

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

EPAS ID: PAT4504155

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	CHANGE OF NAME
CONVEYING PARTY DATA	
Name	Execution Date
PV LABS INC.	03/29/2017
RECEIVING PARTY DATA	
Name:	PV LABS LTD.
Street Address:	MCMASTER INNOVATION PARK
Internal Address:	175 LONGWOOD ROAD SOUTH, SUITE 400A
City:	HAMILTON, ONTARIO
State/Country:	CANADA
Postal Code:	L8P 0A1
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	15133126
CORRESPONDENCE DATA	
Fax Number:	(212)808-0844
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
Phone:	2128080700
Email:	cbhamburg@nmmlaw.com
Correspondent Name:	C. BRUCE HAMBURG
Address Line 1:	NORRIS MCLAUGHLIN & MARCUS, P.A.
Address Line 2:	875 THIRD AVENUE, 8TH FLOOR
Address Line 4:	NEW YORK, NEW YORK 10022
ATTORNEY DOCKET NUMBER:	122046-3
NAME OF SUBMITTER:	C. BRUCE HAMBURG
SIGNATURE:	/C. BRUCE HAMBURG/
DATE SIGNED:	07/14/2017
Total Attachments: 24	
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ASSIGNMENT AND ASSUMPTION OF ASSET PURCHASE AGREEMENT

THIS AGREEMENT made as of the 30th day of March, 2017.

AMONG:

902878 ONTARIO LIMITED

(the "Assignor")

- and -

2569418 ONTARIO INC.

(the "Assignee")

- and -

PV LABS INC.

(the "Vendor")

WHEREAS pursuant to an Asset Purchase Agreement among the Assignor and the Vendor dated March 23, 2017 (the "Purchase Agreement"), the Vendor agreed to sell and the Assignor agreed to acquire the Purchased Assets on the terms and conditions more particularly set forth in the Purchase Agreement;

AND WHEREAS the Assignor has agreed to assign, and the Assignee wishes to assume, all of the Assignor's right, title and interest in and to, and obligations and liabilities under the Purchase Agreement as herein provided;

NOW THEREFORE in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto to the other and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Unless otherwise specifically defined in this Agreement, any capitalized terms used in this Agreement shall have the respective meanings ascribed thereto in the Purchase Agreement.
2. Assignment by Assignor. The Assignor hereby assigns, transfers and conveys effective the date hereof to the Assignee all of the Assignor's right, title and interest in and to, and obligations and liabilities under the Purchase Agreement.
3. Assumption by Assignee. The Assignee hereby covenants and agrees to and with the Assignor to assume all liabilities and obligations of the Assignor under the Purchase Agreement and shall be deemed to be the Purchaser under the Purchase Agreement. The Vendor acknowledges and consents to the assignment and assumption set out herein.

4. Further Assurances. Each of the parties hereto shall from time to time hereafter and upon any reasonable request of another party, 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.
5. Successors and Assigns. This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
6. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.
7. Counterparts. This Agreement may be executed by the parties in separate counterparts (by original, facsimile signature or other electronic transmission) each of which when so executed and delivered shall be an original, but all such counterparts together shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement on the date first written above.

902878 ONTARIO LIMITED

Per: _____

Name: John Heeran

Title: President

I have the authority to bind the corporation

2569418 ONTARIO INC.

Per: _____

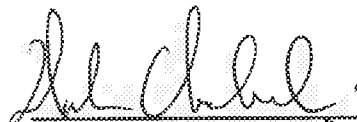
Name: TED WRZAKOWICZ

Title: Director

I have the authority to bind the corporation

PV LABS INC.

Per:



Name: MARK CHAMBERLAIN

Title: PRESIDENT & CEO

I have the authority to bind the
corporation

ASSET PURCHASE AGREEMENT

THIS AGREEMENT, dated March 22, 2017 is made,

BETWEEN

PV Labs Inc., a company incorporated under the laws of the Province of Ontario
(the "Vendor")

and

902878 Ontario Limited, a company incorporated under the laws of the Province
of Ontario (the "Purchaser")

WHEREAS

- A. The Vendor has filed a Notice of Intention to Make a Proposal pursuant to the *Bankruptcy and Insolvency Act* (Canada);
- B. BDO Canada Limited acts as proposal trustee (the "Proposal Trustee") in respect of the Vendor; and
- C. The Vendor desires to sell, and the Purchaser desires to purchase, the Purchased Assets, upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements herein contained, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1.0 DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions.** In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:
 - (a) *Account and Indemnity Agreement* means the Account and Indemnity Agreement dated February 8, 2017 between the Vendor and RBC;
 - (b) *Administrative Charge* has the meaning given to it in the DIP Order;
 - (c) *Agreement* means this Agreement, as it may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement;
 - (d) *Applicable Taxes* means all Taxes payable and paid in cash with respect to the transactions under this Agreement;

- (e) *Approval and Vesting Order* means an order of the Court, to be obtained on a motion by the Vendor which the Vendor will bring as soon as possible after execution of this Agreement by the Parties, approving this Agreement and the transactions contemplated herein, and vesting in the Purchaser, upon delivery of the Trustee's Certificate, all the right, title and interest of the Vendor in the Purchased Assets free and clear of and from any Claims and Encumbrances, but subject to the Permitted Encumbrances, and which order shall be substantially in accordance with the form of order attached hereto as Schedule 1.1(e);
- (f) *Assumed Liabilities* has the meaning given in Section 2.7;
- (g) *BIA* means the *Bankruptcy and Insolvency Act* (Canada);
- (h) *Books and Records* means all books, records, files and papers related to the Business in the possession of the Vendor, in electronic form or otherwise, including drawings, engineering information, manuals and data, sales and advertising materials, sales and purchases correspondence, trade association files, research and development records, lists of all prospective customers, lists of present and former customers, and suppliers, personnel, employment and other records, and all copies and recordings of the foregoing;
- (i) *Business* means any and all businesses carried on by the Vendor;
- (j) *Business Day* means any day except Saturday, Sunday or any day on which banks are not open for business in the city of Toronto, Ontario, Canada;
- (k) *Claims and Encumbrances* means any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system;
- (l) *Closing* means the completion of the sale to and purchase by the Purchaser of the Purchased Assets under this Agreement;
- (m) *Closing Date* means the day that is two Business Days after the date of the issuance of the Approval and Vesting Order, or such earlier or later date as may be agreed upon in writing by the Parties and the Proposal Trustee. If, prior to the Closing, the Approval and Vesting Order (or any orders dismissing appeals thereof) shall have been appealed or a proceeding shall have been commenced to restrain or prevent the completion of the transactions under this Agreement, then the Closing Date may be extended by the Vendor, in which case the Closing Date shall mean the day that is two Business Days after the date on which any such appeals and/or proceedings are dismissed;

- (n) *Closing Time* means 10:00 a.m. (Toronto time) on the Closing Date;
- (o) *Court* means the Ontario Superior Court of Justice in Bankruptcy and Insolvency;
- (p) *DIP Lender* has the meaning given to it in the DIP Order;
- (q) *DIP Lender's Charge* has the meaning given to it in the DIP Order;
- (r) *DIP Order* means the Order of Madam Justice Conway dated February 2, 2017;
- (s) *DIP Term Sheet* has the meaning given to it in the DIP Order;
- (t) *Excluded Assets* has the meaning given in Section 2.5;
- (u) *Goodwill* means the goodwill relating to the Business, including:
 - (i) the exclusive right to carry on the Business in continuation of and in succession to the Vendor and all rights to use any words indicating that the Business is so carried on;
 - (ii) all goodwill relating to all internet domain name registrations owned by the Vendor;
 - (iii) all records of sales, customer lists and supplier lists of or used in connection with the Business; and
 - (iv) all rights and interests of the Vendor in the present telephone numbers, and other communications numbers and addresses used by the Business;
- (v) *Intellectual Property* means all of the Vendor's rights to and interests in the following existing anywhere in the world:
 - (i) business and trade names, corporate names, brand names and slogans;
 - (ii) all inventions, patents, patent rights, patent applications, utility models (including all applications, reissues, divisions, continuations, continuations-in-part, revisions, supplementary protection certificates, extensions and re-examinations of any patent, patent application or utility model) and all equivalent or similar rights anywhere in the world in inventions and discoveries including invention disclosures;
 - (iii) all registered and unregistered trade-marks (whether used with wares or services and including the goodwill attaching to such trade-marks), service marks, trade names, trade dress, logos, business, corporate and product names and slogans and registrations and applications for trade-marks (and all future income from such trade-marks);
 - (iv) all copyrights in copyrightable works, all non-copyrightable works, all internet domain name registrations and all other rights of authorship,

worldwide, and all applications, registrations and renewals in connection therewith;

- (v) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, research and development reports, agency agreements, technical information, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information;
- (vi) all licenses (end-user or otherwise) granted to the Vendor of the intellectual property listed in items (i) to (v) above; and
- (vii) all future income related to the intellectual property listed in items (i) to (v) above and proceeds therefrom, and all rights to sue and recover damages from past infringement thereof;
- (w) *Party* means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; and Parties means every Party;
- (x) *Person* includes an individual, a company, a partnership, a trust, an unincorporated organization, government agency or authority, or other legal entity and the executors, administrators or other legal representatives of an individual in such capacity;
- (y) *Personal Property* means all cash, inventory, machinery, equipment, product moulds, furniture, fixtures, computer systems and equipment and other chattels and tangible property related to the Business owned by the Vendor (including those in possession of third parties);
- (z) *Permitted Encumbrances* means any encumbrances permitted by the Purchaser;
- (aa) *Prior Claims* means any claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the DIP Lenders Charge;
- (bb) *Purchase Price* has the meaning given in Section 2.2;
- (cc) *Purchased Assets* means all of the assets, properties and undertakings of the Vendor, including the property, assets and rights related to the Business wherever situate, other than the Excluded Assets, and including the following:
 - (i) the Personal Property;
 - (ii) the Receivables;
 - (iii) the Intellectual Property;

- (iv) the Purchased Contracts;
 - (v) the Books and Records;
 - (vi) the Goodwill; and
 - (vii) all other rights, properties and assets related to the Business, of whatsoever nature or kind and wherever situated;
- (dd) *Purchased Contracts* means purchase orders given or received, executory contracts, agreements, leases or arrangements, whether or not signed, to which the Vendor is a party;
- (ee) *Purchaser's Lawyers* means Thornton Grout Finnigan LLP;
- (ff) *Receivables* means all accounts receivable and all right or entitlement of the Vendor to a receipt or payment of monies whatsoever;
- (gg) *RBC* means Royal Bank of Canada;
- (hh) *Trustee's Certificate* means the certificate of the Proposal Trustee certifying that all conditions to Closing have been satisfied and the transactions contemplated in this Agreement have been completed to the satisfaction of the Vendor and the Purchaser;
- (ii) *Taxes* means all governmental taxes, levies, duties, assessments, reassessments and other charges of any nature whatsoever, whether direct or indirect, including income tax, profits tax, gross receipts tax, corporation tax, commodity tax, sales and use tax, wage tax, payroll tax, worker's compensation levy, employer health tax, capital tax, stamp duty, real and personal property tax, land transfer tax, customs or excise duty, excise tax, goods and services tax, harmonized sales tax, turnover or value added tax on goods sold or services rendered, withholding tax, social security and unemployment insurance charges or retirement contributions, and any interest, fines, additions to tax, assessments, re-assessments and penalties thereon;
- (jj) *Transferring Employees* has the meaning given in Section 3.1; and
- (kk) *Vendor's Lawyers* means Chaitons LLP.

1.2 **Headings and Table of Contents.** The division of this Agreement into Articles and Sections, the insertion of headings, and the provision of any table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 **Statute References.** Any reference to a statute shall mean the statute in force, as amended from time to time, and any regulation in force thereunder, unless otherwise expressly provided.

- 1.4 **Number and Gender.** Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.
- 1.5 **Use of the Word Including.** The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively.
- 1.6 **Business Days.** If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.
- 1.7 **Agreements as Covenants.** Each agreement and obligation of any of the parties hereto in this Agreement even though not expressed as a covenant, is considered for all purposes to be a covenant.
- 1.8 **Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement:
- (a) all dollar amounts referred to in this Agreement are stated in Canadian Dollars; and
 - (b) any tender of documents or money under this Agreement may be made upon the parties or their respective counsel and money may be tendered by bank draft drawn upon a Canadian chartered bank, by negotiable cheque payable in Canadian funds and certified at the payee’s request by a Canadian chartered bank or by wire transfer of immediately available funds payable at par in Toronto, Ontario.
- 1.9 **Section and Schedule References.** Unless the context requires otherwise, references in this Agreement to Sections and Schedules are to Sections and Schedules of this Agreement. The Schedules to this Agreement consist of:

Schedule 1.1(e) - Approval and Vesting Order

2.0 PURCHASE AND SALE

- 2.1 **Purchase and Sale of Assets.** Subject to the terms and conditions of this Agreement, at the Closing with effect as of 12:01 a.m. on the Closing Date, the Vendor will sell, convey, assign, transfer and deliver the Purchased Assets to the Purchaser.

- 2.2 **Purchase Price.** The purchase price payable by the Purchaser for the Purchased Assets shall be the amount owing by the Vendor to the DIP Lender under the DIP Term Sheet as at the Closing Date (the "**Purchase Price**").
- 2.3 **Payment of Purchase Price.** The Purchase Price shall be payable by the Purchaser to the Proposal Trustee on Closing by certified cheque, bank draft or wire transfer of immediately available funds.
- 2.4 **Allocation of Purchase Price.** The parties hereto covenant and agree that the Purchase Price shall be allocated as the Purchaser, the Vendor and the Proposal Trustee may agree in writing on or before Closing, and the Vendor and the Purchaser will make and file all tax returns and filings on a basis which is consistent with the amount and allocation of the Purchase Price. If the parties are unable to agree, the parties covenant that they shall each allocate the Purchase Price acting reasonably.
- 2.5 **Excluded Assets.** The Purchaser may elect, with no adjustment to the Purchase Price, to exclude any assets of the Vendor from the transaction contemplated in this Agreement, by providing written notice to the Vendor at least 3 Business Days prior to the Closing Date identifying the particular assets to be excluded, whereupon the property and assets identified in said notice shall be "**Excluded Assets**".
- 2.6 **Purchased Contracts.**
- (a) The Vendor will use its commercially reasonable efforts to obtain all consents necessary to permit the assignment to, and assumption by, the Purchaser of all the Purchased Contracts and the Assumed Liabilities in respect thereof to be assigned to and assumed by the Purchaser pursuant to this Agreement; provided, that, except as provided in this Agreement, such efforts will not require any Vendor or the Purchaser to pay any amounts claimed by the counterparty to such contracts or by any other party. The Purchaser will provide its reasonable cooperation to assist the Vendor to obtain such consents;
 - (b) Nothing in this Agreement will constitute an agreement to assign or an attempted assignment of any non-assignable rights or any contract for which any requisite consent has not been obtained or which as a matter of Applicable Law or by its terms is not assignable. If any consent in respect of a Purchased Contract has not been obtained on or prior to the Closing Time, to the extent permitted by Applicable Law, at the Purchaser's option, the Vendor will use reasonable commercial efforts to enter into arrangements with the Purchaser to provide the benefits thereof to the Purchaser, including holding such Purchased Contract as agent or in trust for the benefit of the Purchaser for a period of 30 days from the Closing Date, and during such period, the Purchaser will perform the obligations of the Vendor thereunder and be entitled to receive all money becoming due and payable under and other benefits derived from the Purchased Contract immediately after receipt by the Vendor; and

- (c) At any time prior to the Closing Time, the Purchaser may elect to exclude any contracts from the Purchased Contracts by giving written notice to the Vendor of its intention to do so. No changes to the Purchase Price shall result from the exclusion of any contracts from the Purchased Contracts pursuant to this Section 2.6.

2.7 **Excluded Liabilities.** The Purchaser is not assuming and shall not be responsible for any liabilities, debts and obligations of the Vendor, other than as specifically detailed in this Agreement (collectively, the “Assumed Liabilities”):

- (a) any trade accounts payable incurred by the Vendor pursuant to any Purchased Contract that remains unpaid at the Closing Time;
- (b) all liabilities related to or arising from any of the following: (i) the Purchaser’s employment or termination of employment of Transferring Employees arising after the Closing Time; and (ii) all liabilities for wages (including incentive compensation, overtime and vacation pay), severance pay, termination pay, notice of termination of employment or pay in lieu of such notice, damages for wrongful dismissal or other employee benefits or claims in respect of Transferring Employees and accruing after the Closing Time; and
- (c) all liabilities arising from or in connection with the performance of any of the Purchased Contracts (or breach thereof) after the Closing Time (other than any liability arising out of or relating to a breach that occurred prior to the Closing Time), only to the extent that the benefit thereof is conveyed to the Purchaser.

2.8 **Taxes.**

- (a) The Purchaser shall be responsible for payment of all Applicable Taxes.
- (b) On the Closing Date, the Purchaser will either pay the Applicable Taxes to the Vendor or deliver to the Vendor evidence confirming the Purchaser's payment of or exemption from payment of the Applicable Taxes in form and substance acceptable to the Vendor, acting reasonably. The Purchaser will prepare and file any affidavits or returns required in connection with the foregoing at its own cost and expense. To the extent that any Applicable Taxes are required to be paid by or are imposed upon the Vendor, the Purchaser will reimburse to the Vendor such taxes within five Business Days of payment of such taxes by the Vendor. The Purchaser will indemnify and hold the Vendor harmless in respect of any Applicable Taxes including any penalties relating thereto or interest thereon and any liability or cost incurred as a result of any failure to pay such Applicable Taxes when due.

2.9 Elections.

- (c) The Vendor and the Purchaser will on or before the Closing Date jointly execute an election, if available, in the prescribed form and containing the prescribed information, to have subsection 167(1.1) of the *Excise Tax Act* (Canada) apply to the sale and purchase of the Purchased Assets hereunder so that no tax is payable in respect of such sale and purchase under Part IX of the *Excise Tax Act* (Canada). The Purchaser will file such election with the Minister of National Revenue within the time prescribed by the *Excise Tax Act* (Canada).
- (d) The Vendor and the Purchaser agree to make, execute and file with the appropriate taxing authorities such other elections or purchase exemption certificates as the Parties agree are mutually desirable, if any, in prescribed form and within the prescribed time. After the Closing, the Purchaser shall make or cause to be made all necessary filings with respect to all Applicable Taxes. Promptly after the Closing, the Purchaser shall reimburse the Vendor for all deposits, prepayments or advances which the Vendor may have made with respect to Applicable Taxes, other than any such deposits, prepayments or advances that are Excluded Assets.
- (e) Notwithstanding anything to the contrary in this Section 2.9 the Purchaser shall indemnify and hold the Vendor harmless in respect of any harmonized sales tax under Part IX of the *Excise Tax Act* (Canada), goods and services tax, sales tax, penalties, interest and other amounts or Applicable Taxes which may be assessed against the Vendor as a result of the transactions contemplated in this Agreement not being eligible for such elections provided for in this Section 2.9 or as a result of the Purchaser's failure to file the elections within the prescribed time.

2.10 **Bulk Sales Laws.** Each party waives compliance by the other party with the *Bulk Sales Act* (Ontario) and section 6 of the *Retail Sales Act* (Ontario).

2.11 **Funds to be held in trust.** The Purchaser shall advance the undrawn portion available under the DIP Term Sheet on the Closing Date up to the maximum amount of \$200,000 (the "**Fees Advance**") which amount shall be held in trust by the Proposal Trustee. The Proposal Trustee shall be entitled to use the Fees Advance for the sole purpose of paying the professional fees incurred in accordance with the DIP Order by the Proposal Trustee and its counsel and counsel to the Vendor (collectively, the "**Professional Fees**") which fees would otherwise be secured by the Administration Charge. Upon the conclusion of the proposal proceeding and the full and final payment of the Professional Fees, any amount of the Fees Advance remaining shall be immediately remitted by the Proposal Trustee to the Purchaser.

2.12 **Statutory priorities.** Any Prior Claims not paid on or before the Closing Date shall be paid by the Purchaser. It is understood by the Purchaser that the Proposal Trustee and the Vendor will use all reasonable efforts to ensure that all such Prior Claims will be paid on or before the Closing Date.

2.13 **Account and Indemnity Agreement.** The Vendor acknowledges and agrees that any monies held by RBC or any other Person, including counsel to RBC, in accordance with the terms of the Account and Indemnity Agreement (the “**RBC Funds**”) form part of the Purchased Assets and that any RBC Funds received by the Vendor on or after the Closing Date shall be held in trust by the Vendor for the Purchaser and shall be immediately delivered to the Purchaser.

3.0 EMPLOYEES

3.1 The Purchaser will, effective as of the opening of business on the Closing Date, offer to employ on and after the Closing Date such employees of the Vendor as it may choose on terms and conditions that are substantially the same, in the aggregate, as the terms and conditions of employment as are in effect on the date hereof for each such employee, including with respect to each employee’s position, duties and responsibilities, compensation, benefits, vacation, work location and hours of work. Such offers of employment will be made as soon as possible after execution of this Agreement to each employee as the Vendor may choose. Any such employee who accepts such offer from the Purchaser shall be considered a “**Transferring Employee**”. The Purchaser will provide a list of the Transferring Employees (the “**Transferring Employee List**”) to the Vendor and the Proposal Trustee no less than five (5) Business Days prior to the Closing Date. The Vendor may terminate the employment of any employee who is not a Transferring Employee at any time between the date of delivery of the Transferring Employee List and the Closing Date.

4.0 REPRESENTATIONS AND WARRANTIES

4.1 **Representations and Warranties and Covenants of the Purchaser.** The Purchaser represents and warrants to the Vendor as follows:

- (a) ***Incorporation and Power.*** The Purchaser is a Corporation duly incorporated under the laws of the jurisdiction of its incorporation and is duly organized, validly subsisting and in good standing under such laws.
- (b) ***Due Authorization.*** The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments. The execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.
- (c) ***Enforceability of Obligations.*** This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its respective terms. The execution, delivery and performance by the Purchaser of this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement does not and will not (i) contravene or conflict

with or constitute a violation of any provision of the Articles or by-laws of the Purchaser or any law or regulation binding upon or applicable to Purchaser; (ii) contravene or conflict with or constitute a violation of any judgment, injunction, order or decree binding upon or applicable to the Purchaser; or (iii) contravene or conflict with or constitute a violation of any agreement or instrument to which the Purchaser is a party or by which the Purchaser or any of its assets is bound.

- (d) ***Consents and Approvals.*** No consent or approval of any Person is required in connection with the execution and delivery of this Agreement by or on behalf of the Purchaser and the completion by the Purchaser of the transactions contemplated by this Agreement.

4.2 **"As Is, Where Is".** The Purchaser acknowledges to and in favour of the Vendor that:

- (a) prior to Closing, the Purchaser will have conducted its own investigations and inspections of the quality and condition of the Purchased Assets;
- (b) except as otherwise expressly provided in this Agreement, the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis as at the Closing Date;
- (c) except as otherwise expressly provided in this Agreement, the Vendor has made no representations, warranties, statements, or promises including, without limitation, as to title, description, fitness for purpose, merchantability, quantity, conditions or the quality of any matter or thing whatsoever, and any and all conditions and warranties expressed or implied by the Sale of Goods Act (Ontario) do not apply to the sale of the Purchased Assets and are hereby waived by the Purchaser;
- (d) there will be no adjustments to the Purchase Price for changes in condition, quality or quantity of the Purchased Assets for any reason from the date hereof to the Closing Date; and
- (e) the Proposal Trustee has made no representations or warranties whatsoever with respect to the Purchased Assets, the Vendor, and/or its business, and in particular, without limiting the generality of the foregoing. The Purchaser hereby releases the Proposal Trustee, its agents and assigns, from any claim or liability whatsoever arising from or relating to its purchase of the Purchased Assets.

4.3 **Survival of Representations and Warranties.** The representations and warranties of the Purchaser contained in Section 4.1 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall, notwithstanding the Closing, survive the Closing and continue in full force and effect for the benefit of the Vendor for an indefinite period.

5.0 CONDITIONS OF CLOSING

5.1 **Purchaser's Conditions.** The Purchaser shall not be obliged to complete the closing of the transactions contemplated herein unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time. The Vendor covenants and agrees to take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) *Approval and Vesting Order.* The Vendor shall have obtained the Approval and Vesting Order, and the Approval and Vesting Order shall not have been stayed, varied, or vacated; and
- (b) *Vendor's Compliance.* The Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with on or before Closing and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at or before the Closing Time all of the documents contemplated in this Agreement.

5.2 **Vendor's Conditions.** The Vendor shall not be obliged to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Vendor, and may be waived, in whole or in part, in writing, by the Vendor at any time. The Purchaser covenants and agrees to take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (a) *Approval and Vesting Order.* The Vendor shall have obtained the Approval and Vesting Order, and the Approval and Vesting Order shall not have been stayed, varied, or vacated.
- (b) *Representations and Warranties.* The representations and warranties of the Purchaser in Section 4.1 shall be true and correct in all material respects as of the Closing Date (or in the event that such representations and warranties speak of an earlier date, then as of such date).
- (c) *Purchaser's Compliance.* The Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Vendor at or before the Closing Time all of the documents contemplated in this Agreement.

6.0 CLOSING ARRANGEMENTS

6.1 **Closing.** The Closing will take place on the Closing Date commencing at the Closing Time at the offices of the Vendor's Lawyers, or if the Parties so agree, by telephone and fax and/or e-mail.

6.2 **Purchaser's Deliveries on Closing**

At or before the Closing Time, the Purchaser shall execute and/or deliver to the Vendor, the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) payment of the Purchase Price in accordance with Section 2.3;
- (b) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (c) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.1 of this Agreement have been fulfilled, performed or waived as of the Closing Date; and
- (d) such further and other documentation as is referred in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

6.3 **Vendor's Deliveries on Closing**

At or before the Closing Time, the Vendor shall deliver to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) the Approval and Vesting Order; and
- (b) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.2 of this Agreement have been fulfilled, performed or waived as of the Closing Date; and
- (c) such further and other documentation as is referred in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

- 6.4 **Delivery of Proposal Trustee's Certificate.** When each Party has advised the other that it is satisfied with the documents delivered to it at or before the Closing Time, the Purchaser and the Vendor will each deliver to the Proposal Trustee written confirmation that the conditions set out in Sections 5.1 and 5.2, as applicable, have been satisfied or waived, following which the Proposal Trustee will deliver an executed copy of the Proposal Trustee's Certificate to counsel for the Purchaser and the Vendor. Upon such delivery, the Closing will be deemed to have occurred. The Proposal Trustee will promptly file a copy of the Proposal Trustee's Certificate with the Court and provide evidence of such filing to the Purchaser and the Vendor.
- 6.5 **Risk.** Prior to the Closing Time, the Purchased Assets shall be and remain in the possession of and at the risk of the Vendor, and the Vendor will hold all policies of insurance affected thereon and the proceeds thereof for the Vendor. After the Closing Time, the Purchased Assets shall be at the sole risk of the Purchaser. The Purchaser agrees that all the insurance maintained by the Vendor in respect of the Purchased Assets shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.
- 6.6 **Possession of Assets**
- (a) On Closing, the Purchaser shall take delivery of the Purchased Assets at the leased premises of the Vendor at 1074 Cooke Blvd, Burlington, Ontario (the "Leased Premises"), and shall be responsible for making such arrangements directly with the landlord of the Leased Premises as may be necessary for the Purchaser's occupation of the Leased Premises from and after the Closing Date. The Purchaser acknowledges that the Vendor may disclaim the lease for the Leased Premises and that the Purchaser will be responsible for any rent or other charges owed to the landlord of the Leased Premises for the period from and after the Closing Date.

7.0 GENERAL

- 7.1 **Proposal Trustee.** The Parties agree that the Proposal Trustee acts solely in its capacity as trustee in the proposal of the Vendor, and that it shall have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith. The parties agree that the Proposal Trustee may rely on any provisions of this Agreement regardless of whether it is a party hereto, and that any rights or benefits conferred herein on the Proposal Trustee shall extend to any trustee in bankruptcy that may be appointed in respect of the Vendor.
- 7.2 **Books and Records.** Following the Closing Date, the Proposal Trustee and any trustee in bankruptcy appointed in respect of the Vendor shall have access to all of the Books and Records as may be required to fulfill its duties pursuant to the provisions of the BIA or otherwise. The Purchaser covenants and warrants that it will maintain possession and control of the Books and Records, and will not destroy any of the Books and Records for a period of at least 6 years following the Closing Date without the Proposal Trustee's written authorization.

7.3 **Expenses.** Each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement, unless specifically indicated otherwise in this Agreement.

7.4 **Public Announcements.** Except to the extent otherwise required by law or with the prior consent of the other Party and the Proposal Trustee, neither Party shall make any public announcement regarding this Agreement or the transactions contemplated by this Agreement. The Parties agree to consult with each other and with the Proposal Trustee before issuing any press release or making any public statement with respect to the Purchaser's purchase of the Purchased Assets.

7.5 **Notices.**

(a) Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by fax, email or other similar means of electronic communication, in each case to the applicable address set out below;

(i) if to the Purchaser, to:

902878 Ontario Limited
2201 Lakeshore Rd.
Burlington, Ontario L7R 1A8

Attention: John G. Heersink
Email: heersinks@cogeco.ca

with a copy to:

Thornton Grout Finnigan LLP
TD Centre, 100 Wellington Street West
Suite 3200, PO Box 329
Toronto, Ontario M5K 1K7

Attention: Leanne M. Williams
Fax: (416) 304-1313
Email: lwilliams@tgf.ca

(ii) if to the Vendor, to:

PV Labs Inc.
1074 Cooke Blvd
Burlington, ON
L7T 4A8

Attention: Mark Chamberlain
Email: mark.chamberlain@pv-labs.com

with a copy to:

Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Attention: George Benchetrit
Fax: (416) 218-1841
Email: george@chaitons.com

(iii) if to the Proposal Trustee, to:

BDO Canada Limited
1 City Centre Drive, Suite 1040
Mississauga, Ontario L5B 1M2

Attention: Peter Naumis, Vice President
Fax: (905) 615-1333
Email: pnaumis@bdo.ca

with a copy to:

Pallett Valo LLP
77 City Centre Drive, West Tower, Ste 300
Mississauga ON L5B 1M5

Attention: Bobby H. Sachdeva
Fax: 905.273.6920
Email: bsachdeva@pallettvalo.com

- (b) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

- (c) Any Party may from time to time change its address under this Section by notice to the other Party given in the manner provided by this Section.
- 7.6 **Time of Essence.** Time shall be of the essence of this Agreement in all respects.
- 7.7 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and thereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, warranties, representations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as specifically set out in this Agreement.
- 7.8 **Waiver.** A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a party of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- 7.9 **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- 7.10 **Further Assurances.** Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require for the purposes of giving effect to this Agreement. In respect of any acts, documents and things required after Closing (other than with respect to the obligations of the Purchaser under Section 7.2), the Party making the request shall be responsible for the reasonable costs of the other Party in complying with such request.
- 7.11 **Attornment.** Each Party agrees that any action or proceeding relating to this Agreement shall be brought to the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the exclusive jurisdiction of the Court.
- 7.12 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that province and shall be treated, in all respects, as an Ontario contract.
- 7.13 **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns, provided that:
- (a) the Purchaser may assign any or all of its rights under this Agreement with the consent of the Vendor and of the Proposal Trustee, and the Purchaser shall remain

bound to perform and shall not be released from any of its obligations under this Agreement; and

- (b) the Vendor may assign any of its rights under this Agreement to a court-appointed receiver or a trustee in bankruptcy in respect of the Vendor.


7.14 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which counterparts so executed shall constitute and be deemed to be an original and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile or transmitted electronically in either a Tagged Image Format File (“**TIFF**”) or Portable Document Format (“**PDF**”) shall be equally effective as delivery of a manually executed counterpart of this Assignment. Any party delivering an executed counterpart of this Agreement by facsimile, TIFF or PDF shall also deliver a manually executed counterpart of this Agreement, but failure to do so shall not affect the validity, enforceability or binding effect of this Assignment.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

The parties have executed and delivered this Agreement as of the date indicated on the first page of this Agreement.

PV LABS INC.

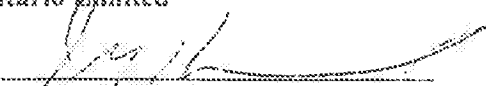
Per:


Name: Matt Chamberlain
Title: President & CEO

I have the authority to bind the corporation

902878 Ontario Limited

Per:


Name: [Handwritten Name]
Title: [Handwritten Title]

I have the authority to bind the corporation

SCHEDULE 1.1(C) - APPROVAL AND VESTING ORDER