

TERMS OF PUBLIC SALE
(“TERMS OF SALE”)

FUNDTHROUGH USA, INC.
PUBLIC SALE OF
PERSONAL PROPERTY ASSETS OF CANOPY FOODS, INC>

NOTICE IS HEREBY GIVEN that on April 3, 2024, at 10:00 A.M. (PDT) (the “Auction Date”), FUNDTHROUGH USA, INC. (the “Secured Party”) intends to sell at a public sale auction (the “Auction”) in accordance with Section 9-610 of the Uniform Commercial Code as enacted in the State of Texas, Pennsylvania and Delaware (“UCC”):

All of Canopy Foods, Inc.’s right, title and interest in and to the following personal property assets (collectively, the “Sale Collateral”) -

All Chattel Paper, Deposit Accounts, Inventory, Equipment, Instruments, Investment Property, Documents, Letter of Credit Rights, Commercial Tort Claims (including, without limitation the product liability claims involving Massily and Insurance subrogation litigation relating to denial of coverage, whether such actions are in Canada and/or Pennsylvania), General Intangibles (, including, without limitation, intellectual property, trademarks, tradenames, patents, copyrights, whether registered, application or unregistered, web sites and domaines, email addresses and Good Will related thereto), tax refunds and Employee Retention Tax Credits (“ERTC”) and claims thereto, and the proceeds of any of the foregoing, but not accounts receivable generated from the sale of goods or rendition of services.

NOTE TO PRIORITY EQUIPMENT LIEN CREDITORS - Any Equipment transferred in furtherance hereof shall remain subject to each properly perfected purchase money security interest, lease or security interest that is senior in priority to the lien and security interest of FundThrough USA, Inc., therein.

pursuant to the terms of that certain Amended and Restated Accounts Receivable Purchase and Security Agreement (the “Purchase Agreement”) dated as of December 3, 2021, as amended from time to time, including without limitation, pursuant to the Forbearance Agreement dated December 15, 2021, as amended from time to time (the “Forbearance Agreement” and together with the Purchase Agreement, and including the documents provided in support of any of the foregoing, collectively, the “Financing Agreement”).

The Auction will be held by video and tele- conference (the site of which shall be referred to as the “Virtual Auction Site”), the details of which shall be available at the website of Braun International as follows:

<https://www.braunco.com/canopyfoods/>

The Auction will be conducted at the Virtual Auction Site only. The Auction will be conducted by the Braun International together (“Auctioneer”), acting solely in its capacity as auctioneer, on behalf of the Secured Party.

Only Qualified Bidders (defined below) will be permitted to participate in the Auction. In advance of the Auction, only Qualified Bidders will be provided a participant access code by the Auctioneer for

participation and bidding at the Virtual Auction Site. Persons that are not Qualified Bidders may request ZOOM view and listen only access to the Auction by contacting the Auctioneer via method posted on the Virtual Auction Site no later than 3:00 PM PDT on 4-2-2023 for such ZOOM view and listen only access.

Terms and Conditions

Execution and delivery of the Qualified Bidder Certification (defined below) shall constitute an acceptance of, and agreement to be legally bound by, these Terms of Sale and the Qualified Bidder Requirements (defined below), and that TIME IS OF THE ESSENCE with respect to the consummation of the Transaction (defined below).

The terms and conditions of the public sale of the Sale Collateral are as follows:

1. Public Auction. The Auction shall be a public auction to the highest Qualified Bidder. The Sale Collateral will be sold in a single LOT and will not be further divided or sold in any lesser amounts. The Sale Collateral will be sold for cash on the terms set forth in these Terms of Sale and as otherwise determined by the Auctioneer and the Secured Party. The initial bid for the Sale Collateral shall be US\$3,000,000 (the "Minimum Bid") and all bids shall be made in increments of no less than \$100,000. Higher bids for the Sale Collateral by Qualified Bidders will continue to be entertained until the Auctioneer has determined that the highest bid from all Qualified Bidders has been received. Subject to the Financing Agreement, the Secured Party will be permitted to bid at the sale and may credit bid all or any portion of the outstanding balance of the amounts due to Secured Party by the Debtor under the Financing Agreement. Each credit bid made by the Secured Party will constitute a "cash bid" for all purposes hereof. If the Secured Party is the highest bidder, Secured Party may become the purchaser of the Sale Collateral.

The Secured Party reserves the right to (a) remove items from the sale, (b) terminate the sale in whole or in part, or to adjourn the sale to such other date and time as the Secured Party may deem proper, by announcement (x) prior to the Auction Date, (y) on the Auction Date (but prior to the start of the bidding at the Auction) on the Virtual Auction Site, or (z) at any subsequent adjournment of the Auction (at such adjourned date and location of the Auction), without further publication, (c) waive any formalities or irregularities in any bid, (d) negotiate, re-offer or not sell the Sale Collateral, (e) reopen bids, (f) settle disputes between bidders and/or (g) resolve all other sale matters in its sole discretion.

THE SECURED PARTY RESERVES THE RIGHT TO AMEND, FROM TIME TO TIME BUT PRIOR TO THE START OF BIDDING AT THE AUCTION, THESE TERMS OF SALE TO REVISE OR ADD ANY OTHER COMMERCIALY REASONABLE CONDITIONS AS THE SECURED PARTY MAY DEEM APPROPRIATE TO FACILITATE A COMMERCIALY REASONABLE SALE OF THE SALE ASSETS OR OTHERWISE, AND RESERVES ALL RIGHTS IN CONNECTION WITH THE AUCTION AND THE SALE OF THE SALE ASSETS (THE "TRANSACTION"), INCLUDING THE RIGHT AT ANY TIME, IN THE SECURED PARTY'S SOLE AND ABSOLUTE DISCRETION, TO POSTPONE OR CANCEL THE AUCTION OR WITHDRAW THE LOT OF SALE ASSETS FROM THE AUCTION.

Other than a Transaction where the Secured Party is the Transacting Bidder (defined below), the Transaction will be consummated pursuant to that certain purchase agreement to be entered into on the Closing Date (defined below) between the Transacting Bidder

and the Secured Party and related required documents including a transfer statement and bill of sale (the “Purchase Agreement”), which Purchase Agreement is available in the Data Room (defined below).

Each of the Secured Party and the Auctioneer reserve the right to reject all bids determined in good faith by it to be unqualified, conditional or otherwise commercially unreasonable and will reject any bid that contains any of the following:

- (i) Conditional provisions related to obtaining financing, required government, regulatory or contractual consents or notices, required payment of fees or expenses in connection with obtaining such consents or making such notices or the outcome of unperformed due diligence by such Qualified Bidder;
- (ii) The inclusion of any representations and warranties to be made by the Secured Party in any documentation relating to the Auction or the purchase and sale of the Sale Collateral;
- (iii) Conditions prohibiting disclosure of bid terms to other bidders; or
- (iv) Any requirement for any breakup fee, termination fee, brokerage commission, expense reimbursement or similar requirements.

2. Due Diligence.

The Secured Party, through the Auctioneer, upon request from an interested party, shall provide such interested party, along with these Terms of Sale, a form of Confidentiality Agreement (the “Confidentiality Agreement”), a form of certification for such interested party to certify that it satisfies certain bidder eligibility requirements for participating at the Auction (the “Qualified Bidder Certification”) and a list of requirements of a bidder to be eligible to bid at the Auction (such bidder, a “Qualified Bidder”). Each potential bidder that executes a Confidentiality Agreement and the Qualified Bidder Certification shall be granted access to the online data room (the “Data Room”), which contains certain information that Secured Party possesses concerning Borrower and the Sale Collateral, including certain financial statements with respect to the Borrower, copies of the Financing Agreement, as well as further documents required to be completed to participate in the Auction and to consummate the Transaction.

All persons interested in bidding on the Sale Collateral shall conduct their own due diligence, at their own expense, regarding the information they deem is appropriate to review to become familiar with the Sale Collateral. Information pertaining to the Sale Collateral, including information contained in the Disclosed Documents, has been made available for inspection in the Data Room and inspection of the underlying property may be arranged upon request. The Secured Party makes no representations and provides no warranties, either express or implied, regarding the accuracy of any of the information contained within the materials made available to bidders in the Data Room, which are provided for informational purposes only.

Prospective bidders are encouraged to review all Disclosed Documents and to perform such due diligence as they deem necessary in advance of the Auction Date.

Bidders are hereby advised that although the Secured Party has provided access to certain information regarding Borrower and/or the Sale Collateral in the Data Room, there is no assurance that the Secured Party does not have information that it is contractually or legally prohibited from providing to potential bidders due to restrictions in confidentiality agreements or otherwise, or that it has disclosed all information in its

possession relating to Borrower and/or the Sale Collateral. Further, the Secured Party may be in possession of information which bidders may not have.

3. Sale Collateral Sold AS IS; No Representations; Purchase Subject to Existing Documents The Sale Collateral is offered AS IS, WHERE IS, WITH ALL FAULTS, and the Secured Party shall not make any representations or warranties of any kind, express or implied, whatsoever including, without limitation, any express or implied warranty relating to title, possession, quiet enjoyment, merchantability, fitness for a particular purpose or other warranties in connection with the Auction or the purchase and sale of the Sale Collateral. The Secured Party makes no guaranty, representation or warranty, express or implied, whatsoever as to the existence or nonexistence of liens, the quantity, quality, condition or description of the Sale Collateral, (including whether the Sale Collateral is restricted and, if restricted, the nature thereof, whether any person claims an interest in the Sale Collateral superior or inferior of Secured Party), the value of the Sale Collateral, or the ability to exercise rights to or gain possession of the Sale Collateral, as applicable, after purchase of the Sale Collateral. The transfer of the Sale Collateral will be made without recourse or any right of rescission. No information provided to a bidder in response to any request for information to Secured Party or any auctioneer shall constitute a representation or warranty of any kind, express or implied, with respect to such information, the Sale Collateral, the public sale or any other matter.

Without limiting the foregoing, the Transacting Bidder must purchase the Sale Collateral subject to the terms of the governing documents of the Sale Collateral. The Secured Party is providing all Qualified Bidders that execute a Confidentiality Agreement (the “Confidentiality Agreement”) access to the Data Room that contains certain information that Secured Party possesses concerning the Borrower and the Sale Collateral and has copies of the Financing Agreement and certain other documents and information in Secured Party’s possession relating to the Sale Collateral (collectively, the “Disclosed Documents”).

NOTE TO PROSPECTIVE BIDDERS. The Successful Bidder acknowledges that Secured Party does not have possession of the Sale Collateral and that upon the purchase of the Sale Collateral, Successful Bidder shall be responsible for all costs, expenses, claims, losses, attorneys’ fee incurred to gain possession and effect the transfer of the Sale Collateral and reflect ownership of the Sale Collateral, and to defend itself from any claims brought against Successful Bidder, the Sale Collateral, Successful Bidder’s claim to the Sale Collateral.

4. Qualified Bidder Requirements.

To bid at the Auction, each prospective bidder must execute and deliver a Qualified Bidder Certification and comply with, and not be in breach of, the Qualified Bidder Requirements, including executing, delivering and/or satisfy each requirement set forth therein no later than 4:00 P.M. (PDT) on April 1, 2024, the date that is 2 business days prior to the Auction Date. The Qualified Bidder Requirements and form of Qualified Bidder Certification can be found at the Auction Site and requires the deposit of US\$1,000,000 (“Required Deposit”) to the Trust Account of Auctioneer and proof of ability to pay the balance of successful bidder purchase price bid, as further explained in the Qualified Bidder Requirements and form of Qualified Bidder Certification.

UPON EXECUTING, DELIVERING AND/OR SATISFYING THE REQUIREMENTS SET FORTH IN THE QUALIFIED BIDDER REQUIREMENTS,

THE AUCTIONEER SHALL PROVIDE SUCH QUALIFIED BIDDER WITH THE ACCESS CODE FOR PARTICIPATION IN, AND BIDDING AT, THE AUCTION AT THE VIRTUAL AUCTION SITE.

Notwithstanding the foregoing, the Secured Party shall be deemed to be a Qualified Bidder, may credit bid at the Auction, and is not required to execute, deliver and/or satisfy any of the requirements set forth in the Qualified Bidder Requirements in order to bid at the Auction.

Meeting any requirements under any documents related to the sale of the Sale Collateral shall be at the sole risk, cost and expense of a bidder. If a bidder is a special purpose entity or, in Secured Party's reasonable judgment, lacks sufficient creditworthiness to establish that such bidder qualifies as a Qualified Bidder or render such bidder capable of participating in the Auction or consummating the Transaction, Secured Party reserves the right to require a creditworthy affiliate of such bidder to qualify as a Qualified Bidder, and, depending on the circumstances, provide additional credit support in the form of a guaranty, commitment letter and/or other credit support reasonably acceptable to the Secured Party

5. Determination of Winning Bidder; Deposit; Back Up Bidders.

No bids may be withdrawn once made during the Auction. The Auction shall continue until the Auctioneer has determined and identified (a) the Qualified Bidder that has submitted the highest bid for the Sale Collateral that complies with all requirements set forth in these Terms of Sale (such Qualified Bidder, the "Winning Bidder") and (b) if the Secured Party is not the Winning Bidder and directs the Auctioneer to designate a back-up bidder, the Qualified Bidder that has submitted the second highest bid for the Sale Collateral that complies with all requirements set forth in these Terms of Sale (such Qualified Bidder, the "Back-Up Bidder"). Each of the Winning Bidder's Required Deposit and, if the Back-Up Bidder is selected, the Back-Up Bidder's Required Deposit will remain with the Auctioneer until refunded as provided in these Terms of Sale.

The Required Deposit shall be refunded by Auctioneer from its Trust Account in full (i) within three (3) business days after the Auction (i.e., Monday, April 8, 2024) in the event that such bidder is not the Winning Bidder or is not designated as the Back-Up Bidder in accordance with the terms provided herein or (ii) if such bidder is designated as a Back-Up Bidder and is not ultimately the Transacting Bidder, within three (3) business days following the closing of the sale of the Sale Collateral to another person; it being understood that the Required Deposit shall be part of the purchase price that is transferred to the Secured Party in the event that the Transacting Bidder consummates the Transaction and that all or portion of the Required Deposit may be forfeited by the Winning Bidder and, if applicable, the Back-Up Bidder that fails to consummate the Transaction in accordance with Section [4] hereof.

The Transacting Bidder shall be required to consummate the Transaction in accordance with Section 5 on or prior to the Outside Date (defined below). Upon completion of the Auction, the Transacting Bidder shall have no right to postpone or nullify the Transaction.

If the Winning Bidder does not consummate the Transaction on or prior to the Outside Date, then the Back-Up Bidder shall be notified that it shall be the new winning bidder

(the “Back-Up Bidder Notice”) and shall be obligated, on or prior to the Outside Date, to consummate the Transaction. If the Back-Up Bidder is ultimately designated the Winning Bidder, the sale of the Sale Collateral to the Back-Up Bidder will be consummated on the same terms as applicable to the Winning Bidder at the public sale (other than the purchase price of the Transaction, which shall be the highest bid made by the Back-Up Bidder), and the Back-Up Bidder shall be required to consummate the Transaction in accordance with Section 5 on or prior to the Outside Date.

If the Transacting Bidder is unable for any reason (other than the Secured Party’s willful failure to close) to consummate the Transaction on or prior to the Outside Date, the Secured Party may retain all or a portion of the Required Deposit paid by such bidder as liquidated damages for the costs of the sale and for its loss of bargain, in lieu of all other damages, and the Secured Party may accept the next highest qualified bid at the public sale of the Sale Collateral. By bidding at the sale, each bidder acknowledges that it would not be possible to ascertain the Secured Party’s actual damages under the circumstances described in this paragraph or otherwise as a result of failing to comply with the Terms of Sale and that money damages would not be a sufficient remedy. The Secured Party reserves all rights and remedies available at law, in equity or otherwise, including the right to injunctive relief or the remedy of specific performance. If the Secured Party fails to consummate the Transaction with the Transacting Bidder for any reason whatsoever, the sole and exclusive remedy of the Transacting Bidder shall be the return of the bidder’s Required Deposit and neither the Secured Party nor any of its affiliates or representatives shall have any further liability or obligation whatsoever to the Transacting Bidder.

6. Conditions Precedent to Transfer of Sale Collateral to be Satisfied by the Transacting Bidder.

The closing shall take place on a date (the “Closing Date”) as reasonably determined by the Secured Party, in consultation with the Transacting Bidder as soon as reasonably practicable and in any event no later than five (5) business days after the Auction Date (the “Outside Date”; provided that, solely with respect to the Back-Up Bidder, the Outside Date shall be the date that is five (5) business days following delivery of the Back-Up Bidder Notice).

On the Closing Date, the Transaction will be consummated upon execution and delivery of the Purchase Agreement (and all certificates and other deliverables thereunder), receipt of payment by the Secured Party in immediately available funds of the balance of the full bid price (together with the release to the Secured Party of the Required Deposit) and confirmation by Secured Party that the Transacting Bidder has paid the Loan Pay Off Amount (defined below) and satisfied the other Sale Collateral Transfer Conditions set forth below.

The Transacting Bidder acknowledges and agrees that it will use its best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the Transaction as soon as reasonably practicable, and, in any event, prior to the Outside Date.

The Transacting Bidder acknowledges and agrees that it will use its best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary,

proper or advisable under applicable laws and regulations to consummate the Transaction as soon as reasonably practicable, and, in any event, prior to the Outside Date.

The Transaction shall be consummated on the Closing Date following the Transacting Bidder's satisfaction of certain conditions to the consummation of the Transaction, including that the Transacting Bidder shall be required to perform and satisfy each of the following obligations (the "Sale Collateral Transfer Conditions"): (a) execute and deliver that certain purchase agreement between the Transacting Bidder and the Secured Party and all required documentation related thereto (the "Purchase Agreement"), which Purchase Agreement is available in the Data Room; (b) execute, deliver and file all required transfer tax forms, and pay all transfer taxes, stamp duties, withholding taxes and other taxes incurred, in connection with the purchase of the Sale Collateral; (c) cause the release from escrow of the Required Deposit in full in immediately available funds to the Secured Party and deliver the remaining amount of the winning bid in full in immediately available United States Dollars (such amounts, collectively, the "Foreclosure Sale Proceeds") to the Secured Party; and (d) perform or satisfy any other obligations reasonably determined by Secured Party to be necessary or desirable to consummate the Transaction.

Upon such consummation of the Transaction, the Transacting Bidder (other than the Secured Party) shall receive: (1) a transfer statement transferring the Sale Collateral, without guaranty of signatures other than by the Secured Party, without payment of any transfer or other tax by the Secured Party (which shall be the sole responsibility of the Transacting Bidder) and (2) a bill of sale.

The foregoing requirements will not apply to the Secured Party if it is the Transacting Bidder and payment for the Sale Collateral may be made by applying against the winning bid any partial or entire amounts due to the Secured Party under the Financing Agreement.

7. Secured Obligations; Application of Proceeds.

The total balance due under the Financing Agreement, as of February 23, 2024, totals \$13,023,755.99, plus per diem amounts thereafter, as detailed below:

Principal	Fees & Expenses	Interest	Total	<i>Per diem</i>
8,638,825.10	986,838.16	3,398,092.73	13,023,755.99	5,680.32

(not including all legal fees related to this foreclosure action, Auctioneer fees and expenses of the Secured Party, or additional protective advances and all other amounts that may accrue or be made thereafter) (the "Secured Obligations"). Qualified Bidders are advised that the Secured Obligations changes daily in the per diem amount, the addition of enforcement costs, protective advances and other amounts incurred, and, upon request to the Secured Party, any Qualified Bidder can obtain from the Secured Party an updated Secured Obligations. Following the Auction Date, the Secured Party will deliver to the Transacting Bidder an updated balance of the Secured Obligations.

The Foreclosure Sale Proceeds shall be applied and paid as follows: (i) FIRST, to pay for the costs of the Auction; (ii) SECOND, to satisfy the Secured Obligations in accordance with the Financing Agreement; and (iii) THIRD, if any portion of the Foreclosure Sale Proceeds remains after satisfaction of the Secured Obligations in full, applied in accordance with applicable law, including as may be necessary to pay any

person holding a junior secured claim against the Sale Collateral in full and (iv) FOURTH to any other person legally entitled to any remaining proceeds (it being understood that such persons shall not be entitled to any proceeds from the Transaction or the Auction unless all outstanding Secured Obligations and the other obligations set forth above are paid in full). If the Foreclosure Sale Proceeds are less than the Secured Obligations, the Secured Obligations in excess of the Foreclosure Sale Proceeds shall remain outstanding under the Financing Agreement, and the liens and security interests under the Financing Agreement on the assets of Borrower (other than the Sale Collateral) shall continue in effect on and after the Closing Date to secure the remaining Secured Obligations.

For the avoidance of doubt and notwithstanding the foregoing, if the Secured Party is the Transacting Bidder, then the Secured Party will pay the costs of the Auction, which will be added to the amount of the Secured Obligations outstanding, and the Secured Obligations shall remain due and owing, less the amount of the Secured Party's bid.

8. Disputes. In the event of any dispute arising out of or in connection with the Required Deposit, the Terms of Sale or the Auction, or the solicitation and determination of the Transacting Bidder, a Qualified Bidder's sole remedy shall be to seek and obtain the mutual release of the Secured Party's and such Qualified Bidder's obligations under the Terms of Sale and a return of the Required Deposit (plus any increase thereof by the Qualified Bidder). No Qualified Bidder shall be entitled to collect from the Secured Party any type of damages or equitable relief, including in the form of an injunction or specific performance. Each Qualified Bidder, for itself and on behalf of its affiliates, representatives, successors and assigns, agrees that it shall not threaten, bring, commence, or prosecute against the Secured Party, its affiliates or its and their respective employees, officers, representatives, agents, and professionals, successors and assigns any action, lawsuit, claim, or proceeding in any forum to the extent based on or arising out of the sale process and procedure, or the solicitation and determination of the Transacting Bidder. By making the Deposit, the Qualified Bidder accepts the terms hereof and agrees to accept the return of the Required Deposit and upon accepting return of the Required Deposit, the Qualified Bidder fully and irrevocably releases the Secured Party, its affiliates and its and their respective employees, officers, representatives, agents and professionals, successors and assigns, from any and all costs, expenses, losses, liabilities, damages, demands, actions, or causes of action arising from or related to the Terms of Sale, the Transaction, the Auction or the sale or the solicitation and determination of the Transacting Bidder.

It is the intention of each Qualified Bidder that the release provided above shall be effective as a full and final accord and satisfactory release of each and every matter herein specifically or generally referred to and each of the Qualified Bidders hereby acknowledge and agree that they have been informed by their attorneys, and are familiar with and do hereby expressly waive, with respect to the release contained herein the provisions of California Civil Code Section 1542 and any and all similar statutes, codes, laws, and regulations of any State or of the United States that may be applicable hereto. California Civil Code Section 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND

THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

The Qualified Bidders each acknowledge that they may later discover claims unknown or unsuspected by them, or facts in addition to or different from those which they or their attorneys now know or as of the date of the acceptance of the return of the Deposit know or believe to be true, as to the matters released herein. Nevertheless, it is the intention of the Qualified Bidder through this release, to fully, finally, and forever release all such matters, and all claims against Secured Party.

9. Due-Diligence. All persons interested in bidding on the Sale Collateral shall conduct their own due diligence, at their own expense, regarding the information they deem is appropriate to review to become familiar with the Sale Collateral. Information pertaining to the Sale Collateral has been made available for inspection in the Data Room and inspection of the underlying property may be arranged upon request. Secured Party makes no representations and provides no warranties, either express or implied, regarding the accuracy of any of the information contained within the materials made available to bidders in the Data Room, which are provided for informational purposes only.
10. Governing Law; Attorneys’ Fees; Venue. The validity of this Terms of Sale, its construction, interpretation and enforcement, and the rights of the parties hereunder shall be determined under, governed by, and construed in accordance with the internal laws of the State of California, without regard to conflicts of laws principles. If suit (or other alternative dispute resolution process) is commenced in order to enforce any rights, or to determine any party’s rights and obligations under this Agreement, the prevailing party shall be entitled to its attorneys’ fees and costs. The Parties (i) agree that all actions or proceedings relating directly or indirectly hereto shall, at the option of Seller, be litigated in courts located within said state, and that, at the option of Seller, the exclusive venue therefor shall be in any federal or state court sitting in the State of California (the "Acceptable Forums"). Buyer agrees that the Acceptable Forums are convenient to it, and submits to the jurisdiction of the Acceptable Forums and waives any and all objections to jurisdiction or venue. Should such proceeding be initiated in any other forum by Buyer, Buyer waives any right to oppose any motion or application made by Purchaser to transfer such proceeding to an Acceptable Forum.; (ii) consent to the jurisdiction and venue of any such court and consents to service of process in any such action or proceeding by personal delivery or any other method permitted by law; and (iii) waive any and all rights the Parties may have to object to the jurisdiction of any such court, or to transfer or change the venue of any such action or proceeding.
11. Waiver of Jury Trial. To the fullest extent permitted by applicable law, the Parties each hereby irrevocably and expressly waive all right to a trial by jury in any action, proceeding, or cross-complaint (whether based upon contract, tort, or otherwise) arising out of or relating to this Agreement, the obligations or any of the transactions contemplated hereby or thereby or the Parties’ actions in the negotiation, administration, or enforcement hereof or thereof. Each Party acknowledges that such waiver is made with full knowledge and understanding of

the nature of the rights and benefits waived hereby, and with the benefit of advice of counsel of its choosing.

12. Arbitration. If the trial court refuses to enforce the Jury Waiver (and no successor statute is enacted) the Parties knowingly and voluntarily agree to submit and settle any dispute, controversy or claim arising out of relating to this agreement to arbitration. This Agreement to submit to arbitration is presently effective but shall be enforced only in the event that the Jury Waiver and the Judicial Reference provision as set forth above and as provided in CCP sections 638 through 645.1, is held unenforceable. The arbitration shall be conducted in Los Angeles, County, in the State of California and administered by a retired Judge or Justice selected by mutual written agreement of the Parties who shall be governed by the same procedure as if the Parties were proceeding by the above Judicial Reference procedure. The Parties further agree that the filing of any law and motion hearings or the initiation of any hearings to obtain any form of a pre-judgment remedy shall not operate as a waiver of the Parties right to submit and settle any dispute, controversy or claim arising out of relating to this agreement to arbitration.

The arbitration procedure shall be governed by the substantive and procedural laws of the State of California, including all aspects of its arbitration law pursuant to the California Arbitration Act, sections 1280 through 1294.2 of the Code of Civil Procedure (“CAA”) as amended from time to time. If a conflict exists between the provisions of the CAA and this Agreement, the language of the Agreement shall control. The Parties shall have all rights of discovery and remedies as they would in a California civil action pursuant to California Code of Civil Procedure section 1283.05, and that the arbitration shall be governed by all of the applicable rules set forth in civil discovery act, CCP sections 2016.010 through 2036.05. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the arbitration proceeding and the arbitrator is at all times required to strictly conform to these rules. The arbitrator shall prepare in writing and provide to the Parties an award including factual findings explaining the reasons on which their decision is based.

The arbitrator shall not have the power to commit (a) errors of law or legal reasoning, (b) errors of fact, or (c) errors with regards to mixed questions of law and fact. In addition, the arbitrator shall not reach factual conclusions unsupported by substantial evidence. Furthermore, the arbitrator shall not have the power to render an award (a) not based on proper admissible evidence, (b) based on evidence not presented at the hearing, or (c) not in conformity with the substantive and procedural law of the State of California.

In any arbitration arising out of or related to this agreement, the arbitrator is not empowered to award punitive or exemplary damages, except where permitted by statute, and the Parties waive any right to recover any such damages.

If the arbitrator exceeds any of the foregoing specific powers, the award may be vacated or corrected by filing a petition pursuant to the CAA in the time frame provided in CCP sections 1280 through 1294.2 in the Superior Court for the County of Los Angeles, in the State of California. The award is subject to review for legal error, factual error,

confirmation, correction or vacatur only in a California State Court of competent jurisdiction and only pursuant to the CAA.

In reviewing the award, the Superior Court shall sit as if it were an Appellate Court, in all respects, including but not limited to the scope of review. The decision of the Superior Court is, itself, subject to review by the California Appellate Courts. The Court shall have the power to review (a) whether the findings of fact rendered by the arbitrators are supported by substantial evidence and (b) whether, as a matter of law based on such findings of fact the award should be confirmed, corrected or vacated. Upon such determination, judgment shall be entered in favor of either party consistent therewith.

If any portion of this arbitration provision is held invalid or unenforceable, the remainder shall still be valid and enforceable. The arbitrator and/or supervising Court shall both have the power to amend the arbitration procedures set forth herein so this agreement shall remain enforceable and binding.

13. Injunctive Relief. The Parties agree that in the event of a breach of any provision of this Agreement by a Party or a failure by any Party to perform in accordance with the specific terms of this Agreement, any document referenced herein or given in furtherance hereof, the non-breaching Party may be damaged irreparably and without an adequate remedy at law. The Parties therefore agree that in the event of a breach of any provision of this Agreement, any document referenced herein or given in furtherance hereof, by either Party, including without limitation with /respect to the restrictive covenants, the non-breaching Party may elect to institute and prosecute proceedings in any court of competent jurisdiction to enforce specific performance or to enjoin the continuing breach of such provision without the requirement of posting a bond, as well as to obtain damages for breach of this Agreement, any document referenced herein or given in furtherance hereof. By seeking or obtaining any such relief, the non-breaching Party shall not be precluded from seeking or obtaining any other relief to which it may be entitled.

FOR MORE INFORMATION, CONTACT BRAUN INTERNATIONAL AT 866-568-6638.