

**CLASS B COMMON STOCK PURCHASE AGREEMENT**

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## CLASS B COMMON STOCK PURCHASE AGREEMENT

THIS CLASS B COMMON STOCK PURCHASE AGREEMENT (this "**Agreement**"), is made as of the 31 day of August, 2018 (the "**Effective Date**") by and among Moda, Inc., an Oregon corporation (the "**Company**"), Oregon Dental Service, an Oregon non-profit corporation ("**ODS**"), Moda Holdings Group, LLC, a Delaware limited liability company ("**HoldCo**", and together with ODS, "**Stockholders**") and Delta Dental of California, a California nonprofit corporation ("**Purchaser**") (each a "**Party**" and collectively, the "**Parties**").

**WHEREAS**, Purchaser desires to purchase, and the Company desires to sell to Purchaser, a fifty percent (50%) ownership interest in the Company;

**WHEREAS**, the board of directors of HoldCo was, prior to the Closing (as defined below) the board of Directors of the Company; and

**WHEREAS**, HoldCo is wholly owned by ODS.

**NOW, THEREFORE**, in consideration of the mutual promises and other good and valuable consideration set forth herein, the receipt and sufficiency of which are hereby acknowledged, Company and Purchaser, intending to be legally bound, hereby agree as follows:

1. Purchase and Sale of Stock.

1.1 Sale and Issuance of Stock.

(a) On or before the Closing Date, the Company shall convert from an Oregon corporation to a Delaware corporation and shall adopt and file with the Secretary of State of the State of Delaware the Certificate of Incorporation in the form of Exhibit A attached to this Agreement (the "**Certificate**").

(b) Subject to the terms and conditions of this Agreement, Purchaser agrees to purchase at the Closing and the Company agrees to sell and issue to Purchaser at the Closing 10,000 shares of Class B Common Stock, \$0.0001 par value per share (the "**Class B Common Stock**"), at a purchase price of \$15,392.50 per share for an "**Aggregate Purchase Price**" of \$153,925,000.00. The shares of Class B Common Stock issued to Purchaser pursuant to this Agreement shall be referred to in this Agreement as the "**Shares**".

1.2 Closing; Delivery.

(a) The purchase and sale of the Shares shall take place remotely via the exchange of documents and signatures on the fifth Business Day after all the conditions to Closing set forth in Sections 5 and 6 have been satisfied or waived by the Party or Parties entitled to waive the same, or at such other time and place as the Company and Purchaser mutually agree, orally or in writing (which time and place are designated as the "**Closing**", and the date of the Closing is the "**Closing Date**").

(b) At the Closing, the Company shall deliver to Purchaser a certificate of the Company representing the Shares in exchange for (i) the Note Consideration, (ii) the Credit Consideration and (iii) the Cash Consideration.

(c) The Cash Consideration will be delivered to the Company on the Closing Date by wire transfer to the Company bank account designated by the Company.

1.3 Use of Proceeds. The Company will use the proceeds from the sale of the Shares for general corporate purposes in accordance with the directions of the Board of Directors, as it shall be constituted in accordance with the Voting Agreement.

1.4 Defined Terms Used in this Agreement. In addition to the terms defined elsewhere in this Agreement, the following terms used in this Agreement shall have the meanings set forth below.

(a) "**Affiliate**" means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including any general partner, managing member, officer, director or trustee of such Person.

(b) "**Applicable Law**" means any domestic, foreign, federal, state or local statute, law, ordinance, rule, principle of common law, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any Government Authority (including any Environmental Law) applicable to the Business, or any Person or any of its respective Affiliates, properties, assets, operations, officers, directors or employees.

(c) "**Board of Directors**" means the Company's board of directors.

(d) "**Business**" means the business of the Company and its Subsidiaries as now conducted and as presently proposed to be conducted.

(e) "**Business Day**" means any day other than (a) Saturday or Sunday, (b) a day recognized by the United States government as a public holiday for federal employees.

(f) "**Capital Stock**" means capital stock of the Company.

(g) "**Cash Consideration**" means cash equal to the balance remaining after deducting from the Aggregate Purchase Price, the Note Consideration and the Credit Consideration.

(h) "**Cause the Subsidiaries**" means, with respect to a Subsidiary that the Company (i) controls, the Company will cause that Subsidiary to take or not to take (as applicable) the applicable action or (ii) does not control, the Company will vote its ownership interest in that Subsidiary to take or not to take (as applicable) the applicable action. For purposes of the preceding sentence, "control" of a Subsidiary means the Company's possession, directly or indirectly (through one or more intermediaries or other means), of the power to direct or cause the direction of management and policies of that Subsidiary through the ownership of voting securities (or any other interest or interests), contract or other means.

(i) "**Code**" means the Internal Revenue Code of 1986, as amended.

(j) "**Common Stock**" means shares of the Company's Class A Common Stock and Class B Common Stock.

(k) "**Company Intellectual Property**" means all patents, patent applications, registered and unregistered trademarks, trademark applications, registered and unregistered service marks, service mark applications, tradenames, copyrights, computer programs and other software,

trade secrets, domain names, mask works, Confidential Information and proprietary rights and processes, know-how, product specifications, customer, supplier and distributor lists and all other information and data relating to customers or suppliers, similar or other intellectual property rights, subject matter of any of the foregoing, tangible embodiments of any of the foregoing, licenses in, to and under any of the foregoing, in each case that are owned or used by the Company or the Subsidiaries in the conduct of the Business.

(l) **"Confidential Information"** means all proprietary technical, business and other information of a Party (which may include trade secrets) that is (i) marked as confidential, identified as confidential, subject to an obligation of a Party to treat such information as confidential or whose confidential nature is reasonably apparent based on the circumstances under which the information was made available, and which (ii) is not generally known to the public, including technical or nontechnical data, compositions, devices, methods, techniques, drawings, inventions, processes, financial data, financial plans, product plans, lists concerning actual or potential customers of, or suppliers to the Business, information regarding acquisition and investment plans and strategies, business plans or operations of a Party. Confidential Information includes information disclosed or owned by third parties (including information of any Affiliate of a Party).

(m) **"Contracts"** means all contracts, agreements, understandings, options, leases, licenses, sales and accepted purchase orders, commitments, warranties and other instruments of any kind, whether written, including any option to renew or extend the term of any thereof.

(n) **"Credit Consideration"** means a credit against the Aggregate Purchase Price to be given by the Company to Purchaser for certain expenses incurred by Purchaser in connection with the Transactions comprised of (A) fifty percent (50%) of all legal and consulting fees and expenses incurred by Purchaser in connection with three (3) prior rounds of funding and a recent \$10,000,000.00 note repayment to Purchaser by a Subsidiary, and (B) fifty percent (50%) of all legal and consulting expenses incurred in obtaining a valuation of the Company and its Subsidiaries and Affiliates (excluding diligence, tax and other non-valuation consulting services), in the total amount shown on Schedule 1 hereto, which shall be equal to \$965,440.00 plus the foregoing fees that have accrued after June of 2018 and prior to the Closing Date, such amount to be determined by the parties hereto at the Closing.

(o) **"Customer Contracts"** means Contracts entered into in connection with the provision of health insurance, pharmaceutical services, and/or self-funded plan administration and related services.

(p) **"Damages"** means all demands, claims, assessments, losses, damages, costs, expenses, Liabilities, judgments, awards, fines, sanctions, penalties, charges (including any amounts paid in settlement), including reasonable costs, fees and expenses of attorneys, accountants and other representatives of a Person incurring or suffering such Damages.

(q) **"Fraud"** means misrepresentation or omission of material facts with scienter by the Company or a Stockholder which constitutes common law fraud under Applicable Law.

(r) **"Government Authority"** means any foreign, domestic, federal, territorial, state or local governmental authority, quasi- governmental authority, instrumentality, court, government or self-regulatory organization, arbitral tribunal, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

(s) "**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

(t) "**Indemnification Agreement**" means the agreement between the Company and each director designated by Purchaser, dated as of the Closing Date, in substantially the form of Exhibit C attached to this Agreement.

(u) "**Key Customer**" means, with respect to the Company and each Subsidiary, each of the top ten customers of the Business measured by the revenue generated by such customer for the Business during each of the six (6)-month periods ended June 30, 2018 and the year ended December 31, 2017.

(v) "**Key Employee**" means, with respect to the Company and each Subsidiary, each member of the Board of Directors, each "c-suite" officer, the Corporate Secretary, the Treasurer, any officer with a vice president position (including assistant and associate vice president positions) or higher position, and any employee whose total annualized compensation equals or exceeds \$200,000.

(w) "**Key Supplier**" means, with respect to the Company and each Subsidiary, each of the top ten suppliers or vendors to the Business measured by the expenditures made by the respective entity to such supplier or vendor during each of the six (6)-month period ended June 30, 2018 and the year ended December 31, 2017.

(x) "**Knowledge**" including the phrase "**to the Company's Knowledge**" and any variations thereof means the actual knowledge, after due inquiry, of Robert Gootee, David Evans and Tom Bikales and the knowledge that each would reasonably be expected to obtain in the course of performing his duties for the Company.

(y) "**Liability**" means any liability or obligation of any kind, character or description, whether absolute or contingent (including unasserted possible claims or assessments), accrued or unaccrued, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued or reflected on financial statements prepared in accordance with GAAP or is disclosed or required to be disclosed on any Schedule to this Agreement.

(z) "**Lien**" means any mortgage, deed of trust, title defect or restriction, lien or objection, pledge, security interest, hypothecation, restriction, transfer restriction, right of first refusal, adverse claim, conditional sales contract, easement, right-of-way, encumbrance, claims or charge of any kind or nature whatsoever.

(aa) "**Material Adverse Effect**" means a material adverse effect on (i) the Business, or assets (including Company Intellectual Property and intangible assets), Liabilities, financial condition, property, or results of operations of the Company, (ii) the value of the Shares or (iii) the ability of the Company to consummate the Transactions on a timely basis, except, in each case, to the extent the effect resulted from any (A) changes in general local, domestic, foreign or international economic conditions, (B) changes affecting generally the industries or markets in which the Company or its Subsidiaries operate, (C) acts of war, sabotage, terrorism or military action, (D) changes in Applicable Laws or accounting rules or principles, including changes in GAAP, (E) action required by this Agreement or (F) announcement of the Transactions, provided, in the case of clauses (A), (B) and (C) of this definition, such change or event does not have a substantially disproportionate effect on the subjects of clauses (i), (ii) or (iii) of this definition.



(bb) "**Material Contract**" means any contract that involves (i) obligations (contingent or otherwise) of, or payments to, the Company or a Subsidiary in excess of \$250,000, (ii) the license of any patent, copyright, trademark, trade secret or other proprietary right to or from the Company or any Subsidiary, (iii) the grant of rights to manufacture, produce, assemble, license, market, or sell products or services to any other Person that limit the Company's or a Subsidiary's exclusive right to develop, manufacture, assemble, distribute, market or sell such products or services, (iv) indemnification by the Company, (v) granting of a Lien on any of the Company's or any Subsidiary's assets, (vi) transactions outside of the ordinary course of Business, or (vii) Key Customers or Key Suppliers. Notwithstanding the foregoing, Material Contracts exclude Customer Contracts (other than Customer Contracts with Key Customers).

(cc) "**Note Consideration**" means consideration for the purchase of Shares being paid by the cancellation of outstanding notes and related security agreements issued by the Company and held by Purchaser dated (i) November 15, 2015 (\$20,000,000 original principal balance), (ii) May 16, 2016 (\$30,000,000 original principal balance) and (iii) June 29, 2017 (\$30,000,000 original principal balance), consisting of outstanding principal and accrued interest through and including the Closing Date in an amount determined in accordance with Schedule 1 hereto.

(dd) "**Permitted Liens**" means (i) liens for taxes not yet due and payable, (ii) mechanics', carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that are not delinquent and which are not, individually or in the aggregate, material to the Business, and (iii) liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the Business.

(ee) "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity, including a Government Authority.

(ff) "**Right of First Refusal and Co-Sale Agreement**" means the agreement among the Company, Purchaser, and the Stockholders, dated as of the Closing Date, in the form of Exhibit E attached to this Agreement.

(gg) "**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(hh) "**Stockholder Rights Agreement**" means the agreement among the Company, Purchaser and HoldCo dated as of the Closing Date, in the form of Exhibit D attached to this Agreement.

(ii) "**Transactions**" means the transactions contemplated by this Agreement, the Right of First Refusal Agreement and the Voting Agreement.

(jj) "**Transaction Agreements**" means this Agreement, the Stockholder Rights Agreement, the Right of First Refusal and Co-Sale Agreement, the Voting Agreement and any other agreement or certificate expressly required to be provided in connection with the Closing or the Transactions.

(kk) "**Voting Agreement**" means the agreement among the Company, Purchaser and HoldCo, dated as of the Closing Date, in the form of Exhibit F attached to this Agreement.

2. Representations and Warranties of the Company. The Company and Stockholders hereby represent and warrant to Purchaser that, except as set forth on the Disclosure Schedule attached as Exhibit B to this Agreement, which exceptions shall be deemed to be part of the representations and warranties made hereunder, the following representations are true and complete as of the Effective Date and as of the Closing. The Disclosure Schedule shall be arranged in sections corresponding to the numbered and lettered sections and subsections contained in this Section 2, and the disclosures in any section or subsection of the Disclosure Schedule shall qualify other sections and subsections in this Section 2 only to the extent it is reasonably apparent from a reading of the disclosure that such disclosure is applicable to such other sections and subsections.

2.1 Organization, Good Standing, Corporate Power and Qualification. The Company is, as of the Effective Date, a corporation duly organized and validly existing under the laws of the State of Oregon and, as of the Closing, a corporation organized, validly existing and in good standing under the laws of the State of Delaware. The Company has all requisite power and authority to carry on its Business. Each Stockholder and each Subsidiary is organized, validly existing and in good standing (to the extent applicable) in its respective jurisdiction of formation. The Company, each Stockholder and each Subsidiary is duly qualified or licensed as a foreign entity to transact business and is in good standing in each jurisdiction in which it is required to qualify or register to transact business. True and correct copies of the articles of incorporation, bylaws and other similar governing or constitutive documents of the Company, Stockholders and the Subsidiaries have been delivered to Purchaser (the "**Organizational Documents**"). The copy of the minute book of the Company delivered to Purchaser contains minutes of all meetings of directors and Stockholders and all actions by written consent without a meeting by the directors and Stockholders since January 1, 2015, and accurately reflects in all material respects all actions by the directors (and any committee of directors) and is with respect to all transactions referred to in such minutes.

2.2 Capitalization.

(a) The authorized capital of the Company consists, immediately prior to the Closing, of **40,000** shares of Common Stock, including:

(i) **20,000** shares of Class A Common Stock, \$0.0001 par value per share (the "**Class A Common Stock**"), of which **10,000** shares are issued and outstanding immediately prior to the Closing (the "**Outstanding Class A Common Stock**"). All of the outstanding shares of Class A Common Stock have been duly authorized, are fully paid and nonassessable and were issued in compliance with all applicable federal and state securities laws and Organizational Documents of the Company. The rights, privileges and preferences of the Class A Common Stock are as stated in the Certificate and as provided by the Delaware General Corporation Law.

(ii) **20,000** shares of Class B Common Stock, none of which are issued and outstanding immediately prior to the Closing. The rights, privileges and preferences of the Class B Common Stock are as stated in the Certificate and as provided by the Delaware General Corporation Law.

(b) The Company has not reserved for issuance or issued shares of Common Stock to officers, directors, employees and consultants of the Company pursuant to an equity incentive plan.

(c) Immediately prior to Closing: (i) no Person other than Stockholder owns, beneficially or of record, any shares of Capital Stock; (ii) Stockholder owns no Capital Stock other than the Outstanding Class A Common Stock; and (iii) there are no accrued and unpaid dividends with respect

to issued and outstanding shares of Capital Stock. Except for the rights provided in Section 3 of the Stockholder Rights Agreement and the securities and rights described in Section 2.2(a)(ii) of this Agreement, there are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal or similar rights) or agreements, orally or in writing, to purchase or acquire from the Company any shares of Common Stock, or any securities convertible into or exchangeable for shares of Common Stock.

(d) No Person, other than Purchaser, has any rights to purchase any of the Shares. Upon delivery of the Shares to Purchaser at the Closing, Purchaser will acquire sole legal and beneficial ownership of the Shares, free and clear of any Liens.

(e) On the Effective Date and immediately prior to Closing, Stockholders own, collectively, 100% of the Company's outstanding capital stock.

2.3 Subsidiaries. Section 2.3 of the Disclosure Schedule sets forth a true and complete list and description of ownership interests (including percentage of total ownership for ownership interests), including stock, options, warrants, partnership and limited liability company ownership interests and economic interests, held by the Company, directly or indirectly, in any other Person (each a "**Subsidiary**" and collectively, the "**Subsidiaries**"). The Company is not a participant in any joint venture, partnership or similar arrangement, other than through ownership of the Subsidiaries.

2.4 Authorization; Enforceability. All corporate action required to be taken by the Board of Directors and Stockholders in order to authorize the Company to enter into the Transaction Agreements, and to issue the Shares at the Closing, has been taken or will be taken prior to the Closing. All action on the part of the officers of the Company necessary for the execution and delivery of the Transaction Agreements, the performance of all obligations of the Company under the Transaction Agreements to be performed as of the Closing, and the issuance and delivery of the Shares has been taken or will be taken prior to the Closing. The Transaction Agreements, when executed and delivered by the Company and Stockholders, shall constitute valid and legally binding obligations of the Company and Stockholders, enforceable against the Company and Stockholders in accordance with their respective terms, except to the extent limited by bankruptcy and other insolvency laws, any laws limiting creditors' rights and judicial discretion with respect to equitable remedies. The Company and Stockholders each have the full right, power and authority to execute and deliver this Agreement and the other Transaction Agreements, and to perform their respective obligations hereunder or thereunder. Except as set forth on Section 2.4 of the Disclosure Schedule, the execution, delivery and performance of the Transaction Agreements by the Company and HoldCo and the consummation of the Transactions do not and will not: (a) require the consent, waiver, approval, license or other authorization of any Person (including any consent from ODS); (b) violate any provision of Applicable Law; (c) contravene, conflict with, or result in a violation of: (i) any provision of the Organizational Documents of the Company or HoldCo; or (ii) any resolution adopted by the manager(s), members or other governing bodies of HoldCo (including ODS) or the Company; or (d) conflict with, result in the termination of any provisions of, constitute a default under, accelerate any obligations arising under, trigger any payment under, result in the creation of any Lien pursuant to, or otherwise adversely affect, any Material Contract or Customer Contract to which (i) HoldCo or ODS is a party or by which any of its assets are bound where such termination, default or acceleration could reasonably be expected to materially affect the Company or its business, or the ability of the Company, HoldCo or ODS to perform their respective obligations hereunder, or (ii) Company is a party or by which any of its material assets are bound, in each such case with or without the giving of notice, the passage of time or both.

2.5 Valid Issuance of Shares. The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly issued, fully paid and nonassessable and free of restrictions on transfer or Liens, other than restrictions on transfer under the Transaction Agreements. The Shares will be issued in compliance with Applicable Laws and the Organizational Documents of the Company.

2.6 Government Consents and Filings. Except as set forth in Section 2.6 of the Disclosure Schedule, no consent, approval, order, notice or authorization of, or registration, qualification, designation, declaration or filing with, any Government Authority, including the Oregon Department of Consumer and Business Services and the Department of Justice, is required on the part of the Company in connection with the consummation of the Transactions, except for (a) the filing of the Certificate, which will have been filed as of the Closing, (b) filings pursuant to Regulation D of the Securities Act, and Applicable Laws, (c) filing pursuant to the HSR Act, all of which have been made or will be made in a timely manner, (d) filings made pursuant to Section 4.6, and (e) filings for a change of ownership for the Subsidiary engaged in the pharmacy business.

2.7 Litigation. Except as set forth in Section 2.7 of the Disclosure Schedule, there is no claim, action, suit, proceeding, arbitration, hearing, complaint, charge or investigation of any nature, public or private (a "**Proceeding**") pending or to the Company's Knowledge, currently threatened (a) against the Company, any Subsidiary or any officer, director or Key Employee of the Company or any Subsidiary or (b) that questions the validity of the Transaction Agreements or the right of the Company to enter into them, or to consummate the Transactions. Neither the Company, any Subsidiary nor, to the Company's Knowledge, any of their respective officers, directors or Key Employees is a party or is named as subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality (in the case of officers, directors or Key Employees, such as would affect the Company or any Subsidiary). Except as set forth in Section 2.7 of the Disclosure Schedule, there is no action, suit, proceeding or investigation by the Company or any Subsidiary pending or which the Company or any Subsidiary intends to initiate. The foregoing includes actions, suits, proceedings or investigations pending or threatened in writing (or of which the Company has Knowledge) involving the prior employment of any of the Company's or any Subsidiary's employees, their services provided in connection with the Business, any information or techniques allegedly proprietary to any of their former employers or their obligations under any agreements with prior employers.

2.8 Intellectual Property. The Company owns or possesses or can acquire on commercially reasonable terms sufficient legal rights to all Company Intellectual Property without any known conflict with, or infringement of, the rights of others, including prior employees or consultants, or academic or medical institutions with which any of them may be affiliated now or may have been affiliated in the past. To the Company's Knowledge, no product or service marketed or sold (or proposed to be marketed or sold) by the Company or any Subsidiary violates or will violate any license or infringes or will infringe any intellectual property rights of any other Person. Other than with respect to commercially available software products under standard end-user object code license agreements, and except as set forth on Section 2.8 of the Disclosure Schedule, there are no outstanding options, licenses, agreements, claims, encumbrances or shared ownership interests of any kind relating to the Company Intellectual Property, nor is the Company or any Subsidiary bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other Person. Neither the Company nor any Subsidiary has received any written communications alleging that the Company or any Subsidiary has violated any of the patents, trademarks, service marks, tradenames, copyrights, trade secrets, mask works or other proprietary rights or processes of any other Person. The Company has obtained and possesses valid licenses to use all of the software programs present on the computers and other software-enabled electronic devices that it owns, leases, or uses in connection with the Business.

Each Key Employee and each employee and consultant whose primary responsibility at the Company is to create intellectual property for the Company, including software developers, has assigned to the Company or a Subsidiary all intellectual property rights he or she owns that are related to the Business and all intellectual property rights that he, she or it solely or jointly conceived, reduced to practice, developed or made during the period of his, her or its employment or consulting relationship with the Company or any Subsidiary that (a) relate, at the time of conception, reduction to practice, development, or making of such intellectual property right, to the Business as then conducted or as then proposed to be conducted, (b) were developed on any amount of the Company's or any Subsidiary's time or with the use of any of the Company's or any Subsidiary's equipment, supplies, facilities or information or (c) resulted from the performance of services for the Company or any Subsidiary. Section 2.8 of the Disclosure Schedule lists all patents, patent applications, registered trademarks, trademark applications, service marks, service mark applications, tradenames, registered copyrights, and licenses to and under any of the foregoing, in each case owned by the Company or any Subsidiary. Neither the Company nor any Subsidiary has embedded any open source, copyleft or community source code in any of its products generally available or in development, including any libraries or code licensed under any General Public License, Lesser General Public License or similar license arrangement. No government or university funding or facilities was used in the development of any Company Intellectual Property. No Person who was involved in, or who contributed to, the creation or development of any Company Intellectual Property, has performed services for the government, university, college, or other educational institution or research center in a manner that would materially affect the Company's rights in the Company Intellectual Property created by such Person.

2.9 Compliance with Applicable Law. Neither the Company nor any Subsidiary is in violation or default (a) of any provisions of its Organizational Documents, (b) of any instrument, judgment, order, writ or decree, (c) under any note, indenture or mortgage, (d) under any Contract to which it is a party or by which it is bound, or (e) of any provision of any Applicable Law. The execution, delivery and performance of the Transaction Agreements and the consummation of the Transactions will not result in any such violation or be in conflict with or constitute, with or without the passage of time and giving of notice, either (y) a default under any such provision, instrument, judgment, order, writ, decree, contract or agreement or (z) an event which results in the creation of any lien, charge or encumbrance upon any assets of the Company or the suspension, revocation, forfeiture, or nonrenewal of any material permit or license applicable to the Company.

2.10 Agreements; Key Customers and Key Suppliers.

(a) Except for the Transaction Agreements and the Contracts set forth on Section 2.10(a) of the Disclosure Schedule, there are no agreements, understandings, instruments, Contracts or proposed transactions to which the Company or a Subsidiary is a party or by which any of them is bound that are Material Contracts. True and complete copies of all Material Contracts have been provided to Purchaser. Except as specifically described in Section 2.10(a) of the Disclosure Schedule, neither the Company nor any Subsidiary is in: (i) material breach, violation or default under (or taken or failed to take any action that, with the giving of notice, the passage of time or both would constitute a material default or event of default under); or (ii) to the Company's Knowledge received notice that the Company or any Subsidiary has breached, violated or defaulted under (or taken or failed to take any action that, with the giving of notice, the passage of time or both would constitute a default or event of default under), any Material Contract or Customer Contract. To the Company's Knowledge, no other party obligated to the Company or a Subsidiary pursuant to any Company Contract or Subsidiary Contract is in material breach, violation or default under (or taken or failed to take any action that, with the giving of notice, the passage of time or both would constitute a material default or event of default with respect to) any obligation under such Contract. All of the Material Contracts and Customer Contracts were entered into with bona fide third parties in arms-length transactions. All Contracts of the Company and

the Subsidiaries: (i) are valid and enforceable in accordance with their terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting enforcement of creditors' rights generally, and by general principles of equity; (ii) are in full force and effect; and (iii) will continue to be valid and enforceable and in full force and effect on identical terms following the Closing.

(b) The Company is not a guarantor or indemnitor of any indebtedness of any other Person.

(c) The Company has not engaged in the past three (3) months in any discussion with any representative of any Person, other than Purchaser, regarding (i) a sale or exclusive license of all or substantially all of the Company's assets, or (ii) any merger, consolidation or other business combination transaction of the Company with or into another Person.

(d) Section 2.10(d) of the Disclosure Schedules sets forth lists of the Key Customers and Key Suppliers, indicating, as applicable, the revenues generated during each of the six (6)-month period ended June 30, 2018 and the year ended December 31, 2017 by each Key Customer, and the expenditures made during such each such period with respect to each Key Supplier. No Key Customer or Key Supplier has given written notice that it intends to terminate or materially reduce its relationship with the Business. To the Company's Knowledge, (i) no such Key Customer or Key Supplier intends to terminate or materially reduce its relationship with the Business and (ii) there are no reasonable grounds, arising from the conduct of the Company or its Subsidiaries, for any such Key Customer or Key Supplier to terminate or materially reduce its relationship with the Business.

(e) The Company has provided the Purchaser its form or forms of Customer Contracts. The terms and conditions of all material Customer Contracts conform in all material respects to such forms (other than with respect to coverage amount and similar information).

## 2.11 Certain Transactions.

(a) Other than (i) employee benefits generally made available to all employees, (ii) director and officer indemnification agreements approved by the Board of Directors, and (iii) the purchase of shares of the Company's capital stock and the issuance of options to purchase shares of the Company's Common Stock, in each instance, approved in the written minutes of the Board of Directors (previously provided to Purchaser or its counsel), there are no agreements, understandings or proposed transactions between the Company or any Subsidiary and any of their respective officers, directors, consultants or Key Employees, or any Affiliate thereof.

(b) Except as described in Section 2.11(b) of the Disclosure Schedule neither the Company nor any Subsidiary is indebted, directly or indirectly, to any of its directors, officers or employees or to their respective spouses or children or to any Affiliate of any of the foregoing, other than in connection with expenses or advances of expenses incurred in the ordinary course of business or employee relocation expenses and for other employee benefits made generally available to all employees. None of the Company's or any Subsidiary's directors, officers or employees, or any members of their immediate families, or any Affiliate of the foregoing are, directly or indirectly, indebted to the Company or any Subsidiary or have any (i) material commercial (excluding participating provider agreements), industrial, banking, consulting, legal, accounting, charitable or familial relationship with any of the Company's or any Subsidiary's customers, suppliers, service providers, joint venture partners, licensees and competitors, (ii) direct or indirect ownership interest in any firm or corporation with which the Company or any Subsidiary is affiliated or with which the Company or any Subsidiary has a business relationship, or any firm or corporation which competes with the Company or any Subsidiary except that

directors, officers, employees or Stockholders of the Company or equityholders of any Subsidiary may own stock in (but not exceeding two percent (2%) of the outstanding capital stock of) publicly traded companies that may compete with the Company; or (iii) financial interest in any Material Contract or Customer Contract.

2.12 Voting Rights. The Company is not under any obligation to register under the Securities Act any of its currently outstanding securities or any securities issuable upon exercise or conversion of its currently outstanding securities. Except as contemplated in the Voting Agreement, neither the Company nor the Stockholders have entered into any agreements with respect to the voting of capital shares of the Company.

2.13 Property. The property and assets that the Company and the Subsidiaries own are free and clear of all Liens, except for statutory liens for the payment of current taxes that are not yet delinquent and encumbrances and Liens that arise in the ordinary course of business and do not materially impair the Company's or the Subsidiaries' ownership or use of such property or assets. With respect to the property and assets it leases, the Company and each Subsidiary is in compliance with such leases and holds a valid leasehold interest free of any Liens, other than those of the lessors of such property or assets. To the Company's Knowledge, there are no existing conditions that could become defaults by the Company, any Subsidiary or any landlord or lessor in any leases with the passage of time, the giving of notice or both. The Transactions will not result in any default, penalty or modification under or to any real property lease to which the Company or any Subsidiary is a party. The Company and each Subsidiary does not own any real property.

2.14 Financial Statements. The Company has delivered to each Purchaser its consolidated audited financial statements as of December 31, 2017 and for the three (3) preceding fiscal years prior to the fiscal year ended December 31, 2017, as well as unaudited financial statements as of June 30, 2018 (collectively, the "**Financial Statements**"). The Financial Statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**") applied on a consistent basis throughout the periods indicated. The Financial Statements fairly present in all material respects the financial condition and operating results of the Company and the Subsidiaries as of the dates, and for the periods, indicated therein. Except as set forth in the Financial Statements, the Company has no material Liabilities or obligations, contingent or otherwise, other than (i) obligations under contracts and commitments incurred in the ordinary course of business; and (ii) Liabilities and obligations of a type or nature not required under GAAP to be reflected in the Financial Statements, which, in all such cases, individually and in the aggregate are not material. The Company maintains a standard system of accounting established and administered in accordance with GAAP.

2.15 Changes. Since January 1, 2018 and except as set forth in Section 2.15 of the Disclosure Schedule, there has not been:

- (a) any change in the assets, Liabilities, financial condition or operating results of the Company or any Subsidiary from that reflected in the Financial Statements, except changes in the ordinary course of business which, individually or in the aggregate, are not material;
- (b) any material damage, destruction or loss, whether or not covered by insurance of any property owned by the Company or any of its Subsidiaries;
- (c) any waiver or compromise by the Company of a material right or of a material debt owed to it;

- (d) any satisfaction or discharge of any Lien or payment of any obligation by the Company, except in the ordinary course of business and the satisfaction or discharge;
- (e) any material change to a Material Contract or Customer Contract;
- (f) any material change in any compensation arrangement or agreement with any employee, officer, director or Stockholder other than in the ordinary course of business;
- (g) any resignation or termination of employment of any senior executive officer or Key Employee of the Company;
- (h) any mortgage, pledge, transfer of a security interest in, or Lien, created by the Company or any Subsidiary, with respect to any of its material properties or assets, except Liens for taxes not yet due or payable and liens that arise in the ordinary course of business and do not materially impair the Company's or Subsidiary's ownership or use of such property or assets;
- (i) any loans or guarantees made by the Company or any Subsidiary to or for the benefit of its employees, officers or directors, or any members of their immediate families, other than travel advances and other advances made in the ordinary course of its business;
- (j) any declaration, setting aside or payment or other distribution in respect of any of the Company's Capital Stock, or any direct or indirect redemption, purchase, or other acquisition of any of such stock by the Company;
- (k) any sale, assignment or transfer of any Company Intellectual Property;
- (l) receipt of notice that there has been a loss of, or material order cancellation by, any major customer of the Company or any Subsidiary;
- (m) any other event or condition of any character that could reasonably be expected to result in a Material Adverse Effect; or
- (n) any arrangement or commitment by the Company to do any of the things described in this Section 2.15.

#### 2.16 Employee Matters.

(a) As of the Effective Date, Company employs 1,253 full-time employees and 20 part-time employees and engages 20 consultants or independent contractors. The Company has delivered to Purchaser a schedule containing true and complete information regarding the current salary, bonus, severance obligations and deferred compensation paid or payable to each Key Employee. Schedule 2.16 contains the names of any Key Employee who is absent from work due to a work-related injury, is receiving workers' compensation or is receiving disability payments.

(b) To the Company's Knowledge, none of the Key Employees or directors of the Company or any Subsidiaries are obligated under any Contract, or subject to any judgment, decree or order of any court or administrative agency, that would materially interfere with such Key Employee's ability to promote the interests of the Company or that would conflict with the Business. Neither the execution or delivery of the Transaction Agreements, nor the carrying on of the Business by the Key Employees of the Company, nor the conduct of the Business, will, to the Company's Knowledge, conflict with or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any



Contract, covenant or instrument under which any such employee is now obligated.

(c) Neither the Company nor any Subsidiary is delinquent in payments to any of its employees, consultants, or independent contractors for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the Effective Date or amounts required to be reimbursed to such employees, consultants or independent contractors. The Company and each Subsidiary has complied in all material respects with Applicable Laws related to wages, hours, worker classification and collective bargaining. The Company and each Subsidiary has withheld and paid to the appropriate Government Authority or is holding for payment not yet due to such Government Authority all amounts required to be withheld from employees of the Company and each Subsidiary and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

(d) To the Company's Knowledge, no Key Employee intends to terminate employment with the Company or any Subsidiary. The Company does not have a present intention to terminate the employment of any of the foregoing. The employment of each employee of the Company and each Subsidiary is terminable at the will of the Company or such Subsidiary. Except as set forth in Section 2.16(d) of the Disclosure Schedule or as required by law, upon termination of the employment of any such employees, no severance or other payments will become due. Except as set forth in Section 2.16(d) of the Disclosure Schedule, neither the Company nor any Subsidiary has a policy, practice, plan or program of paying severance pay or any form of severance compensation in connection with the termination of employment services.

(e) Neither the Company nor any Subsidiary has made any representations regarding equity incentives to any officer, employee, director or consultant that are inconsistent with the share amounts and terms set forth in the minutes of meetings of the Company's or a Subsidiary's board of directors.

(f) Section 2.16(f) of the Disclosure Schedule sets forth each employee benefit plan maintained, established or sponsored by the Company or a Subsidiary, or which the Company or any Subsidiary participates in or contributes to, which is subject to the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"). The Company or a Subsidiary has made (or accrued in accordance with its past custom or practice) all required contributions and has no Liability to any such employee benefit plan, other than accrued but unpaid contributions and Liability for health plan continuation coverage described in Part 6 of Title I(B) of ERISA, and has complied in all material respects with all Applicable Laws for any such employee benefit plan.

(g) Neither the Company nor any Subsidiary is bound by or subject to (and none of its assets or properties is bound by or subject to) any written or oral, express or implied, Contract, commitment or arrangement with any labor union, and no labor union has requested or, to the knowledge of the Company or any Subsidiary, has sought to represent any of the employees, representatives or agents of the Company. There is no strike or other labor dispute involving the Company or any Subsidiary pending, or to the Company's Knowledge, threatened, which could have a Material Adverse Effect, nor is the Company or any Subsidiary aware of any labor organization activity involving its employees.

2.17 Tax Returns and Payments. There are no federal, state, county, local or foreign taxes due and payable by the Company or any Subsidiary which have not been timely paid. There are no accrued and unpaid federal, state, country, local or foreign taxes of the Company or any Subsidiary which are due, whether or not assessed or disputed. There have been no examinations or audits of any tax returns or reports by any Government Authority. The Company and each Subsidiary has duly and timely filed all

federal, state, county, local and foreign tax returns required to have been filed by it and there are in effect no waivers of applicable statutes of limitations with respect to taxes for any year.

2.18 Insurance. Except as set forth in Section 2.18 of the Disclosure Schedule, the Company has (a) in full force and effect insurance policies covering such risks, and carrying such coverage limits, exclusions and deductibles, that are comparable in all material respects to those generally maintained by similar companies in the Company's industry, and (b) delivered to Purchaser true and complete copies of all policies of insurance covering the Company, the Business and its directors and officers.

2.19 Permits. The Company and each Subsidiary has all franchises, permits, licenses, approvals, authorizations, qualifications and any similar authority, including those required by Applicable Law ("**Permits**"), necessary for the conduct of the Business, including Permits required by the U.S. Food and Drug Administration ("**FDA**") or any other federal, state or foreign agencies or bodies engaged in the regulation of drugs, pharmaceuticals, medical devices or biohazardous materials. The Company is not in default in any material respect under any of such Permits. The Business is presently, and has at all times been, conducted in all material respects in compliance with all Applicable Laws. Neither the Company nor any Subsidiary has received notice of any alleged violation, breach or default of or under any such Applicable Laws or Permits. The Permits constitute all of the Permits and other registrations necessary for the conduct of the Business and the ownership or operation of the Company's and each Subsidiary's assets.

2.20 Real Property Holding Corporation. The Company is not now and has never been a "United States real property holding corporation" as defined in the Code and any applicable regulations promulgated thereunder.

2.21 Environmental and Safety Laws. The Company and each Subsidiary is presently and has at all times been in compliance with all Environmental Laws. There has been no release or threatened release of any pollutant, contaminant or toxic or hazardous material, substance or waste or petroleum or any fraction thereof (each a "**Hazardous Substance**"), on, upon, into or from any site currently or heretofore owned, leased or otherwise used by the Company or any Subsidiary. There have been no Hazardous Substances generated by the Company or any Subsidiary that have been disposed of or come to rest at any site that has been included in any published U.S. federal, state or local "superfund" site list or any other similar list of hazardous or toxic waste sites published by any Government Authority in the United States. There are no underground storage tanks located on, no polychlorinated biphenyls ("**PCBs**") or PCB-containing equipment used or stored on, and no hazardous waste as defined by the Resource Conservation and Recovery Act, as amended, stored on, any site owned or operated by the Company or any Subsidiary, except for the storage of hazardous waste in compliance with Environmental Laws. The Company has delivered to Purchaser true and complete copies of all material environmental records, reports, notifications, certificates of need, permits, pending permit applications, correspondence, engineering studies and environmental studies or assessments. For purposes of this Section 2.21, "**Environmental Law**" means any law, regulation, or other applicable requirement relating to (a) releases or threatened release of Hazardous Substance, (b) pollution or protection of employee health or safety, public health or the environment, or (c) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Substances.

2.22 Disclosure. The Company has delivered to Purchaser all information that Purchaser has requested in connection with its diligence investigation for purposes of deciding whether to acquire the Shares, including certain of the Company's projections describing its proposed business plan.

2.23 Foreign Corrupt Practices Act. Neither the Company, any Subsidiary nor any of their respective directors, officers, employees or agents have, directly or indirectly, made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any "foreign official" (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA")), foreign political party or official thereof or candidate for foreign political office for the purpose of (a) influencing any official act or decision of such official, party or candidate, (b) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign Government Authority, or (c) securing any improper advantage, in the case of (a), (b) and (c) above in order to assist the Company or any of its affiliates in obtaining or retaining business for or with, or directing business to, any person. Neither the Company, any Subsidiary nor any of their respective directors, officers, employees or agents have made or authorized any bribe, rebate, payoff, influence payment, kickback or other unlawful payment of funds or received or retained any funds in violation of any Applicable Law. Neither the Company, any Subsidiary nor any of their respective officers, directors or employees are the subject of any allegation, voluntary disclosure, investigation, prosecution or other enforcement action related to the FCPA or any other anti-corruption law.

2.24 Data Privacy. In connection with its collection, storage, transfer (including any transfer across national borders) and/or use of any personally identifiable information from any individuals, including any customers, prospective customers, employees and/or other third parties (collectively "**Personal Information**"), the Company and each Subsidiary is and has been in compliance with all Applicable Laws in all relevant jurisdictions, the Company's and the Subsidiaries' privacy policies and the requirements of any Contract to which the Company or any Subsidiary is a party. The Company maintains security measures and policies to protect all Personal Information collected by it or on its behalf from and against unauthorized access, use and/or disclosure that are comparable in all material respects to those generally maintained by other companies in the Company's industry. To the extent the Company and any Subsidiary maintains or transmits protected health information, as defined under 45 C.F.R. § 160.103, the Company and each such Subsidiary is in compliance with the applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, including all rules and regulations promulgated thereunder. The Company and each Subsidiary is and has been in compliance in all material respects with all Applicable Laws relating to data loss and data theft.

2.25 Export Control Laws. The Company has conducted all export transactions in accordance with applicable provisions of United States export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, the regulations administered by the Office of Foreign Assets Control of the U.S. Treasury Department, and the export control laws and regulations of any other applicable jurisdiction. Without limiting the foregoing: (a) the Company has obtained all export licenses and other approvals, timely filed all required filings and has assigned the appropriate export classifications to all products, in each case as required for its exports of products, software and technologies from the United States and any other applicable jurisdiction; (b) the Company is in compliance with the terms of all applicable export licenses, classifications, filing requirements or other approvals; (c) there are no pending or threatened claims against the Company with respect to such exports, classifications, required filings or other approvals; (d) there are no pending investigations related to the Company's exports; and (e) there are no actions, conditions, or circumstances pertaining to the Company's export transactions that would reasonably be expected to give rise to any material future claims.

2.26 Regulatory Matters. Except as set forth in Section 2.26 of the Disclosure Schedule, neither the Company nor any Subsidiary is or has been subject to any compliance plan, risk based capital plan, consent decree, settlement agreement or other similar arrangements with any Government Authority, including the Oregon Department of Consumer and Business Services and the

Department of Justice. Neither the Company nor, to the Company's knowledge, any officer, employee or agent of the Company has been convicted of any crime or engaged in any conduct that has previously caused or would reasonably be expected to result in (a) disqualification or debarment by the FDA under 21 U.S.C. Sections 335(a) or (b), or any similar law, rule or regulation of any other Government Authority, (B) debarment, suspension, or exclusion under any Federal healthcare programs or by the General Services Administration, or (c) exclusion under 42 U.S.C. Section 1320a-7 or any similar law, rule or regulation of any Government Authority. Neither the Company nor any of its officers, employees, or to the Knowledge of the Company, any of its contractors or agents is the subject of any pending or threatened investigation by FDA pursuant to its "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities" policy as stated at 56 Fed. Reg. 46191 (September 10, 1991) (the "**FDA Application Integrity Policy**") and any amendments thereto, or by any other similar Government Authority pursuant to any similar policy. Neither the Company nor any of its officers, employees, contractors, and agents has committed any act, made any statement or failed to make any statement that would reasonably be expected to provide a basis for FDA to invoke the FDA Application Integrity Policy or for any similar governmental entity to invoke a similar policy. Neither the Company nor any of its officers, employees, or to the Company's Knowledge, any of its contractors or agents has made any materially false statements on, or material omissions from, any notifications, applications, approvals, reports and other submissions to FDA or any similar governmental entity.

3. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to the Company that:

3.1 Organization, Good Standing and Corporate Power. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all requisite corporate power and authority to carry on its business as now conducted.

3.2 Authorization. Purchaser has full power and authority to enter into the Transaction Agreements. The Transaction Agreements to which Purchaser is a party, when executed and delivered by Purchaser, will constitute valid and legally binding obligations of Purchaser, enforceable in accordance with their terms, except to the extent limited by bankruptcy and other insolvency laws, any laws limiting creditors' rights and judicial discretion with respect to equitable remedies.

3.3 Purchase Entirely for Own Account. This Agreement is made with Purchaser in reliance upon Purchaser's representation to the Company, which by Purchaser's execution of this Agreement, Purchaser hereby confirms, that the Shares will be acquired for investment for Purchaser's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same. Purchaser does not presently have any Contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participations to such Person or to any third Person, with respect to any of the Shares. Purchaser has not been formed for the specific purpose of acquiring the Shares.

3.4 Restricted Securities. Purchaser understands that the Shares have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of Purchaser's representations as expressed herein. Purchaser understands that the Shares are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to these laws, Purchaser must hold the Shares indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. Purchaser acknowledges that the Company has no obligation to register or qualify the Shares, or the Common Stock into which it

may be converted, for resale. Purchaser further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including the time and manner of sale, the holding period for the Shares, and on requirements relating to the Company which are outside of Purchaser's control, and which the Company is under no obligation and may not be able to satisfy.

3.5 No Public Market. Purchaser understands that no public market now exists for the Shares, and that the Company has made no assurances that a public market will ever exist for the Shares.

3.6 Legends. Purchaser understands that the Shares and any securities issued in respect of or exchange for the Shares, may be notated with one or all of the following legends:

"THE SHARES REPRESENTED HEREBY (THE 'SHARES') HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH TRANSFER MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

THE SHARES ARE SUBJECT TO, AND THE SALE OR OTHER DISPOSITION OF THE SHARES IS RESTRICTED BY, THE TERMS OF A (I) STOCKHOLDER RIGHTS AGREEMENT, (II) VOTING AGREEMENT AND (III) RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT (COLLECTIVELY, THE 'STOCKHOLDER AGREEMENTS'). COPIES OF THE STOCKHOLDER AGREEMENTS ARE AVAILABLE AT THE OFFICE OF THE COMPANY. THE SHARES MAY BE SOLD, TRANSFERRED, PLEDGED, OR OTHERWISE DISPOSED OF ONLY UPON COMPLIANCE WITH THE STOCKHOLDER AGREEMENTS."

(a) Any legend set forth in, or required by, the other Transaction Agreements.

(b) Any legend required by the securities laws of any state to the extent such laws are applicable to the Shares represented by the certificate, instrument, or book entry so legended.

3.7 Accredited Investor. Purchaser is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

3.8 No General Solicitation. Neither Purchaser, nor any of its officers, directors, employees, agents, stockholders or partners has either directly or indirectly, including, through a broker or finder (a) engaged in any general solicitation, or (b) published any advertisement in connection with the offer and sale of the Shares.

#### 4. Covenants.

4.1 Conduct of Business. From the Effective Date until the Closing Date, except for transactions expressly contemplated by this Agreement, the Company shall, and shall Cause the Subsidiaries to, conduct the Business solely in the ordinary course consistent with past practices and shall use its commercially reasonable efforts to preserve intact the business organization, relationships with

third parties and goodwill of the Company and the Subsidiaries and to keep available the services of the present officers, employees, agents and other personnel of the Company and the Subsidiaries. Without limiting the generality of the foregoing, from the Effective Date until the Closing Date or earlier termination of this Agreement:

(a) without Purchaser's prior consent, which it will not unreasonably withhold, condition or delay, except as expressly contemplated by this Agreement, the Company and the Subsidiaries will not:

(i) purchase or otherwise acquire assets from any Person other than in bona fide, arms-length transactions entered into in the ordinary course of business consistent with past practice;

(ii) sell, assign, lease, license, transfer or otherwise dispose of, any of its assets, tangible or intangible, including any material claim or right against any Person, except for sales of inventory or obsolete equipment in the ordinary course of business consistent with past practices;

(iii) except as described in Section 4.1(a)(iii) of the Disclosure Schedules, incur any Liability, except in the ordinary course of business consistent with past practice;

(iv) amend or modify in any material respect or enter into or terminate any Material Contract or Customer Contract, except in the ordinary course of business consistent with past practice;

(v) except in the ordinary course of business consistent with past practice, waive, cancel or take any other action materially impairing any of its rights;

(vi) (A) increase the rate or terms of compensation payable or to become payable to its directors, officers or employees, except for routine seniority increases to non-management employees consistent with past practices; (B) pay or agree to pay any pension, retirement allowance or other employee benefit not provided for by any Contract or employee benefit plan of the Company or a Subsidiary, except for the booking and payment of previously earned deferred compensation; (C) commit to any additional pension, profit sharing, bonus, incentive, deferred compensation, stock purchase, stock option, stock appreciation right, group insurance, severance pay, continuation pay, termination pay, retirement or other employee benefit plan, agreement or arrangement, or increase the rate or terms of any employee benefit plan of the Company or a Subsidiary; or (D) enter into any employment, severance, change-of-control or similar agreement with or for the benefit of any Person provided that Company may hire non-management employees in the ordinary course of the business, consistent with past practices, so long as such employees are terminable on an at-will basis and without liability;

(vii) make any material change in its accounting methods, other than as required by changes in GAAP or Applicable Law, in the manner of keeping its books and records, or in its current practices with respect to sales, receivables, inventories, payables or accrued expenses;

(viii) permit or suffer to exist any new Lien on or against any of the Company's assets, other than Permitted Liens;

(ix) take any action which would limit its ability to comply with its obligations under the Transaction Agreements or enter into any Contracts or incur any obligation that would prohibit, or require any third party to consent to, or which would be breached by or result in a direct or indirect penalty or cost to such Person, or any of their respective Affiliates, as a result of the Transactions; or

(x) enter into any commitment or agreement to do any of the foregoing.

(b) The Company will, and will Cause the Subsidiaries to:

(i) promptly notify Purchaser of any action, event, condition or circumstance, or group of actions, events, conditions or circumstances relating specifically to the Business that has had or would reasonably be expected to have a Material Adverse Effect;

(ii) promptly notify Purchaser in writing of the commencement of any Proceeding by or against the Company, or upon becoming aware of any claim, inquiry, Proceeding, notice of violation, subpoena, government audit or disallowance that, in each case is threatened or would reasonably be expected to result in a Proceeding, in each case related to or affecting any part of the Business, or challenging or seeking to enjoin or delay the Transactions, and provide copies of all related pleadings and non-privileged correspondence; and

(iii) promptly notify Purchaser in writing of the occurrence of any event or existence of any fact that would cause any representation or warranty contained herein to be inaccurate when made or as if made on the date of the occurrence of, or the discovery of, such fact, or that would cause any covenant or agreement contained herein to be breached or incapable of performance.

(c) take any action which would affect its ability to comply with its obligations under the Transaction Agreements; or

(d) sell, transfer or otherwise dispose of any of shares of the Company's Capital Stock, or any interest therein, or create (or permit the creation of) any Lien on any thereof, or enter into any agreement to do any of the foregoing, except as otherwise expressly provided in the Transaction Agreements.

4.2 Access. From the Effective Date through the Closing Date, the Company shall, and the Company shall cause each Subsidiary to, afford Purchaser and its representatives full access during normal business hours, and in a manner so as not to unduly interfere with the normal operations of the Business, to the premises, properties, books and records (including tax records), Contracts and documents of or pertaining to the Company, the Subsidiaries and Business and such other additional information as is reasonably available with respect thereto as Purchaser reasonably requests.

4.3 No Other Discussions. Between the Effective Date and the Closing, neither the Company, the Subsidiaries, nor any of their respective Affiliates, agents or other representatives shall solicit, encourage (including by way of furnishing any information concerning the Company or all or any portion of the Business), enter into or continue discussions concerning, substantively respond to or otherwise consider any other Acquisition Proposal. As used in this Agreement, "**Acquisition Proposal**" means a proposal (whether or not it constitutes an agreement or understanding, oral or written) for the acquisition of all or any portion of the shares or other ownership interests of the Company, or all or any substantial part of the Company's assets (other than sales of finished goods in the ordinary course of

business) or the Business, in each case, whether by merger, other business combination, stock or other interest purchase, asset purchase or otherwise.

4.4 Further Assurances. From time to time (including after the Closing), Purchaser, the Company and Stockholders will promptly execute and deliver such other documents, certificates, agreements and other writings and take such other actions as may reasonably be necessary or requested by another Party in order to consummate, evidence or implement expeditiously the Transactions. No such document shall expand the scope or duration of the representations, warranties, covenants or indemnities beyond the scope of this Agreement, nor affect any statute of limitations.

4.5 HSR Act Filing. Each of Purchaser and Company shall, and shall cause their respective Subsidiaries and Affiliates to, promptly make all filings and notifications with all Governmental Authorities that may be or may become necessary, proper or advisable under Applicable Laws to consummate and make effective the Transactions. Purchaser and the Company shall file the notification and report form required under the HSR Act or other Applicable Law as soon as practicable after the Effective Date. Purchaser and the Company shall not, without the prior written consent of the other Party, extend the waiting period under the HSR Act or a comparable period under any other Applicable Law. Purchaser and the Company each shall, and shall cause their respective Subsidiaries and Affiliates to, supply as promptly as practicable any information and documentary material that may be requested by any Government Authority pursuant to other Applicable Laws. The Company will pay the HSR filing fees of both Purchaser and the Company.

4.6 Insurance Regulatory Filings. Purchaser and the Company shall file all pre-notification and report form(s) as may be required under the Oregon Insurance Holding Company Act, the California Knox Keene Act or other Applicable Law as soon as practicable, and in any event within thirty (30) days, after the Effective Date. Purchaser and the Company shall not, without the prior written consent of the other Party, extend any waiting period provided thereunder. Purchaser and the Company each shall, and shall cause their respective Subsidiaries and Affiliates to, supply as promptly as practicable any information and documentary material that may be requested by any Government Authority pursuant to such rules and any other Applicable Laws.

4.7 Company Update. Until the Closing Date, the Company may disclose to Purchaser in writing any inaccuracy with respect to any representation or warranty given by the Company or any Stockholder in this Agreement that arises due to a change in circumstances or fact after the Effective Date, which change in circumstance or fact could not have reasonably been anticipated by the Company (each a "**Company Update**"). Each Company Update shall be a "redline comparison" or shall otherwise clearly identify the specific inaccuracy of the applicable representation or warranty. Within fifteen (15) days after a Company Update is delivered (with the Closing Date being automatically extended to provide Purchaser with the full fifteen (15)-day period), Purchaser may: (a) terminate this Agreement by delivering a termination notice to the Company (a "**Termination Notice**") before the fifteen (15)-day period expires, in which event this Agreement shall be automatically terminate, and the Parties shall be released from further obligation or Liability hereunder and shall have no further obligations in connection herewith or; (b) proceed to Closing on the terms and conditions set forth in this Agreement, *provided* that the Company shall be responsible for the reasonable legal fees of Purchaser incurred in drafting and negotiating this Agreement and conduct legal due diligence if the Company Update discloses a material inaccuracy and such inaccuracy is solely due to the Company's gross negligence, intentional breach of this Agreement, intentional acts or intentional omissions. If Purchaser does not timely deliver a Termination Notice within the fifteen (15)-day period set forth above, then: (i) Purchaser shall be deemed to have accepted the disclosures set forth in the Company Update; (ii) the Company Update shall amend the Company's disclosures in its Disclosure Schedules and cure the



misrepresentation that otherwise existed by reason of the inaccuracy; and (iii) Purchaser shall have no claim against any Seller for the original inaccuracy.

5. Conditions to Purchaser's Obligations at Closing. The obligation of Purchaser to purchase the Shares at the Closing is subject to the fulfillment, on or before Closing, of each of the following conditions, unless otherwise waived:

5.1 Representations and Warranties. The representations and warranties of the Company contained in Section 2 of this Agreement shall be true and correct in all material respects as of the Effective Date and as of the Closing, disregarding for purposes of determining whether this condition is satisfied any references to materiality or to Material Adverse Effect in such representations and warranties.

5.2 Performance. The Company shall have performed and complied in all material respects with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by the Company on or before Closing, disregarding for purposes of determining whether this condition is satisfied any references to materiality or to Material Adverse Effect in such covenants, agreements, obligations and conditions.

5.3 Compliance Certificate. The President of the Company shall deliver to Purchaser at Closing a certificate certifying that the conditions specified in Sections 5.1 and 5.2 of this Agreement have been fulfilled.

5.4 Qualifications. All Permits of any Government Authority that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of Closing and the waiting period pursuant to the HSR Act shall have expired.

5.5 Board of Directors. As of the Closing, the authorized size of the Board shall be five, and the Board shall be comprised of: (a) Anthony S. Barth; (b) Heidi Yodowitz; (c) David Howerton; (d) Molly Bordonaro; and (e) Robert Gootee.

5.6 Indemnification Agreement. The Company shall have executed and delivered the Indemnification Agreements.

5.7 Stockholder Rights Agreement. The Company shall have executed and delivered the Stockholder Rights Agreement.

5.8 Right of First Refusal and Co Sale Agreement. The Company and each Stockholder shall have executed and delivered the Right of First Refusal and Co Sale Agreement.

5.9 Voting Agreement. The Company and the Stockholders shall have executed and delivered the Voting Agreement.

5.10 Certificate. The Company shall have filed the Certificate with the Secretary of State of Delaware, which shall continue to be in full force and effect as of the Closing.

5.11 Secretary's Certificate. The Secretary of the Company shall have delivered to Purchaser at the Closing a certificate certifying (a) that the Bylaws of the Company as in effect immediately prior to the Closing Date are in the form attached hereto as Exhibit G, (b) resolutions of the Board of Directors approving the Transaction Agreements and the Transactions, and (c) resolutions of the Stockholders approving the Certificate.

5.12 Proceedings and Documents. All Company corporate and other proceedings in connection with the Transactions and all documents incident thereto that must be executed by the Company or a Stockholder shall be reasonably satisfactory in form and substance to Purchaser, and Purchaser (or its counsel) shall have received all such counterpart certified or other copies of such documents as reasonably requested. Such documents may include good standing certificates or certificates of existence, as applicable.

5.13 Contractual Consents. All consents required under any Material Contracts and Customer Contracts in connection with the Transactions shall have been obtained by the Company and delivered to Purchaser.

5.14 No Material Adverse Effect. Since the Effective Date, with respect to the Company, the Subsidiaries or the Business, there shall not have been any event, occurrence, development or state of circumstances or facts or change (including any damage, destruction or other casualty loss) that has had or that may be reasonably expected to have, either alone or together with all such events, occurrences, developments, states of circumstances or facts or changes, a Material Adverse Effect.

5.15 No Prohibitions. No temporary restraining order, preliminary or permanent injunction, cease and desist order or other order issued by any Government Authority of competent jurisdiction or any other legal restraint or prohibition preventing any transfer contemplated hereby or the consummation of the Closing, or imposing Damages in respect thereto, shall be in effect, and there shall be no pending or threatened Proceedings by any Government Authority or by any other Person challenging or in any manner seeking to restrict or prohibit the sale of the Shares or the consummation of the Transactions.

6. Conditions of the Company's Obligations at Closing. The obligation of the Company to sell the Shares to Purchaser at the Closing is subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

6.1 Representations and Warranties. The representations and warranties of Purchaser contained in Section 3 of this Agreement shall be true and correct in all material respects as of such Closing.

6.2 Performance. Purchaser shall have performed and complied with in all material respects all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by Purchaser on or before such Closing.

6.3 Compliance Certificate. The President of the Company shall deliver to Purchaser at Closing a certificate certifying that the conditions specified in Sections 6.1 and 6.2 have been fulfilled.

6.4 Qualifications. All authorizations, approvals or permits, if any, of any Government Authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be obtained and effective as of the Closing.

6.5 Stockholder Rights Agreement. Purchaser shall have executed and delivered the Stockholder Rights Agreement.

6.6 Voting Agreement. Purchaser shall have executed and delivered the Voting Agreement.

6.7 Proceedings and Documents. All Purchaser corporate and other proceedings in connection with the Transactions and all documents incident thereto that must be executed by Purchaser shall be reasonably satisfactory in form and substance to the Company, and the Company (or its counsel) shall have received all such counterpart certified or other copies of such documents as reasonably requested. Such documents may include good standing certificates or certificates of existence, as applicable.

6.8 Contractual Consents. All consents required under any Material Contracts and Customer Contracts in connection with the Transactions shall have been obtained by the Company and delivered to Purchaser.

6.9 No Prohibitions. No temporary restraining order, preliminary or permanent injunction, cease and desist order or other order issued by any court of competent jurisdiction or any competent Government Authority or any other legal restraint or prohibition preventing any transfer contemplated hereby or the consummation of the Closing, or imposing Damages in respect thereto, shall be in effect, and there shall be no pending or threatened actions or Proceedings by any Government Authority (or determinations by any Government Authority) or by any other Person challenging or in any manner seeking to restrict or prohibit the sale of the Shares or the consummation of any of the Transactions.

## 7. Stockholders' Agreement to Indemnify.

7.1 Scope of Indemnification. Stockholders shall indemnify and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees and agents (including, following the Closing, the Company) (collectively, the "**Purchaser Indemnitees**") in respect of any and all Damages incurred by any Purchaser Indemnitee as a result of: (a) any inaccuracy or misrepresentation in or breach of any representation or warranty made by the Company or Stockholders in this Agreement, any Schedule hereto, or any other Transaction Agreement; or (b) any breach of any covenant or agreement made by the Company or Stockholders herein or in any other Transaction Agreement. For purposes of indemnification under this Section 7 (including the right thereto and the calculation of Damages thereunder), the representations and warranties of the Company and Stockholders shall not be deemed to be qualified by any references to materiality or to Material Adverse Effect.

7.2 Exclusion of Company Liability to Stockholders. Following the Closing, the Company shall not have any Liability to Stockholders or its Affiliates as a result of any misrepresentation or breach of representation or warranty by the Company contained in any Transaction Agreement (excluding the Stockholder Rights Agreement and Voting Agreement) or any agreement executed therewith, or in connection with the Transactions, or the breach of any covenant or agreement of the Company or any of its respective Affiliates contained in any Transaction Agreement (excluding the Stockholder Rights Agreement and Voting Agreement) or any agreement executed therewith, or in connection with the Transactions, and the Company and Stockholders shall not have any right of indemnification or contribution against the Company on account of any event or condition occurring or existing prior to or on the Closing Date.

## 7.3 Indemnification Claims.

(a) If any third party asserts any claim against any Purchaser Indemnitee or with respect to any matter which may give rise to a claim for indemnification against the Stockholders under this Section 7.1 (a "**Third Party Claim**"), then the Purchaser Indemnitee will notify each Stockholder thereof in writing promptly and in any event within ten (10) days after receiving any written notice of the Third Party Claim stating the nature and basis of the Third Party Claim and including a copy

of all written materials provided by the third party; *provided* that, no delay on the part of the Purchaser Indemnitee in notifying Stockholders will relieve Stockholders from any obligation hereunder unless, and then solely to the extent that, Stockholders are prejudiced thereby in their ability to defend against the Third Party Claim. Stockholders may, by notice to the Purchaser Indemnitee within ten (10) days after receiving the Purchaser Indemnitee's notice, assume the defense of such matter, at Stockholders' sole cost and expense. Any such notice will also specify whether Stockholders (notwithstanding their assumption of the defense of such matter) dispute or reserve the right to dispute their obligation to indemnify the Purchaser in respect of all or part of the underlying claim. If Stockholders assumes the defense of the Third Party Claim, (i) Stockholders will defend the Purchaser Indemnitee against the matter with counsel of Stockholders' choice reasonably satisfactory to the Purchaser Indemnitee, (ii) the Purchaser Indemnitee may participate in the defense (including with separate counsel) at its sole cost and expense, subject to Stockholders' right to control the defense, (iii) Stockholders shall reasonably cooperate with the Purchaser Indemnitee in connection with the Purchaser Indemnitee's participation, and in all cases Stockholders shall keep the Purchaser Indemnitee reasonably informed as to all matters concerning the Third Party Claim and shall promptly notify the Purchaser Indemnitee in writing of any and all significant developments relating thereto; (iv) the Purchaser Indemnitee will not consent to the entry of a judgment or enter into any settlement with respect to the matter without the written consent of Stockholders (which consent shall be in Stockholders' sole discretion), and (v) Stockholders will not consent to the entry of a judgment or consent order with respect to the matter, or enter into any settlement, without the written consent of the Purchaser Indemnitee (which consent shall be in the Purchaser Indemnitee's sole discretion); *provided* that the Purchaser Indemnitee's consent shall not be required if such consent judgment, consent order or settlement (A) does not require the Purchaser Indemnitee to admit any guilt, responsibility or culpability, (B) does not grant the plaintiff or claimant any form of relief other than monetary damages which will be satisfied by Stockholders, and (C) includes a provision whereby the plaintiff or claimant in the matter releases the Purchaser Indemnitee from all Liability with respect thereto. If Stockholders do not timely assume the defense of a Third Party Claim, (i) the Purchaser Indemnitee may defend against the matter in any manner it reasonably deems appropriate, without prejudice to its claims against Stockholders hereunder, (ii) the Purchaser Indemnitee may defend the matter with counsel of its choice, and (iii) Stockholders may retain separate counsel at their sole cost and expense. Notwithstanding anything to the contrary in the foregoing, if defendants in any Third Party Claim include any Purchaser Indemnitee and HoldCo or ODS, and Purchaser Indemnitee and Stockholders have been advised by independent counsel (chosen by agreement between Stockholders and Purchaser Indemnitee's respective counsel) that there may be material legal defenses available to such Purchaser Indemnitee inconsistent with those available to HoldCo or ODS (as applicable), or that a conflict of interest exists or may exist between Purchaser Indemnitee and HoldCo or ODS (as applicable) with respect to such claim or the defense thereof, then in either case, the Purchaser Indemnitee shall have the right to employ its own counsel in such action, and in such event (or in the event that Stockholders do not timely assume the defense of such matter as provided above) the reasonable fees and expenses of the Purchaser Indemnitee's counsel and other appropriate advisors shall be borne by Stockholders and shall be paid by them from time to time within twenty (20) days of receipt of appropriate invoices therefore.

(b) In the event that a Purchaser Indemnitee notifies Stockholders of any claim for indemnification hereunder that does not involve a Third Party Claim, Stockholders shall, within thirty (30) days after the date of such notice, pay to the Purchaser Indemnitee the amount of Damages payable pursuant to this Section 7 and shall thereafter pay any other Damages payable pursuant to this Section 7 and arising out of the same matter on demand, unless Stockholders dispute in writing Stockholders' Liability for, or the amount of, any such Damages within such thirty (30)-day period, in which case such payment shall be made as provided above in respect of any matters not so disputed and, any Damages in respect of the matters so disputed shall be paid within five (5) Business Days after any determination by agreement of Purchaser and Stockholders, or pursuant to the dispute resolution procedure set forth in Section 8.15 that Stockholders are liable therefor pursuant to this Section 7.

#### 7.4 Limitations on Indemnity Obligations.

(a) Cap. The aggregate Liability of Stockholders for indemnification under Section 7.1(a) will be limited to Fifteen Million Four Hundred Thousand Dollars (\$15,400,000) (the "**Company Cap**"), other than respect to indemnification for inaccuracies or misrepresentations in or breaches of any representation or warranty in Sections 2.1, 2.2, 2.3, 2.4, 2.5 or 2.6 (the "**Fundamental Representations**"). The aggregate Liability of Stockholders for indemnification with respect to the Fundamental Representations will be limited to the Aggregate Purchase Price.

(b) Basket. Stockholders shall have no obligation under Section 7.1(a) unless and until the aggregate amount of Damages so incurred exceeds One Million Five Hundred Forty Thousand Dollars (\$1,540,000) (the "**Basket**"), whereupon the Purchaser Indemnitees shall be entitled to recover from Stockholders all Damages that exceed Seven Hundred Seventy Thousand Dollars (\$770,000).

(c) Insurance. If (i) a claim made by a Purchaser Indemnitee for indemnification under this Agreement is also covered under one or more insurance policies insuring such claim (an "**Insured Claim**"), and (ii) the Purchaser Indemnitee actually recovers proceeds under any such insurance policies in connection with the Insured Claim, then the claim subject to indemnification under this Agreement shall be net of any such proceeds actually received by the Purchaser Indemnitee in connection with the Insured Claim.

(d) Limitation on Damages. No Purchaser Indemnitee shall be entitled to recover punitive or exemplary damages from Stockholders, except to the extent such damages are actually paid pursuant to a Third Party Claim for which a Stockholder is required to indemnify a Purchaser Indemnitee under this Agreement.

(e) Exclusive Remedy. The indemnification provisions set forth in this Section 7 are Purchaser Indemnitees' sole and exclusive remedy after Closing with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or other obligation set forth in this Agreement, any other Transaction Agreement (other than the Voting Rights Agreement, the Right of First Refusal and Co-Sale Agreement and the Stockholders Rights Agreement), or otherwise relating to the Transactions, except for (i) claims for intentional misconduct or Fraud, (ii) the rights of Purchaser to seek specific performance of covenants or an injunction to prevent a violation thereof, and (iii) Purchaser's rights under Section 8.6.

(f) Damages Reducing Company Value. Notwithstanding the foregoing, in any circumstance in which indemnifiable Damages are based on a reduction in the Company's value, then Stockholders' obligations under Section 7.1 with respect to such Damages shall be limited to paying Purchaser Indemnitees 50% of the total amount of such Damages, which Damages shall otherwise be calculated in the manner and subject to the limitations provided for in this Section 7.

(g) Survival of Warranties. Unless otherwise set forth in this Agreement, the representations and warranties of the Company and Purchaser contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing until the eighteen (18) month anniversary of Closing, other than the Fundamental Representations, which shall survive until the expiration of the applicable statute of limitations.

#### 8. Miscellaneous.

8.1 Interpretation. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. As used in this Agreement: (a) Section and other headings contained in this Agreement are for reference purposes only; (b) All pronouns will be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the person or persons require; (c) the words "include," "including" and their derivatives are deemed to be followed by the phrase "without limitation"; and (d) the term "and/or" means each and all of the words or items connected by that term.

8.2 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties or their respective successors and assigns any rights, remedies, obligations or Liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

8.3 Governing Law. This Agreement shall be governed by the internal law of the State of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware.

8.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, *e.g.*, [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

8.5 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) when sent, if sent by electronic mail during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next Business Day, (b) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (c) one (1) Business Day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next Business Day delivery, with written verification of receipt. All communications shall be sent to the respective Parties at their address as set forth on the signature page or to such e-mail address, or address as subsequently modified by written notice given in accordance with this Section 8.5.

8.6 No Finder's Fees. Each Party represents that it neither is nor will be obligated for any finder's fee or commission in connection with the Transactions. Purchaser will indemnify and to hold harmless the Company from any Liability for any commission or compensation in the nature of a finder's or broker's fee arising out of the Transactions (and the costs and expenses of defending against such Liability or asserted Liability) for which Purchaser or any of its officers, employees or representatives is responsible. The Company will indemnify and hold harmless Purchaser from any Liability for any commission or compensation in the nature of a finder's or broker's fee arising out of the Transactions (and the costs and expenses of defending against such Liability or asserted Liability) for which the Company or any of its officers, employees or representatives is responsible.

8.7 Fees and Expenses. At the Closing, the Company shall pay the reasonable fees and expenses of Kilpatrick Townsend & Stockton, LLP (counsel for Purchaser) and Tonkon Torp LLP (counsel for the Company).

8.8 Attorneys' Fees. If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of any of the Transaction Agreements, the prevailing Party

shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such Party may be entitled.

8.9 Amendments and Waivers. Except as otherwise expressly set forth herein, any term of this Agreement may be amended, terminated or waived only with the written consent of the Company and Purchaser. Any amendment or waiver effected in accordance with this Section 8.9 shall be binding upon Purchaser and each transferee of the Shares, each future holder of all such securities and the Company.

8.10 Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

8.11 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any Party, upon any breach or default of any other Party, shall impair any such right, power or remedy of such non-breaching or non-defaulting Party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Party of any breach or default under this Agreement, or any waiver on the part of any Party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any Party, shall be cumulative and not alternative.

8.12 Entire Agreement. This Agreement (including the Exhibits hereto), the Certificate and the other Transaction Agreements constitute the full and entire understanding and agreement between the Parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the Parties are expressly canceled, including the Memorandum of Terms between Purchaser and the Company dated May 15, 2018.

8.13 Termination of Closing Obligations.

(a) Purchaser shall have the right to terminate its obligation to complete the Closing if prior to the occurrence thereof, any of the following occurs:

(i) the Company consummates a Liquidation Event (as defined in the Certificate);

(ii) the Company (A) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (B) becomes subject to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (C) makes an assignment for the benefit of creditors, (D) institutes any proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, or files a petition or answer seeking reorganization or an arrangement with creditors to take advantage of any insolvency law, or files an answer admitting the material allegations of a bankruptcy, reorganization or insolvency petition filed against it, or (E) becomes subject to any involuntary proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, when proceeding is not dismissed within ninety (90) days of filing, or have an order for relief entered against it in any proceedings under the United States Bankruptcy Code;

- (iii) failure to receive approvals of any Government Authority;
- (iv) the Closing shall not have occurred on or before May 31, 2019;
- (v) mutual agreement of the Parties; or

(vi) Purchaser determines, in its sole discretion, that it is not satisfied with the results of its due diligence investigation of the Company; provided that Purchaser's right to terminate under this Section 8.13(b)(vi) shall expire thirty (30) calendar days after Company certifies in writing to Purchaser that all diligence materials and information requested by Purchaser have been provided; provided that Purchaser has not made an addition request.

(b) The Company and Stockholders shall have the right to terminate its obligation to complete the Closing if prior to the occurrence thereof, any of the following occurs:

(i) Purchaser (A) applies for or consents to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (B) becomes subject to the appointment of a receiver, trustee, custodian or liquidator of itself or substantially all of its property, (C) makes an assignment for the benefit of creditors, (D) institutes any proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, or files a petition or answer seeking reorganization or an arrangement with creditors to take advantage of any insolvency law, or files an answer admitting the material allegations of a bankruptcy, reorganization or insolvency petition filed against it, or (E) becomes subject to any involuntary proceedings under the United States Bankruptcy Code or any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, when proceeding is not dismissed within ninety (90) days of filing, or have an order for relief entered against it in any proceedings under the United States Bankruptcy Code;

(ii) failure to receive approvals of any Government Authority;

(iii) the Closing shall not have occurred on or before May 31, 2019;

or

(iv) mutual agreement of the Parties.

8.14 Effect of Termination. Upon any termination pursuant to Section 8.14 of this Agreement, no Party shall have any further rights, Liabilities or obligations hereunder; *provided, however,* that if any of the terms and conditions contained herein have been breached by any Party, the non-breaching Parties may pursue any rights and remedies they may have under Applicable Law, in equity or otherwise, by reason of such breach regardless of such termination, and such termination shall not constitute an election of remedies.

8.15 Dispute Resolution. The Parties hereby irrevocably and unconditionally submit to the jurisdiction of the federal and state courts located in the State of Delaware for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement and hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.



*[Signature page follows]*

The Parties have executed this Class B Common Stock Purchase Agreement as of the Effective Date.

COMPANY:

**MODA, INC.**



\_\_\_\_\_  
Robert Gootee, Chief Executive Officer

Address: 601 SW Second Avenue, 24th Floor,  
Portland, Oregon 97204-3156

The Parties have executed this Class B Common Stock Purchase Agreement as of the Effective Date.

PURCHASER:

**DELTA DENTAL OF CALIFORNIA**



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Anthony S. Barth, Chief Executive Officer

Address: 560 Mission Street, Suite 1300  
San Francisco, California 94105

The Parties have executed this Class B Common Stock Purchase Agreement as of the Effective Date.

HOLDCO:

**MODA HOLDINGS GROUP, LLC**

By: Oregon Dental Services, its sole member



\_\_\_\_\_  
Robert Gootee, Chief Executive Officer

Address: 601 SW Second Avenue, 24th Floor,  
Portland, Oregon 97204-3156

The Parties have executed this Class B Common Stock Purchase Agreement as of the Effective Date.

ODS:

**OREGON DENTAL SERVICE**



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Robert Gootee, Chief Executive Officer

Address: 601 SW Second Avenue, 24th Floor,  
Portland, Oregon 97204-3156

SCHEDULE 1

**DESCRIPTION OF CONSIDERATION**

<b>Type of Consideration</b>	<b>Value of Consideration (USD)</b>
Note Consideration	Outstanding Principal: \$80,000,000.00 Accrued Interest as of the Effective Date: \$10,379,000.00 Accrued Interest between the Effective Date and the Closing Date: \$2,966,000.00 <sup>1</sup>
Credit Consideration	Up to June of 2018: \$965,440.00 After June of 2018 and until the Closing Date: \$_____
Cash Consideration	\$59,614,560.00
<i>Total:</i>	\$153,925,000.00

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<sup>1</sup> Assuming a Closing Date of December 31, 2018.

EXHIBIT A

**FORM OF CERTIFICATE OF INCORPORATION**

## EXHIBIT B

### **DISCLOSURE SCHEDULE**

This Disclosure Schedule is made and given pursuant to Section 2 of the Class B Common Stock Purchase Agreement, dated as of August 31, 2018 (the "**Agreement**"), between Moda Partners, Inc. (the "**Company**"), Moda Holdings Group, LLC, a Delaware limited liability company ("**HoldCo**"), Oregon Dental Service, an Oregon non-profit corporation ("**ODS**") and Delta Dental of California ("**Purchaser**"). All capitalized terms used but not defined herein shall have the meanings as defined in the Agreement, unless otherwise provided. The section and subsection numbers below correspond to the section and subsection numbers of the representations and warranties in the Agreement; *provided, however*, that any information disclosed herein under any section or subsection number shall be deemed to be disclosed and incorporated into any other section or subsection number under the Agreement only to the extent that a cross-reference to such disclosure is made. Nothing in this Disclosure Schedule is intended to, or does, broaden the scope of any representation or warranty contained in the Agreement or to create any covenant.



EXHIBIT C

**FORM OF INDEMNIFICATION AGREEMENT**

EXHIBIT D

**FORM OF STOCKHOLDERS RIGHTS AGREEMENT**

EXHIBIT E

**FORM OF RIGHT OF FIRST REFUSAL AND CO-SALE AGREEMENT**

EXHIBIT F

**FORM OF VOTING AGREEMENT**

EXHIBIT G

**FORM OF BYLAWS**