**ALVAREZ AND MARSAL CANADA INC., solely in its capacity as Court-appointed receiver and manager of all of the assets, undertakings and properties of FAMILY FITNESS INC. and not in its personal capacity and without personal or corporate liability**

**- and -**

**BTA REAL ESTATE GROUP INC.**

**AGREEMENT OF PURCHASE AND SALE**

**FAMILY FITNESS INC. OPERATING AS “EVOLUTION FITNESS GYM”**

**REGINA, SASKATCHEWAN**

**[NTD: This is the form of the Stalking Horse Bid, consistent with the SISP- please make any necessary amendments in “track changes”, so that the Receiver can evaluate your bid in comparison to the bid of the Stalking Horse Bid.]**

**AGREEMENT OF PURCHASE AND SALE**

**THIS AGREEMENT** made as of November **[◼][[1]](#footnote-1)**, 2020 (the “**Execution Date**”).

**BETWEEN:**

**ALVAREZ AND MARSAL CANADA INC., solely in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of FAMILY FITNESS INC. and not in its personal capacity and without personal or corporate liability**

**(the “Vendor” or “Receiver”)**

**AND:**

**BTA REAL ESTATE GROUP INC.**

**(the “Purchaser”)**

**RECITALS:**

1. Pursuant to an order of the Court of Queen’s Bench for Saskatchewan (the “**Court**”) dated October 13, 2020 (as amended and as may in the future be supplemented, amended or restated from time to time, collectively the “**Appointment Order**”), the Receiver was appointed receiver and manager, without security, of all of the assets, undertakings and properties of Family Fitness Inc. (“**FFI**” or the “**Debtor**”).
2. At the time of the making of the Appointment Order, the Debtor owned the Subject Assets (as defined herein) and operated the Business from leased premises located in Regina, Saskatchewan, being:
* 358 McCarthy Boulevard North;
* 3615 Pasqua Street; and
* 2101 E Quance Street,

 (collectively, the “**Leased Premises**”).

1. The Appointment Order authorizes the Receiver to market any or all of the Subject Assets, including advertising and soliciting offers in respect of the Subject Assets, or any part or parts thereof, and to negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate.
2. The Debtor is indebted to the Secured Creditor in the approximate amount of $1,243,000.00.
3. The Purchaser has agreed to act as a “stalking horse bidder” by way of a credit bid in connection with the sale of all of the right, title and interest of the Debtor (if any) in and to the Subject Assets, meaning that, in the absence of the Receiver’s acceptance of a bid for the Subject Assets made in accordance with the SISP Procedure which is superior to this Agreement (as determined by the Receiver in accordance with the SISP Procedure), the Purchaser has agreed to purchase on an “as is, where is” and “without recourse” basis all of the right, title and interest of the Debtor in and to the Subject Assets, with no representations or warranties whatsoever, as discussed further in section 2.3(a) below, on the terms and subject to the conditions set forth in this Agreement, in accordance with the SISP Procedure and subject to obtaining the Vesting Order.
4. The Receiver intends to seek the SISP Procedure Order authorizing and directing the Receiver to enter into this Agreement and to carry out the SISP Procedure.

**NOW THEREFORE,** in consideration of the mutual covenants and agreements set forth in this Agreement and the sum of $10.00 paid by each of the Vendor and the Purchaser to the other and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby agree and declare as follows:

**ARTICLE 1**

**INTERPRETATION**

1. **Definitions**

The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

“**Accounts Receivable**” means all accounts receivable, trade receivables, bills receivable, trade accounts, book debts, notes receivable, rebates, refunds, and other receivables of FFI, in each case, whether current or overdue, with all interest accrued on such items. For greater certainty, Accounts Receivable includes, subject to any priority claims a third party may have in same, all amounts owing to the Debtor under the Memberships.

“**Agreement**” means this agreement of purchase and sale and the schedules attached hereto, as amended from time to time.

“**Alternative Transaction**” has the meaning ascribed thereto in Section 8.2.

“**Applicable Laws**” means, with respect to any Person, property, transaction, event or other matter, any law, rule, statute, regulation, order, judgment, decree and orders of courts of competent jurisdiction, treaty, the terms and conditions of all permits, licenses, approvals and authorizations, or other requirement having the force of law relating or applicable to the Subject Assets, such Person, property, transaction, event or other matter.

“**Appointment Order**” has the meaning ascribed thereto in the Recitals.

“**Assignment and Assumption of Contracts**” means an assignment and assumption of the Assumed Contracts to be delivered on Closing pursuant to Sections 6.1 and 6.2, in form acceptable to the Vendor and Purchaser, each acting reasonably.

“**Assignment and Assumption of Leases**” means an assignment and assumption of the Leases to be delivered on Closing pursuant to Sections 6.1 and 6.2, in form acceptable to the Vendor and Purchaser, each acting reasonably.

“**Assumed Contracts**” has the meaning ascribed thereto in Section 7.1.

“**Assumed Employees**” has the meaning ascribed thereto in Section 5.5.

“**Assumed Liabilities**”means any and all outstanding liabilities related to the Subject Assets that are not vested off title to the Subject Assets in accordance with the Vesting Order.

“**Back-up Bid**” has the meaning ascribed thereto in the SISP Procedure.

“**Books and Records**” means, collectively, the books and records of the Debtor relating exclusively to the Subject Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media.

“**Business**” means the business of owning, operating, marketing and developing the gyms and fitness facilities located at the Leased Premises and all such other commercial activities incidental and ancillary thereto.

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Province of Saskatchewan.

“**Claims**” means all past, present and future claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a solicitor and client basis and other professional fees and disbursements, interest, demands and actions of any nature or any kind whatsoever, whether known or unknown, whether asserted, threatened, pending, contingent or existing, and whether based on contract, tort, statute or other legal or equitable theory of recovery, and “Claim” means any one of the foregoing.

“**Closing**” means the transfer of possession, risk, beneficial and legal ownership of the Subject Assets from the Vendor to the Purchaser, the exchange of the Closing Documents and payment of the Purchase Price by the Purchaser to the Vendor, and all other items and consideration required to be delivered on the Closing Date pursuant hereto, the closing and consummation of the Transaction.

“**Closing Certificate**” has the meaning ascribed thereto in Section 2.6.

“**Closing Date**” means the first to occur of (a) a Business Day to be designated by the Purchaser and reasonably acceptable to the Receiver after the satisfaction or waiver of all conditions set out in Sections 4.1(f) and (g) and 4.2(e) and (f) on notice of not fewer than five Business Days, and (b) the date that is 15 Business Days after the satisfaction or waiver of the conditions set out in Sections 4.1(f) and (g) and 4.2(e) and (f), unless otherwise agreed to by the Parties.

“**Closing Documents**” means the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 6.1 and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendor pursuant to Section 6.2.

“**Confidential Information**” has the meaning ascribed thereto in the non-disclosure agreement entered into between the Parties.

“**consent**” means any approval, authorization, consent, order, license, permission, permit (including any environmental permit), qualification, exemption or waiver by any Governmental Authority or other Person.

“**Contract Notice Date**” has the meaning ascribed thereto in Section 7.1(a).

“**Contracts**” means, collectively, all contracts and agreements relating to the Business entered into by the Debtor or any manager or agent on behalf of the Debtor, or which have been assigned to the Debtor, or which otherwise bind and/or benefit the Debtor as owner of the Business, and includes, without limitation, the Warranties, but excludes the Leases and any contracts or agreements which are not assignable without the consent of the counterparty thereto.

“**Court**” has the meaning ascribed thereto in the Recitals.

“**Credit Agreement**” means, collectively, the Lease agreement dated August 30, 2013, and the General Security Agreement, dated September 26, 2013, between, among others, FFI, as tenant and debtor, and the Secured Creditor, as landlord and secured creditor.

“**Credit Agreement Bid Amount**” means the portion of the Secured Creditor’s Secured Debt equal to the Purchase Price less the amount of the Receiver’s Certificate Obligations owing to the Purchaser as of the Closing Date, if any, inclusive of the amount equal to the Wind-Down Estimate, as evidenced by the Receiver’s Certificates, and as adjusted in accordance with Section 3.4.

“**Data Room Information**” means all information provided to the Purchaser in electronic form in relation to the Debtor, the Business, and/or the Subject Assets.

“**Debtor**” means FFI.

“**Encumbrances**” means all mortgages, pledges, charges, including the Receiver’s Borrowings Charge and the Receiver’s Charge, liens, debentures, hypothecs, trust deeds, assignments by way of security, security interests, options, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, or against title to, the Subject Assets or any part thereof or interest therein.

“**Excluded Assets**” means the assets listed in Schedule “B”.

“**Excluded Contracts**” means all Contracts other than the Assumed Contracts.

“**Execution Date**” means the date noted on Page 2 of this Agreement.

“**Expense Reimbursement**” has the meaning set ascribed thereto in Section 8.2(b).

“**Final Order**” means, in respect of any order, such order after (i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such order, final determination of such appeal or application by the applicable court or appellate tribunal.

“**General Conveyance**” means the general conveyance in the form attached as Schedule “G”.

“**Governmental Authority**” means any government, regulatory authority, government department, agency, utility, commission, board, tribunal, court or other rule making entity having jurisdiction on behalf of any nation, province or state or other subdivision thereof or any municipality, district or other subdivision thereof, or having jurisdiction over the relevant circumstances, or any person acting under the authority of any of the foregoing.

“**GST**” means the goods and services taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* (Canada) and the regulations made thereunder.

“**Leased Premises**” has the meaning ascribed thereto in the Recitals.

“**Leasehold Improvements**” means any changes made to the Leased Premises by or on behalf of the Debtor in order to fit the Leased Premises for the Business and that are not considered to be (a) fixtures either by law or by virtue of the terms of the Leases, or (b) property of the landlords, sublandlords or Third Party, as applicable, of such Leased Premises.

“**Leases**” means all offers to lease, sublease or sub-sublease, binding letters of intent, security leases and agreements to lease or sublease, leases, subleases, renewals and/or extensions of leases or subleases, amendments to any of the foregoing and other rights (including licences, concessions or occupancy agreements, parking and/or storage agreements and licences, but excluding rights in the nature of easements) granted to or for the behalf of, or which bind, FFI, as lessee, together with all security, guarantees and indemnities relating thereto, in each case as amended, renewed, extended or otherwise varied from time to time, and “**Lease**” means any one of the Leases.

“**Losses and Liabilities**” means, in relation to a matter, any and all:

1. losses, costs, damages, expenses and charges (including all penalties, assessments and fines) which a Party suffers, sustains, pays or incurs, directly or indirectly, in connection with such matter and includes costs of legal counsel (on a full indemnity basis) and other professional advisors and reasonable costs of investigating and defending Claims arising from the matter, regardless of whether such Claims are sustained and includes taxes payable on any settlement payment or damage award in respect of such matter; and
2. liabilities and obligations (whether under common law, in equity, under Applicable Law or otherwise; whether tortious, contractual, vicarious, statutory or otherwise; whether absolute or contingent; and whether based on fault, strict liability or otherwise) which a Party suffers, sustains, pays or incurs as a result of or in connection with such matter;

but excluding indirect, incidental, consequential, exemplary, special or punitive losses or damages suffered, sustained, paid or incurred by a Party.

“**Memberships**” means the agreements between the Debtor and the customers of the Business which provides the customers access and use of the gyms and fitness facilities located at the Leased Premises in exchange for a fee paid by such customers.

“**Nominee”** has the meaning ascribed thereto in Section 2.8.

“**Notice**” has the meaning ascribed thereto in Section 12.17.

“**Outside Date**” means January 25, 2021, or such later date as agreed to by the Parties.

“**Parties**” means the Vendor and the Purchaser, collectively, and “**Party**” means any one of them.

“**Permitted Encumbrances**” means any one or more of the following: (i) inchoate or statutory Encumbrances of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others arising in the ordinary course of business in respect of the construction, maintenance, repair or operation of the Business or Subject Assets, provided that such Encumbrances are related to obligations not due or delinquent or are being contested in good faith through appropriate proceedings, (ii) rights of expropriation, access, use or any other right conferred or reserved by or in any statute of Canada or Saskatchewan, (iii) rights of landlords or land owners under any documents related to the Leased Premises, (iv) Encumbrances appearing on title to the Leased Premises as of the Closing Date and Encumbrances for taxes (which term includes charges, rates and assessments, any other governmental charges or levies) or charges for electricity, power gas, water and other services and utilities, in each case, that have accrued but which are not due or delinquent or that is being contested in good faith through appropriate proceedings, (v) registrations or Encumbrances such as easements, rights of way, restrictive covenants, servitudes and other similar rights in land granted to, reserved or taken by any Governmental Authority or public or private utility, or any registered subdivision, development servicing, site plan or other similar agreement with any Governmental Authority or public or private utility which individually and in the aggregate do not materially detract from the value of the Leased Premises or impair the current and prior use of the Leased Premises in the operation of the Business or the future intended use of the Leased Premises, (vi) provisions of Applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to land use development and zoning, and (vii) Encumbrances filed by, at the request of the Purchaser, or which are otherwise expressly approved by the Purchaser in writing or that are otherwise created by the acts or omissions of the Purchaser or its affiliates.

“**Person**” means an individual, partnership (limited or general), corporation, trust, unincorporated organization, government or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**PST**” means taxes, interest, penalties and fines imposed under the *Provincial Sales Tax* Act of Saskatchewan and the regulations made thereunder.

“**Purchase Price**” has the meaning ascribed thereto in Section 3.1.

“**Purchaser**” means BTA Real Estate Group Inc. or its Nominee.

“**Purchaser Consents**” has the meaning ascribed thereto in Section 7.1(c).

“**Purchaser’s Solicitors**” means W Law LLP or such other firm or firms of solicitors or agents as are retained by the Purchaser from time to time and Notice of which is provided to the Vendor.

“**Receiver**” has the meaning ascribed thereto in the Recitals.

“**Receiver’s Borrowings Charge**” has the meaning given in paragraph 20 of the Appointment Order and used therein.

“**Receiver’s Certificate**” has the meaning given in paragraph 22 of the Appointment Order and used therein.

“**Receiver’s Certificate Obligations**” means all outstanding obligations of any kind pursuant to the Receiver’s Certificate, and secured by the Receiver’s Borrowings Charge.

“**Receiver’s Charge**” has the meaning given in paragraph 17 of the Appointment Order and used therein.

“**Receiver’s Website**” means [www.alvarezandmarsal.com/familyfitness](http://www.alvarezandmarsal.com/familyfitness)

“**Receivership Proceeding**” means the receivership proceeding with respect to the Debtor commenced by the Appointment Order.

“**Representatives**” means, with, respect to any Party, the respective directors, officers, servants, agents, advisors, employees, consultants and representatives of that Party.

“**Secured Creditor**” means BTA Real Estate Group Inc.

“**Secured Debt**” means as of November 1, 2020, $1,243,000.00, which represents the debt outstanding and interest accrued under the Credit Agreement as of that date, plus interest that shall continue to accrue from and after that date, together with all costs, expenses and charges and any other amounts recoverable by the Purchaser under the terms of the Credit Agreement.

“**SISP Procedure**” means the sale procedure approved by the Court pursuant to the SISP Procedure Order, authorizing the Receiver to enter into this Agreement, approving the sale of the Subject Assets to the Purchaser as contemplated by this Agreement and, in particular, the Purchase Price, as a baseline or “stalking horse” bid, and setting out the terms and conditions of a timetable for a sale process with respect to the Subject Assets, with such amendments as are satisfactory to the Receiver and Purchaser acting reasonably.

“**SISP Procedure Order**” means an order of the Court substantially in the form attached as Schedule “D” hereto;

“**Subject Assets**” means all the right, title and interest (if any) of the Receiver, and the Debtor, in and to the tangible and intangible properties, assets, interests, rights and claims related to the Business, wherever located, as of the Closing Date, including without limitation those items detailed on Schedule “A” attached hereto, along with the following assets:

1. the Leases;
2. the Assumed Contracts;
3. the Memberships;
4. the Leasehold Improvements;
5. the “Evolution Fitness Gym” business name;
6. the Accounts Receivable; and
7. all other personal property not contemplated by the foregoing,

but excludes the right, title and interest of the Receiver and the Debtor in and to the Excluded

Assets and the Excluded Contracts.

“**Successful Bid**” has the meaning given to it in the SISP Procedure.

“**Successful Bidder**” has the meaning given to it in the SISP Procedure.

“**Surplus Funds**” means any and all funds held by the Receiver in respect of the Receivership

Proceeding as of the Closing Date.

“**Third Party**” means any Person other than the Parties, their affiliates or their respective Representatives.

“**Transaction**” means the purchase and sale of the Subject Assets provided for in this Agreement.

“**Vendor**” means the Receiver.

“**Vendor Entity**” means the Vendor and its Representatives, and each of their respective successors and assigns.

“**Vendor’s Solicitors**” means Torys LLP or such other firm or firms of solicitors or agents as are retained by the Vendor from time to time and Notice of which is provided to the Purchaser.

“**Vesting Order**” means the order of the Court, substantially in the form attached hereto as Schedule “E”, with such amendments as are satisfactory to the Receiver and Purchaser acting reasonably, approving the sale by the Receiver of the Subject Assets to the Purchaser or to the Nominee, and vesting in the Purchaser or the Nominee all right, title and interest of the Debtor in the Subject Assets, free and clear of all Encumbrances other than the Permitted Encumbrances.

“**Vesting Order Application**” means an application made by the Receiver in the Receivership Proceeding seeking the granting of the Vesting Order.

“**Warranties**” means any existing warranties and guarantees in favour of the Debtor in connection with the construction, condition or operation of the Subject Assets or any component thereof or any improvements made to the Subject Assets or any component thereof which are assignable without the consent of the counterparty thereto.

“**Wind-Down Amount**” means an amount in excess of any Surplus Funds necessary to fund: (a) all accrued but unpaid fees and disbursements of the Receiver and its counsel subject to the Receiver’s Charge as at the Closing Date, and (b) the costs to wind down and complete the Receivership Proceeding after the Closing Date (including costs associated with the Receiver terminating and/or disclaiming any agreements (including those related to the Leased Premises)), which amount shall be subject to the Receiver’s Charge.

“**Wind-Down Estimate**” means an estimate of the Wind-Down Amount that is prepared by the

Receiver, in form and substance satisfactory to the Purchaser, acting reasonably.

1. **Schedules**

The following schedules attached hereto form part of this Agreement:

 Schedule “A” - Subject Assets

 Schedule “B” - Excluded Assets

 Schedule “C” - SISP Procedure

 Schedule “D” - SISP Procedure Order

 Schedule “E” - Form of Vesting Order

 Schedule “F” - Assumed Employees

 Schedule “G” - Form of General Conveyance

 Schedule “H” - Form of Officer’s Certificates

 Schedule “I” - FFI Terminated Employees

1. **Computation of Time Periods**

Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day.

1. **Rules of Construction**

The following rules of construction shall apply to this Agreement unless the context otherwise requires:

1. the headings in this Agreement are inserted for convenience of reference only and shall not affect the meaning, interpretation or construction of this Agreement;
2. all documents executed and delivered pursuant to the provisions of this Agreement are subordinate to the provisions hereof and the provisions hereof shall govern and prevail in the event of a conflict;
3. any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force at the date hereof;
4. whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning plural or feminine or referring to a body politic or corporate, and vice versa, as the context requires;
5. the words “hereto”, “herein”, “hereof”, “hereby”, “hereunder” and similar expressions refer to this Agreement and not to any particular provision of this Agreement;
6. reference to any Article, Section or Schedule means an Article, Section or Schedule of this Agreement unless otherwise specified;
7. if any provision of a Schedule hereto conflicts with or is at variance with any provision in the body of this Agreement, the provisions in the body of this Agreement shall prevail to the extent of the conflict; and
8. “include” and derivatives thereof shall be read as if followed by the phrase “without limitation”.
9. **Interpretation if Closing Does Not Occur**

If Closing does not occur, each provision of this Agreement which presumes that the Purchaser has acquired the Subject Assets shall be construed as having been contingent upon Closing having occurred.

**ARTICLE 2**

**AGREEMENT OF PURCHASE AND SALE**

1. **Purchase and Sale of the Subject Assets**

Subject to the terms and conditions of this Agreement, the Vendor agrees to sell, assign, transfer, convey and set over, and the Purchaser agrees to purchase and accept, the Subject Assets, pursuant to the Vesting Order, in consideration of the payment of the Purchase Price. This Agreement shall be completed on the Closing Date electronically subject to the terms and conditions of this Agreement, which conditions, for greater certainty, include the issuance of the SISP Procedure Order, the determination by the Receiver that this Agreement is the Successful Bid, and the issuance of the Vesting Order.

1. **Binding Agreement**

The agreements of the Vendor and the Purchaser set forth in Section 2.1 create and constitute a binding agreement of purchase and sale for the Subject Assets in accordance with and subject to the terms and conditions of this Agreement, including the issuance of a Vesting Order.

1. **Acknowledgement of Purchaser as to Condition of the Subject Assets**
2. Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that:
	1. The Subject Assets are being sold and purchased and the Transaction is being effected, on an “as-is, where-is” and “without recourse” basis, without any representation, warranty or covenant by the Vendor or any other Person concerning the Subject Assets, or the Receiver’s or the Debtor’s right, title or interest in or to the Subject Assets, or the uses or applications of the Subject Assets, whether express or implied, statutory or collateral, arising by operation of law or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied *The Sale of Goods Act* (Saskatchewan) do not apply to the sale of the Subject Assets and are hereby waived by the Purchaser. For greater certainty, the Vendor makes no representation or warranty, express or implied, of any kind, at law or in equity, with respect to:
		1. the accuracy or completeness of the Data Room Information or any other data or information supplied by the Vendor or the Debtor or any of its Representatives in connection with the Subject Assets;
		2. the ability of the Purchaser to obtain any necessary approval from any Governmental Authority in order for the Purchaser to operate the Business and/or the Subject Assets;
		3. the quality, condition, fitness, suitability, serviceability or merchantability of any of the Subject Assets; or
		4. the title of the Debtor to the Subject Assets.
	2. The Purchaser acknowledges that it will perform due diligence, inquiries and investigations in respect of the Subject Assets and shall rely solely upon its own findings resulting therefrom and not upon any information, documentation, statement or opinion, written or oral, provided by the Vendor or any agent of the Vendor other than and only to the extent of the representations and warranties set out in Section 5.1.
	3. The Vendor makes no representations or warranties, other than and only to the extent of the representations and warranties set out in Section 5.1, of any nature whatsoever, including with respect to Data Room Information, any Confidential Information or documentation disclosed to the Purchaser, nor with respect to the Subject Assets (including, without limitation, title thereto and/or the state of any Encumbrances) or the Transaction.
	4. As part of the Purchaser’s agreement to purchase the Subject Assets and to accept the Subject Assets in “as-is, where-is” condition, and not as a limitation on such agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor and/or Vendor Entity in respect of the Subject Assets or the Transaction or pursuant to any warranty, express or implied, of any kind or type relating to the Subject Assets or any other assets, the condition of the Leased Premises or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights.
	5. The Vendor shall not be responsible or liable for any misrepresentation, lack of disclosure or incorrect or incomplete disclosure of any nature whatsoever or failure to investigate the Subject Assets on the part of any broker or sales agent, or any other purported or acknowledged agent, representative, contractor, consultant or employee of the Vendor or any third party.
	6. The Vendor shall not be required to produce any abstract of title, deed or documents or copies thereof or any evidence as to title.
3. The provisions of this Section 2.3 shall not merge on, but shall survive, Closing.
4. **Intentionally deleted.**
5. **SISP Procedure Order, Vesting Order**
6. The Receiver and the Purchaser acknowledge that (i) this Agreement is subject to, *inter alia*, Court approval, and (ii) Closing of the Transaction is subject to this Agreement being determined by the Receiver to be the Successful Bid, and to the issuance of the Vesting Order.
7. The Receiver shall use its commercially reasonable efforts to obtain the SISP Procedure Order on or before November 23, 2020, or such other date on which the Parties may agree.
8. If this Agreement is determined to be the Successful Bid pursuant to the SISP Procedure, the Receiver shall make appropriate commercially reasonable efforts to promptly thereafter file and serve the Vesting Order Application, on notice to the necessary parties.
9. The Purchaser shall provide all information, if any, and take such actions as may be reasonably requested by the Receiver to assist the Receiver in obtaining the SISP Procedure Order, and if the Purchaser is the Successful Bidder, the Vesting Order, and any other order of the Court reasonably necessary to consummate the Transaction.
10. From and after the Execution Date, the Receiver shall provide such prior notice as may be reasonable under the circumstances before filing any materials with the Court that relate, in whole or in part, to this Agreement, the Purchaser, or the Vesting Order and shall consult in good faith with the Purchaser regarding the content of such materials prior to any such filing (provided that the Receiver shall not be obligated to incorporate the comments of the Purchaser into any such filings).
11. **Closing Certificate**

The Parties hereby acknowledge and agree that the Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Vesting Order (the “**Closing Certificate**”), upon receiving written confirmation from the Purchaser that all conditions to Closing under this Agreement have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate.

1. **Receiver’s Capacity**

The Purchaser acknowledges and agrees that in all matters pertaining to the SISP Procedure, this Agreement, including in its execution, the Receiver has acted and is acting solely in its capacity as receiver and manager of the Business, Subject Assets and the Debtor pursuant to the Appointment Order and not in its personal, corporate, or any other capacity and the Receiver and its agents, officers, directors, employees and representatives will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

**2.8 Election of Nominee Purchaser**

The Purchaser may elect to nominate a subsidiary corporation in its control as a nominee purchaser (the “**Nominee**”). Purchaser shall provide notice of its election to nominate the Nominee no later than ten business days prior to the Closing Date. In the event that the Purchaser should make such election, the Vendor shall convey the Subject Assets to the Nominee instead of the Purchaser, subject to the satisfaction of all conditions set out in this Agreement. The Purchaser’s election of the Nominee shall not relieve the Purchaser of any obligations owing to the Vendor pursuant to this Agreement and the Purchaser shall remain, together with the Nominee, jointly and severally liable to the Vendor for any breach of this Agreement for which it or the Nominee is responsible.

**2.9 Transfer of Assets**

1. Provided that Closing occurs, and subject to the terms and conditions of this Agreement, possession, risk, beneficial and legal ownership of the Subject Assets shall transfer from the Vendor to the Purchaser on the Closing Date.
2. Notwithstanding anything in this Agreement to the contrary or any other information provided to the Purchaser (including, without limitation, the confidential information memorandum, Data Room Information, or otherwise), the Parties acknowledge that although the Vendor has provided the information contained in Schedule “A” attached hereto, which includes details of the Subject Assets, they recognize that there may be unintended omissions or mis-descriptions contained therein, including property which may be listed in Schedule “A” but which does not exist and/or is missing as of the Closing Date. As such, the Parties acknowledge that if such property does not exist and/or is missing, and if such property is objectively immaterial in quantity and value, the Vendor shall not be in breach of this Agreement, nor shall: (i) any condition to Closing be unsatisfied; (ii) the Purchase Price be adjusted; or (iii) the Closing delayed, and such property shall not form a part of the Subject Assets and in the event that such property is objectively material in quantity and value, the Vendor shall not be in breach of this Agreement nor shall any condition to Closing be unsatisfied but, the Purchase Price shall be adjusted to account for the change to the Subject Assets, provided that the adjustment to the Purchase Price shall not exceed an aggregate $100,000 under all circumstances and, if necessary, the Closing shall be delayed, for a period of 3 business days for the adjustment to be determined.

**2.10 Assumption of Liabilities**

1. In determining the Purchase Price, the Parties have taken into account the Purchaser’s assumption of responsibility for the payment of all costs for existing or future Assumed Liabilities associated with the Subject Assets, as set forth in this Agreement, and the absolute release of the Vendor and Debtor of all and any responsibility or liability therefor.
2. Subject to Closing, the Purchaser hereby agrees to: (i) assume, discharge, perform and fulfil the Assumed Liabilities from and after the Closing Date; and (ii) indemnify and save harmless the Vendor from all Claims, Losses and Liabilities, damages, and other amounts arising directly or indirectly out of or in connection with the Assumed Liabilities.

**ARTICLE 3**

**PURCHASE PRICE**

1. **Purchase Price**
2. The Purchase Price for the Subject Assets, exclusive of GST and PST where applicable, shall be equal to $800,000.00**,** plus the assumption of the Assumed Liabilities (the “**Purchase Price**”).
3. The Purchaser shall satisfy the Purchase Price, subject to adjustment in accordance with Section 3.4, by:
	1. payment of the Wind Down Amount to the Vendor;
	2. providing a credit to the Debtor in the amount of the Credit Agreement Bid Amount against the Debtor’s obligations under the Credit Agreement; and
	3. assumption of the Assumed Liabilities.
4. **Purchase Price Allocation**

The Parties shall agree upon the allocation of the Purchase Price in respect of each of the Subject Assets, both acting reasonably, on or before Closing. The Parties shall each report the purchase and sale of the Subject Assets for all federal, provincial and local tax purposes in accordance with the agreed upon allocation.

1. **Wind-Down Amount**

No later than ten Business Days prior to the Closing Date, the Receiver will deliver to the Purchaser the Wind-Down Estimate.

At Closing, if the Receiver is not holding Surplus Funds to fully fund the Wind-Down Amount, the Purchaser shall deliver to the Receiver the amount required to satisfy the Wind-Down Estimate by way of funds advanced by the Purchaser in its capacity as “Lender” to the Receiver as evidenced by Receiver’s Certificates, which amount shall be subject to the Receiver’s Charge and applied by the Receiver to fund the fees and disbursements of the Receiver and its counsel approved by an order of the Court. Any portion of the Wind-Down Estimate that is not required to fund the Wind-Down Amount and that has not been applied in accordance with this Section on the date of the Receiver’s discharge shall be returned by the Receiver to the Purchaser on such date. If the Wind-Down Amount exceeds the Wind-Down Estimate, the Purchaser shall deliver to the Receiver, within three Business Days of written request by the Receiver to the Purchaser, such additional funds as are required to fund the Wind-Down Amount. If the Wind-Down Amount is lower than the Wind-Down Estimate, the Receiver shall (i) notify the Purchaser of such excess and (ii) deliver to the Purchaser, within three Business Days of written request by the Purchaser to the Receiver, all excess funds held by the Receiver.

1. **Adjustments**
2. The Purchase Price will be adjusted as of the Closing Date for all items that are adjusted in accordance with usual commercial practice for adjustment between a vendor and purchaser with respect to the purchase and sale of a comparable property in Saskatchewan, including, without limitation, rent, realty taxes and utilities, and payments under equipment rental or lease agreements, the Vendor being responsible for all expenses and entitled to all income related to the Business in respect of the period prior to the Closing Date and the Purchaser being responsible for all expenses and entitled to all income related to the Business in respect of the period from and including the Closing Date, in each case except as otherwise provided herein.
3. The Vendor shall prepare a statement of adjustments in accordance with this Section 3.4 and deliver it to the Purchaser at least two (2) Business Days prior to the Closing Date and shall have annexed to it the calculations used by the Vendor to arrive at all debits and credits on the statement of adjustments. The Vendor shall give the Purchaser’s representatives reasonable access to the Vendor’s working papers and backup materials in order to confirm the statement of adjustments.
4. If the adjustment amount for any item was an initial adjustment or was omitted from the statement of adjustments at Closing, such item will be re-adjusted or adjusted, as the case may be, after Closing on or before the date that is the first to occur of (i) six (6) months after the Closing Date and (ii) ten (10) days before the date on which the Receiver is discharged by the Court as receiver and manager of all of the assets, undertakings and properties of FFI (the “**Final Adjustment Date**”). There shall be no adjustments after the Final Adjustment Date.
5. Notwithstanding the foregoing provisions, on Closing, if the adjustments are a credit in favour of the Purchaser (that is, the amount payable on Closing would be less than the Purchase Price), the amount of such adjustment shall be deducted from the Credit Agreement Bid Amount, and if the adjustments are a credit in favour of the Vendor (that is, the amount payable on Closing is more than the Purchase Price), such amount shall be added to the Credit Agreement Bid Amount.

**ARTICLE 4**

**CONDITIONS**

1. **Conditions for Vendor**

The obligation of the Vendor to complete the Transaction shall be subject to the following conditions:

1. on the Closing Date, all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser shall have been complied with or performed in all material respects;
2. on the Closing Date, all of the representations and warranties of the Purchaser set out in Section 5.2 shall be true and accurate in all material respects as if made as of the Closing;
3. on Closing, receipt of all deliveries to be made by the Purchaser as set out in Section 6.2;
4. on the Closing Date, there shall be no order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such Transaction is improper or would give rise to proceedings under any Applicable Laws;
5. all waivers, consents, and/or approvals from any Governmental Authority and all Purchaser Consents, as the Vendor reasonably determines are required in connection with the consummation of the Transaction, shall have been obtained;
6. on the Closing Date, the Receiver shall have determined in accordance with the SISP Procedure that this Agreement is the Successful Bid; and
7. on the Closing Date, the Appointment Order, the SISP Procedure Order and the Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction.

The conditions set forth in this Section 4.1 are for the sole benefit of the Vendor and may be waived in whole or in part by the Vendor by Notice in writing to the Purchaser prior to the applicable date set forth above for their respective waiver or satisfaction provided that the Vendor is not entitled to waive the condition for the issuance of the Vesting Order and Final Order.

1. **Conditions for Purchaser**

The obligation of the Purchaser to complete the Transaction shall be subject to the following conditions:

1. on the Closing Date, all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendor shall have been complied with or performed in all material respects;
2. on the Closing Date, all of the representations and warranties of the Vendor set out in Section 5.1 shall be true and accurate in all material respects as if made as of the Closing (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement or the SISP Procedure);
3. on Closing, receipt of all deliveries to be made by the Vendor as set out in Section 6.1;
4. on the Closing Date, there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such Transaction is improper or would give rise to proceedings under any Applicable Laws;
5. on the Closing Date, the Appointment Order, the SISP Procedure Order and the Vesting Order shall be Final Orders and no order shall have been issued which restrains or prohibits the completion of the Transaction;
6. on the Closing Date, the Receiver shall have determined in accordance with the SISP Procedure that this Agreement is the Successful Bid; and
7. on the Closing Date, the Subject Assets shall be in substantially the same condition as they were at the Execution Date, subject to reasonable wear and tear.

The conditions set forth in this Section 4.2 are for the sole benefit of the Purchaser, and may be waived in whole or in part by the Purchaser by Notice to the Vendor prior to the applicable date set forth above for the waiver or satisfaction of each such condition, provided that the Purchaser is not entitled to waive the condition for the issuance of the Vesting Order and Final Order.

1. **Satisfaction of Conditions**

Each Party agrees to proceed in good faith, with promptness and reasonable diligence to attempt to satisfy those conditions contained in Sections 4.1 and 4.2, as applicable, that are within its control, acting reasonably. The Parties shall cooperate with each other and the Purchaser shall provide the Vendor with information in its possession or control necessary to seek the SISP Procedure Order and the Vesting Order. Each Party shall promptly notify the other of the occurrence, to such Party’s knowledge, of any event or condition, or the existence, to such Party’s knowledge, of any fact, that would reasonably be expected to result in any of the conditions set forth in Section 4.1 or Section 4.2 not being satisfied.

1. **Non-Satisfaction of Conditions**
2. If any of the conditions set out in Section 4.1 are not satisfied or waived on or before the Closing Date, the Vendor may terminate this Agreement by Notice in writing to the Purchaser given on the Closing Date, in which event this Agreement shall be terminated and of no further force or effect whatsoever, provided, however, if this Agreement is terminated pursuant to Sections 4.1(d), (f) or (g) the Expense Reimbursement set out in Section 8.2(b) shall apply, and each of the Parties shall be released from all of its liabilities and obligations under this Agreement save for those specified to survive termination. However, the Vendor may waive compliance with any of the conditions set out in Section 4.1 in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition contained in Section 4.1 in whole or in part.
3. If any of the conditions set out in Section 4.2 are not satisfied or waived on or before the Closing Date, the Purchaser may terminate this Agreement by Notice in writing to the Vendor given on or before the Closing Date, in which event this Agreement shall be terminated and of no further force or effect whatsoever, provided, however, the Expense Reimbursement set out in Section 8.2(b) shall apply, and each of the Parties shall be released from all of its liabilities and obligations under this Agreement save for those specified to survive termination. However, the Purchaser may waive compliance with any of the conditions set out in Section 4.2 in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition contained in Section 4.2 in whole or in part.
4. All conditions to be satisfied on Closing shall be deemed to be satisfied if Closing occurs.

**ARTICLE 5**

**COVENANTS, REPRESENTATIONS AND WARRANTIES**

1. **Representations and Warranties of Vendor**

The Vendor represents and warrants to and in favour of the Purchaser that, as of the date of this

Agreement:

1. Status. The Vendor has been appointed by the Court as receiver and manager of all of the assets, undertakings and properties of the Debtor pursuant to the Appointment Order, a copy of which is available on the Receiver’s Website.
2. Authorization. Subject to the issuance of the SISP Procedure Order, the Receiver has all necessary power and authority to enter into this Agreement.
3. Enforceability. Subject to the issuance of the Vesting Order, this Agreement constitutes a valid and binding obligation of the Receiver enforceable against it in accordance with its terms subject to any limitations imposed by Applicable Laws, and the Receiver has the necessary power and authority to carry out its obligations hereunder.
4. Residence. The Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
5. **Representations and Warranties of Purchaser**

The Purchaser covenants, represents and warrants to and in favour of the Vendor that, as of the date of this Agreement:

1. Status. The Purchaser is and shall continue to be a valid and subsisting corporation under the laws of its jurisdiction of organization and is authorized to carry out the Business in the jurisdiction where the Subject Assets are located. The Purchaser has all necessary power, authority and capacity to enter into this Agreement and all other agreements contemplated by this Agreement and to perform its obligations under this Agreement and all other agreements contemplated by this Agreement.
2. Authorization. The execution and delivery of this Agreement and all other agreements contemplated by this Agreement by the Purchaser and the consummation of the Transaction contemplated by this Agreement by the Purchaser have been duly authorized by all necessary corporate action on the part of the Purchaser.
3. Enforceability. This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against it in accordance with its terms subject to any limitations imposed by Applicable Laws.
4. No Breach. Neither the entering into nor the delivery of this Agreement nor the completion by the Purchaser of the Transaction contemplated hereby will conflict with, or constitute a default under, or result in a violation of: (i) any of the provisions of the constating documents or by-laws of the Purchaser; or (ii) any Applicable Laws.
5. No Bankruptcy. The Purchaser: (i) is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada); (ii) has not made an assignment in favour of its creditors or a proposal to its creditors or any class thereof; (iii) has not had any application for a bankruptcy order filed or presented in respect of it; and (iv) has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution.
6. GST. The Purchaser will on Closing be a GST registrant under the *Excise Tax Act* (Canada) and be the sole “recipient” of a supply as defined thereunder and will provide its registration number to the Vendor on or before the Closing Date.
7. Residence. The Purchaser is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada) and *Investment Canada Act* (Canada).
8. Broker’s Fees. The Purchaser has not incurred any obligation or liability, contingent or otherwise, for broker’s or finder’s fees in respect of the Transaction for which the Vendor or the Debtor shall have any obligations or liability.
9. **GST and PST**

To the extent commercially reasonable and as agreed between the Parties, each acting reasonably, the Parties shall jointly elect under Section 167 of the *Excise Tax Act* (Canada), following the prescribed form and including the prescribed information, that no tax shall be payable with respect to the transfer of the Subject Assets made pursuant to this Agreement.

The Purchaser hereby represents and warrants to the Vendor as follows:

1. the Purchaser shall be purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, trustee or otherwise on behalf of another person;
2. the Purchaser shall be registered under the *Excise Tax Act* (Canada) for the purposes of collection and remittance of GST;
3. the Purchaser shall be liable, and remit to the appropriate governmental authority all PST in connection with the transfer of the Subject Assets made pursuant to this Agreement;
4. the Vendor shall not collect GST nor PST on Closing regarding the Subject Assets; and
5. the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST and PST, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of the Transaction or any inaccuracy, misstatement or misrepresentation made by the Purchaser on the Closing Date in connection with any matter raised in this Section 5.3 or contained in any declaration referred to herein.
6. **Election for Accounts Receivable**

No later than five (5) Business Days prior to the Closing, the Purchaser shall advise the Vendor if the Purchaser wishes to jointly elect pursuant to section 22 of the *Income Tax Act* (Canada), with respect to the purchase and sale of the Accounts Receivable. In the event the Purchaser does wish to make such election, and to the extent commercially reasonable and as agreed between the Parties, each acting reasonably, the Parties shall jointly elect following the prescribed form and including the prescribed information.

1. **Employees**
2. Other than the FFI Terminated Employees, as set out below, the Purchaser hereby agrees to assume the contracts of employment, whether verbal or written, for all employees of Vendor listed in Schedule F, pursuant to the *Saskatchewan Employment Act*. The Vendor and Purchaser acknowledge and agree that the Purchaser’s responsibility for the employees shall be effective as of the Closing Date.
3. In addition, the Purchaser shall, from and after the Closing Date, assume all obligations to and continue the engagements of all contractors and consultants of the Vendor also listed on Schedule F hereto and, without limitation, assume all written agreements in connection with such contractors and consultants and all obligations in connection with the termination of any engagement occurring on or after Closing. The Vendor hereby agrees to provide copies of all written agreements with contractors or consultants, or, where no written agreement exists, summaries of the terms and conditions of the engagement of the contractor or consultant.
4. The Purchaser shall recognize all service of all of the employees of the Vendor listed on Schedule “F” who continue in employment with the Purchaser following the Closing (the “**Assumed Employees**”) with the Vendor or, if longer, as recognized by the Vendor. The Purchaser shall assume all liabilities and be responsible for all obligations owing to the Assumed Employees subsequent to Closing.
5. The Vendor shall cooperate with the Purchaser in giving notice to the employees concerning such matters referred to in this Section 5.5 as are reasonable under the circumstances. The Vendor and Purchaser shall exercise reasonable efforts to persuade the employees of the Vendor to continue in employment with the Purchaser.
6. Should any employee be terminated by the Vendor prior to the Closing Date, then Vendor shall be solely responsible for any notice, pay-in-lieu of notice, or severance payments required to be made to the employees who refuse to accept continued employment.
7. The Purchaser and Vendor agree that the Purchaser is not assuming the employment of the employees listed in Schedule “I” (the “**FFI Terminated Employees**”), and agree that the Vendor shall be solely responsible for the termination of the FFI Terminated Employees prior to the Closing Date, and the Vendor shall have sole responsibility for any associated notice, pay-in-lieu of notice, or severance that is owing, or may be claimed, by those employees.

**ARTICLE 6**

**CLOSING DOCUMENTS**

1. **Vendor’s Closing Documents**

At Closing, the sale, transfer, assignment, and conveyance by the Vendor of the Subject Assets to the Purchaser, free and clear of all Encumbrances other than the Permitted Encumbrances, shall be effected by the issued and entered Vesting Order. On or before Closing, subject to the provisions of this Agreement, the Vendor shall prepare and execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser the following:

1. a true and complete copy of the Vesting Order;
2. the Closing Certificate;
3. the Assignment and Assumption of Leases, and such other assignment, assumption and other documents as are required by the terms of the Leases;
4. the Assignment and Assumption of Contracts, and such other assignment, assumption and other documents as are required by the terms of the Assumed Contracts;
5. a notice to the account debtors of the purchased Accounts Receivable, if any, notifying such account debtors of the transfer of the purchased Accounts Receivable, and directing such account debtors to pay, after Closing, the Accounts Receivable to the Purchaser or as the Purchaser directs;
6. a certificate of an officer of the Vendor (in such capacity and without personal liability) confirming that the representations and warranties set out in Section 5.1 are true and accurate in all material respects, substantially in the form attached hereto as Schedule “H”;
7. a completed GST Form-44 related to the tax election referred to in Section 5.3;
8. a completed T2022 related to the tax election referred to in Section 5.4, is applicable;
9. to the extent in the Vendor’s possession or control, all keys and all security cards relating to the Leased Premises, and all combinations to lockers, vaults and combination locks located at the Leased Premises;
10. to extent in the Vendor’s possession or control, all login information and passwords related to the Subject Assets;
11. to the extent in the Vendor’s possession or control, original copies of all Leases and all Assumed Contracts, if any.
12. to the extent in the Vendor’s possession or control, all post-dated cheques endorsed (without recourse) in favour of the Purchaser;
13. any plans and specifications in the Vendor’s possession or control relevant to the construction of the Leasehold Improvements;
14. the statement of adjustments;
15. a document setting out the agreed upon allocation of the Purchase Price;
16. an undertaking by the Vendor to re-adjust the adjustments in accordance with Section 3.4(b);
17. an undertaking by the Vendor to re-adjust the Wind-Down Estimate; and
18. the General Conveyance.

All documentation shall be in form and substance acceptable to the Purchaser and the Vendor, each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

1. **Purchaser’s Closing Documents**

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor, as applicable, the following:

1. for and on behalf of the Debtor, a fully executed release and waiver with respect of the amount outstanding under the Credit Agreement equal to the Credit Agreement Bid Amount;
2. a fully executed release and waiver with respect to the Receiver’s Certificate Obligations outstanding to the Purchaser on Closing;
3. funds equal to the Wind-Down Estimate, if any;
4. a document setting out the agreed upon allocation of the Purchase Price;
5. the Assignment and Assumption of Leases, and such other assignment, assumption and other documents as are required by the terms of the Leases;
6. the Assignment and Assumption of Contracts, and such other assignment, assumption and other documents as are required by the terms of the Assumed Contracts;
7. a certificate of an officer of the Purchaser (in such capacity and without personal liability) confirming that the representations and warranties set out in Section 5.2 are true and accurate in all material respects, substantially in the form attached hereto as Schedule “H”;
8. a completed GST Form-44 related to the tax election referred to in Section 5.3;
9. a completed T2022 related to the tax election referred to in Section 5.4, is applicable;
10. an acknowledgement in favour of the Vendor confirming that each of the Purchaser’s conditions as set out in Section 4.2 have been satisfied or waived;
11. an undertaking by the Purchaser to re-adjust the adjustments in accordance with Section 3.4;
12. an undertaking by the Purchaser to re-adjust the Wind-Down Estimate;
13. the General Conveyance; and
14. such other documents as may be reasonably required by the Vendor to complete the purchase and sale of the Subject Assets.

All documentation shall be in form and substance acceptable to the Purchaser and the Vendor each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendor or the Purchaser than those expressly set forth in this Agreement.

1. **Registration and Other Costs**
2. The Vendor shall be responsible for the costs of the Vendor’s Solicitors in respect of this Transaction. The Purchaser shall be responsible for the costs of the Purchaser’s Solicitors in respect of this Transaction. The Purchaser shall be responsible for and pay all registration fees payable in respect of registration by it of any documents on Closing and all federal and provincial sales and other taxes payable by a purchaser upon or in connection with the conveyance or transfer of the Subject Assets, including provincial retail sales tax and goods and services tax.
3. The Purchaser shall indemnify and save harmless the Vendor and its shareholders, directors, officers, employees, advisors, representatives and agents from all claims, actions, causes of action, proceedings, losses, damages, costs, liabilities and expenses incurred, suffered or sustained as a result of a failure by the Purchaser:
4. to pay any federal, provincial or other taxes payable by the Purchaser in connection with the conveyance or transfer of the Subject Assets whether arising from a reassessment or otherwise, including provincial retail sales tax and goods and services tax, if applicable; and/or
5. to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Subject Assets.
6. The Purchaser further agrees to pay all such amounts including interest and penalties, if any, in connection with foregoing.
7. This Section shall survive and not merge on Closing. For greater certainty, the foregoing obligation to indemnify shall not cease and terminate.
8. **Closing Escrow**

All Closing Documents shall be delivered into trust electronically to the other Party’s counsel and the funds equal to the Wind-Down Estimate, if any, to the Vendor, on or before the Closing Date. Such Closing Documents and the funds equal to the Wind-Down Estimate, if any, shall be held in trust until both Parties, acting reasonably, are satisfied that all conditions set forth in Sections 4.1 and 4.2 to be satisfied on or before Closing have been satisfied (or waived).

Upon successful registration of the Vesting Order, the Closing Documents and the funds equal to the Wind-Down Estimate, if any, shall be released from trust.

1. **Post-Closing Receipt of Cash, Cheques or Instruments**

Subject to any court order, from and after the Closing Date until the completion of the Receivership Proceeding, the Vendor shall promptly transfer any cash, cheques or other instruments of payment to the Purchaser that it receives payable to the Debtor, or payable to the Receiver, in respect of the Subject Assets.

**ARTICLE 7**

**ASSUMED CONTRACTS AND PURCHASER CONSENTS**

1. **Contracts**
2. On Closing, the Purchaser shall assume those Contracts and Leases that the Purchaser advises the Vendor it wants to assume (the “**Assumed Contracts**”) by Notice delivered to the Vendor no later than ten (10) Business Days prior to the return date of the Vesting Order Application (the “**Contract Notice Date**”). For certainty, the subject Assumed Contracts shall not include contracts respecting any of the employees, contractors or consultants listed in Schedule “F”. Further, the Purchaser shall have received consents to transfer respecting the Assumed Contracts that contain assignment restrictions. At any time on or prior to the Contract Notice Date, the Purchaser may elect to exclude any Contracts or Leases from the Subject Assets, and add such Contracts or Leases to the Excluded Contracts list by giving written notice to the Vendor of its intention to do so.
3. The Vendor shall terminate on or before the Closing Date, all Contracts or Leases other than the Assumed Contracts. Additionally, the Vendor may, at its discretion, seek an order of the Court disclaiming any of the Contracts or Leases other than the Assumed Contracts.
4. The Purchaser shall, forthwith upon the Receiver determining that this Agreement is the Successful Bid, use commercially reasonable efforts to:
	1. identify and request in writing all material consents, permissions and approvals by Third Parties and Governmental Authorities in connection with the Transaction customarily obtained prior to Closing (the “**Purchaser Consents**”); and
	2. provide prior written notice to all Third Parties and Governmental Authorities in sufficient time to allow any Purchaser Consents having an expiry period to expire (if not refused) prior to the Closing Date.
5. The Purchaser acknowledges that the Vendor has no obligation to obtain consents to transfer the Leases and Assumed Contracts to the Purchaser, and that the Purchaser is solely responsible for obtaining consent to transfer the Leases and Assumed Contracts. Without limiting the generality of the foregoing, it is the sole obligation of the Purchaser, at the Purchaser’s sole cost and expense, to:
	1. obtain and pay the cost of any consents, permits, licences assignments, registration fees, attorney and agent fees, filing fees, issue fees or other authorizations and assignments necessary or desirable for the transfer of such right, title and interest, to the Purchaser or for the operation or use of the Business and/or Subject Assets;
	2. obtain all Third Party consents that are required to complete the Transaction and own and operate the Business and the Subject Assets;
	3. obtain the consents to transfer the Leases; and
	4. provide any and all financial assurances, remedial work or other documentation that may be required by Governmental Authorities or any Third Parties to permit the transfer to the Purchaser of any of the Subject Assets, and registration of the Purchaser as owner, of any of the Subject Assets.
6. To the extent the Vendor is able, however, to transfer any permits and licences to the Purchaser, the Vendor will use commercially reasonable efforts to transfer such permits and licences to the Purchaser, provided that the Purchaser pays all costs associated with such transfer. The Purchaser shall indemnify the Vendor for any Claims, Losses and Liabilities incurred by the Vendor as a result of the Purchaser’s failure to obtain any such consent, approval, licence and permit. The Purchaser shall assume the Assumed Contracts, to the extent they are assignable and in force on Closing, pursuant to the Assignment and Assumption of Contracts.
7. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign the Leases and Assumed Contracts, to the extent the Leases and Assumed Contracts are not assignable under Applicable Law without the consent of any other Person unless such consent has been obtained.

**ARTICLE 8**

**TERMINATION**

1. **Termination**

This Agreement may be terminated at any time prior to Closing as follows:

1. automatically and without any action or notice by either the Vendor to the Purchaser or the Purchaser to the Vendor, immediately (i) if the SISP Procedure Order is not granted by the Court by November 23, 2020, or such other date on which the parties may agree, (ii) upon the selection by the Receiver of a Successful Bid if this Agreement is neither the Successful Bid nor the Back-up Bid selected at such time, or (iii) upon the Closing of the Successful Bid if this Agreement is the Back-up Bid;
2. subject to any approvals required from the Court, if any, by mutual written consent of the Vendor and the Purchaser;
3. by notice from the Vendor to the Purchaser or from the Purchaser to the Vendor, following the issuance of an order or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the transfer of the Subject Assets as contemplated hereby;
4. automatically and without any action by either the Vendor or the Purchaser if Closing has not occurred on or before the Outside Date, unless otherwise agreed to between the parties in writing to extend the Outside Date;
5. by the Vendor, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth this Agreement and such violation or breach has not been waived by the Vendor or cured, unless the Vendor is in material breach of its obligations under this Agreement; and
6. by the Purchaser, if there has been a material violation or breach by the Vendor of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in this Agreement and such violation or breach has not been waived by the Purchaser or cured, unless the Purchaser is in material breach of its obligations under this Agreement.
7. **Effects of Termination**
8. If this Agreement is terminated pursuant to Section 8.1:
9. all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other, subject to the Expense Reimbursement set out in Section 8.2(b) and all other provisions that state they survive termination shall survive termination and shall remain in full force and effect; and
10. the Purchaser shall return to the Receiver all documents, work papers and other material of the Receiver and the Debtor, as the case may be, relating to the Transaction, whether obtained before or after the execution hereof.
11. In consideration for the Purchaser’s expenditure of time and money in acting as the initial bidder in the stalking horse bid and the preparation and negotiation of this Agreement and subject to the terms and condition of this Agreement and of the SISP Procedure Order, upon termination of this Agreement by the Receiver (except any termination pursuant to Subsection 8.1(e)) or the closing of a sale and a transfer of the Subject Assets to a Person other than the Purchaser (an “**Alternative Transaction**”), the Receiver shall pay to the Purchaser the amount of $40,000.00 (the “**Expense Reimbursement**”) in order to reimburse the Purchaser for the Purchaser’s expenses in connection with the Transaction, provided that the Receiver’s obligation to make such payment is conditional upon an Alternative Transaction being completed, whereupon such payment may be made from the proceeds of the Alternative Transaction.
12. Payment of the Expense Reimbursement shall be made by the Receiver upon Court approval of said payment after consummation of the Alternative Transaction. Upon payment of the Expense Reimbursement to the Purchaser, the Parties shall have no further obligations under this Agreement.

**ARTICLE 9**

**LIABILITIES AND INDEMNITIES**

**9.1 General Indemnity**

If Closing occurs, the Purchaser shall, without any further necessary action on the part of the Vendor or the Purchaser:

* + 1. assume, perform, pay, discharge and be liable to the Vendor for; and
		2. as a separate covenant, save and hold harmless and indemnify the Vendor, the Debtor and each other Vendor Entity from and against;

all Losses and Liabilities suffered, sustained, paid or incurred by any of them to the extent arising or accruing on or after the Closing Date and which relate to the Subject Assets, and/or the Assumed Liabilities, including but not limited to all Losses and Liabilities attributable to the operation, ownership, use, construction or maintenance of the Business and/or Subject Assets arising or accruing on or after the Closing Date. The Purchaser’s indemnity obligation set forth in this Section 9.1 shall survive the Closing Date indefinitely.

**9.2 No Merger**

There shall not be any merger of any liability or indemnity hereunder in any assignment, conveyance, transfer or document delivered pursuant hereto notwithstanding any rule of law, equity or statute to the contrary and all such rules are hereby waived.

**9.3 Holding of Indemnities**

The Vendor will hold the indemnities contained in Section 9.1 in trust on behalf of all of the other Vendor Entities and may enforce the same on their behalf.

**ARTICLE 10**

**PERSONAL INFORMATION**

**10.1 Personal Information**

The Purchaser covenants and agrees to use and disclose any personal information contained in any of the books, records or flies transferred to the Purchaser or otherwise obtained by the Purchaser in connection with the Transaction only for those purposes for which it was initially collected from or in respect of the individual to which such information relates or as otherwise permitted or authorized by Applicable Law. The Purchaser’s obligations set forth in this Section 10.1 shall survive the Closing Date indefinitely.

**ARTICLE 11**

**CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS**

**11.1 Confidentiality**

1. Neither Party may disclose the terms or contents of this Agreement, including the name of the other Party, or any information concerning negotiations leading to this Agreement and the Transaction, without the prior written consent of the other Party.
2. Prior to Closing, all information obtained by the Purchaser from the Vendor respecting the Subject Assets shall be retained in confidence by it and used by it only for the purposes of this Transaction; provided, however, that nothing contained herein shall prevent the Purchaser from using or disclosing information pertaining to the Subject Assets after Closing.
3. Notwithstanding Sections 11.1(a) and 11.1(b), a Party may release or provide information about the Transaction:
	1. as is required by Applicable Laws (including as may be required to obtain the Vesting Order) or stock exchange requirements applicable to the disclosing Party; provided that such disclosing Party shall make reasonable commercial efforts to provide the other Party with the details of the nature and substance of such required disclosure as soon as practicable and in any event prior to such disclosure;
	2. as is required to enable such Party to fulfil its obligations under this Agreement, including obtaining any approvals or consents to the Transaction required from Governmental Authorities (including approval of the Vesting Order) or Third Parties; or
	3. to a bank or other financial institution to obtain financing or any required consent of the bank or other financial lender of such Party.

**11.2 Public Announcements**

Except as otherwise required by Applicable Laws or a Governmental Authority, or as may be required in connection with the Receivership Proceeding or SISP Procedure, no press release or public announcement with respect to this Agreement or the Transaction may be made prior to Closing except with the prior written consent and joint approval of the Vendor and the Purchaser. Where the public disclosure is required by Applicable Laws, a Governmental Authority or in connection with the Receivership Proceeding, the Party required to make the public disclosure will use its reasonable commercial efforts to obtain the approval of the other Party as to the form, nature and extent of the disclosure.

**ARTICLE 12**

**GENERAL**

**12.1 Obligations as Covenants**

Each agreement and obligation of any of the Parties in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

**12.2 Applicable Law**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Saskatchewan and the laws of Canada applicable therein and shall be treated in all respects as a Saskatchewan contract.

**12.3 Currency**

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

**12.4 Invalidity**

If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any Person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any Person, party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

**12.5 Amendment of Agreement**

Except as expressly provided otherwise in this Agreement, no supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Parties in the same manner as the execution of this Agreement.

**12.6 Time of the Essence**

Time shall be of the essence of this Agreement.

**12.7 Further Assurances**

Each of the Parties shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

**12.8 Entire Agreement**

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the Parties constitute the entire agreement between the Parties pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the Parties in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the Schedules attached hereto.

**12.9 Waiver**

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

**12.10 Solicitors as Agents and Tender**

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser’s Solicitors on behalf of the Purchaser and by the Vendor’s Solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendor’s Solicitors and the Purchaser’s Solicitors, as the case may be.

**12.11 Merger**

Except as otherwise expressly set out herein, this Agreement shall merge with the Closing of the

Transaction contemplated herein.

**12.12 Successors and Assigns**

All of the covenants and agreements in this Agreement shall be binding upon the Parties and their respective successors and permitted assigns and shall enure to the benefit of and be enforceable by the Parties and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

**12.13 Residual Credit Agreement Debt**

Subject to the terms and conditions set forth in the applicable loan documentation and an order of the Court, the execution, delivery and effectiveness of this Agreement shall NOT directly or indirectly: (a) be construed as a waiver or release of the Secured Creditor’s right, title and interest in and to the Secured Creditor’s Secured Debt that does not form part of the Credit Agreement Bid Amount, and such indebtedness will remain owing by the Debtor under the Credit Agreement to the Secured Creditor and continue to accrue to the Secured Creditor from and after the Closing Date, (b) constitute a consent or waiver of any past, present or future violations of any provisions of any of the Credit Agreement and/or any Secured Creditor loan documents related thereto or this Agreement, and (c) amend, modify or operate as a waiver of any provision(s) of any of the Credit Agreement and/or any Secured Creditor’s loan documents related thereto or any right, power or remedy of the Secured Creditor under the Credit Agreement and/or any Secured Creditor loan documents related thereto. Except as expressly set forth herein, the Secured Creditor reserves all of its rights, powers, and remedies under the Credit Agreement and any Secured Creditor loan documents related thereto, and Applicable Law.

**12.14 Access of Receiver to Books and Records**

The Vendor shall, for a period of six (6) years from the completion of the Transaction, have access to the Books and Records relating to the Business and the Subject Assets which are transferred and conveyed to the Purchaser pursuant to this Agreement, and the right to copy such material at its own cost, to the extent necessary or useful in connection with the completion of the administration of the Receivership Proceeding.

**12.15 Tax Matters**

The Purchaser and the Vendor agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Subject Assets as is reasonably necessary for the preparation and filing of any tax return, claim for refund or other required or optional filings relating to tax matters, for the preparation for and proof of facts during any tax audit, for the preparation for any tax protest, for the prosecution of any suit or other proceedings relating to tax matters and for the answer to any governmental or regulatory inquiry relating to tax matters.

**12.16 Assignment**

Neither Party may assign their interest in or under this Agreement or to the Subject Assets prior to Closing without the prior written consent of the other Party, which consent may be withheld in such other Party’s sole and unfettered discretion.

No assignment, transfer, or other disposition of this Agreement or the Subject Assets or any portion of the Subject Assets shall relieve the Purchaser from its obligations to the Vendor herein. The Vendor shall have the option to claim performance or payment of the obligations from the Purchaser or the assignee or transferee, and to bring proceedings in the event of default against either or all of them, provided that nothing herein shall entitle the Vendor to receive duplicate performance or payment of the same obligation.

**12.17 Notice**

Any notice, demand, approval, consent, information, agreement, offer, request or other communication (a “**Notice**”) to be given under or in connection with this Agreement shall be in writing and shall be given by telecopier, facsimile transmission or other electronic communication

which results in a written or printed notice being given, addressed or sent as set out below or to such other address or electronic number as may from time to time be the subject of a Notice:

1. Vendor: Alvarez and Marsal Canada Inc.

 250 6 Ave South West, Suite 1100

 Calgary, AB T2P 3H7

 Attention: Orest Konowalchuk and Jill A. Strueby

 Facsimile: (403) 538 7551

 Email: okonowalchuk@alvarezandmarsal.com

 and jstrueby@alvarezandmarsal.com

1. with a copy to the Vendor’s Solicitors:

Torys LLP

 525 - 8th Avenue SW, 46th Floor

 Calgary, Alberta T2P 1G1

 Attention: Kyle Kashuba

 Facsimile: (403) 776.3800

 Email: kkashuba@torys.com

1. Purchaser: BTA Real Estate Group Inc.

210 Brookhurst Crescent

Saskatoon, Saskatchewan, S7V 1C5

Attention: Fazal Anwar

Email: fazal.e.anwar@gmail.com

1. with a copy to the Purchaser’s Solicitors:

W Law LLP

Suite 300, 110 – 21st Street East

Saskatoon, SK S7K 0B6

 Attention: Mike Russell

 Facsimile: (306) 652.0332

 Email: mrussell@wlaw.com

Any Notice, if sent by telecopier, facsimile transmission or other electronic communication with confirmation of transmission prior to 5:00 p.m. (Saskatchewan time), shall be deemed to have been validly and effectively given and received on the Business Day it was sent, unless the confirmation of transmission was after 5:00 p.m. (Saskatchewan time), in which case it shall be deemed to have been received on the next Business Day.

**12.18 Effect of Termination of Agreement**

Notwithstanding the termination of this Agreement for any reason, the Expense Reimbursement provisions contained in Section 8.2 and all other provisions that state they survive termination shall survive termination and shall remain in full force and effect.

**12.19 Planning and Development Act of Saskatchewan**

This Agreement and the transactions reflected herein are subject to compliance with *The Planning and Development Act, 2007* (Saskatchewan).

**12.20 Commissions**

The Purchaser is solely responsible to pay all other fees and/or commissions claimed and/or otherwise owing to any other Person with whom the Purchaser had any communications and/or dealings in respect of the Subject Assets and the Purchaser shall indemnify and save the Vendor harmless from all Claims with respect to same. This Section shall survive and not merge on Closing.

**12.21 No Personal Liability of the Vendor**

The Vendor is executing this Agreement solely in its capacity as Court-appointed receiver and manager of the assets, undertakings and properties of the Debtor and not in its personal or corporate capacity and neither the Vendor nor its directors, officers, agents, representatives, servants or employees shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof.

**12.22 Dissolution of the Debtor**

The Purchaser acknowledges and agrees that nothing in this Agreement shall operate to prohibit or diminish in any way the right of the Debtor or the Vendor to dissolve, wind-up, make an assignment in bankruptcy in any manner or at any time subsequent to the Closing Date as it may determine in their sole discretion, which may be exercised without regard to the impact any such action may have on the Vendor’s ability to fulfil its obligations under this Agreement that survive Closing.

**12.23 Remedies Cumulative**

No failure on the part of any Party to exercise any right or remedy will operate as a waiver thereof. A Party will not be precluded from exercising any right available to it at law, equity or by statute because of its exercise of any single or partial right, and a Party may exercise any such remedies independently or in combination.

**12.24 Independent Legal Advice**

Each of the Parties to this Agreement acknowledges that it has had the time and opportunity to obtain independent legal advice with respect to the execution of this Agreement, or has waived that opportunity, and each of the Parties to this Agreement has read, understands and agrees with all of the terms and conditions contained in this Agreement.

**12.25**

**Counterparts; Electronic Transmission**

This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same instrument. The Parties agree that this Agreement may be transmitted by telecopier or electronic transmission via email and that the reproduction of signatures by way of telecopier or electronic transmission via email will be treated as though such reproduction were executed originals and each Party, if required by the other Party, undertakes to provide the other with a copy of this Agreement bearing original signatures within a reasonable time after the date of execution.

**[Signature page follows]**

IN WITNESS WHEREOF the Vendor and Purchaser have executed this Agreement as of the

Execution Date.

**ALVAREZ AND MARSAL CANADA INC**., solely in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of FAMILY FITNESS INC. and not in its personal capacity and without personal or corporate liability

 By:

 Name:

 Title:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**BTA REAL ESTATE GROUP INC.**

 By:

 Name: Fazal Anwar

 Title: President

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 I have authority to bind the Corporation.

1. **GENERAL CONVEYANCE**

This General Conveyance made this **[◼]**, day of **[◼]**, 202**◼**.

**BETWEEN:**

**FAMILY FITNESS INC.** (“**Debtor**”) by and through **ALVAREZ AND MARSAL CANADA INC., solely in its capacity as Court-appointed receiver and manager of all of the assets, undertakings and properties of the Debtor and not in its personal capacity and without personal or corporate liability (the “Vendor”)**

‑ and ‑

**BTA REAL ESTATE GROUP INC.** (the “**Purchaser**”)

**WHEREAS** the Vendor and the Purchaser entered into that Asset Purchase Agreement dated **[◼]**, 202◼ (the “**Agreement**”);

**AND WHEREAS** the Vendor has agreed to sell and convey the Debtor’s entire right, title, estate and interest in the Subject Assets to the Purchaser and the Purchaser has agreed to purchase and accept all of the Debtor’s rights, title, estate and interest in and to the Subject Assets in accordance with the terms and conditions contained in the Agreement;

**AND WHEREAS** the Subject Assets shall be conveyed to the Purchaser;

**NOW THEREFORE** in consideration of the premises hereto and the covenants and agreements hereinafter set forth and contained, the Parties hereto covenant and agree as follows:

1. Definitions

All capitalized terms not defined herein shall have the same meaning as set out in the Agreement.

1. Conveyance

The Vendor, for the consideration provided for in the Agreement, the receipt and sufficiency of which is acknowledged by the Vendor, hereby sells, assigns, transfers and conveys the entire right, title, benefit and interest of the Debtor (whether absolute or contingent, legal or beneficial) in and to the Subject Assets to the Purchaser, its successors and assigns, and the Purchaser purchases and accepts such interests from the Vendor, TO HAVE AND TO HOLD the same absolutely, subject to the terms of the Agreement, the Permitted Encumbrances and compliance with the terms of the Leases and all other Assumed Contracts.

1. Effective Time

This General Conveyance and the transfer of title to and possession of the Debtor’s interest in and to the Subject Assets will, subject to the terms of the Agreement, be effective as of the Closing Date.

1. Subordinate Document

This General Conveyance is executed and delivered by the Parties pursuant to the Agreement for the purposes of the provisions of the Agreement, and the terms hereof shall be read in conjunction with the terms of the Agreement. If there is a conflict between the provisions of the Agreement and this General Conveyance, the provisions of the Agreement shall prevail to the extent of the conflict.

1. Enurement

This General Conveyance enures to the benefit of and is binding upon the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

1. Further Assurances

Each Party shall, after the date of this General Conveyance, at the request of the other Party and without further consideration, do all further acts and execute and deliver all further documents which are reasonably required to perform and carry out the terms of this General Conveyance.

1. Governing Law

This General Conveyance will be governed by and construed in accordance with the laws of the Province of Saskatchewan.

**IN WITNESS WHEREOF** the Parties have duly executed this General Conveyance.

|  |  |  |
| --- | --- | --- |
| **ALVAREZ AND MARSAL CANADA INC**., solely in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of FAMILY FITNESS INC. and not in its personal capacity and without personal or corporate liability |  | **BTA REAL ESTATE GROUP INC.** |
|  |  |  |  |  |
|  |  |  |  |  |
| Per: |  |  | Per: |  |
|  | Name:  |  |  | Name: Fazal Anwar |
|  | Title:  |  |  | Title: President |

**SCHEDULE** ◼

**OFFICER’S CERTIFICATE**

|  |  |
| --- | --- |
| Re: | Section ◼ of the Asset Purchase Agreement (“**Agreement**”) dated **[◼]**, 202◼, between **ALVAREZ AND MARSAL CANADA INC**., solely in its capacity as court-appointed receiver and manager of all of the assets, undertakings and properties of FAMILY FITNESS INC. and not in its personal capacity and without personal or corporate liability (the “**Vendor**”) and **BTA REAL ESTATE GROUP INC.** (the “**Purchaser**”) |

Unless otherwise stated, the definitions provided for in the Agreement are adopted in this Certificate.

I, ◼, ◼, hereby certify on behalf of the **[Vendor/Purchaser]** and not in any personal capacity that:

* 1. Each of the representations and warranties of the **[Vendor/Purchaser]** contained in Section ◼ of the Agreement is true and correct in all material respects as of the Closing Date.
	2. All Closing conditions for the benefit of the **[Vendor/Purchaser]**, pursuant to Section ◼ of the Agreement, have been satisfied or waived.
	3. This Certificate is made for and on behalf of the **[Vendor/Purchaser]** and is binding upon it, and I am not incurring and will not incur any personal liability whatsoever with respect to it.
	4. This Certificate is made with full knowledge that the **[Vendor/Purchaser]** is relying on the same for the Closing of the Transaction.

Dated this \_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 202◼.

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1. **[NTD: Date to be inserted upon receipt of SISP Procedure Order authorizing the Receiver to enter into the subject agreement and once the parties execute the subject agreement.]** [↑](#footnote-ref-1)