Fee under this Section 5.3) if:

(a) prior to the Expiry Time, this Agreement is terminated pursuant to Sections 5.1(f), (g), (h), or (i), in which case the Termination Fee shall be paid to the Purchaser on or prior to the first business day following such termination;

(b) prior to the Expiry Time, this Agreement is terminated pursuant to Section 5.1(e), in which case the Termination Fee shall be paid to the Purchaser prior to such termination; or

(c) (i) prior to the Expiry Time, a Transaction Proposal shall have been publicly announced or any Person shall have publicly announced (or otherwise indicated to the Company or any of its directors, officers or authorized agents or representatives) an intention to make a Transaction Proposal, (ii) the Offer shall not have been completed, (iii) either (A) the Minimum Condition shall not have been met (other than due to an event that would give rise to a right to terminate this Agreement pursuant to Section 5.1(b)) or (B) Danaher and the Purchaser shall have terminated this Agreement pursuant to Section 5.1(d)(iv) or 5.1(d)(v), and (iv) the Company shall have entered into an agreement related to, or any Shares have been acquired under, such Transaction Proposal or any other Transaction Proposal which is publicly announced within the 12 month period following the Expiry Time, in which case the Termination Fee shall be paid to the Purchaser on the first business day following the completion of any such Transaction Proposal.

Except as provided above, if the Purchaser terminates this Agreement pursuant to Section 5.1(d), the Company shall pay to the Purchaser on the first business day following such termination, the amount of US$1,000,000.00 (the "**Expense Reimbursement**"); *provided* that no Expense Reimbursement shall be payable on termination of this Agreement by the Purchaser pursuant to Section 5.1(d)(i) if, at the time of termination, a Material Adverse Effect shall not exist or have occurred. The Termination Fee and the Expense Reimbursement shall be paid by the Company by way of certified cheque or wire transfer in immediately available funds to an account specified by Danaher or the Purchaser.

5.4 <u>Waiver</u>

At any time prior to the Effective Time, any party hereto may: (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto; (b) waive any inaccuracies in the representations and warranties contained herein or in any document

delivered pursuant hereto that are for the benefit of such party; and (c) waive compliance with any of the agreements or conditions contained herein that are for the benefit of such party. Any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party or parties to be bound thereby.

ARTICLE VI
GENERAL PROVISIONS

6.1 Non-Survival of Representations, Warranties and Agreements

The representations, warranties and agreements in this Agreement shall terminate at the Effective Time or upon the termination of this Agreement pursuant to Section 5.1, as the case may be, except as set forth in Section 5.2. The only recourse of Danaher or the Purchaser in respect of a breach by the Company of the representations and warranties contained in Article III is the termination of the Agreement and the payment of fees as provided in Section 5.3.

6.2 Third Party Beneficiaries

Notwithstanding anything else in this Agreement, the provisions of Sections 4.10 and 4.11 shall survive the consummation of the transactions contemplated by this Agreement after the Effective Time and are (i) intended to be for the benefit of, and shall be enforceable by, each of the employees, officers and directors of the Company and their respective heirs and representatives and (ii) in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have by contract or otherwise.

6.3 Notices

Any notice, direction or other instrument required or permitted to be given hereunder shall be in writing and given by delivering or sending it by telecopy or other similar electronic form of communication confirmed by overnight courier addressed:

(a) if to Danaher or the Purchaser:

c/o Danaher Corporation
2099 Pennsylvania Avenue, N.W. 12th Floor
Washington, D.C. 20006

Attention: Paul Burgon
James O'Reilly
Telephone No.: 202-828-0850
Telecopier No.: 202-828-0860

with a copy to Danaher's and the Purchaser's Counsel at:

Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, D.C. 20037
U.S.A.

Attention:	Mark A. Dewire, Esq. Thomas S. Ward, Esq.
Telephone No.:	202-663-6000
Telecopy No.:	202-663-6363

and

Stikeman Elliott LLP
1155 René-Lévesque Blvd. West
40th Floor
Montreal, Quebec H3B 3V2

Attention:	Marc B. Barbeau, Esq.
Telephone No.:	514-397-3212
Telecopy No.:	514-397-3409

(b) if to the Company, addressed as follows:

Trojan Technologies Inc.
3020 Gore Road
London, ON
N5T 4T7

Attention:	Jeffrey S. Kafka
Telecopy No.:	519-457-3030
Telephone No.:	519-457-3400

with a copy to:

Goodmans LLP
250 Yonge Street
Suite 2400
Toronto, Ontario
M5B 2M6

Attention:	Dale Lastman
Telecopy No.:	416-979-1234
Telephone No.:	416-597-4129

Any such notice, direction or other instrument given as aforesaid shall be deemed to have been effectively given, if sent by telecopier or other similar electronic form of communication on the business day such transmission is received if received during regular business hours or, if not sent during regular business hours, on the next business day or, if delivered, to have been received on the date of such delivery if delivered during normal business hours or, if not delivered during regular business hours, on the next business day. Any party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to the party at its changed address. Failure to send or deliver a copy of a notice to any of the counsel required to be provided with a copy of such notice by this Section shall invalidate such notice.

6.4 Rules of Construction

The words "**included**", "**includes**" and "**including**" shall be deemed to be followed by the phrase "without limitation". The defined terms herein shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun or possessive shall include the corresponding masculine, feminine and neuter forms. All references herein to "**Articles**", "**Sections**," "**Exhibits**," and "**Schedules**" shall be deemed to be references to Articles and Sections of and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. All Exhibits and Schedules attached hereto shall be deemed incorporated herein as if set forth in full herein and, unless otherwise defined therein, all terms used in any Exhibit or Schedule shall have the meaning ascribed to such term in this Agreement. The words "**hereof**," "**herein**" and "**hereunder**" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise expressly provided, wherever the consent of any Person is required or permitted herein, such consent may withheld in such Person's sole discretion. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Any reference herein to delivering documents to the Purchaser, documents being provided to the Purchaser or making documents available to the Purchaser shall be deemed to be satisfied if such documents have been delivered, provided or made available to Danaher or the Purchaser or any of their respective directors, officers or authorized employees, agents or representatives (including their counsel or financial advisor) by actual delivery or being placed in the Company's online data room at or prior to the execution hereof or any of the Company's physical data rooms at or prior to the last time at which an authorized employee, agent or representative (including counsel or financial advisors) of Danaher or the Purchaser was present in such physical data room.

6.5 Severability

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this

Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, 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 an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

6.6 Entire Agreement; Assignment

This Agreement, together with the Confidentiality Agreement, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof. This Agreement shall not be assigned by operation of Law or otherwise, except that Danaher or the Purchaser may assign all or any of its rights and obligations hereunder to any direct or indirect wholly-owned Subsidiary of Danaher; provided however that no such assignment shall relieve Danaher or the Purchaser of its obligations hereunder if such assignee does not perform such obligations. At any time prior to the Effective Time, at Danaher's request, the Company shall contribute assets identified by Danaher to a newly formed Subsidiary or Subsidiaries of the Company on a tax-free basis, but only to the extent such contribution would not reasonably be expected to have a Material Adverse Effect if the Offer is not completed and with Danaher bearing the costs of such contribution (and, if the Offer is not completed, the Company is not in default in the performance of its material obligations under this Agreement, and the Company thereafter elects to unwind such contribution, the costs of such unwinding). Danaher's obligations pursuant to the preceding sentence shall survive termination of this Agreement.

6.7 Time

Time shall be of the essence of this Agreement.

6.8 Currency

All sums of money referred to in this Agreement shall mean Canadian funds.

6.9 Amendments

This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by all of the parties hereto.

6.10 Counterparts

This Agreement may be executed in one or more counterparts which together shall be deemed to constitute one valid and binding agreement and delivery of the counterparts may be effected by means of a telecopied transmission. This Agreement may be executed by facsimile signature, and execution thereby will constitute an original hereof.

6.11 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

6.12 Submission to Jurisdiction

The parties hereto irrevocably submit to the nonexclusive jurisdiction of the courts of the Province of Ontario solely in respect of the interpretation and enforcement of the provisions of this Agreement, and in respect of the transactions contemplated herein, and hereby waive, and agree not to assert, as a defence in any action for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that final judgment in any suit, action or proceeding brought in such a court shall be conclusive and binding upon the parties and may be enforced in any other court of the jurisdiction of which a party is subject by a suit upon such judgment, provided that service of process is effected upon the parties in a manner permitted by Law; provided, however, that the parties do not waive, and the foregoing provisions of this clause shall not constitute or be deemed to constitute a waiver of, (i) any right to appeal any such judgment, to seek any stay or otherwise to seek reconsideration or review of any such judgment or (ii) any stay of execution or levy pending an appeal front, or a suit, action or proceeding for reconsideration or review of, any such judgment.

6.13 Remedies

The parties hereto agree that, in the event of any breach or threatened breach of this Agreement by one of the parties, the non-breaching party will also be entitled, without the requirement of posting a bond or other security, to such equitable relief, including injunctive relief and specific performance. Such remedies will not be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at law or equity to each of the parties.

6.14 Public Statements

Prior to the termination of this Agreement, none of Danaher, the Purchaser or the Company or their respective directors, officers, employees or representatives shall make any public statement or announcement with respect to the Offer or this Agreement that is inconsistent with the terms and conditions of the Offer or this Agreement. Prior to the termination of this Agreement, all press releases and other public disclosures with respect to this Agreement shall require the approval of Danaher and the Company, unless otherwise required by Law. Except as otherwise agreed, no public statements shall be made with respect to the Offer or this Agreement, prior to 8:00 a.m. (Toronto time) September 20, 2004.

(Signature Page Follows)

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

3091790 NOVA SCOTIA COMPANY

By: *"James H. Ditkoff"*
Name: James H. Ditkoff
Title: President

DANAHER CORPORATION

By: *"James H. Ditkoff"*
Name: James H. Ditkoff
Title: Senior Vice President

TROJAN TECHNOLOGIES INC.

By: *"Marvin R. DeVries"*
Name: Marvin R. DeVries
Title: President & Chief Executive Officer

SCHEDULE "A"

DEFINITIONS

1. "**affiliate**" has the meaning ascribed thereto in the OBCA;

2. "**associate**" has the meaning ascribed thereto in the OBCA;

3. "**business day**" shall mean a day other than a Saturday, Sunday or other day on which commercial banks in Toronto, Canada are authorized or required by Law, regulation or executive order to close;

4. "**business hour**" shall mean any hour between the hours of 9:00 a.m. and 5:00 p.m. during a business day;

5. "**Canadian generally accepted accounting principles**" shall mean the generally accepted accounting principles in Canada from time to time approved by the Canadian Institute of Chartered Accountants;

6. "**Common Shares**" means the common shares in the capital of the Company;

7. "**Compulsory Acquisition**" means the acquisition by the Purchaser, pursuant to Section 187 of the OBCA, of the remainder of the Shares not tendered to the Offer;

8. "**Contaminant**" means any pollutant, hazardous or toxic substance or waste, petroleum, petroleum-based substance, special waste, hazardous material or any constituent of any such substance, waste or material, in each case to the extent regulated by Environmental Law.

9. "**CRA**" means the Canada Revenue Agency;

10. "**Effective Time**" has the meaning ascribed thereto in Section 4.1 of this Agreement;

11. "**Employee Benefit Arrangement**" means any employee benefit plan, program, policy, practices, or other arrangement providing benefits to any current or former employee, officer or director of the Company or any of its Subsidiaries or any beneficiary or dependent thereof that is sponsored or maintained by the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries contributes or is obligated to contribute, whether or not written, including without limitation any employee benefit plan within the meaning of Section 3(3) of ERISA, together with plans or arrangements that would be so defined if they were not (i) otherwise exempt from ERISA by that or another section, (ii) maintained outside the United States, or (iii) individually negotiated or applicable to only one person, and any bonus, incentive, deferred compensation, sick leave, salary continuation for disability, workers' compensation, retirement, vacation, share purchase, share option, severance, indemnity in

lieu of notice, employment, consulting, change of control or fringe benefit plan, program or policy;

12. "**Employment Agreement**" means a contract, offer letter or agreement of the Company or any of its Subsidiaries with or addressed to any individual who is rendering or has rendered services thereto as an employee or consultant pursuant to which the Company or any of its Subsidiaries has any actual or contingent liability or obligation to provide compensation and/or benefits in consideration for past, present or future services;

13. "**Environmental Law**" means all Laws, agreements with Governmental Entities and all other statutory or regulatory requirements relating to or addressing the environment or health and safety;

14. "**ERISA**" means the *Employee Retirement Income Security Act of 1974*, as amended, and all regulations and rules issued thereunder, or any successor Law;

15. "**Expiry Time**" has the meaning ascribed thereto in Schedule "B";

16. "**Governmental Entity**" has the meaning ascribed thereto in Section 2.4 of this Agreement;

17. "**knowledge**," "**knows**," "**known**," and words of similar import mean, with respect to the Company, the actual knowledge of the Senior Officers of the Company;

18. "**Law**" means any federal, state, provincial, territorial, local, foreign or supranational law, statute, ordinance, code, rule, regulation, order, judgment, decree, stipulation, writ, injunction, award, permit, policy, or license;

19. "**Liens**" has the meaning ascribed thereto in Section 3.2 of this Agreement;

20. "**Material Adverse Effect**" means any change, effect, occurrence, state of facts, matter, condition, event or development which individually or in the aggregate is, or could reasonably be expected to result in, have, or represent, a material adverse effect or material adverse change (or any change, effect, occurrence, state of facts, matter, condition, event or development involving a prospective material adverse change) on or in (i) the business, affairs, operations, assets, capitalization, financial condition, rights, results of operations, or liabilities (including without limitation any contingent liabilities that may arise through outstanding, pending or threatened litigation or otherwise), whether contractual or otherwise, of the Company and its Subsidiaries considered as a whole, (ii) the ability of the Purchaser to operate the business of the Company and each of its Subsidiaries immediately after the Effective Time in materially the same manner as operated on the date hereof, or (iii) the ability of the Company to perform its obligations hereunder or consummate the transactions contemplated herein, in each case other than any matter, condition, event, development, or action relating to (A) the global or North American economy including general, political, financial or economic conditions or

securities markets in general or (B) the announcement or pendency of the transactions contemplated hereby;

21. "**Material Employment Agreement**" means an Employment Agreement pursuant to which the Company or any of its Subsidiaries has or could have any obligation to provide compensation and/or benefits (including without limitation indemnity in lieu of notice, change of control awards and severance pay or benefits) in an amount or having a value in excess of $100,000 per year or $400,000 in the aggregate;

22. "**OBCA**" means the *Business Corporations Act* (Ontario);

23. "**Offer Documents**" has the meaning ascribed thereto in Section 1.1 of this Agreement;

24. "**OSA**" means *Securities Act* (Ontario);

25. "**Person**" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization or other legal entity;

26. "**Release**" means release, spill, emission, leaking, pumping, injection, deposit, disposal or discharge of a Contaminant into the environment, including through or in the air, soil, surface water or groundwater;

27. "**Reports**" has the meaning ascribed thereto in Section 3.6;

28. "**Securities Authorities**" has the meaning ascribed thereto in Section 1.1 of this Agreement;

29. "**Securities Laws**" has the meaning ascribed thereto in Section 1.1 of this Agreement;

30. "**Senior Officers of the Company**" means the President and Chief Executive Officer, the Executive Vice President and Chief Financial Officer, the Executive Vice President, Global Market Strategies, the General Counsel and Secretary, each Vice President, and the Associate Counsel of the Company;

31. "**Share Capital**" means any shares of share capital, any partnership or membership interests or any other equity or voting interests;

32. "**Shares**" has the meaning ascribed thereto in Section 1.1 of this Agreement;

33. "**Subsequent Acquisition Transaction**" means an amalgamation, statutory arrangement or other transaction for the purposes of enabling the Purchaser to acquire all of the Shares not deposited under the Offer;

34. "**Subsidiary**" means, with respect to a Person, any corporation, partnership, joint venture or other legal entity (a) of which such Person beneficially owns, directly or indirectly, fifty percent (50%) or more of the share or other equity interests of such entity, (b) of

which securities or other ownership interests having ordinary voting power to elect or designate a majority of the board of directors or other Persons performing similar functions are at the time owned, directly or indirectly, by such Person or (c) that does not have a board of directors or other Persons performing similar functions in which such Person owns, directly or indirectly, general partnership interests, management rights or other interests that permit such Person, or any Subsidiary of such Person, to manage the business and affairs of such entity without the affirmative approval of any other Person; and

35. "**Transaction Proposal**" means any take-over bid, tender offer or exchange offer other than the Offer (which bid or offer, solely for purposes of Section 4.4(c), is for at least a majority of the outstanding Shares on a fully diluted basis), merger, amalgamation, plan of arrangement, reorganization, consolidation, business combination, reverse take-over, sale of assets (other than in the ordinary course of business consistent with past practice), sale of securities (other than pursuant to the exercise of currently outstanding options and share purchase plans), recapitalization, liquidation, dissolution, winding-up or similar transaction involving the Company.

SCHEDULE "B"

TERMS OF THE OFFER

1. General Terms.

The Offer shall be made by a circular bid to all shareholders and prepared in compliance with the OSA and other applicable provincial securities laws. The Offer shall be open for thirty-five (35) days from the date the Offer is mailed to the Shareholders subject to the right of the Purchaser to extend the period during which Shares may be deposited under the Offer or such longer period as may be required to satisfy all of the conditions set forth in paragraph 3 below, provided that in no event shall the Offer be required to be open after March 17, 2005 (the "**Expiry Time**").

Upon the terms and subject to the conditions of the Offer, the Purchaser will accept for payment, and take up and pay for, all Shares of the Company deposited and not withdrawn under the Offer as soon as the Purchaser is permitted to do so under applicable securities Laws.

Unless the Offer is withdrawn, Shares may be deposited pursuant to the Offer at any time prior to the close of business on the date of the first take-up of or payment for Shares. Any Shares deposited pursuant to the Offer may be withdrawn until taken up and paid for. In the event that the requirement set forth in clause 3(a) of this Schedule "B" is satisfied, the Purchaser will make a public announcement of that fact and the Offer will remain open for deposits and tenders of Shares for not less than 10 business days from the date of such public announcement.

The Purchaser shall have the right to vary the terms of the Offer only to effect one or more of the following:

(a) increase the consideration offered for the Shares;

(b) extend the period during which Shares may be deposited to the Offer;

(c) waive any condition of the Offer other than the Minimum Condition contained in paragraph 3(a) of this Schedule "B"; and

(d) comply with applicable Securities Laws.

2. Price of the Offer.

The Offer shall be $10.65 per Share.

3. Conditions of the Offer.

Notwithstanding any other provision of the Agreement or of the Offer and subject to applicable Law, the Purchaser shall have the right to withdraw or terminate the Offer (or

amend the Offer to postpone taking up and paying for any Shares deposited under the Offer), and shall not be required to accept for payment, take-up, purchase or pay for, or extend the period of time during which the Offer is open and postpone taking up and paying for, any Shares deposited under the Offer, unless all of the following conditions are satisfied or waived by the Purchaser at or prior to the Expiry Time:

(a) there shall have been validly deposited under the Offer and not withdrawn at least 66 2/3% of the Shares on a fully diluted basis (the "**Minimum Condition**");

(b) there shall not exist or have occurred any Material Adverse Effect;

(c) all government or regulatory approvals, waiting or suspensory periods, waivers, permits, consents, reviews, orders, rulings, decisions, and exemptions (including, among others, those of any stock exchanges or other securities or regulatory authorities) that are necessary to complete the Offer, any Compulsory Acquisition or any Subsequent Acquisition Transaction shall have been obtained or concluded or, in the case of waiting or suspensory periods, expired or been terminated, each on terms and conditions satisfactory to the Purchaser, acting reasonably;

(d) (i) the issuance of an advance ruling certificate ("**ARC**") pursuant to section 102 of the *Competition Act* (Canada) (the "**Competition Act**") by the Commissioner of Competition appointed under the Competition Act (the "**Commissioner**"), on terms satisfactory to the Purchaser; or (ii) the Commissioner shall have confirmed, in writing and on terms satisfactory to the Purchaser, that she has no intention to file an application under Part VIII of the Competition Act in connection with the transaction(s) contemplated by this Agreement;

(e) any waiting period (and any extension thereof) with respect to the transaction contemplated by the Agreement under the HSR Act shall have expired or been terminated;

(f) (i) no judgment or order shall have been issued by any Governmental Entity; (ii) no action, suit or proceeding shall have been taken by any Governmental Entity; and (iii) no Law, regulation or policy shall have been, enacted, promulgated or applied or shall exist:

(A) to cease trade, enjoin, prohibit or impose material limitations or conditions on the making of the Offer or the purchase by or the sale to the Purchaser of the Shares or the right of the Purchaser to own or exercise full rights of ownership of the Shares;

(B) which, if the Offer was consummated, could have a Material Adverse Effect or materially adversely affect the Purchaser's ability to complete a Compulsory Acquisition or a Subsequent Acquisition Transaction;

(g) (i) all representations and warranties of the Company contained in the Agreement that are qualified by a reference to a Material Adverse Effect or materiality or words of similar import shall be true and correct in all respects, (ii) all representations and warranties that are not so qualified shall be true and correct in all material respects, (iii) the Company shall have performed in all respects all covenants to be performed by it under the Agreement at or prior to the Effective Time that are qualified by a reference to a Material Adverse Effect or materiality or words of similar import and (iv) the Company shall have performed in all material respects all covenants to be performed by it under the Agreement at or prior to the Effective Time not so qualified, and (v) the Purchaser shall have received a certificate signed by the Chief Executive Officer and Chief Financial Officer of the Company to the effect of the foregoing; and

(h) this Agreement shall not have been terminated in accordance with its terms.

The foregoing conditions are for the sole benefit of the Purchaser and may be asserted by the Purchaser regardless of the circumstances giving rise to any such assertion or may be waived by the Purchaser in whole or in part at any time and from time to time in its sole discretion, without prejudice to any other rights which the Purchaser may have. The failure by the Purchaser at any time to exercise any of the foregoing rights shall not be deemed a waiver of any such right and each such right shall be deemed an ongoing right which may be asserted at any time and from time to time. Any determination by the Purchaser concerning the events described in the foregoing conditions shall be final and binding on all parties.