

ASSET PURCHASE AGREEMENT

VOGUE OPTICAL INC.

- and -

8600813 CANADA INC.

- and hereunto intervening –

NEW LOOK EYEWEAR INC.

- and -

CORY GRAY

- and -

WAYNE GRAY

- and -

DARREN GRAY

- and -

VOGUE HOLDINGS INC.

- and -

THE DARREN GRAY FAMILY TRUST (2002)

- and -

THE CORY GRAY FAMILY TRUST (2002)

- and -

THE DWG HOLDINGS TRUST (2012)

- and -

THE VOGUE (2012) TRUST

November 15, 2013

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ASSET PURCHASE AGREEMENT made the 15th day of November, 2013,

BETWEEN: **VOGUE OPTICAL INC.**, a corporation duly amalgamated under the laws of the Province of Prince Edward Island,

(hereinafter referred to as “**Seller**”),

AND: **8600813 CANADA INC.**, a corporation duly incorporated under the laws of Canada,

(hereinafter referred to as “**Purchaser**”),

AND HEREUNTO INTERVENING: **NEW LOOK EYEWEAR INC.**, a corporation duly incorporated under the laws of Canada

(hereinafter referred to as “**New Look**”),

CORY GRAY, executive, residing and domiciled in the Town of Stratford, Province of Prince Edward Island,

(hereinafter referred to as “**Cory**”),

AND: **WAYNE GRAY**, executive, residing and domiciled in the Town of Stratford, Province of Prince Edward Island,

(hereinafter referred to as “**Wayne**”)

AND: **DARREN GRAY**, executive, residing and domiciled in the Town of Stratford, Province of Prince Edward Island,

(hereinafter referred to as “**Darren**”)

AND: **VOGUE HOLDINGS INC.**, a corporation duly amalgamated under the laws of **the Province of Prince Edward Island**,

(hereinafter referred to as “**Holdings**”),

AND: Darren Gray and Wayne Gray, each in his capacity as a trustee of **THE DARREN GRAY FAMILY TRUST (2002)**, a trust established by Agreement of Trust entered into on January 31, 2002,

(hereinafter referred to as the “**DGFT**”)

AND: Cory Gray and Wayne Gray, each in his capacity as a trustee of **THE CORY GRAY FAMILY TRUST (2002)**, a trust established by Agreement of Trust entered into on January 31, 2002,

(hereinafter referred to as the “**CGFT**”)

AND: Darren Gray and Cory Gray, each in his capacity as a trustee of **THE DWG HOLDINGS TRUST (2012)**, a trust established by Agreement of Trust entered into on January 31, 2012,

(hereinafter referred to as the “**DWG**”)

AND: Cory Gray and Wayne Gray, each in his capacity as a trustee of **THE VOGUE (2012) TRUST**, a trust established by Agreement of Trust entered into on January 31, 2012,

(hereinafter referred to as the “**Vogue Trust**”)

WHEREAS Seller wishes to sell to Purchaser and Purchaser wishes to purchase from Seller all of the assets used by Seller in its conduct of the Purchased Business (save and except for the Excluded Assets), on the terms and conditions hereinafter set forth;

AND WHEREAS Cory, Wayne, Darren, Holdings, DGFT, CGFT, DWG and the Vogue Trust (hereinafter referred to collectively as the “**Shareholders**” and individually as a “**Shareholder**”) are: (i) the direct and/or indirect holders of all of the issued and outstanding shares in the share capital of Seller; or (ii) directors and/or trustees of one or more of the aforesaid Shareholders;

AND WHEREAS the Shareholders have intervened to this Agreement for the express purpose of defending and indemnifying Purchaser, jointly and severally as between the Shareholders and among the Shareholders and Seller, from certain Losses suffered or incurred by Purchaser as hereinafter set forth.

AND WHEREAS New Look has intervened to this Agreement for the express purpose of defending and indemnifying the Seller, jointly and severally as between the Purchaser and New Look, from certain Losses suffered or incurred by Seller as hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party), the parties agree as follows:

Article 1
INTERPRETATION

1.1 **Defined Terms**

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

“**Accountants**” has the meaning set out in Section 2.6(c);

“**Acquisition Financial Statements**” has the meaning set out in Section 6.9(b);

“**Act**” means the *Canada Business Corporations Act*, as in effect on the date hereof;

“**Affiliate**” has the meaning given to that term in the Act;

“**Ancillary Agreements**” means: (a) the Escrow Agreement; (b) the Non-Competition, Non-Solicitation and Confidentiality Agreement by and among Seller, the Shareholders and Purchaser bearing even date herewith, substantially in the form attached hereto as **[Exhibit “A”]**; and (c) the Share Purchase Agreement by and among Purchaser and the Shareholders; and (d) the Landlord Consent Escrow Agreement;

“**Annual Audited Financial Statements**” means the audited year-end financial statements of Seller as at and for the period ended December 31, 2012, accompanied by the auditor's report signed on November ___, 2013, copies of which are attached hereto at Schedule 1.1(a);

“**ASPE**” means Accounting Standards for Private Enterprises as issued by the Canadian Standards Board, applied on a consistent basis with prior years;

“**Associate**” has the meaning given to that term in the Act;

“**Assumed Liabilities**” has the meaning set out in Section 2.4(a);

“**Authorization**” means, with respect to any Person, any order, permit, approval, consent, waiver, licence, certificate, registration or similar authorization of any Governmental Body having jurisdiction over the Person;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Provinces of Québec and/or Prince Edward Island, on which commercial banks in Montréal, Québec and Charlottown, Prince Edward Island are open for business;

“**Claim**” has the meaning set out in Section 7.5;

“**Closing**” means the closing of the transactions contemplated hereby;

“**Closing Balance Sheet**” has the meaning set out in Section 2.6(a);

“**Closing Date**” means the later of: (a) December 2, 2013; (b) the date that the condition in Section 3.5(e) has been satisfied, which date may not be later than December 9, 2013; and (c) such later date as may be agreed to by the Parties;

“**Closing Working Capital**” means an amount equal to the difference between: (a) the current assets of the Purchased Business, including accounts receivable, Inventories, deposits, prepaid liabilities and GST refunds; and (b) current liabilities, including short term debt, accounts payable, payroll accrual accounts, credit card accruals, gift card liabilities and other accrued liabilities, in each case computed as of the Time of Closing, in accordance with the Seller's past practices applied on a consistent basis, a draft calculation of which, as of the Closing Date, will be agreed to by the parties prior to the Closing, which shall be in the form attached hereto at [**Exhibit “B”**];

“**Collective Agreements**” has the meaning set out in Section 4.28;

“**Commercially Reasonable Efforts**” means the efforts that a prudent Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as possible, provided, however, that such Person will not be required to (i) take actions that would result in a material adverse change in the benefits to such Person under this Agreement, (ii) dispose of or make any change to its business, (iii) expend any material funds except funds that are due and payable in any event or are for incidental expenses or payments by Law, or (iv) incur any other material burden;

“**Consent Period**” has the meaning set out in Section 6.10;

“**Contract**” means any agreement, indenture, contract, lease, deed of trust, licence, option, instrument or other commitment, whether written or oral;

[redacted – commercially sensitive information];

“**Dispute Notice**” has the meaning set out in Section 2.6(c);

“**Dispute Period**” has the meaning set out in Section 2.6(c);

“Employee Plans” means all plans, arrangements, agreements, programs, policies, practices or undertakings, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, registered or unregistered, to which Seller is a party or bound or in which the Employees participate or under which Seller has, or will have, any liability or contingent liability or pursuant to which payments are made or benefits are provided, or an entitlement to payments or benefits may arise with respect, to any of the Employees (or any spouses, dependants, survivors or beneficiaries of such persons), excluding Statutory Plans;

“Employees” has the meaning set out in Section 4.26;

“Encumbrance” means any encumbrance, lien, charge, hypothec, pledge, right of retention, prior claim, mortgage, title retention agreement or arrangement, security interest of any nature, conditional sale, claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, resolatory clause, restrictive covenant or other encumbrance of any nature, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any Contract to create any of the foregoing;

“Environmental Laws” has the meaning set out in Section 4.25(a);

“Environmental Permits” has the meaning set out in Section 4.25(b);

“Escrow Agent” means the Halifax, Nova Scotia, office of Stewart McKelvey, counsel to Seller;

“Escrow Agreement” means that certain Escrow Agreement by and among Purchaser, Seller and the Escrow Agent, substantially in the form attached hereto as **Exhibit “C”**;

“Escrow Amount” has the meaning ascribed thereto in Section 2.3(a);

“ETA” means Part IX of the *Excise Tax Act* (Canada), as amended from time to time;

“Excluded Assets” has the meaning set out in Section 2.2;

“Excluded Employees” has the meaning set out in Section 6.5(a);

“Exclusivity Period” has the meaning set out in Section 6.8;

“Financial Statements” means the Annual Audited Financial Statements and the Internal Interim Financial Statements;

“Governmental Body” means any domestic or foreign (a) federal, provincial, state, municipal, local or other government, (b) any governmental or quasi-governmental authority of any nature, including any governmental ministry, agency, branch, department, court, commission, board, tribunal, bureau or instrumentality, or (c) any

body exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature;

“**GAAP**” means generally accepted accounting principles established from time to time by the Canadian Institute of Chartered Accountants or any successor body thereto;

“**GST**” means all Taxes payable under the ETA and if applicable, includes a reference to the “harmonized sales tax” (HST) imposed under the ETA or under any provincial legislation similar to the ETA, and any reference to a specific provision of the ETA or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;

“**Hazardous Substances**” means any substance, material or waste defined, regulated, listed or prohibited by Environmental Laws including pollutants, contaminants, chemicals, deleterious substances, dangerous goods, hazardous or industrial toxic wastes or substances, radioactive materials, flammable substances, explosives, petroleum and petroleum products, polychlorinated biphenyls (“PCBs”), chlorinated solvents and asbestos;

“**Indemnified Party**” has the meaning set out in Section 7.5;

“**Indemnifying Party**” has the meaning set out in Section 7.5;

“**Intellectual Property**” has the meaning set out in Section 2.1(h);

“**Internal Interim Financial Statements**” means the internally prepared year to date financial statements of Seller as at and for the period ended September 30, 2013, prepared in accordance with past practice, copies of which are annexed hereto as Schedule 1.1(b);

“**Inventories**” means all inventories of raw materials, work-in-process, finished goods, supplies, replacement or spare parts, and packaging materials used in the Purchased Business;

[redacted – commercially sensitive information];

[redacted – commercially sensitive information];

“**Laws**” means any and all applicable (a) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations, by-laws, and (b) judgments, orders, writs, injunctions, decisions, awards and directives of any Governmental Body;

“**Leased Immovable Property**” has the meaning set out in Section 2.1(k);

“**Leases**” has the meaning set out in Section 4.8;

“Losses”, in respect of any matter, means any and all losses, liabilities, damages, penalties, obligations, awards, fines, deficiencies, interest, Claims (including Direct Claims and Third Party Claims), costs and expenses (including reasonable attorneys’ fees and disbursements) arising directly as a consequence of such matter, but excluding punitive, exemplary, indirect, incidental, special, unforeseen, consequential or aggravated damages (including damages for loss of profit);

“Multi-Employer Plans” means Employee Plans to which Seller is required to contribute pursuant to a collective agreement and which are not maintained or administered by Seller or its Affiliates;

“Notice of Claim” has the meaning set out in Section 7.5(a);

“Optical Services” has the meaning set out in Section 4.11.

“Pension Plans” means all Employee Plans providing pensions, superannuation benefits, retirement savings, top up or supplemental pensions, “registered retirement savings plans” (as defined in the Tax Act), “registered pension plans” (as defined in the Tax Act) or “retirement compensation arrangements” (as defined in the Tax Act), and shall include (without limitation, Seller’s defined contribution pension plan);

“Permitted Encumbrances” means:

- (a) liens for Taxes, assessments and governmental charges that are due but are being contested in good faith and diligently by appropriate proceedings and in respect of which adequate provision for the related monetary obligation has been made in the most recent Financial Statements;
- (b) servitudes, easements, restrictions, rights of parties in possession, zoning restrictions, encroachments, reservations, rights-of-way and other similar rights in immovable property or any interest therein, provided the same are not of such nature as to materially adversely affect the use of the property subject thereto;
- (c) the reservations in any original grants from the Crown of any immovable property or interest therein and statutory exceptions to title which do not materially affect the use of the immovable property subject thereto;
- (d) undetermined or inchoate liens, charges and privileges claimed or held by any Governmental Body or a public utility in respect of taxes or utilities not yet due and payable;
- (e) the Encumbrances described in Schedule 1.1(c);

“Person” means any individual, corporation, legal person, partnership, firm, joint venture, syndicate, association, trust, trustee, limited liability company, unincorporated organization, trust company, Governmental Body or any other form of entity or organization;

“**Personal Information**” means information in the possession or under the control of Seller which relates to a natural person and allows that person to be identified;

“**Prime Rate**” means the annual variable rate of interest quoted or published from time to time by the National Bank of Canada as its reference rate in effect for determining the interest rate on Canadian dollar commercial loans made in Canada;

“**Purchase Price**” has the meaning set out in Section 2.6;

“**Purchased Assets**” has the meaning set out in Section 2.1;

“**Purchased Business**” means the business carried on by Seller consisting of the retail optical and lens manufacturing business;

[redacted – commercially sensitive information];

“**Release**” when used as a verb, includes release, spill, leak, emit, deposit, discharge, migrate, pump, pour, inject, escape or dispose of into the environment or any other similar act, however defined in applicable Environmental Laws and the term “**Release**” when used as a noun has a correlative meaning;

“**Retained Employees**” has the meaning set out in Section 3.6(g);

“**Retained Liabilities**” has the meaning set out in Section 2.4(b);

“**Seller Financial Information**” has the meaning set out in Section 6.9(a);

“**Seller’s RST Obligations**” has the meaning set out in Section 2.8;

“**Shareholders**” and “**Shareholder**” has the meaning set out in the preamble hereof;

“**Share Purchase Transaction**” means the transactions contemplated by a share purchase agreement signed on the date hereof providing for the purchase by Purchaser of all issued and outstanding shares in the capital of 101690 P.E.I. Inc.;

“**Statutory Plans**” means statutory benefit plans that Seller is required to participate in or comply with, including the Canada Pension Plan and plans administered pursuant to applicable health tax, workplace safety insurance and employment insurance legislation;

[redacted – commercially sensitive information];

“**Tax Act**” means the *Income Tax Act* (Canada), as amended from time to time;

“**Taxes**” means any federal, provincial, territorial, state or local income, goods and services, harmonized sales, value added, corporation, land transfer, licence, payroll, excise, sales, use, capital, withholding or other tax, levy, duty, assessment, reassessment

or other charge of any kind whatsoever, whether direct or indirect, including any interest and penalty or other addition to or on any of the foregoing, whether disputed or not, imposed by a Governmental Body, and for greater certainty includes Canada Pension Plan, provincial pension plan and employment insurance premiums;

[redacted – commercially sensitive information];

[redacted – commercially sensitive information];

“**Time of Closing**” means 12:01 a.m. (Halifax, Nova Scotia time) on December 1, 2013, provided that if the condition in Section 3.5(e) has not been satisfied by December 9, 2013, the Parties shall mutually agree on an alternate Time of Closing;

[redacted – commercially sensitive information];

“**Transferred Employees**” has the meaning set out in Section 6.6; and

[redacted – commercially sensitive information];

1.2 **Rules of Construction**

Except as may be otherwise specifically provided in this Agreement and unless the context otherwise requires, in this Agreement:

- (a) the terms “Agreement”, “this Agreement”, “the Agreement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Agreement in its entirety and not to any particular provision hereof;
- (b) references to an “Article”, “Section”, “Schedule”, “Exhibit” or “Annex” followed by a number or letter refer to the specified Article or Section of or Schedule, Exhibit or Annex to this Agreement;
- (c) the division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) words importing the singular number only shall include the plural and vice versa and words importing the use of any gender shall include all genders;
- (e) the word “including” is deemed to mean “including without limitation”;

- (f) the terms “party” and “the parties” refer to a party or the parties to this Agreement;
- (g) any reference to this Agreement means this Agreement as amended, modified, replaced or supplemented from time to time;
- (h) all dollar amounts refer to Canadian dollars;
- (i) any time period within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and
- (j) whenever any payment is required to be made, action is required to be taken or period of time is to expire on a day other than a Business Day, such payment shall be made, action shall be taken or period shall expire on the next following Business Day.

1.3 **Entire Agreement**

This Agreement, together with the Ancillary Agreements, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided herein and/or in the Ancillary Agreements.

1.4 **Time of Essence**

Time shall be of the essence of this Agreement.

1.5 **Governing Law and Submission to Jurisdiction**

- (a) This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Nova Scotia and the federal laws of Canada applicable therein.
- (b) Each of the parties irrevocably and unconditionally (i) submits to the non-exclusive jurisdiction of the courts of the Province of Nova Scotia over any action or proceeding arising out of or relating to this Agreement, (ii) waives any objection that it might otherwise be entitled to assert to the jurisdiction of such courts, and (iii) agrees not to assert that such courts are not a convenient forum for the determination of any such action or proceeding.

1.6 **Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other 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 remains consistent with the original intent of the parties as of the date of this Agreement. 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 hereto as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

1.7 [redacted – commercially sensitive information].

1.8 Schedules

The Schedules attached to this Agreement form an integral part of this Agreement.

Article 2 PURCHASE AND SALE

2.1 Purchased Assets

Subject to the terms and conditions of this Agreement at the Time of Closing, Seller shall sell, assign and transfer to Purchaser and Purchaser shall purchase from Seller all of the property and assets owned and held for use in connection with or otherwise relating to or necessary for the conduct of the Purchased Business (other than the Excluded Assets), whether movable or immovable, corporeal or incorporeal, of every kind and description and wheresoever situated, as a going concern (collectively, the “**Purchased Assets**”), including:

- (a) Accounts Receivable. All accounts receivable, trade accounts, notes receivable, book debts and other debts due or accruing due to Seller and the benefit of all security for such accounts, notes and debts;
- (b) Business Names. All business names, together with the right for Purchaser to represent itself as carrying on the Purchased Business in succession to Seller and the right to use any words indicating that the Purchased Business is so carried on, including the right to use the name “*Vogue Optical*”, or any variation thereof, as part of the name or style under which the Purchased Business or any part thereof is carried on by Purchaser;
- (c) Business Records. All books and records (other than those required by Law to be retained by Seller, copies of which will be made available to Purchaser), including customer lists, sales records, price lists and catalogues, sales literature, advertising material, manufacturing data, production records, employee manuals, personnel records, supply records, inventory records and correspondence files (together with, in the case of any such information which is stored electronically, the media on which the same is stored);

- (d) Computer Hardware and Software. All computer hardware and software, including all rights under licences and other agreements or instruments relating thereto;
- (e) Agreements. All rights under leases of movable property, orders or contracts for the provision of goods or services (whether as buyer or seller), distribution and agency agreements, employment agreements, agreements and instruments relating to Employee pension or benefit plans, agreements with optometrists, opticians and other licensed professionals, and other Contracts not otherwise referred to in this Section 2.1, including the Contracts described in Schedules 2.1(e), 4.28(a) and 4.29;
- (f) Goodwill. All goodwill, together with the exclusive right for Purchaser to represent itself as carrying on the Purchased Business in succession to Seller;
- (g) Machinery, Equipment and Furniture. All machinery, equipment, fixtures, furniture, furnishings, parts, tooling molds, dies, jigs or patterns and other fixed assets including (without limitation) the machinery, equipment and furniture described in Schedule 2.1(g), which lists set out at such Schedule are current as of the dates listed therein;
- (h) Intellectual Property. All trade or brand names, business names, trade-marks (including logos), trade-mark registrations and applications, service marks, service mark registrations and applications, copyrights, copyright registrations and applications, issued patents and pending applications and other patent rights, industrial design registrations, pending applications and other industrial design rights, trade secrets, proprietary information and know-how, equipment and parts lists and descriptions, instruction manuals, inventions, inventors' notes, research data, blue prints, drawings and designs, formulae, processes, technology and other intellectual property in whatever form or format, together with all rights under licences, registered user agreements, technology transfer agreements and other agreements or instruments relating to any of the foregoing (collectively, "**Intellectual Property**"), including the trade-marks, copyrights, patents, industrial designs, licences and agreements described in Schedule 2.1(h);
- (i) Warranties. All third party warranties and guarantees with respect to the Purchased Business, to the extent the same are assignable or transferable by Seller;
- (j) Inventories. All Inventories;
- (k) Leased Immovable Property. Subject to Section 6.10, all rights as lessee in premises used in the Purchased Business and leased pursuant to any accepted promises or offers to lease or sublease, agreements to lease or sublease, leases, subleases, renewals of leases or of subleases, permits, operating agreements or other rights or licenses to possess or to occupy any premises wherever located (including all rights to sue a landlord), together with Seller's interest in all

leasehold improvements relating thereto (the “**Leased Immovable Property**”), [redacted – commercially sensitive information];

- (l) Licences and Permits. All transferable licences, permits, approvals, consents, registrations, certificates and other authorizations, including those described in Schedule 4.15 and the Environmental Permits;
- (m) Prepaid Expenses. All deposits from customers and prepaid expenses;
- (n) Vehicles. All trucks, cars and other vehicles, including the vehicles described in Schedule 2.1(n);
- (o) Office Supplies. All office supplies;
- (p) Websites and Social Media. All websites, URL addresses, internet domain names and all rights related to social media used by the Purchased Business;
- (q) Employee Plans. All rights under Employee Plans; and
- (r) Copies of Minutes and/or Resolutions. Copies of all minutes and/or resolutions of the board of directors and/or shareholders of Seller (including, of any committees or sub-committees thereof) related to the Closing of the transactions contemplated hereby, including copies of all minutes and/or resolutions related to any pre-closing reorganization undertaken by Seller or any of its Affiliates.

2.2 Excluded Assets

The Purchased Assets shall not include any of the following property and assets (collectively, the “**Excluded Assets**”):

- (a) all cash on hand, cash equivalents and bank deposits;
- (b) all minute books, stock ledgers and Tax records of Seller;
- (c) all insurance policies;
- (d) all immoveable property that is owned by Seller;
- (e) all income Tax instalments paid by Seller and the right to receive any refund or credits in respect of income Taxes or other Taxes paid by Seller including other tax attributes of Seller;
- (f) [redacted – commercially sensitive information];

- (g) all hard copies of photos;
- (h) [redacted – commercially sensitive information];
- (i) all indebtedness to Seller of any Affiliate of Seller;
- (j) all personnel records that Seller is required by Law to retain in its possession (copies of which will be made available to Purchaser, as reasonably requested); and
- (k) all records related to the Excluded Assets.

2.3 **Purchase Price**

Purchased Assets. The aggregate purchase price payable by Purchaser to Seller for the Purchased Assets (the “**Purchase Price**”) shall be Seventy-Four Million Dollars (\$74,000,000), subject to adjustment in accordance with Section 2.6. The Purchase Price shall be satisfied by Purchaser at Closing as follows:

- (a) the sum of [redacted – commercially sensitive information] (the “**Escrow Amount**”) shall be remitted to the Escrow Agent to be held pursuant to the terms of the Escrow Agreement to support each Shareholder’s indemnification obligation in favour of Purchaser;
- (b) [redacted – commercially sensitive information];
- (c) the sum of One Dollar (\$1.00) shall be paid to Seller by the assumption and satisfaction of the Assumed Liabilities, as provided for in Section 2.4; and
- (d) the balance of the Purchase Price less the amounts set out in paragraphs (a), (b) and (c) (as the same may be adjusted pursuant to Section 2.6) shall be paid by wire transfer of immediately available funds to, or to the order of, Seller by Purchaser at the Time of Closing.

2.4 **Assumption of Certain Liabilities by Purchaser**

- (a) Subject to the provisions of this Agreement, Purchaser covenants and agrees to assume, pay, satisfy, discharge, perform and fulfil, from and after the Time of Closing, all obligations and liabilities of Seller existing as at and after the Time of Closing under:
 - (i) outstanding 2-for-1 customer eyeglass claims;

- (ii) warranty obligations on eyeglass frames and lenses;
- (iii) all obligations incurred by Seller in connection with Employees as and from the Time of Closing, including accrued vacation, termination, severance and other related employment obligations;
- (iv) the Contracts described in Schedules 2.1(k), 2.1(e), 2.1(h) and 4.29(a);
- (v) the Authorizations described in Schedule 4.15;
- (vi) the Contracts entered into by Seller in the ordinary course of the Purchased Business for the provision of services or goods to Seller;
- (vii) the Contracts entered into by Seller in the ordinary course of the Purchased Business for the sale of any Inventories by Seller or the provision of services by Seller;
- (viii) any current liabilities reflected in the balance sheet forming part of the Internal Interim Financial Statements (other than one owing to any Affiliate of Seller outside the ordinary course of business) and which is specifically included in the computation of Closing Working Capital; and
- (ix) any current liabilities (other than one owing to any Affiliate of Seller outside the ordinary course of business) incurred by Seller in the ordinary course of business after the date of the balance sheet forming part of the Internal Interim Financial Statements at the Time of Closing and which is specifically included in the computation of Closing Working Capital,

collectively the “**Assumed Liabilities**”.

- (b) All liabilities of Seller, whether or not incurred in connection with the Purchased Business, that are not specifically listed as Assumed Liabilities in clauses (i) through (ix) of Section 2.4(a) are to be retained by Seller and are hereinafter referred to as “**Retained Liabilities**”.

2.5 **Product Liability and Warranty Obligations**

Subject only to Section 2.4(a)(i) and 2.4(a)(ii), Purchaser shall not assume, and Seller shall be solely responsible for and shall indemnify and hold harmless Purchaser from and against, all product liability and other claims and obligations respecting products manufactured or sold by Seller in connection with the Purchased Business up to the Time of Closing, other than any return of products in the ordinary course of business. Purchaser may satisfy any such obligations not assumed by it where it is required to do so by Law or by order of any Governmental Body having jurisdiction over it or where it determines in good faith to do so for valid business reasons and provided, in any such case, that Purchaser has given at least ten (10) days prior written notice to Seller and offered Seller the right to assume such obligations or the defense of such claims against the applicable third party. Seller shall reimburse Purchaser

forthwith following demand for all out of pocket expenses incurred by Purchaser in connection therewith, including all labour and material costs incurred in repairing or replacing products.

2.6 Final Determination of Purchase Price

- (a) Within seventy-five (75) days following the Closing Date, Seller shall deliver to Purchaser a balance sheet (the “**Closing Balance Sheet**”) and statement of Closing Working Capital of the Purchased Business as at the Time of Closing substantially in the form attached hereto at [**Exhibit “B”**] (the “**Closing Working Capital**”), prepared in accordance with the Seller's past practices. The Closing Balance Sheet shall be prepared on Seller's behalf by [redacted – commercially sensitive information], in consultation with Seller's advisor, Deloitte LLP, and shall be accompanied by a report with applicable working papers and books and records.
- (b) Purchaser and Seller each agree that it will cooperate and assist in the preparation of the Closing Balance Sheet, including the making available to the extent necessary of books, records, work papers and personnel and Seller agrees that Purchaser and representatives of and advisors to Purchaser shall be entitled to access to the books and records, working papers and personnel in connection with the preparation of the Closing Balance Sheet;
- (c) Forthwith following receipt by Purchaser of the Closing Balance Sheet, Purchaser shall review the Closing Balance Sheet. If Purchaser has any objections to any part of the Closing Balance Sheet or the calculation of the Closing Working Capital, then Purchaser shall set out such objections in writing with reasonable particularity in a notice (the “**Dispute Notice**”) to be delivered to Seller within thirty (30) days (the “**Dispute Period**”) following receipt of the Closing Balance Sheet. If Purchaser delivers a Dispute Notice, Seller and Purchaser will work expeditiously and in good faith in an attempt to resolve such objections and settle the Closing Balance Sheet and the calculation of the Closing Working Capital. If such objections cannot be resolved within thirty (30) Business Days following receipt by Seller of the Dispute Notice, Purchaser and Seller shall, refer such dispute to an audit partner in the Halifax, Nova Scotia office of KPMG (the “**Accountants**”). The Accountants shall render a decision with respect to such matters in dispute between Seller and Purchaser as particularized in the Dispute Notice. The decision of the Accountants shall be delivered to Purchaser and Seller as soon as possible (but in any event within sixty (60) Business Days) and shall be conclusive and binding upon the parties hereto. The party whose submission is furthest from the Closing Working Capital as determined by the Accountants shall pay the fees and expenses of the Accountants appointed as aforesaid. Each party shall pay its own costs and expenses relating to any such dispute, including any expert and representation fees;
- (d) For the purposes of this Agreement, the Closing Balance Sheet and the calculation of Closing Working Capital shall be deemed to have become final and binding on Purchaser and Seller on the latest of the following dates:

- (i) the second Business Day following the last day of the Dispute Period if no Dispute Notice is delivered by Purchaser to Seller prior to the end of the Dispute Period; and
- (ii) if a Dispute Notice is delivered by Purchaser to Seller prior to the end of the Dispute Period:
 - (A) the second Business Day following the day on which the last of all objections contained in such Dispute Notice is resolved by Purchaser and Seller without the necessity of proceeding to the Accountants to resolve such objections; or
 - (B) the second Business Day following the giving of a decision by the Accountants with respect to objections made by Purchaser in the Dispute Notice.
- (e) After the Closing Balance Sheet becomes final and binding on Purchaser and Seller pursuant to Section 2.6(d):
 - (iii) if the Target Working Capital exceeds the Closing Working Capital, the Purchase Price will be reduced, on a dollar-for-dollar basis, by the amount of the difference; and
 - (iv) if the Closing Working Capital exceeds the Target Working Capital, the Purchase Price will be increased, on a dollar-for-dollar basis, by the amount of the difference.
- (f) The amount of any increase or decrease to the Purchase Price pursuant to Section 2.6(e) shall, in the case of an increase, be paid by Purchaser to Seller (together with interest thereon at the Prime Rate from and including the Closing Date to but excluding the date of payment) by wire transfer of immediately available funds to an account designated by Seller within five (5) Business Days of the date on which the Closing Balance Sheet becomes final and binding on Purchaser and Seller pursuant to Section 2.6(d); or shall, in the case of a decrease, be paid by Seller to Purchaser (together with interest thereon at the Prime Rate from and including the Closing Date to but excluding the date of payment) by wire transfer of immediately available funds to an account designated by Purchaser within five (5) Business Days of the date on which the Closing Balance Sheet becomes final and binding on Purchaser and Seller pursuant to Section 2.6(d) (failing which, Purchaser shall have the right, but not the obligation, to immediately claim the amount of the Shortfall from the Escrow Amount and/or the Landlord Consent Escrow Amount).
- (g) The parties agree that the procedure set forth in this Section 2.6 for resolving disputes with respect to the Closing Balance Sheet and the calculation of the Closing Working Capital is the sole and exclusive method of resolving such disputes.

2.7 Allocation of Purchase Price

Seller and Purchaser agree to allocate the Purchase Price among the Purchased Assets in accordance with Schedule 2.7 and to report the sale and purchase of the Purchased Assets for all federal, provincial and local Tax purposes in a manner consistent with such allocation.

2.8 Sales Tax Elections

- (a) Purchaser and Seller shall, on the Closing Date, elect jointly under subsection 167(1) of the ETA, and under any other similar provision of any applicable provincial Laws, in the prescribed form and within the prescribed time, in respect of the sale and transfer of the Purchased Assets hereunder, and Purchaser shall file such election with Canada Revenue Agency and provide Seller with proof of receipt by them (and by any other provincial taxing authority, where applicable) of the receipt of such elections. Purchaser shall indemnify Seller and hold Seller harmless against any and all claims asserted against and incurred by Seller directly or indirectly as a result of (i) Seller not collecting or remitting any tax pursuant to the ETA in respect of the sale of the Purchased Assets to Purchaser; or (ii) the failure of Purchaser to file such election with the Canada Revenue Agency.
- (b) Seller shall execute all acts, documents and do or obtain such things as may be required, including any requisite clearance certificates, to cause the sale of the Purchased Assets contemplated by this Agreement to be exempt, to the maximum extent possible, from retail sales tax under the Laws of the Provinces of Saskatchewan and British Columbia (“**Seller’s RST Obligations**”).

2.9 Transfer Taxes

Save for any Taxes arising as a result of Seller’s failure to satisfy Seller’s RST Obligations, Purchaser shall be liable for and shall pay directly to the appropriate Governmental Body, all federal and provincial sales Taxes, land transfer Taxes and all other Taxes, registration charges, duties, fees or other like charges of any jurisdiction properly payable by a purchaser in connection with the transfer of the Purchased Assets by Seller to Purchaser.

2.10 Income Tax Election

Purchaser and Seller agree to elect jointly, in the prescribed form and within the prescribed time, under section 22 of the Tax Act (and the corresponding provision of any similar provincial Laws) as to the sale of the accounts receivable and other assets which are referred to in Section 2.1(a) and described in section 22 of the Tax Act (and the corresponding provision of any similar provincial Laws) and to designate in such election an amount equal to the portion of the Purchase Price allocated to such assets pursuant to Section 2.7 as the consideration paid by Purchaser therefor.

Article 3
CLOSING AND CLOSING CONDITIONS

3.1 **Transfer**

Subject to compliance with the terms and conditions hereof, the transfer of possession of the Purchased Assets shall be deemed to take effect as at the Time of Closing. The Closing shall take place at the Time of Closing at the offices of Seller's counsel, Stewart McKelvey, in Charlottetown, Prince Edward Island. Unless otherwise agreed, all closing transactions shall be deemed to have occurred simultaneously.

3.2 **Risk of Loss**

From the date hereof up to the Time of Closing, the Purchased Assets shall be and remain at the risk of Seller. If, prior to the Time of Closing, all or any substantial or material part of the Purchased Assets which are necessary to carry on the Purchased Business as currently conducted are destroyed or damaged by fire or any other casualty or shall be appropriated, expropriated or seized by governmental or other lawful authority, unless Purchaser terminates its obligations under this Agreement as contemplated by Section 3.5, Purchaser shall complete the purchase without reduction of the Purchase Price, in which event all proceeds of insurance or compensation for expropriation or seizure shall be paid to Purchaser at the Time of Closing and all right and claim of Seller to any such amounts not paid by the Closing Date shall be assigned at the Time of Closing to Purchaser.

3.3 **Closing Deliveries by Seller**

At the Closing, Seller shall deliver or cause to be delivered to Purchaser:

- (a) all of the Purchased Assets, as more particularly set forth in Section 2.1 (including, without limitation, all rights under the leases for sixty-five (65) retail outlets, the manufacturing plant and the head office, each as described in Schedule 2.1(k));
- (b) the bring-down certificates referred to in Sections 3.5(a) and (b);
- (c) customary deeds, assignments, bills of sale and other conveyancing documents, to be settled between counsel for Seller and counsel for Purchaser, sufficient to transfer the various categories of Purchased Assets described in Section 2.1;
- (d) a counterpart of each of the Ancillary Agreements to which any of Seller or its Affiliates is a party, executed by each of Seller, the Shareholders and their respective Affiliates that is a party thereto;
- (e) a copy certified by a senior officer of Seller of the letters patent and by-laws of Seller and of the resolution of Seller's directors and the Shareholders authorizing the execution and delivery of this Agreement and the Ancillary Agreements to which Seller, the Shareholders and their respective Affiliates is a party;

- (f) [redacted – commercially sensitive information];
- (g) the consents to the sale of the Purchased Business to Purchaser from each of the Contract parties listed in Schedule 4.16 under the caption “Closing Consents”;
- (h) [redacted – commercially sensitive information];
- (i) a copy of the notification by Seller to 101690 P.E.I. Inc., in accordance with subsection 89(14) of the Tax Act, that the entire amount of the deemed dividend arising on the redemption of the 1,000 Class R0-1, 1,000 Class R0-2 and 1,000 Class R0-3 preferred shares in the capital stock of Seller is an “eligible dividend” (within the meaning of subsection 89(1) of the Tax Act), as well as evidence of the timely communication of such notification;
- (j) a copy of 101690 P.E.I. Inc.’s (unrevoked) election in accordance with subsection 89(11) of the Tax Act to not be a Canadian-controlled private corporation (within the meaning of the Tax Act) for the purposes set forth in that subsection for all taxation years of Seller ending prior to the Closing Date and proof of the timely filing of such election; and
- (k) all other documents required to be delivered to Purchaser pursuant to this Agreement or reasonably necessary to give effect to the transactions contemplated hereby.

3.4 **Closing Deliveries by Purchaser**

At the Closing, Purchaser shall deliver or caused to be delivered to Seller:

- (a) the bring-down certificates referred to in Sections 3.6(a) and (b);
- (b) the documents referred to in Section 3.3(c) that a purchaser would customarily execute;
- (c) a counterpart of each of the Ancillary Agreements to which any of Purchaser or its Affiliates is a party, executed by each of Purchaser and its Affiliates that is a party thereto;
- (d) a copy certified by a senior officer of Purchaser of the articles of incorporation and by-laws of Purchaser and of the resolution of Purchaser’s directors approving the execution and delivery of this Agreement and the Ancillary Agreements to which Purchaser is a party;
- (e) the Purchase Price payment in accordance with Section 2.3 (including payment of the Escrow Amount to the Escrow Agent);

- (f) a receipt for the Purchased Assets acknowledging the purchase of the Purchased Assets pursuant to this Agreement;
- (g) an instrument of assumption of the Assumed Liabilities; and
- (h) all other documents required to be delivered by Purchaser to Seller pursuant to this Agreement or reasonably necessary to give effect to the transactions contemplated hereby.

3.5 **Conditions of Closing in Favour of Purchaser**

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of Purchaser, to be performed or fulfilled at or prior to the Time of Closing:

- (a) **Representations and Warranties.** The representations and warranties of Seller contained in this Agreement shall be true and correct (i) at the Time of Closing as if made at such time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date) and (ii) also at the date hereof in the cases of the representations and warranties in Sections 4.1 through 4.4, and a certificate of the President of Seller, dated as of the Time of Closing, to that effect shall have been delivered to Purchaser, such certificate to be in form and substance satisfactory to Purchaser, acting reasonably;
- (b) **Covenants.** All of the terms, covenants and conditions of this Agreement to be complied with or performed by Seller at or before the Time of Closing shall have been complied with or performed in all material respects, and a certificate of the President of Seller, dated as of the Time of Closing, to that effect shall have been delivered to Purchaser, such certificate to be in the form set out at **Exhibit “E”** attached hereto;
- (c) **Regulatory Consents.** There shall have been obtained from all appropriate Governmental Bodies such Authorizations as are required to be obtained by Seller to permit the change of ownership of the Purchased Assets contemplated hereby, including those described in Schedule 4.16(a), in each case in form and substance satisfactory to Purchaser, acting reasonably;
- (d) **Contractual Consents.** Seller shall have given or obtained the notices, consents and approvals described in Schedule 4.16 under the caption “Closing Consents” [redacted – commercially sensitive information], in each case in form and substance satisfactory to Purchaser, acting reasonably;
- (e) [redacted – commercially sensitive information];

- (f) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Body to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (g) Injunctions. There shall be in effect no injunction against Closing entered by a court of competent jurisdiction;
- (h) No Material Damage. No material damage by fire or other hazard to the whole or any material part of the Purchased Assets shall have occurred from the date hereof to the Time of Closing;
- (i) No Material Adverse Change. There should not develop, occur or come into effect or existence any event, action, state, condition or occurrence of national or international consequence, acts of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions or any action, law, regulation or inquiry which materially adversely affects, or may materially adversely affect: (A) the financial markets in Canada, the United States or the financial, banking or capital markets generally; or (B) the condition (financial or otherwise), assets, liabilities, operations, earnings, prospects or business of Seller or the Purchased Business since the date of the Annual Audited Financial Statements, and no event shall have occurred that is likely to result in such a material adverse change, provided that if the Closing does not occur on the Closing Date because the Purchaser has relied on this subsection 3.5(i) then the parties agree that the provisions of section 3.7 shall apply;
- (j) Legal Matters. All corporate actions, proceedings, instruments and documents required by the Seller to implement this Agreement, or instrumental thereto, respecting the transfer of the Purchased Assets to the Purchaser, shall have been approved as to form and legality by counsel for Purchaser, acting reasonably; and
- (k) Seller shall be ready, willing and able to make the deliveries required by Section 3.3.

If any of the conditions contained in this Section 3.5 shall not be performed or fulfilled at or prior to the Time of Closing to the satisfaction of Purchaser, acting reasonably, Purchaser may, by notice to Seller, terminate this Agreement and the obligations of Seller and Purchaser under this Agreement, other than the obligations contained in Section 6.7 shall be terminated, provided that Purchaser may also bring an action pursuant to Article 7 against Seller for damages suffered by Purchaser where the non-performance or non-fulfilment of the relevant condition is as a result of a breach of covenant, representation or warranty by Seller. Any such condition may be waived in whole or in part by Purchaser, and provided the Purchaser was not aware of such breach by the Seller of any covenant, representation or warranty contained herein, without prejudice to any such claims it may have against the Seller in respect thereof.

3.6

Conditions of Closing in Favour of Seller

The sale of and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of Seller, to be performed or fulfilled at or prior to the Time of Closing:

- (a) Representations and Warranties. The representations and warranties of Purchaser contained in this Agreement shall be true and correct (i) at the Time of Closing as if made at such time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date) and (ii) also at the date hereof in the cases of the representations and warranties in Sections 5.1 through 5.4, in all material respects if the particular representation and warranty is not by its terms so qualified and in all respects if by its terms it is so qualified, and a certificate of the President of Purchaser, dated as of the Time of Closing, to that effect shall have been delivered to Seller, such certificate to be in form and substance satisfactory to Seller, acting reasonably;
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by Purchaser at or before the Time of Closing shall have been complied with or performed in all material respects, and a certificate of the President of Purchaser, dated as of the Time of Closing, to that effect shall have been delivered to Seller, such certificate to be in the form set out at **Exhibit “E”** attached hereto;
- (c) Regulatory Consents. There shall have been obtained from all Governmental Bodies such Authorizations as are required to be obtained by Purchaser to permit the change of ownership of the Purchased Assets contemplated hereby, including those described in Schedule 4.16(a), in each case in form and substance satisfactory to Seller, acting reasonably;
- (d) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Body to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (e) Injunctions. There shall be in effect no injunction against Closing entered by a court of competent jurisdiction;
- (f) Legal Matters. All actions, proceedings, instruments and documents required to implement this Agreement, or instrumental thereto, shall have been approved as to form and legality by counsel for Seller, acting reasonably;
- (g) Employees. Purchaser shall have agreed to continue the employment of those Employees listed on Schedule 3.6(g) (collectively, the “**Retained Employees**”) on substantially similar terms, in the aggregate in respect of each such Retained Employee, as provided by the Seller prior to Closing;

- (h) [redacted – commercially sensitive information];
- (i) Share Purchase Transaction. The Share Purchase Transaction shall have closed simultaneously with the transactions contemplated by this Agreement; and
- (j) Purchaser shall be ready, willing and able to make the deliveries required by Section 3.4.

If any of the conditions contained in this Section 3.6 shall not be performed or fulfilled at or prior to the Time of Closing to the satisfaction of Seller, acting reasonably, Seller may, by notice to Purchaser, terminate this Agreement and the obligations of Seller and Purchaser under this Agreement, other than the obligations contained in Section 6.7 shall be terminated, provided that Seller may also bring an action pursuant to Article 7 against Purchaser for damages suffered by it where the non-performance or non-fulfilment of the relevant condition is as a result of a breach of covenant, representation or warranty by Purchaser. Any such condition may be waived in whole or in part by Seller, and provided the Seller was not aware of such breach by the Purchaser of any covenant, representation or warranty contained herein, without prejudice to any such claims it may have against the Purchaser in respect thereof.

3.7 [redacted – commercially sensitive information].

Article 4

REPRESENTATIONS AND WARRANTIES OF SELLER AND SHAREHOLDERS

Seller and the Shareholders represent and warrant to Purchaser on a joint and several basis as follows and acknowledges that Purchaser is relying on such representations and warranties in connection with its purchase of the Purchased Assets:

4.1 **Organization**

Seller is duly amalgamated and validly existing under the Laws of the Province of Prince Edward Island and has the corporate power to own or lease its property, including the Purchased Assets, to carry on the Purchased Business as now being conducted by it and to enter into this Agreement and each of the Ancillary Agreements to which Seller is a party and to perform its obligations hereunder and thereunder. Seller is duly qualified as a corporation to do business in each jurisdiction in which the nature of the Purchased Business or the Purchased Assets makes such qualification necessary.

4.2 **Authorization**

The execution and delivery of, and performance by Seller of its obligations under, this Agreement and each of the Ancillary Agreements to which Seller is a party, has been duly authorized by Seller and its shareholders and constitutes a legal, valid and binding obligation of Seller, enforceable against Seller by Purchaser in accordance with its terms, subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement, fraudulent preference and conveyance, assignment and preference and other Laws affecting the rights of creditors generally, and (ii) the discretion that a court may exercise in the granting of equitable remedies, including specific performance and injunctions.

4.3 **No Other Agreements to Purchase**

No Person other than Purchaser has any written or oral agreement or option or any right or privilege (whether by Law, pre-emptive or contractual) capable of becoming an agreement or option for the purchase or acquisition from Seller of any of the Purchased Assets, other than pursuant to purchase orders accepted by Seller in the ordinary course of the Purchased Business.

4.4 **No Violation**

The execution and delivery of this Agreement and each of the Ancillary Agreements to which Seller is a party by Seller and the consummation of the transactions herein and therein provided for will not result in: (a) the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the acceleration of any obligation of Seller under: (i) any provision of the constating documents or by-laws or resolutions of the board of directors (or any committee thereof) or shareholders of Seller; (ii) any judgment, decree, order or award of any Governmental Body or arbitrator having jurisdiction over Seller; (iii) any licence, undertaking, agreement, indenture, permit, approval, consent or Authorization held by Seller or necessary to the operation of the Purchased Business; or (iv) any applicable Laws; or (b) the creation or imposition of any Encumbrance on any of the Purchased Assets. [redacted – commercially sensitive information]

4.5 **Sufficiency of Purchased Assets**

The Purchased Assets are adequate and sufficient to carry on the Purchased Business in the manner in which Seller has conducted the Purchased Business. All corporeal Purchased Assets owned and used by Seller in connection with the Purchased Business are in reasonable operating condition and are in a state of reasonable repair and maintenance (subject to normal wear and tear). With the exception of the Excluded Assets, inventory in transit and certain equipment such as personal computers and vehicles that may be under the physical control of certain of Seller's Employees in the ordinary course of business, all the corporeal assets of the Purchased Business are located at the locations set out in Schedule 4.5 or otherwise in or on the Leased Immovable Property.

4.6 **Title to Movable Property**

The Purchased Assets are owned by Seller with good and marketable title thereto, free and clear of all Encumbrances other than Permitted Encumbrances.

4.7 **No Owned Immovable Property**

The Purchased Assets do not include any immovable property or any interest in any immovable property (other than Seller's exclusive right to occupy and use the Leased Immovable Property as hereafter described).

4.8 **Leased Immovable Property**

Seller is not a party to any accepted promises or offers to lease or sublease, agreements to lease or sublease, leases, subleases, renewals of leases or of subleases, permits, operating agreements or other rights or licenses to possess or to occupy any premises wherever located, other than the leases (the "**Leases**") described in Schedule 2.1(k) relating to the Leased Immovable Property. Schedule 2.1(k) sets out the parties to each of the Leases, their dates of execution and expiry dates, any options to renew, the locations of the leased lands and premises and the rent payable thereunder. Except as described in Schedule 2.1(k), Seller occupies the Leased Immovable Property and has the exclusive right to occupy and use the Leased Immovable Property. Except as described in Schedule 2.1(k) and subject to 6.10, each of the Leases is in good standing and in full force and effect without amendment thereto, and neither Seller nor, to Seller's knowledge, any other party thereto is in breach of any covenants, conditions or obligations contained therein. Seller has provided a true and complete copy of each Lease and all amendments thereto to Purchaser. All buildings, structures, appurtenances, fixtures and other improvements situated on, in, over or under the Leased Immovable Property are, to the knowledge of Seller, in reasonable operating condition and in a state of reasonable maintenance and repair (normal wear and tear excepted) and are adequate and suitable for the purposes for which they are currently being used, and, to the knowledge of Seller, Seller has adequate rights of ingress and egress for the operation of the Purchased Business in the ordinary course. To Seller's knowledge, none of such buildings, structures, appurtenances, fixtures or other improvements (or any equipment therein), nor the operation or maintenance thereof, violates any restrictive covenant or any provision of any Laws, or encroaches on any property owned by others. Without limiting the generality of the foregoing and except as set out at Schedule 2.1(k):

- (a) the Leased Immovable Property, the current uses thereof and the conduct of the Purchased Business comply: (i) in all material respects with all Laws, including those dealing with zoning, parking, access, loading facilities, landscaped areas, building construction, fire and public health and safety and Environmental Laws; and (ii) to the knowledge of the Seller, in all respects with all Laws applicable to the practice of opticianry and/or optometry;
- (b) to the knowledge of Seller, no alteration, repair, improvement or other work has been ordered, directed or requested in writing by any Governmental Body to be done or performed to or in respect of the Leased Immovable Property or to any of the plumbing, heating, elevating, water, drainage or electrical systems, fixtures or

works therein or thereon, which has not been completed, and Seller knows of no written notification having been given to it of any such outstanding work being ordered, directed or requested, other than those which have been complied with;

- (c) all accounts for work and services performed and materials placed or furnished upon or in respect of the Leased Immovable Property at the request of or for the Account of Seller have been fully paid and satisfied in all material respects, and Seller has no knowledge of any Person that is entitled to register a legal hypothec or similar lien against any leasehold interest Seller possesses in the Leased Immovable Property or any part thereof;
- (d) to the knowledge of the Seller, there is nothing owing in respect of the Leased Immovable Property by Seller to any municipal corporation or to any other corporation or commission owning or operating a public utility for water, gas, electrical power or energy, steam or hot water, or for the use thereof, other than current accounts in respect of which the payment due date has not yet passed and which are reserved for;
- (e) to the knowledge of the Seller, no part of the Leased Immovable Property has been taken or expropriated by any Governmental Body, nor has any notice or proceeding in respect thereof been given or commenced;
- (f) the Permitted Encumbrances constitute all of the Encumbrances, agreements, indentures and other matters which affect Seller's leasehold interest in the Leased Immovable Property;
- (g) to the knowledge of Seller, each of the Leased Immovable Property (including all buildings, improvements and fixtures) is fit for its present use, and there are no material or structural repairs or replacements that are necessary or advisable and, without limiting the foregoing, to the knowledge of Seller, there are no repairs to, or replacements of, the roof or the mechanical, electrical, heating, ventilating, air-conditioning, water, plumbing or drainage equipment or systems located in or servicing the Leased Immovable Property which are necessary; and to the knowledge of Seller, none of the Leased Immovable Property is currently undergoing any alteration or renovation nor is any such alteration or renovation contemplated;
- (h) to the knowledge of Seller, the owner of the Leased Immovable Property has made all maintenance, repairs and replacement, major and minor (including structural), to the Leased Immovable Property in the same manner and to the same extent as would a prudent owner of a commercial building of similar size, age, type and location; and
- (i) all of the Leased Immovable Property is fully serviced by public utilities necessary for the occupation of such property and has suitable access to public roads, and there are no outstanding levies, charges or fees assessed against the Leased Immovable Property by any Governmental Body (including development

or improvement levies, charges or fees) other than as reflected on the property tax bills for such property.

4.9 **Inventories**

The Inventories of Seller relating to the Purchased Business do not include any material items which are obsolete or of a quality or quantity not useable or saleable in the normal course of business, which Inventories are valued at the lower of cost and net realizable value, all on a basis consistent with prior periods.

4.10 **Accounts Receivable**

All accounts receivable, book debts and other debts due or accruing to Seller in connection with the Purchased Business are *bona fide* and good and, subject to an allowance for doubtful accounts which have been reflected on the books of Seller in accordance with the Seller's past practices applied on a consistent basis with prior periods, collectible without compensation, set-off or counterclaim.

4.11 **Intellectual Property**

Except as set out in Schedule 2.1(h):

- (a) [redacted – commercially sensitive information].
- (b) [redacted – commercially sensitive information].
- (c) [redacted – commercially sensitive information].
- (d) Schedule 2.1(h) sets out all registered or pending Intellectual Property (including particulars of registrations or applications for registration) and all licences, registered user agreements and other Contracts which comprise or relate to Intellectual Property. Seller has provided to Purchaser a true and complete copy of all Contracts and amendments thereto which comprise or relate to the Intellectual Property.
- (e) The Intellectual Property set forth in Schedule 2.1(h) comprises all trade or brand names, business names, trade-marks, service marks, copyrights, patents, industrial designs, trade secrets, know-how, inventions, designs and other industrial or intellectual property, including the “*Vogue Optical*” mark, necessary to conduct the Purchased Business as currently conducted. Seller is the owner of, or where indicated on Schedule 2.1(h) has a valid and subsisting license to use, the Intellectual Property, free and clear of all Encumbrances, and is not a party to or bound by any Contract or any other obligation whatsoever that limits or impairs its ability to sell, transfer, assign or convey, or that otherwise affects, the Intellectual Property. Seller has not granted to any Person any interest in or right to use all or any portion of the Intellectual Property.

- (f) To the knowledge of Seller, the conduct of the Purchased Business, including the use of the “*Vogue Optical*” mark in association with Optical Services, does not (and has not) infringe(d) at any time since 1985 upon the industrial or intellectual property rights, of any other Person, throughout the Provinces where the Purchased Business has been operated. Seller has no knowledge of any claim of infringement or breach of any industrial or intellectual property rights of any other Person by Seller, nor has Seller received any notice that the conduct of the Purchased Business, including the use of the Intellectual Property and the use of the “*Vogue Optical*” mark in association with Optical Services, infringes upon or breaches any industrial or intellectual property rights of any other Person, or the trade secrets, know-how or confidential or proprietary information of any other Person, now or at any time since 1985. Seller has no knowledge of any infringement or violation of any of its rights in the Intellectual Property. Seller is not aware of any state of facts which casts doubt on the validity or enforceability of any of the Intellectual Property.

4.12 **Insurance**

The Purchased Assets are insured against loss or damage by all insurable hazards or risks on a replacement cost basis and such insurance coverage is and will be continued in full force and effect up to and including the Time of Closing. Schedule 4.12 sets out all insurance policies maintained by or on behalf of Seller on, or covering, the Purchased Assets or personnel as of the date hereof (specifying the insurer, the amount of the coverage, the type of insurance, the policy number and any pending claims thereunder) and true and complete copies of the most recent inspection reports, if any, received from insurance underwriters or others as to the condition of the Purchased Assets. Seller is not in default with respect to any of the provisions contained in any such insurance policy and has not failed to give any notice or present any claim under any such insurance policy in a due and timely fashion. Seller has provided a true copy of each insurance policy referred to in Schedule 4.12 to Purchaser.

4.13 **No Expropriation**

No part of the Purchased Assets has been taken or expropriated by any Governmental Body, nor has any notice or proceeding in respect thereof been given or commenced, nor is Seller aware of any intent or proposal to give any such notice or commence any such proceeding.

4.14 **Agreements and Commitments**

- (a) Except as described on Schedules 2.1(k), 2.1(e), 2.1(h), 4.28(a), 4.29 and 4.31, Seller is not a party to or bound by any material Contract relating to the Purchased Business or Purchased Assets including, without limiting the generality of the foregoing, the following types of Contracts:
- (v) any distributor, sales, advertising, agency or manufacturer’s representative Contract;
 - (vi) any collective bargaining agreement or other Contract with any labour union;

- (vii) any purchase orders and Contract for the supply of materials, supplies, equipment or services involving more than \$15,000 in respect of any one such Contract or any particular supplier;
- (viii) any continuing Contract that involves the sale or delivery of materials, supplies, equipment or services at a price that could reasonably be regarded as below the prevailing market rate or at a price that could reasonably be expected to result in a loss;
- (ix) any employment or consulting Contract or any other Contract with any officer, employee or consultant, other than Contracts of indeterminate term terminable by Seller without cause or reasonable notice;
- (x) any profit sharing, bonus, stock option, pension, retirement, disability, stock purchase, medical, dental, hospitalization, insurance or similar plan or agreement providing benefits to any current or former director, officer, employee or consultant;
- (xi) any trust indenture, hypothec, mortgage, promissory note, loan agreement, guarantee or other Contract for the borrowing of money or a leasing transaction of the type required to be capitalized in accordance with ASPE;
- (xii) any Contracts for capital expenditures;
- (xiii) any Contract for the sale of any assets, other than sales of inventory to customers in the ordinary course of the Purchased Business;
- (xiv) any Contract pursuant to which Seller is a lessor of any machinery, equipment, motor vehicles, office furniture, fixtures or other movable property;
- (xv) any confidentiality, secrecy, non-disclosure or non-competition Contract (whether Seller is a beneficiary or obligor thereunder) or similar Contract, other than any such Contract entered into among Seller and other prospective purchasers in connection with the transactions contemplated by this Agreement;
- (xvi) any licence, franchise or other agreement which relates in whole or in part to any Intellectual Property;
- (xvii) any Contract that expires or may expire more than one year after the Time of Closing;
- (xviii) any power of attorney relating to the Purchased Business in favour of any Person;

- (xix) any agreement of guarantee, support, indemnification, assumption or endorsement of, or any other similar commitment with respect to, the obligations, liabilities (whether accrued, absolute, contingent or otherwise) or indebtedness of any other Person, except for cheques endorsed for collection in the ordinary course of the Purchased Business; or
 - (xx) any Contract entered into by Seller other than in the ordinary course of the Purchased Business.
- (b) [redacted – commercially sensitive information] Seller has performed all of the material obligations required to be performed by it and is entitled to all benefits under, and is not in material default or alleged to be in material default in respect of, any Contract relating to the Purchased Business or Purchased Assets to which it is a party or by which it is bound; all such Contracts are in good standing and in full force and effect, and to the knowledge of Seller, no event, condition or occurrence exists which, after notice or lapse of time or both, would constitute a material default under any of the foregoing. Seller has provided to Purchaser a true and complete copy of each Contract listed or described on Schedules 2.1(k), 2.1(e), 2.1(h), 4.28(a), 4.29 and 4.31 and all amendments thereto.

4.15 **Compliance with Laws; Authorizations**

Seller has complied with all Laws applicable to the Purchased Business or the Purchased Assets (including, without limitation, all regulations, policies and customary practice applicable to the practice of opticianry and all aspects of the optical business in each jurisdiction where the Purchased Business is carried on). [redacted – commercially sensitive information] Schedule 4.15 sets out a complete and accurate list of all Authorizations held by or granted to Seller, and there are no other Authorizations necessary to carry on the Purchased Business as currently conducted or to own or lease any of the Purchased Assets. Each Authorization is valid, subsisting and in good standing and Seller is not in default or breach of any Authorization and, to the knowledge of Seller, no proceeding is pending or threatened to revoke or limit any Authorization and there is no circumstance that may reasonably result in such a revocation or limitation. Seller has provided a true and complete copy of each Authorization and all amendments thereto to Purchaser.

4.16 **Consents and Approvals**

There is no requirement to make any filing with or give any notice to any Governmental Body or to obtain any Authorization as a condition to the lawful consummation of the transactions contemplated by this Agreement, except for the filings, notifications and Authorizations described in Schedule 4.16, or which relate solely to the identity of Purchaser or the nature of any business carried on by Purchaser. There is no requirement under any Contract relating to the Purchased Business or Purchased Assets to which Seller is a party or by which it is bound to give any notice to, or to obtain the consent or approval of, any party to such agreement, instrument or commitment relating to the consummation of the transactions contemplated by this Agreement, [redacted – commercially sensitive information].

4.17 **Financial Statements**

The Annual Audited Financial Statements have been prepared in accordance with Canadian GAAP applicable to private enterprises applied on a basis consistent with prior periods. The Annual Audited Financial Statements are correct and complete in all material respects and present fairly the assets, liabilities (whether accrued, absolute, contingent or otherwise) and financial condition of Seller as at their respective dates and the sales, earnings and results of operations of Seller for the respective periods covered by them. Seller has no liabilities, liquidated or contingent or otherwise, that are not reflected on the Annual Audited Financial Statements, other than liabilities incurred after the date of the most recent Annual Audited Financial Statements in the ordinary course of business of the same type of liabilities reflected in the Annual Audited Financial Statements. Seller has provided a true and complete copy of the Annual Audited Financial Statements to Purchaser. Copies of the Internal Interim Financial Statements have been annexed to Schedule 1.1(b) and have been prepared in accordance with past practice. The financial situation of the Seller as at September 30, 2013 has not deteriorated in the aggregate from the date of the Annual Audited Financial Statements.

4.18 **Books and Records**

The books and records of Seller fairly and correctly set out and disclose, in accordance with ASPE (excepting the Internal Interim Financial Statements), the financial position of Seller as at the date hereof, and all financial transactions of Seller relating to the Purchased Business have been accurately recorded in such books and records.

4.19 **Absence of Changes**

Other than as set out in Schedule 4.19 or with respect to changes in accounting practices required by the Purchaser for the purposes of the Annual Audited Financial Statements, since August 31, 2013, the Purchased Business has been carried on only in the ordinary course of business and there has not been:

(a) any material adverse change in the condition (financial or otherwise), assets, liabilities, operations, earnings, business or prospects of the Purchased Business;

(b) any material damage, destruction or loss (whether or not covered by insurance) affecting the Purchased Assets;

(c) any material obligation or liability (whether absolute, accrued, contingent or otherwise, and whether due or to become due) incurred by Seller in connection with the Purchased Business other than in the ordinary course of the Purchased Business;

(d) any payment, discharge or satisfaction of any Encumbrance, liability or obligation of Seller in relation to the Purchased Business or the Purchased Assets (whether absolute, accrued, contingent or otherwise, and whether due or to become due) other than payment of accounts payable and Tax liabilities incurred in the ordinary course of business;

(e) any labour trouble, strikes, work slow-downs or stoppages adversely affecting the Purchased Business or the Purchased Assets;

(f) any licence, sale, assignment, transfer, disposition, hypothec, pledge, mortgage or granting of a security interest or other Encumbrance on or over any Purchased Assets, other than sales of Inventory to customers in the ordinary course of the Purchased Business;

(g) any entry into, termination of, or receipt of notice of termination of any licence, distributorship, dealer, sales representative, joint venture, credit or similar agreement;

(h) any write-down of the value of any Inventory or any write-off as uncollectible of any accounts or notes receivable or any portion thereof relating to the Purchased Business outside of the ordinary course of business;

(i) any cancellation of any debts or claims owing to, or any amendment, termination or waiver of any rights of value to, the Purchased Business in amounts exceeding \$500.00 in each instance or \$2,000.00 in the aggregate that are outside the ordinary course of business;

(j) any changes in the compensation of Employees, consultants, mandataries, agents or officers (including any increase pursuant to any Employee Plan or commitment) other than in the ordinary course of business;

(k) the execution of any employment, severance or similar Contract with any officer or Employee having an annual salary or remuneration in excess of \$50,000, or the making of any loan to, or engagement in any transaction with, any Employee, officer or director of Seller in relation to the Purchased Business;

(l) any capital expenditures or commitments relating to the Purchased Business or Purchased Assets in excess of \$20,000.00 in the aggregate;

(m) any forward purchase commitments in excess of the requirements of the Purchased Business for normal operating inventories or at prices higher than the current market prices;

(n) any forward sales commitments other than in the ordinary course of the Purchased Business or any failure to satisfy any accepted order for goods or services;

(o) any change in the accounting or Tax practices followed by Seller, excepting changes adopted by Seller to conform with GAAP as set out in the Annual Audited Financial Statements which changes are not set out in the Internal Interim Financial Statements;

(p) any change adopted by Seller in its depreciation or amortization policies or rates;
or

(q) any material change in the credit terms offered to customers of, or by suppliers to, the Purchased Business.

4.20 **Non-Arm's Length Transactions**

With respect to the Purchased Business, other than as set out at Schedule 4.20, Seller has not since August 31, 2013 made any payment or loan to, or borrowed any monies from or

become otherwise indebted to, any officer, director, employee, shareholder or any other Person not dealing at arm's length with Seller (within the meaning of the Tax Act) or any Affiliate or Associate of any of the foregoing and Seller is not indebted to any such Person, except for any amounts payable in respect of Leased Immovable Property including rents, electricity, utilities, repairs, maintenance, management or as otherwise disclosed on the Annual Audited Financial Statements, and except for usual employee reimbursements and compensation paid in the ordinary course of the Purchased Business; and except for Contracts of employment and leases in respect of the Leased Immovable Property, Seller is not a party to any Contract with any officer, director, employee, shareholder or any other Person not dealing at arm's length with Seller (within the meaning of the Tax Act) or any Affiliate or Associate of any of the foregoing. Save and except for leases in respect of the Leased Immovable Property and the Excluded Assets, no officer, director or shareholder of Seller and no entity which is an Affiliate or Associate of one or more of such Persons:

- (a) owns, directly or indirectly, any interest in (except for shares representing less than one per cent of the outstanding shares of any class or series of any publicly traded company), or is an officer, director, employee or consultant of, any Person which is, or is engaged in business as, a competitor of the Purchased Business or a supplier, distributor, sales agent or customer of the Purchased Business;
- (b) owns, directly or indirectly, in whole or in part, any property that Seller uses in the operations of the Purchased Business other than the Excluded Assets; or
- (c) has any cause of action or other claim whatsoever against, or owes any amount to, Seller in connection with the Purchased Business, except for any liabilities reflected in the Annual Audited Financial Statements and for claims in the ordinary course of business, such as for wages on a current basis, accrued vacation pay and accrued benefits under Employee Plans and reimbursement of ordinary business expenses.

4.21 **Taxes**

- (a) Seller has duly filed on a timely basis with each relevant Governmental Body all Tax returns required to be filed by it prior to Closing and has paid or collected and remitted, in the case of GST or other sales Taxes, all Taxes which are due and payable, or required to be collected and remitted, by it, and all assessments, reassessments, governmental charges, penalties, interest and fines due and payable by it.
- (b) The Canadian federal and provincial income Tax liability of Seller has been assessed by the appropriate Tax authorities for all financial years up to and including the financial year ended December 31, 2012 and there are no agreements, waivers or other arrangements waivers or other agreements providing for an extension of time with respect to the filing of any Tax return by, or payment of any Taxes by Seller or the examination of any Tax return or the levying of any assessment by any Governmental Body with which Seller has filed any Tax return.

- (c) Seller has withheld from each payment made to any of its past or present employees, independent contractors, officers, creditors or directors, and to any non-resident of Canada or other Person, the amount of all Taxes and other deductions required to be withheld therefrom, and has remitted the same to the proper Tax or other receiving officers within the time required under any applicable Laws.
- (d) Seller has made adequate provision for Taxes payable for the current period and any previous period for which Tax returns are not yet required to be filed.
- (e) There are no actions, suits, proceedings, investigations or claims pending or, to the knowledge of Seller, threatened against Seller in respect of Taxes, governmental charges or assessments, nor are any material matters under discussion with any Governmental Body relating to Taxes, governmental charges or assessments asserted by any such Governmental Body.
- (f) The Purchased Assets are not subject to any liens for Taxes (other than Permitted Encumbrances) or deemed trusts under any applicable Laws.

4.22 **Litigation**

Except as described in Schedule 4.22, there are no actions, suits, appeals, claims, applications, orders, investigations, proceedings, grievances, arbitrations or alternative dispute resolution, processes in progress, pending or, to the knowledge of Seller, threatened by, against or affecting Seller, the Purchased Assets or the Purchased Business, before any Governmental Body or before or by an arbitrator or arbitration board. Seller has no knowledge of any ground on which any such action, suit, appeal, claim, application, order, investigation, proceeding, grievance, arbitration or alternative dispute resolution might be commenced with any reasonable likelihood of success. Seller is not subject to any judgment order or decree affecting Seller, the Purchased Assets or the Purchased Business.

4.23 **Residency**

Seller is not a non-resident of Canada for the purposes of the Tax Act.

4.24 [redacted – commercially sensitive information].

4.25 **Environmental**

- (a) To the knowledge of the Seller and except as described in Schedule 4.25, Seller (in respect of the Purchased Business and the Purchased Assets) and the Leased Immovable Property and all operations thereon have been and are in compliance with all applicable Laws relating to the protection of human health, natural resources, the environment or Hazardous Substances (“**Environmental Laws**”);

- (b) Seller has all Authorizations required under Environmental Laws (the “**Environmental Permits**”) to conduct the Purchased Business and to own, use and operate the Purchased Assets, all of which are described in Schedule 4.15. Each Environmental Permit is valid, subsisting and in good standing and Seller is not in default or breach of any Environmental Permit. To the knowledge of the Seller, no proceeding is pending or threatened in relation to, and no grounds exist to revoke or limit, any Environmental Permit. Seller has provided a true and complete copy of each Environmental Permit and all amendments thereto in the possession of Seller to Purchaser;
- (c) Seller in respect of the Purchased Business and the Purchased Assets, has not used or permitted to be used, except in compliance with all Environmental Laws, any of the Leased Immovable Property to Release, generate, manufacture, process, distribute, use, treat, store, transport or handle any Hazardous Substance;
- (d) To the knowledge of the Seller, no building, structure or improvement located on the Leased Immovable Property is insulated with urea formaldehyde insulation, and none of such buildings, structures or improvement contains asbestos, mould, PCBs or other Hazardous Substances;
- (e) To the knowledge of the Seller, no underground storage tanks are or have been located on the Leased Immovable Property;
- (f) Seller (in respect of the Purchased Business and the Purchased Assets) has never received any notice of, or been prosecuted for, any actual or alleged non-compliance with any Environmental Laws, nor has Seller settled any allegation of non-compliance prior to prosecution. To the knowledge of the Seller, there are no actions, proceedings, notices, orders, demands or directions relating to environmental matters requiring, or notifying Seller that it is or may be responsible for, any investigation, containment, clean-up, remediation or other corrective action or any work, repairs, construction or capital expenditures to be made under Environmental Laws with respect to the Purchased Business or the Purchased Assets;
- (g) Except in compliance with Environmental Laws, Seller has no knowledge of Hazardous Substances located on, in, under or migrating from the Leased Immovable Property. To the knowledge of the Seller, all Hazardous Substances and all other wastes and other materials and substances used by Seller in whole or in part or in connection with or resulting from the Purchased Business have been disposed of, treated and stored in compliance with all Environmental Laws;
- (h) Seller has delivered to Purchaser true and complete copies of all environmental reports, audits, evaluations, assessments, studies or tests relating to the Purchased Business, the Purchased Assets or the Leased Immovable Property and their use that are under, or with reasonable effort could be brought under, the possession or control of Seller; and

- (i) To the knowledge of Seller, there are no pending or proposed changes to Environmental Laws that would render illegal or restrict the operations of the Purchased Business as now conducted or the use of the Purchased Assets.

4.26 Employees

- (a) Schedule 4.26(a) contains a complete and accurate list, redacted as necessary to comply with applicable privacy Laws, of all individuals, whether unionized or non-unionized, who are full-time, part-time or casual employees or individuals engaged on contract to provide employment services or sales or other agents or representatives of Seller as of the date of this Agreement (collectively the “**Employees**”) (other than the Excluded Employees), specifying the length of hire, title or classification and salary or hourly pay and commission, benefits, bonus entitlements, vacation entitlements or other compensation (if any) for each such Employee and the number of hours generally worked per week, including those on lay-off.
- (b) Except as described in Schedule 4.26(b), there is no Employee who has been continually absent from work for a period in excess of one month and who is in receipt of benefits pursuant to the provisions of a short or long term disability plan provided by Seller, applicable workplace safety and insurance legislation or other applicable work place safety and insurance legislation in each jurisdiction where the Purchased Business is carried on.
- (c) Seller is in compliance with all applicable employment Laws and there are no complaints, actions, claims, charges, levies, assessments or penalties outstanding, or to the best of the knowledge of Seller, anticipated, nor are there any orders, decisions, directions or convictions currently registered or outstanding by any tribunal or agency against or in respect of Seller under or in respect of any applicable employment Laws.

4.27 Employee Accruals

All accruals for unpaid vacation pay, premiums and contributions for Statutory Plans, accrued wages, salaries, bonuses and commissions and Employee Plan payments have been reflected in the Annual Audited Financial Statements as of the date thereof.

4.28 Collective Agreements

Schedule 4.28(a) sets out all collective agreements binding Seller in respect of the Purchased Business and all related documents including letters of understanding, letters of intent and other written communications with bargaining agents for Employees which impose any obligations upon Seller (the “**Collective Agreements**”). Except as described in Schedule 4.28(a), Seller has not entered into and is not bound by any Contracts with any labour union or employee association nor made commitments to or conducted negotiations with any labour union or employee association with respect to any future agreements and, except as set out in Schedule 4.28(a), to Seller’s knowledge there are no current attempts to organize or establish any labour union or employee association with respect to Employees nor is there any

certification of any such union with regard to a bargaining unit. There are no grievances against Seller of which Seller has received written notice under any Collective Agreement. Schedule 4.28(b) describes all work stoppages and strikes (legal or otherwise) that the Purchased Business has experienced in the past five (5) years, including the dates and length of each such occurrence.

4.29 **Employee Plans**

- (a) Schedule 4.29 identifies each Employee Plan. Each Employee Plan has been established, registered, maintained and administered in compliance with its terms and in accordance with all applicable Laws.
- (b) True and complete copies of all written Employee Plans as amended to date or, where oral, written summaries of the terms thereof, and all booklets and communications concerning the Employee Plans that have been provided to Employees or other Persons entitled to benefits under the Employee Plans have been delivered or made available to Purchaser together with true and complete copies of all documents relating to the Employee Plans, including, as applicable, all trust agreements, funding agreements, insurance contracts and policies, investment management agreements, financial statements, actuarial valuations, annual information returns, subscription and participation agreements, benefit administration contracts, and any financial administration contracts.
- (c) No amendments have been made to any Employee Plan which have not been provided to Purchaser. Seller has no formal plan and has made no promise or commitment, whether legally binding or not, to create any additional Employee Plan or to improve or change the compensation or benefits provided under any Employee Plan.
- (d) None of the Employee Plans or employment, severance or termination Contracts provide for compensation or benefit increases or the acceleration of, or an increase in, securing or funding obligations or forgiveness of indebtedness that are contingent upon, or will be triggered by, the entering into of this Agreement or the completion of the transactions contemplated by this Agreement.
- (e) All Seller or employee payments, contributions and premiums required to be remitted, paid to or in respect of each Employee Plan or Statutory Plan, any collective bargaining agreements, or by applicable Laws have been made in a timely fashion in accordance with all applicable Laws and the terms of the Employee Plans and Statutory Plans.
- (f) Seller does not participate in or contribute to any Multi-Employer Plans or defined benefit Pension Plans.
- (g) None of the Employee Plans, other than the Pension Plans, provides compensation or benefits beyond retirement or other termination of service to Employees or former employees of Seller or to the beneficiaries or dependants of such Employees or former employees.

- (h) Other than routine claims for benefits in the ordinary course, no Employee Plan is subject to any pending action, investigation, examination, claim (including claims for Taxes) or any other proceeding initiated by any Person.
- (i) All Employee data reasonably necessary to administer each Employee Plan has been or will have been as of Closing communicated in writing by Seller to Purchaser or its agents and such data is complete and correct in all material respects.

4.30 **Customers and Suppliers**

Schedule 4.30 sets out the major customers and suppliers of the Purchased Business, being those customers of the Purchased Business accounting for more than 10% of sales in the case of customers and 20% of purchases in the case of suppliers (by dollar volume) for the period from June 2012 to June 2013. There has been no termination or cancellation of, and no modification or change in, Seller's business relationship with any major customer or supplier since August 31, 2013. To the knowledge of Seller, there is no reason to believe that the benefits of any relationship with any of the major customers or suppliers of the Purchased Business will not continue after the Closing Date in substantially the same manner as prior to the date of this Agreement.

4.31 **Product Warranties**

- (a) Except as described in the warranty statement attached as Schedule 4.31, Seller has given no warranties to any purchaser of products or services supplied by the Purchased Business. Schedule 4.31 also sets out all commitments of Seller to take back or repurchase products from customers.
- (b) For the year ended December 31, 2012, Seller incurred expenses not exceeding \$1,000,000 to resolve claims for breach of warranty, defective products, damages in shipping and product liability, in aggregate. Since December 31, 2012, there has been no extraordinary or unusual number of such claims in respect of the Purchased Business.

4.32 **Personal Information**

- (a) The Seller is in compliance with applicable privacy and/or personal information protection Laws. The Seller has taken commercially reasonable measures to ensure the confidentiality of Personal Information.
- (b) Any required consents to the collection, use or disclosure of Personal Information in connection with the conduct of the Purchased Business by Seller (including disclosure of Personal Information between Affiliates of Seller) has been obtained.

Article 5

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller as follows and acknowledges and confirms that Seller is relying on such representations and warranties in connection with its sale of the Purchased Assets:

5.1 **Organization**

Purchaser is validly existing under the Laws of Canada and has the corporate power to enter into this Agreement and each of the Ancillary Agreements to which Purchaser is a party and to perform its obligations hereunder and thereunder.

5.2 **Authorization**

The execution and delivery of, and performance by Purchaser of its obligations under, this Agreement and each of the Ancillary Agreements to which Purchaser is a party has been duly authorized by Purchaser and constitutes a legal, valid and binding obligation of Purchaser, enforceable against Purchaser by Seller in accordance with its terms, subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up insolvency arrangement, fraudulent preference and conveyance assignment and preference and other Laws affecting the rights of creditors generally and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunctions.

5.3 **No Violation**

The execution and delivery of this Agreement and each of the Ancillary Agreements to which Purchaser is a party by Purchaser and the consummation of the transactions herein and therein provided for will not result in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of Purchaser under: (a) any Contract to which Purchaser is a party or by which it is bound; (b) any provision of the constating documents or by-laws or resolutions of the board of directors (or any committee thereof) or shareholders of Purchaser; (c) any judgment, decree, order or award of any Governmental Body or arbitrator having jurisdiction over Purchaser; (d) any applicable licence, undertaking, agreement, indenture, permit, approval, consent or Authorization held by Purchaser; or (e) any applicable Laws.

5.4 **Consents and Approvals**

There is no requirement for Purchaser to make any filing with, give any notice to or obtain any Authorization of, any Governmental Body as a condition to the lawful consummation of the transactions contemplated by this Agreement except any such filing, notice, or Authorization which, if not obtained or made, would not prevent or materially alter or delay any of the transactions contemplated by this Agreement.

5.5 **Financial Resources**

Purchaser has the financial means to complete the transactions that form the subject matter hereof without resort to any external sources of financing not committed at the date hereof.

5.6 **Litigation**

There are no actions, suits, appeals, claims, applications, orders, investigations, proceedings, grievances, arbitrations or alternative dispute resolution processes in progress, pending, or to Purchaser's knowledge, threatened against Purchaser that could prohibit, restrict or seek to enjoin the transactions contemplated by this Agreement.

5.7 **Brokers**

No broker, agent or other intermediary is entitled to any fee, commission or other remuneration in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser.

5.8 **Investment Canada**

Purchaser is a Canadian within the meaning of the *Investment Canada Act*.

5.9 **Tax Registrations**

Purchaser is a registered for purposes of the ETA and its registration number is as follows: GST: _____.

British Columbia RST Number: _____.

Saskatchewan RST Number: _____.

Article 6
COVENANTS

6.1 **Access to Purchased Business and Purchased Assets**

Upon prior notice and during normal business hours, Seller shall forthwith make available to Purchaser and its authorized representatives and, if requested by Purchaser, provide a copy to Purchaser of, all title documents, Contracts, financial statements, policies, plans, reports, licences, orders, permits, books of account, accounting records and all other documents, information and data relating to the Purchased Business to the extent such documents are in the possession or reasonable control of Seller. Seller shall afford Purchaser and its authorized representatives reasonable access to the minute books and corporate records of Seller, the Purchased Assets and all other property and assets utilized in the Purchased Business, provided that any such access shall be done confidentially and in consultation with Seller and upon prior notice and outside normal business hours. At Purchaser's request, Seller shall execute such consents, authorizations and directions as may be necessary to permit any inspection of the

Purchased Business or any of the Purchased Assets or to enable Purchaser or its authorized representatives to obtain access to all files and records relating to Seller and/or any of the Purchased Assets maintained by any Governmental Body, provided that any such inspections shall be done in consultation with Seller and upon prior notice. Seller shall confidentially and in consultation with Seller, permit Purchaser's representatives or consultants to conduct all such interviews, inspections, audits and assessments in respect of environmental and occupational health and safety matters with respect to the Purchased Business and the Purchased Assets as Purchaser may require, acting reasonably, to satisfy itself in respect of such matters, provided that any such inspections shall be done confidentially and in consultation with Seller and upon prior notice and outside normal business hours. Seller shall conduct, in co-operation with the representatives or consultants of Purchaser, such physical review of the equipment of the Purchased Business as is necessary so as to enable the confirmation of the values carried on the balance sheet of Seller in respect of such assets, to the reasonable satisfaction of Purchaser. Notwithstanding the foregoing, any due diligence conducted by the Purchase and authorized by the Seller herein shall respect the confidential nature of the transactions contemplated by this Agreement, and any visits to premises used or occupied by the Seller shall be conducted outside of normal business hours when employees will not be present at such premises, unless the Seller has provided prior written consent.

6.2 **Books and Records**

At the Time of Closing, Seller shall deliver to Purchaser all the books and records described in Section 2.1(c) except Excluded Assets. Purchaser covenants to use reasonable care to preserve the books and records so delivered to it for a period of six (6) years from the Closing Date, or for such longer period as is required by any applicable Law, and will permit Seller or its authorized representatives reasonable access thereto in connection with the affairs of Seller relating to its matters, but Purchaser shall not be responsible or liable to Seller for or as a result of any accidental loss or destruction of or damage to any such minute book(s) or books and records.

6.3 **Change and Use of Name**

Seller agrees that it shall, within three (3) Business Days of the Closing Date, change its name and the name of any of its Associates or Affiliates which include the words "Vogue", "Optical", "Eyewear" or "Glasses" to a name which does not include any of the words "Vogue", "Optical", "Eyewear" or "Glasses" or any part thereof or any similar words. Seller agrees that, from and after the Closing Date, neither Seller nor any of its Associates or Affiliates will use the words "Vogue", "Optical", "Eyewear" or "Glasses" or any part thereof or any similar words.

6.4 **Conduct of Purchased Business Prior to Closing**

Without in any way limiting any other obligations of Seller hereunder but subject to Section 6.10, during the period from the date hereof to the Time of Closing, Seller shall:

- (a) conduct the Purchased Business only in the ordinary course and Seller shall not, without the prior written consent of Purchaser, enter into any transaction or refrain from doing any action which, if effected before the date of this Agreement,

would constitute a breach of any representation, warranty, covenant or other obligation hereunder of Seller, and Seller shall not enter into any material supply arrangements relating to the Purchased Business or make any material decisions or enter into any material Contracts with respect to the Purchased Business without the written consent of Purchaser, which consent shall not be unreasonably withheld or delayed;

- (b) continue to maintain in full force and effect all policies of insurance or renewals thereof now in effect, shall take out, at the expense of Purchaser, such additional insurance as may be reasonably requested by Purchaser and shall give all notices and present all claims under all policies of insurance in a due and timely fashion;
- (c) use all Commercially Reasonable Efforts to obtain, at or prior to the Time of Closing, from all appropriate Governmental Bodies, the Authorizations described in Schedule 4.16(a);
- (d) [redacted – commercially sensitive information];
- (e) use all Commercially Reasonable Efforts to preserve intact the Purchased Business and Purchased Assets and to carry on the Purchased Business as currently conducted, and to promote and preserve for Purchaser the goodwill of suppliers, customers and others having business relations with Seller;
- (f) pay and discharge the liabilities of Seller relating to the Purchased Business in the ordinary course in accordance and consistent with the previous practice of Seller, except those contested in good faith by Seller;
- (g) take or cause to be taken all necessary corporate action, steps and proceedings to approve or authorize, validly and effectively, the execution and delivery of this Agreement and the Ancillary Agreements and documents contemplated hereby and the transfer of the Purchased Assets to Purchaser and to cause all necessary meetings of directors and shareholders of Seller to be held for such purpose; and
- (h) use all Commercially Reasonable Efforts to satisfy the conditions contained in Section 3.5.

6.5

Employees

- (a) Seller agrees to provide Purchaser with an up-to-date list of the names of the Employees at the Time of Closing. Except as regards to the Employees listed in Schedule 6.5 (the “**Excluded Employees**”), Purchaser shall extend offers of employment, effective as at the Time of Closing, to all Employees (including those on maternity leave or disability) on substantially the same terms and conditions of employment in the aggregate on an individual basis as are then

applicable to the Employees. Seller shall indemnify and hold harmless Purchaser from and against (i) all Losses accrued prior to the Time of Closing or arising in respect of the period prior to the Time of Closing in respect of all Employees, including all liabilities in respect of termination payments in lieu of notice, contractual payments payable upon termination, salaries, wages, benefits, bonuses, commissions, gratuities, pension benefits, unpaid vacation pay (excluding accrued but unused vacation pay), pay equity, disputes and claims (whether or not reported) relating to such Employees and former employees, but excepting years of service and any notice on termination or liabilities in respect of termination payments in lieu of notice for Employees that are hired by the Purchaser on Closing even to the extent such liabilities relate to the period prior to the Time of Closing; and (ii) all Losses arising out of any Contract entered into prior to the Time of Closing between any individual not identified as an Employee in Schedule 4.26(a) and Seller, that are based on an employment relationship between Seller or Purchaser and any such individual. Purchaser shall be responsible for and shall make all payments and discharge all liabilities accrued after the Time of Closing in respect of all Employees, other than Excluded Employees and Collective Agreements, including all liabilities in respect of any salaries, years of service, wages, benefits, bonuses, commissions, gratuities, pension benefits, vacation pay, pay equity, disputes and claims (whether or not reported). Purchaser shall indemnify and hold harmless Seller from and against (i) all Losses arising following the Time of Closing in respect of all Employees who accept employment with Purchaser, all employment agreements with such Employees, including all liabilities in respect of termination payments in lieu of notice, years of service, contractual payments payable upon termination, salaries, wages, benefits, bonuses, commissions, gratuities, pension benefits, vacation pay, pay equity, disputes and claims (whether or not reported) relating to such Employees. For greater certainty, Purchaser shall be liable for, and recognize the seniority and years of service for all the Employees who accept Purchaser's offer of employment.

- (b) Seller shall employ all of the Employees set out in Schedule 4.26(a) until the Time of Closing except for any employees who prior to the Time of Closing: (i) are terminated for cause, subject to applicable Law (ii) are terminated with Purchaser's consent, which consent shall not be unreasonably withheld or delayed; (iii) voluntarily resign; or (iv) retire. Seller shall not attempt in any way to discourage any of the Employees from being employed by Purchaser and shall not solicit the services of any of the Employees during the five (5) year period following the Closing Date without the consent in writing of Purchaser, which consent may be unreasonably withheld.

6.6 Employee Plans

Purchaser shall assume the obligations of Seller under each of the Employee Plans for those Employees who are employed by Purchaser pursuant to Section 6.5 (the "**Transferred Employees**"). For the purpose of determining the eligibility of a Transferred Employee for membership or benefits under the Employee Plans: (a) their period of employment shall include

employment with both Seller and Purchaser and shall be deemed not to have been interrupted at the Time of Closing; and (b) their period of membership shall be deemed not to have been interrupted at the Time of Closing. Seller agrees to obtain the required approvals of the applicable federal and provincial regulatory authorities in connection with the transfer and assignment of the Employee Plans.

6.7 **Confidential Information**

(a) Each of the parties acknowledges having received Confidential Information belonging to the other party in the course of negotiating this Agreement. As used herein, the term “**Confidential Information**” includes any and all of the following information of Seller or Purchaser that has been or may hereafter be disclosed in any form, whether in writing, orally, electronically or otherwise, or otherwise made available by observation, inspection or otherwise by either party or its representatives (collectively, a “**Disclosing Party**”) to the other party or its representatives (collectively, a “**Receiving Party**”):

(a) all information that is a trade secret under applicable trade secret or other Law;

(b) all information concerning product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, computer hardware, software and computer software and database technologies, systems, structures and architectures;

(c) all information concerning the business and affairs of the Disclosing Party (which includes historical and current financial statements, financial projections and budgets, Tax returns and accountants’ materials, historical, current and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, publications, client and customer lists and files, contracts, the names and backgrounds of key personnel and personnel training techniques and materials, however documented), and all information obtained from review of the Disclosing Party’s documents or property or discussions with the Disclosing Party regardless of the form of the communication; and

(d) all notes, analyses, compilations, studies, summaries and other material prepared by the Receiving Party to the extent containing or based, in whole or in part, upon any information included in the foregoing.

Information is not, however, “**Confidential Information**” if it: (x) was known to the Receiving Party, prior to its disclosure to the Receiving Party by the Disclosing Party, from a source not known by the Receiving Party to be under an obligation of confidentiality to the Disclosing Party; or (y) becomes known generally otherwise than through breach of this Agreement.

(b) Any trade secrets of a Disclosing Party shall also be entitled to all of the protections and benefits under applicable trade secret Law and any other applicable Law. If any information that a Disclosing Party deems to be a trade

secret is found by a court of competent jurisdiction not to be a trade secret for purposes of this Agreement, such information shall still be considered Confidential Information of that Disclosing Party to the extent included within the definition of that term.

- (c) Each Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information of the Disclosing Party and agrees that such Confidential Information: (i) shall be kept confidential by the Receiving Party; (ii) shall not be used for any reason or purpose other than to evaluate and consummate the transactions contemplated by this Agreement; and (iii) without limiting the foregoing, shall not be disclosed by the Receiving Party to any Person, except in each case as otherwise expressly permitted by the terms of this Agreement or with the prior written consent of an authorized representative of Seller with respect to Confidential Information of Seller or an authorized representative of Purchaser with respect to Confidential Information of Purchaser. Each of Purchaser and Seller shall disclose the Confidential Information of the other party only to its representatives who require such material for the purpose of evaluating the transactions contemplated by this Agreement and are informed by Purchaser or Seller, as the case may be, of the confidentiality obligations herein. Each of Purchaser and Seller shall: (iv) enforce the terms of this Section 6.7 as to its respective representatives; (v) take such action to the extent necessary to cause its representatives to comply with the terms and conditions of this Section 6.7; and (vi) be responsible and liable for any breach herein of by its representatives.
- (d) Unless and until this Agreement is terminated, Seller shall maintain as confidential any Confidential Information of Seller relating to any of the Purchased Assets, the Purchased Business and the Assumed Liabilities. Notwithstanding the preceding sentence, Seller may use any Confidential Information of Seller before the Closing in the ordinary course of business in connection with the transactions permitted by Section 6.4.
- (e) From and after the Closing, the provisions of Sections 6.7(a) and (b) above shall not apply to or restrict in any manner Purchaser's use of any Confidential Information of Seller relating solely to the Purchased Assets, the Purchased Business or the Assumed Liabilities.
- (f) Prior to any public announcement of the transaction contemplated hereby pursuant to Section 8.6, neither party shall disclose this Agreement or any aspects of such transaction except to its board of directors, its senior management, its prospective investors (provided they have agreed to maintain the confidentiality of such information), its legal, accounting, financial or other professional advisors, any financial institution contacted by it with respect to any financing required in connection with such transaction and counsel to such institution, or as may be required by any applicable Law or any regulatory authority or stock exchange having jurisdiction.

6.8 Exclusivity

Except for any internal reorganizations conducted by Seller prior to Closing, from the date of this Agreement until the earlier of the Closing Date and the date on which this Agreement is terminated (the “**Exclusivity Period**”), Seller shall, and shall cause its directors, officers, employees and advisors, to work exclusively with Purchaser towards completion of the transactions contemplated herein. Seller agrees that during the Exclusivity Period, Seller will not, directly or indirectly, through any of its Associates or Affiliates or their respective directors, officers, employees or advisors, make, solicit, initiate, continue, encourage, consider or accept any enquiries or submissions of proposals or offers from any other Person whatsoever relating to any acquisition of any of the capital of Seller, or any liquidation, dissolution, recapitalization, merger, amalgamation or acquisition or purchase of all or a material portion of the property and assets of, or any equity interest in, Seller, or any other similar transaction or business combination involving Seller, or participate in or continue any discussions or negotiations regarding, or furnish to any other Person any information with respect to, or otherwise cooperate in any way with, or assist or participate in, facilitate or encourage, any effort or attempt by any other Person to do or seek to do any of the foregoing.

6.9 Financial Information

- (a) At Purchaser’s request, Seller shall, from time to time, make, or cause its auditors to make, all documents or written materials relating to the Purchased Business and/or the Purchased Assets that Purchaser may reasonably require and that are within the possession or control of Seller, available to New Look Eyewear Inc., including, without limitation, the Annual Audited Financial Statements, the Internal Interim Financial Statements, all relevant books, records and financial information concerning the Purchased Business and/or the Purchased Assets (collectively, the “**Seller Financial Information**”) that New Look Eyewear Inc. may reasonably require to comply with securities and other similar Laws applicable to New Look Eyewear Inc. and the public offering of its securities.
- (b) Seller acknowledges that New Look Eyewear Inc. may, at its entire cost and expense, and only to the extent required by Law, include Seller Financial Information or any part thereof in any public or private document of New Look Eyewear Inc., including, without limitation, a business acquisition report, prospectus or any similar document, and may utilize Seller Financial Information for the preparation of annual or interim financial statements with respect to the Purchased Business and/or the Purchased Assets, pro forma financial statements of New Look Eyewear Inc. (collectively, the “**Acquisition Financial Statements**”) or for any other purpose whatsoever provided: (a) the auditors of Seller consent thereto, as necessary and applicable, and (b) all costs and expenses of such auditors are paid by Purchaser or New Look Eyewear Inc.
- (c) Seller will cooperate with New Look Eyewear Inc. and the auditors of each of Seller and New Look Eyewear Inc., upon the reasonable request of New Look Eyewear Inc., with respect to the preparation and audit of the Acquisition Financial Statements and agrees to use its Commercially Reasonable Efforts to

cause its auditors to provide such written comfort, assurances or representations as may be reasonably required in order to prepare the Acquisition Financial Statements and to issue an unqualified audit report in respect of the statement of financial position of the Purchased Business and/or the Purchased Assets as at November 30, 2013. All such costs in connection with the Acquisition Financial Statements shall be borne by Purchaser.

6.10 [redacted – commercially sensitive information].

6.11 [redacted – commercially sensitive information].

Article 7

SURVIVAL AND INDEMNIFICATION

7.1 **Survival of Representations, Warranties and Covenants**

All representations, warranties and covenants contained in this Agreement and in all other agreements, documents and certificates delivered pursuant to or contemplated by this Agreement (other than the conditions of closing set out in Article 3) shall survive the Closing for the periods specified in section 7.6 hereof. Notwithstanding anything in this Section 7.1 to the contrary, in the event of any breach of a representation or warranty by any party that constitutes fraud or a wilful breach, the representation or warranty which is the subject of such fraud or wilful breach shall survive the Closing Date and shall continue without time limitation.

7.2 **Indemnification by Seller and Shareholders**

Subject to the limitations set out elsewhere in this Article 7, Seller and the Shareholders shall indemnify, on a joint and several basis, and defend and save harmless Purchaser from and against all Losses suffered or incurred by Purchaser as a result of or arising directly or indirectly out of or in connection with:

- (a) any breach by Seller of or any inaccuracy of any representation or warranty of Seller contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto;
- (b) any breach or non-performance by Seller of any covenant to be performed by it which is contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto; and

- (c) the Retained Liabilities.

7.3 **Indemnification by Purchaser and New Look**

Subject to the limitations set out elsewhere in this Article 7, Purchaser and New Look shall indemnify, on a joint and several basis, and defend and save harmless Seller from and against all Losses suffered or incurred by Seller as a result of or arising directly or indirectly out of or in connection with:

- (a) any breach by Purchaser of or any inaccuracy of any representation or warranty contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant hereto;
- (b) any breach or non-performance by Purchaser of any covenant to be performed by it contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto; and
- (c) the Assumed Liabilities.

7.4 **Monetary Limitation of Liability**

- (a) [redacted – commercially sensitive information].
- (b) [redacted – commercially sensitive information].
- (c) [redacted – commercially sensitive information].
- (d) Where a Claim pursuant to Section 7.2 or 7.3 is predicated on an underlying representation and warranty or covenant that is qualified by a reference to “materiality” or “material adverse effect”, the underlying representation and warranty or covenant shall be read as if it did not contain such qualifier when determining the Losses arising from the breach of such representation and warranty or covenant, provided that any such qualifier shall apply when determining whether the underlying representation and warranty or covenant has been breached by the Indemnifying Party.
- (e) An Indemnified Party shall not be entitled to seek indemnification from the Indemnifying Party in respect of a Claim made under this Article 7 as a result of the inaccuracy of a representation or warranty contained herein if the Indemnified Party had actual knowledge of such inaccuracy prior to Closing.

7.5

Notice of Claim

- (a) A party that may be entitled to make a claim for indemnification (a “**Claim**”) under this Agreement (the “**Indemnified Party**”) shall give written notification to the other party (the “**Indemnifying Party**”) of such Claim (a “**Notice of Claim**”) promptly upon becoming aware of the Claim, but in no event later than the relevant date, if any, specified in Section 7.7. The Notice of Claim shall specify whether the Claim arises as a result of a claim by a Person against the Indemnified Party (a “**Third Party Claim**”) or whether the Claim does not so arise (a “**Direct Claim**”), and shall also specify with reasonable particularity (to the extent that the information is available), the factual basis for the Claim and the amount of the Claim.
- (b) If an Indemnified Party fails to provide the Indemnifying Party with a Notice of Claim promptly as required by Section 7.5(a), the Indemnifying Party shall be relieved of the obligation to pay damages to the extent it can show that it was prejudiced in its defence of the Claim or in proceeding against a third party who would have been liable to it by the fact of the delay, but the failure to provide such Notice of Claim promptly shall not otherwise release the Indemnifying Party from its obligations under this Article 7.
- (c) If the date by which a Notice of Claim must be given as set out in Section 7.6 in respect of a breach of representation and warranty has passed without any Notice of Claim having been given to the Indemnifying Party, then the related Claim shall be forever extinguished, notwithstanding that by the date specified in Section 7.6 the Indemnified Party did not know, and in the exercise of reasonable care could not have known, of the existence of the Claim.

7.6

Time Limits for Notice of Claim for Breach of Representations and Warranties

- (a) Seller shall not be required to indemnify or save harmless Purchaser pursuant to Section 7.2 unless Purchaser shall have provided to Seller a Notice of Claim within the following time limits:
 - (i) with respect to the representations and warranties set out in Sections 4.1 through 4.4, at any time after Closing;
 - (ii) with respect to the representations and warranties set out in Section 4.21, not later than ninety (90) days after the expiry of the period within which an applicable taxation authority could make a demand on Purchaser for payment of the relevant Taxes;
 - (iii) with respect to the representation and warranty set out in Section 4.23, not later than ninety (90) days after the expiry of the period within which an applicable taxation authority could make a demand on Purchaser for payment of Taxes arising as a result of a breach of such representation and warranty;

- (iv) with respect to the representations and warranties set out in Section 4.25, not later than the fifth anniversary of the Closing Date;
 - (v) with respect to a claim for any breach of any of the representations and warranties contained in this Agreement or in any agreement, instrument, certificate or other document executed or delivered pursuant hereto involving fraud, at any time after Closing; and
 - (vi) with respect to all other representations and warranties, and covenants not later than eighteen (18) months after the Closing Date.
- (b) Purchaser shall not be required to indemnify or save harmless Seller pursuant to Section 7.3 unless Seller shall have provided to Purchaser a Notice of Claim within the following time limits:
- (i) with respect to the representations and warranties in Sections 5.1 through 5.4 and for any Assumed Liabilities in respect of the Third Party Leases, at any time after Closing; and
 - (ii) with respect to all other representations and warranties, and covenants not later than eighteen (18) months after the Closing Date.

7.7 **Direct Claims**

With respect to any Direct Claim, and subject to any time limitations set out at Section 7.6, following receipt of notice from the Indemnified Party of the Claim, the Indemnifying Party shall have sixty (60) days to make such investigation of the Claim as is considered necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the Claim, together with all such other information as the Indemnifying Party may reasonably request. If both parties agree at or prior to the expiration of such sixty (60)-day period (or any mutually agreed upon extension thereof) to the validity and amount of such Claim, the Indemnifying Party shall immediately pay to the Indemnified Party the full agreed upon amount of the Claim, failing which the matter shall be referred to binding arbitration in such manner as the parties may agree or shall be determined by a court of competent jurisdiction. If Purchaser and Seller, acting reasonably, determine that any payment of any Claim is subject to GST or is deemed by the ETA (or provincial equivalent) to be inclusive of GST, or is subject to any other Tax, the Indemnifying Party agrees to pay to the Indemnified Party in addition to the amount of the Claim an amount equal to the Tax payable in connection with such payment and such additional amount.

7.8 **Third Party Claims**

- (a) With respect to any Third Party Claim for damages, the Indemnifying Party shall have the right, at its expense, to participate in or assume control of the negotiation, settlement or defence of the Claim and, in such event, the Indemnifying Party shall reimburse the Indemnified Party for all the Indemnified Party's out-of-pocket expenses as a result of such participation or assumption. If

the Indemnifying Party elects to assume such control, the Indemnified Party shall have the right to participate in the negotiation, settlement or defence of such Third Party Claim and to retain counsel to act on its behalf, provided that the fees and disbursements of such counsel shall be paid by the Indemnified Party unless either (i) the Indemnifying Party consents to the retention of such counsel, or (ii) the named parties to any action or proceeding include both the Indemnifying Party and the Indemnified Party and the representation of both of them by the same counsel would be inappropriate due to the actual or potential differing interests between them (such as the availability of different defences).

- (b) If the Indemnifying Party, having elected to assume such control, thereafter fails to defend the Third Party Claim within a reasonable time, the Indemnified Party shall be entitled to assume such control, and the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such Third Party Claim.
- (c) If any Third Party Claim is of a nature such that the Indemnified Party is required by applicable Law or the order of any Governmental Body having jurisdiction, the Indemnified Party may make such payment and the Indemnifying Party shall, forthwith after demand by the Indemnified Party, reimburse the Indemnified Party for such payment.
- (d) If the amount of any liability of the Indemnified Party under the Third Party Claim in respect of which such payment was made, as finally determined, is less than the amount which was paid by the Indemnifying Party to the Indemnified Party, the Indemnified Party shall, forthwith after receipt of the difference from the Third Party, pay the amount of such difference to the Indemnifying Party. If such payment, by resulting in settlement of the Third Party Claim, precludes a final determination of the merits of the Third Party Claim and the Indemnified Party and the Indemnifying Party are unable to agree whether such payment was reasonable in the circumstances having regard to the amount and merits of the Third Party Claim, such dispute shall be submitted to and finally settled by arbitration in accordance with the provisions of the *Commercial Arbitration Act* (Nova Scotia). The place of such arbitration shall be Halifax, Nova Scotia.

7.9 **Settlement of Third Party Claims**

If the Indemnifying Party fails to assume control of the defence of any Third Party Claim, the Indemnified Party shall have the exclusive right to contest, settle or pay the amount claimed. Whether or not the Indemnifying Party assumes control of the negotiation, settlement or defence of any Third Party Claim, the Indemnifying Party shall not settle any Third Party Claim without the written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed; provided, however, that the liability of the Indemnifying Party shall be limited to the proposed settlement amount if any such consent is not obtained for any reason.

7.10 **Co-Operation**

The Indemnified Party and the Indemnifying Party shall co-operate fully with each other with respect to Third Party Claims, and shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available).

7.11 **Exclusivity**

No party may make any claim for indemnification or Losses in respect of this Agreement or any agreement, certificate or other document delivered pursuant hereto, or in respect of any breach or termination thereof, against any other party except by making a Claim pursuant to and in accordance with this Article 7. The provisions of this Section 7.11 shall survive any termination of this Agreement.

7.12 **Taxes and Insurance**

- (a) All references in this Article 7 to Losses shall exclude GST to the extent that input Tax credits are available therefor. If Seller and Purchaser, acting reasonably, determine that any payment (the “**Payment**”) made pursuant to this Article 7 is subject to GST or is deemed by the ETA (or provincial equivalent) to be inclusive of GST, or is subject to any other Tax, the Indemnifying Party agrees to pay to the Indemnified Party, in addition to the Payment, an amount equal to the GST or other Tax payable in connection with such Payment and such additional amount.
- (b) The amount of any and all Losses for which the Indemnified Party shall be entitled to indemnification pursuant to this Article 7 shall be determined net of: (i) any amounts actually recovered by the Indemnified Party pursuant to any indemnification agreement or arrangement with third parties or under insurance policies with respect to such Losses, net of any increase in premiums resulting from such claim against such insurance policies (and no right of subrogation shall accrue to any such third party indemnitor or insurer hereunder); and (ii) an amount equal to the Tax savings or benefits actually realized by the Indemnified Party that is attributable to any deduction, loss, credit or other Tax benefit resulting from or arising out of such Losses, which deduction, loss, credit or other Tax benefit shall not be taken into account until and unless all other deductions, losses, credits or other Tax benefits are first taken into account. If the amount to be netted hereunder from any payment required under this Article 7 is determined after payment by the Indemnifying Party of any amount otherwise required to be paid hereunder, the Indemnified Party shall repay to the Indemnifying Party, promptly after such determination, any amount that the Indemnifying Party would not have had to pay pursuant to this Article 7 had such determination been made at the time of such payment.

Article 8
MISCELLANEOUS

8.1 **Notices**

- (a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person, transmitted by fax or e-mail or similar means of recorded electronic communication or sent by registered mail, charges prepaid, addressed as follows:

[redacted – commercially sensitive information]

- (b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three (3) Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by means of recorded electronic communication as aforesaid.

Either party may at any time change its address for service from time to time by giving notice to the other party in accordance with this Section 8.1.

8.2 **Amendments and Waivers**

No amendment or waiver of any provision of this Agreement shall be binding on either party unless consented to in writing by such party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

8.3 **Assignment**

- (a) No party may assign any of its rights, benefits, duties or obligations under this Agreement, except with the prior written consent of the other party.

- (b) Notwithstanding the foregoing, Purchaser may assign all of its rights, benefits, duties and obligations under this Agreement in their entirety, without the consent of Seller, to any Affiliate of Purchaser, whereupon the assignee shall be liable for all of the obligations of Purchaser under this Agreement; provided, however, that any such assignment shall not relieve Purchaser from any of its obligations hereunder.

8.4 **Successors and Assigns**

This Agreement shall enure to the benefit of and shall be binding on and enforceable by and against the parties and, where the context so permits, their respective successors and permitted assigns.

8.5 **Expenses; Commissions**

- (a) Each party shall pay for its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Agreement, the agreements contemplated herein and the transactions contemplated hereby and thereby, including the fees and expenses of legal counsel, financial advisors, brokers, accountants and other professional advisors.
- (b) Seller shall indemnify and save harmless Purchaser from and against all Losses suffered or incurred by Purchaser in respect of any fee, commission or other remuneration payable or alleged to be payable to any broker, agent or other intermediary who purports to act or have acted for or on behalf of Seller. Purchaser shall indemnify and save harmless Seller from and against all Losses suffered or incurred by Seller in respect of any fee, commission or other remuneration payable or alleged to be payable to any broker, agent or other intermediary who purports to act or have acted for or on behalf of Purchaser. These indemnities are not subject to any of the limitations set out in Article 7.

8.6 **Consultation**

The parties shall consult with each other before issuing any press release or making any other public announcement with respect to this Agreement or the transactions contemplated hereby and, except as required by any applicable Law, the parties shall not issue any such press release or make any such public announcement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

8.7 **Further Assurances**

Each of the parties hereto shall, at all times after the Closing Date and upon any reasonable request of the other, promptly do, execute, deliver or cause to be done, executed and delivered, at the expense of the requesting party, all further acts, documents and things as may be required or necessary for the purposes of giving effect to this Agreement, including such other instruments of sale, transfer, conveyance, assignment, confirmation, certificates and other instruments as may be reasonably requested in order to more effectively transfer, convey and assign the Purchased Assets and to effectuate the transactions contemplated by this Agreement.

8.8 **Counterparts**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall together constitute one and the same original document.

8.9 **Language**

The parties have requested that this Agreement and all related documents be drawn up in English only. *Les parties aux présentes ont exigé que le présent contrat et tous les documents qui s'y rattachent soient rédigés en anglais seulement.*

(Remainder of page intentionally left blank; signature page follows.)

IN WITNESS WHEREOF this Agreement has been executed by the parties as of the date first above written.

VOGUE OPTICAL INC.

by: (signed) Wayne Gray
Name: Wayne Gray
Title: President

by: (signed) Cory Gray
Name: Cory Gray
Title: Secretary-Treasurer

8600813 CANADA INC.

by: (signed) Antoine Amiel
Name: Antoine Amiel
Title: Vice-Chairman

AND HEREUNTO INTERVENING:

NEW LOOK EYEWEAR INC.

by: (signed) Antoine Amiel
Name: Antoine Amiel
Title: Vice-Chairman

(signed) Cory Gray
CORY GRAY

(signed) Wayne Gray

WAYNE GRAY

(signed) Darren Gray

DARREN GRAY

VOGUE HOLDINGS INC.

by: (signed) Cory Gray

Name: Cory Gray
Title: Secretary

**THE DARREN GRAY FAMILY
TRUST (2002)**

by: (signed) Darren Gray

Name: Darren Gray
Title: Trustee

by: (signed) Wayne Gray

Name: Wayne Gray
Title: Trustee

**THE CORY GRAY FAMILY TRUST
(2002)**

by: (signed) Cory Gray
Name: Cory Gray
Title: Trustee

by: (signed) Wayne Gray
Name: Wayne Gray
Title: Trustee

THE DWG HOLDINGS TRUST (2012)

by: (signed) Darren Gray
Name: Darren Gray
Title: Trustee

by: (signed) Cory Gray
Name: Cory Gray
Title: Trustee

THE VOGUE (2012) TRUST

by: (signed) Cory Gray
Name: Cory Gray
Title: Trustee

by: (signed) Wayne Gray
Name: Wayne Gray
Title: Trustee

SCHEDULES, EXHIBITS AND ANNEXES

| | | |
|----------|---------|---|
| Schedule | 1.1(a) | Annual Audited Financial Statements |
| | 1.1(b) | Internal Interim Financial Statements |
| | 1.1(c) | Permitted Encumbrances |
| | 2.1(e) | Material Contracts |
| | 2.1(g) | Machinery and Equipment |
| | 2.1(h) | Intellectual Property |
| | 2.1(k) | Leased Immovable Property |
| | 2.1(n) | Vehicles |
| | 2.7 | Allocation of Purchase Price |
| | 3.5(e) | [redacted – commercially sensitive information] |
| | 4.5 | Location of Assets |
| | 4.12 | Insurance Policies |
| | 4.15 | Authorizations |
| | 4.16(a) | Regulatory Consents |
| | 4.16(b) | Third Party Consents |
| | 4.19 | Absence of Changes |
| | 4.20 | Non-Arm's Length Transactions |
| | 4.22 | Legal and Regulatory Proceedings |
| | 4.25 | Environmental Matters |
| | 4.26(a) | Employees |
| | 4.26(b) | Charges under Applicable Employment Laws |
| | 4.28(a) | Collective Agreements |
| | 4.28(b) | Work Stoppages |
| | 4.29 | Employee Plans |
| | 4.30 | Major Customers and Suppliers |
| | 4.31 | Product Warranties |
| | 6.5 | Excluded Employees |
| | 6.10 | [redacted – commercially sensitive information] |
| Exhibit | A | Non-Competition, Non-Solicitation and Confidentiality Agreement |
| | B | Closing Working Capital Statement |
| | C | Escrow Agreement |
| | D | [redacted – commercially sensitive information] |
| | E | Certificate regarding Covenants |