

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC 13D

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities

Filing Date: **2002-02-22**  
SEC Accession No. **0000950129-02-000868**

(HTML Version on [secdatabase.com](http://secdatabase.com))

### SUBJECT COMPANY

#### JOSHUA TREE CONSTRUCTION INC

CIK: **1130481** | IRS No.: **880432004** | State of Incorporation: **NV** | Fiscal Year End: **1231**  
Type: **SC 13D** | Act: **34** | File No.: **005-78115** | Film No.: **02556172**  
SIC: **8741** Management services

Mailing Address	Business Address
5450 WEST SAHARA AVENUE 2ND FLOOR LAS VEGAS NV 89146	5450 WEST SAHARA AVENUE 2ND FLOOR LAS VEGAS NV 89146 702-948-8800

### FILED BY

#### THOMSON & KERNAGHAN CO LTD

CIK: **1069555** | State of Incorporation: **A6**  
Type: **SC 13D**

Mailing Address	Business Address
120 ADELAIDE ST WEST 16TH FL TORONTO A6 M5H 12T1	120 ADELAIDE ST WEST 16TH FL TORONTO A6 M5H 12T1 8003938714

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

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SCHEDULE 13D  
(Rule 13d-101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT  
TO RULE 13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO  
RULE 13d-2(a)

(Amendment No. \_\_)

JOSHUA TREE CONSTRUCTION, INC.

-----  
(Name of Issuer)

COMMON STOCK, \$.001 par value

-----  
(Title of Class of Securities)

481058204

-----  
(CUSIP Number)

MAYER, BROWN, ROWE & MAW  
700 LOUISIANA, SUITE 3600, HOUSTON, TX. 77002

-----  
(Name, Address and Telephone Number of Person  
Authorized to Receive Notices and Communications)

JANUARY 4, 2002

-----  
(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box [ ]

Note. Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7(b) for other parties to whom copies are to be sent.

(Continued on following pages)

-----  
(1) The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 481058204

SCHEDULE 13D

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1 NAMES OF REPORTING PERSONS  
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)  
  
THOMSON KERNAGHAN & CO. LIMITED ("Reporting Entity")  
IRS Identification No.: None

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2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP  
  
(a) [ ]  
(b) [X]

-----

3 SEC USE ONLY

-----

4 SOURCE OF FUNDS  
None

-----

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e) [ ]

-----

6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Ontario, Canada

-----

7 SOLE VOTING POWER

-0-

-----  
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH 8 SHARED VOTING POWER  
-0-  
-----  
9 SOLE DISPOSITIVE POWER  
-0-

-----  
10 SHARED DISPOSITIVE POWER  
-0-

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

20,205,000 shares

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

[ ]

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

99.47%

-----  
14 TYPE OF REPORTING PERSON  
CO

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-----  
CUSIP No. 481058204

SCHEDULE 13D  
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1 NAMES OF REPORTING PERSONS

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

CANADIAN ADVANTAGE LIMITED PARTNERSHIP ("Reporting Entity")

IRS Identification No.: Not Applicable

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) [ ]

(b) [X]

3 SEC USE ONLY

4 SOURCE OF FUNDS

WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e)

[ ]

6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Ontario, Canada

7 SOLE VOTING POWER

18,588,600 shares

NUMBER OF  
SHARES  
BENEFICIALLY  
OWNED BY  
EACH  
REPORTING  
PERSON  
WITH

8 SHARED VOTING POWER

-0-

9 SOLE DISPOSITIVE POWER

18,588,600 shares

10 SHARED DISPOSITIVE POWER

-0-

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON:

20,205,000 shares

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

[ ]

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 99.47%

14 TYPE OF REPORTING PERSON  
OO

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CUSIP No. 481058204

SCHEDULE 13D

1 NAMES OF REPORTING PERSONS  
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

ADVANTAGE [BERMUDA] FUND, LTD. ("Reporting Entity")  
IRS Identification No.: None

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a) [ ]  
(b) [X]

3 SEC USE ONLY

4 SOURCE OF FUNDS  
WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEM 2(d) or 2(e) [ ]

6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Bermuda

7 SOLE VOTING POWER

1,616,400 shares

NUMBER OF  
SHARES

8 SHARED VOTING POWER

BENEFICIALLY  
OWNED BY  
EACH

-0-

9 SOLE DISPOSITIVE POWER

REPORTING  
WITH

1,616,400 shares

10 SHARED DISPOSITIVE POWER

-0-

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON:

20,205,000

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES  
CERTAIN SHARES

[ ]

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 99.47%

14 TYPE OF REPORTING PERSON

Reporting Entity: OO

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CUSIP No. 481058204

SCHEDULE 13D

1 NAMES OF REPORTING PERSONS

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

MARK E. VALENTINE ("Reporting Entity")  
IRS Identification No.: Not Applicable

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*

(a) [ ]

(b) [X]

3 SEC USE ONLY

4 SOURCE OF FUNDS

None

-----  
5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) or 2(e) [ ]

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION

Ontario, Canada

-----  
7 SOLE VOTING POWER

-0-

-----  
NUMBER OF SHARES 8 SHARED VOTING POWER

BENEFICIALLY OWNED BY

-0-

EACH 9 SOLE DISPOSITIVE POWER

REPORTING PERSON WITH

-0-

-----  
10 SHARED DISPOSITIVE POWER

-0-

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON:

20,205,000 shares

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES [ ]

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 99.47%

-----  
14 TYPE OF REPORTING PERSON

IN



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ITEM 1. Security and Issuer

This report pertains to the common stock, par \$0.001 per share of Joshua Tree Construction, Inc. (the "Issuer"). The Issuer's principal executive offices are located at 5450 W. Sahara, 2nd Floor, Las Vegas, Nevada 89146.

ITEM 2. Identity and background:

The persons filing this statement are:

Thomson Kernaghan & Co Ltd ("Thomson Kernaghan"), a Canadian investment dealer, whose principal offices are located at 120 Adelaide Street West, 16th Floor, Toronto, Ontario M5H 1T1, Canada.

Canadian Advantage Limited Partnership ("CALP"), a Canadian investment fund whose principal executive offices are c/o VMH Management Limited, 120 Adelaide Street West, 16th Floor, Toronto, Ontario M5H 1T1, Canada.

Advantage [Bermuda] Fund, Ltd. ("ABFL"), a Bermuda investment fund, whose principal executive Bermuda offices are c/o Washington Mall 1, 3rd Floor, 22 Church St., Hamilton 11 Bermuda.

Mark E. Valentine, an individual, whose principal offices are c/o TK Holdings, Inc., 120 Adelaide Street West, 16th Floor, Toronto, Ontario M5H 1T1, Canada.

CALP, ABFL and Thomson Kernaghan are under the common control of Mark E. Valentine, the Chief Executive Officer of Thomson Kernaghan & Co. Limited, who has authority to vote and dispose of the shares beneficially owned by any of them. Accordingly, Thomson Kernaghan, CALP and ABFL may be considered a group which beneficially owns all of the shares beneficially owned by any of them.

ITEM 3. Source and Amount of Funds or Other Consideration

On January 4, 2002, CALP purchased 205,000 shares of the Issuer's common stock from First Capital partners MM, Inc., for an aggregate purchase price of \$375,000, pursuant to a written Stock Purchase Agreement dated January 4, 2002, among First Capital Partners, MM, Inc., the Issuer and CALP. A copy of this agreement is attached as Exhibit 7.1. CALP is the owner of 77% of these shares and ABFL is the owner of 23% of these shares. The source of the purchase price was CALP's and ABFL's respective funds held for investment. CALP provided 77% of the purchase price and ABFL provided 23% of the purchase price.

On January 11, 2002, CALP purchased 200,000 shares of the Issuer's Series A Convertible Preferred Stock from the Issuer, for an aggregate purchase

price of \$20,000, pursuant to a written Series A Convertible Stock Purchase Agreement between the Issuer and CALP dated January 11, 2002. A copy of this agreement is attached as Exhibit 7.2. CALP was the owner of 77% of these shares and ABFL was the owner of 23% of these shares. The source of the purchase price was CALP's and ABFL's respective funds held investment. CALP provided 77% of the purchase price and ABFL provided 23% of the purchase price. The Series A Preferred are convertible into shares of the Issuer's common stock, at the holders' option, at the ratio of 100 shares of common stock for each share of Series A Convertible Preferred. On January 14, 2002, CALP and ABFL converted an aggregate of 170,000 shares of Series A Convertible Preferred into an aggregate of 17,000,000 shares of the Issuer's common stock, 77% of which were converted by CALP and 23% of which were converted by ABFL. CALP and ABFL are deemed to be the beneficial owners of 77% and 23%, respectively, of the 3,000,000 shares of common stock into which the remaining 30,000 shares of Series A Convertible Stock are convertible.

ITEM 4. Purpose of Transaction

The Reporting Persons believe that the Issuer is an attractive candidate for an acquisition or merger, and plan to introduce the company to parties who may wish to acquire or merge with the Issuer.

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CUSIP No. 481058204

SCHEDULE 13D  
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ITEM 5. Interest in Securities of Issuer

All of the information given below is as of February 15, 2002. Percentages are based on 20,312,230 shares of Common Stock (post-split) outstanding as of January 30, 2002.

Collectively, the Reporting Persons beneficially own and have sole voting and dispositive power over 20,205,000 shares of common stock and shared voting power over 99.47% shares of common stock.

The Reporting Persons have effected no transactions in the Issuer securities during the last 60 days.

ITEM 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.

None

ITEM 7. Material to be filed as Exhibits

7.1 Stock Purchase Agreement dated January 4, 2002 by and among the Issuer., First Capital Partners MM, LLC and Canadian Advantage Limited Partnership, a copy of which is attached.

7.2 Series A Convertible Preferred Stock Purchase Agreement dated January 11, 2002 between Joshua Tree Construction, Inc. and Canadian Advantage Limited Partnership, a copy of which is attached.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

February 21, 2002

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[Date]

THOMSON KERNAGHAN & CO. LTD

By: /s/ Mark E. Valentine

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Title: Chairman

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February 21, 2002

-----

[Date]

CANADIAN ADVANTAGE LIMITED PARTNERSHIP

by: VMH Management, Ltd,  
its general partner

By: /s/ Mark E. Valentine

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Title: Chairman and CEO

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February 21, 2002

-----

[Date]

ADVANTAGE [BERMUDA] FUND, LTD

by: VMH Management, Ltd,  
its investment advisor

By: /s/ Mark E. Valentine

-----

Title: Chairman and CEO

-----

February 21, 2002

-----

[Date]

MARK VALENTINE

/s/ Mark E. Valentine

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-----  
CUSIP No. 481058204SCHEDULE 13D  
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The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement, provided, however, that a power of attorney for this purpose which is already on file with the Commission may be incorporated by reference. The name of any title of each person who signs the statement shall be typed or printed beneath his signature.

## INDEX TO EXHIBITS

<Table>  
<Caption>

EXHIBIT

NUMBER

DESCRIPTION

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&lt;S&gt;

&lt;C&gt;

7.1

Stock Purchase Agreement dated January 4, 2002 by and among the Issuer., First Capital Partners MM, LLC and Canadian Advantage Limited Partnership, a copy of which is attached.

7.2

Series A Convertible Preferred Stock Purchase Agreement dated January 11, 2002 between Joshua Tree Construction, Inc. and Canadian Advantage Limited Partnership, a copy of which is attached.

&lt;/Table&gt;

STOCK PURCHASE AGREEMENT

BY AND AMONG

FIRST CAPITAL PARTNERS, MM, INC.,

JOSHUA TREE CONSTRUCTION, INC.,

AND

CANADIAN ADVANTAGE LIMITED PARTNERSHIP

DATED JANUARY 4, 2002

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (the "Agreement") is made this 4th day of January, 2002, by and among First Capital Partners, MM, Inc., a Nevada corporation (the "Seller"); Joshua Tree Construction, Inc., a Nevada corporation ("JTC" or the "Company"); and Canadian Advantage Limited Partnership, an Ontario, Canada, limited partnership (the "Buyer").

WITNESSETH

WHEREAS, the Buyer wishes to purchase from Sellers, and Sellers wish to sell to the Buyer, shares of the securities of the Company owned by them.

NOW THEREFORE, In consideration of the foregoing and the mutual covenants, agreements and warranties herein contained, the parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions.

The following terms shall have the following meanings for the purposes of this Agreement:

"Affiliate" means, with respect to any specified Person,

(a) any other Person which, directly or indirectly, owns or controls, is under common ownership or control with, or is owned or controlled by, such specified Person;

(b) any other Person which is a director, officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities of the specified Person or a Person described in clause (a) of this paragraph;

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(c) another Person of which the specified Person is a director, officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; or

(d) any relative or spouse of the specified Person or any of the foregoing Persons. "Auditor" means Leland Williams, Certified Public Accountant, 4535 West Sahara Ave No. 111, Las Vegas, Nevada 89102, Telephone: (702)-313-2289, Facsimile: (702) 313-2290.

"Business Day" means any day of the year other than

(a) any Saturday or Sunday, or

(b) any day which is a Legal Holiday as declared to be such by federal law.

"Buyer Confidential Information" means all confidential information concerning the Buyer or its Affiliates that

(a) is not and has not become ascertainable or obtainable from public or published information,

(b) is not received from a third party or is received from a third party pursuant to the authorization of the Buyer,

(c) was not in the Company's or in the Seller's possession prior to disclosure thereof to the Sellers or the Company in connection with the transactions contemplated herein, and

(d) was not independently developed by the Company or by the Seller.

"Cash Amounts" has the meaning set forth in Section 2.1(b).

"Claim" has the meaning set forth in Section 10.2.

"Closing" means the consummation(s) of the transactions contemplated herein.

"Closing Date" means the date on which the Closing occurs.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Company Confidential Information" means all confidential information concerning the Company or its Affiliates that

(a) is not and has not become ascertainable or obtainable from public or published information,

(b) is not received from a third-party or is received from a third-party pursuant to the authorization of the Company or the Sellers in connection with the Buyer's due diligence review of the Company,

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(c) was not in the Buyer's possession prior to disclosure thereof to the Buyer in connection with the transactions contemplated herein, and

(d) was not independently developed by the Buyer.

"Company Adverse Change" means a change (or circumstance involving a prospective change) in the business, operations, assets, liabilities, results of operations, cash flows, condition (financial or otherwise) or prospects of the Company which the Buyer deems to be adverse.

"Company Adverse Effect" means an effect (or circumstance involving a prospective effect) on the business, operations, assets, liabilities, results of operations, cash flows, condition (financial or otherwise) or prospects of the Company which the Buyer deems to be adverse.

"Contract" means any contract, lease, commitment, understanding, sales order, purchase order, agreement, indenture, mortgage, note, bond, right, warrant, instrument, plan, permit or license, whether written or oral.

"Dollars" or numbers preceded by the symbol "\$" means amounts in United States Dollars.

"Environmental Law" means any law which relates to or otherwise imposes liability or standards of conduct concerning mining or reclamation of mined land, discharges, emissions, releases or threatened releases of noises, odors or any pollutants, contaminants or hazardous or toxic wastes, substances or materials, whether as matter or energy, into ambient air, water, or land, or otherwise relating to the manufacture, processing, generation, distribution, use, treatment, storage, disposal, cleanup, transport or handling of pollutants, contaminants, or hazardous or toxic wastes, substances or materials, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (together, as amended, "CERCLA"), the Resource Conservation and Recovery

Act of 1976, as amended, the Toxic Substances Control Act of 1976, as amended, the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, as amended, any so-called "Superlien" law, and any other similar federal, state or local Law.

"Environmental Permit" means any permit, license, approval, consent or other authorization required by or pursuant to any applicable Environmental Law.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Existing Borrowing" means all borrowing from lending institutions, vendors or agencies of federal, state or local governments or their political subdivisions, as set forth on the Financial Statements or in the books and records of the Company.

"Financial Statements" means, and includes, all of the following:

(a) the audited financial statements of the Company as of December 31, 2000, (including all schedules and notes thereto), consisting of the balance sheet at such date and the

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related statements of income and expenses, retained earnings, changes in financial position and cash flows for the twelve-month period then ended, which shall be prepared in accordance with GAAP and the SEC's Regulation S-B;

(b) the unaudited financial statements of the Company as of September 30, 2001, (including all schedules and notes thereto), consisting of the balance sheet at such date and the related statements of income and expenses, retained earnings, changes in financial position and cash flows for the nine-month period then ended, which shall be prepared in accordance with GAAP and the SEC's Regulation S-B (the "Latest Company Financial Statements"); and, in addition

(c) any other financial statements issued by the Company.

"GAAP" means United States generally accepted accounting principles at the time in effect.

"Governmental Authority" means the government of the United States or any foreign country or any state or political subdivision thereof and any entity, body or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government. "Group" shall collectively mean all affiliated groups of corporations of which the Company is or has been a member that have filed any consolidated Tax Returns for any period ending on or before the Closing Date for which the statute of limitations has not yet expired.



"Hazardous Material" means any pollutant or contaminant or hazardous, dangerous or toxic chemical, material or substance within the meaning of any applicable Law (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as now or at any time hereafter in effect.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"Indemnified Person" means the Buyer, and its Officers, Directors, and Shareholders, or those other Persons entitled to, or claiming a right to, indemnification.

"Indemnifying Person" means the Seller.

"Latest Financial Statements" means the unaudited financial statements of the Company as of September 30, 2001, (including all schedules and notes thereto), consisting of the balance sheet at such date and the related statements of income and expenses, retained earnings, changes in financial position and cash flows for the twelve-month period then ended, which shall be prepared in accordance with GAAP and the SEC's Regulation S-B;

"Latest Financial Statements Date" means the date of the Latest Financial Statements.

"Law" or "Laws" means any law, statute, regulation, ordinance, rule, order, decree, judgment, consent decree, settlement agreement or governmental requirement enacted,

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promulgated, entered into, agreed or imposed by any Governmental Authority. "Lien" means any mortgage, lien, charge, restriction, pledge, security interest, option, lease or sublease, claim, right of any third party, easement, encroachment or encumbrance.

"Loss" or "Losses" means any and all liabilities, losses, costs, claims, damages (including consequential damages), penalties and expenses (including attorneys' fees and expenses and costs of investigation and litigation). ["Losses" also include liabilities for taxes that have become due and payable or which have accrued with respect to the Company that have not been paid prior to the Closing Date or which have not been reserved on the Financial Statements. (Any Taxes attributable to the operations of the Company payable as a result of an audit of any Tax Return shall be deemed to have accrued in the period to which such Taxes are attributable.)]

In the event any of the foregoing are indemnifiable hereunder, the terms "Loss" and "Losses" shall include any and all attorneys' fees and expenses and costs of investigation and litigation incurred by the Indemnified Person in enforcing such indemnity. No Loss shall be reduced by reason of tax benefits allegedly enjoyed as a result of such Loss by an Indemnified Party.

"NASD" means the National Association of Securities Dealers.

"NASD Reports" means all reports, filings, and forms required to be filed by Persons pursuant to the regulations of NASDAQ and the NASD.

"Permits" shall have the meaning set forth in Section 3.16(a).

"Person" means any individual, corporation, proprietorship, firm, partnership, limited partnership, trust, association or other entity, including a government or government department, agency or instrumentality.

"Real Property Leases" has the meaning set forth in Section 3.10(b).

"SEC" means the United States Securities and Exchange Commission.

"SEC Reports" means all reports, filings, and forms required to be filed by Persons under the Securities Act and the Exchange Act.

"Securities Act" means the Securities Act of 1933, as amended.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Security" or "Securities" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into

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on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Shares" means the 205,000 shares of the Issued and Outstanding Common Stock, Par Value \$0.001 per share, of the Company that the Seller is selling to

the Buyer pursuant to this Agreement.

"Subsidiaries" means any Person 50.1% or more of the voting power of which is controlled by another Person.

"Survival Date" has the meaning set forth in Section 10.1.

"Taxes" means all taxes, charges, fees, duties, levies or other assessments, including income, gross receipts, net proceeds, ad valorem, turnover, real and personal property (tangible and intangible), sales, use, franchise, excise, value added, stamp, leasing, lease, user, transfer, fuel, excess profits, occupational, interest equalization, windfall profits, severance, employee's income withholding, other withholding, unemployment and Social Security taxes, which are imposed by any Governmental Authority, and such term shall include any interest, penalties or additions to tax attributable thereto.

"Tax Return" means any report, return or other information required to be supplied to a Governmental Authority in connection with any Taxes.

"Tax Statute of Limitations Date" means the close of business on the 30th day after the expiration of the applicable statute of limitations with respect to Taxes, including any extensions thereof (or if such date is not a Business Day, the next Business Day).

"Tax Warranty" means a representation or warranty in Sections 3.20.

"Territory" means the United States, Canada and all other countries in which the Company has transacted business prior to the Ending Date as contemplated by Section 5.8.

"Title and Authorization Warranty" means a representation or warranty in Sections 3.2, 3.4, or 3.7, 3.8, 3.14, 3.16.

"Two Times Prime Rate" means two times the weighted average prime rate (as the prime rate as from time to time announced by Citibank, N.A. in New York City).

## ARTICLE II

### SALE AND PURCHASE OF SHARES

#### 2.1 Sale and Purchase of Shares.

(a) The Seller hereby agrees to sell the Shares to the Buyer that number of Shares set forth on Exhibit 2.1 opposite his or its name, free and

clear of all Liens, and the Buyer hereby agrees to purchase all such Shares, subject to the terms and conditions of this Agreement.

(b) In consideration for the sale of the Shares by the Seller to the Buyer, the Buyer shall pay to the Seller the sum of \$375,000 (the "Purchase Price"), payable as follows:

(i) The sum of \$10,000 (the "Initial Deposit") upon the execution of this Agreement; and

(ii) The sum of \$365,000 (the Purchase Price Balance") at the Closing.

(c) The Seller shall pay the Initial Deposit and the Purchase Price Balance to the Seller, by wire transfer to the client trust account of Seller's legal counsel as follows:

U.S. Bank, Las Vegas, Nevada  
ABA Routing No. 121201694  
For credit to the account of Thomas C. Cook and  
Associates, Ltd.  
Client Trust Account  
Account No. 153700111096

(d) All payments made in accordance with paragraph 2.1(c) shall be deemed made to and received by the Seller.

(e) If Seller shall fail to pay the Purchase Price Balance at the Closing, and the Company and the Seller shall not be in default under this Agreement, then the Seller shall be entitled to retain the Initial Deposit as liquidated damages for the Buyer's breach of this Agreement.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF THE SELLER AND OF THE COMPANY

In order to induce the Buyer to enter into this Agreement, the Company and the Seller, jointly and severally, represent and warrant to the Buyer, as at the date of this Agreement and as at the Closing Date as follows:

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#### 3.1 Due Incorporation; No Subsidiaries.

(a) The Company is duly organized, validly existing and in good standing under the laws of the State of Nevada with all requisite power and authority to own, lease and operate its properties and to carry on its business

as they are now being owned, leased, operated and conducted.

(b) The Company is licensed or qualified to do business and is in good standing (where the concept of "good standing" is applicable) as a foreign corporation in each jurisdiction where the nature of the properties owned, leased or operated by it and the business transacted by it require such licensing or qualification.

(c) As of the date of the Closing, the Company has no direct or indirect Subsidiaries, either wholly or partially owned, and the Company does not hold any direct or indirect economic, voting or management interest in any Person or directly or indirectly own any security issued by any Person.

(d) True, correct and complete copies of the Certificate of Incorporation and By-laws, as amended, and all minutes of all meetings (or written consents in lieu of meetings) of the Board of Directors (and all committees thereof) and stockholders of the Company have been delivered to the Buyer.

### 3.2 Due Authorization.

(a) The Seller and the Company have full power and authority to enter into this Agreement, and to consummate the transactions contemplated hereby.

(b) The Seller and the Company have duly and validly executed and delivered this Agreement.

(c) At all material times,

(i) the Seller have, had, and will have, full and valid title and control of the Shares;

(ii) there was, is, and will be no existing impediment or encumbrance to the sale and transfer of the Shares to the Buyer, and on delivery of the Shares to the Buyer,

(A) all of the Shares have been, are, and will be free and clear of all taxes, liens, encumbrances, charges or assessments of any kind and shall not be subject to preemptive rights, tag-along rights, cumulative voting, or similar rights of any shareholder of the Company,

(B) all of the Shares have been, are, and will be legally and validly issued in compliance with all applicable Law, and

(C) all of the Shares have been, are, and will be fully paid and non- assessable shares, and the Shares have all been, are, and will be issued under duly authorized resolutions of the Board of Directors of the Company.

(d) This Agreement is the legal, valid and binding obligation of the Seller and the Company, enforceable against each of them, respectively, in accordance with its terms.

### 3.3 Consents and Approvals.

The execution, delivery and performance by the Seller and the Company of this Agreement have been duly and validly approved by their respective boards of directors, and do not and will not, and the consummation of the transactions contemplated hereby and thereby does not and will not,

(i) violate any provisions of the Articles of Incorporation or By-laws of the Company or the Seller;

(ii) permit any Governmental Authority to impose any restrictions or limitations of any nature on the Seller or the Company or the Buyer with respect to the transactions contemplated hereby;

(iii) violate, conflict with, or result in the breach of any of the terms of, result in a material modification of, or otherwise give any other contracting party the right to terminate, or constitute a default under, any contract or other agreement to which the Seller or the Company is a party or by or to which either of them or any of their respective assets or properties may be bound or subject;

(iv) violate any order, judgment, injunction, award or decree of any court, arbitrator or governmental or regulatory body against, or binding upon, the Seller or the Company, or to which any of their respective assets or properties may be bound or subject;

(v) result in the creation of any security interest, lien, encumbrance, adverse claim, proscription or restriction on any property or asset (whether real, personal, mixed, tangible or intangible), right, contract, agreement or business of the Seller or the Company; or

(vi) violate, conflict with, modify or cause any default under or acceleration of (or give any party any right to declare any default or acceleration upon notice or passage of time or both), in whole or in part, any charter, article of incorporation, bylaw, mortgage, lien, deed of trust, indenture, lease, agreement, instrument, order, injunction, decree, judgment, law or any other restriction of any kind to which the Seller or the Company is a party or by means of which either of them or any of their respective properties may be bound or subject.

### 3.4 Compliance With Securities Laws.

(a) Since January 31, 2001, through the Closing Date, the Seller and the Company have appropriately filed all SEC Reports.

(b) The Seller and the Company have made available to the Buyer true and complete copies of the SEC Reports and all correspondence between the SEC and the Seller, or the Company, and their attorneys and accountants and market-makers. The SEC Reports, at the time filed, complied in all respects with all applicable Laws.

(c) With respect to the NASD,

(i) The Seller and the Company have made available to the Buyer true and complete copies of the NASD Reports and all correspondence between the NASD and the Seller or the Company and its attorneys and accountants and market-makers;

(ii) The Company is currently listed on the OTC Electronic Bulletin Board with the following trading symbol: "JSTC". The Company is not in default with respect to any listing requirements or trading privileges or policy statements of the SEC or of the NASD or of any other

(iii) Governmental Authority. There are no investigations pending or threatened against the Company by the SEC or by the NASD or by any other Governmental Authority which would threaten or jeopardize its trading status or listing privileges, and there is no reason whatsoever for the Sellers or the Company to suspect otherwise, irrespective of whether or not the Sellers or the Company believe such rules or regulations, or such investigations, pose such a threat to its trading status or listing privileges.

(d) Through the date of this Agreement and continuing through the Closing Date, the Company has offered and sold its Securities only as shown on Schedule 3.4.

(e) The Company was not, has not been, and is not, at any time between inception, through the Closing Date, an "Investment Company" as the term is generally interpreted.

### 3.5 Capitalization.

(a) The Authorized Capitalization of the Company consists of:

(i) 20,000,000 shares of Common Stock, Par Value \$0.001 per

share (the "JTC Common Stock") of which approximately 312,230 shares are issued and outstanding and are held, of record, by approximately 57 persons,

(A) with each holder thereof being entitled to cast one vote for each share held on all matters properly submitted to the Shareholders for their vote; and

(B) there being no pre-preemptive rights or cumulative voting; and

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(b) 5,000,000 shares of Preferred Stock, Par Value \$0.001 per share (the "JTC Preferred Stock") of which no shares are Issued and Outstanding, with the Board of Directors being authorized from time to time, without shareholder action, to determine and state the designations and the preferences, limitations, relative rights, and voting rights, if any, of each such series by the adoption and filing in accordance with the Laws of the State of Nevada;

(c) All of the issued and outstanding shares of Common Stock of the Company have been duly and validly issued in accordance and compliance with all applicable Laws, rules and regulations and are fully paid and non-assessable;

(d) There are no outstanding options, warrants, convertible securities, scrip, rights to subscribe for, puts, calls, rights of first refusal, tag-along agreements, nor any other agreements, understandings, claims or other commitments or rights of any character whatsoever relating to, or securities or rights convertible into or exchangeable for any Securities of the Company or arrangements by which the Company is or may become bound to issue additional Securities of the Company, nor are there any outstanding Securities granted or issued by the Company that are convertible into any Securities of the Company, and none is authorized;

(e) No Securities of the Company are subject to preemptive rights or similar rights of the stockholders of the Company nor are any Securities subject to any liens or encumbrances imposed through the actions or failure to act of the Company, or otherwise;

(f) There are no anti-dilution or price adjustment provisions contained in any Security authorized or issued by the Company (or in the Company's Articles of Incorporation or By-laws or in any agreement providing rights to security holders) that will be triggered by the transactions contemplated by this Agreement;

(g) The Company is not obligated or committed to purchase, redeem or otherwise acquire any of its Securities;



(h) There are no agreements or arrangements under which the Company is obligated to register the sale of any of its Securities under the Securities Act; (j) All presently exercisable voting rights in the Company are vested exclusively in its outstanding shares of Common Stock, each share of which is entitled to one vote on every matter to come before its shareholders;

(i) There are no voting trusts or other voting arrangements with respect to any of the Company's securities; and

(j) The assignments, endorsements, stock powers and other instruments of transfer delivered by the Sellers to the Buyer at the Closing will be sufficient to transfer the Sellers' entire interest, legal and beneficial, in the Shares to the Buyer.

### 3.6 Financial Statements; Undisclosed Liabilities.

(a) The Financial Statements have been prepared in accordance with GAAP consistently applied and present fairly the financial position, assets, liabilities and retained

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earnings of the Company as of the dates thereof and the revenues, expenses, results of operations, changes in financial position and cash flows of the Company for the periods covered thereby.

(b) Except as set forth in Exhibit 3.6 or in the Latest Financial Statements, the Company has no liabilities, debts, claims or obligations, whether accrued, absolute, contingent or otherwise, whether due or to become due, other than trade payables and accrued expenses incurred in the ordinary course of business since the date of the Latest Financial Statements. Any and all Company liabilities will be paid as of the closing date by Sellers or the Company, and the Company shall have no outstanding liabilities existing after the closing date. Buyer specifically is NOT assuming any Company liabilities.

(c) There is no basis for the assertion against the Company, as at the date of this Agreement, or as at the Closing Date, of any liability of any nature or in any amount not fully reflected or reserved against in the Financial Statements, and there is no reason for Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not.

### 3.7 No Adverse Effects or Changes.

Since the Latest Financial Statement Date, the Company has not:

(a) suffered any Company Adverse Change or Effect;

(b) waived, released or canceled any claims against third parties or debts owing to it, or any rights;

(c) made any changes in its accounting systems, policies, principles or practices;

(d) authorized for issuance, issued, sold, delivered or agreed or committed to issue, sell or deliver (whether through the issuance or granting of options, warrants, convertible or exchangeable securities, commitments, subscriptions, rights to purchase or otherwise), any of its Securities, or amended any of the terms of any of its Securities;

(e) split, combined, or reclassified any shares of its Securities, declared, set aside or paid any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its securities, or redeemed or otherwise acquired any Securities of the Company or of any other Person;

(f) entered into, adopted, amended or terminated any bonus, profit sharing, compensation, termination, stock option, stock appreciation right, restricted stock, performance unit, pension, retirement, deferred compensation, employment, severance or other employee benefit agreements, trusts, plans, funds or other arrangements for the benefit or welfare of any director, officer or employee, or increased in any manner the compensation or fringe benefits of any director or officer;

(g) authorized or made any capital expenditure;

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(h) made any Tax election or settled or compromised any federal, state, local or foreign Tax liability, or waived or extended the statute of limitations in respect of any such Taxes;

(i) paid any amount, performed any obligation or agreed to pay any amount or perform any obligation, in settlement or compromise of any suits against the Company or its Affiliates or any of its directors, officers, employees, agents, or shareholders;

(j) paid any amount, performed any obligation or agreed to pay any amount or perform any obligation, in settlement or compromise of any claims of liability against the Company or its Affiliates or any of its directors, officers, employees, agents, or shareholders; or

(k) terminated, modified, amended or otherwise altered or changed any of the terms or provisions of any Contract, or paid any amount not required by Law or by any Contract.

### 3.8 Title to Properties.

The Company has, and on the Closing Date will have, good and marketable title to, and is, and on the Closing Date will be, the lawful owner of, all of the tangible and intangible assets, properties and rights used in connection with its business and all of the tangible and intangible assets, properties and rights reflected in the unaudited financial statements to be delivered on the closing date , which as of that date shall include only the registered name of the Company.

### 3.9 Condition and Sufficiency of Assets. Not applicable.

### 3.10 Leased Real Property.

(a) The Company does not hold legal title to, or own any legal or beneficial interest in any real property nor does it presently lease or rent any such real property.

### 3.11 Personal Property.

(a) Other than its registered name and contractor's license, the Company shall have no personal property as such tangible personal property presently utilized by the Company in the ordinary course of its business shall be purchased by the Seller. The Seller shall reasonably cooperate with the buyers in efforts to transfer its contractor's license to new management.

### 3.12 Inventories.

(a) The Company shall hold no inventories as of the Closing Date as any inventories the Company may have shall be purchased by the Seller concurrent with or prior to the closing date.

### 3.13 Accounts Receivable and Advances.

(a) The Company shall have no accounts receivable, loans and/or advances payable to any Persons ("Advances") other than as specified in Exhibit 3.6. The Sellers shall cause to be

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extinguished any obligations or liabilities as specified in Exhibit 3.6. by the closing date or concurrent to the closing date.

### 3.14 Intellectual Property.

Exhibit 3.14 is a true and complete list of all of the trademarks, trade names, service marks, patents and copyrights (including any registrations of or pending applications for any of the foregoing) used by the Company in the

conduct of its business.

### 3.15 Contracts.

(a) Except as set forth on Exhibit 3.15, there are no pending Contracts or Agreements to which the Company is a party or by which it is bound, or to which any of its assets or properties is subject. (See Exhibit 3.15.). Any such Agreements shall be concluded or terminated concurrent to the closing date.

### 3.16 Permits and Bonding.

(a) Exhibit 3.16 is a true and accurate list of all licenses, certificates, permits, franchises, rights, code approvals and private product approvals and bonds (collectively, "Permits") held by the Company.

(b) Except for the Permits listed on Exhibit 3.16, there are no Permits, whether federal, state, local or foreign, which are necessary for the lawful operation of the business of the Company.

### 3.17 Insurance; Claims.

(a) Exhibit 3.17 contains an accurate and complete list of all policies of fire, liability, workers' compensation, title and other forms of insurance owned, held by or applicable to the Company (or its assets or business), and the Company has heretofore delivered to the Buyer a true and complete copy of all such policies, including all occurrence-based policies applicable to the Company (or its business) for all periods prior to the Closing Date. All such policies are, and will be, in full force and effect, all premiums with respect thereto covering all periods up to and including the Closing Date have been, and will be, paid, and no notice of cancellation or termination has been, or will have been, received with respect to any such policy.

(b) There are no claims which have been made by or against the Company in the last three years under any workers' compensation, general liability, property or other insurance policy applicable to the Company or any of its properties.

(c) There are no pending or threatened claims under any insurance policy, nor will there be any pending or threatened claims prior to the Closing Date.

### 3.18 Employee Benefits.

(a) The Company is not a party to and does not participate in or have any liability or contingent liability with respect to:

(i) any "employee welfare benefit plan" or "employee pension benefit plan" as those terms are respectively defined in the appropriate sections of ERISA;

(ii) (any retirement or deferred compensation plan, incentive compensation plan, stock plan, unemployment compensation plan, vacation pay, severance pay, bonus or benefit arrangement, insurance or hospitalization program or any other fringe benefit arrangements for any current or former employee, director, consultant or agent, whether pursuant to contract, arrangement, custom or informal understanding, which does not constitute an "employee benefit plan" (as defined in the appropriate sections of ERISA); or

(iii) any employment, consulting or agency agreement as of the Closing Date.

### 3.19 Employment and Labor Matters.

(a) All directors, officers and employees of the Company shall have resigned concurrent with the closing date after appointing interim directors as required under Company's Articles and Bylaws.

(b) The Company has and currently is conducting its business in full compliance with all Laws relating to employment and employment practices, terms and conditions of employment, wages and hours, affirmative action, and nondiscrimination in employment.

(c) All present and prior relationships of the Company with its employees are good. There is, and during the past two years there has been, no labor strike, dispute, slow-down, work stoppage or other labor difficulty actually pending or threatened against or involving the Company, and no attempt is currently being made or during the past three years has been made to organize any employees of the Company to form or enter a labor union or similar organization.

(d) The Company has not had any grievance by any employee during the past two years.

### 3.20 Taxes.

(a) Any unpaid liabilities for Taxes, whether or not disputed, that have accrued with respect to or are applicable to the periods ended on and including the Closing Date or to any years and periods prior thereto and for which the Company may be directly or contingently liable shall be paid by Sellers.

(b) There are no Tax Liens (other than Liens for current Taxes not yet due and payable) upon the properties or assets of the Company.

(c) The Company has not granted or been requested to grant any waiver of any statutes of limitations applicable to any claim for Taxes.

(d) As at the date of this Agreement, and prior to the Closing Date, all federal, state, local and foreign income, corporation and other Tax Returns have been, and will be, filed for the Company, and all other filings in respect of Taxes have been, and will be, made for the Company, for all periods as required by Law.

(e) As at the date of this Agreement, and prior to the Closing Date, all Information Returns required to be filed by the Company have been, or will be, filed, and all statements required to be furnished to payees by the Company have been, or will be, furnished to such payees, and the information set forth on such Information Returns and statements is, and will be, true, complete and correct.

(f) As at the date of this Agreement, and prior to the Closing Date, all Taxes shown as due on all Tax Returns and other filings have been, and will be, paid.

(g) As at the date of this Agreement, and prior to the Closing Date, each Tax Return and filing is, and will be, true and correct, and the Company does not nor will have any additional liability for Taxes with respect to any Tax Return or other filing heretofore filed or which was required by Law to be filed, other than as reflected as liabilities on the Financial Statements.

(h) None of the Tax Returns or other filings that include the operations of the Company has ever been audited or investigated by any Governmental Authority, and no facts exist which would constitute grounds for the assessment of any additional Taxes by any Governmental Authority with respect to the taxable years covered in such Tax Returns and filings.

(i) No material issues have been raised in any examination by any Governmental Authority with respect to the business and operations of the Company which, by application of similar principles, reasonably could be expected to result in a proposed adjustment to the liability for Taxes for any other period not so examined.

(j) As at the date of this Agreement, and prior to the Closing Date, the Sellers are not, nor will be, "foreign persons" as defined in the Code.

(k) The Company is not subject to any joint venture, partnership or other arrangement or contract which is treated as a partnership for federal income tax purposes. Except for any tax-sharing agreement which is attached to Exhibit 3.20 as an exhibit, the Company is not a party to any tax-sharing agreement.

(l) None of the assets of the Company constitutes tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code, and none of the assets reflected on the Financial Statements is subject to a lease, safe harbor lease or other arrangement as a result of which the Company is not treated as the owner for federal income tax purposes.

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(m) The Company has not made or become obligated to make, and will not as a result of any event connected with any transaction contemplated herein become obligated to make, any "excess parachute payment" as defined in section 280G of the code [without regard to subsection (b)(4) thereof].

### 3.21 Environmental Matters.

(a) the business, operations and facilities (whether owned or leased) of the Company, and all existing uses of and activities on or at any of the properties or facilities (whether owned or leased) of the Company, are in material compliance with all Environmental Laws in effect as of the date hereof, and no condition exists or event has occurred which, with or without notice or the passage of time or both, would constitute a violation of or give rise to any Lien under any Environmental Law, and there is no reason for Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not;

(b) the Company is in possession of all Environmental Permits necessary or desirable for the conduct or operation of its business (or any part thereof), and is in material compliance with all of the requirements, conditions and limitations included in such Environmental Permits, and there is no reason for Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not;

(c) there is no, and the Company has not used or stored any, Hazardous Material in, on, or at any of the properties or facilities now or previously used by the Company;

(d) the Company has not received any notice from any Governmental Authority or any other Person that any past or present aspect of the business, operations or facilities (whether owned or leased) of the Company is in violation of any Environmental Law or Environmental Permit, or that the Company is responsible or liable (or potentially responsible or liable) for the investigation, clean up or remediation of any Hazardous Materials at any location, and there is no reason for the Company or the Sellers to believe that such a notice may be sent or that the Company may be responsible for an investigation, clean up, or remediation;

(e) the Company has not at any time deposited or incorporated any Hazardous Material into, on, beneath, or adjacent to any property, and there is

no reason for the Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not;

(f) the Company is not the subject of any litigation or proceedings in any forum, judicial or administrative, involving a demand for damages, injunctive relief, penalties, or other potential liability with respect to violations of or liability under any Environmental Law, and there is no reason for the Company or the Sellers to believe that any such proceedings are threatened, irrespective of whether or not they believe the litigation or proceeding is valid or not;

(g) the Company has timely filed all reports and notifications required to be filed with respect to all of its operations, properties and facilities (whether owned or leased) and has generated and maintained all required records and data under all applicable Environmental Laws;

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(h) neither the Company nor any predecessor thereof has transported or arranged for the transportation of any Hazardous Material to any location which is listed or proposed for listing on the National Priorities List pursuant to CERCLA or on any similar state list; and

(i) no condition exists or has existed or event has occurred with respect to

(i) any property that was at any time owned or leased, or any direct or indirect subsidiary that was at any time owned, by the Company, any predecessor to the Company or any Person that is or was an Affiliate of the Company, which property or subsidiary has been sold, transferred or disposed or for which any lease has terminated, and there is no reason for the Company or the Sellers to believe otherwise, irrespective of whether or not they believe the condition is valid or not; or

(ii) any predecessor to the Company, that could [in the case of either of the foregoing clauses (i) or (ii)], with or without notice, passage of time or both, give rise to any present or future liability of the Company pursuant to any Environmental Law, and there is no reason for the Company or the Sellers to believe otherwise, irrespective of whether or not they believe the condition is valid or not.

### 3.22 Litigation.

There are no actions, suits, arbitrations, regulatory proceedings or other litigation, proceedings or governmental investigations pending or threatened against or affecting the Company or any of its officers, directors,



employees, agents or stockholders thereof in their capacity as such, or any of the Company's properties or businesses, and there is no reason for the Company or the Sellers to believe otherwise.

### 3.23 No Conflict of Interest.

Neither the Seller nor its Affiliates have or claim to have any direct or indirect interest in any tangible or intangible property used in the business of the Company, except as a holder of Shares.

### 3.24 Bank Accounts; Holders of Powers of Attorney.

Any accounts held with banks or other financial institutions at which the Company has an account or safe deposit box shall be closed concurrent with the closing.

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### 3.25 Customers, Suppliers, Etc. Not applicable.

3.26 Claims Against the Seller, Officers and Directors of the Company, and other Persons There are no pending or threatened claims against any Person which could give rise to any claim for indemnification against the Company, and there is no reason for the Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not.

### 3.27 Improper and Other Payments.

(a) Neither the Company nor the Seller, nor any director, officer, employee, agent or representative of the Company, nor any Affiliate of them, nor any Person acting on behalf of any of them, has made, paid, or received any bribes, kickbacks or other similar payments to or from any Person, whether lawful or unlawful.

(b) No contributions have been made, directly or indirectly, to a domestic or foreign political party or candidate.

(c) No improper foreign payment (as defined in the Foreign Corrupt Practices Act) has been made by any of said persons or entities.

### 3.28 Due Diligence Materials.

The Company and the Seller have provided to the Buyer or its representatives, in accordance with the terms of Section 5.2, all documents of the character and type requested by the Buyer in connection with its "due diligence" investigation of the Company and the Seller, and there are no documents in the possession of the Seller, of the Company or any of their Affiliates or respective agents or representatives of a character or type

described in such requests which have not been so provided to the Buyer or its representatives.

### 3.29 No Defaults or Violations.

(a) The Company has not breached any provision of, nor is in default under, the terms of any Contract to which it is a party or under which it has any rights or by which it is bound nor is the Company or any of the Sellers aware of any event which, with the passage of time would result in such breach or default;

(i) no other party to any such Contract has breached such Contract or is in default thereunder nor is the Company or any of the Sellers aware of any event which, with the passage of time would result in such breach or default;

(ii) neither the Company nor any other such party to such a Contract has given notice to the other respecting a claimed breach or default; and

(iii) there is no reason for the Company or any of the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not.

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(b) The Company and the Seller, are, and at the Closing will be, in compliance with, and no violation exists, nor will exist, under any and all Laws applicable to the Company and to the Sellers (insofar as such non-compliance or violation or Laws may effect ability of any one of them to sell and convey the Shares to the Buyer and to otherwise consummate the transactions contemplated hereby), and there is no reason for the Company or the Sellers to believe otherwise, irrespective of whether or not they believe the violation is valid or not.

### 3.30 Accuracy of Statements.

The Seller and the Company know of no information or fact which has or would have an adverse effect on the financial condition, business, or business prospects of the Company, or on the ability of the Sellers to sell and convey the Shares to the Buyer, which has not been disclosed to the Buyer, and there is no reason for Company or the Sellers to believe otherwise, irrespective of whether or not they believe the claim is valid or not.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE BUYER

In order to induce the Seller to enter into this Agreement, the Buyer represents and warrants to the Seller, as at the date of this Agreement and as at the Closing Date (as if such representations and warranties were remade on the Closing Date), as follows:

#### 4.1 Due Incorporation.

The Buyer is a limited partnership formed, validly existing and in good standing under the laws of the State of Nevada, County of Clark, with all power and authority to own, lease and operate its properties and to carry on its business as they are now being owned, leased, operated and conducted.

#### 4.2 Due Authorization.

(a) The Buyer has full power and authority to enter into this Agreement and the Related Agreements and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Buyer of this Agreement have been duly and validly approved by the general partner of the Buyer and no other actions or proceedings on the part of the Buyer are necessary to authorize this Agreement and the transactions contemplated hereby.

(b) The Buyer has duly and validly executed and delivered this Agreement.

(c) This Agreement is the legal, valid and binding obligation of the Buyer, in each case enforceable in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar Laws in effect which affect the enforcement of creditors' rights generally and by equitable limitations on the availability of specific remedies.

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#### 4.3 Consents and Approvals; Authority Relative to this Agreement.

(a) No consent, authorization or approval of, filing or registration with, or cooperation from, any Governmental Authority or any other Person not a party to this Agreement is necessary in connection with the execution, delivery and performance by the Buyer of this Agreement, its respective Related Agreements or the consummation of the transactions contemplated hereby, or thereby.

(b) The execution, delivery and performance by the Buyer of this Agreement and its respective Related Agreements does not and will not, and the consummation of the transactions contemplated hereby and thereby does not and will not,

(i) violate any Law;

(ii) violate or conflict with, result in a breach or termination of, constitute a default or give any third party any additional right (including a termination right) under, permit cancellation of, result in the creation of any Lien upon any of the assets or properties of the Buyer under, or result in or constitute a circumstance which, with or without notice or lapse of time or both, would constitute any of the foregoing under any Contract to which the Buyer is a party or by which the Buyer or any of its assets or properties are bound;

(iii) permit the acceleration of the maturity of any indebtedness of the Buyer or indebtedness secured by its respective assets or properties; or

(iv) violate or conflict with any provision of any of the organizational instruments of the Buyer.

## ARTICLE V

### COVENANTS

#### 5.1 Implementing Agreement.

(a) Subject to the terms and conditions hereof, each Party hereto shall use its reasonable best efforts to take all action required of it to fulfill its obligations under the terms of this Agreement and to facilitate the consummation of the transactions contemplated hereby.

(b) The Seller agree that unless this Agreement is terminated in accordance with the provisions of Section 9.1, the Seller will not encumber the Shares, will not sell the Shares to any Person other than the Buyer (or an Affiliate of the Buyer), and will not take any other action which would have the effect of preventing or disabling the Seller's performance of its obligations under this Agreement.

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#### 5.2 Access to Information and Facilities.

(a) From and after the date of this Agreement or such earlier time as the Buyer and the Seller shall have mutually agreed, the Seller shall, and shall cause the Company to give the Buyer and the Buyer's representatives unrestricted access during normal business hours to all of the facilities, properties, books, contracts, commitments and records of the Company, and the Seller shall make the officers and employees of the Company available to the Buyer and its representatives as the Buyer and its representatives shall from time to time request. The Buyer and its representatives will be furnished with any and all

information concerning the Company which the Buyer or its representatives reasonably request.

(b) Except as may be reasonably necessary to carry out this Agreement and the transactions contemplated hereby, the Buyer will not, will cause its Affiliates not to, and will instruct its and its Affiliates' agents and financing sources not to disclose the Company Confidential Information to any Person other than the Buyer's employees, agents and financing sources on a "need to know" basis without the prior consent of the Company, unless compelled to disclose any such the Company Confidential Information by judicial or administrative process or, in the opinion of the Buyer's counsel, by other requirements of Law.

(c) Except as may be reasonably necessary to carry out this Agreement and the transactions contemplated hereby, the Seller will not, will cause its Affiliates not to, and will instruct its Affiliates' agents and financing sources to not disclose any Buyer Confidential Information to any Person other than Seller's or the Company's employees, agents and financing sources without the prior consent of the Buyer, unless compelled to disclose any such the Buyer Confidential information by judicial or administrative process or, in the opinion of the Seller's counsel, by other requirements of Law.

### 5.3 Preservation of Business.

(a) From the date of this Agreement until the Closing Date, the Seller shall cause the Company to operate only in the ordinary and usual course of business and consistent with past practice, and the Sellers and the Company shall use their best efforts to:

(i) preserve the goodwill and advantageous relationships of the Company with customers, suppliers, independent contractors, employees and other Persons material to the operation of its business; and

(ii) not permit any action or omission which would cause any of the representations or warranties of the Sellers or the Company contained herein to become inaccurate or any of the covenants of the Sellers to be breached.

(iii) waive, release or cancel any claims against third parties or debts owing to it, or any rights which have value;

(iv) make any changes in its accounting systems, policies, principles or practices;

(v) split, combine, or reclassify any shares of its

Securities, declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its securities, or redeem or otherwise acquire any Securities of the Company or of any other Person;

(vi) terminate, modify, amend or otherwise alter or change any of the terms or provisions of any contract, or pay any amount not required by Law or by any contract.

#### 5.4 Consents and Approvals.

(a) The Seller shall, and shall cause the Company to make all filings, applications, statements and reports to all Governmental Authorities and other Persons which are required to be made prior to and on the Closing Date by or on behalf of the Seller or any of its Affiliates pursuant to any applicable Law or contract in connection with this Agreement and the transactions contemplated hereby and thereby, including prompt filings under the HSR Act, if applicable and expedited submission of all materials required by any Governmental Authority in connection with such filings.

(b) The Buyer shall, and shall cause the Company to, make all filings, applications, statements and reports to all Governmental Authorities and other Persons which are required to be made subsequent to the Closing Date by or on behalf of the Company or any of their respective Affiliates pursuant to any applicable Law or contract in connection with this Agreement or any of their respective Related Agreements and the transactions contemplated hereby and thereby, including prompt filings under the HSR Act, if applicable, and expedited submission of all materials required by any Governmental Authority in connection with such filings.

#### 5.5 Maintenance of Insurance. Not applicable.

#### 5.6 Resignation of Officers and Directors.

The Seller shall cause each officer and member of the Board of Directors of, and each trustee or fiduciary of any plan or arrangement involving employee benefits of, the Company, if so requested by the Buyer, to tender his resignation from such position effective as of the Closing Date.

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#### 5.7 Bank Accounts.

Incident to the Closing, the Sellers will arrange:

- (a) for the Company's then current bank account(s) to be closed;
- (b) for all funds if any, from said bank account to be transferred into

a bank account to be selected by the Buyer.

#### 5.8 Supplemental Information.

(a) After the date hereof, and from time to time prior to the Closing Date, the Seller and the Company will promptly disclose in writing to the Buyer any matter hereafter arising which, if existing, occurring or known at the date of this Agreement would have been required to be disclosed to the Buyer or which would render inaccurate any of the representations, warranties or statements set forth herein.

(b) After the date hereof, and prior to the Closing Date, the Buyer will promptly disclose in writing to the Seller any matter hereafter arising which, if existing, occurring or known at the date of this Agreement would have been required to be disclosed to the Seller or which would render inaccurate any of the representations, warranties or statements set forth in Article IV hereof.

(c) No information provided to a Party pursuant to this Section shall be deemed to cure any breach of any representation, warranty or covenant made in this Agreement or the Related Agreements.

5.9 Non-competition. Not applicable.

#### 5.10 Exclusivity.

(a) Neither the Seller, nor the Company, nor any of their respective directors, officers, employees, representatives, agents or Affiliates shall, directly or indirectly, solicit, initiate, encourage, respond favorably to, permit or condone inquiries or proposals from, or provide any Confidential Information to, or participate in any discussions or negotiations with, any Person (other than the Buyer, and the respective directors, officers, employees, representatives and agents) concerning:

(i) any merger, sale of assets not in the ordinary course of business, acquisition, business combination, change of control or other similar transaction involving the Company, or

(ii) any purchase or other acquisition by any Person of the Shares, or

(iii) any sale, or issuance by the Company of any shares of its Securities.

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(b) The Seller will promptly advise the Buyer of, and communicate to the Buyer, the terms and conditions of (and the identity of the Person making), any such inquiry or proposal received.

#### 5.11 Use of Name.

From and after the Closing Date, neither the Seller nor any of its Affiliates will directly or indirectly use in any manner any trade name, trademark, service mark or logo used by the Company or any word or logo that is similar in sound or appearance other than in the ordinary course of the business of the Company.

#### 5.12 Tax Indemnity.

The Seller agrees to indemnify the Buyer against, and agree to hold it harmless from, any and all liabilities for Taxes that have become due and payable or which have accrued with respect to the Company that have not been paid prior to the Closing Date or which have not been reserved on the Financial Statements. (Any Taxes attributable to the operations of the Company payable as a result of an audit of any Tax Return shall be deemed to have accrued in the period to which such Taxes are attributable.)

#### 5.13 Termination of Certain Agreements.

The Seller shall, and the Seller agree that it shall cause its Affiliates and the Company to, and that its Affiliates and the Company shall, effective as of the Closing Date, without any cost to the Company, terminate, rescind, cancel and render void and of no effect all of the Contracts between the Company, on the one hand, and the Seller or any of its Affiliates, as the case may be (other than the Company), on the other hand, except for those Contracts entered into pursuant to this Agreement.

#### 5.14 Sellers not to Inhibit.

Neither the Seller nor the Company will take any action (nor omit to take any action) which would adversely affect the ability of the Seller to sell and convey the Shares to the Buyer or adversely affect the business or business prospects of the Company.

### ARTICLE VI

#### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE BUYER

The obligations of the Buyer under Article II of this Agreement are subject to the satisfaction or waiver by the Buyer of the following conditions precedent on or before the Closing Date unless otherwise specified:

#### 6.1 Warranties True as of Both Present Date and Closing Date.

The representations and warranties of the Seller and the Company contained herein shall have been accurate, true and correct on and as of the date of this Agreement, and shall also be



accurate, true and correct on and as at the Closing Date with the same force and effect as though made by the Sellers and the Company on the Closing Date.

#### 6.2 Compliance with Agreements and Covenants.

The Seller and the Company shall have performed and complied with all of their respective covenants, obligations and agreements contained in this Agreement to be performed by them and complied therewith, on or prior to the Closing Date.

#### 6.3 Consents and Approvals.

The Buyer shall have received written evidence satisfactory to the Buyer that all consents and approvals required for the consummation of the transactions contemplated hereby or the ownership and operation by the Buyer of the Company and its business have been obtained, and all required filings have been made, including those set forth on Exhibit 3.3.

#### 6.4 Expiration of HSR Waiting Period (if any). Not applicable.

#### 6.5 Documents.

The Buyer shall have received all of the agreements, documents and items specified in Section 8.2.

#### 6.6 Delivery of Exhibits.

All exhibits respecting the Company and/or the Seller or either of them have been, or shall be, delivered to Buyer in final form prior to, or concurrent with, the Closing Date and no such exhibit shall contain or reflect a Company Adverse Change or Effect from the last previous draft of such exhibit or, if none, the last oral discussion or written memorandum respecting such exhibit or schedule.

#### 6.7 No Adverse Change.

No Company Adverse Change or Effect shall have occurred, and no event shall have occurred which, in the reasonable judgment of the Buyer, is likely to have a Company Adverse Change or Effect.

#### 6.8 Actions or Proceedings.

No action or proceeding by any Governmental Authority or other Person shall have been instituted or threatened which:

- (a) might have a Company Adverse Effect or Change, or

(b) could enjoin, restrain or prohibit, or could result in substantial damages in respect of, any provision of this Agreement or any of the Related Agreements or the consummation of the transactions contemplated hereby or thereby or any integration of any operations of the Company with those of the Buyer and its Affiliates.

## ARTICLE VII

### CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligations of Seller under Article II of this Agreement are subject to the satisfaction or waiver by the Seller of the following conditions precedent on or before the Closing Date:

#### 7.1 Warranties True as of Both Present Date and Closing Date.

The representations and warranties of the Buyer contained herein shall have been accurate, true and correct on and as of the date of this Agreement, and shall also be accurate, true and correct on and as at the Closing Date with the same force and effect as though made by the Buyer on the Closing Date.

#### 7.2 Compliance with Agreements and Covenants.

The Buyer shall have performed and complied with all of its respective covenants, obligations and agreements contained in this Agreement to be performed and complied with by it on or prior to the Closing Date.

#### 7.3 Expiration of HSR Waiting Period (if any). Not applicable.

#### 7.4 Documents.

The Sellers shall have received all of the agreements, documents and items specified herein.

#### 7.5 Actions or Proceedings.

No action or proceeding by any Governmental Authority or other Person shall have been instituted or threatened which could enjoin, restrain or prohibit, or could result in substantial damages in respect of, any provision of this Agreement or any of the Related Agreements or the consummation of the transactions contemplated hereby or thereby or any integration of any operations of the Company with those of the Buyer and its Affiliates.

## 7.6 Consents and Approvals.

The Sellers shall have received written evidence satisfactory to the Sellers that all consents and approvals required for the consummation of the transactions contemplated hereby have been obtained, and all required filings have been made.

## ARTICLE VIII

### THE CLOSING

#### 8.1 The Closing.

(a) The Closing shall be scheduled to occur at the offices of Thomson Kernaghan & Co. Limited, 16th Floor, 120 Adalade Street, Toronto, Canada M5H 1T1 on: (i) January 8, 2002, or (ii) on such later date as the Parties hereto shall mutually agree.

(b) The Closing, and all transactions to occur at the Closing, shall be deemed to have taken place at, and shall be effective as of, the close of business on the Closing Date.

#### 8.2 Deliveries by the Seller.

At the Closing, in addition to any other documents or agreements required under this Agreement, the Seller shall deliver to the Buyer the following:

(a) Certificates evidencing all of the Shares, which certificates shall be duly endorsed in blank or accompanied by stock powers executed in blank, with all signatures medallion guaranteed and with all necessary transfer taxes and other revenue stamps affixed and acquired at the Seller's expense, together with such other duly executed instruments or documents as may be reasonably requested by the Buyer in order to consummate the transactions contemplated by this Agreement.

(b) The written resignations of the persons listed in Exhibit 8.2(b) as directors and officers of the Company and the termination of any and all management and consulting agreements;

(c) Evidence, in form satisfactory to the Buyer, that all consents and approvals referred to herein have been obtained;

(d) The Certificates of Incorporation or similar instruments of the Company certified by the Secretary of State or equivalent Person of the jurisdiction of incorporation of the Company, and Bylaws or similar instruments of the Company, certified by the Secretary of the Company;

(e) Certificates of Good Standing for the Company from the State of Nevada;

### 8.3 Deliveries by the Buyer.

At the Closing, the Buyer shall deliver to the Sellers the following:

(a) the Purchase Price Balance; and

(b) Evidence, in form satisfactory to the Seller, that all consents and approvals required herein to be obtained by the Buyer have been obtained.

## ARTICLE IX

### TERMINATION

#### 9.1 Termination.

This Agreement may be terminated at any time on or prior to the Closing Date:

(a) By the mutual consent of the Seller and the Buyer;

(b) By the Seller or the Buyer, if the Closing shall not have taken place on or before January 15, 2002; provided however, that the right to terminate this Agreement under this Section 9.1(b) shall not be available to any Party whose willful failure to fulfill any obligation under this Agreement has been the cause of or resulted in the failure of the Closing to occur on or before such date;

(c) By the Buyer, if there shall have been a breach of any covenant, representation or warranty or other agreement of any Seller or of the Company hereunder, and such breach shall not have been remedied within ten Business Days after receipt by the Sellers of a notice in writing from the Buyer specifying the breach and requesting such be remedied; or

(d) By any Seller, if there shall have been a breach of any covenant, representation or warranty or other agreement of the Buyer hereunder, and such breach shall not have been remedied within ten Business Days after receipt by the Buyer of notice in writing from the Sellers specifying the breach and requesting such be remedied.

#### 9.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 9.1, all obligations of the Parties hereunder shall terminate, except for the obligations set forth in Sections 5.2(b) and (c), 11.1, 11.11 and 11.12, which shall survive the termination of this Agreement, and except that no such termination shall

ARTICLE X

INDEMNIFICATION

10.1 Survival.

Except as otherwise specified, the representations and warranties of the Seller contained herein shall survive the Closing for a period expiring at the close of business on the date that is one year after the Closing Date (the "Survival Date") except that:

(a) Tax Warranties shall survive until the Tax Statute of Limitations Date; and

(b) Title and Authorization Warranties shall survive forever.

10.2 Indemnification by Seller.

The Seller agrees to indemnify the Buyer against, and agrees to hold Buyer harmless from, any and all Losses or claims incurred or suffered by it relating to or arising out of or in connection with any of the following (collectively, "Claims"):

(a) any misrepresentation, breach of warranty, or any inaccuracy in any representation or warranty made by any Seller or the Company in this Agreement or in any document, certificate, or affidavit delivered by any Seller or the Company pursuant to the provisions of this Agreement; or

(b) any breach of or failure by any Seller or the Company to perform any covenant or obligation of such party set out or contemplated in this Agreement or any Related Agreement or any document delivered at the Closing; or

(c) any liability, obligation, or commitment of any nature (absolute, accrued, contingent, or other) to any Person, including the Buyer,

(i) of the Company; or

(ii) of the Seller, insofar as it effects its rights and duties with respect to its ownership of, and the sale and conveyance of the Shares, or with respect to the operation of the business of the Company;

(d) any Environmental Expenses, any Environmental claims, any Environmental Conditions, or any violation of Environmental Requirements; or

### 10.3 Claims.

(a) The provisions of this Section 10.3 shall be subject to Section 10.4.

(b) Promptly (and in any event within 5 days after the service of any citation or summons) after becoming aware of a claim for indemnification under this Agreement, the Indemnified Person shall give notice to the Indemnifying Person of such claim provided that the

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failure of the Indemnified Person to promptly give notice shall not relieve the Indemnifying Person of its obligations except to the extent (if any) that the Indemnifying Person shall have been prejudiced thereby.

(c) If the Indemnifying Person does not object in writing to such claim within twenty (20) days of receiving notice thereof, the Indemnified Person shall be entitled to recover, on the 25th day after such notice was given, from the Indemnifying Person the full amount of such claim, and any objection thereafter by the Indemnifying Person shall be deemed waived and shall not be permitted.

(d) If the Indemnifying Person agrees that he, she or it has an indemnification obligation but states that he, she or it is obligated to pay only a lesser amount, the Indemnified Person shall nevertheless be entitled to recover, on the 25th day after such notice was given, from the Indemnifying Person the lesser amount, without prejudice to the Indemnified Person's claim for the difference.

(e) In addition to the amounts recoverable by the Indemnified Person from the Indemnifying Person pursuant to the foregoing provisions, the Indemnified Person shall also be entitled to recover from the Indemnifying Person interest on such amounts at the rate of Two Times Prime from, and including, the 25th day after such notice of an indemnification claim is given to, but not including, the date such recovery is actually made by the Indemnified Person.

### 10.4 Notice of Third-Party Claims; Assumption of Defense.

(a) Promptly (and in any event within five (5) days after the service of any citation or summons) after becoming aware of any claim or the commencement of any suit, action or proceeding made or brought by any Person not a party hereto, in respect of which indemnity may be sought under this Agreement, the Indemnified Party shall give notice thereof to the Indemnifying Party; provided, however, that the failure of the Indemnified Person to promptly give notice shall not relieve the Indemnifying Person of its obligations except

to the extent (if any) that the Indemnifying Person shall have been prejudiced thereby.

(b) The Indemnifying Person may, at its own expense,

(i) participate in the defense of any claim, suit, action or proceeding, and

(ii) upon notice to the Indemnified Person and the delivery by the Indemnifying Person to the Indemnified Person of a written agreement that the Indemnified Person is entitled to indemnification for all Losses arising out of such claim, suit, action or proceeding and that the Indemnifying Person shall be liable for the entire amount of any Loss, at any time during the course of any such claim, suit, action or proceeding, assume the defense thereof, provided that:

(iii) the Indemnifying Person's counsel is reasonably satisfactory to the Indemnified Person; and

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(iv) the Indemnifying Person shall thereafter consult with the Indemnified Person upon the Indemnified Person's reasonable request for such consultation from time to time with respect to such claim, suit, action or proceeding.

(c) If the Indemnifying Person assumes such defense, the Indemnified Person shall have the right (but not the duty) to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Indemnifying Person.

(d) If, however, the Indemnified Person reasonably determines in its judgment that representation by the Indemnifying Person's counsel of both the Indemnifying Person and the Indemnified Person would present such counsel with a conflict of interest, then such Indemnified Person may employ separate counsel to represent or defend it in any such claim, action, suit or proceeding, and the Indemnifying Person shall pay the fees and disbursements of such separate counsel.

(e) Whether or not the Indemnifying Person chooses to defend or prosecute any such claim, suit, action or proceeding, all of the Parties hereto shall cooperate in the defense or prosecution thereof.

#### 10.5 Settlement or Compromise.

(a) Any settlement or compromise made or caused to be made by the Indemnified Person or the Indemnifying Person, as the case may be, of any claim, suit, action or proceeding shall also be binding upon the Indemnifying Person or

the Indemnified Person, as the case may be, in the same manner as if a final judgment or decree had been entered by a court of competent jurisdiction in the amount of such settlement or compromise; provided, however, that no obligation, restriction, or Loss shall be imposed on the Indemnified Person as a result of such settlement without its prior written consent.

(b) The Indemnified Person will give the Indemnifying Person at least ten (10) days notice of any proposed settlement or compromise of any claim, suit, action or proceeding it is defending, during which time the Indemnifying Person may reject such proposed settlement or compromise; provided, however, that from and after such rejection, the Indemnifying Person shall be obligated to assume the defense of and full and complete liability and responsibility for such claim, suit, action or proceeding and any and all Losses in connection therewith in excess of the amount of un-indemnifiable Losses which the Indemnified Person would have been obligated to pay under the proposed settlement or compromise.

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#### 10.6 Failure of Indemnifying Person to Act.

In the event that the Indemnifying Person does not elect to assume the defense of any claim, suit, action or proceeding, then any failure of the Indemnified Person to defend or to participate in the defense of any such claim, suit, action or proceeding or to cause the same to be done, shall not relieve the Indemnifying Person of its obligations hereunder.

#### 10.7 Claims Against Escrow. Not applicable.

### ARTICLE XI

#### MISCELLANEOUS

#### 11.1 Expenses.

(a) The Seller shall pay all expenses of the Seller and the Company (including attorneys' fees and expenses), and the Buyer shall pay all expenses of the Buyer (including attorneys' fees and expenses), in each case incurred in connection with this Agreement and the transactions contemplated hereby.

(b) The Seller shall pay all sales, use, stamp, transfer, service, recording, real estate and like taxes or fees, if any, imposed by any Governmental Authority in connection with the transfer and assignment of the Shares.

#### 11.2 Amendment.

This Agreement may be amended, modified or supplemented but only in



writing signed by each of the Parties hereto.

### 11.3 Notices.

(a) Any notice, request, instruction or other document required by the terms of this Agreement to be given to any other Party hereto shall be in writing and shall be given either

(i) by telephonic facsimile, in which case notice shall be presumptively deemed to have been given at the date and time displayed on the sender's transmission confirmation receipt showing the successful receipt thereof by the recipient;

(ii) by hand delivery or Federal Express or other method in which the date of delivery is recorded by the delivery service, in which case notice shall be presumptively deemed to have been given at the time that records of the delivery service indicate the writing was delivered to the addressee;

(iii) by prepaid telegram, in which case notice shall be presumptively deemed to have been given at the time that the records of the telegraphic agency indicate that the telegram was telephoned or delivered to the recipient or addressee, as the case may be; or

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(iv) by U.S. mail to be sent by registered or certified mail, postage prepaid, with return receipt requested, in which case notice shall be presumptively deemed to have been given forty-eight (48) hours after the letter was deposited with the United States Postal Service.

(b) Notice shall be sent:

(i) If to the Seller, to:

First Capital Partners, MM, Inc.  
5450 W. Sahara, 2nd Floor  
Las Vegas, NV 89146  
Attention: Vincent Hesser  
Tel: (702)-948-8800  
Facsimile Telephone Number: (702) 948-1202

(ii) If to the Company, to:

Joshua Tree Construction  
5450 W. Sahara, 2nd Floor  
Las Vegas, NV 89146  
Telephone Number: (702) 948-8800

(iii) If to the Buyer, to:

Canadian Advantage Limited Partnership  
120 Adalade Street, Suite 1600  
Toronto, Canada M5H 1T1  
Attention: Jaime Brenzel  
Fax No. (416) 306-9970

(iv) or to such other address as a Party may have specified in writing to the other Parties using the procedures specified above in this Section.

#### 11.4 Effect of Investigation.

(a) Any due diligence review, audit or other investigation or inquiry undertaken or performed by or on behalf of the Buyer shall not limit, qualify, modify or amend the representations, warranties or covenants of, or indemnities by, the Sellers or the Company made or undertaken pursuant to this Agreement, irrespective of the knowledge and information received (or which should have been received) therefrom by the Buyer.

(b) Any due diligence review, audit or other investigation or inquiry undertaken or performed by or on behalf of the Sellers or the Company shall not limit, qualify, modify or amend the representations, warranties and covenants of, or indemnities by, the Buyer made or

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undertaken pursuant to this Agreement, irrespective of the knowledge and information received (or which should have been received) therefrom by the Sellers or the Company.

#### 11.5 Waivers.

(a) The failure of a Party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same.

(b) No waiver by a Party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty.

#### 11.6 Counterparts.

This Agreement may be executed in one or more counterparts, and by different Parties hereto in separate counterparts, each of which when so executed shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### 11.7 Interpretation.

(a) The headings preceding the text of Articles and Sections included in this Agreement and the headings to Exhibits attached to this Agreement are for convenience only and shall not be deemed part of this Agreement or be given any effect in interpreting this Agreement.

(b) The use of the masculine, feminine or neuter gender herein shall not limit any provision of this Agreement. The use of the terms "including" or "include" shall in all cases herein mean "including, without limitation" or "include, without limitation", respectively.

(c) Underscored references to Articles, Sections, Subsections or Exhibits shall refer to those portions of this Agreement.

(d) Consummation of the transactions contemplated herein shall not be deemed a waiver of a breach of or inaccuracy in any representation, warranty or covenant or of any party's rights and remedies with regard thereto.

(e) No specific representation, warranty or covenant contained herein shall limit the generality or applicability of a more general representation, warranty or covenant contained herein.

(f) A breach of or inaccuracy in any representation, warranty or covenant shall not be affected by the fact that any more general or less general representation, warranty or covenant was not also breached or inaccurate.

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#### 11.8 Assignment.

(a) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective estates, heirs, legal representatives, successors and assigns.

(b) No assignment of any rights or obligations hereunder may be made by any Seller or by the Company without the prior written consent of the Buyer.

(c) The Buyer may freely assign its rights and obligations hereunder without the consent of the Sellers or of the Company, and upon such assignment, the rights and obligations of the Buyer under this Agreement shall be binding upon and inure to the benefit of the Buyer's Assignee or its Successor in

interest, as the case may be.

#### 11.9 No Third-Party Beneficiaries.

This Agreement is solely for the benefit of the Parties hereto and, to the extent provided herein, their respective estates, heirs, successors, Affiliates, directors, officers, employees, agents and representatives, and no provision of this Agreement shall be deemed to confer upon other third parties any remedy, claim, liability, reimbursement, cause of action or other right.

#### 11.10 Publicity.

Prior to the Closing Date, except as required by Law or the rules of any stock exchange, no public announcement or other publicity regarding the transactions referred to herein shall be made by the Buyer, the Seller, the Company or any of their respective Affiliates, officers, directors, employees, representatives or agents, without the prior written agreement of the Buyer and the Seller, in any case, as to form, content, timing and manner of distribution or publication; provided, however, that nothing in this Section shall prevent such parties from discussing such transactions with those Persons whose approval, agreement or opinion, as the case may be, is required for consummation of such particular transaction or transactions.

#### 11.11 Liquidated Damages. See Paragraph 2.1(e).

#### 11.12 Further Assurances.

Upon the reasonable request of the Buyer, the Seller will on and after the Closing Date execute and deliver to the Buyer such other documents, releases, assignments and other instruments as may be required to effectuate completely the transfer and assignment to the Buyer of, and to vest fully in the Buyer title to, the Shares, and to otherwise carry out the purposes of this Agreement.

#### 11.13 Severability.

If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions hereof shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

#### 11.14 Remedies Cumulative.

Unless otherwise specified, the remedies provided in this, Agreement shall be cumulative and shall not preclude the assertion or exercise of any

other rights or remedies available by law, in equity or otherwise.

11.15 Entire Understanding.

This Agreement sets forth the entire agreement and understanding of the Parties hereto and supersede any and all prior agreements, arrangements and understandings among the Parties.

11.16 Intentionally Deleted.

11.17 Applicable Law; Resolution of Disputes; Venue.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, County of Clark; The courts of the State of Nevada, County of Clark shall have exclusive jurisdiction to hear, adjudicate, decide, determine and enter final judgment in any action, suit, proceeding, case, controversy or dispute, whether at law or in equity or both, and whether in contract or tort or both, arising out of or related to this Agreement or any other Transaction Document, or the construction or enforcement hereof or thereof (any such action, suit, proceeding, case, controversy or dispute, a "Related Action"). The Company and each Organizer, Shareholder and Investor hereby irrevocably consent and submit to the exclusive personal jurisdiction of the Courts of the State of Nevada, County of Clark to hear, adjudicate, decide, determine and enter final judgment in any Related Action. The Company and each Organizer, Shareholder and Investor hereby irrevocably waive and agree not to assert any right or claim that it is not personally subject to the jurisdiction of the courts of the State of Nevada, County of Clark, in any Related Action, including any claim of forum non conveniens, or that the courts of the State of Nevada, County of Clark is not the proper venue or form to adjudicate any Related Action. If any Related Action is brought or maintained in any court other than the courts of the State of Nevada, County of Clark, then that court shall, at the request of any party, dismiss that action.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

THE SELLER:

FIRST CAPITAL PARTNERS, MM, INC.

By: /s/ Vince Hesser

-----  
Vince Hesser, President,

THE COMPANY:

JOSHUA TREE CONSTRUCTION, INC.

By: /s/ Vince Hesser

-----  
Vince Hesser, President

THE BUYER:

CANADIAN ADVANTAGE LIMITED PARTNERSHIP

By: /s/ Mark E. Valentine

-----  
VMH Management, Ltd., General Partner

By: /s/ Mark E. Valentine

-----  
Mark E. Valentine, President

EXHIBITS BEGIN ON THE FOLLOWING PAGE

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EXHIBIT 3.3

CONTRACTS

None.

EXHIBIT 3.6

LIABILITIES, DEBTS, CLAIMS OR OBLIGATIONS

None.

EXHIBIT 3.8

ENCUMBERED TANGIBLE AND INTANGIBLE ASSETS,

PROPERTIES AND RIGHTS

None.

EXHIBIT 3.12

INVENTORY

None.

EXHIBIT 3.14

TRADEMARKS, TRADE NAMES,  
SERVICE MARKS, PATENTS AND COPYRIGHTS

1. The entity name, "Joshua Tree Construction, Inc." duly registered with the Secretary State of Nevada.

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EXHIBIT 3.15

PENDING CONTRACTS OR AGREEMENTS

None.

EXHIBIT 3.16

LICENSES, CERTIFICATES, PERMITS, FRANCHISES, RIGHTS, CODE APPROVALS  
AND PRIVATE PRODUCT APPROVALS

LICENSEE NAME: JOSHUA TREE CONSTRUCTION INC  
ADDRESS: 7564 ORTEGA SPRING AVENUE LAS VEGAS, NV 89128  
PHONE: (702) 604-5942  
LICENSE STATUS: ACTIVE  
STATUS DATE: 03/29/2001  
STATUS REASON: LICENSE  
ORIGIN DATE: 03/29/2001  
LICENSE EXPIRE DATE: 03/31/2002  
BUSINESS TYPE: CORPORATION  
LIMIT AMOUNT: \$100,000.00  
LICENSE CLASS: B - GENERAL BUILDING  
SUBCLASSES: 2 - RESIDENTIAL & SMALL COMMERCIAL  
BOND TYPE: SURETY BOND  
BOND NUMBER: PM011075209

BOND AGENT: HUDDLESON, KATHLEEN A.  
BOND COMPANY: PEERLESS INSURANCE COMPANY  
BOND AMOUNT: \$10,000.00  
EFFECTIVE DATE: 3/28/2001  
CANCELLATION DATE: N/A  
PRINCIPALS: ROOKER, DAVID MICHAEL  
BULLOCH, BOYD COX  
COLE II, GLENN R  
/ PRESIDENT / QUAL EMPLOYEE / OTHER

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EXHIBIT 3.17

POLICIES OF FIRE, LIABILITY, WORKERS' COMPENSATION, TITLE AND OTHER  
FORMS OF INSURANCE OWNED, HELD BY OR APPLICABLE TO THE COMPANY (OR  
ITS ASSETS OR BUSINESS)

None.

EXHIBIT 3.17(a)

WORKERS' COMPENSATION, GENERAL LIABILITY, PROPERTY OR OTHER  
INSURANCE POLICY CLAIMS

None.

EXHIBIT 3.21

ENVIRONMENTAL MATTERS

None.

EXHIBIT 3.22

LITIGATION

None.

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SCHEDULE 3.4  
ISSUANCES OF SECURITIES



The Company's capitalization history is as follows:

1. On July 26, 1999, two founding shareholders purchased 2,000,000 shares of the authorized common stock at par value for cash, or \$2,000.00. This original stock offering was made according to Section 4(2) of the Securities Act of 1933, as amended.

2. In February of 2000, the Company completed an offering of 997,301 shares of its common stock to approximately 54 unaffiliated shareholders at a price of \$0.05 per share for gross total receipts of \$49,865.00. This offering was made in reliance upon an exemption from the registration provisions of the Securities Act of 1933, as amended, in accordance with Regulation D, Rule 504 of the Act.

3. During July 2000, the Company entered into an management agreement with Boyd Bulloch, a shareholder and director, whereby the Company issued 100,000 shares of its \$0.001 par value common stock valued at \$5,000. Of the total, \$100 is considered common stock and \$4,900 is considered additional paid-in capital. The \$5,000 has been appropriately expensed as consulting fees.

4. On November 6, 2001, the Company issued to Catherine Miner, 25,000 restricted shares of Common Stock as an equity kicker in conjunction with a loan made by Ms. Miner to the Company for the principal sum of \$50,000.00 as reflected in a promissory executed by the Company on March 20, 2001.

5. On November 28, 2001, the Company effected a one-for-ten reverse split of its common stock, as a result of which the Company has 312,230 shares of common stock issued and outstanding.

SCHEDULE 3.24  
BANK ACCOUNTS

SERIES A CONVERTIBLE PREFERRED  
STOCK PURCHASE AGREEMENT

BETWEEN

JOSHUA TREE CONSTRUCTION, INC.  
(THE COMPANY)

AND

CANADIAN ADVANTAGE LIMITED PARTNERSHIP  
(THE PURCHASER)

DATED AS OF JANUARY 11, 2002

SERIES A CONVERTIBLE PREFERRED  
STOCK PURCHASE AGREEMENT

This Series A Convertible Preferred Stock Purchase Agreement (this "Agreement") is made and entered into as of January 11, 2002 (the "Effective Date"), between Joshua Tree Construction, Inc. (the "Company"), a Nevada corporation, and Canadian Advantage Limited Partnership (the "Purchaser"), a limited partnership organized under the laws of the Province of Ontario, Canada.

BACKGROUND

The Company has authorized the issuance, sale, and delivery of 200,000 shares (the "Shares") of the Company's Series A Convertible Preferred Stock, par value \$0.001 (the "Series A Preferred") at a price per Share of \$.01, in currency of the United States of America, for a total purchase price of \$20,000. Each Share of Series A Preferred is convertible into one share of the Company's common stock, \$0.001 par value ("Common Stock"). The Purchaser wishes to purchase the Shares upon the terms and conditions stated in this Agreement. The Purchaser is purchasing the Shares in reliance upon the exemption from the registration requirements of Section 5 of the U.S. Securities Act of 1933, as amended (the "Securities Act"), and the safe harbor afforded by Rule 903 promulgated by the U.S. Securities and Exchange Commission (the "SEC").

AGREEMENT

For and in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Purchaser hereby agree as follows:

## SECTION 1. SERIES A PREFERRED.

### SECTION 1.1. ISSUANCE AND SALE OF SERIES A PREFERRED SHARES

The Company agrees to issue and sell the Shares to the Purchaser, and the Purchaser agrees to purchase the Shares from the Company, at the Closing, for the purchase price of US\$20,000 (the "Purchase Price").

### SECTION 1.2. CLOSING.

The closing of the purchase and sale of the Shares (the "Closing") shall take place at the offices of the Purchaser, Sixteenth Floor, 120 West Adalade Street, Toronto, Ontario M5H 1T1, Canada, at 4:00pm, Toronto time, on Monday, January 14, 2002 (the "Closing Date"), or on such other date or such other time or place as the parties may agree.

### SECTION 1.3. DELIVERIES AT CLOSING

At the Closing the Company shall deliver to Purchaser:

(a) this Agreement, executed by the Company;

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(b) a certificate for the Shares, registered in the Purchasers' name, free and clear of any claims, and containing a legend complying with the requirements of SEC Rule 903(b)(3)(iii)(B)(3); and

(c) the Registration Rights Agreement (defined in Section 4.9 below), executed by the Company, in substantially the form of Exhibit A hereto; and

The Purchaser shall deliver the Purchase Price to the Company.

## SECTION 2. PURCHASER'S REPRESENTATIONS AND WARRANTIES

The Purchaser represents and warrants to the Company:

### SECTION 2.1. INVESTMENT PURPOSE

The Purchaser is acquiring the Shares, for their own account for investment only and not with a view towards, or for resale in connection with, the public sale or distribution thereof, provided however, that by making the representations herein, the Purchaser do not agree to hold any Shares for any minimum or other specific term. The Purchaser acknowledges that the Shares may not be resold in the United States, or to or for the account of a U.S. person as defined by SEC Rule 902(k), except pursuant to an effective registration

statement under the Securities Act or after the expiration of the one-year distribution compliance period provided in SEC Rule 903(b)(3)(iii)(A).

## SECTION 2.2. ACCREDITED PURCHASER STATUS

The Purchaser is an "accredited investor" as that term is defined in Rule 501(a)(3) of Regulation D of the SEC.

## SECTION 2.3. RELIANCE ON REGULATION S EXEMPTION

The Purchaser understands that the Shares are being offered and sold to it in reliance on the exemption from the registration requirements of Section 5 of the Securities Act for offshore transactions as defined in SEC Rule 902(h), and that the Company is relying in part upon the truth and accuracy of, and the Purchaser's compliance with, the representations, warranties, agreements, acknowledgments, and understandings of the Purchasers set forth herein in order to determine the availability of such exemptions and the eligibility of the Purchaser to acquire such Shares. With respect to that exemption, the Purchaser further represents and warrants to the Company that:

(a) The Purchaser is not a U.S. Person as defined in SEC Rule 902(k).

(b) The offer to sell the Shares to the Purchaser was not made in the United States, and was made in Toronto, Ontario.

(c) The Purchaser's buy orders for the Shares were made outside the United States, and were made in Toronto, Ontario.

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(d) The Purchaser has complied with all of the conditions required of them by SEC Rule 903(b)(3).

## SECTION 2.4. INFORMATION

The Purchaser and its advisors, if any, have been furnished with all materials relating to the proposed business, financial condition, and operations of the Company and materials relating to the offer and sale of the Shares, that have been requested by the Purchaser. The Purchaser and its advisors, if any, have been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigations conducted by the Purchaser or its advisors, if any, or their representatives shall modify, amend, or affect the Purchaser's right to rely on the Company's representations and warranties contained in Section 3 below. The Purchaser understands that its investment in the Shares involves a high degree of risk. The Purchaser has sought such accounting, legal, and tax advice as it has considered necessary to make an informed investment decision with respect to their acquisition of the Shares.

## SECTION 2.5. NO GOVERNMENTAL REVIEW

The Purchaser understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Shares, or the fairness or suitability of the investment in the Shares, nor have such authorities passed upon or endorsed the merits of the offering of the Shares.

## SECTION 2.6. AUTHORIZATION ENFORCEMENT

This Agreement has been duly and validly authorized, executed, and delivered by the Purchaser and is a valid and binding agreement of the Purchaser enforceable in accordance with its terms, subject as to enforceability to general principles of equity and to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

## SECTION 2.7. ORGANIZATION

The Purchaser is a limited partnership organized under the laws of the Province of Ontario, Canada.

## SECTION 2.8. NO SCHEME TO EVADE REGISTRATION.

The acquisition of the Shares is not a transaction (or any element of a series of transactions) that is part of a plan or scheme by the Purchaser to evade the registration provisions of the Securities Act.

## SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Purchaser that:

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### SECTION 3.1. ORGANIZATION AND QUALIFICATION

The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of Nevada, and has the requisite corporate power to own its properties and to carry on its business as now being conducted. The Company is not qualified as a foreign corporation to do business in any other jurisdiction. The Company has no subsidiaries.

### SECTION 3.2. AUTHORIZATION, ENFORCEMENT, COMPLIANCE WITH OTHER INSTRUMENTS.

(a) The Company has the requisite corporate power and

authority to enter into and perform this Agreement and to issue the Shares;

(b) the execution and delivery of this Agreement by the Company, and the consummation by it of the transactions contemplated hereby, including without limitation the issuance of the Shares, have been duly authorized by the Company's Board of Directors and no further consent or authorization is required by the Company, its Board of Directors or its stockholders;

(c) this Agreement has been duly executed and delivered by the Company and the persons signing on behalf of the Company have full power and authority to do so; and

(d) this Agreement constitutes the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, or similar laws relating to, or affecting generally, the enforcement of creditors' rights and remedies.

### SECTION 3.3. CAPITALIZATION

Immediately prior to Closing, the authorized capital stock of the Company consisted of 25,000,000 shares, divided into (i) 20,000,000 shares of Common Stock, \$0.001 par value, of which 312,000 are issued and outstanding; and (ii) 5,000,000 shares of Preferred Stock, \$0.001 par value, of which 200,000 shares have been designated Class A Convertible Preferred Stock. No shares of Preferred Stock are issued and outstanding.

### SECTION 3.4. ISSUANCE OF SHARES

The Shares are duly authorized and, upon issuance in accordance with the terms hereof, shall be validly issued, fully paid, and nonassessable, are free from all taxes, liens, and charges with respect to the issue thereof and are entitled to the rights and preferences set forth in the Shares. The Shares are "restricted securities" as defined by SEC rules, and may be transferred, assigned or resold by the Purchaser only in accordance with the Securities Act and the SEC rules promulgated thereunder.

### SECTION 3.5. NO CONFLICTS

The execution, delivery, and performance of this Agreement and the Acquisition Agreement by the Company, and the consummation by the Company of the transactions

contemplated hereby and thereby, will not (a) result in a violation of the Certificate of Incorporation, any Certificate of Designation applicable to any Preferred Stock of the Company, or the Bylaws of the Company or (b) conflict with, constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration, or cancellation of, any agreement, indenture, or instrument to which the Company is a party, or result in a violation of any law, rule, regulation, order, judgment, or decree (including federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected. The Company is not in violation of any term of, or in default under, its Certificate of Incorporation or Bylaws, or any material contract, agreement, mortgage, indebtedness, indenture, instrument, judgment, decree, or order or any statute, rule, or regulation applicable to the Company. The business of the Company is not being conducted and shall not be conducted in violation of any law, ordinance, or regulation of any governmental entity. Except as specifically contemplated by this Agreement, and as required under the Securities Act and any applicable state securities laws, the Company is not required to obtain any consent, authorization, or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver, and perform any of its obligations under or contemplated by this Agreement and the Acquisition Agreement in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings, and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof. The Company is unaware of any facts or circumstances which might give rise to any of the foregoing.

#### SECTION 3.6. REPORTING STATUS

The Common Stock is registered under Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the Company is a "reporting company" as defined under the rules and regulations of the SEC adopted under the Exchange Act. The Common Stock is quoted on the Nasdaq OTC Bulletin Board. Since January 31, 2001, the Company has filed in a timely manner all statements, reports and other instruments (collectively, the "SEC Reports"), required by the rules and regulations of the SEC to be filed by a reporting company under the Exchange Act. The SEC Reports, including without limitation the Company's financial statements contained therein, when filed, were true, accurate and complete in all material respects. No SEC Report, including any exhibits thereto, contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not materially misleading.

#### SECTION 3.7. ABSENCE OF CERTAIN CHANGES

Since the date of the Company's most recent quarterly report filed with the SEC on Form 10Q-SB, there has been no material adverse change and no material adverse development in the business, properties, operations, financial condition, results of operations, or prospects of the Company that has not been reported on a Form 8-K filed with the SEC. The Company has not taken any steps,

and does not currently expect to take any steps, to seek protection pursuant to any bankruptcy law nor does the Company have any knowledge or reason to believe that its creditors intend to initiate involuntary bankruptcy proceedings.

#### SECTION 3.8. ABSENCE OF LITIGATION

There is no action, suit, proceeding, inquiry, or investigation before or by any court, public board, government agency, self-regulatory organization, or body pending or, to the knowledge of the Company, threatened against or affecting the Company or the Series A Preferred, in which an unfavorable decision, ruling or finding would (a) have a material adverse effect on the transactions contemplated hereby, (b) adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under this Agreement or the Acquisition Agreement, or any of the other documents contemplated herein or therein, or (c) have a material adverse effect on the business, operations, properties, financial condition, or results of operation of the Company.

#### SECTION 3.9. PURCHASE OF SHARES

The Company's decision to enter into this Agreement has been based solely on the independent evaluation by the Company and its representatives.

#### SECTION 3.10. NO UNDISCLOSED EVENTS, LIABILITIES, DEVELOPMENTS, OR CIRCUMSTANCES

No event, liability, development, or circumstance has occurred or exists, or is contemplated to occur, with respect to the Company or its businesses, properties, prospects, operations, or financial condition, which could be material but which has not been publicly announced or disclosed in writing to the Purchaser.

#### SECTION 3.11. NO GENERAL SOLICITATION

Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) in connection with the offer or sale of the Shares.

#### SECTION 3.12. NO INTEGRATED OFFERING

Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the Shares under the Securities Act or cause this offering of the Shares to be integrated with prior offerings by the Company



for purposes of the Securities Act or any applicable stockholder approval provisions.

#### SECTION 3.13. INTERNAL ACCOUNTING CONTROLS

The Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (a) transactions are executed in accordance with management's general or specific authorizations, (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability, (c) access to assets is permitted only in accordance with management's general or specific authorization, and (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

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#### SECTION 3.14. NO MATERIALLY ADVERSE CONTRACTS, ETC.

The Company is not subject to any charter, corporate, or other legal restriction, or any judgment, decree, order, rule, or regulation which in the judgment of the Company's officers has, or is expected in the future to have, a material adverse effect on the business, properties, operations, financial condition, results of operations, or prospects of the Company. The Company is not a party to any contract or agreement which in the judgment of the Company's officers has, or is expected to have, a material adverse effect on the business, properties, operations, financial condition, results of operations, or prospects of the Company.

#### SECTION 3.15. TAX STATUS

The Company has made or filed all federal and state income and all other tax returns, reports, and declarations required by any jurisdiction to which it is subject (unless and only to the extent that the Company has set aside on its books provisions reasonably adequate for the payment of all unpaid and unreported taxes), and has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports, and declarations, except those being contested in good faith and has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports, or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

#### SECTION 3.16. CERTAIN TRANSACTIONS

Except for arm's length transactions pursuant to which the Company

makes payments in the ordinary course of business upon terms no less favorable than the Company could obtain from third parties, none of the officers, directors, or employees of the Company is presently a party to any transaction with the Company (other than for services as employees, officers, and directors), including any contract, agreement, or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any officer, director, or such employee or, to the knowledge of the Company, any corporation, partnership, trust, or other entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, or partner.

#### SECTION 3.17. FEES AND RIGHTS OF FIRST REFUSAL

The Company is not obligated to offer the securities offered hereunder on a right of first refusal basis or otherwise to any third parties including, but not limited to, current or former shareholders of the Company, underwriters, brokers, agents, or other third parties. The Company is not obligated to pay any commission or fee in connection with the issuance and sale of the Shares for which the Agent or any Purchaser is or may become liable.

#### SECTION 3.18. REGULATION S EXEMPTION

The Company understands that the Purchaser is purchasing the Shares in reliance on the exemption from the registration requirements of Section 5 of the Securities Act for offshore transactions as defined in SEC Rule 902(h), and that the Purchaser is relying in part upon the

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truth and accuracy of, and the Company's compliance with, the representations, warranties, agreements, acknowledgments, and understandings of the Company set forth herein in order to determine the availability of such exemptions and the eligibility of the Company to issue and sell the Shares to the Purchaser without having complied with those registration requirements. With respect to that exemption, the Company further represents and warrants to the Purchaser that:

(a) The Company has not offered any of the Shares to a U.S. Person (as defined in SEC Rule 902(k)) or to a person in the United States.

(b) The offer and sale of the Shares to the Purchasers are being made in an offshore transaction as defined in SEC Rule 902(h).

(c) The Company has not engaged in any directed selling efforts, as defined in SEC Rule 902(c), with respect to the Shares.

(d) The Company has complied with all of the conditions

required of it under SEC Rule 902(b)(3).

## SECTION 4. COVENANTS

### SECTION 4.1. BEST EFFORTS

Each party shall use its best efforts timely to satisfy each of the conditions to be satisfied by it as provided in Sections 5 and 6 of this Agreement.

### SECTION 4.2. COMPLIANCE WITH REGULATION S

Each party shall comply with all of the terms of SEC Rule 903(b)(3) required of it with respect to the Shares.

### SECTION 4.3. USE OF PROCEEDS

The Company will use the proceeds from the sale of the Shares for general working capital purposes.

### SECTION 4.4. REPORTING STATUS

The Company will file in a timely manner all SEC Reports required to be filed by a reporting company under the Exchange Act and the rules and regulations of the SEC. Such SEC Reports shall be true, accurate and complete in all material respects, and shall not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein not materially misleading.

### SECTION 4.5. LISTINGS

The Company shall maintain the listing of its Common Stock on the NASDAQ OTC Bulletin Board, and upon the NASDAQ Small Cap Market as soon thereafter as it is eligible therefor.

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### SECTION 4.6. CORPORATE EXISTENCE

So long as the sum of the number of shares of (i) Common Stock into which the Shares held by the Purchaser are convertible, and (ii) Common Stock held by the Purchaser exceeds 1% of the outstanding Common Stock, the Company shall not directly or indirectly consummate any merger, reorganization, restructuring, consolidation, sale of all or substantially all of the Company's assets, or any similar transaction or related transactions (each such transaction, a "Sale of the Company") except if the surviving or successor entity in such transaction is a publicly traded corporation whose Common Stock is listed for trading on the New York Stock Exchange, Inc., the American Stock

Exchange, or the NASDAQ National Market.

#### SECTION 4.7. TRANSACTIONS WITH AFFILIATES

So long as the sum of the number of shares of (i) Common Stock into which the Shares held by the Purchaser are convertible, and (ii) Common Stock held by the Purchaser, exceeds 1% of the outstanding Common Stock, the Company shall not, and shall cause each of its subsidiaries not to, enter into, amend, modify, or supplement, or permit any subsidiary to enter into, amend, modify, or supplement any agreement, transaction, commitment, or arrangement with any of its or any subsidiary's officers, directors, persons who were officers or directors at any time during the previous two years, stockholders who beneficially own 5% or more of any class of the Company's capital stock, or affiliates, or with any individual related by blood, marriage, or adoption to any such individual or with any entity in which any such entity or individual owns a 5% or more beneficial interest (each, a "Related Party"), except for (i) transactions contemplated by the Acquisition Agreement, (ii) customary employment arrangements and benefit programs on reasonable terms, (iii) any agreement, transaction, commitment, or arrangement on an arms-length basis on terms no less favorable than terms which would have been obtainable from a person other than such Related Party, (vi) any agreement, transaction, commitment, or arrangement which is approved by a majority of the disinterested directors of the Company, for purposes hereof, any director who is also an officer of the Company or any subsidiary of the Company shall not be disinterested director with respect to any such agreement, transaction, commitment, or arrangement. "Affiliate" for purposes hereof means, with respect to any person or entity, another person or entity that, directly or indirectly, (1) has a 5% or more equity interest in that person or entity, (2) has 5% or more common ownership with that person or entity, (3) controls that person or entity, or (4) share common control with that person or entity. "Control" or "controls" for purposes hereof means that a person or entity has the power, direct or indirect, to conduct or govern the policies of another person or entity.

#### SECTION 4.8. REGISTRATION RIGHTS

As soon as is practicable after the date of this Agreement, the Company shall file a registration statement (the "Registration Statement") with the SEC to register the resale of the shares of Common Stock into which the Shares are convertible, and shall use its best efforts to cause the Registration Statement to become effective, all as provided in the Registration Rights Agreement (the "Registration Rights Agreement") attached as Exhibit B to this Agreement.

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#### SECTION 5. CONDITIONS TO THE COMPANY'S OBLIGATION TO SELL

The obligation of the Company hereunder to issue and sell the Shares to

the Purchaser at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion:

(a) The Purchaser shall have executed this Agreement and delivered the same to the Company.

(b) The Purchaser shall have delivered the Purchase Price for the Shares to the Company.

(c) The representations and warranties of the Purchaser shall be true and correct in all material respects as of the date when made and as of the Closing Date as though made at that time, and the Purchaser shall have performed, satisfied, and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied, or complied with by the Purchaser at or prior to the Closing Date.

#### SECTION 6. CONDITIONS TO THE PURCHASERS' OBLIGATION TO PURCHASE

The obligation of the Purchaser hereunder to purchase the Shares at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Purchaser's sole benefit and may be waived by the Purchaser at any time in its sole discretion:

(a) The Company shall have executed this Agreement.

(b) The Company shall have executed the Registration Rights Agreement.

(c) The representations and warranties of the Company shall be true and correct in all material respects (except to the extent that any of such representations and warranties is already qualified as to materiality in Section 3 above, in which case, such representations and warranties shall be true and correct without further qualification) as of the date when made and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date) and the Company shall have performed, satisfied, and complied in all material respects with the covenants, agreements, and conditions required by this Agreement to be performed, satisfied, or complied with by the Company at or prior to the Closing Date.

#### SECTION 7. INDEMNIFICATION

In consideration of the Purchaser's execution and delivery of this Agreement and acquiring the Shares hereunder and in addition to all of the Company's other obligations under this Agreement, the Company shall defend, protect, indemnify, and hold harmless the Purchaser, and all of its general and limited partners, officers, directors, employees, and agents (including, without

Agreement) (collectively, the "Indemnitees") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities, and damages, and expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements (the "Indemnified Liabilities"), incurred by the Indemnitees or any of them as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by the Company in this Agreement, or any other certificate, instrument, or document contemplated hereby or thereby, (b) any breach of any covenant, agreement, or obligation of the Company contained in this Agreement, or (c) any cause of action, suit, or claim brought or made against such Indemnitee and arising out of or resulting from the execution, delivery, performance, or enforcement of this Agreement, or any other instrument, document, or agreement executed pursuant hereto by any of the Indemnities, any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of the issuance of the Shares, or the status of the Purchaser or holder of the Shares, as a stockholder in the Company. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law.

## SECTION 8. GENERAL PROVISIONS

### SECTION 8.1. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the national laws of Canada; provided, however, that if any provision of this Agreement is unenforceable under such law but is enforceable under the laws of the U.S. State of Nevada, then Nevada law shall govern the construction and enforcement of that provision. The courts of the Province of Ontario, Canada, sitting in Toronto (the "Toronto Courts") shall have exclusive jurisdiction to hear, adjudicate, decide, determine and enter final judgment in any action, suit, proceeding, case, controversy or dispute, whether at law or in equity or both, and whether in contract or tort or both, arising out of or related to this Agreement, or the construction or enforcement hereof or thereof (any such action, suit, proceeding, case, controversy or dispute, a "Related Action"). The Company and the Consultant hereby irrevocably consent and submit to the exclusive personal jurisdiction of the Toronto Courts to hear, adjudicate, decide, determine and enter final judgment in any Related Action. The Company and the Consultant hereby irrevocably waive and agree not to assert any right or claim that it is not personally subject to the jurisdiction of the Toronto Courts in any Related Action, including any claim of forum non

conveniens or that the Toronto Courts are not the proper venue or form to adjudicate any Related Action. If any Related Action is brought or maintained in any court other than the Toronto Courts, then that court shall, at the request of the Company or the Consultant, dismiss that action.

#### SECTION 8.2. COUNTERPARTS

This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event any signature page is delivered by facsimile transmission, the party using such means of delivery shall cause four (4)

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additional original executed signature pages to be physically delivered to the other party within five (5) days of the execution and delivery hereof.

#### SECTION 8.3. HEADINGS

The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

#### SECTION 8.4. SEVERABILITY

If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.

#### SECTION 8.5. ENTIRE AGREEMENT, AMENDMENTS

This Agreement supersedes all other prior oral or written agreements between the Purchaser, the Company, their affiliates and persons acting on their behalf with respect to the issuance and sale of the Shares, and this Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company, nor the Agent, nor any Purchaser makes any representation, warranty, covenant, or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the party to be charged with enforcement.

#### SECTION 8.6. NOTICES

Any notices, consents, waivers, or other communications required or permitted to be given under the terms of this Agreement must be in writing and

will be deemed to have been delivered (a) upon receipt, when delivered personally, (b) upon receipt, when sent by facsimile, provided a copy is mailed by U.S. certified mail, return receipt requested, (c) three (3) days after being sent by certified mail, return receipt requested, or (d) one (1) day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Joshua Tree Construction, Inc.  
5450 West Sahara, 2nd Floor  
Las Vegas, Nevada 89146  
Attention: Vince Hesser, President  
Facsimile No. (702) 948-8800

If to the Purchaser:

Canadian Advantage Limited Partnership  
c/o VMH Management Ltd.  
120 Adelaide Street West, 16th Floor  
Toronto, Ontario M5H 1T1  
Attention: Jaime Brenzel  
Facsimile No. (416) 306-9970

Each party shall provide five (5) day's prior written notice to the other party of any change in address or facsimile number.

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#### SECTION 8.7. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchaser

#### SECTION 8.8. NO THIRD PARTY BENEFICIARIES

This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

SECTION 8.9. CURRENCY. All dollar amounts expressed in this Agreement are currency of the United States of America.

IN WITNESS WHEREOF, the Company and the Purchaser have caused this Series A Convertible Preferred Stock Purchase Agreement to be duly executed as of the date first written above.

Each party shall provide five (5) day's prior written notice to the other party of any change in address or facsimile number.

#### SECTION 8.10. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the



parties and their respective successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Purchaser.

SECTION 8.11. NO THIRD PARTY BENEFICIARIES

This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

SECTION 8.12. CURRENCY. All dollar amounts expressed in this Agreement are currency of the United States of America.

IN WITNESS WHEREOF, the Company and the Purchaser have caused this Series A Convertible Preferred Stock Purchase Agreement to be duly executed as of the date first written above.

Joshua Tree Construction, Inc.

Canadian Advantage Limited Partnership

By: /s/ Vince Hesser

By VMH Management Ltd., General Partner

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Vince Hesser, President

By: /s/ Mark E. Valentine  
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