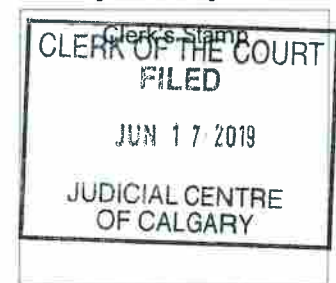


Form 27
[Rule 6.3]

COURT FILE NUMBER 1801-16809
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT ROBERT KULHAWY
RESPONDENT COMMERX HOLDINGS LLC and LOTUS INNOVATIONS PRIVATE EQUITY FUND also known as LOTUS INNOVATIONS LLC and COMMERX CORPORATION



**IN THE MATTER OF THE
BANKRUPTCY AND INSOLVENCY
ACT, RSC 1985, c b-3, AS AMENDED**

DOCUMENT **AFFIDAVIT OF ROBERT KULHAWY**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Burstall LLP
Barristers & Solicitors
1600, 333 – 7 Avenue SW
Calgary, AB T2P 2Z1

Justin Fogarty, counsel for the Applicant, Robert Kulhawy
Telephone: (403) 999-9817
Fax: (403) 266-6016
Email: Fogarty@burstall.com

AFFIDAVIT OF ROBERT KULHAWY

Sworn on June 14, 2019

I, Robert Kulhawy, businessman of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am an individual residing in the Province of Alberta and am the founder and Chief Executive Officer and President of Commerx Corporation (the "**Company**") and as such have personal knowledge of the matters herein deposed to, except where stated to be based on information and belief, in which case I believe same to be true.

Overview

2. I previously swore an affidavit in these proceedings on November 23, 2018, which was served and filed in connection with a November 29, 2018 hearing before the Honourable Mr. Justice Feehan (“**November Affidavit**”). I subsequently swore an affidavit in these proceedings on February 22, 2019, which was served and filed in connection with a February 25, 2019 hearing before the Honourable Madame Justice Dario (“**February Affidavit**”).

3. As will be described in more detail below, on March 7, 2019, Commerx filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) pursuant to the Orders of the Honourable Justice Dario dated February 27, 2019 and March 6, 2019.

4. Hardie & Kelly Inc. (the “**Proposal Trustee**”) was appointed to act as the Licenced Insolvency Trustee for the proposal.

5. Following the filing of the NOI, I swore affidavits on March 28, 2019 (“**March Affidavit**”) and May 15, 2019 (“**May Affidavit**”), in support of two (2) separate applications for orders extending the time to file a proposal and to extend the stay of proceedings, which orders were granted.

6. In this affidavit, I will be repeating and relying upon various statements contained in my November Affidavit, February Affidavit, March Affidavit and May Affidavit, where necessary and applicable.

The Parties

7. The Company is incorporated pursuant to the laws of the Province of Alberta and is a leading global provider of Information Technology (IT), digital and telecommunications (telecom) industries headquartered in Calgary, Alberta.

8. The Company has deployed resources in over eighty-five (85) countries including the United States of America, Canada, Mexico, United Kingdom, India, Russia, and Taiwan. As the telecom space is seeing a revival, the Company is a market leader.

9. Commerx Holdings LLC (“**Commerx Holdings**”) is a company based in the State of California, United States of America. Pursuant to the terms of the Purchase Agreement dated December 31, 2016, Commerx Holdings is the majority shareholder of the Company (51%) (the

“**Purchase Agreement**”). Attached hereto and marked as **Exhibit “A”** is the Purchase Agreement. For ease of reference, I also attach, behind the Purchase Agreement at Exhibit A, the pertinent sections of the Shareholders Agreement.

10. Lotus Innovations Private Equity Fund aka Lotus Innovations LLC (along with Commerx Holdings collectively referred to as “**Lotus**”) owns Commerx Holdings. Lotus is an Irvine, California based private equity investment fund that purports to build wealth for its investors by acquiring, transforming, and exiting high-potential, small to mid-size technology companies in enterprise IT and telecom.

Factual Background

11. On December 30, 2016, Lotus and I entered into the Purchase Agreement, where I sold and Lotus agreed to purchase fifty-one percent (51%) of the Class A shares of the Company in consideration for a purchase price of \$2,000,000.00 USD plus other considerations. Payment was to be completed in two phases:

- (a) Payment from Lotus to me in the amount of \$500,000.00 USD on or before January 31, 2017 (Phase 1); and
- (b) Payment from Lotus to me in the amount of \$1,500,000.00 USD on or before November 30, 2018 (Phase 2).

12. Phase 1 of the transaction was not completed as contemplated in the Purchase Agreement. The Phase 1 payment was not received until July 4, 2017. Further, Lotus did not make the Phase 2 payment when it became due and owing on November 30, 2018. Rather, as will be discussed, Lotus tried to leverage me to agree to alter their Phase 2 payment obligations and wipe out any value of other minority shareholders of the Company. Lotus was not doing this for the good of the Company. Instead, it was contemplated for the benefit of Lotus.

13. I made the decision to sell the controlling interest in the Company to Lotus, as I was made to believe that Lotus would bring to the Company the working capital that the Company needed. This is stipulated at paragraph 14.1 of the December 30, 2016 Shareholders Agreement between Lotus and I. Attached hereto and marked as **Exhibit “B”** is the Shareholders Agreement. Paragraph 14.1 specifies that Lotus was to provide the Company with a \$3,000,000.00 USD revolving line of credit for the purpose of providing working capital and to pay the \$1,270,000.00 USD representing ongoing obligations of the Company. The revolving

line of credit was supposed to be available from December 31, 2016 to December 31, 2018 (“**Working Capital Credit**”).

14. Lotus did not, and never has, provided the Company with the Working Capital Credit and did not fulfill the requirements to pay down the \$1,270,000 USD of obligations. Lotus’ failure to do so has caused significant problems for the Company.

15. Additionally, Lotus, pursuant to a Settlement Agreement with Fortitude Financial Investments Inc., among other parties, dated December 30, 2019, agreed to cause the Company to redeem 1,148,381 Class "F" Preferred Shares issued to Fortitude by June 30, 2017. The shares were not redeemed. Consequently, the cumulative dividend rate increases from 6% per annum to 24% per annum because Lotus defaulted on their obligation to redeem the shares. Attached hereto and marked as **Exhibit “C”** is a copy of the Settlement Agreement. It should be noted that Lotus is the principal guarantor to this Settlement Agreement.

16. One of the Company’s subsidiary operations, Commerx Alternate Communications Private Limited operated out of India (the “**India Subsidiary**”). Due to cash flow issues the India Subsidiary was unable to meet their financial obligations, which triggered an insolvency event. This was precipitated by a lack of working capital which the Company could have used to keep the India Subsidiary operational.

17. Lotus has been and continues to be in default of various obligations under the Purchase, Shareholder and Settlement Agreements more particularized in the table below:

Section	Action/Payment	Status
Purchase Agreement		
2.2(b)	Lotus to make subsequent payment of \$1,500,000.00 USD (the " Subsequent Payment ") to Kulhawy.	Lotus in default
2.3(c)	Lotus to pay \$1,270,000.00 USD representing various ongoing and outstanding Commerx obligations	Lotus in default. Failed to pay approximately \$598,923.00
Settlement Agreement Payment		
4	Lotus to cause Commerx Holdings to redeem 1,148,381 Class "F" Preferred Shares issued to Fortitude by June 30, 2017. If shares not redeemed, the cumulative dividend rate increases from 6% per annum to 24% per	Lotus in default. Class "F" Preferred Shares were not redeemed on June 30, 2017.

	annum.	
Shareholder Agreement Line of Credit Payments		
14.1	<p>Lotus to provide a \$3,000,000.00 USD line of credit from December 31, 2016 to December 31, 2018, to the Company for working capital.</p> <p>In January 2017, the Company paid \$30,000.00 USD as a fee to Lotus to secure the \$3,000,000.00 USD credit facility.</p>	Lotus in default. No line of credit provided.

18. On November 21, 2018, I had a telephone conversation with Mr. Christian Mack of Lotus. During this call, which lasted approximately 30 minutes, Mr. Mack advised me that Lotus:

- (a) will not be paying me the \$1,500,000.00 USD due November 30, 2018;
- (b) will not be providing the \$3,000,000.00 USD credit facility as per the Shareholder Agreement;
- (c) will not be providing the \$598,923.00 USD pursuant to the Purchase Agreement;
- (d) does not have the funds to redeem the Fortitude preferred shares;
- (e) does not have the funds to pay any of their outstanding obligations; and
- (f) that if I do not agree to make significant concessions on the funds owing that he is willing to refuse to borrow money and thereby trigger a potential insolvency.

19. More particularly, Lotus advised that it had negotiated a financing arrangement with the Alberta Treasury Branch for working capital for the Company where Lotus would be the guarantor for the loan. However, this loan required that I must renegotiate the terms of the Purchase Agreement including:

- (a) relieving Lotus of the obligation to pay the Phase 2 payment to me;
- (b) requiring the Company to instead become responsible to make the Phase 2 payment to me; and
- (c) permitting Lotus restructure the Company in a manner which would wipe out the value of the other minority shareholders without compensation to these shareholders.

20. The above-noted exchanges between Mr. Mack and I are even more egregious now, as I have discovered that at that time of this exchange, Lotus did in fact have sufficient funding from a company called Super G Capital, LLC (“**Super G Capital**”) to satisfy its obligations. My subsequent discovery of this key information will be described in more detail below at paragraphs 25 to 29.

21. Lotus has refused to comply with its obligations under the Purchase, Shareholder and Settlement Agreements and refused to provide working capital to the Company, which it desperately needed, unless I renegotiated the outstanding obligations of Lotus and permitted Lotus to wipe out the value of other minority shareholdings – which was clearly not in the best interests of the Company or any of its stakeholders other than Lotus.

November 29, 2018 Hearing

22. The Honourable Mr. Justice Feehan heard a contested application on November 29 and 30, 2018. At the hearing, I sought to obtain emergency and necessary funding (akin to debtor-in-possession financing) on behalf of the Company.

23. Justice Feehan subsequently released Reasons for Decision on December 4, 2018. In granting the order, Justice Feehan made the following findings at paragraph 27 of the Reasons of Justice Feehan:

I find that the evidence supported a reasonable expectation by Mr. Kulhawy that the Respondents would pay [\$1,500,000 USD] pursuant to the Purchase Agreement by November 30, 2018, provide working capital credit of \$3,000,000 USD between December 31, 2016 and December 31, 2018, and meet its other commitments pursuant to the Purchase Agreement, Shareholders Agreement, Stock Purchase Agreement and Settlement Agreement. I find that reasonable expectation was violated by the conduct of the Respondents within the definition of oppression and unfair prejudice.

24. Justice Feehan’s November 30, 2018 order (the “**Justice Feehan Order**”) allowed me to borrow up to \$500,000.00 from Henley Investments on the specific terms of a Line of Credit Agreement that was before Justice Feehan. This Line of Credit Agreement was negotiated on my then belief that the Company had no secured encumbrances. At no time during the Application did Lotus advise the Court that they had pledged all of the Company assets to Super G Capital.

25. Subsequent to the hearing before Justice Feehan, when attempting to finalize the receipt of the \$500,000.00 loan, it was discovered that Lotus had previously entered into a financing arrangement for \$2.1 Million USD with Super G Capital and pledged the assets of the Company as security. According to the due diligence search results, Super G Capital delivered the funds to Lotus and on July 19, 2018, registered a security interest against all present and after-acquired personal property of Commerx.

26. Accordingly, the Company was refused the \$500,000.00 loan. The Company and I were put into a position where we could not comply with Justice Feehan's Order.

27. Further, the Company received no benefit from the Super G Capital loan. To the contrary, it appears that Lotus entered into the Super G Capital loan purely for its own benefit. The Company never received the loan proceeds.

28. By directly or indirectly encumbering assets of Commerx, Lotus is in breach of the provisions of the purchase agreement, shareholders agreement and the articles of the Company.

February 25 Hearing and the Proposal Proceedings

29. On February 25, 2019 and February 26, 2019, the Honourable Madam Justice Dario granted an Order allowing me to file an NOI on behalf of the Company.

30. On March 7, 2019 (the "**Filing Date**"), Commerx filed an NOI and Hardie & Kelly Inc. consented to act as trustee (the "**Proposal Trustee**") in the proceedings (the "**Proposal Proceedings**").

31. On March 29, 2019, the Proposal Trustee prepared a report (the "**First Report**") to the Court of Queen's Bench of Alberta (the "**Court**") in advance of the Company's April 2, 2019 application (the "**April Application**") for an extension of the time to file a proposal to its creditors ("**Proposal**").

32. On April 2, 2019, the Court granted an Order extending the time in which the Company must file a Proposal to May 20, 2019 (the "**Initial Extension**") along with an extension of the Stay of Proceedings (the "**Stay**") afforded the Company pursuant to Section 69 of the BIA.

33. In the First Report, the Proposal Trustee advised that management of the Company was having positive discussions with Super G Capital with respect to the removal of Super G Capital's loan registration at the Alberta Personal Property Registry which encumbered all

present and after-acquired property of the Company (the "**Super G Registration**"). The Proposal Trustee also advised that the removal of the Super G Registration would be an important factor that will pave the way towards the Company filing a viable Proposal.

34. Between the Initial Extension and the Second Extension (described below), the Company and Super G Capital successfully resolved the issues surrounding the Super G Registration and Super G Capital discharged the Super G Registration.

35. Additionally, during this time, the Company, Lotus, and I were served with an application by a creditor of the Company seeking to enforce a Settlement and Mutual Release Agreement the parties had entered into, of which Lotus is the primary guarantor. The creditor applicant advised the Court that Lotus was claiming to be insolvent and provided the letter attached hereto and marked as **Exhibit "E"** as evidence thereof. I verily believe that since the originating application in this action was served, Lotus has been transferring its assets to a related entity, also controlled by Mr. Mack. If Lotus is insolvent, I believe it is due to Mr. Mack deliberating moving assets to thwart creditors of Lotus.

36. On May 16, 2019, the Proposal Trustee prepared a report (the "**Second Report**") to the Court in advance of the Company's application of the same date (the "**May Application**") for an extension of time to file a Proposal along with an extension of the Stay.

37. On May 16, 2019, the Court granted an order extending the time in which the Company must file a Proposal to July 4, 2019 (the "**Second Extension**") along with an extension of the Stay afforded the Company pursuant to Section 69 of the BIA.

38. At paragraph 27 of the Second Report, the Proposal Trustee advised that it was supportive of the Company's request to make an application determining the parties' ownership and rights with respect to the 51% of the Class "A" shares of the Company previously transferred to Lotus, as I believe that this matter is critical to address prior to the formulation of the Company's Proposal.

39. As a result of the various breaches of the Purchase Agreement and related agreements, the Company and I (personally) have incurred initial losses of revenue and subsequently, incurred significant liabilities for profession and lending fees to restructure its affairs and recover from the harm caused by Lotus. The losses, tied to the breaches, are in the amount of \$5,128,923.00 USD, more particularly described as follows:

- (a) \$1,500,000.00 Phase 2 payment owed to me by Lotus;

- (b) \$598,923.00 in payments Lotus failed to make on behalf of the Company to various parties pursuant to section 2.3(a) of the Purchase Agreement;
- (c) \$3,000,000.00 in the form of a credit facility that Lotus failed to provide the Company;
- (d) \$30,000.00 that was paid to Lotus by the Company as a fee to secure the credit facility as described in paragraph 39(c).

40. The Company likely requires a further extension of time to file a proposal until after the share issue is adjudicated. The Company will likely be able to make a viable proposal if the extension being applied for was granted. The request for an extension of time for this purpose has the support of the Proposal Trustee and is likely unopposed.

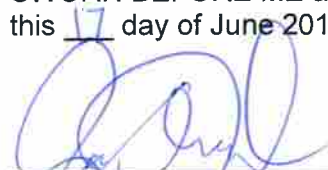
41. The Company continues to act in good faith and with due diligence with a view towards preparing a proposal for presentation to its creditors.

42. No creditor would be materially prejudiced if a further extension is granted.


43. I make this affidavit bona fides, with no improper purpose and in support of my application for:

- (a) an extension of time to file a proposal; and
- (b) an order determining the parties' ownership and rights with respect to the 51% of the Class 'A' shares of the Company previously transferred to Lotus.

SWORN BEFORE ME at Calgary, Alberta,)
 this 17 day of June 2019.)



 Commissioner for Oaths in and for the
 Province of Alberta



 ROBERT KULHAWY

Jasmin Dhaliwal
 A Commissioner for Oaths - Notary Public
 in and for the Province of Alberta.
 Member of the Law Society of Alberta and
 My Appointment Expires at the Pleasure of
 The Attorney General for the Province of Alberta

EXHIBIT "A"

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT, (together with all exhibits and Disclosure Schedules hereto, the "Agreement"), dated as of December 30, 2016, is entered into by and among (i) Commerx Holdings LLC, a Delaware limited liability company (the "Purchaser"), (ii) Commerx Corporation, an Alberta corporation (the "Company"), and Robert Kulhawy (the "Seller"). Each of the Purchaser, the Company, and the Seller may be referred to herein as a "Party" and collectively as the "Parties".

RECITALS

The Company is engaged in the business of, among other things, providing telecommunications and Internet services and solutions.

Seller owns 4,345,142 Class "A" Shares with no par value, which constitute approximately seventy-seven and forty-seven one-hundredths percent (77.47%) of the issued and outstanding common shares of the Company.

The Purchaser is a limited liability company that desires to acquire the Equity Interests.

The Parties desire to provide for the Purchaser's acquisition from the Seller of 2,860,463 Class "A" Shares (the "Equity Interests"), representing of 51% of the issued and outstanding voting shares of the Company, through the sale by the Seller to the Purchaser of the Equity Interests, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the Parties hereto, intending to be legally bound hereby agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.1 Defined Terms. As used in this Agreement and the Exhibits (unless otherwise defined therein) and Schedules delivered pursuant to this Agreement, the following definitions shall apply:

(a) "Action" means any claim, action, cause of action or suit (whether in contract or tort or otherwise), litigation (whether at law or in equity, whether civil or criminal), tax controversy, assessment, arbitration, investigation, hearing, charge, complaint, demand, settlement, notice or proceeding to, from, by or before any Governmental Authority.

(b) "Additional Financing" has the meaning ascribed to it in Section 2.3(c).

(c) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such specified Person. For the purposes of this definition, "control", when used with respect to any specified Person, means the power to direct the management and policies of such Person directly or indirectly, whether through ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For the avoidance of doubt, an Affiliate of a Seller shall include any trustee or beneficiary of the Seller, any spouse or any immediate family member of the Seller.

(d) "Agreement" has the meaning ascribed to it in the Preamble.

THIS IS EXHIBIT " A "

referred to in the Affidavit of ROBERT KULHAWY

Jasmin Dhaliwal
A Commissioner for Oaths - Notary Public
in and for the Province of Alberta.
Member of the Law Society of Alberta and
My Appointment Expires at the Pleasure of
The Attorney General for the Province of Alberta

Sworn before me this 17
day of June A.D. 2019

A Commissioner in and for the Province of Alberta

- (e) "Assets" has the meaning ascribed to it in Section 5.5(b).
- (f) Intentionally deleted.
- (g) "Balinhard" means Balinhard Capital Corporation.
- (h) "Broker" or "Brokers" has the meaning ascribed to it in Section 4.6.
- (i) "Business" means a software development company specializing in data visualization and information integration.
- (j) "Business Day" means any day that is not a Saturday or Sunday or a legal holiday on which banks are authorized or required by Law to be closed in Los Angeles, California or Calgary, Alberta.
- (k) "Class "A" Shares" means the Class "A" voting shares issuable by the Company in accordance with its articles of incorporation, as amended and restated as at the date hereof.
- (l) "Class "E" Shares" means the Class "E" non-voting preferred shares issuable by the Company in accordance with its articles of incorporation, as amended and restated as at the date hereof.
- (m) "Class "F" Shares" means the Class "F" non-voting preferred shares issuable by the Company in accordance with its articles of incorporation, as amended and restated as at the date hereof.
- (n) "Class "G" Shares" means the Class "G" redeemable retractable non-voting preferred shares issuable by the Company in accordance with its articles of incorporation, as amended and restated as at the date hereof.
- (o) "Closing" has the meaning ascribed to it in Section 3.1.
- (p) "Closing Conditions" means the conditions to Closing of the transaction specified in Article VIII.
- (q) "Closing Date" has the meaning ascribed to it in Section 3.1.
- (r) "Code" means the Internal Revenue Code of 1986, as amended.
- (s) "Company" has the meaning ascribed to it in the Preamble.
- (t) "Company Plan" has the meaning ascribed to it in Section 5.12(a).
- (u) "Confidential Information" means all information, regardless of its form or medium, whether conveyed orally, visually, electronically or in writing, and whether or not it is designated as "confidential", relating to the Company or its affairs. Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature (whether or not reduced to writing): discoveries, ideas, concepts, designs, devices, drawings, materials, specifications, techniques, models, documentation, diagrams, procedures, trade secrets and "know-how". Confidential Information also includes any information described above which the Company obtained from another party, whether or not developed or owned by the Company. The term "Confidential Information" shall not include (i) information that is or becomes generally available to the public by actions of other Persons, (ii) information that was independently developed by the Seller without the unauthorized use of any Confidential Information or (iii) information obtained by the Seller in good faith from a third party on a non-confidential basis, provided that such third party is not known by the Seller to be bound by a confidentiality agreement

with, or other legal or fiduciary obligation to, the Company or Purchaser, that prohibits the disclosure of such information.

(v) Intentionally deleted.

(w) "Contractual Obligation" means, with respect to any Person, any contract, agreement, deed, mortgage, lease, license, accepted purchase order, order letter, commitment, promise, undertaking, arrangement or understanding, whether written or oral and whether express or implied, or other document or instrument (including any document or instrument evidencing or otherwise relating to any Debt) to which or by which such Person is a party or otherwise subject or bound or to which or by which any property, business, operation or right of such Person is subject or bound and that is enforceable or enforced under Law.

(x) "Debt" means (a) all of the indebtedness for borrowed money of the Company, (b) all indebtedness or outstanding obligations of the Company created or arising under any capital lease, bond, note, factoring agreement, Line of Credit, dividend, or distributions payable (c) or all amounts payable by the Company to any Person, (d) all guarantees by the Company of any obligations of any Person, (e) all indebtedness of the type described in clauses (a) through (d) above guaranteed directly or indirectly by the Company or secured by any lien on assets or property owned by the Company, all accrued but unpaid interest related to any items of indebtedness of the type described hereinabove, (f) any other amounts outstanding under notes payable, and (g) any prepayment penalties or expenses payable in connection with the foregoing transactions.

(y) "Deductible" has the meaning ascribed to it in Section 9.2(b)(i).

(z) "Deductible Exceptions" has the meaning ascribed to it in Section 9.2(b)(i).

(aa) "Dispute" has the meaning ascribed to it in Miscellaneous Section.

(bb) "Disclosure Schedules" means the disclosure schedules attached hereto as Exhibit A and made a part hereof and delivered by Seller and the Company to the Purchaser on the date hereof.

(cc) "Employee Benefit Plan" means any plan, program, agreement, or policy that is (i) a plan providing employment benefits to employees, (ii) a pension benefit plan, (iii) a stock bonus, stock purchase, stock option, restricted stock, stock appreciation right or similar equity-based plan, or (iv) any other compensation, deferred-compensation, retirement, welfare-benefit, bonus, incentive, profit sharing, severance pay, sick leave, vacation pay, salary continuation, disability, hospitalization, dental, vision, medical, life insurance or fringe-benefit plan, program, agreement, policy, practice, understanding or arrangement.

(dd) "Encumbrance" means any charge, claim, condition, equitable interest, lien, license, lease option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first offer or first refusal, buy/sell agreement and any other restriction (including the filing of any financing statement under the UCC or any other Law of any jurisdiction) or covenant with respect to, or condition governing the use, construction, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

(ee) "Equipment" means all of the tangible personal property, included in the Assets, and including motor vehicles.

(ff) "Equity Interests" has the meaning ascribed to it in the Recitals.

(gg) "Expiration Date" has the meaning ascribed to it in Section 9.1.

(hh) "Financial Statements" means, with respect to the Company, the balance sheet and statements of earnings, stockholders' or members' equity and cash flows (and the notes thereto) as of, and for the fiscal year ended, June 30, 2015, which have been reviewed by the Company's independent public accountants.

(ii) "Fortitude" means Fortitude Financial Investments Inc.

(jj) "Fundamental Representations and Warranties" has the meaning ascribed to it in Section 9.1.

(kk) "GAAP" means, at any time, accounting principles generally accepted in Canada applicable to private enterprises, in accordance with Canadian Accounting Standards for Private Enterprises (ASPE), consistently applied and maintained throughout the period indicated.

(ll) "Governmental Authority" means any governmental or regulatory body, agency, authority, commission, department, bureau, court, tribunal, arbitrator or arbitral body (public or private), or political subdivision, whether federal, state, local, tribal or foreign.

(mm) "Indemnification Cap" has the meaning ascribed to it in Section 9.2(b)(iii).

(nn) "Indemnification Obligations" means the respective indemnification obligations of the Seller and/or the Purchaser under Article IX.

(oo) "Indemnifying Party" means any Person required to provide indemnification under Article IX.

(pp) "Intellectual Property" means the entire right, title and interest in and to all intellectual property rights of every kind and nature, including all rights and interests pertaining to or deriving from:

(i) patents, copyrights, mask work rights, technology, know-how, processes, trade secrets, algorithms, inventions, works, proprietary data, databases, formulae, research and development data and computer software or firmware;

(ii) trademarks, trade names, service marks, service names, brands, trade dress and logos, and the goodwill and activities associated therewith;

(iii) domain names, rights of privacy and publicity, moral rights, and proprietary rights of any kind or nature, however denominated, throughout the world in all media now known or hereafter created;

(iv) any and all registrations, applications, recordings, licenses, common-law rights and Contractual Obligations relating to any of the foregoing; and

(v) all Actions and rights to sue at law or in equity for any past or future infringement or other impairment of any of the foregoing, including the right to receive all proceeds and damages therefrom, and all rights to obtain renewals, continuations, divisions or other extensions of legal protections pertaining thereto.

(qq) "Interim Financial Statements" means, with respect to the Company, its unaudited financial statements as of, and for the period ended September 30, 2016.

(rr) "Knowledge" means, when used with respect to the Seller, the Company or any of them, (a) the actual knowledge of any of the Seller, and (b) such knowledge that the Seller would have had following a reasonable investigation, if under the circumstances a reasonable person would have determined such investigation was required or appropriate in the normal course of fulfillment of such individual duties.

(ss) "Law" means any federal, provincial, state, local or foreign law (including common law), treaty, statute, code, ordinance, rule, regulation, permit, license, written order or other requirement or guideline of any Court or Governmental Authority, including any decree or writ of any court or Governmental Authority.

(tt) "Leased Real Property" has the meaning ascribed to it in Section 5.5(a).

(uu) "Liability" means, with respect to any Person, any liability or obligation of such Person whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether or not incurred, whether due or to become due and whether or not required under GAAP to be accrued on the financial statements of such Person.

(vv) "Line of Credit" means the line of credit pursuant to that certain Demand Operating Facility Agreement dated June 7, 2012, as amended from time to time, by and among the Toronto Dominion Bank and the Company.

(ww) "Loss" or "Losses", in respect of any matter, means any loss, liability, cost, expense, judgment, settlement or damage arising out of or resulting from such matter, including reasonable out-of-pocket attorneys' fees, other reasonable out-of-pocket experts' fees and expenses, reasonable out-of-pocket costs of investigating or defending any claim, action, suit or proceeding or the imposition of any judgment or settlement and reasonable out-of-pocket costs of enforcing any Indemnification Obligations.

(xx) "Material Adverse Effect" means, with respect to the Company, any change, event, violation, inaccuracy, circumstance or effect that, individually or taken together is or is reasonably likely to have a material adverse effect on the value of the Business, assets (including intangible assets), properties, operations, results of operations or financial condition of the Company; provided that none of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: (i) any act of terrorism, war, calamity or act of God or any change in global, national or regional political conditions, or any change in general economic, business, regulatory, political or market conditions or in national or global financial markets, in each case, to the extent that such act or change does not have a materially disproportionate effect on the Business, (ii) any changes in Law or change in GAAP, (iii) general economic, financial or currency exchange conditions in Canada, the United States or internationally, (iv) any changes in credit markets generally, including changes in interest rates or the availability of financing, (v) changes in political conditions domestically or internationally, (vi) the taking of any action contemplated by this Agreement and the other documents and certificates contemplated hereby, (vii) the pendency or announcement of the transactions contemplated by this Agreement, and (viii) any action by the Company taken with the prior written consent of Purchaser or any of its Affiliates.

(yy) "Material Contracts" has the meaning ascribed to it in Section 5.7(a).

(zz) "Order" means any judgment, writ, decree, compliance agreement, injunction or judicial or administrative order or legally binding determination from any Governmental Authority.

(aaa) "Party" or "Parties" has the meaning ascribed to it in the Preamble.

(bbb) "Permitted Encumbrances" means (i) Encumbrances for current Taxes, assessments or other governmental charges not yet due and payable or being contested in good faith by appropriate proceedings and for which adequate reserves have been established and are presented on the Financials, (ii) any Encumbrances arising in the ordinary course of business by operation of applicable Law with respect to a Liability that is not yet due and payable, (iii) other imperfections of title, restrictions or encumbrances, if any, which imperfections, restrictions or encumbrances would not cost more than \$2,000 individually, or \$4,000 in the aggregate, to remove; (iv) any Encumbrances approved by the Purchaser in writing; (v) those Encumbrances listed in Schedule 5.5(b) of the Disclosure Schedules; and (vi) any encumbrances arising in connection with a judgment rendered in connection with the matter of Peter Trant v. Commerx Corporation and Robert Kulhawy.

(ccc) "Person" means an individual, partnership, venture, unincorporated association, organization, syndicate, corporation, limited liability company, or other entity, trust, trustee, executor, administrator or other legal or personal representative or any government or any agency or political subdivision thereof.

(ddd) "Personal Information" means information about an identifiable individual but does not include business contact information provided that the collection, use or disclosure, as the case may be, of the business contact information is for the purposes of enabling an individual to be contacted in relation to that individual's business responsibilities and for no other purpose.

(eee) "Pre-Closing Tax Period" means all taxable periods ending on or before the Closing Date and the portion ending on or before the Closing Date of any taxable period that includes (but does not begin or end on) the Closing Date.

(fff) "Purchaser" has the meaning ascribed to it in the Preamble.

(ggg) "Purchase Price" has the meaning ascribed to it in Section 2.2.

(hhh) "Real Property Lease" has the meaning ascribed to it in Section 5.5(a).

(iii) "Registered Marks" has the meaning ascribed to it in Section 5.6(c).

(jjj) "Returned Shares" has the meaning ascribed to it in Section 2.2.

(kkk) "Returns" means any and all returns, reports, information, statements and certifications with respect to any and all Taxes that are required to be filed with any federal, provincial, state, local or foreign Governmental Authority.

(lll) "Securities Act" means the Securities Act of 1933, as amended.

(mmm) "Seller" has the meaning ascribed to it in the Preamble.

(nnn) "Seller Indemnified Parties" has the meaning ascribed to it in Section 9.3(a).

(ooo) "Settlement Agreement" means the settlement agreement between the Purchaser, the Seller, STS, Fortitude and the Company dated as of the date hereof;

(ppp) "Shareholder Agreement" means the agreement between the Purchaser the Seller and certain of the other shareholders of the Company to be entered into by such parties on Closing, substantially in the form attached hereto as Exhibit B.

(qqq) "Subsidiary" or "Subsidiaries" mean, with respect to any specified Person, any other Person of which such specified Person will, at the time, directly or indirectly through one or more subsidiaries (i) own at least fifty percent (50%) of the outstanding capital stock (or other shares of beneficial interest) entitled to vote generally, (ii) hold at least fifty percent (50%) of the partnership, limited liability company, joint venture or similar interests or (iii) be a general partner, managing member or joint venturer.

(rrr) "STS" means STS Capital Partners Inc.

(sss) "Tax" or "Taxes" means taxes, fees, levies, duties, tariffs, imposts and governmental impositions or charges of any kind payable to any federal, provincial, state, local or foreign Governmental Authority, including (i) income, franchise, profits, gross receipts, ad valorem, net worth, value added, sales, use, service, real or personal property, special assessments, capital stock, license, payroll, withholding, employment, estimated, social security, workers' compensation, unemployment compensation or insurance contributions, utility, severance, production, excise, stamp, occupation, premiums, windfall profits, transfer, gains, business and occupation, disability, quality assurance fee, bed tax, provider tax or other tax, duty or charge of any kind whatsoever, however denominated, and (ii) interest, penalties, additional taxes and additions to tax imposed with respect thereto.

(ttt) "Transaction Documents" means this Agreement, the Shareholder Agreement and the Voting Agreements.

(uuu) "Transfer Documents" means the instruments of assignment and transfer as shall be necessary to the transfer to the Purchaser including without limitation any certificates evidencing such Equity Interests.

(vvv) "Transferred Information" means the Personal Information disclosed or conveyed to one Party or any of its representatives or agents (a "Recipient") by or on behalf of the other Party (a "Disclosing Party") as a result of or in conjunction with the transactions contemplated hereby, and includes all such Personal Information disclosed to the Recipient prior to the execution of this Agreement.

(www) "U.S." means the United States of America.

(xxx) "Voting Agreements" means the agreements to be executed and delivered on or prior to Closing by the Seller, the Purchaser, Fortitude and Balinhard which shall require such parties to vote, at the next duly called meeting of shareholders of the Company, in favour of: (i) an amendment to the articles of incorporation of the Company; and (ii) the increase to the number of directors of the Company, and in favour of certain nominees, as provided for in the Shareholder Agreement; in each case in accordance with the resolutions set forth in the Voting Agreements; and such agreements shall be in the form attached hereto as Exhibit C.

1.2 Terms Generally. The definitions in Section 1.1 and elsewhere in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words

"herein," "hereof" and "hereunder" and words of similar import refer to this Agreement (including the Exhibits to this Agreement and the Disclosure Schedules) in its entirety and not to any part hereof unless the context shall otherwise require. All references herein to Articles, Sections, Exhibits and the Disclosure Schedules shall be deemed references to Articles and Sections of, and Exhibits and the Disclosure Schedules to, this Agreement unless the context shall otherwise require. Unless the context shall otherwise require, any references to any agreement or other instrument or any Law are to such agreement, instrument or Law as the same may be amended and supplemented from time to time (and, in the case of any statute or regulation, to any successor provisions). Any reference to any Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The use of the words "or," "either" and "any" in this Agreement shall not be exclusive. Any reference in this Agreement to a "day" or a number of "days" (without explicit reference to "Business Days") shall be interpreted as a reference to a calendar day or number of calendar days. If any action is to be taken or given on or by a particular calendar day, and such calendar day is not a Business Day, then such action may be deferred until the next Business Day.

ARTICLE II

PURCHASE AND SALE

2.1 Purchase and Sale of the Equity Interests. Subject to and upon the terms and conditions hereinafter set forth, at the Closing, and in reliance upon the representations, warranties and covenants contained in this Agreement or made pursuant hereto, the Seller agrees to sell, assign, transfer and deliver to the Purchaser, and the Purchaser hereby agrees to purchase from the Seller all of the Seller's right, title and interest in the Equity Interests, free and clear of all Encumbrances.

2.2 Purchase Price and Payment. In consideration of the aforesaid sale, assignment, transfer, and delivery of the Equity Interests, the Purchaser shall pay to the Seller the amount of \$2,000,000 (the "Purchase Price") as follows:

(a) On or before January 31, 2017, the Purchaser shall pay to the Seller \$500,000 in cash (the "Initial Payment"); and

(b) On November 30, 2018, the Purchaser shall pay to the Seller \$1,500,000 in cash (the "Subsequent Payment"); *provided, however,* that the Subsequent Payment may be accelerated through a significant change of ownership of the Company occurring subsequent to Closing, but prior to November 30, 2018.

In the event that the Purchaser fails to deliver the Initial Payment to the Seller on or before June 30, 2017, the Purchaser shall immediately transfer back to the Seller one-half (1/2) of the Equity Interests (the "Returned Shares") purchased hereunder, which shares shall be re-issued to the Seller. Upon completion of the Initial Payment, the Seller cause the Returned Shares to be transferred to and registered in the name of the Purchaser.

2.3 Repayment of Debt and Satisfaction of Expenses

(a) On Closing, the Purchaser shall purchase 1,386 Class "A" Shares at an issue price of \$1,000 per Class "A" Share. On Closing, the Company shall issue a direction to the Purchaser that the proceeds of such share issuance shall be delivered as follows in order to satisfy certain outstanding Debt and expenses of the Company:

(i) \$491,414.75 to the Toronto-Dominion Bank;

- (ii) \$472,601.09 the United States Internal Revenue Service;
- (iii) \$78,089.94 to Alternate Recruiting Services LP in respect of certain U.S. state payroll taxes;
- (iv) \$200,754.94 to Bennett Jones LLP to be held in trust pending the Company's delivery of such amount Canada Revenue Agency from its own account; and
- (v) \$142,750 to STS.

(b) Pursuant to the terms of the Settlement Agreement, the Seller has directed the Purchaser to deliver \$100,000 of the Initial Payment to STS to satisfy a portion of the transaction expenses payable by the Company and the Seller in connection with the transaction.

(c) By no later than January 31, 2017, the Purchaser shall procure additional debt financing from a third-party lender in the amount of not less than \$1,270,000 (the "Additional Financing") which shall be used by the Purchaser as follows:

(i) the Purchaser shall draw the amount of \$500,000 from the Additional Financing and deliver the Initial Payment to the Seller as provided for in Section 2.2(a); and

(ii) the Purchaser shall draw the amount of \$770,000 and shall purchase 770 Class "A" Shares from the Company at an issue price of \$1,000 per share and the Company shall use the proceeds of such share issuance to satisfy the following outstanding Debt and expenses of the Company:

(A) \$142,750 to STS;

(B) \$120,000, plus GST, to Bennett Jones LLP; and

(C) CAD\$98,000, plus GST, if applicable, to Burnet, Duckworth & Palmer LLP, subject to the Company's review and approval of the invoices issued by Burnet, Duckworth & Palmer LLP in connection with such amount.

(d) Pursuant to the terms of a direction delivered in connection with the Settlement Agreement, the Seller has directed that, in the event that certain obligations of the Company which are due to STS and Fortitude have not been satisfied and paid prior to the payment of the Subsequent Payment, the Subsequent Payment shall be delivered to Burnet, Duckworth & Palmer LLP.

2.4 Conversion of Debt and Amendment of Articles of Incorporation.

(a) Upon Closing, Balinhard and Fortitude shall convert all outstanding indebtedness owing thereto into Class "E" Shares and Class "F" Shares of the Company, respectively. As soon as reasonably practicable following Closing, and in any event not later than January 31, 2017, the Company shall hold a meeting of its shareholders (the "**Shareholder Meeting**") for the purpose of amending the articles of incorporation of the Company to amend terms of the Class "E" Shares, Class "F" Shares and Class "G" Shares as provided for in Exhibit D.

(b) Upon Closing, Company shall issue 293,306 Class "G" Shares to the Seller in exchange for the cancellation by the Seller of those amounts that are accruing and payable by the Company to the Seller pursuant to a debt conversion agreement previously entered into by the Seller and the Company.

ARTICLE III
CLOSING

3.1 Closing Date. The closing of the transactions contemplated hereby (the "Closing") shall take place remotely via the exchange of documents and signatures at 9:00 a.m. Pacific Time on the first Business Day following the date that the Closing Conditions are satisfied or waived (other than those conditions that by their terms require the delivery of any documents or taking of other action at the Closing), or at such other place and on such date as may be agreed to in advance by the Parties. The date that the Closing occurs is herein referred to as the "Closing Date."

ARTICLE IV

REPRESENTATIONS AND WARRANTIES REGARDING THE SELLER

Except as set forth on the Disclosure Schedules, the Seller hereby represents and warrants to the Purchaser that the following representations and warranties are true and complete as of the date hereof and as of the Closing Date. The Disclosure Schedules shall be arranged in schedules corresponding to the sections contained in Article IV and Article V, and any disclosure made in any section of the Disclosure Schedules shall qualify other sections in this Article IV or in Article V or their corresponding schedules in the Disclosure Schedules, or it is otherwise reasonably apparent on the face of the Disclosure Schedules that a disclosure made in any particular section of the Disclosure Schedules relates to one or more other sections of the Disclosure Schedules.

4.1 Ownership of Equity Interests. The Seller holds, and has good and marketable title to, and sole record and beneficial ownership of, the Equity Interests and the Equity Interests shall be transferred to the Purchaser by the Seller pursuant hereto, free and clear of any Encumbrances (other than Encumbrances as may be imposed by the Purchaser). There are no Encumbrances on the Equity Interests. The Seller has the full capacity, right, power and authority to enter into this Agreement and to transfer, convey and sell to the Purchaser at the Closing the Equity Interests. Upon consummation of the Closing, the Purchaser will acquire from the Seller legal and beneficial ownership of and good and valid title to the Equity Interests, free and clear of any Encumbrances (other than Encumbrances as may be imposed by the Purchaser). The Seller has not assigned any rights related to the Equity Interests in the Company.

4.2 Violation of Law. There is no Action pending, or to the Seller's Knowledge, threatened, against the Seller or its Affiliates that (a) would reasonably be expected to prevent, hinder or delay the consummation of any of the transactions contemplated hereby, (b) questions the legality or propriety of the transactions contemplated hereby or of the ownership of the Equity Interests, (c) violates any Law applicable to the Seller, (d) would result in a violation or breach of or default under any provision of the organizational documents of the Seller or any agreement, indenture or other instrument under which the Seller is bound, or (e) result in the imposition or creation of any Encumbrance upon or with respect to any asset owned or used by the Company.

4.3 Due Authorization, Execution and Delivery; Enforceability. The Seller has full power and authority to execute and deliver this Agreement and each of any related agreements that the Seller is a party and to perform its obligations hereunder and thereunder. This Agreement and any related agreements to which the Seller is a party constitutes the valid and legally binding obligation of the Seller, enforceable in accordance with its terms and conditions except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Law now or hereafter in effect affecting the enforcement of creditors' rights generally and except that the enforceability of such obligations is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) (collectively, the "Enforceability Exceptions"). The Seller represents that it is not required

to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Governmental Authority in order to consummate the transactions contemplated hereby.

4.4 No Conflict. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby nor the fulfillment of the terms hereof, in each case, by the Seller violates or will violate, or results or will result in a breach of, any of the terms and provisions of, or constitutes or will constitute a default under, or conflicts or will conflict with, or results or will result in any augmentation or acceleration of rights, benefits or obligations of any party, or any Order applicable to the Seller, except where as would not reasonably be expected to have a Material Adverse Effect.

4.5 Litigation. No Action is pending or, to the Seller's Knowledge, threatened against the Seller that (a) questions the validity of this Agreement, (b) seeks to prohibit, enjoin or otherwise challenge the consummation of the transactions contemplated hereby, or (c) questions the ownership of the Equity Interests by the Seller.

4.6 Brokers and Finders. Subject to Section 2.3(a), Section 2.3(c), Section 10.1 and the terms of the Settlement Agreement, each party will be responsible for any fees, costs or commissions owed any Broker, Finder, Agent or financial advisor hired for this transaction.

4.7 Residency. The Seller is not a non-resident of Canada for purposes of the Income Tax Act (Canada).

ARTICLE V

REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY

Except as set forth on the Disclosure Schedules, the Seller hereby represents and warrants to the Purchaser that the following representations and warranties are true and complete as of the date hereof and as of the Closing Date.

5.1 Entity Status, etc.

(a) Organization. The Company is a Corporation duly organized, validly existing and in good standing under the laws of the Province of Alberta.

(b) Power and Authority. The Company has full corporate or limited liability company (as applicable) power and authority to own, operate and lease its properties and assets, to carry on its businesses as and where such is now being conducted, including, without limitation, the Business, to enter into the documents and instruments to be executed and delivered by the Company pursuant hereto and to carry out the transactions contemplated hereby. True, correct and complete copies of the Company's articles of organization in effect on the date hereof have been made available to the Purchaser, and the Company is not in violation or default, in any material respect, of any provision of any such documents.

(c) Qualification. The Company is duly qualified or licensed to do business as a corporation and is in good standing, in Canada, the United States, Mexico and India. Such jurisdictions constitute the only jurisdictions in which the character of the properties the Company owns, leases, controls or operates or the nature of its activities makes such qualification necessary or advisable.

(d) No Conflicts or Violations. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of the terms hereof by the Company will (i) violate in any material respect or result in a material breach of any of the terms and

provisions of, constitute a material default under, materially conflict with, or result in any acceleration of material rights, material benefits or material obligations of any party under, any agreement (including, but not limited to any Material Contract), mortgage, bond, indenture, franchise or other instrument or obligation to which the Company is a party or by which it is bound; (ii) violate any Order or award of any Governmental Authority applicable to the Company; (iii) result in the creation of any Encumbrance (other than a Permitted Encumbrance) upon any asset of the Company or the Equity Interests pursuant to the terms of any such mortgage, bond, indenture, lease, franchise or other instrument or obligation; (iv) constitute a material violation by the Company of any applicable Law; or (v) conflict with or violate the articles of incorporation of the Company. The Company is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority in order for the Parties hereto to consummate the transactions contemplated hereby.

(e) Capitalization.

(i) As of the date hereof, the authorized shares of the Company consists of shares of common and preferred stock of which 5,608,751 Class "A" Shares and 1,086,319 Class "G" Shares are issued and outstanding. All of the outstanding shares of the Company, including the Equity Interests, have been duly authorized and validly issued and are fully paid and not assessable and were issued in compliance with all applicable federal and provincial securities laws. The Company does not operate any equity incentive plan or profit sharing scheme for the benefit of any of its officers, directors, employees or consultants.

(ii) Except as set forth above, (A) no shares or any other ownership interests of the Company are outstanding, (B) the Company does not have outstanding any securities convertible into or exchangeable for any share or any other ownership interests, any rights to subscribe for or to purchase or any options for the purchase of, or any agreements providing for the issuance (contingent or otherwise) of, or any calls, commitments or claims of any other character relating to the issuance of, any shares, membership interests, warrants or securities convertible into or exchangeable for any shares or any other ownership interests and (C) the Company is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire, or to register under the Securities Act, any shares or other ownership interests and there are no voting trusts or proxies outstanding with respect to any shares or any other ownership interest, if any, of the Company.

(iii) The Company has the following Subsidiaries: Alternate Communications US Inc. (United States) Alternate Recruiting Services L.P. (United States), Commerx Alternate Communications Private Ltd. (India) and Commerx Comunicaciones Alternas (Mexico).

5.2 Financial Statements; Undisclosed Liabilities. The Company has furnished to the Purchaser, prior to the date hereof, the reviewed Financial Statements and unaudited Interim Financial Statements (collectively, the "Financials"), copies of which are attached hereto as Schedule 5.2 of the Disclosure Schedules. The Financials have been prepared in accordance with GAAP consistently applied throughout the periods covered thereby, and present fairly, in all material respects, the financial condition of the Company as of such dates and the results of operations of the Company (including the Business), for the periods covered thereby.

5.3 Debt. Schedule 5.3 of the Disclosure Schedules sets forth a summary of all Debt for the Company, including for each item of Debt, the total amount outstanding as of the date of this Agreement and the collateral, if any, securing such Debt. The Company has no Liability in respect of any written guarantees of any Liability of any other Person. With the exception of those amounts specified in Schedule 5.3 of the Disclosure Schedules, as of the Closing, there will be no Debt for the Company and no Company Liability for any Debt other than (i) accounts payable of the Company arising in the ordinary course of

business, (ii) sales tax payable, (iii) accrued vacation and payroll, (iv) sales tax agency payable, (v) current and long-term deferred revenue, (vi) legal and brokers' fees incurred by the Company in connection with the transactions contemplated herein and matters ancillary hereto, (vii) legal fees incurred in connection with the litigation disclosed in Section 5.10 hereof, and (viii) incremental amounts which may be charged to the Company by the creditors listed in Schedule 5.3.

5.4 Taxes.

(a) Timely Filing of Returns. Except as set forth in Schedule 5.4 of the Disclosure Schedules, the Company has filed or caused to be filed all Returns that are or were required to be filed on or prior to Closing Date. All Returns filed by the Company were in all material respects true and complete.

(b) Audits. No Tax Return filed by the Company is under audit or examination by any Governmental Authority, and no written or unwritten notice of such an audit or examination has been received by the Company, and the Company does not have any Knowledge of any threatened audits or investigations relating to Taxes of the Company.

(c) Availability of Returns. The Seller has made available to the Purchaser complete and accurate copies of all Tax Returns, and any amendments thereto, filed by or on behalf of, or which include, the Company, for the three (3) most recent tax years for which returns were filed prior to the Closing Date.

(d) Real Property Transfer Tax. The Company does not own any interest in real estate as a result of which ownership, the transactions or any related transaction contemplated by this Agreement would be subject to any realty transfer Tax or similar Tax.

5.5 Title to Properties; Absence of Encumbrances.

(a) The Company does not own any real property. Schedule 5.5(a) of the Disclosure Schedules contains a complete list by address of all real property leased by the Company (the "Leased Real Property") and specifies the lessor(s) or licensor(s) of such Leased Real Property and identifies each lease or any other Contractual Obligation under which such property is leased, licensed or otherwise occupied, including without limitation all amendments thereto (together with all amendments thereto, each a "Real Property Lease"). The leasehold estate under each Real Property Lease is held in the name of the Company, its applicable Subsidiaries or as otherwise specified in Schedule 5.5(d). Each Real Property Lease is legal, valid, binding, enforceable according to its terms and in full force and effect. Except for any Permitted Encumbrances and except as set forth on Schedule 5.5(a) of the Disclosure Schedules, to the Knowledge of the Seller and the Company, there are no written or oral subleases, licenses, concessions, occupancy agreements or other Contractual Obligations granting to any other Person the right of use or occupancy of the Leased Real Property or any portion thereof and there is no Person in possession of the Leased Real Property or any portion thereof other than the Company. The Seller does not hold any interest in any lessor or licensor of any of the Leased Real Property.

(b) The Company has good, valid, transferable and marketable title to, or, in the case of personal property held under a lease or other Contractual Obligation, an enforceable leasehold interest in, or right to use, all of its properties, rights and assets, whether tangible or intangible, that it owns or purports to own or lease (as applicable) reflected on its books and records and the Financials (except those sold or disposed of subsequent to the date thereof in the ordinary course of business consistent with past practice) (in each case, collectively, the "Assets"). Except as disclosed on Schedule 5.5(b) of the Disclosure Schedules, none of the Assets is subject to any Encumbrance other than Permitted Encumbrances.

(c) All of the tangible Assets of the Company are, in all material respects, in good working order, operating condition and state of repair, ordinary wear and tear excepted.

(d) The Company has delivered to the Purchaser true, accurate and complete copies of each Real Property Lease, in each case, as amended or otherwise modified and in effect.

(e) There exists no default, breach or dispute (in any case, which is material) on the part of the Company under any Real Property Lease nor has any event occurred which, with the passage of time or the giving of notice or both, would constitute a material default or material breach by the Company under a Real Property Lease.

(f) To the Knowledge of the Seller and the Company, there exists no material default or material breach by the landlord, sublessor, licensor or other obligor under each Real Property Lease nor, to the Knowledge of the Seller and the Company, has any event occurred which, with the passage of time or the giving of notice or both, would constitute a material default or material breach by any such Person under a Real Property Lease.

5.6 Intellectual Property

(a) The Company owns or possesses all licenses or other rights to use all Intellectual Property necessary to conduct the Business.

(b) To the Knowledge of the Seller and the Company, the Intellectual Property claimed or used by the Company do not conflict with or infringe upon any Intellectual Property of others.

(c) Except as previously disclosed to the Purchaser prior to the date hereof, the Company does not own, or purport to have an ownership interest in any Intellectual Property (the "Registered Marks") and all registrations in connection with the Registered Marks have been maintained, renewed and kept current by the Company.

(d) With the exception of license agreements and other Contractual Obligations entered into by the Company in the ordinary course of business, the Company does not have any Contractual Obligations pursuant to which the Company licenses any of its patents, trademarks, tradenames, service marks and domain names.

(e) To the Knowledge of the Seller and the Company, no third party is infringing any Intellectual Property owned by the Company.

(f) No legal proceedings are pending against the Company or, to the Knowledge of the Seller and the Company, threatened against the Company, that (i) assert that any Intellectual Property claimed or used by the Company or any action taken by the Company infringes any Intellectual Property of any Person or that any Intellectual Property claimed or used by the Company or any action taken by the Company constitutes a libel, slander or other defamation of any Person or (ii) challenge the validity or enforceability of, or the rights of the Company in any of its Intellectual Property.

(g) All past and current employees of the Company whose duties or responsibilities relate to the development, creation or conception of Intellectual Property have each signed a confidentiality agreement, or similar agreement, that continues in effect on the date hereof.

5.7 Material Contracts

(a) Prior to the date hereof, the Seller and the Company have made available or provided to the Purchaser copies of the following contracts and other agreements, whether written or oral and whether express or implied, to which the Company is a party (collectively, the "Material Contracts");

(i) any Contractual Obligation (or group of related Contractual Obligations), in each case, the performance of which will extend over a period of more than one year or which provides for annual payments to or by the Company in excess of Two Hundred Fifty Thousand Dollars (\$250,000);

(ii) (A) any capital lease or (B) any other lease or other Contractual Obligation relating to any Equipment with a fair market value in excess of Ten Thousand Dollars (\$10,000), under which any Equipment is held or used by the Company;

(iii) any Contractual Obligation, other than Real Property Leases or leases relating to the Equipment, relating to the lease or license of any Asset with a fair market value in excess of Ten Thousand Dollars (\$10,000), including Intellectual Property;

(iv) any Contractual Obligation relating to the acquisition or disposition of (i) any business of the Company (whether by merger, consolidation or other business combination, sale of securities, sale of assets or otherwise) or (ii) any Asset other than in the ordinary course of business;

(v) any Contractual Obligation with an Affiliate or the Seller, or with any entity in which an officer or director of the Company holds an interest including any agreement whereby the Company or one of its Affiliates has advanced or loaned any amount to any director, officer, employee or the Seller;

(vi) any Contractual Obligation (or group of related Contractual Obligations) (A) under which the Company has created, incurred, assumed or guaranteed any Debt in excess of Twenty Thousand Dollars (\$20,000) or (B) under which the Company has permitted any Asset to become subject to an Encumbrance (other than a Permitted Encumbrance);

(vii) any Contractual Obligation under which any other Person has guaranteed any Debt of the Company;

(viii) any Contractual Obligation relating to confidentiality, non-competition or non-solicitation (whether the Company is subject to or the beneficiary of such obligations) which have been entered into outside the ordinary course of business;

(ix) any Contractual Obligation under which the Company is, or may become, obligated to incur any severance pay or special compensation obligations which would become payable by reason of this Agreement and any other transaction contemplated hereby;

(x) any Contractual Obligation under which the Company has or may have any Liability to any investment bank, broker, financial advisor, finder or other similar Person (including an obligation to pay any legal, accounting, brokerage, finder's, or similar fees or expenses in connection with this Agreement and any other transaction contemplated hereby);

(xi) any Employee Benefit Plan for the benefit of the current or former directors, officers, and employees of the Company;

(xii) any Contractual Obligation providing for the employment or retainer of a Person on a full-time, part-time, employment, consulting or other basis or otherwise providing compensation or other benefits to any officer, director, employee or consultant (other than an Employee Benefit Plan listed on Schedule 5.12 of the Disclosure Schedules);

(xiii) any Contractual Obligation under which the Company has outstanding loans to any of its Affiliates or employees other than in the ordinary course of business; and

(xiv) any contract or other agreement requiring the Company to obtain the consent of another party thereto in the event of a change in control of the Company or as a result of the transactions contemplated by this Agreement.

(b) With the exception of oral contracts, the terms of which have been disclosed to the Purchaser, the Company has delivered to the Purchaser true, accurate and complete copies of each Material Contract, in each case, as amended or otherwise modified and in effect, that are currently in the possession of the Company.

(c) Enforceability, etc. Each Contractual Obligation required to be disclosed on Schedules 5.3 (Debt), 5.5(a) (Real Property Leases), 5.6 (Intellectual Property), 5.7 (Material Contracts), 5.9 (Insurance), or 5.12 (Employee Benefit Plans) of the Disclosure Schedules is, subject to the Enforceability Exceptions, in full force and effect and enforceable against the Company and, to the Knowledge of the Seller and the Company, the applicable counter-parties for such Contractual Obligation. Neither the Company nor, to the Seller's Knowledge, any other party thereto is in material breach, or material default of, or has otherwise failed to perform, its obligations thereunder in any material way.

5.8 Intentionally Deleted.

5.9 Insurance.

(a) Schedule 5.9(a) of the Disclosure Schedules sets forth all insurance policies (including fire, liability, malpractice, directors' and officers', product liability, property, professional liability, umbrella, automobile, workers compensation, employment practices liability, health, fidelity bond and other forms of insurance) currently maintained by the Company covering ownership of the Assets, operation of the Business, and copies of such policies have been previously made available to the Purchaser.

(b) All such policies or bonds are valid, outstanding and, subject to the respective terms thereof, and, subject to the Enforceability Exceptions, enforceable policies and provide insurance coverage as specified therein for the Business. No notice of cancellation or termination has been received with respect to any such policy, and there have been no acts or omissions of the Company that would reasonably be expected to result in cancellation of any such policy prior to its scheduled expiration date. The Company has not been refused any insurance with respect to any aspect of the operations of its business (including the Business), nor has its coverage been limited by any insurance carrier to which it has applied for insurance or with which it has carried insurance during the last three years. The Company has duly and timely made all claims it has been entitled to make under each policy of insurance, except where the Company has reasonably determined not to pursue a claim (excluding any claims required to be made under applicable workers' compensation Law). There is no claim by the Company pending under any such policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies, and neither the Company nor the Seller has any Knowledge of any basis for denial of any claim by the Company pending under any such policy. The Company has not received any written notice from or on behalf of any insurance carrier issuing any such policy that insurance rates therefor will hereafter be

substantially increased or that there will hereafter be a cancellation or an increase in a deductible (or an increase in premiums in order to maintain an existing deductible) or nonrenewal of any such policy.

5.10 Litigation. With the exception of the judgment in the matter of Peter Trant v. Commerx Corporation and Robert Kulhawy, the details of which are disclosed on Schedule 5.10 of the Disclosure Letter, (a) there is no judgment entered or Action pending against and, to the Knowledge of the Seller, there is no Action threatened against the Company; and (b) to the Knowledge of the Seller, there is no Action pending or threatened against the Company's respective properties, assets, managers, directors, members, officers or employees, in his or her capacity as such; and the Company is not identified as a party subject to any restrictions or limitations under any Order of any Governmental Authority.

5.11 Employees.

(a) Schedule 5.11(a)(i) of the Disclosure Schedules contains a true and correct list of all of the Company's current employees, including titles, overtime and non-overtime eligible classification, employment dates, base compensation, bonus, commission and other incentive compensation arrangements. The Company has made available to or provided the Purchaser a true and correct copy of each such employee's written employment contract, if any. No change-in-control, transaction bonus or similar provisions exist in such employment contracts or otherwise that may be implicated, owing or otherwise payable in connection with the transactions contemplated by this Agreement and/or other events. To the extent permitted by applicable Law, Schedule 5.11(a)(i) of the Disclosure Schedules also identifies each employee who is out of work on a leave of absence, including due to disability and sets forth the basis of such leave and the anticipated date of return to work. The Company has provided the Purchaser with a copy of each written agreement between the Company and any of its employees and independent contractors or an accurate description of the material terms of employment or retention of each employee and independent contractor for whom no such written agreement exists, and a list of all Employee Benefit Plans, including, without limitation, with respect to salaries, directors' fees, bonuses, commissions, profit shares and automobile allowance, payable or which the Company provides to each employee, contractor and director. The Company has not adopted any policy or custom with respect to any Employee Benefit Plan that would change the terms of such Employee Benefit Plan to which an employee, contractor or director is entitled on the date hereof, under an employment or retention agreement or applicable Law.

(b) The Company (i) is in compliance in all material respects with all applicable Laws, agreements and contracts relating to its former and current employees, workplace practices, and terms and conditions of employment with or retention by the Company, including all such Laws, agreements and contracts relating to wages, hours, collective bargaining, employment discrimination, immigration, disability, civil rights, fair labor standards, occupational safety and health, workers' compensation, pay equity and wrongful discharge, and (ii) is in all material respects in compliance with all applicable Laws, agreements and contracts relating to independent contractors and temporary agency employees. The Company is not engaged in any unfair labor practice.

(c) There is no representation claim or petition pending before an applicable labor relations board of which the Company or the Seller has been notified, and no question concerning union certification or representation has been raised or, to the Knowledge of the Seller, threatened respecting the employees of the Company.

(d) No written notice has been received by the Company or the Seller, of any complaint or proceeding filed against the Company claiming that the Company has violated any applicable employment standards, labor legislation or employment Laws, or of any complaints or proceedings of any kind involving the Company or threatened to be filed against the Company before any federal, provincial, state, local or foreign court, tribunal, arbitrator, agency or labor relations board.

(e) Neither the Seller nor, to the Knowledge of the Seller, any other officer, director or authorized agent of the Company, has made any written or oral statements or representations or distributed any written material to any employees of the Company guaranteeing continued employment with the Company subsequent to the date hereof or the Closing Date.

(f) To the Knowledge of the Seller and the Company, no current or former employee, consultant, officer, director of the Company, while performing their duties for the Company, has used or disclosed material confidential, proprietary or trade secret information obtained from other prior employers (other than the Company) or third parties to the Company or on behalf of the Company without the written consent of such prior employers or third parties.

5.12 Employee Benefit Plans

(a) Schedule 5.12(a) of the Disclosure Schedules lists all Employee Benefit Plans that the Company sponsors, maintains, contributes to or is obligated to contribute to, or under which the Company has or could reasonably be expected to have any Liability (each, a "Company Plan"). With respect to each Company Plan, the Company has made available to the Purchaser true, accurate and complete copies of each of the following (to the extent applicable to such Company Plan): (i) if the Company Plan has been reduced to writing, the plan document, as currently in effect and including all amendments, (ii) if the Company Plan has not been reduced to writing, a written summary of all material plan terms, (iii) if applicable, copies of any trust agreements, custodial agreements, insurance policies, administrative agreements, investment policies, and investment management and investment advisory agreements, and (iv) the most recent summary plan description, together with any summaries of material modifications related thereto, distributed to participants in such Company Plan. The Company has not announced any plan or commitment, whether or not legally binding, to create any additional Employee Benefit Plan or to materially amend or modify any existing Employee Benefit Plan, except to the extent required by applicable law or necessary to bring an Employee Benefit Plan into compliance with applicable law.

(b) Except as disclosed on Schedule 5.12(b) of the Disclosure Schedules, no Employee Benefit Plan is maintained through a human resources and benefits outsourcing entity, professional employer organization, or other similar vendor or provider.

(c) The Company has performed in all material respects all obligations required to be performed by them under each Employee Benefit Plan and applicable Law. Each Employee Benefit Plan, including any associated trust or fund, has been administered in all material respects in accordance with its terms and with applicable Law, and to the Knowledge of the Seller, nothing has occurred with respect to any Company Plan that has subjected or could reasonably be expected to subject the Company to a penalty under applicable Law.

(d) All contributions, premium payments and benefit payments relating to each Employee Benefit Plan, whether required by Law or by the terms of any Employee Benefit Plan or any agreement relating thereto, for any period through the date hereof, have been made or paid in full on a timely basis or, to the extent not required to be made or paid on or before the date hereof, have been reflected in the Financial Statements.

(e) There is no pending or, to the Knowledge of the Seller, threatened Action relating to any Employee Benefit Plan, other than routine claims for benefits provided by the Employee Benefit Plans and domestic relations orders. To the Knowledge of the Seller, no Employee Benefit Plan is the subject of an examination or audit by a Governmental Authority, is the subject of an application or filing under, or is a participant in, any government- sponsored amnesty, voluntary compliance, self-correction or similar program.

(f) No Employee Benefit Plan provides benefits or coverage in the nature of health, life or disability insurance or other welfare benefits to current or former employees of the Company for any period extending beyond retirement or other termination of employment, except (i) to the extent required by applicable Law, (ii) conversion rights, and (iii) disability benefits attributable to a disability occurring prior to retirement or other termination of employment.

5.13 Absence of Certain Changes. Since October 13, 2016, the Company has used commercially reasonable efforts to maintain its business in the ordinary course (except in connection with pursuing strategic transactions) and has maintained its relationships with customers, vendors and suppliers consistent with past practice, and, with the exception of the demand letter received by the Company and the Seller from the Toronto Dominion Bank in respect of repayment of amounts outstanding thereto (the full details of which have been disclosed to the Purchaser prior to the date hereof), there has not occurred any event, development or change that, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF PURCHASER

The Purchaser hereby represents and warrants to the Company and the Seller as of the date hereof and as of the Closing Date as follows:

6.1 Organization and Good Standing. The Purchaser is a limited liability company duly formed, validly existing and in good standing under the laws of the state of Delaware and has full power and authority to enter into and carry out its obligations under this Agreement. The Purchaser has full power and authority to own, operate and lease its properties and assets, to carry on its business as and where such is now being conducted, to enter into the documents and instruments to be executed and delivered by the Purchaser pursuant hereto and to carry out the transactions contemplated hereby.

6.2 Authorization. The execution, delivery and performance of this Agreement by the Purchaser has been duly and validly authorized by the board of directors of the general partner of the Purchaser and by all other necessary limited liability company action on the part of the general partner of the Purchaser. This Agreement and the Transaction Documents constitute the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with their terms except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws and equitable principles relating to or limiting creditors' rights generally. Each of the related agreements to which the Purchaser is intended to be a party as reflected on the signature page thereof has been duly authorized by the board of directors of the general partner of the Purchaser and all other necessary corporate action on the part of the general partner of the Purchaser.

6.3 No Conflicts; Consents. The execution, delivery and performance of this Agreement, the Transaction Documents and any related agreements by the Purchaser will not violate the provisions of, or constitute a breach or default whether upon lapse of time and/or the occurrence of any act or event or otherwise under (a) the certificate of formation, limited liability company operating agreement, or any other organizational document of the Purchaser, (b) any Law or regulation to which the Purchaser is subject, (c) any of the terms or conditions, in any material respect, of any permit or license or other governmental authorization held by the Purchaser, or (d) any credit agreement or any other agreement in respect of borrowed money pursuant to which the Purchaser is a debtor.

6.4 Investment Representations. The Purchaser has such knowledge and expertise in financial and business matters, including the transactions contemplated hereby, that the Purchaser is capable

of evaluating the merits and risks of acquiring the Equity Interests, and the Purchaser has the ability to bear the economic risk of an investment in the Equity Interests. The Purchaser is acquiring the Equity Interests for investment for its own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof. The Purchaser acknowledges that the Company and the Seller have given the Purchaser the opportunity to ask questions of the officers and employees of the Company, to obtain additional information about the business, financial condition, and results of operations of the Company, and to have access to the facilities, books and records relating to the Business in order to evaluate the transactions contemplated hereby. The Purchaser understands that the transactions contemplated hereby have not been, and will not be, the subject of a prospectus filed pursuant to applicable Canadian securities Laws, a registration statement filed under the Securities Act, or qualified under applicable state securities Laws by reason of a specific exemption from the registration provisions of the Securities Act and the qualification provisions of such Laws. The Purchaser understands that the Equity Interests have not been, and will not be upon the Purchaser's purchase, registered or qualified under any securities Laws, by reason of their transfer in a transaction exempt from the registration or qualification requirements of such Laws, and may not be resold unless such resale is registered under the Securities Act and applicable Canadian securities Laws and qualified under applicable state laws or an exemption from such registration or qualification is available and that any certificates evidencing the Equity Interests will contain a legend to such effect unless such a legend is not required under applicable Law.

6.5 Litigation. No lawsuit, governmental investigation or legal, administrative, or arbitration action or proceeding is pending or threatened against Purchaser, that questions the validity of this Agreement or seeks to prohibit, enjoin or otherwise challenge the consummation of the transactions contemplated hereby.

6.6 Financial Resources. The Purchaser has all funds required in order to consummate the transactions contemplated hereby, including full payment of its obligations under Section 2.2.

ARTICLE VII

POST-CLOSING COVENANTS

7.1 Certain Tax Matters.

(a) The Seller shall cause to be prepared and timely filed in a manner consistent with the Company's past practices, all Returns and amendments thereto required to be filed by or for the Company for all taxable periods ending on or before the Closing Date. The Purchaser will be given a copy of the Company's 2016 Return a reasonable time prior to filing for review and approval. The Purchaser will provide the Seller with comments to such Return and after all Parties consent to such Return, which consent may not be unreasonably withheld, conditioned or delayed, the Purchaser will cause the Company to file such Return. Notwithstanding anything in this Section 7.1 to the contrary, any tax deductions attributable to payments of compensation or other transaction costs incurred by the Company in connection with the transactions contemplated by this Agreement shall, to the maximum extent permitted by Law, be treated as allocable to the taxable period (or portion thereof) ending on the Closing Date.

(b) Any Tax refunds that are received by the Purchaser or the Company, and any amounts credited against Taxes to which the Purchaser or the Company become entitled after the Closing Date, which relate to Tax periods or portions thereof ending on or before the Closing Date, shall be for the account of the Seller. The Purchaser shall pay to the Seller any such refund or the amount of any such credit within twenty (20) Business Days after receipt or entitlement thereto. In addition, to the extent that a claim for refund or a proceeding result in a payment or credit against any Tax to the Purchaser or the Company after

the Closing Date, the Purchaser shall pay such amount to the Seller within twenty (20) Business Days after receipt or entitlement thereto.

(c) Whenever any taxing authority, in writing, asserts a claim, makes an assessment or otherwise disputes the amount of Taxes for which the Seller is or may be liable under this Agreement or otherwise, the Purchaser shall inform the Seller within twenty (20) Business Days of such assertion and the Seller shall have the right to participate in any resulting proceedings and to approve, which approval shall not be unreasonably withheld, conditioned or delayed, the settlement of any such claim, assessment or dispute to the extent such proceedings or determinations affect the amount of Taxes for which the Seller may be liable under this Agreement or otherwise. Notwithstanding the foregoing, the Seller shall control any audit, dispute or claim relating to any income or franchise Tax period of the Company ending on or prior to the Closing Date, and the Purchaser shall have the right to participate in any such audit, claim or dispute; provided, however, that the Purchaser's consent (not to be withheld unreasonably) shall be required as a condition to any agreement with Tax authorities that will affect a post-Closing Tax Return in any material respect.

(d) Subject to the terms of Section 7.1(c) above, the Purchaser and the Seller shall each cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the filing of Returns pursuant to this Section 7.1 and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Seller (before the Closing) and the Purchaser (after the Closing) shall each cause the Company (i) to retain all books and records with respect to Tax matters pertinent to the Company relating to any taxable period beginning before the Closing Date until the expiration of the statutory period of limitations of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other Party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other Party so requests, the Seller or the Purchaser, as the case may be, shall allow the other Party to take possession of such books and records.

(e) Without the prior written consent of the Seller, the Purchaser shall not, except as required by applicable Law, (A) amend or permit the Company to amend any Return relating to a tax period ending on or before the Closing Date after the date such Returns are filed, (B) extend or waive, or cause to be extended or waived, or permit the Company to extend or waive, any statute of limitations or other period for the assessment of any Tax that relates to a tax period ending on or before the Closing Date, or (C) make any election that has retroactive effect with respect to a tax period ending on or before the Closing Date.

(f) The Purchaser and the Seller further agree, upon request, to use good faith commercially reasonable efforts to obtain any certificate or other document from any Governmental Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby); provided that such certificate or other document does not increase the Tax of the Purchaser or the Seller.

7.2 Confidential Information.

(a) Without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned, each Party agrees that, it will not, and will direct its representatives, agents and employees not to, disclose to any Person (other than its representatives, agents and employees who have a need to know and who similarly agree to be bound by terms at least as stringent as this Section 7.2(a)), any facts relating to this Agreement and the discussions, negotiations and any

agreements or understandings reached by the Parties related to this Agreement and upon such prior written consent, the disclosing Party shall provide the other Party with a draft of the proposed disclosure prior to the distribution thereof. Notwithstanding the foregoing, if the a Party is required under applicable Law to disclose the execution of this Agreement and/or the Closing of the transactions contemplated hereby, said Party may disclose such information, provided that (x) it gives the other Parties prior written notice of any such disclosure and (y) such disclosure does not include any information (including, without limitation, quotations or other statements for marketing purposes) that is not required under such applicable Law, in the reasonable determination of the disclosing Party after consultation with its counsel.

(b) For two (2) years after Closing, Seller and Purchaser shall treat and hold as confidential any and all Confidential Information, refrain from using any of the Confidential Information except in connection with discharging their respective obligations under this Agreement (or in the case of the Seller employed by the Company following the Closing, in connection with the business of the Company), and (except for any information that this Agreement expressly permits the Seller or the Purchaser to retain) deliver promptly to the Company or permanently delete, at the request of the Company, all Confidential Information that are in its respective possession or under its control. If the Seller or the Purchaser is required to disclose any Confidential Information in order to avoid violating any applicable Law or legal process, said Party will, to the extent practicable, provide the Company with prompt notice of such requirement. To the extent practicable and at the Purchaser's expense, the Seller or the Purchaser, as applicable, shall provide the Company, in advance of any such disclosure, with copies of any Confidential Information that the Seller intends to disclose (and, if applicable, the text of the disclosure language itself) and shall use commercially reasonable efforts to cooperate with the Company to the extent the Company may seek to limit such disclosure. Notwithstanding any of the foregoing, Seller and Purchaser may disclose Confidential Information to their respective accountants, attorneys, advisors, Affiliates, members, partners and direct and indirect owners provided that Seller and Purchaser shall advise such Persons of the confidential nature of such Confidential Information, such Persons shall agree to be bound by the terms at least as stringent as this Section 7.2(b), and Seller and Purchaser, as applicable, shall be responsible for any unauthorized disclosure by such Persons of any such Confidential Information.

7.3 Cooperation on Consents and Approvals. Seller and the Purchaser shall reasonably cooperate with each other in connection with all applications, documents and other steps needed in connection with making any required filings, notifications and declarations related to the transactions pursuant to this Agreement, as soon as practicable.

7.4 Non-competete. For a period of two (2) years from and after the Closing Date, Seller shall not in any geographic area in which the Company currently conducts the Business, directly or indirectly, (a) associate (including, but not limited to, association as an officer, employee, partner, director, manager, member, consultant, agent or advisor) with any business that is in direct competition with the Business as currently conducted by Company (a "Competing Business") where such association consists of the Seller engaging in, or directly or indirectly managing or supervising personnel engaged in, any activity which calls for the application of the same or similar specialized knowledge (including Confidential Information, as defined herein) or skills as those utilized in the Business as conducted by the Company, or (b) own directly, or indirectly through entities which are under the control of the Seller, any debt or equity interests of a Competing Business. Notwithstanding the foregoing, the Seller shall be permitted to own, directly or indirectly, securities of one or more entities that operate a Competing Business provided that such entity is publicly traded on a recognized stock exchange and provided further that the Seller does not own or control greater than five (5%) percent of any such entity.

7.5 Conduct of the Business. Following the Closing Date and for so long as the installment payments pursuant to Section 2.2 herein remain outstanding, the Company shall, and the Purchaser cause the Company to carry on the Business such that either (i) its selling, general and administrative expenses

as a percentage of revenues does not materially increase, or (ii) its Business is carried on in the usual, regular and ordinary course in substantially the same manner as heretofore conducted, including, but not limited to, not materially increasing the salaries, compensation, expenditures and other distributions by the Company from the levels prior to the Closing Date except, in either case, in connection with the expansion of the Business following Closing.

ARTICLE VIII

CLOSING CONDITIONS

8.1 Conditions to Obligations of Each Party to Consummate the Transactions.

The respective obligations of the Seller, on the one hand, and the Purchaser, on the other hand, to consummate the transactions contemplated hereby shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions (any of which may be waived by the mutual agreement of the Seller, on the one hand, and the Purchaser, on the other hand, in whole or in part):

(a) no Action by or before any Governmental Authority shall have been instituted or threatened that would reasonably be expected to enjoin, restrain or prohibit this Agreement or consummation of the transactions contemplated hereby;

(b) the consents, authorizations and approvals of Governmental Authorities with respect to the transactions contemplated set forth on Schedule 8.1 hereto hereby shall have been obtained;

(c) no Law shall have been enacted or promulgated by any Governmental Authority that directly prohibits the consummation of the Closing and the transactions contemplated hereby; and

(d) there shall be no Order in effect expressly precluding consummation of the transactions contemplated hereby.

8.2 Additional Conditions to Obligations of the Purchaser. The obligations of the Purchaser to consummate the transactions contemplated hereby shall be subject to the satisfaction or waiver of each of the following conditions:

(a) all the representations and warranties of the Seller and the Company contained in this Agreement shall be true and correct as of the Closing Date except, with respect to any representation or warranty of the Seller or the Company where such failure to be true and correct would not have a Material Adverse Effect;

(b) all of the covenants set forth in this Agreement to be performed or complied with by the Seller and the Company on or before the Closing Date shall have been performed and complied with, in all material respects, on or before the Closing Date;

(c) Intentionally deleted;

(d) the Purchaser shall have received copies of each Transaction Document executed by the other Parties, as applicable, and such other Persons who are parties thereto; and

(e) the Purchaser shall have delivered by wire transfer of immediately available funds those amounts specified in Article 2 which are to be delivered by the Purchaser on the Closing Date.

8.3 Additional Conditions to the Obligations of the Seller. The obligations of the Seller to consummate the transactions contemplated hereby shall be subject to the satisfaction or waiver of each of the following conditions:

(a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct as of the Closing Date except, with respect to any representation or warranty of the Purchaser where such failure to be true and correct would not have a Material Adverse Effect;

(b) all of the covenants set forth in this Agreement to be performed or complied with by the Purchaser on or before the Closing Date shall have been performed and complied with, in all material respects, on or before the Closing Date;

(c) Intentionally deleted; and

(d) the Seller shall have received copies of each Transaction Document executed by the other Parties, as applicable, and such other Persons who are parties thereto.

ARTICLE IX

INDEMNIFICATION

9.1 Survival of Representations, Warranties and Covenants. The representations and warranties and, to the extent requiring performance prior to the Closing, covenants of the Company and the Seller contained in this Agreement shall survive the Closing Date and continue until the first anniversary of the Closing Date, except that (a) the representations and warranties of (i) Sections 4.1, 4.2, 4.3, 4.4, 4.6, and 5.1 (collectively, the "Fundamental Representations and Warranties") shall survive indefinitely, and (b) the representations and warranties of Section 5.4 and 5.12 shall survive until the date that is three (3) years following the Closing Date (in each case, as applicable, the "Expiration Date"). Notwithstanding the foregoing, any representation or warranty in respect of which indemnity may be sought hereunder shall survive the time at which it would otherwise terminate pursuant to this Section 9.1 if notice in accordance with Section 9.6 below of the alleged breach thereof shall have been given to the Party against whom such indemnity may be sought (or in the case of the Seller as the Indemnifying Party, notice to the Seller) prior to the expiration of the applicable Expiration Date. Each of the covenants of the Parties contained in this Agreement requiring performance after the Closing shall survive in accordance with the term thereof or, if not expressly stated otherwise, indefinitely.

9.2 Indemnification by the Seller

(a) **Generally.** Subject to Section 9.2(b), from and after the Closing, the Seller shall indemnify and hold harmless the Purchaser, and following the Closing, the Company, and each of their respective Affiliates, stockholders, directors, officers, members, partners, employees, agents and representatives, and the successors and assigns of each of the foregoing (collectively, the "Purchaser Indemnified Parties") from and against any Loss incurred or suffered by such Purchaser Indemnified Party arising out of or resulting from:

(i) a breach of, untruth of, or inaccuracy in: any representation or warranty made by or on behalf of the Seller or the Company in this Agreement, the Disclosure Schedules or the Transfer Documents;

(ii) a failure by the Seller to perform or comply with any covenant or agreement on the part of the Seller contained herein;

(iii) a failure by the to perform or comply with any covenant or agreement on the part of the Company contained in this Agreement and required to be performed prior to the Closing;

Any amount paid pursuant to this Section 9.2(a) shall be paid to the Purchaser or, at the Purchaser's election, to the Company.

(b) **Limitations.** Notwithstanding anything to the contrary in Section 9.2(a) or elsewhere in this Agreement or any other Transaction Document:

(i) the Seller shall not have any obligation to indemnify the Purchaser Indemnified Parties from and against any Loss arising out of or resulting from Section 9.2(a)(i) unless and until such claim or claims for all such Losses exceeds \$100,000 (the "Deductible"); provided that such Deductible shall not apply to any Loss as a result of, arising from or in connection with a breach by the Seller of the Fundamental Representations and Warranties (collectively, the "Deductible Exceptions");

(ii) other than with respect to the Deductible Exceptions, once the Deductible is reached with respect to Losses incurred or suffered by the Purchaser Indemnified Parties, the Purchaser Indemnified Parties may seek indemnification with respect to all Losses in excess of the Deductible (but may not seek indemnification with respect to Losses up to the Deductible amount);

(iii) other than with respect to any Loss arising out of or resulting from (x) fraud, willful misconduct or breach of any Fundamental Representations and Warranties by the Seller or (y) Section 9.2(a)(ii) or Section 9.2(a)(iii), the Purchaser Indemnified Parties may seek indemnification for Losses incurred or suffered, in the aggregate, up to \$200,000 (the "Indemnification Cap") pursuant to the procedures contained in this Article IX, and the aggregate Indemnification Obligations of the Seller shall be limited to the Indemnification Cap;

(iv) any amounts owed by the Seller to the Purchaser under this Article IX shall be first offset against the amounts to be paid by Purchaser to the Seller in accordance with the terms and conditions herein prior to, and as a condition of the Seller's obligation to otherwise indemnify and hold harmless any Purchaser Indemnified Party; and

(v) the Purchaser Indemnified Parties shall mitigate all Losses if and to the extent that a duty to mitigate damages arises under applicable Law.

9.3 Indemnification by the Purchaser

(a) The Purchaser shall indemnify and hold harmless the Seller and each of its Affiliates, stockholders, directors, officers, members, partners, employees, agents and representatives, and the successors and assigns of each of the foregoing (the "Seller Indemnified Parties"), from and against any Loss incurred or suffered by the Seller Indemnified Party as a result of or arising from:

(i) a breach of, untruth of or inaccuracy in any representation or warranty made by or on behalf of the Purchaser in this Agreement or any certificate delivered hereto;

(ii) a failure by the Purchaser to perform or comply with any covenant or agreement on the part of the Purchaser contained herein; and

(iii) a failure by the Company to perform or comply with any covenant or agreement on the part of the Company contained in this Agreement and required to be performed following Closing.

9.4 No Circular Recovery. The Seller shall make any claim for indemnification **against** the Purchaser or the Company (or any successor thereto) by reason of the fact that the Seller was a controlling person, director, employee or representative of the Company or was serving as such for another Person at the request of the Purchaser or the Company (whether such claim is for losses of any kind or otherwise and whether such claim is pursuant to any statute, organizational document of any Person, Contractual Obligation or otherwise) with respect to any claim brought by a Purchaser Indemnified Party against the Seller to this Agreement or any other transaction contemplated.

9.5 Other Indemnification Matters

(a) If the Purchaser fully collects Losses from the Seller in connection with the breach of any of the representations, warranties, covenants and agreements made by the Seller in this Agreement, and the Purchaser subsequently collects any funds that were the basis for the Purchaser's claim for such indemnification, the Purchaser shall remit the amount so collected to the Seller for reimbursement from which the Losses were received, subject to satisfaction of any other claims made by Purchaser and finally resolved in accordance with this Article IX. If the Seller fully collects Losses from the Purchaser in connection with the breach of any of the representations, warranties, covenants and agreements made by the Purchaser in this Agreement, and the Seller subsequently collects any funds that were the basis for the Seller's claim for such indemnification, the Seller shall remit the amount so collected to the Purchaser for reimbursement from which the Losses were received, subject to satisfaction of any other claims made by the Seller and finally resolved in accordance with this Article IX.

(b) Any claims with respect to any Transaction Document other than this Agreement shall be made pursuant to the terms and conditions of such other Transaction Document.

9.6 Assumption of Defense. An Indemnified Party (or in the case of a Seller Indemnified Party, the Seller) shall promptly give notice to each Indemnifying Party after obtaining knowledge of any matter as to which recovery may be sought against such Indemnifying Party because of the indemnity set forth above, and, if such indemnity shall arise from the claim of a third party, shall provide such notice no later than twenty (20) days after the Indemnifying Party first receives notice of such claim and shall permit such Indemnifying Party to assume the defense of any such claim or any proceeding resulting from such claim; provided, however, that failure to give any such notice promptly shall not affect the indemnification provided under this Article IX, except, and only, to the extent such Indemnifying Party shall have been actually and materially prejudiced as a result of such failure. Notwithstanding the foregoing, an Indemnifying Party may not assume the defense of any such third-party claim if the claim (i) could result in imprisonment of or imposition of a criminal or civil fine imposed by a Governmental Authority against the Indemnified Party, (ii) could result in an injunction remedy that would impair the Indemnified Party's ability to exercise its rights under this Agreement, or impair the Purchaser's right or ability to operate the Company or the Business, or (iii) the claim names both the Indemnifying Party and the Indemnified Party (including impleaded parties) and representation of both such Parties by the same counsel would create a conflict of interest under applicable rules governing attorney ethics. If an Indemnifying Party assumes the defense of such third party claim, such Indemnifying Party shall agree prior thereto, in writing, that it is liable under this Article IX to indemnify the Indemnified Party in accordance with the terms contained herein in respect of such claim (subject to the limitations and other terms and conditions set forth in Article IX), shall conduct such defense diligently, shall have full and complete control over the conduct of such proceeding on behalf of the Indemnified Party and shall, subject to the provisions of this Section 9.6, have the right to decide all matters of procedure, strategy, substance and settlement relating to such proceeding; provided, however, that any counsel chosen by such Indemnifying Party to conduct such defense shall be reasonably satisfactory to the Indemnified Party (or in the case of a Seller Indemnified Party, the Seller); and provided further however, that the Indemnifying Party shall not without the written consent of the Indemnified Party (or in the case of a Seller Indemnified Party, the Seller) consent to the entry of any

judgment or enter into any settlement with respect to the matter which (x) does not include a provision whereby the plaintiff or the claimant in the matter releases the Indemnified Party from all liability with respect thereto and (y) in the case of the Purchaser, does not include any provision that would impose any obligation (including an obligation to refrain from taking action) upon the Company. The Indemnified Party may participate in such proceeding and retain separate co-counsel at its sole cost and expense. Failure by an Indemnifying Party to notify the Indemnified Party (or in the case of a Seller Indemnified Party, the Seller) of its election to defend any such claim or proceeding by a third party within thirty (30) days after notice thereof, or such shorter time necessary to timely respond to a court filing, shall have been given to such Indemnifying Party by the Indemnified Party (or in the case of a Seller Indemnified Party, the Seller), shall be deemed a waiver by such Indemnifying Party of its right to defend such claim or action. Notwithstanding any provision of this Section 9.7 to the contrary, any claim or proceeding relating to Taxes of the Company shall be governed by the provisions of Section 7.3 to the extent such provisions are inconsistent with this Section 9.7.

If any Purchaser Indemnified Party assumes the defense of a third party claim with respect to reimbursement, overpayment or the like, then such Purchaser Indemnified Party shall prosecute and defend such claim in the same manner as if such Purchaser Indemnified Party was primarily and exclusively financially responsible therefor.

9.7 Non Assumption of Defense. If no Indemnifying Party is permitted or elects to assume the defense of any such claim by a third party or proceeding resulting therefrom, the Indemnified Party shall diligently defend against such claim or litigation in such manner as it may reasonably deem appropriate and, in such event, the Indemnifying Party or parties shall promptly reimburse the Indemnified Party for all reasonable out-of-pocket costs and expenses, legal or otherwise, incurred by the Indemnified Party and its Affiliates in connection with the defense against such claim or proceeding, as such costs and expenses are incurred if and to the extent the Indemnifying Party is obligated to indemnify the Indemnified Party for such Losses pursuant to Article IX and subject to the terms and conditions set forth herein. The Indemnified Party shall not settle or compromise any such claim without providing the Indemnifying Party with at least ten (10) days prior written notice.

9.8 Indemnified Party's Cooperation as to Proceedings. The Indemnified Party will cooperate in all reasonable respects with any Indemnifying Party in the conduct of any proceeding as to which such Indemnifying Party assumes the defense. The Indemnifying Party or parties shall promptly reimburse the Indemnified Party for all reasonable out-of-pocket costs and expenses, legal or otherwise, incurred by the Indemnified Party or its Affiliates in connection therewith, as such costs and expenses are incurred.

9.9 Rights to Retain Separate Counsel. If, in accordance with any of the foregoing, the Indemnified Party assumes the defense of any third party claim, the Indemnifying Party may participate in such proceeding and retain separate counsel at its sole cost and expense.

9.10 Treatment of Indemnification Payments. Amounts paid to or on behalf of the Purchaser or Seller as indemnification hereunder shall be treated as adjustments to the Purchase Price, subject to the applicable requirements of tax Law.

9.11 Consequential Damages. Notwithstanding anything in this Agreement to the contrary, in no event shall any Party be liable to any other Party for indirect, special, consequential, incidental, punitive or exemplary Losses, damages, or expenses or for lost profits, loss of anticipated profits, lost savings or any other consequential loss of any kind in connection with the transactions contemplated herein, except to the extent that such aggrieved Party is actually required to pay or otherwise satisfy a third party claim arising from any matter to which such Party would otherwise be entitled to indemnification under this Article IX.

9.12 Sole and Exclusive Remedy. The rights of indemnity set forth in this Article IX are the sole and exclusive remedy of each Party for any breach of the representations and warranties by the other Parties (or any of them) given hereunder, for any non-performance or non-fulfillment of any covenant or agreement of the other Parties (or any of them) hereunder, or for any other claim in connection with this Agreement or the transaction contemplated herein. Accordingly, the Parties waive any and all rights, remedies and Claims that one Party may have against the other, whether at law, under any statute or in equity, or otherwise, directly or indirectly, relating to the provisions of this Agreement or the transaction contemplated herein other than as expressly provided for in this Article IX.

ARTICLE X

MISCELLANEOUS

10.1 Expenses. Subject to the terms of the Settlement Agreement, each of the Parties shall be responsible for all costs and expenses incurred by such Party in respect of the transactions contemplated hereby; provided, however, that following the Closing Date, the Company shall satisfy investment banking, legal and accounting fees and expenses incurred by the Company in respect of the transactions contemplated hereby which have been incurred by, and for the benefit of, the Company, and such fees and expenses shall be satisfied using the funds advanced to the Company by the Purchaser as contemplated in Section 2.3(a) and Section 2.3(c) hereof.

10.2 Entirety of Agreement. This Agreement (including the Disclosure Schedules and all other schedules and exhibits hereto), together with all certificates and other instruments delivered hereunder, states the entire agreement of the Parties, merge all prior negotiations, agreements and understandings, if any, and state in full all representations, warranties, covenants and agreements that have induced this Agreement. Each Party agrees that in dealing with third parties no contrary representations will be made. For greater certainty, the Parties hereby agree and acknowledge that the letter of intent dated October 13, 2016 among the Parties, including the mutual non-disclosing agreement attached thereto, is superseded in its entirety by the provisions of this Agreement and the Transaction Documents and shall be of no further force or effect.

10.3 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made as of the date delivered if delivered personally or by a nationally recognized overnight courier service to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice, except that notices of changes of address shall be effective upon receipt):

If to the Purchaser, addressed to:

Commerx Holdings LLC
c/o Lotus Innovations Fund II, L.P.
5151 California Avenue, Suite 250
Irvine, CA 92617
United States of America
Attn: General Partner

If to the Company (prior to the Closing), addressed to:

Commerx Corporation
4428 Manilla Rd SE
Calgary, AB T2G 4B7
Canada
Attn: Robert Kulhawy

If to the Seller, addressed to the Seller:

Robert Kulhawy
107 Pump Hill Crescent SW
Calgary, AB T2V 4P4

Or to such other address or to such other person as either Party shall have last designated by such notice to the other Party.

10.4 Amendments; Waivers. This Agreement may be modified or amended only by an instrument in writing, duly executed by the Purchaser and the Seller and, in the event of any modification or amendment prior to the Closing, the Company. No waiver by any Party of any term, provision, condition, covenant, agreement, representation or warranty contained in this Agreement (or any breach thereof) shall be effective unless it is in writing executed by the Party (or its representative) against which such waiver is to be enforced. Unless expressly stated as part of any waiver, no waiver shall be deemed or construed as a further or continuing waiver of any such term, provision, condition, covenant, agreement, representation or warranty (or breach thereof) on any other occasion or as a waiver of any other term, provision, condition, covenant, agreement, representation or warranty (or of the breach of any other term, provision, condition, covenant, agreement, representation or warranty) contained in this Agreement on the same or any other occasion.

10.5 Counterparts; Facsimile. For the convenience of the Parties, this Agreement may be executed in any number of counterparts, each such executed counterpart shall be deemed an **original** and all such counterparts together shall constitute one and the same instrument. Facsimile and electronic PDF transmission of any signed original counterpart transmission shall be deemed the same as the delivery of an original.

10.6 Assignment; Binding Nature; No Beneficiaries. This Agreement may not be assigned by any Party hereto without the written consent of the other Parties hereto. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto and their respective heirs, personal representatives, legatees, successors and permitted assigns. Except as otherwise expressly provided in •, this Agreement shall not confer any rights or remedies upon any Person other than the Parties hereto and their respective heirs, personal representatives, legatees, successors and permitted assigns.

10.7 Headings. The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.

10.8 Currency. All monetary amounts referred to in this Agreement and the Documents are references to the lawful currency of the United States, unless otherwise indicated.

10.9 Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Delaware. The Parties consent to the non-exclusive jurisdiction and venue of the courts of Delaware for the resolution of any such dispute arising under this Agreement.

10.10 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

10.11 Waiver of Conflict. Each of the Parties acknowledges and agrees, on its own behalf and on behalf of its directors, managers, members, partners, officers, employees, and Affiliates that the Seller is the client of Bennett Jones LLP ("Firm"). After the Closing, it is possible that Firm will represent the Seller and its Affiliates (individually and collectively, the "Seller Group") in connection with the transactions contemplated herein or in the other Transaction Documents, and any claims made thereunder pursuant to this Agreement or any of the other Transaction Documents. Purchaser and the Company hereby agree that Firm (or any successor) may represent the Seller Group in the future in connection with issues that may arise under this Agreement or any of the other Transaction Documents and any claims that may be made thereunder pursuant to this Agreement or any of the other Transaction Documents. Firm (or any successor) may serve as counsel to all or a portion of the Seller Group or any director, member, manager, partner, officer, employee, representative, or Affiliate of the Seller Group, in connection with any litigation, claim or obligation arising out of or relating to this Agreement, any other Transaction Document, or the transactions contemplated by this Agreement or any of the other Transaction Documents. Each of the Parties consents thereto, and waives any conflict of interest arising therefrom, and each such party shall cause any Affiliate thereof to consent to waive any conflict of interest arising from such representation. Each of the Parties acknowledges that such consent and waiver is voluntary, that it has been carefully considered, and that the parties have consulted with counsel or have been advised they should do so in this connection.

10.12 Solicitor-Client Privilege. Effective upon the consummation of the transactions contemplated herein, the Company (on behalf of itself and its Subsidiaries) hereby irrevocably assigns to the Seller all rights and interest to communications by or among the Seller and/or the Company or any of its Subsidiaries and counsel to the Company and/or its Subsidiaries in respect of, in connection with or related to, this Agreement, the Settlement Agreement or the transactions contemplated hereby and thereby (the "**Privileged Communications**"). The Parties hereby confirm and agree that, upon the consummation of the transactions contemplated hereby and by the Settlement Agreement, all Privileged Communications shall be subject to a solicitor-client privilege of the Seller and the Seller alone, and that the Seller shall maintain the sole and exclusive rights over such privilege. Without limitation, upon the consummation of the transactions contemplated hereby and by the Settlement Agreement: (i) all Privileged Communications shall remain the property of the Seller and the Seller alone; (ii) the Company (on behalf of itself and its Subsidiaries) shall be deemed to have irrevocably waived any, and shall have no rights to such Privileged Communications; and (iii) any release of such Privileged Communications to the Company and/or its Subsidiaries following Closing shall be presumed to be inadvertent and shall in no way be taken by any of the Parties as any waiver of privilege by the Seller or as evidence in support of any joint retainer by the Seller and/or the Company and its Subsidiaries with counsel.

10.13 Privacy. Each Disclosing Party acknowledges and confirms that the disclosure of the Transferred Information to the Recipient is necessary for the purposes of determining if the Parties will proceed with the transactions contemplated hereby, and that the Transferred Information relates solely to the carrying on of the business and the completion of the transactions contemplated hereby.

Each Disclosing Party covenants and agrees to, upon request, use reasonable efforts to advise the Recipient of all documented purposes for which the Transferred Information was initially collected from or in respect of the individual to which such Transferred Information relates and all additional documented

purposes where the Disclosing Party has notified the individual of such additional purpose, and where required by Law, obtained the consent of such individual to such use or disclosure.

In addition to its other obligations hereunder, Recipient covenants and agrees to:

- (a) prior to the completion of the transactions contemplated hereby:
 - (i) collect, use and disclose the Transferred Information solely for the purpose of reviewing and completing the transactions contemplated hereby, including for the purpose of determining to complete such transactions;
 - (ii) protect the Transferred Information by security safeguards appropriate to the sensitivity of such information; and
 - (iii) if the transactions contemplated hereby do not proceed, to return that information to the Disclosing Party or destroy it within a reasonable time; and
- (b) after the completion of the transactions contemplated herein,
 - (i) collect, use and disclose the Transferred Information only for those purposes for which the Transferred Information was initially collected from or in respect of the individual to which such Transferred Information relates or for the completion of the transactions contemplated hereby, unless (i) the Disclosing Party or Recipient have first notified such individual of such additional purpose, and where required by Law, obtained the consent of such individual to such additional purpose, or (ii) such use or disclosure is permitted or authorized by Law, without notice to, or consent from, such individual;
 - (ii) protect the Transferred Information by security safeguards appropriate to the sensitivity of such information;
 - (iii) give effect to any withdrawal of consent made by an individual to whom the Transferred Information relates; and
 - (iv) where required by Law, promptly notify the individuals to whom the Transferred Information relates that the transactions contemplated hereby have taken place and that the Transferred Information has been disclosed to Recipient.

10.14 Attorneys' Fees, Etc. In the event of any controversy, disagreement or dispute arising under this Agreement and/or the Transaction Documents, the prevailing Party in such controversy, disagreement or dispute shall be entitled to recover from the non-prevailing Party such costs and expenses, including attorneys' fees and costs, as may be awarded by the court presiding over such matter.

10.15 Further Assurances. Each Party shall use commercially reasonable efforts to comply with all requirements imposed by this Agreement and the Transaction Documents on such Party and to cause the transactions contemplated by this Agreement and the Transaction Documents to be consummated as contemplated by this Agreement and the Transaction Documents and shall, from time to time and without further consideration, either before or after the Closing, execute such further instruments and take such other actions as any other Party hereto shall reasonably request in order to fulfill its obligations under this Agreement and to effectuate the purposes of this Agreement and the Transaction Documents.

[The remainder of this page has been intentionally left blank]

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

COMMERX HOLDINGS LLC

DocuSigned by:
Philip Jones
Per: _____
 0C91253DA2F4459...
Name: Philip Jones
Title: Managing Director

COMMERX CORPORATION

Per: _____
Name: _____
Title: _____

WITNESS

ROBERT E. KULHAWY


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

COMMERX HOLDINGS LLC

Per: _____
Name:

Title:


COMMERX CORPORATION

Per: 
Name:

Title:



WITNESS



ROBERT E. KULHAWY

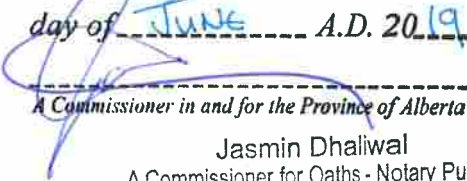
EXHIBIT "B"

THIS IS EXHIBIT " B "
referred to in the Affidavit of

ROBERT KUSTAWY

Sworn before me this 17

day of JUNE A.D. 2019


A Commissioner in and for the Province of Alberta

Jasmin Dhaliwal

A Commissioner for Oaths - Notary Public
in and for the Province of Alberta.

Member of the Law Society of Alberta and
My Appointment Expires at the Pleasure of
The Attorney General for the Province of Alberta

COMMERX CORPORATION

SHAREHOLDER AGREEMENT

December 30, 2016

TABLE OF CONTENTS

ARTICLE 1 INTERPRETATION 2

1.1 Definitions 2

1.2 Schedules 7

1.3 Currency 7

1.4 Gender and Number 8

1.5 Headings 8

1.6 Calculation of Time Periods 8

1.7 Applicable Law 8

1.8 Inclusive Terminology 8

1.9 Meaning of "non-diluted" 8

1.10 Interpretation Not Affected By Party Drafting 8

ARTICLE 2 IMPLEMENTATION OF AGREEMENT 9

2.1 Scope of Agreement 9

2.2 No Partnership Created 9

2.3 Shareholder Covenant 9

2.4 Conflict 9

2.5 Effecting Transfers 9

2.6 Notice 9

2.7 Term 9

ARTICLE 3 SHAREHOLDERS 10

3.1 Shares of the Corporation 10

ARTICLE 4 DIRECTORS AND OFFICERS 10

4.1 Board of Directors 10

4.2 Director Approval Rights 11

4.3 Matters Requiring Approval 12

4.4 Termination of Minority Approval Rights 12

4.5 Guarantee 13

4.6 Directors' and Officers' Insurance 13

ARTICLE 5 PRE-EMPTIVE RIGHTS 13

5.1 Pre-emptive Right 13

5.2 Pre-emptive Right Exclusions 14

ARTICLE 6 TRANSFER RESTRICTIONS 15

6.1 General Transfer Restrictions 15

ARTICLE 7 TRANSFERS TO PERMITTED TRANSFEREES 15

7.1 Permitted Transfers 15

7.2 Obligations and Liabilities 16

ARTICLE 8 DRAG-ALONG RIGHT 16

8.1 Notice of Proposed Sale 16

8.2 Mechanics of Drag-Along 16

8.3 Additional Terms of Sale 17

8.4 Corporate Transaction 17

8.5 Irrevocable Power of Attorney 17

ARTICLE 9 TAG-ALONG RIGHT.....	18
9.1 Tag-Along Notice.....	18
9.2 Tag-Along Right	18
9.3 Closing	18
9.4 Failure To Purchase.....	18
ARTICLE 10 INVOLUNTARY TRANSFERS.....	19
10.1 Option.....	19
10.2 Option Period	19
10.3 Exercise Of Option By Corporation	19
10.4 Unaccepted Shares	19
10.5 Failure To Exercise	19
10.6 Closing	20
10.7 Purchase Price	20
ARTICLE 11 SHARE VALUATION.....	20
11.1 Determination of Value	20
ARTICLE 12 CONFIDENTIALITY.....	21
12.1 Confidential Information	21
12.2 Injunction	22
ARTICLE 13 TERMS OF PURCHASE AND SALE	22
13.1 Terms of Sale	22
ARTICLE 14 WORKING LINE OF CREDIT	24
14.1 Working Capital Line of Credit.....	24
ARTICLE 15 GENERAL.....	25
15.1 Register of Shares.....	25
15.2 Notices.....	25
15.3 Severability.....	26
15.4 Entire Agreement	26
15.5 Amendments.....	26
15.6 Waiver.....	27
15.7 Time of Essence	27
15.8 Successors And Assigns.....	27
15.9 Counterparts	27

SCHEDULE A – Shareholders and Notice Information

SCHEDULE B – Shareholder's Undertaking

SHAREHOLDER AGREEMENT

THIS AGREEMENT is made as of the 30th day of December, 2016.

AMONG:

COMMERX CORPORATION, a corporation formed under the laws of the Province of Alberta (the "**Corporation**")

- and -

COMMERX HOLDINGS LLC, a limited liability company formed under the laws of the State of Delaware ("**Lotus**")

- and -

ROBERT KULHAWY, an individual resident in the City of Calgary, in the Province of Alberta ("**Kulhawy**")

- and -

FORTITUDE FINANCIAL INVESTMENTS INC., a corporation formed under the laws of the Cayman Islands ("**Fortitude**")

- and -

BALINHARD CAPITAL CORPORATION, a corporation formed under the laws of the Province of Alberta ("**Balinhard**")

- and -

Those additional holders of Shares who become parties hereto by the execution of an acknowledgement in the form of Schedule "B" attached hereto (collectively, the "**Other Shareholders**")

WHEREAS:

- A. Corporation is incorporated and validly existing under the laws of the Province of Alberta; and
- B. certain Shareholders wish to establish their rights and obligations in respect of the Shares of the Corporation now or hereafter owned by them and certain other matters as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement, unless there is something in the subject matter or content inconsistent therewith, the following expressions shall have the following meanings, respectively:

"**Act**" means the *Business Corporations Act* (Alberta), as amended from time to time;

"**Advance**" has the meaning ascribed thereto in Section 14.1(c);

"**Affiliate**" means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified person; and for the purposes of the foregoing, "control" means the possession, **directly** or indirectly, of the power to direct or cause the direction of the management or policies of a Person whether through ownership of more than 50% of the voting securities of such Person, through being the general partner or trustee of the other Person, or through contract or otherwise;

"**Agreement**", "**this Agreement**", "**hereto**", "**herein**", "**hereby**", "**hereunder**", "**hereof**" and similar expressions refer to this agreement, including the Recitals and the Schedules hereto, and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every amending agreement and agreement supplemental or ancillary hereto;

"**Articles**" means the Articles of Incorporation of the Corporation as amended or restated from time to time;

"**Balinhard**" has the meaning ascribed thereto in the Recitals;

"**Board**" means the board of directors of the Corporation;

"**Business**" means the provision of telecom and internet service solutions including **network** transformation services, telecom fulfillment services, IT/web managed services, web and Internet solutions and digital strategy services;

"**Business Days**" means any day other than a Saturday, Sunday or other day on which commercial banks in Calgary, Alberta are generally not open for business;

"**By-laws**" means the by-laws of the Corporation from time to time in effect;

"**Closing**" has the meaning ascribed thereto in Section 13.1(a);

"**Common Shares**" means the shares designated as Class "A" Shares, Class "B" Shares, Class "C" Shares, and Class "D" Shares in the share capital of the Corporation;

"**Confidential Information**" has the meaning ascribed thereto in Section 12.1;

"**Corporate Transaction**" has the meaning ascribed thereto in Section 8.4;

"Corporation" has the meaning ascribed thereto in the Recitals;

"Disposing Shareholder" has the meaning set forth in Section 10.1;

"Drag-Along Notice" has the meaning ascribed thereto in Section 8.2;

"Drag-Along Right" has the meaning ascribed thereto in Section 8.1;

"Drag-Along Shares" has the meaning ascribed thereto in Section 8.1;

"Exercise Notice" has the meaning set forth in Section 10.3;

"Fortitude" has the meaning ascribed thereto in the Recitals;

"Fundamental Change" means the occurrence of any of the following events:

- (a) any of the following transactions occur (by way of a single transaction or series of transactions):
 - (i) the Corporation (or any surviving or acquiring entity as successor thereto) merges, consolidates, amalgamates, arranges, reorganizes or reconstitutes with or into, or enters into any similar transaction with, any Person that is not a wholly-owned subsidiary of the Corporation (or any surviving or acquiring entity as successor thereto), whether pursuant to a statutory procedure or otherwise;
 - (ii) all Shares are sold or exchanged by the holders thereof in a single **transaction**, or in a series of related transactions, to a Person that is not a **wholly-owned** subsidiary of the Corporation (or any surviving or acquiring entity as successor thereto);
 - (iii) the Corporation (or any surviving or acquiring entity as successor thereto) sells, leases or exchanges, or agrees to sell, lease or exchange, all or substantially all of its assets to a Person that is not a wholly-owned subsidiary of the Corporation (or any surviving or acquiring entity as successor thereto);
 - (iv) any single Person or group of related Persons purchases or otherwise **acquires** "beneficial ownership" of securities of the Corporation (or any surviving or acquiring entity as successor thereto) representing fifty percent (50%) or more of the total voting power of all the then-outstanding voting securities of the Corporation (or any surviving or acquiring entity as successor thereto); or
 - (v) the Corporation (or any surviving or acquiring entity as successor thereto) is wound-up or dissolved;

and in the case of any such transaction described in the immediately preceding clauses (i) to (v), the holders of Class "A" Shares in the capital of the Corporation (or the voting securities of any surviving or acquiring entity as successor thereto) immediately prior to the consummation of such transaction cease to hold more than fifty percent (50%) of the total voting power of all the then-outstanding voting securities of the Corporation or the

surviving or acquiring entity, as applicable, immediately following completion of such transaction; or

- (b) an IPO;

"Involuntary Transfer Event" means:

- (a) with respect to any Signing Shareholder who is an individual:
 - (i) he or she is petitioned into bankruptcy or makes an assignment for the benefit of his or her creditors;
 - (ii) he or she is judged insane or incompetent to handle his or her own affairs by a court of competent jurisdiction;
 - (iii) he or she is declared to be an assisted person within the meaning of the *Adult Guardianship and Trusteeship Act* (Alberta);
 - (iv) an order is made by a court of competent jurisdiction purporting to deal with his or her Shares pursuant to the *Matrimonial Property Act* (Alberta) or other similar legislation; or
 - (v) his or her Shares, or any portion thereof, are seized or attached in any way for the payment of any judgment or order; or
- (b) where the following occurs in relation to a Signing Shareholder, which is a corporation, partnership or a trust:
 - (i) where any of the events listed in paragraphs (i) to (v) above occur with respect to the beneficial owner of 50.1% or more of all the issued and outstanding voting shares in the capital of any such corporate Signing Shareholder or 50.1% or more of the outstanding beneficial interests in the partnership or trust;
 - (ii) where a change of control occurs with respect to the beneficial holder or holders of 50.1% or more of all the issued and outstanding voting shares in the capital of any such corporate Signing Shareholder or 50.1% or more of the **outstanding** beneficial interests in the partnership or trust;
 - (iii) proceedings are instituted for the dissolution or winding-up of any such Signing Shareholder;
 - (iv) such Signing Shareholder is petitioned into bankruptcy or makes an assignment for the benefit of its creditors;
 - (v) such Signing Shareholder's Shares, or any portion thereof, are seized or attached in any way for the payment of any judgment or order; or
 - (vi) if a certificate of dissolution is issued with respect to such corporate Signing Shareholder in its principal jurisdiction or such Signing Shareholder is otherwise dissolved and its status terminated which is not rectified within 60 days of such dissolution;

"**Involuntary Transfer**" means a deemed Transfer of Shares arising in connection with an **Involuntary Transfer Event**;

"**IPO**" means: (a) a distribution of Common Shares in Canada and/or the United States pursuant to a prospectus or registration statement filed and declared effective under applicable securities laws, that results in the Common Shares being listed for trading on a recognized stock exchange; or (b) any **merger**, consolidation or similar combination involving the Corporation and another Person following which shares of the surviving entity are listed for trading on a recognized stock exchange;

"**Kulhawy**" has the meaning ascribed thereto in the Recitals;

"**Lotus**" has the meaning ascribed thereto in the Recitals;

"**Maximum Credit Commitment**" has the meaning ascribed thereto in Section 14.1(a);

"**Minority Shareholder**" has the meaning ascribed thereto in Section 9.1;

"**New Issue Notice**" has the meaning ascribed thereto in Section 5.1(a);

"**New Issue Securities**" has the meaning ascribed thereto in Section 5.1(a);

"**Offeror**" has the meaning ascribed thereto in Section 13.1;

"**Other Shareholders**" has the meaning ascribed thereto in the Recitals;

"**Parties**" means all of the Persons who: (a) have executed this Agreement; or (b) have agreed to **become** bound by the terms of this Agreement; and "**Party**" means any one of the Parties;

"**Permitted Transferee**" means any one or more of the following:

- (c) in respect of a Signing Shareholder that is an individual, that Signing Shareholder's spouse, children, grandchildren or other lineal descendants (including by adoption);
- (d) a trust (including, for greater certainty, a registered retirement savings plan), provided that the transferring Signing Shareholder retains the right to vote or to direct the voting of any Shares transferred to such trust;
- (e) the beneficiaries of any trust that is or becomes a Signing Shareholder in accordance with the provisions hereof;
- (f) a holding company, partnership, joint venture or other entity which is controlled, directly or indirectly, by one or more of: (i) the Signing Shareholder that transferred its shares to such entity; (ii) any of the Persons referred to in paragraphs (a) to (c) above; and (iii) another entity which is in turn controlled, directly or indirectly, by one or any combination of the above-noted Persons;
- (g) a personal representative of a deceased or incapacitated Signing Shareholder;

"**Person**" means any individual, corporation, company, limited liability company, voluntary association, partnership, limited partnership, joint venture, trust, unincorporated organization or government or any agency, instrumentality or political subdivision thereof, or any other form of entity;

"**Pre-emptive Right**" has the meaning ascribed thereto in Section 5.1(a);

"**Preferred Shares**" means any preferred shares of Corporation which may be issued or outstanding from time to time;

"**Primary Vendor**" has the meaning ascribed thereto in Section 8.1;

"**Prime Rate**" has the meaning ascribed thereto in Section 14.1(d);

"**Put Option**" means the put option agreement between Lotus and Balinhard dated the date hereof;

"**Purchaser**" has the meaning ascribed thereto in Section 13.1;

"**Recitals**" means the preamble and the recitals to this Agreement, as amended or restated from time to time;

"**Related Party**" means: (a) any director, officer, employee or group of directors, officers or employees of the Corporation; (b) any Shareholder and any Affiliate thereof, and any of their respective **partners**, owners, directors or officers;

"**Schedules**" means the schedules attached to this Agreement, as amended or restated from time to time; and "**Schedule**" means any one of them;

"**Securities**" means, collectively and at the applicable time of determination, any Shares, Share Equivalents and debt securities issued by the Corporation; *provided, however*, that for the **purposes** of Article 5, all references to "Securities" shall exclude debt securities which are not convertible into equity securities of the Corporation or any Subsidiary;

"**Selling Group**" has the meaning ascribed thereto in Section 8.1;

"**Settlement Agreement**" means the settlement agreement dated the date hereof among the Corporation, Kulhawy, Fortitude, STS and Lotus;

"**Share Equivalents**" means any security or obligation of the Corporation that is convertible into, exercisable for, or exchangeable for Shares, including, for greater certainty, any Share Options;

"**Shareholders**" means any Person who is a holder of Shares and their respective successors and assigns and legal representatives;

"**Shareholder Exercise Notice**" shall have the meaning ascribed thereto in Section 10.4;

"**Share Options**" means, collectively and at the applicable date of determination, any options to **purchase** Shares issued pursuant to: (a) option agreements dated the date hereof between the Corporation and each of Balinhard and Fortitude; and (b) any equity compensation scheme for directors, officers, employees and consultants of the Corporation as may be approved by the Board from time to time;

"**Shares**" means, collectively and at the applicable date of determination, any issued and outstanding Common Shares and Preferred Shares;

"**Signing Shareholder**" means any Shareholder who is a signatory to this Agreement;

"**Stock Purchase Agreement**" means the stock purchase agreement dated the date hereof between the Corporation, Kulhawy and Lotus;

"**STS**" means STS Capital Partners Securities Inc.;

"**Subject Shareholders**" has the meaning ascribed thereto in Section 8.1;

"**Subsidiary**" has the meaning ascribed thereto in the Act;

"**Tag-Along Notice**" has the meaning ascribed thereto in Section 9.1;

"**Tag-Along Notice Period**" has the meaning ascribed thereto in Section 9.1;

"**Tag-Along Right**" has the meaning ascribed thereto in Section 9.1;

"**Tag-Along Shares**" has the meaning ascribed thereto in Section 9.1;

"**Third Party**" means any Person except the Parties and their Affiliates;

"**Transfer**" means to sell, assign, transfer, exchange, issue, surrender, gift, bequest, lease, license, mortgage, pledge, encumber, hypothecate, declare to be held in trust or otherwise dispose of any Shares, or any interest, whether legal or beneficial, in any Shares, whether voluntarily, involuntarily, directly or indirectly, conditionally, contingently or otherwise, by operation of law or otherwise, or to enter into any agreement, arrangement or undertaking, or any action which results or may result in the foregoing;

"**Transfer Interest**" has the meaning ascribed thereto in Section 7.1;

"**Transfer Notice**" has the meaning ascribed thereto in Section 8.1;

"**Transferor**" has the meaning ascribed thereto in Section 7.1; and

"**Valuer**" has the meaning ascribed thereto in Section 11.1(c).

1.2 Schedules

The following Schedules are attached to and form part of this Agreement:

Schedule A – Shareholders and Notice Information

Schedule B – Shareholder's Undertaking

1.3 Currency

All monetary amounts referred to in this Agreement are references to the lawful currency of the United States, unless otherwise indicated.

1.4 Gender and Number

Words importing the singular number only shall include the plural, and vice-versa, words importing the masculine gender shall include the feminine gender and neuter gender and words importing persons shall include a natural person, firm, trust, partnership, association, corporation, government or governmental board, agency or instrumentality.

1.5 Headings

The division of this Agreement into Articles and Sections and the Article and Section headings are for convenience of reference only and shall not affect the interpretation or construction of this Agreement.

1.6 Calculation of Time Periods

Unless otherwise specified herein when calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next Business Day.

1.7 Applicable Law

This Agreement shall be construed and enforced in accordance with and the rights of the Parties hereto shall be governed by the laws of the Province of Alberta and the laws of Canada applicable therein, excluding reference to conflicts of laws principles and the Parties hereto do hereby irrevocably attorn to the jurisdiction of the courts of the Province of Alberta.

1.8 Inclusive Terminology

Whenever used in this Agreement, the words "includes" and "including" and similar terms of inclusion will not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather will mean "includes but is not limited to" and "including but not limited to", so that references to included matters will be regarded as illustrative without being either **characterizing** or exhaustive.

1.9 Meaning of "non-diluted"

Whenever, in this Agreement, the number of Common Shares is to be determined on a "non-diluted basis", the number of Common Shares to be used for the purpose of such calculation shall be deemed to be the number of Common Shares actually issued and outstanding as of such time plus the aggregate number of Common Shares issuable at the applicable time upon conversion or exercise of any outstanding Share Equivalents; *provided, however*, that such number of Common Shares shall not include any Common Shares issuable in connection with the conversion, exercise or exchange of any Share Options.

1.10 Interpretation Not Affected By Party Drafting

The Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement, and the Parties agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the **interpretation** of this Agreement.

ARTICLE 2
IMPLEMENTATION OF AGREEMENT

2.1 Scope of Agreement

This Agreement will govern and define the respective rights, interests, powers and obligations of each of the Signing Shareholders to each other and to the Corporation in relation to their direct and indirect interests in the Corporation.

2.2 No Partnership Created

The Parties expressly disclaim any intention to create a partnership or joint venture and nothing in this Agreement, or by virtue of the ownership of any Shares, shall constitute the Parties partners or joint venturers.

2.3 Shareholder Covenant

Each Signing Shareholder covenants and agrees to vote or cause to be voted the Shares directly or indirectly owned by the Signing Shareholder and to take all steps as may be reasonably within their powers to accomplish and give effect to the terms and conditions of this Agreement.

2.4 Conflict

In the event of any conflict between the provisions of this Agreement and the Articles and/or the By-laws, each of the Signing Shareholders agrees to make or support, as applicable, a proposal, and to vote or cause to be voted the Shares directly or indirectly owned or controlled thereby, so as to cause the Articles and/or the By-laws to be amended to resolve any such conflict in favour of the provisions of this Agreement.

2.5 Effecting Transfers

Each of the Signing Shareholders shall be deemed to have consented to any transfer of Shares made in accordance with this Agreement. Each of the Signing Shareholders shall vote in favour of or execute any shareholders' resolution necessary or desirable to be passed under and pursuant to the Articles with respect to the transfer of Shares made in accordance with this Agreement. The Signing Shareholders shall do or, as within their powers, cause the Corporation to do all deeds, acts and things as are **necessary** or desirable to permit the transfer of any Shares pursuant to this Agreement to be recorded in the name of such transferee on the books and records of the Corporation.

2.6 Notice

The Corporation, by its execution hereof, hereby acknowledges that it has actual notice of the terms of this Agreement, consents thereto and hereby covenants with each of the Signing Shareholders that it will at all times during the continuance hereof be governed by this Agreement in carrying out its business and affairs and accordingly, shall give or cause to be given such notices, execute or cause to be executed such deeds, transfers and documents and do or cause to be done all such acts, matters and things as may from time to time be necessary or conducive to the carrying out of the terms and intent hereof.

2.7 Term

This Agreement shall terminate on the earlier of:

- (a) the consummation of a Fundamental Change;
- (b) the date that there is only one surviving Signing Shareholder that is a Party to this Agreement; or
- (c) the date upon which all of the Parties agree in writing to terminate this Agreement.

ARTICLE 3 **SHAREHOLDERS**

3.1 Shares of the Corporation

The provisions of this Agreement relating to Shares of the Corporation shall apply *mutatis mutandis*: to any Shares or other securities into which such Shares may be changed, reclassified, redivided, redesignated, redeemed, subdivided or consolidated, and *vice versa*; to any Shares that are purchased by any Person as part of a new issue of Shares; to any Shares that are received by the Signing Shareholders hereto as part of a new issue of Shares, as a share dividend or as a distribution payable in Shares; and to any Shares or other securities of the Corporation or of any successor or continuing company or corporation to the Corporation that may be received by the Signing Shareholder hereto on a reorganization, amalgamation, consolidation or merger, statutory or otherwise. For greater certainty and for the avoidance of doubt, this Agreement shall apply to all Shares issued by the Corporation to the Signing Shareholders from time to time including, without limitation, Shares issued in connection with the conversion, exercise or exchange of any Share Equivalents.

ARTICLE 4 **DIRECTORS AND OFFICERS**

4.1 Board of Directors

- (a) At the first meeting of Shareholders following the execution of this Agreement and at all times thereafter:
 - (i) Kulhawy and Lotus shall cause their Common Shares to be voted so as to cause the authorized number of directors on the Board shall be fixed at five directors;
 - (ii) Kulhawy shall have the right to nominate two individuals for election to the Board (the "Kulhawy Nominees") and the initial Kulhawy Nominees shall be Kulhawy and James Iglesias;
 - (iii) Lotus shall have the right to nominate three individuals for election to the Board (the "Lotus Nominees") and the initial Lotus Nominees shall be Christian Mack, Philip Jones and one additional individual as may be determined by Lotus;
 - (iv) Kulhawy and Lotus shall cause the Common Shares directly or indirectly owned or controlled thereby to be voted for the removal from the Board (with or without cause) of any Kulhawy Nominee (and any successor thereof) at the written request of Kulhawy, and the resulting vacancy on the Board shall be filled by a nominee designated by Kulhawy (and such individual shall become a "Kulhawy Nominee" for all purposes hereof). In the event that any Kulhawy Nominee for any reason ceases to serve as a member of the Board during his term of office, Kulhawy and Lotus shall cause the Common Shares directly or indirectly owned

or controlled thereby to be voted for the resulting vacancy on the Board to be filled by a nominee designated by Kulhawy (and any such individual shall become a "Kulhawy Nominee" for all purposes hereof);

- (v) Kulhawy and Lotus shall cause the Common Shares directly or indirectly owned or controlled thereby to be voted for the removal from the Board (with or **without** cause) of any Lotus Nominee (and any successor thereof) at the written request of Lotus, and the resulting vacancy on the Board shall be filled by a nominee designated by Lotus (and such individual shall become a "Lotus Nominee" for all purposes hereof). In the event that any Lotus Nominee for any reason ceases to serve as a member of the Board during his term of office, Kulhawy and Lotus shall cause the Common Shares directly or indirectly owned or controlled thereby to be voted for the resulting vacancy on the Board to be filled by a nominee designated by Lotus (and any such individual shall become a "Lotus Nominee" for all purposes hereof);
- (b) Each Other Shareholder shall cause the Common Shares directly or indirectly owned or controlled thereby to be voted in order to cause the forgoing to occur. The Other Shareholders shall not cause the Common Shares directly or indirectly owned or controlled thereby to be voted for the removal of any of the Kulhawy Nominees or the Lotus Nominees except in accordance with the provisions of this Section 4.1, in which case the Other Shareholders shall cause all of the Common Shares directly and indirectly owned or controlled by them to be so voted; and
- (c) It is hereby agreed and acknowledged by the Parties that until either: (i) the Corporation has complied with its obligation to redeem or repurchase all of the class "F" Shares issued to Fortitude; or (ii) Kulhawy has purchased all such Class "F" Preferred Shares from Fortitude; Rob Follows shall be entitled to:
 - (i) receive all notices that are sent to the Board and such notices shall be delivered to Rob Follows at the same time and in the same manner as such notices are delivered to the directors of the Corporation, including notice of any **meeting** of the Board, which notice shall advise of the date, time and location of the **meeting** and shall be accompanied by an agenda together with reasonable details and relevant and available supporting documentation which have been supplied to the other directors of the Corporation respecting the matters on the agenda and any motions to be voted on at the meeting; and
 - (ii) attend and participate at all meetings of the Board in person or by electronic means, telephone, or other communication facilities; *provided, however*, that Rob Follows' attendance and participation at any such meeting shall be limited to that of an observer only, and Rob Follows shall not be permitted to vote act as a Board member in any official capacity.

4.2 Director Approval Rights

Notwithstanding any provision of this Agreement to the contrary, but subject to **Section 4.4** hereof, the Corporation shall not do or permit the occurrence of any of the following (or permit any Subsidiary to do or permit the occurrence of any of the following) without first receiving majority approval of the Board, provided that such majority includes the approval of Kulhawy, at a meeting of directors (or as evidenced by a written resolution in lieu thereof):

- (a) amend the Articles, By-Laws or other constating documents of the Corporation or any Subsidiary of the Corporation;
- (b) subject to Section 4.1, increase or decrease the number of directors comprising the Board, appoint additional directors to the Board or fill any vacancy of the Board;
- (c) hire, terminate the employment of or replace members of the senior management of the Corporation;
- (d) approve any change in the nature of the Business or business plan of the **Corporation**;
- (e) (i) authorize or issue any Securities, except for the issuance of Shares upon the exercise of any Share Options or other Share Equivalents approved by the Board from time to time; (ii) create, approve, modify or terminate any share option plan or other equity incentive plan; (iii) repurchase, redeem or otherwise cancel any Securities; (iv) modify the terms of any Share Equivalents; or (v) authorize any distributions, dividends or return of capital on any Shares; or
- (f) grant any guarantee or indemnity or otherwise become liable for the debts or **obligations** of any Person in an amount that exceeds \$1,000,000 in the aggregate.

4.3 Matters Requiring Approval

In addition to the requirements set forth in Section 4.2, subject to Section 4.4 hereof, the Corporation shall not, without the prior approval of Kulhawy in his capacity as shareholder, take any action described in Section 4.2.

4.4 Termination of Minority Approval Rights

- (a) The approval rights granted to Kulhawy in Sections 4.2(a), 4.2(b), 4.2(d) and 4.2(e) shall terminate and be of no further force or effect upon completion of payment of all amounts owing to Kulhawy and the Corporation by Lotus pursuant to the Stock **Purchase Agreement**.
- (b) The approval rights granted to Kulhawy in Sections 4.2(c) and 4.2(f) shall **terminate** and be of no further force or effect upon the satisfaction of all of the following **obligations** by Lotus and/or the Corporation, as applicable:
 - (i) Lotus shall have caused the Corporation to redeem, and the Corporation shall have redeemed, all Class "F" Preferred Shares issued to Fortitude in **accordance** with the terms of the Settlement Agreement and the rights attaching to the Class "F" Preferred Shares set forth in the Articles;
 - (ii) Lotus shall have caused the Corporation to redeem, and the Corporation shall have redeemed, all Class "E" Preferred Shares issued to Balinhard in accordance with the rights attaching to the Class "E" Preferred Shares set forth in the Articles;
 - (iii) all guarantees given by Kulhawy pursuant to the Settlement Agreement shall have terminated in accordance with their terms and without requiring Kulhawy to pay any amounts in support thereof; and

- (iv) all security given by Kulhawy pursuant to the Settlement Agreement shall have terminated in accordance with the terms thereof and without the secured party realizing on the security granted in connection therewith.
- (c) Upon the termination of the approval rights granted to Kulhawy as provided for in Sections 4.4(a) and 4.4(b), above, the requirement to obtain Kulhawy's approval for such actions in his capacity as shareholder, as provided in Section 4.3, shall also terminate and be of no further force or effect.

4.5 Guarantee

Lotus hereby unconditionally and irrevocably guarantees to Fortitude, Balinhard and Kulhawy full and prompt payment and satisfaction when due, and at all times following when due, of the obligation of the Corporation to redeem the Class "F" Preferred Shares in the capital of the Corporation issued to Fortitude and the Class "E" Preferred Shares in the capital of the Corporation issued to Balinhard, together with all accrued and unpaid dividends thereon, in accordance with the terms and conditions of the Settlement Agreement and the Articles, as applicable. The foregoing obligations of Lotus are unconditional and absolute.

4.6 Directors' and Officers' Insurance

- (a) The Corporation shall maintain directors' and officers' insurance coverage for the benefit of all directors and officers. Such insurance shall be of an amount and term which is customary for Companies operating businesses in Western Canada which are similar to the business of the Corporation.

ARTICLE 5 **PRE-EMPTIVE RIGHTS**

5.1 Pre-emptive Right

- (a) Subject to Section 5.2, the Corporation agrees that no Securities, including any option, warrant, right or privilege which is capable of becoming an agreement for the acquisition, purchase, subscription, allotment or issuance of any Securities of the Corporation (or any securities of a Subsidiary) shall be issued at any time unless (i) the Board has approved such issuance in accordance with Section **Error! Reference source not found.** and (ii) upon receipt of such approval, the Corporation, by written notice (a "New Issue Notice"), advises the Shareholders of the Corporation's intention to issue such Securities (the "New Issue Securities"). Each Shareholder shall have a pre-emptive right, exercisable within a period of 20 Business Days from receipt of such notice from the Corporation, to elect in writing, and within 15 Business Days of such election, to purchase up to that percentage of the New Issue Securities which corresponds to its percentage ownership of the issued and outstanding Common Shares as at such time (calculated on a non-diluted basis), at the same price and on the same terms as those that are specified in the New Issue Notice (the "Pre-emptive Right").
- (b) If less than all of the Shareholders elect to acquire New Issue Securities under Section 5.1(a), or such Shareholders collectively elect to acquire less than all of the New Issue Securities, then each participating Signing Shareholder which has elected to acquire its proportionate share of the New Issue Securities under Section 5.1(a) may acquire a proportionate share, or other share as may be agreed to by such participating Signing

Shareholders, of any New Issue Securities not subscribed for under Section 5.1(a). For the purposes of this Section 5.1(b), "**proportionate share**" means the proportion that the Common Shares held by each Signing Shareholder participating under this Section 5.1(b) (prior to the issuance of such additional New Issue Securities) bears to the **aggregate** of the Common Shares held by all Signing Shareholders participating under this Section 5.1(b) (prior to the issuance of such additional New Issue Securities and calculated on a non-diluted basis).

- (c) If any Shareholder does not elect to exercise its Pre-Emptive Right in full in **accordance** with Section 5.1(a) and any New Issue Securities remain unsubscribed for after giving effect to Section 5.1(b), the Corporation may issue such New Issue Securities to Persons other than the Shareholders who elected not to exercise their Pre-Emptive Rights at any time within 120 days from the issuance of the New Issue Notice, provided that such issuance is not on terms which are more advantageous to such Persons in any **material** respect than those offered to the Shareholders.
- (d) Following the completion of the issuance of New Issue Securities or 120 days following the issuance of the New Issue Notice from which an issuance of the New Issue Securities did not result, as the case may be, the provisions of Section 5.1(a) shall once again apply to any intention by the Corporation to issue any Securities.
- (e) Notwithstanding anything to the contrary in this Agreement, any Signing **Shareholder** may assign the rights granted to such Signing Shareholder in Section 5.1(a) to any Affiliate of such Signing Shareholder provided that such Affiliate: (i) agrees in **writing** to be bound by and to observe the terms and provisions of this Agreement and has **executed** a Shareholder's Undertaking in the form of Schedule B; and (ii) is not a not competitor of, or engaged in business activities that compete with the business activities of, the Corporation.

5.2 Pre-emptive Right Exclusions

The Corporation shall not be obligated to make an offer under or to otherwise comply with Section 5.1, and the Pre-emptive Right shall not apply to, any Securities that are to be issued **pursuant** to:

- (a) the issuance of Share Options and the issuance of Shares on the exercise thereof;
- (b) the issuance of Shares in a share dividend, capital reorganization or similar **transaction**, where all holders of Shares are treated in an equivalent manner;
- (c) the issuance of Securities by the Corporation in a Corporate Transaction, share or asset purchase or other similar transaction where Securities of the Corporation are used to fund all or a portion of the applicable purchase price;
- (d) the issuance of any Shares to Lotus in connection with the Stock Purchase Agreement dated the date hereof between Lotus, Kulhawy and the Corporation; or
- (e) the issuance of any Shares to Fortitude or Balinhard in connection with the exercise or conversion of any Share Equivalents into Shares.

ARTICLE 6
TRANSFER RESTRICTIONS

6.1 General Transfer Restrictions

- (a) Except as otherwise provided in this Agreement, no Shares shall at any time be Transferred by a Signing Shareholder.
- (b) With the exception of a Transfer of all of the issued and outstanding Shares in connection with a Fundamental Change, as a condition to the Transfer of Shares, a **Signing Shareholder** that intends to Transfer Shares shall require the purchaser of such Shares agree to be bound by and to observe the terms and conditions of this Agreement by executing and delivering to the Corporation a fully executed copy of the **Shareholder's Undertaking** attached as Schedule B hereto.
- (c) Notwithstanding any provision of this Agreement to the contrary:
 - (i) nothing in this Agreement shall prevent Kulhawy from pledging his shares in the capital of the Corporation to STS and Fortitude pursuant to share pledge agreements dated effective as of the date hereof;
 - (ii) (A) nothing in this Agreement shall prohibit Kulhawy from acquiring the Shares of any other Shareholder, whether or not such Shareholder is a Party to this Agreement; (B) all such Transfers are hereby approved by the Signing Shareholders; and (C) no such Transfers shall be subject to Article 8 or Article 9 of this Agreement;
 - (iii) with the exception of a Transfer of all of the issued and outstanding Shares in connection with a Fundamental Change, no Signing Shareholder shall Transfer any Shares to any Person that operates the same or a similar business as the Business of the Corporation or otherwise competes with the Business of the Corporation, in each case as determined by the Board; and
 - (iv) (A) nothing in this Agreement shall prohibit Balinhard from **transferring** its Shares pursuant to the terms of the Put Option; (B) all such Transfers are hereby approved by the Signing Shareholders; and (C) no such Transfers shall be subject to Article 8 or Article 9 of this Agreement.

ARTICLE 7
TRANSFERS TO PERMITTED TRANSFEREES

7.1 Permitted Transfers

Any Signing Shareholder (the "**Transferor**") may Transfer its interest (the "**Transfer Interest**") to a Permitted Transferee at any time without the written consent of the Board or any other Signing Shareholder; *provided, however*, that any such Transfer shall only be effected, and shall only take effect after, the Transferor has given notice of such Transfer to the Corporation and the Permitted **Transferee** has delivered to the Corporation a fully executed copy of the Shareholder's Undertaking **attached** as

Schedule B hereto. For greater certainty, any Transfer to a Permitted Transferee pursuant to this Article 7 shall not be subject to Article 8 or Article 9 of this Agreement.

7.2 Obligations and Liabilities

Simultaneously with the Transfer of the Transfer Interest, the Permitted Transferee shall become a Party to this Agreement, and thereafter, this Agreement shall be interpreted as if all references to the Transferor of the Transfer Interest included references to the Permitted Transferee. Except as expressly otherwise agreed by the Signing Shareholders, the Permitted Transferee shall assume liability for all liabilities, obligations and commitments due and outstanding in respect of the Transfer Interest on the effective date of the Transfer. The Transferor will remain jointly and severally liable with the Permitted Transferee for the liabilities, obligations and commitments of the latter in respect of the Transfer Interest.

ARTICLE 8 DRAG-ALONG RIGHT

8.1 Notice of Proposed Sale

If one or more Signing Shareholders owning, collectively, at least 50% of the issued and outstanding Common Shares (calculated on a non-diluted basis) collectively referred to as the "**Selling Group**") desires to Transfer all of its Shares to a Third Party in one transaction or a series of transactions, then the Selling Group shall deliver to the Corporation and all other Signing Shareholders a written notice (the "**Transfer Notice**") stating:

- (a) the identity of the Third Party;
- (b) the proposed effective date and closing date of the proposed Transfer; and
- (c) the proposed purchase price per Share and other terms and conditions of the proposed Transfer.

Upon delivery and receipt of the Transfer Notice, the Selling Group shall have the right (the "**Drag-Along Right**") to require all other Signing Shareholders (the "**Subject Shareholders**") to transfer all of their respective Shares including any and all Preferred Shares in the capital of the Corporation held thereby (collectively, the "**Drag-Along Shares**") to such Third Party on the same terms and conditions (and for the same consideration) offered to the Selling Group as set forth in the Transfer Notice; *provided, however*, that the purchase price allocated to any Preferred Shares which are included in the Drag-Along Shares shall not be less than the redemption amount ascribed to such Preferred Shares plus an amount equal to all accrued and unpaid dividends thereon. The Signing Shareholder in the Selling Group with the largest equity interest (the "**Primary Vendor**") shall deliver the Transfer Notice described above and the Drag-Along Notice described below and shall take all necessary action on behalf of any other members of the Selling Group.

8.2 Mechanics of Drag-Along

Before the Selling Group may exercise the Drag-Along Rights provided under this Section, it shall, together with (and at the same time as delivery of) the Transfer Notice, give written notice to the Corporation and each other Signing Shareholder (the "**Drag-Along Notice**") stating that the Selling Group is exercising Drag-Along Rights in connection with the proposed transfer described in the Transfer Notice. Such Drag-Along Notice and Transfer Notice shall together be delivered to the Corporation and each other Signing Shareholder not less than 15 Business Days before the closing associated with the

definitive agreement between the Selling Group and the Third Party. Subject to receipt of the **Transfer Notice** and the Drag-Along Notice, each other Signing Shareholder hereby agrees to take all necessary action to Transfer all of the Drag-Along Shares then held by such other Signing Shareholder to such Third Party upon the same terms and conditions as described in the Transfer Notice and the Drag-Along Notice and agrees in connection with such proposed transfer, at the request of the Selling Group, and without further cost and expense to the Corporation, to execute and deliver such other instruments of conveyance and transfer and take all such other actions as may reasonably be requested in order to effect the sale of all of such other Signing Shareholder's Drag-Along Shares to the Third Party in a timely fashion.

8.3 Additional Terms of Sale

In connection with any Transfer under this Section, each Subject Shareholder shall agree to give customary and reasonable representations and warranties relating to ownership, title and ability to convey its Drag-Along Shares. No Signing Shareholder shall be directly liable in respect of any **indemnification** in connection with such transaction: (x) in excess of the consideration received by such Signing Shareholder therefrom; (y) for the breach of representations or warranties made by any other Signing Shareholder; and (z) other than on a several (and not a joint and several) basis and only in respect of the representations and warranties made by such Signing Shareholder.

8.4 Corporate Transaction

The obligation of any Signing Shareholder to transfer its Shares to a proposed Third Party pursuant to Section 8.2, above, shall also apply, *mutatis mutandis*, to a sale of all or substantially all of the assets of the Corporation, or a merger, amalgamation, consolidation, plan of arrangement, reorganization or other form of business combination, whether pursuant to a statutory procedure or otherwise (such a transaction, a "**Corporate Transaction**"). To the extent that such a Corporate Transaction **requires** shareholder approval under applicable law, the Signing Shareholders that are party to this **Agreement** shall take all necessary action, including voting all of their Shares at a meeting of shareholders of the Corporation (or executing a written resolution in lieu thereof), in favour of such Corporate **Transaction** and to not exercise any rights of dissent or other shareholder remedies in connection therewith.

8.5 Irrevocable Power of Attorney

If, following receipt of the Drag-Along Notice, any Subject Shareholder refuses to comply with the terms and conditions of this Article 8 or otherwise complete the Transfer of its Drag-Along Shares, then each such Subject Shareholder hereby grants an irrevocable power of attorney to the **Primary Vendor**, with full power of substitution, to execute and deliver all documents and instruments and take all steps in each case to give effect to such acceptance, to establish a binding contract of purchase and sale between the Subject Shareholder and the proposed purchaser of the Drag-Along Shares, and to **complete** the purchase and sale contemplated thereunder including, without limitation, the execution of any and all documents and instruments required in connection with such transaction and the voting of any proxy in favour of such transaction. Such appointment is: (a) granted for valuable consideration, being the mutual covenants of the Signing Shareholders to each other granted in this Agreement; (b) coupled with an interest, being the interest of the Primary Vendor in executing and completing a transaction with the Third Party on the terms and conditions set forth in the Transfer Notice; and (c) irrevocable by each Subject Shareholder and shall not be revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of the existence of the Subject Shareholder. The Subject Shareholder(s) agree and acknowledge that the power of attorney granted herein is for the benefit of the Primary Vendor and that the Primary Vendor does not owe any fiduciary obligation or duty to the Subject Shareholder(s) in the exercise of such power of attorney. The irrevocable power of attorney granted in this Section 8.5 is not intended to be a enduring power of attorney pursuant to the *Powers of Attorney Act* (Alberta), and any

application of such statute, or successor thereof, is hereby disclaimed and waived by the Subject Shareholder.

ARTICLE 9 **TAG-ALONG RIGHT**

9.1 Tag-Along Notice

If the Selling Group has provided a Transfer Notice and chooses not to exercise its **Drag-Along** Right pursuant to Article 8, then each of the other Signing Shareholders (each, a "**Minority Shareholder**") shall, within five Business Days following the receipt of the Transfer Notice (the "**Tag-Along Notice Period**"), deliver a written notice (a "**Tag-Along Notice**") to the Corporation and the Selling Group if it wishes to exercise its right to require the Selling Group to include the Minority Shareholder's Shares, including any and all Preferred Shares, held thereby in the sale on the same terms and conditions (and for the same consideration) offered to the Selling Group as set forth in the **Transfer** Notice as set forth in Section 9.2 (a "**Tag-Along Right**"); *provided, however*, that the purchase price allocated to any Preferred Shares which are included in the Tag-Along Shares shall not be less than the redemption amount ascribed to such Preferred Shares plus an amount equal to all accrued and unpaid dividends thereon.

9.2 Tag-Along Right

A Minority Shareholder who delivers a Tag-Along Notice shall be entitled to require that all of the Shares, including any and all Preferred Shares, held by it (the "**Tag-Along Shares**") must be Transferred to the Third Party together with the Selling Group's Shares on the terms and conditions (and for the consideration described in Section 9.1, above) disclosed in the Transfer Notice. If the Third Party is unable or unwilling to purchase the Tag-Along Shares on the terms and conditions disclosed in the Transfer Notice, the Selling Group shall not Transfer any of its Shares to the Third Party.

9.3 Closing

The consummation of the Transfer of the Shares of the Selling Group and the Tag-Along Shares must be completed within 90 days of the expiration of the Tag-Along Notice Period.

9.4 Failure To Purchase

If no Transfer is consummated within the time limit stipulated in Section 9.3, or none of the Minority Shareholders deliver a Tag-Along Notice to the Selling Group within the Tag-Along Notice Period, then the Selling Group may, within 90 days after the expiration of the Tag-Along Notice Period, Transfer its Shares to any Third Party transferee at a price and on terms which shall not be more favourable to such proposed transferee than those specified in the Transfer Notice. If no such **Transfer** is so consummated, the rights of the Signing Shareholders under Article 8 and Article 9 shall revive and if the Selling Group shall thereafter desire to Transfer Shares, it must again give notice under Article 8 and Article 9 (as the case may be), and so on from time to time.

ARTICLE 10
INVOLUNTARY TRANSFERS

10.1 Option

Upon the occurrence of an Involuntary Transfer Event in connection with any Signing Shareholder (the "**Disposing Shareholder**"), the Disposing Shareholder shall be deemed to have granted to the Corporation an option to purchase all of the Shares owned by the Disposing Shareholder (the "**Disposing Shareholder's Interest**"). Failing the exercise of the option by the Corporation or the failure of the Corporation to purchase the entirety of the Disposing Shareholder's Interest, the **Disposing Shareholder** shall be deemed to have granted to the other Signing Shareholders an option to purchase the Disposing Shareholder's Interest (or the remaining portion thereof, as applicable) on a *pro rata* basis.

10.2 Option Period

The option period shall be 30 days and shall commence to run from the date upon which the Corporation receives actual notice of the Involuntary Transfer Event upon which the option arises.

10.3 Exercise Of Option By Corporation

The Corporation shall have the right, during the 30 day period following the commencement of the option period, to exercise the option and to elect to purchase all of the Shares of the **Disposing Shareholder** by giving written notice (the "**Exercise Notice**") to the Disposing Shareholder stating that it is exercising the option. The Exercise Notice shall set out the number of Shares to be purchased and the purchase price for such Shares determined in accordance with Article 11.

10.4 Unaccepted Shares

If the Corporation fails to elect to exercise the option or exercises the option but fails to purchase all of the Disposing Shareholder's Interest, then the Corporation shall give written notice to the other Signing Shareholders advising them accordingly, and each of the other Signing Shareholders shall have the right, during the remainder of the option period, to exercise his or her option and to elect to **purchase** all of the remaining Shares of the Disposing Shareholder in accordance with the provisions of Section 10.3 by giving written notice (the "**Shareholder Exercise Notice**"). The Shareholder Exercise Notice shall set out the number of Shares to be purchased and the purchase price for such Shares determined in accordance with Section 10.7. If there is more than one Signing Shareholder at the time of the Involuntary Transfer Event and if one or more of them together elect as aforesaid to purchase more than the number of remaining Shares being sold by the Disposing Shareholder, then the remaining Shares shall be allocated between them *pro rata* to their existing beneficial ownership of Shares.

10.5 Failure To Exercise

If neither the Corporation nor any other Signing Shareholder gives to the Disposing **Shareholder** an Exercise Notice or Shareholder Exercise Notice within the 30 day option period or if the sale of the Shares of the Disposing Shareholder fails to close as contemplated in Section 10.6, then the Corporation and the other Signing Shareholders shall be deemed to have refused to purchase the Shares and the option shall expire.

10.6 Closing

It shall be a condition of the closing of any purchase and sale under this Article 10 for the benefit of the purchasing Corporation or Signing Shareholder, as the case may be, that the Disposing Shareholder deliver against payment of the purchase price in cash or certified cheque the certificate or **certificates** representing the subject Shares duly endorsed in blank and a representation and warranty dated the day of closing to the effect that the Disposing Shareholder has good right, title and lawful authority to sell the subject Shares, that the subject Shares are not subject to any contractual or other restrictions (other than pursuant to this Agreement or the Articles), and that such Shares are beneficially owned by the **Disposing** Shareholder free and clear of any liens, encumbrances, mortgages, pledges, charges or security interests of any kind whatsoever.

10.7 Purchase Price

The purchase price of the Shares of the Disposing Shareholder to be purchased pursuant to and under the option granted by this Article 10 shall be equal to the fair market value of such Shares determined in accordance with Article 11.

ARTICLE 11 **SHARE VALUATION**

11.1 Determination of Value

- (a) The "fair market value" of one Share shall be the value equal to the per Share price in the most recent arms' length Share sales transaction applicable to such class of Shares.
- (b) In the event that no arms' length Share sales transaction has been completed within the last three months prior to the occurrence of the Involuntary Transfer Event, the Disposing Shareholder and Corporation, or the Signing Shareholder(s) purchasing the Disposing Shareholder's Interest (as applicable), by unanimous agreement, shall determine the "fair market value" of the Shares comprising the Disposing Shareholder's Interest. The value of the Disposing Shareholder's Interest shall be determined having reference to the financial statements issued in respect of the most recently complete fiscal year of the Corporation and having reference to such other factors and elements affecting value as the applicable Parties may deem appropriate.
- (c) In the event that the Disposing Shareholder and the Corporation, or the Signing Shareholder(s) purchasing the Disposing Shareholder's Interest (as applicable), cannot come to a unanimous agreement as to the "fair market value", the "fair market value" shall be determined by an independent accounting firm (the "Valuer"), whose identity shall be agreed upon by the applicable Parties. If an agreement on the identity of the accounting firm cannot be reached within a period of 15 days of commencement of discussions regarding the same, the appointment shall be determined by a Justice of the Court of Queen's Bench of Alberta.
- (d) For the determination of the fair market value of the Corporation there shall be submitted to the Valuer such financial records and other information concerning the **Corporation** as may reasonably be required. In calculating the fair market value of the Corporation, the Valuer shall view the Corporation as a going concern having regard to all material factors and elements that affect value, giving to each the weight indicated by the **circumstances**, including:

- (i) the nature of the business of the Corporation and its operations;
 - (ii) the Corporation's assets and liabilities;
 - (iii) the Corporation's earning capacity;
 - (iv) the investment value of the Corporation's shares, if applicable;
 - (v) the price of shares of like character, if applicable;
 - (vi) the size of surplus or retained earnings;
 - (vii) future prospects of the Corporation and the industry; and
 - (viii) the Corporation's goodwill, if any.
- (e) The Valuer may engage such other professional valuation advice as it deems **necessary** in the circumstances. The total cost of the valuation including the cost of employing the Valuer shall be borne by the Disposing Shareholder. When the fair market value of the Shares has been determined in accordance with the procedure described above, such value shall be used as a reference in all transactions as appropriate pursuant to this Agreement for the ensuing year until the fair market value of the Corporation is determined again.
- (f) Notwithstanding any provision of this Article 11 to the contrary, the "fair market value" of any Preferred Share shall not be less than the redemption amount as described thereto plus an amount equal to all accrued and unpaid dividends thereon.

ARTICLE 12 **CONFIDENTIALITY**

12.1 Confidential Information

The Signing Shareholders agree and covenant that the Confidential Information is the sole and exclusive property of the Corporation, and that they shall treat all Confidential Information in a confidential manner, and shall not, directly or indirectly, use or disclose to any person any **Confidential Information** other than for the purpose of furthering the business operations or interests of the Corporation, provided however that nothing in this Article 12 shall preclude the Signing **Shareholders** from disclosing or using the Confidential Information if:

- (a) the Confidential Information is available to the public or is in the public domain at the time of such disclosure or use, other than as a result of a breach by any Signing Shareholder of this Agreement; or
- (b) disclosure of the Confidential Information by any Signing Shareholder is required to be made pursuant to any law or regulation, on the lawful request of a governmental body or authority or a court of competent jurisdiction.

For the purposes of this Agreement, "**Confidential Information**" shall mean any and all confidential or proprietary information, intellectual property (including trade secrets) and all confidential facts relating to the business and affairs of the Corporation or any of its Affiliates, including but not

limited to the Corporation's or any of its Affiliates' business procedures, products, services, business plans, business acquisitions, processes, product or service or research and development methods or techniques, training methods or operational methods or techniques, quality assurance procedures or standards, operating procedures, files, plans, specifications, proposals, drawings, charts, graphs, support data, supplier lists, supplier information, purchasing methods or practices, distribution and selling activities, marketing and engineering or other technical studies, marketing data, financial reports, budgets, projections, cost analysis, formulae, customer records, customer lists, proprietary computer software and internal notes and memoranda.

12.2 Injunction

Each Signing Shareholder acknowledges and agrees that the Corporation and the other Signing Shareholders will suffer irreparable harm in the event that it breaches any of the obligations under this Article 12, and that monetary damages would be impossible to quantify and inadequate to **compensate** the Corporation and the other Signing Shareholders for such a breach. Accordingly, each Signing Shareholder agrees that in the event of a breach or a threatened breach by it of any of the provisions of this Article 12, the Corporation and the other Signing Shareholders shall be entitled to obtain, in addition to any other rights, remedies or damages available at law or in equity, an interim and permanent injunction, **without** having to prove damages, in order to prevent or restrain any such breach or threatened breach by the Signing Shareholder, or by any or all of such Signing Shareholder's partners, employers, employees, servants, agents, representatives and any other persons directly or indirectly acting for, or on behalf of, or with, such Signing Shareholder, and that the Corporation and the other Signing Shareholders shall be entitled to all of their costs and expenses incurred in obtaining such relief, including reasonable solicitor and client legal costs and disbursements. Each Signing Shareholder also agrees that all of the restrictions contained in this Article 12 are reasonable and valid, and that enforcement of such restrictions shall not prevent the Signing Shareholder from earning a livelihood, and hereby waives any and all defenses to the strict enforcement thereof by the Corporation or any other Signing Shareholder, by any lawful means including injunctive relief. If any covenant or provision of this Article 12 is determined to be void or unenforceable in whole or in part, for any reason, it shall be deemed not to affect or impair the **validity** of any other covenant or provision of this Agreement, which shall remain in full force and effect.

ARTICLE 13 TERMS OF PURCHASE AND SALE

13.1 Terms of Sale

In the event of any Transfer of Shares by a Signing Shareholder (the "**Offeror**") as provided in this Agreement to a Third Party, the Corporation or another Signing Shareholder or Signing **Shareholders** (such parties being referred to as a "**Purchaser**") the following conditions shall apply:

- (a) the date scheduled for closing (the "**Closing**") shall be that specified in this **Agreement** or such other date as may, subject to the terms of this Agreement, be agreed to by the Parties and, if applicable, any Third Party;
- (b) any amount payable under the agreement of purchase and sale or other agreed transaction shall be paid in Canadian funds by way of cash, certified cheque or bank draft unless otherwise agreed by the Parties and, if applicable, any Third Party;
- (c) if, upon the date set for Closing, the Offeror shall be indebted to the Corporation in an amount recorded and verified, the Offeror shall satisfy and discharge all or any portion of such indebtedness. If the Offeror does not satisfy these amounts the Purchaser shall, to

the extent that funds are available from the purchase price, satisfy and discharge all or any portion of such indebtedness and shall receive and take credit against the purchase price for the amount or amounts so paid on account of any such indebtedness;

- (d) if, on the date of Closing, the Corporation shall be indebted to the Offeror pursuant to Signing Shareholder advances in an amount recorded on the books of the Corporation and verified by the auditors or accountants of the Corporation such indebtedness shall be paid to the Offeror by the Corporation or bought-out by the Purchaser at the time of Closing;
- (e) if, on the date of Closing, the Offeror is responsible on any covenant for liabilities or obligations of the Corporation, the Purchaser shall procure for the Offeror and deliver to it at the time of Closing releases from any such covenants or guarantees;
- (f) if by reason of any lien, charge or encumbrance, or any succession, inheritance, estate, probate or similar duties, taxes, levies or liens existing or assessed against the Offeror, the Offeror is unable to make delivery of the Offeror's Shares to the Purchaser within the time limited therefor, the Purchaser shall be at liberty to make payment to the holder of such lien or charge or the governmental authority imposing such duties, taxes, levies or liens, which payment shall be and be deemed to be payment to the Offeror and shall be applied in reduction of the unpaid balance of the purchase price;
- (g) if, on the date of Closing, the Offeror shall have any Shares or other Securities lodged with any Person, including the Corporation's bankers, to secure any indebtedness or obligations of the Corporation, then the Purchaser shall be at liberty to make payment to such Person of such amount as may be required to cause the release of such Shares or other Securities and such payment shall be deemed to be payment to the Offeror and shall reduce the amount of the purchase price payable to the Offeror;
- (h) the Offeror shall contemporaneously with the completion of the transaction execute and deliver to the Purchaser all such notices, documents and other assurances as may be necessary to enable the Purchaser to exercise voting control of the Shares of the Offeror;
- (i) if, on the date of Closing, the Offeror shall without just cause refuse to complete the transaction, the President of the Corporation shall have the right separately upon such default (without prejudice to any other rights which the Purchaser may have) upon payment by the Purchaser of the balance due on Closing (less or plus any adjustment herein permitted) to the credit of the Offeror in any chartered bank in the City of Calgary, or to the solicitors for the Corporation on behalf of and in the name of the Offeror, to complete the transaction as aforesaid and to obtain delivery of all Share certificates to which the Offeror is then entitled and the Offeror hereby irrevocably grants a power of attorney to the Corporation to complete the transaction and to execute any and every document necessary in that behalf. Such power of attorney is: (i) granted for valuable consideration, being the mutual covenants given by the Corporation and the Offeror in this Agreement; (ii) coupled with an interest, being the interest of the Corporation to facilitate Transfers of Shares that are carried out in accordance with the terms and conditions hereof; and (iii) irrevocable by the Offeror and shall not be revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of the existence of the Offeror. The irrevocable power of attorney granted in this Section 13.1 is not intended to be an enduring power of attorney pursuant to the Powers of

Attorney Act (Alberta), and any application of such statute, or successor thereof, is hereby disclaimed and waived by the Offeror.

- (j) between the date of any offer and the closing of any ensuing transaction, neither the Corporation, the Offeror nor the Purchaser shall do, cause or permit to be done anything except in the ordinary course of business of the Corporation;
- (k) all Shares required to be delivered on Closing shall be duly endorsed in blank for transfer with signatures duly witnessed;
- (l) the Shares shall be transferred by the Offeror free and clear of all liens and encumbrances; and
- (m) if the Purchaser is a Third Party, it shall execute a counterpart of this Agreement.

ARTICLE 14 **WORKING LINE OF CREDIT**

14.1 Working Capital Line of Credit.

Lotus and the Corporation covenant and agree that with respect to the operation of the Corporation's business beginning on the date hereof and continuing through December 31, 2018, Lotus shall provide the Corporation with a line of credit of up to \$3,000,000 for working capital purposes on the following terms:

- (a) Lotus shall extend to the Corporation a revolving line of credit in the maximum **principal** amount of \$3,000,000 (the "**Maximum Credit Commitment**");
- (b) At any time and from time to time, the Corporation may borrow from Lotus, repay to Lotus, or reborrow from Lotus any amount within the **Maximum Credit Commitment**, subject to Section 14.1(h);
- (c) As soon as reasonably practicable after delivery by the Corporation to Lotus (c/o Christian Mack) of a request for advancement of funds against the **Maximum Credit Commitment**, Lotus shall advance to the Corporation, in immediately available funds, any amount (each, an "**Advance**") so requested by the Corporation up to the **Maximum Credit Commitment** less the aggregate outstanding principal balance of all other **Advances**; *provided* that any such request for an **Advance** shall be subject to the approval of Lotus, which approval shall not be unreasonably withheld, conditioned, or delayed;
- (d) The outstanding principal balance of any **Advance** shall accrue simple interest at a rate equal to the **Prime Rate** plus 1.25% per annum until repaid. For purposes of this Section 14.1(d), "**Prime Rate**" means, as of any particular date, the prime rate of **interest** as published on that date in *The Wall Street Journal*;
- (e) The Corporation will pay a revolving credit commitment fee of \$30,000 to Lotus no later than the fifteenth (15th) Business Day after the date hereof;
- (f) Interest accruing on an **Advance** shall be payable monthly on the first (1st) Business Day of each month commencing on the first (1st) Business Day of the first (1st) **calendar** month after the date of such **Advance**;

- (g) The Corporation may repay all or any portion of the aggregate outstanding principal balance of Advances at any time; and
- (h) The aggregate outstanding principal balance of all Advances, together with all unpaid interest thereon, if any, shall become payable in full on demand by Lotus, which demand shall not be made prior to December 31, 2018.

ARTICLE 15
GENERAL

15.1 Register of Shares

The Corporation shall cause to be maintained on Schedule A hereto a current list of the Signing Shareholders together with the number of Shares held by each such Signing Shareholder from time to time. The Parties acknowledge and agree that Schedule A may be amended from time to time by the Corporation without the prior written consent of the Signing Shareholders in order to reflect changes in the Signing Shareholders or in the Shares owned by them and shall be controlling for all purposes, including the determination of voting rights hereunder. Revised and amended versions of Schedule A shall be numbered consecutively, shall indicate the date on which they became effective and shall indicate that they are revised and amended versions of Schedule A.

15.2 Notices

- (a) Any notice, consent, waiver, direction or other communication required or permitted to be given under this Agreement by a Party to any other Party shall be in writing and shall be delivered by hand delivery, facsimile transmission, email or (provided that the mailing Party does not know and should not reasonably have known of any disruption or anticipated disruption of postal service which might affect delivery of the mail) by registered mail (postage prepaid), addressed to the Party to whom the notice is to be given, at its address for service herein. Any notice, consent, waiver, direction or other communication aforesaid shall, if hand delivered or delivered by facsimile transmission, or email, be deemed to have been given and received on the date on which it was hand delivered or delivered by facsimile transmission or email to the address provided herein (if a Business Day and, if not, the next succeeding Business Day) and if sent by **registered** mail be deemed to have been given and received on the third Business Day at the point of delivery following the date on which it was so sent.

- (b) The address for service for the Corporation is:

Commerx Corporation
4428 Manilla Road SE
Calgary, AB T2G 4B7

Attention: President
Facsimile: (403) 398-0755
Email: robert.kulhawy@commerx.com

- (c) The address for service for Lotus is:

Commerx Holdings LLC
c/o Lotus Innovations Fund II, L.P.

5151 California Avenue, Suite 250
Irvine, CA 92617

Attention: Christian Mack
Facsimile: _____
Email: christian@lotus-innovations.com

- (d) The address for service for Kulhawy is:

Robert Kulhawy
4428 Manilla Road SE
Calgary, AB T2G 4B7

Facsimile: (403) 398-0755
Email: robert.kulhawy@commerx.com

- (e) The address for service for each of the Signing Shareholders is listed in Schedule A hereto.
- (f) Any Party may change its address, facsimile number or email address for service by notice to the Corporation, and such changed address for service thereafter shall be effective for all purposes of this Agreement.
- (g) Any Party delivering a notice pursuant to this Agreement, shall also send a copy, which shall not constitute notice, to:

Bennett Jones LLP
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Kristos Iatridis
Facsimile: (403) 265-7219
Email: iatridisk@bennettjones.com

15.3 Severability

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

15.4 Entire Agreement

This Agreement constitutes the entire agreement among the Parties for the purpose of establishing their rights and obligations with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, among the Parties with respect thereto.

15.5 Amendments

No amendment or modification of this Agreement shall be binding unless in writing, signed by all of the Parties hereto.

15.6 Waiver

No waiver by any Party hereto of any breach of any of the provisions of this Agreement shall take effect or be binding upon the Party unless in writing and signed by such Party. Unless otherwise provided therein, such waiver shall not limit or affect the rights of such Party with respect to any other breach.

15.7 Time of Essence

Time shall be of the essence of this Agreement.

15.8 Successors And Assigns

Subject to Section 5.1(e), none of the Parties may assign its rights or obligations under this Agreement without the prior written consent of all the other Parties except where such **assignment** is made together with a Transfer of the Shares in accordance with this Agreement. This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, **executors**, administrators, other legal personal representatives, successors and assigns.


15.9 Counterparts

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same **instrument**, which shall be sufficiently evidenced by any such original counterpart.

[Reminder of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COMMERX CORPORATION

Per: 
Name: _____
Title: _____

COMMERX HOLDINGS LLC


Per: _____
Name: _____
Title: _____

**FORTITUDE FINANCIAL INVESTMENTS
INC.**


Per: _____
Name: _____
Title: _____

BALINHARD CAPITAL CORPORATION

Per: _____
Name: _____
Title: _____



Witness




ROBERT KULHAWY

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COMMERX CORPORATION

Per: _____
Name:
Title:

COMMERX HOLDINGS LLC

Per:  _____
Name: Philip Jones
Title: Managing Director

**FORTITUDE FINANCIAL INVESTMENTS
INC.**

Per: _____
Name:
Title:

BALINHARD CAPITAL CORPORATION

Per: _____
Name:
Title:

Witness

ROBERT KULHAWY

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.


COMMERX CORPORATION

Per: _____
Name:
Title:

COMMERX HOLDINGS LLC

Per: _____
Name:
Title:

**FORTITUDE FINANCIAL INVESTMENTS
INC.**

Per: 
Name: ROBERT FOLLOWS
Title: CHAIRMAN

BALINHARD CAPITAL CORPORATION

Per: _____
Name:
Title:

Witness

ROBERT KULHAWY

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

COMMERX CORPORATION

Per: _____
Name:
Title:

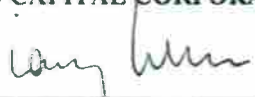
COMMERX HOLDINGS LLC

Per: _____
Name:
Title:

**FORTITUDE FINANCIAL INVESTMENTS
INC.**

Per: _____
Name:
Title:

BALINHARD CAPITAL CORPORATION

Per: 
Name: LARRY MOELLER
Title: PRESIDENT

Witness

ROBERT KULHAWY

SCHEDULE A

SCHEDULE OF SHAREHOLDERS AND NOTICE INFORMATION

Revision Number: _____
Effective Date of Revision: _____

Name	Notice Information	Common Shares	Preferred Shares
TOTAL		[•]	[•]

SCHEDULE B

SHAREHOLDER'S UNDERTAKING

TO: The Corporation and the Signing Shareholders, as defined in the Shareholder Agreement made the 30th day of December, 2016, respecting the affairs of Commerx Corporation (the "Shareholder Agreement")

WHEREAS the undersigned has been issued or is the transferee of securities in the capital of the Corporation which are "Shares" for the purpose of, and as defined in the Shareholder Agreement;

NOW THEREFORE, for good and valuable consideration, the undersigned hereby agrees as follows:

That he, she or it shall be bound by the terms and conditions of the Shareholder Agreement and shall enjoy all rights, perform all obligations and be subject to all restrictions in respect of the **ownership** of Shares by the undersigned as provided for therein; and

Capitalized words and phrases used herein that are not otherwise defined shall have the meanings given in the Shareholder Agreement.

THIS UNDERTAKING executed effective the _____ day of _____, 20__.

Name of Individual or Entity

Signature of Authorized Signatory

Print Name of Authorized Signatory
(if applicable)

Print Title of Authorized Signatory

Shareholder's Address for Notice

EXHIBIT "C"

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agreement") is made as of the 30th day of December, 2016;

BETWEEN:

ROBERT E. KULHAWY
("Kulhawy")

- and -

COMMERX CORPORATION
("Commerx")

- and -

FORTITUDE FINANCIAL INVESTMENTS INC.
("Fortitude")

- and -

STS CAPITAL PARTNERS INC.
("STS")

- and -

COMMERX HOLDINGS LLC
("Lotus")

THIS IS EXHIBIT " C "

referred to in the Affidavit of

ROBERT KULHAWY

Sworn before me this 17

day of JUNE A.D. 2019

A Commissioner in and for the Province of Alberta

Jasmin Dhaliwal

A Commissioner for Oaths - Notary Public
in and for the Province of Alberta.

Member of the Law Society of Alberta and
My Appointment Expires at the Pleasure of
The Attorney General for the Province of Alberta

WHEREAS:

- A. Commerx and Fortitude are parties to a loan agreement dated as of January 5, 2016 (the "Loan Agreement"), pursuant to which Commerx is currently indebted to Fortitude in the aggregate amount of USD\$1,148,380.51, representing the principal amount borrowed by Commerx and the unpaid interest thereon as at the date hereof (the "Loan");
- B. as a condition to the availability of the Loan under the Loan Agreement, Kulhawy executed and delivered a personal guarantee in favour of Fortitude dated as of January 5, 2016 (the "Fortitude Guarantee"), whereby Kulhawy agreed to unconditionally and irrevocably guarantee to Fortitude full and prompt payment of all indebtedness, liabilities and obligations of Commerx under the Loan Agreement;
- C. Commerx and STS are parties to a specific transaction fee agreement dated on or about July 29, 2016, a copy of which is attached hereto as Schedule A (the "Non-Exclusive Retainer Agreement"), whereby STS agreed, on a non-exclusive basis, to provide investment banking and other services to Commerx, including services relating to the sale of a portion of the shares of Commerx or a refinancing, capitalization, recapitalization, restructuring transaction or other similar transaction or transactions;

- D. Commerx and STS are parties to a specific transaction fee agreement dated on or about July 29, 2016, a copy of which is attached as Schedule B (the "**Exclusive Retainer Agreement**") whereby STS agreed, on an exclusive basis, to provide investment banking and other services to Commerx including services relating to the sale of Commerx;
- E. in connection with the services provided by STS under the Non-Exclusive Retainer Agreement, Kulhawy and Commerx have entered into a stock purchase agreement dated as of the date hereof (the "**Stock Purchase Agreement**") with Lotus, whereby Lotus has agreed, among other things, to: (a) purchase 51% of the Class "A" voting shares in the capital of Commerx ("**Class "A" Shares**") from Kulhawy for USD\$2,000,000; (b) extend a USD\$3,000,000 working line of credit to Commerx; and (c) invest additional equity into Commerx (collectively, the "**Lotus Transaction**");
- F. in connection with the Lotus Transaction, Lotus has requested that Fortitude convert all principal and accrued interest payable under the Loan Agreement (the "**Fortitude Loan Conversion**") into redeemable non-voting preferred shares of Commerx;
- G. Fortitude has agreed to the Fortitude Loan Conversion on the condition that Kulhawy provide a personal guarantee in favour of Fortitude pursuant to which Kulhawy shall guarantee Commerx's obligations in respect of the redemption of the shares to be issued to Fortitude pursuant to the Fortitude Loan Conversion;
- H. Commerx and STS have agreed to certain amendments of the terms and conditions of the Non-Exclusive Retainer Agreement in respect of the amounts and methods of payments of certain of the fees payable to STS thereunder, as provided for herein;
- I. Commerx and STS have agreed to certain amendments of the terms and conditions of the Exclusive Retainer Agreement; and
- J. STS has requested that Kulhawy execute and deliver a personal guarantee in favour of STS (the "**STS Guarantee**") pursuant to which Kulhawy shall guarantee to STS full and prompt payment of all cash fees payable by Commerx pursuant to the Non-Exclusive Retainer Agreement.

NOW THEREFORE, this Agreement witnesses that, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

Fortitude Matters

1. In connection with the Fortitude Loan Conversion, on the date hereof Commerx and Fortitude shall execute and deliver the debt conversion agreement in the form attached hereto as Schedule C (the "**Debt Conversion Agreement**"), pursuant to which Commerx shall issue 1,148,381 Class "F" Preferred Shares (the "**Fortitude Class "F" Shares**") in the capital of Commerx to Fortitude in full and final settlement of all amounts outstanding under the Loan Agreement.
2. As soon as reasonably practicable following closing of the Lotus Transaction, and in any event not later than January 31, 2017, Commerx shall hold a special meeting of its shareholders for the purpose of, among other things, amending the articles of incorporation of Commerx to change the rights, privileges, restrictions and conditions attached to the Class "A" Shares, the Class "B" Shares, the Class "C" Shares, the Class "D" Shares, the Class "E" Preferred Shares, the Class "F" Preferred Shares and the Class "G" Preferred Shares of Commerx to those set forth in Schedule D hereto.

Immediately following the approval of the amendment to the articles of incorporation (the "**Amended Articles**") by the Commerx shareholders, Commerx shall cause to be filed the amended articles of incorporation with the Alberta Corporate Registry.

3. For a period commencing effective as of the date hereof until the earlier of: (i) the filing of the Amended Articles with the Alberta Corporate Registry; and (ii) January 31, 2017; Fortitude agrees that it shall not issue a redemption notice to Commerx in respect of the Fortitude Class "F" Shares.
4. Commerx, Fortitude and Lotus hereby agree and acknowledge that, on June 30, 2017 (the "**Redemption Date**"), Commerx shall, and Lotus shall cause Commerx to, redeem the Fortitude Class "F" Shares in their entirety by paying to Fortitude the aggregate redemption amount plus all accrued and unpaid dividends payable in connection therewith. In addition to the foregoing, Commerx shall have the right, at its sole discretion, to redeem all or any portion of the Fortitude Class "F" Shares prior to the Redemption Date by paying to Fortitude the redemption amount in respect of the shares it wishes to redeem plus all accrued and unpaid dividends payable in connection therewith. Lotus and Commerx hereby acknowledge and agree that in the event that Commerx does not redeem the Fortitude Class "F" Shares in their entirety on or before the Redemption Date, the cumulative dividend rate applicable to any such unredeemed shares shall increase from 6.0% per annum to 24.0% per annum until such shares are redeemed by Commerx, as prescribed in the share terms applicable to the Class "F" Preferred Shares upon filing of the Amended Articles.
5. As a condition to Fortitude's agreement to enter into the Debt Conversion Agreement, Kulhawy has agreed to execute and deliver to Fortitude, on the date hereof, the guarantee in the form attached hereto as Schedule E (the "**Fortitude Guarantee**"), pursuant to which Kulhawy shall **guarantee** to Fortitude payment of all amounts payable in connection with the redemption of the Fortitude Class "F" Shares (the "**Fortitude Guaranteed Amount**") in the event that Commerx defaults on its obligation to redeem the Fortitude Class "F" Shares in accordance with their terms and with the terms of this Agreement.

STS Matters

6. The Non-Exclusive Retainer Agreement provides, among other things, that in the event of a successful transaction for which STS is responsible, Commerx shall issue to STS warrants (the "**Broker Warrants**") to purchase Class "A" Shares. Notwithstanding such provision of the Non-Exclusive Retainer Agreement, Commerx, STS and Kulhawy hereby agree that Commerx's obligation to issue the Broker Warrants under the Non-Exclusive Retainer Agreement shall be satisfied by the sale to STS, for nominal consideration, of 600,000 of Kulhawy's Class "A" Shares pursuant to the terms and conditions of the share purchase agreement in the form attached hereto as Schedule F. Upon completion of the sale of such Class "A" Shares to STS, STS hereby agrees that Commerx shall be irrevocably released and discharged from its obligation to issue the Broker Warrants to STS under the Non-Exclusive Retainer Agreement.
7. STS, Commerx, Kulhawy and Lotus hereby agree and acknowledge that, as of the date hereof, STS has earned, and shall be entitled to receive from Commerx, an aggregate fee in the amount of USD\$385,500 (the "**STS Fee**") in connection with services performed under the Non-Exclusive Retainer Agreement.
8. STS, Commerx, Kulhawy and Lotus hereby agree and acknowledge that Kulhawy shall be responsible for satisfying (a) USD\$100,000 of the STS Fee (the "**Kulhawy Proceeds Fee**") from the proceeds that Kulhawy receives from the sale of his Class "A" Shares to Lotus pursuant to the

terms, including Section 2.2(a), of the Stock Purchase Agreement; and (b) an additional fee of USD\$22,500 in connection with the salary earned Kulhawy during the three year period following the date hereof (the "**Kulhawy Salary Fee**").

9. In connection with the closing of the Lotus Transaction, Commerx hereby directs that USD\$142,750 of the USD\$1,200,000 amount payable by Lotus to Commerx on the date hereof pursuant to the terms of the Stock Purchase Agreement be delivered to STS in satisfaction of a portion of the STS Fee.
10. In connection with the payment of the deferred payment amount of USD\$770,000 (the "**Commerx Deferred Payment Amount**") which is to be paid by Lotus to Commerx pursuant to the Stock Purchase Agreement by no later than January 31, 2017, Commerx hereby directs Lotus to deliver: (a) USD\$142,750 of the Commerx Deferred Payment Amount to STS in satisfaction of a portion of the STS Fee; and (b) CAD\$98,000, plus GST, if applicable, to Burnet, Duckworth & Palmer LLP ("**BDP**") (subject to Commerx's review and approval of the invoices issued by BDP in connection with such amount) in satisfaction of legal fees incurred by Fortitude in connection with the transactions contemplated herein.
11. In connection with the payment of the deferred payment amount of USD\$500,000 (the "**Kulhawy Deferred Payment Amount**") which is to be paid by Lotus to Kulhawy pursuant to the Stock Purchase Agreement by no later than January 31, 2017, Kulhawy hereby directs Lotus to deliver USD\$100,000 of the Kulhawy Deferred Payment Amount to STS in satisfaction of the Kulhawy Proceeds Fee.
12. In satisfaction of the Kulhawy Salary Fee, Kulhawy hereby directs Commerx to deliver to STS an amount equal to USD\$7,500 of Kulhawy's annual salary per year for each of the three years following the date hereof which amounts shall be paid by Commerx to STS on the date which is thirty days following the anniversary of the date upon which Kulhawy and Commerx execute a written employment agreement; *provided, however*, that if Kulhawy ceases to be employed by Commerx as at any such anniversary date, no such fee shall be payable to STS by Kulhawy or Commerx.
13. Upon receipt by STS of the payments provided for in Sections 9, 10 and 11, above, STS hereby agrees and acknowledges that the STS Fee shall have been paid in full and Commerx and Kulhawy shall be released and discharged of any further obligations arising in connection with the STS Fee and the Non-Exclusive Retainer Agreement other than those obligations and liabilities that survive the termination of the Non-Exclusive Retainer Agreement pursuant to its terms.
14. As a condition to STS agreeing to receive the STS Fee in multiple tranches, as described above, on the date hereof, Kulhawy shall execute and deliver the guarantee in the form attached hereto as Schedule G (the "**STS Guarantee**"), pursuant to which Kulhawy shall guarantee to STS payment of Commerx's portion of the STS Fee, being USD\$285,500 (the "**STS Guaranteed Amount**"), in the event that Lotus has advanced the prescribed funds to Commerx as provided in Section 2.3(a) and Section 2.3(c)(ii) of the Stock Purchase Agreement, and Commerx defaults on its obligation use a portion of such funds to pay and satisfy its portion of the STS Fee.
15. If (a) Lotus fails to comply with its obligation to pay to Kulhawy the amount of USD\$1,500,000 (the "**Subsequent Payment**") on or before November 30, 2018 in respect of the purchase of Kulhawy's shares as provided for in the Stock Purchase Agreement (a "**Lotus Default**"); and (b) the Lotus Default does not arise out of, in connection with, as a result of or is not attributable to any claim by Lotus in respect of any act or omission of or by Kulhawy or any breach of any

representation, warranty or covenant by Kulhawy of the terms of the Stock Purchase Agreement, including any set off or attempted set off by Lotus of the Subsequent Payment against any amounts owing by Kulhawy to Lotus thereunder, then STS hereby grants to Kulhawy the option (the "**Repurchase Option**") to purchase from STS for an aggregate purchase price of USD\$10.00 up to 150,000 Class "A" Shares from STS. The number of Class "A" Shares which shall be subject to the Repurchase Option shall be equal to the product of (x) the amount of the Lotus Default, divided by (y) USD\$1,500,000, multiplied by (z) 150,000 (the product of such calculation, the "**Repurchased Shares**"). Kulhawy shall have the right, acting in his sole discretion, to exercise the Repurchase Option immediately following the expiration of a period of thirty (30) days following a Lotus Default. If at any time following the transfer of the Repurchased Shares from STS to Kulhawy pursuant to the Repurchase Option, Lotus pays all or any part of the outstanding balance of the Subsequent Payment, Kulhawy shall sell back to STS, for USD\$10.00, all, or such portion of, the Repurchased Shares on a pro rata basis subject to the amount of the Subsequent Payment which has been satisfied by Lotus.

Kulhawy Security and Satisfaction and Extinguishment of Kulhawy's Obligations

16. As security for the Fortitude Guaranteed Amount and the STS Guaranteed Amount, Kulhawy hereby grants the following security (the "**Security**");
- (a) a pledge to Fortitude of all Class "A" Shares held by Kulhawy in accordance with the share pledge agreement in the form attached hereto as Schedule H;
 - (b) a pledge to STS of all Class "A" Shares held by Kulhawy in accordance with the share pledge agreement in the form attached hereto as Schedule I;
 - (c) concurrently herewith, Kulhawy shall deliver to Newterra Ltd. ("**Newterra**") a request (the "**Request**") that Newterra deliver to BDP, c/o Michael Martin, those share certificates of Newterra (the "**Newterra Share Certificates**") representing those shares of Newterra which are registered in Kulhawy's name, or the name of any entities owned or controlled by Kulhawy (the "**Newterra Shares**"). In the event that (a) Kulhawy has not delivered the Request by December 31, 2016; or (b) if the Newterra Share Certificates have not been delivered to BDP within 90 days following the date of the Request, BDP shall be entitled to communicate directly with Newterra on behalf of Kulhawy and Kulhawy hereby authorizes and directs BDP to take any steps required to obtain the Newterra Share Certificates. Upon receipt of the Newterra Share Certificates, BDP shall hold such certificates in trust until the Fortitude Guaranteed Amount and the STS Guaranteed Amount have been satisfied in full either by Commerx or by Kulhawy pursuant to the Fortitude Guarantee and/or the STS Guarantee;
 - (d) prior to the date hereof, Kulhawy shall have delivered a direction to Newterra requesting, among other things, that any amounts which are payable to Kulhawy in connection with the sale of Kulhawy's shares to Newterra be delivered to BDP, c/o Michael Martin;
 - (e) an assignment of receivables in favour of Fortitude in respect of any amounts that are due and payable to Kulhawy in respect of the future sale of the sale of the Newterra Shares, in the form attached hereto as Schedule J;
 - (f) an assignment of receivables in favour of STS in respect of any amounts that are due and payable to Kulhawy in respect of the future sale of the sale of the Newterra Shares, in the form attached hereto as Schedule K;

- (g) a direction from Kulhawy to Commerx, in the form attached hereto as Schedule L, providing that, until the Fortitude Guaranteed Amount and the STS Guaranteed Amount have been paid and satisfied in full, any dividends payable to Kulhawy from Commerx shall be delivered to BDP, in trust, to be used to satisfy the Fortitude Guaranteed Amount and the STS Guaranteed Amount;
 - (h) a direction from Kulhawy to Commerx, in the form attached hereto as Schedule M, providing that, until the Fortitude Guaranteed Amount and the STS Guaranteed Amount have been paid and satisfied in full, any amounts payable to Kulhawy in respect of salary or bonuses to the extent that Kulhawy's quarterly aggregate salary and bonus from Commerx exceeds USD\$75,000 on a quarterly basis, shall be delivered to BDP, in trust, to be used to satisfy the Fortitude Guaranteed Amount and the STS Guaranteed Amount; and
 - (i) a direction from Kulhawy to Lotus, in the form attached hereto as Schedule N, providing that the Subsequent Payment shall be delivered to BDP, in trust, to be used to satisfy the Fortitude Guaranteed Amount and the STS Guaranteed Amount.
17. In the event that cash amounts are delivered to BDP in connection with the Security, Fortitude and STS agree and acknowledge that such amounts received by BDP shall only be used to satisfy the STS Guaranteed Amount and the Fortitude Guaranteed Amount, and for no other purpose whatsoever, and such amounts shall be applied as follows:
- (a) first, STS, Fortitude and Kulhawy shall jointly direct BDP that cash amounts received by BDP be delivered to STS to satisfy such portion of the STS Guaranteed Amount which is payable by Kulhawy in accordance with Section 14, above, until the entirety of the STS Guaranteed Amount has been paid in full; and
 - (b) second, STS, Fortitude and Kulhawy shall jointly direct BDP that cash amounts received by BDP be delivered to Fortitude in consideration of the purchase, by Kulhawy, of Fortitude Class "F" Shares for the redemption amount, plus accrued and unpaid dividends in respect of such shares as of the date of purchase by Kulhawy. Any such share purchases shall be completed at the end of each month during the period commencing on the date hereof until such time as the Fortitude Guaranteed Amount is paid and satisfied in full and Fortitude hereby agrees to execute and deliver any and all documents and instruments as may be reasonably required in order to evidence and complete such transfer of shares to Kulhawy.

BDP shall only release cash amounts delivered to BDP in connection with the Security in accordance with a joint written direction duly executed by STS, Fortitude and Kulhawy.

18. If Kulhawy and Fortitude concurrently own any Class "F" Preferred Shares in the capital of Commerx ("**Class "F" Shares**"), then Commerx hereby agrees that it shall not cause the redemption or repurchase of any Class "F" Shares held by Kulhawy until either: (i) all Class "F" Shares held by Fortitude have been redeemed or repurchased by Commerx pursuant to their terms; or (ii) all Class "F" Shares held by Fortitude have been purchased and transferred to Kulhawy pursuant to the terms and conditions hereof; and Kulhawy hereby agrees that he shall not issue a redemption notice in respect of any Class "F" Shares held thereby until Fortitude no longer owns any Class "F" Shares.
19. It is agreed and acknowledged by Kulhawy, Fortitude and STS that the Newterra Share Certificates are being delivered to BDP to be held in trust pending a potential sale of the Newterra Shares,

whether by Kulhawy individually or in connection with a sale of Newterra shares by Kulhawy in conjunction with other Newterra shareholders (a "Newterra Sale"). By no later than ten days prior to the consummation of a Newterra Sale, STS, Fortitude and Kulhawy shall jointly direct BDP to deliver the Newterra Share Certificates to counsel for the purchaser of the Newterra Shares, in order that the sale of the Newterra Shares can be completed.

20. If: (a) Commerx defaults on its obligations to redeem the Fortitude Class "F" Shares in accordance with their terms and the terms of this Agreement and Kulhawy is required to pay any or all of such obligations, whether directly under the terms of the Fortitude Guarantee or indirectly through the exercise of the Security; and (b) the entirety of the STS Guaranteed Amount has been paid in full; then Fortitude shall transfer and deliver to Kulhawy, for no additional consideration, that number of Fortitude Shares in respect of which Commerx has failed to pay the redemption amounts, plus accrued and unpaid dividends, in respect of such shares and which amounts are fully paid and satisfied by Kulhawy, and Fortitude hereby agrees to execute and deliver any and all documents and instruments as may be reasonably required in order to evidence and complete such transfer of shares to Kulhawy.
21. Upon the satisfaction, in full, of the Fortitude Guaranteed Amount and the STS Guaranteed Amount, it is agreed and acknowledged by Fortitude and STS that: (a) Kulhawy, STS and Fortitude shall jointly direct BDP to release to Kulhawy, or his nominee, all cash and other trust property, including without limitation the Newterra Share Certificates, being held by BDP which have been received in connection with the Security; and (b) Kulhawy, STS and Fortitude shall jointly direct Commerx, Newterra and Lotus that no further amounts owing to Kulhawy shall be delivered to BDP; and (c) all directions issued herein or pursuant to this Agreement or the Stock Purchase Agreement which authorize the direction of funds to BDP to satisfy the Fortitude Guaranteed Amount and the STS Guaranteed Amount shall be automatically terminated and of no further force or effect.

Notices

22. Any notice, consent, waiver, direction or other communication required or permitted to be given under this Agreement by a party hereto to any other party hereto shall be in writing and shall be delivered by hand delivery, facsimile transmission, email or (provided that the mailing party does not know and should not reasonably have known of any disruption or anticipated disruption of postal service which might affect delivery of the mail) by registered mail (postage prepaid), addressed to the party to whom the notice is to be given, at its address for service herein. Any notice, consent, waiver, direction or other communication aforesaid shall, if hand delivered or delivered by facsimile transmission, or email, be deemed to have been given and received on the date on which it was hand delivered or delivered by facsimile transmission or email to the address provided herein (if a Business Day and, if not, the next succeeding Business Day) and if sent by registered mail be deemed to have been given and received on the third Business Day at the point of delivery following the date on which it was so sent.
23. The address for service for Kulhawy is:

Robert Kulhawy
4428 Manilla Road SE
Calgary, AB T2G 4B7

Facsimile: (403) 398-0755
Email: robert.kulhawy@commerx.com

24. The address for service for Commerx is:

Commerx Corporation
4428 Manilla Road SE
Calgary, AB T2G 4B7

Attention: President
Facsimile: (403) 398-0755
Email: robert.kulhawy@commerx.com

25. The address for service for Fortitude is:

Fortitude Financial Investments Inc.
STS Corporate Centre
Suite 9, Haggatt Hall
St. Michael, Barbados

Attention: Rob Follows
Facsimile: _____
Email: rob@stscapital.com

26. The address for service for STS is:

STS Capital Partners Inc.
STS Corporate Centre
Suite 9, Haggatt Hall
St. Michael, Barbados

Attention: Rob Follows
Facsimile: _____
Email: rob@stscapital.com

27. The address for service for Lotus is:

Commerx Holdings LLC
c/o Lotus Innovations Fund II, L.P.
5151 California Avenue, Suite 250
Irvine, CA 92617

Attention: Christian Mack
Facsimile: _____
Email: christian@lotus-innovations.com

28. Any party may change its address, facsimile number or email address for service by notice to the Corporation, and such changed address for service thereafter shall be effective for all purposes of this Agreement.

29. Any party delivering a notice pursuant to this Agreement, shall also send a copy, which shall not constitute notice, to:

Bennett Jones LLP

4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Kristos Iatridis
Facsimile: (403) 265-7219
Email: iatridisk@bennettjones.com

General

30. The parties hereto each covenant and agree that if, at any time after the execution of this Agreement, any of the parties hereto shall reasonably consider and be advised that any further actions, assignments or assurances are necessary or desirable to carry out the intent and accomplish the purposes of this Agreement, according to its terms, all the other parties will take such actions, execute and make all such assignments and assurances and do all things necessary or desirable to carry out the intent and accomplish the purposes of this Agreement or otherwise consummate the transactions contemplated by this Agreement according to its terms.
31. No party hereto shall assign this Agreement, in whole or in part, to any other party without the prior written consent of all of the parties hereto.
32. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns, as the case may be. Nothing herein, express or implied, is intended to confer upon any person, other than the parties hereto and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.
33. This Agreement and the Schedules referred to herein constitute the entire agreement **between** the parties hereto and, except as otherwise stipulated herein, supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof.
34. Any party hereto which is entitled to the benefits of this Agreement may, and has the right to, waive any term or condition hereof at any time; *provided, however*, that such waiver shall be evidenced by written instrument duly executed on behalf of such party.
35. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
36. This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.
37. The parties hereto shall, from and after the date hereof, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested by the other parties hereto to more effectually carry out the true intent and meaning of this Agreement.
38. This Agreement may be executed in any number of counterparts and by different parties on **separate** counterparts, each of which, when executed and delivered, shall constitute an original and all of which, when taken together, shall constitute one and the same agreement. Delivery of an executed

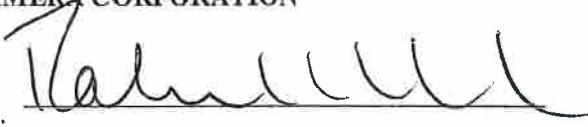
counterpart of this Agreement by facsimile transmission or in portable document format shall constitute delivery of an executed counterpart of this Agreement.

[Remainder of this page has been intentionally left blank]

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

COMMERX CORPORATION

Per: _____
Name: _____
Title: _____



FORTITUDE FINANCIAL INVESTMENTS INC.

Per: _____
Name: _____
Title: _____

STS CAPITAL PARTNERS INC.

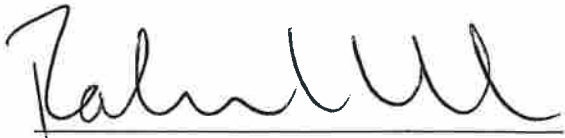
Per: _____
Name: _____
Title: _____

COMMERX HOLDINGS LLC

Per: _____
Name: _____
Title: _____



WITNESS




ROBERT E. KULHAWY

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

COMMERX CORPORATION

Per: _____
Name: _____
Title: _____

FORTITUDE FINANCIAL INVESTMENTS INC.

Per: 
Name: ROBERT FOLLOWES
Title: CHAIRMAN

STS CAPITAL PARTNERS INC.

Per: Audrey Mae Fox
Name: Audrey Mae Fox
Title: Contracts Manager

COMMERX HOLDINGS LLC

Per: _____
Name: _____
Title: _____

WITNESS

ROBERT E. KULHAWY

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

COMMERX CORPORATION

Per: _____
Name: _____
Title: _____


FORTITUDE FINANCIAL INVESTMENTS INC.

Per: _____
Name: _____
Title: _____

STS CAPITAL PARTNERS INC.

Per: _____
Name: _____
Title: _____

COMMERX HOLDINGS LLC

Per:  _____
Name: Philip Jones
Title: Managing Director

WITNESS

ROBERT E. KULHAWY

EXHIBIT "D"



Dawn Slack <dawnslack74@gmail.com>

Mexico matters

1 message

Robert Kulhawy <robert.kulhawy@gmail.com>
To: Dawn Slack <dawnslack74@gmail.com>

Tue, Nov 20, 2018 at 5:22 PM

Scott,

An e-mail stream from Lotus demanding that we bankrupt our Mexico business unit.

This is their instruction as they advise that they did not have the cash and or access to same to fund normal business operations

Robert Kulhawy
C: 403.804.3737

THIS IS EXHIBIT " D "
referred to in the Affidavit of
ROBERT KULHAWY
Sworn before me this 17
day of JUNE A.D. 2019
[Signature]
A Commissioner in and for the Province of Alberta

Jasmin Dhaliwal
A Commissioner in and for the Province of Alberta
Member of the Law Society of Alberta
My Appointment Expires at the end of the month of June 2019
The Attorney General for the Province of Alberta

Begin forwarded message:

From: Christian Mack <christian@lotus-innovations.com>
Subject: Re: Mexico matters
Date: October 23, 2018 at 11:17:36 AM MDT
To: Robert Kulhawy <robert.kulhawy@commerx.com>
Cc: David Roman <david@lotus-innovations.com>, Erik Lopez <erik@jassolopez.com>, Jason Yacey <jason.yacey@commerx.com>

Robert,

While I appreciate the fact you and the team believe that Mexico has a future, the other directors and I have made the decision to shut Mexico down and bankrupt the Mexico entity. Many factors went into this which I can relay in a board meeting if necessary, but please work with Erik to bankrupt this entity as the recourse to the US and Canadian entities should be limited if it's handled appropriately. Apologies this is being relayed while you are traveling, but we are out of time and again have a lot of concerns, which we are digging into forensically and can be discussed on a call.

Best Regards, Christian Mack

On Mon, Oct 22, 2018 at 11:04 AM Robert Kulhawy <robert.kulhawy@commerx.com> wrote:
Christian

Our Mexico operations are now better then break even

Cash is required to fund working capital until AR is collected. This will take until January to catch up

If we shut it down cash requirements will be greater in addition we will have significant write offs and we will have damaged numerous client relationships with Ericsson Nokia NEC and others

With the changes that have already been implemented it makes no business sense to shut it down

There are also numerous other strategic divestiture reasons to keep it operating

I am currently just taking off on a flight and will be without wifi for 4 plus hours

Please make arrangements to ensure these funds are provided

This is critical for the continuation of the business

Robert

Sent from my iPhone

On Oct 22, 2018, at 11:35 AM, Perry Bennett <perry.bennett@commerx.com> wrote:

Thanks and looking forward to some decisions being made soon.



Perry Bennett, CPA, CGA
COO / CFO

T: 403.301.3883 ext 266
C: 403.461-2535
W: commerx.com

On Mon, Oct 22, 2018 at 11:26 AM, Christian Mack <christian@lotus-innovations.com> wrote:
Perry,

Thanks for the below. Let the board meet with Robert to discuss this and we will be in touch shortly.

Best Regards, Christian Mack

On Mon, Oct 22, 2018 at 12:39 PM Perry Bennett <perry.bennett@commerx.com> wrote:
Gentlemen,

We didn't receive adequate funds to cover payroll in Mexico. As such, payroll has not been met and the field staff are without their earned wages.

Please see attached 4th quarter budget for Mexico. As mentioned, cost cutting measures are under way. Approximately 35% of the field workforce has been terminated. Office and administration cuts are next as well as other direct costs. These cuts are reflected in the budget. At this time, we have matched the size of our field crews by known and secured projected revenue (See worksheet "New Projects Revenue"). There will be termination costs associated with the terminations of approximately \$500,000 MXN (\$30,000 CAD). In order to meet the projected revenue numbers as indicated in the attached budget, the reduced size of the field crews must be maintained (39 field staff, down from 60). Further cuts or additions can be made once we have better visibility on 2019 revenue. I am working on the 2019 budget and once I receive detailed revenue projections (by customer, line of business, project type) from Jason and Robert, I can finalize what 2019 will look like.

As indicated in the notes to the budget, cash shortfall in Mexico over the next 3 months will be \$127,221 CAD.



Perry Bennett, CPA, CGA
COO / CFO

T: 403.301.3883 ext 266
C: 403.461-2535
W: commerx.com

Christian Mack | Managing Director
Mobile : (630) 386-1836
Direct : (949) 436-6225

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EXHIBIT "E"

Lotus Innovations, LLC
4533 MacArthur Blvd., Ste. 5068
Newport Beach, CA 92660

CONFIDENTIAL

March 12, 2019

Keith D. Marlowe
Blake, Cassels & Graydon LLP
855 – 2nd Street S.W.
Suite 3500, Bankers Hall East Tower
Calgary, AB T2P 4J8 Canada
keith.marlowe@blakes.com

Re: *Peter Trant v. Commerx Corporation and Robert Kulhawy*
Court of Queen's Bench of Alberta, File No. 1701-14364

Dear Mr. Marlow:

We refer to your letter dated February 29, 2019 to Chris Simard and Erik A. Lopez, Sr. Please be advised that Lotus Innovations, LLC (“Lotus”, “we” or “us”) is insolvent and does not have any cash, cash equivalents or other saleable assets. Lotus has substantial current and contingent liabilities, and its sole asset is a non-transferable minority ownership interest in an unaffiliated, privately-held company that we understand is itself insolvent. Lotus has written down the value of this interest to zero.

By signing below, the undersigned certifies that the foregoing is true and correct.

Yours truly,

Lotus Innovations, LLC

By: Christian Mack
Christian Mack
Manager

THIS IS EXHIBIT “ E ”
referred to in the Affidavit of

ROBERT KULHAWY

Sworn before me this 17

day of JUNE A.D. 2019

A Commissioner in and for the Province of Alberta

Jasmin Dhaliwal
A Commissioner for Oaths - Notary Public
in and for the Province of Alberta.
Member of the Law Society of Alberta and
My Appointment Expires at the Pleasure of
The Attorney General for the Province of Alberta