

## Agreement of Purchase and Sale

This Agreement is made as of the \_\_\_\_\_ day of March, 2016, between

**KPMG Inc.**, in its capacity as court-appointed receiver of Acculink Fence & Wire Inc., and not in its personal or corporate capacity (collectively, the “**Vendor**”)

and

<\*>, a company existing under the laws of <\*>  
(the “**Purchaser**”)

### RECITALS

A. **WHEREAS** pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated March 21, 2016 (the “**Receivership Order**”), KPMG Inc. (the “**Receiver**”) was appointed as receiver of the assets, properties and undertakings of Acculink Fence & Wire Inc. (the “**Debtor**”); and

B. **WHEREAS** subject to the approval of the Court, the Vendor wishes to sell and the Purchaser wishes to purchase on an “as is, where is basis” all of the right, title and interest of the Vendor in the Purchased Assets (as defined below) pursuant to the terms and conditions of this Agreement.

FOR VALUE RECEIVED, the parties agree as follows:

### SECTION 1 – INTERPRETATION

#### 1.1 Definitions

In this Agreement:

- (1) **Agreement** means this agreement including any recitals and schedules to this agreement, as amended, supplemented or restated from time to time; provided that this agreement shall constitute an offer, as set out in Section 2.1, until accepted by the Vendor;
- (2) **Approval and Vesting Order** has the meaning given in Section 5.3;
- (3) **Business Day** means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed in Toronto, Ontario, Canada;
- (4) **Contracts** means any written, but not oral, contracts, personal property leases, licenses from any Person, service contracts and any other similar written agreement between either of the Debtor or the Vendor and any Person relating in any way to the Purchased Assets;
- (5) **Closing** means the completion of the Transaction;

- (6) **Closing Date** means the tenth (10th) Business Day following the date on which the Approval and Vesting Order is granted or such later or earlier date as agreed to in writing by the parties;
- (7) **Encumbrances** means all mortgages, pledges, charges, liens, debentures, hypothecs, trust deeds, assignments by way of security, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging or creating a security interest in the Purchased Assets or any part thereof or interest therein, and any agreements, leases, options, easements, rights-of-way, restrictions, executions or other encumbrances, including notices or other registrations in respect of any of the foregoing, affecting title to the Purchased Assets or any part thereof or interest therein;
- (8) **ETA** means the *Excise Tax Act* (Canada);
- (9) **Governmental Authority** means any Canadian federal, provincial, state, municipal or local, or other government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or judicial or arbitral body having jurisdiction over the Purchased Assets;
- (10) **HST** has the meaning given in Section 3.3;
- (11) **Person** means a natural person, partnership, limited liability partnership, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Authority, and pronouns have a similarly extended meaning;
- (12) **Premises** means address municipally described as 10 Holland Drive, Bolton, Ontario;
- (13) **Purchased Assets** means the machinery and equipment, inventory and intangible assets described on Schedule "A" hereto;
- (14) **Removal** has the meaning given in Section 7.
- (15) **Sale Process** has the meaning given in Section 5.3;
- (16) **Taxes** means all taxes, assessments, charges, duties, fees, levies, imposts or other governmental charges, including, without limitation, HST and all federal, state, provincial, local, foreign and other income, sales, environmental, add-on, minimum, franchise, profits, capital gains, capital stock, capital structure, transfer, gross receipt, use, *ad valorem*, service, service use, lease, recording, customs, occupation, property, excise, gift, windfall profits, premium, stamp, license, payroll, social security, employment, unemployment, disability, value-added, withholding, and other taxes, assessments, charges, duties, fees, levies, imposts or other governmental charges of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a return) and all estimated taxes, deficiency assessments, additions to tax, additional amounts imposed by a governmental authority (domestic or foreign), penalties, fines and interest, and shall include any liability for such amounts as a result either of being a member of a combined, consolidated, unitary or affiliated group or of a contractual obligation to indemnify any person, regardless of whether disputed;

- (17) ***Time of Closing or Closing Time*** means 2:00 p.m. (Toronto time) on the Closing Date or as otherwise determined by mutual agreement of the parties in writing; and
- (18) ***Transaction*** means the transaction of purchase and sale contemplated by this Agreement.

## **1.2 Headings and References**

The division of this Agreement into sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement,” “hereof,” “hereunder” and similar expressions refer to this Agreement and not to any particular section, subsection or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to “Sections” are to sections, subsections and further subdivisions of sections of this Agreement.

## **1.3 Extended Meanings**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including without limitation.”

## **1.4 Statutory References**

Each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

## **SECTION 2 – OFFER**

### **2.1 Offer**

Subject to satisfaction of the conditions set out in Sections 5.1, 5.2 and 5.3 hereof, this Agreement, once executed by the Purchaser and the Vendor, shall constitute a valid and binding offer to purchase by the Purchaser.

## **SECTION 3 – SALE AND PURCHASE**

### **3.1 Sale and Purchase of Purchased Assets and Purchased Assets**

Subject to the terms and conditions of this Agreement, including, without limitation, the payment of the Purchase Price, the Vendor shall sell to the Purchaser and the Purchaser shall purchase all of the Debtor’s right, title and interest, if any, in and to the Purchased Assets, on the Closing Date and free of Encumbrances. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor or Vendor other than the Debtor’s right, title and interest, if any, in and to the Purchased Assets.

The Purchaser acknowledges and agrees that certain of the Purchased Assets may be subject to or consist of one or more Contracts. It shall be the Purchaser’s sole responsibility to obtain, at its own expense, any consents, approvals or any further documentation or assurances which may be required to carry out the terms of the sale of the Purchased Assets, including,

without limitation, any approvals with respect to assignment of any of the assigned Contracts or any of the Purchased Assets not assignable without the consent or action of a third party or parties. The Purchaser shall indemnify and hold harmless the Vendor from and against any claims or liabilities arising under or in connection with any of the assigned Contracts for matters occurring on or after, and which relate to the period on or after the Closing Date. The Vendor shall use commercially reasonable efforts to assist the Purchaser in obtaining any necessary consents of third parties to the assignment of the assigned Contracts. Notwithstanding the foregoing, the Vendor shall have no liability to the Purchaser for non-acknowledgement by any Persons of the purported assignment by the Vendor of its right, title and interest in any such Assigned Contract, if any such Assigned Contract is not assignable by the Vendor, if any such Assigned Contract has been terminated by any Party thereto. The Vendor does not make any representation or warranty that any such Assigned Contract may be effectively assigned to the Purchaser. If reasonably required by the Purchaser, the Vendor shall assign to the Purchaser by way of an assignment in form and content satisfactory to the Vendor and its solicitors any of the Contracts that may require a specific assignment, but only to the extent that such assigned Contracts are assignable by the Vendor. The form of assignment shall not provide for or require an acknowledgement or agreement to the assignment by any other Person.

### **3.2 Purchase Price**

- (1) The purchase price (the “**Purchase Price**”) for the Purchased Assets shall be allocated by the parties between the Purchased Assets prior to Closing and, shall be \$<\*>, plus applicable Taxes (including HST in accordance with Section 3.3, below).
- (2) There shall be no adjustments in respect of the Purchase Price.

### **3.3 Harmonized Sales Tax**

- (1) The Purchase Price of the Purchased Assets does not include the Harmonized Sales Tax (“**HST**”), if any, payable by the Purchaser in respect of the purchase of the Purchased Assets pursuant to the ETA. Subject to Section 3.3(2) below, the Purchaser agrees to pay to the Vendor, on the Closing Date, as a condition of completion of the Transaction by certified cheque or bank draft, all HST payable, if any, as a result of this transaction in accordance with the Act.
- (2) Notwithstanding Section 3.3(1) above, the Vendor shall not collect HST from the Purchaser in this transaction if the Purchaser is registered under the ETA as an HST registrant and in that event, the Purchaser shall self-assess, file returns and remit such HST to the Receiver General for Canada when and to the extent required by the ETA. The Purchaser shall provide to the Vendor, on the Closing Date, a statutory declaration confirming that the Purchaser is registered under the ETA for the purposes of collecting and remitting HST, and confirming its HST registration number under the ETA, together with an indemnity in favour of the Vendor for any amounts payable by the Vendor as a result of the Vendor’s failure to collect HST from the Purchaser on the Closing Date, such statutory declaration and indemnity to be in a form satisfactory to the Vendor’s and the Purchaser’s solicitors, both acting reasonably.
- (3) The Purchaser’s obligations under this Section 3.3 shall survive Closing.

### **3.4 Payment of Purchase Price**

- (1) The Purchaser shall pay the Purchase Price as follows:
  - (a) by paying an amount equivalent to 15% of the Purchase Price at the time of submission of this offer, by certified cheque or bank draft payable to the Vendor's solicitor upon execution by the Purchaser of this Agreement, as a deposit (together with the interest earned thereon from time to time, the "**Deposit**"), which amount, together with all interest accrued thereon, will be held by the Vendor's solicitor pending closing and credited toward the Purchase Price on Closing unless otherwise returned to the Purchaser in accordance with Section 5.5; and
  - (b) by paying an amount equal to the balance of the Purchase Price plus applicable Taxes, if any, on the Closing Date, by certified cheque or bank draft payable to the Vendor or as the Vendor may direct at Closing.

### **3.5 Legal Fees and Costs**

The Purchaser shall pay its own legal costs and fees payable in connection with the Transaction, if any.

### **3.6 "As is, Where is"**

(1) The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as the Purchased Assets shall exist on the Closing Date and no adjustments shall be made for any changes in the condition of the Purchased Assets. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets, as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for any particular use or purpose, merchantability, condition, assignability, value or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell same. Without limiting the generality of the foregoing: (1) any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in any other jurisdiction do not apply hereto and have been waived by the Purchaser and (2) no representation or warranty is made with respect to the accuracy or completeness of any information provided by the Vendor and its respective officers, directors, employees, and agents, to the Purchaser in connection with this transaction. The description of the Purchased Assets contained herein is for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions.

(2) The Purchaser agrees and acknowledges that it has already conducted any and all desired inspections and due diligence in respect of the Purchased Assets, and the Purchaser shall not have access to the Purchased Assets from the date of this Agreement until the Closing Date.

## **SECTION 4– REPRESENTATIONS AND WARRANTIES**

### **4.1 Vendor’s Representations.**

The Vendor represents and warrants to the Purchaser that:

- (a) the Vendor was appointed as the Receiver pursuant to the Receivership Order;
- (b) the Vendor is not, and at the time of Closing will not be, a non-resident of Canada within the meaning of that term as used in the *Income Tax Act* (Canada);

### **4.2 Purchaser’s Representations.**

The Purchaser represents and warrants to the Vendor that:

- (a) the Purchaser is a corporation existing under the laws of Ontario, and has full corporate power and authority to enter into and carry out this Agreement and the Transaction;
- (b) the entering into of this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party and the consummation of the Transaction have been duly authorized by all requisite corporate action;
- (c) other than the Approval and Vesting Order, no approval or consent of and no filing with or application to any Governmental Authority is required for the Purchaser to enter into this Agreement or to complete the Transaction, other than such approvals, consents, filings and applications that have been obtained or made as at the date hereof, copies of which have been provided to the Vendor;
- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of the Purchaser, as the case may be, enforceable in accordance with the terms hereof or thereof;
- (e) the Purchaser has entered into this Agreement and will be completing the Transaction on its own account, not as an agent; and
- (f) the Purchaser is registered under Part IX of the ETA.

### **4.3 Survival.**

The representations and warranties of the parties shall not survive Closing.

## **SECTION 5 – CONDITIONS TO CLOSING**

### **5.1 Conditions - Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Time:

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true as of the Closing Time with the same effect as though made as of that time and the Vendor shall deliver to the Purchaser a certificate signed by a representative of the Vendor to that effect (provided that acceptance of such evidence and the completion of the transaction contemplated hereunder shall not be a waiver of such representations and warranties);
- (b) the Vendor shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (c) the Vendor shall have delivered or caused to be delivered to the Purchaser each of the items listed in Section 6.2.

The foregoing conditions are for the exclusive benefit of the Purchaser.

### **5.2 Conditions - Vendor**

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Closing Time:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Closing Time with the same effect as though made as of that time and the Purchaser shall deliver to the Vendor a certificate signed by a representative of the Purchaser to that effect (provided that acceptance of such evidence and the completion of the transaction contemplated hereunder shall not be a waiver of such representations and warranties);
- (b) the Purchaser shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (c) the Purchaser shall have delivered or caused to be delivered to the Vendor each of the items listed in Section 6.3.

The foregoing conditions are for the exclusive benefit of the Vendor.

### **5.3 Conditions – Vendor and Purchaser**

(1) Neither party shall be obligated to complete the Transaction contemplated by this Agreement unless the following conditions have been fulfilled:

- (a) the Vendor has obtained an order of the Court approving the Transaction and vesting the Purchased Assets in the Purchaser in accordance with the provisions

of this Agreement (collectively, the “**Approval and Vesting Order**”) which Approval and Vesting Order shall be in form and content satisfactory to the Vendor and substantively similar to the Court’s model form of such order, and which Approval and Vesting Order shall not have been stayed, reversed or dismissed;

- (b) all necessary corporate steps and proceedings shall have been taken by the parties to permit the execution of this Agreement and performance of each of the parties’ obligations hereunder;
- (c) as of the Closing Time, no order shall have been made and no motion, action or proceeding shall be pending, threatened or commenced by any person, government, Government Authority, regulatory body or agency in any jurisdiction which restrains or prevents the sale of the Purchased Assets under this Agreement or restricts, prohibits or directs the Vendor not to complete the transaction contemplated by this Agreement and no Governmental Authority shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other governmental order (whether temporary, preliminary or permanent) which is in effect and has the effect of making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting consummation of such transactions or which would otherwise materially adversely affect or interfere with the prosecution of the Purchased Assets following Closing; and
- (d) as at the Closing Time, the Purchased Assets shall not have been removed from the control of the Vendor by any means or process (the Purchaser and the Vendor acknowledging and agreeing that if, prior to the Closing Time, the Purchased Assets are removed from the Vendor’s control by government action, civil commotion or by order of the Court, or any other cause beyond the Vendor’s control, then this Agreement shall automatically be terminated and the provisions of Section 5.5 hereof shall apply *mutatis mutandis*).

The foregoing conditions are for the mutual benefit of both parties and may not be waived by either party.

- (2) The Vendor covenants that it will use commercially reasonable efforts to fulfil or cause to be fulfilled the conditions contained in Section 5.1 and Section 5.3 hereof and the Purchaser covenants to use commercially reasonable efforts to fulfil or cause to be fulfilled the conditions contained in Sections 5.2 and 5.3 hereof prior to the times specified therefor.

#### **5.4 Non-Satisfaction of Conditions**

- (1) If any condition set out in Section 5.1 or Section 5.2 is not satisfied or performed prior to the time specified therefor, the party for whose benefit the condition is inserted may in writing:
  - (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of



termination in the event of non-fulfilment of any other condition in whole or in part; or

- (b) elect on written notice to the other party to terminate this Agreement before Closing.
- (2) If any condition set out in Section 5.3 is not satisfied or performed prior to June 30, 2016, either the Vendor or the Purchaser may elect on written notice to the other party to terminate this Agreement before Closing.

### **5.5 Termination Obligations**

If the Purchaser or the Vendor validly terminates this Agreement in accordance with Section 5.4, then:

- (1) all the obligations of both the Vendor and Purchaser pursuant to this Agreement shall be at an end;
- (2) the Purchaser shall be entitled to have the Deposit together with all accrued interest thereon returned to the Purchaser; and
- (3) neither party shall have any right to specific performance or other remedy against, or any right to recover damages or expenses from the other.

### **5.6 Breach by Purchaser**

If the Purchaser fails to complete the Transaction in accordance with the terms of this Agreement, then the Vendor may by notice to the Purchaser elect to treat the Agreement as having been repudiated by the Purchaser. In that event, the Deposit and any other payments made by the Purchaser shall be forfeited to the Vendor on account of its liquidated damages, not as a penalty and the Purchased Assets may be resold by the Vendor without prejudice to any claims which the Vendor may have against the Purchaser by reason of such default.

## **SECTION 6 – CLOSING**

### **6.1 Closing**

The completion of the Transaction shall take place at the offices of Aird & Berlis LLP, solicitors for the Vendor, in Toronto, Ontario at the Closing Time or at such other location(s) as are agreed upon by the parties.

### **6.2 Vendor's Deliveries on Closing**

At or before the Closing Time, upon fulfilment by the Purchaser of all the conditions herein in favour of the Vendor which have not been waived in writing by the Vendor, the Vendor shall deliver the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) a copy of the issued Approval and Vesting Order;

- (b) a completed Receiver's Certificate as contemplated in the Approval and Vesting Order; and
- (c) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

### **6.3 Purchaser's Deliveries on Closing**

At or before the Closing Time, upon fulfilment by the Vendor of all the conditions herein in favour of the Purchaser which have not been waived by the Purchaser, the Purchaser shall execute and deliver the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) payment of the Purchase Price pursuant to Section 3.4;
- (b) payment or evidence of the payment of the Taxes, if any, or an indemnity in respect of the Taxes; and
- (c) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

### **6.4 Risk**

The Purchased Assets are and shall remain at the Vendor's risk until Closing and the Vendor shall hold all insurance policies and the proceeds thereunder, in trust, for the parties as their respective interests may appear pending Closing. In the event that the Purchased Assets shall be damaged prior to Closing then the Vendor shall advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of same. In the event that the Purchased Assets shall be damaged prior to Closing then the Vendor shall, in its sole discretion, and at its own expense, do or cause to be done one of the following: (i) repair the damage forthwith in a good and workmanlike manner; (ii) release its interest in the insurance proceeds, if any, payable in respect thereof, to the Purchaser; or (iii) terminate this Agreement and return the Deposit to the Purchaser. Closing may, by mutual agreement, be extended until the date which is five (5) Business Days following the date on which the Vendor shall have completed the repairs.

### **6.5 Purchaser's Acknowledgement**

The Purchaser acknowledges that the Vendor is selling the Purchased Assets solely pursuant to the Vendor's rights and capacity conferred by the Receivership Order and the Approval and Vesting Order. The Purchaser agrees to accept a conveyance of the Purchased Assets by way of the Approval and Vesting Order.

### **6.6 Possession of Purchased Assets**

On Closing, the Purchaser shall take possession of the Purchased Assets where situate at the Closing Time provided that in no event shall title to the Purchased Assets pass to the Purchaser until the Approval and Vesting Order is effective.

## **6.7 Tender**

Any tender of documents or money hereunder may be made upon the Vendor or the Purchaser or their respective solicitors on the Closing Date.

## **SECTION 7 – REMOVAL OF PURCHASED ASSETS**

### **7.1 Removal**

Provided that this Agreement is not terminated and the Closing occurs, the Purchaser shall be responsible for removing the Purchased Assets from the Premises by <\*> or make its own arrangements with the Debtor's landlord (collectively, the "**Removal**"). The Purchaser shall complete the Removal in a workmanlike manner consistent with good industrial practice. The Vendor shall be entitled to be present during the Removal but shall have no obligation to assist the Purchaser with the Removal.

### **7.2 Complete Removal Required**

Any of the Purchased Assets which requires disassembly and moving shall be done at the expense of the Purchaser. Should the Purchaser abandon, fail to remove or fail to cause any Purchased Assets to be removed, the Purchaser shall reimburse and hold the Vendor harmless for all costs incurred by the Vendor due to the failure of the Purchaser to remove the Purchased Assets on Closing.

### **7.3 Cleaning Resulting from the Removal**

The Purchaser shall, at its own cost, clean any spills or oil, lubricants, grease or any other liquid, product or substance remaining after the Vendor of the Purchased Assets, as a result of any spill that occurs during the Removal of the Purchased Assets.

### **7.4 Complete Remedy and Repair Required**

The Purchaser shall remedy or repair, as applicable, any condition resulting from the removal of the Purchased Assets or any one of them, including, without limitation, removing or capping all electrical wires and air/water/other lines to the buss bar/nearest wall and all bolts "blown off", placing safety barriers around any pits.

### **7.5 Indemnity**

The Purchaser agrees to indemnify and save the Vendor harmless from and against all claims, demands, losses, damages, actions and costs incurred or arising from or in any way directly related to any of the Removal and the attendance of the Purchaser, its employees contractors or agents at the Premises.

**SECTION 8 – GENERAL**

**8.1 Notices**

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery (in which case it shall be left with a responsible officer of the recipient) or by electronic communication addressed to the recipients as follows:

in the case of the Vendor:

**KPMG Inc.**  
21 King Street West, Suite 700  
Hamilton, ON L8P 4W7

Attention: Brad Newton  
Email: [bradnewton@kpmg.ca](mailto:bradnewton@kpmg.ca)

with a copy to:

**Aird & Berlis LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

Attention: Sanjeev P.R. Mitra  
Email: [smitra@airdberlis.com](mailto:smitra@airdberlis.com)

in the case of the Purchaser:

<\*>  
<\*>

Attention: <\*>  
Facsimile: <\*>  
Email: <\*>

with a copy to:

<\*>  
<\*>

Attention: <\*>  
Facsimile: <\*>  
Email: <\*>

or to such other address, individual or electronic communication number as may be designated by notice given by either party to the other. Any demand, notice or other communication shall be conclusively deemed to have been given, if given by personal delivery, on the day of actual delivery thereof if delivered during normal business hours of the recipient on a Business Day and, if given by electronic communication, on the day following the transmittal thereof if transmitted during normal business hours of the recipient on a Business Day and on the second Business Day following the delivery or transmittal thereof if not so delivered or transmitted.

## **8.2 Time of Essence**

Time shall be of the essence for every provision hereof.

## **8.3 Expenses**

Except as otherwise expressly provided herein, all costs and expenses (including the fees and disbursements of legal counsel, investment advisers and auditors) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses, subject to any rights either party may have to have any such fees included in any security held by that party against the assets of the Debtor.

## **8.4 Third Party Beneficiaries**

Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and their successors and permitted assigns, and no person, other than the parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

## **8.5 Commission**

The Purchaser acknowledges that there are no agent's or broker's fees or other commissions payable by the Vendor on the Purchase Price and Purchaser agrees to indemnify and save the Vendor harmless with respect to any claims for compensation or commission by any third party or agent retained by the Purchaser.

## **8.6 Further Assurances**

During the thirty (30) day period after the Closing Date, each party shall from time to time execute and deliver, or cause to be executed and delivered, all such documents and instruments and do, or cause to be done, all such acts and things as the other party may, either before or after the Closing, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

## **8.7 Entire Agreement**

This Agreement constitutes the only agreement between the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, provisions, covenants, agreements, understandings and representations on that subject, all of which have become merged and finally integrated into this Agreement.

## **8.8 Amendments**

This Agreement may only be amended, modified or supplemented by a written agreement signed by the parties.

## **8.9 Waiver**

No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the party to be bound thereby.

## **8.10 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the parties hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

## **8.11 Benefit of Agreement**

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns, provided that the Purchaser shall not assign the benefit of this Agreement without the prior written consent of the Vendor.

## **8.12 Severability**

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision's validity or enforceability in any other jurisdiction.

## **8.13 Counterparts**

This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.

## **8.14 Assignment and Enurement**

No party may assign its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the forgoing, the Purchaser shall have the right to assign, in whole or in part, its rights to acquire the Purchased Assets hereunder to any affiliate of the Purchaser provided that such assignment shall not release the Purchaser from its obligations under this Agreement.

*[the next page is the signature page]*

**Dated** as of the date first set out above.



Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:  
We have the authority to bind the credit union

**Dated** at \_\_\_\_\_, \_\_\_\_\_ as of the \_\_\_\_ day of \_\_\_\_\_, 2016.

**KPMG INC., solely in its capacity as court-appointed receiver of Acculink Fence & Wire Inc., and not in its corporate or personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:  
I have the authority to bind the corporation

**Schedule "A"**  
**Listing of Purchased Assets**

1. Machinery and equipment: <\*>.
2. Inventory: <\*>.
3. Intangible assets: <\*>

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