

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

Current Report  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): July 7, 2020

AKERNA CORP.  
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction  
of incorporation)

001-39096

(Commission File Number)

83-2242651

(I.R.S. Employer  
Identification Number)

1630 Welton St., Floor 4, Denver, Colorado

(Address of principal executive offices)

80202

(Zip Code)

Registrant's telephone number, including area code: (888) 932-6537

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	KERN	NASDAQ Capital Market
Warrants to purchase one share of Common Stock	KERNW	NASDAQ Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act (§230.405 of this chapter) or Rule 12b-2 of the Exchange Act (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

### Item 1.01. Entry into a Material Definitive Agreement.

The information set forth in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference.

### Item 2.01. Completion of Acquisition or Disposition of Assets.

#### *Consummation of Plan of Arrangement*

As previously disclosed on December 18, 2019, Akerna Corp., a Delaware corporation (the “**Company**”), entered into an arrangement agreement, as amended by Amendment to Arrangement Agreement dated February 28, 2020 (“**Amendment to Arrangement Agreement**”), Amendment No. 2 to Arrangement Agreement dated May 26, 2020 (“**Amendment No. 2 to Arrangement Agreement**”), and Amendment No. 3 to Arrangement Agreement dated June 1, 2020 (“**Amendment No. 3 to Arrangement Agreement**”) (the “**Arrangement Agreement**”), among the Company, Akerna Canada Ample Exchange Inc., a corporation incorporated under the *Business Corporations Act* (Ontario) (the “**OBCA**”) and a wholly-owned subsidiary of the Company (the “**Purchaser**”), and Ample Organics Inc., a corporation incorporated under the OBCA (“**Ample**”), pursuant to which the Company through the Purchaser agreed to acquire all of the issued and outstanding equity of Ample (the “**Arrangement**”). On July 7, 2020 (the “**Closing Date**”), the Arrangement was consummated by way of a court-approved plan of arrangement under Ontario law (the “**Plan of Arrangement**”) and Ample became an indirect wholly-owned subsidiary of the Company.

Pursuant to the Arrangement Agreement and the Plan of Arrangement, on the Closing Date, holders of Ample common shares and Class A preferred shares (collectively, the “**Ample Shares**”) received a number of redeemable preferred shares of the Purchaser (the “**Exchangeable Shares**”) equal to the number of Ample Shares multiplied by the exchange ratio of 0.0524 (the “**Exchange Ratio**”). In the aggregate, Ample shareholders received 3,294,574 Exchangeable Shares. The Exchange Ratio was agreed to on December 18, 2019, and was not adjusted for any subsequent changes in market price of the Company’s common stock, par value \$0.0001 per share (the “**Akerna Shares**”) or the Ample Shares prior to the Closing Date. The Exchangeable Shares are exchangeable for Akerna Shares on a 1:1 basis, as determined in accordance with the Arrangement Agreement.

Based on the closing price of the Akerna Shares on the Closing Date, the consideration received by Ample shareholders in the aggregate had a value of approximately \$30.7 million. Of the 3,294,574 Exchangeable Shares that were issued to former Ample shareholders in connection with the consummation of the Arrangement, an aggregate of 658,915 Exchangeable Shares were issued as “Closing Consideration” and an aggregate of 2,635,659 Exchangeable Shares, constituting part of the “Escrowed Consideration” were issued into escrow pursuant to an escrow agreement (the “**Escrow Agreement**”), entered into on July 7, 2020 by and among the Company, Purchaser, John Prentice, as Shareholder Representative, and Odyssey Trust Company. Under the Escrow Agreement, subject to unresolved claims by the Company under the Arrangement Agreement in respect of fraud, the Escrowed Consideration shall be released to former Ample shareholders upon the six-, nine-, and twelve-month anniversaries of the Closing Date in accordance with the following schedule - 988,372 shares on the six-month anniversary, 823,643 shares on the nine-month anniversary, and 823,644 shares on the twelve-month anniversary.

In addition to the Exchangeable Shares, each Ample shareholder, upon the Arrangement becoming effective on the Closing Date (the “**Closing Time**”), received one Contingent Value Right (each a “**CVR**” and collectively the “**CVRs**”). Each CVR entitles the holder to receive a portion of Deferred Consideration (as defined in the Arrangement Agreement) that the initial holder of such CVR was entitled to receive in its capacity as an Ample shareholder, with an aggregate of up to CAD\$10,000,000 additional Exchangeable Shares issuable to the holders of the CVRs subject to downward adjustment pursuant to the Arrangement Agreement. Pursuant to the Rights Indenture entered into on July 7, 2020 by and among the Company, Purchaser, John Prentice, as Shareholder Representative, and Odyssey Trust Company (the “**Rights Indenture**”), holders of CVRs are entitled to additional Exchangeable Shares if certain revenue targets are achieved by Ample during the twelve-month period following the Closing Date.

Ample’s shareholders adopted and approved the Arrangement Agreement and the Plan of Arrangement on June 26, 2020. The Company’s shareholders approved the issuance of the Akerna Shares (including the Akerna Shares issuable upon exchange of the Exchangeable Shares, including upon exchange of additional Exchangeable Shares issuable pursuant to the CVRs) in connection with the Arrangement on June 26, 2020. The Ontario Superior Court of Justice issued a final order approving the Plan of Arrangement on June 30, 2020.

On July 7, 2020, the Company entered into (i) an Exchangeable Share Support Agreement together with the Purchaser, Akerna Canada Holdings Inc., a corporation incorporated under the OBCA (“**Callco**”), and John Prentice, as Shareholder Representative, and (ii) a Voting and Exchange Trust Agreement (the “**Voting and Exchange Trust Agreement**”) with the Purchaser, Callco, and Odyssey Trust Company (the “**Trustee**”) solely for the purpose of ensuring that each Exchangeable Share is substantially the economic and voting equivalent of an Akerna Share, and, following the registration of the Akerna Shares issuable upon exchange of the Exchangeable Shares under the Securities Act of 1933, as amended (the “**Securities Act**”), ensuring that each Exchangeable Share is exchangeable on a one-for-one basis for an Akerna Share, subject to certain limitations set forth therein. Together, the Voting and Exchange Trust Agreement and the Exchangeable Share Support Agreement set forth the terms governing the Exchangeable Shares. Through the Voting and Exchange Trust Agreement and the issuance by the Company to the Trustee of a special voting share (the “**Special Voting Share**”), each holder of Exchangeable Shares effectively has the ability to cast votes along with holders of Akerna Shares, as described below under Item 3.03 of this Current Report on Form 8-K. In addition, the Voting and Exchange Trust Agreement grants exchange rights upon an event of insolvency of the Purchaser, or the liquidation, dissolution or winding up of the Company.

The foregoing description of the Arrangement, the Arrangement Agreement and the transactions consummated thereby is merely a summary of the material terms thereof, and is qualified in its entirety by reference to the Arrangement Agreement filed as [Exhibit 10.1](#) to the Company’s Current Report on Form 8-K filed on December 18, 2019, Amendment to Arrangement Agreement filed as [Exhibit 10.1](#) to the Company’s Current Report on Form 8-K filed on March 3, 2020, Amendment No. 2 to Arrangement Agreement and Amendment No. 3 to Arrangement Agreement filed as [Exhibits 2.3](#) and [2.4](#) to this Current Report on Form 8-K, respectively, and the Voting and Exchange Trust Agreement, the Exchangeable Share Support Agreement, the Escrow Agreement, and the Rights Indenture, filed as [Exhibits 9.1, 10.1, 10.2, 10.3](#) and to this Current Report on Form 8-K, respectively.

### **Item 3.02 Unregistered Sales of Equity Securities**

As described in Item 2.01 of this Current Report on Form 8-K, on the Closing Date pursuant to the Plan of Arrangement, the Purchaser issued 3,294,574 Exchangeable Shares to Ample shareholders on July 7, 2020, which, upon exchange of all such Exchangeable Shares for Akerna Shares pursuant to their terms, will represent approximately 20.3% of the total number of issued and outstanding Akerna Shares.

In connection with the completion of the Arrangement and the creation and issuance of the Exchangeable Shares by Purchaser, as described above under Item 2.01 of this Current Report on Form 8-K, the Company filed a Certificate of Designation for the Special Voting Share with the Secretary of State of the State of Delaware on June 26, 2020 to create the Special Voting Share that was issued to the Trustee.

The Special Voting Share has a par value of \$0.0001 per share. The Special Voting Share entitles the holder thereof to an aggregate number of votes equal to the number of the Exchangeable Shares issued and outstanding from time to time and which are not owned by the Company or its subsidiaries. Except as otherwise provided herein or by law, the holder of the Special Voting Share and the holders of Akerna Shares will vote together as a single class on all matters submitted to a vote of the Company’s shareholders. With respect to all meetings of shareholders of the Company at which holders of Akerna Shares are entitled to vote, each registered holder of Exchangeable Shares (each, a “**Beneficiary**”) shall be entitled to instruct the Trustee to cast and exercise, in the manner instructed, that number of votes equal to the “Equivalent Vote Amount” for each Exchangeable Share owned of record by such Beneficiary at the close of business on the record date established by the Company or by applicable law for such meeting, in respect of each matter, question, proposal or proposition to be voted on at such meeting. At such time as the Special Voting Share has no votes attached to it, the Special Voting Share shall be automatically cancelled.

The foregoing description of the Certificate of Designation for the Special Voting Share does not purport to be complete and is subject to, and qualified in its entirety by, the Certificate of Designation for the Special Voting Share, a copy of which is attached hereto as Exhibit 3.1 and incorporated herein by reference.

The Exchangeable Shares and the Special Voting Share were issued in connection with the consummation of the Plan of Arrangement pursuant to the exemption from registration under the Securities Act provided by Section 3(a)(10) of the Securities Act based on the final order of the Ontario Superior Court of Justice issued on June 30, 2020, approving the Plan of Arrangement following a hearing by the court upon the fairness of the terms and conditions on which all persons to whom it is proposed the securities will be issued shall have the right to appear.

On the Closing Date pursuant to the Plan of Arrangement, the Company issued options under Akerna’s 2019 Long Term Incentive Plan exercisable for 48,208 Akerna Shares with a weighted average exercise price of \$32.09 to employees of Ample in exchange for such employee’s options to acquire Ample common shares and options outside of Akerna’s 2019 Long Term Incentive Plan to acquire 202 Akerna Shares with a weighted average exercise price of \$29.53 to former employees of Ample in exchange for such employee’s options to acquire Ample common shares. The Options were issued pursuant to exemptions from registration under the Securities Act pursuant to Section 4(a)(2) thereof and Rule 903 of Regulation S under the Securities Act based on the residency and representations of the holders of Ample options. The options issued under Akerna’s 2019 Long Term Incentive Plan will be exercisable under the Company’s Form S-8 registration statement for the 2019 Long Term Incentive Plan. The options issued outside of the 2019 Long Term Incentive Plan will be exercisable pursuant to exemptions from the registration requirements of the Securities Act provided by Section 4(a)(2) thereof, Rule 506(b) of Regulation D thereunder and Rule 903 of Regulation S thereunder or such other available exemption, in each case, in accordance with the residency and representations of the holder thereof at the time of exercise.

In accordance with the terms of the outstanding common share purchase warrants of Ample (the “**Ample Warrants**”), following the Closing Date, the Company assumed the covenants and obligations of Ample thereunder and upon exercise of such warrants the holders thereof will receive Akerna Shares. The exercise price and number of shares acquirable upon exercise of the Ample Warrants was adjusted to reflect the Exchange Ratio of Ample Shares for Akerna Shares. Pursuant to the assumed obligations, the Ample Warrants outstanding are exercisable for up to an aggregate of 52,349 Akerna Shares at a weighted average exercise price of \$49.31. The Ample Warrants will be exercisable pursuant to exemptions from the registration requirements of the Securities Act provided by Section 4(a)(2) thereof, Rule 506(b) of Regulation D thereunder and Rule 903 of Regulation S thereunder or such other available exemption, in each case, in accordance with the residency and representations of the holder thereof at the time of exercise.

The disclosure under Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference.

**Item 3.03 Material Modification to Rights of Security Holders**

The disclosure under Items 2.01 and 3.02 of this Current Report on Form 8-K is incorporated herein by reference.

**Item 7.01 Regulation FD Disclosure**

On July 8, the Company posted an investor presentation to its website at [www.akerna.com](http://www.akerna.com). A copy of the investor presentation is furnished hereto as Exhibit 99.1 to this Current Report on Form 8-K. In addition, on July 8, the Company issued a press release announcing the closing of the of the Arrangement. A copy of the press release is furnished hereto as Exhibit 99.4.

The information in this Item 7.01 of this Current Report on Form 8-K, including Exhibits 99.1 and 99.4 attached hereto, is being furnished and shall not be deemed “filed” for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that Section, nor shall it be deemed subject to the requirements of amended Item 10 of Regulation S-K, nor shall it be deemed incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act, whether made before or after the date hereof, regardless of any general incorporation language in such filing. The furnishing of this information hereby shall not be deemed an admission as to the materiality of any such information.

**Item 9.01 Financial Statements, Pro Forma Financial Information and Exhibits.**

(a) Financial Statements of Business Acquired

The audited and unaudited interim financial statements of Ample, are filed as Exhibit 99.2 to this Current Report on Form 8-K and are incorporated herein by reference.

(b) Pro Forma Financial Information

The unaudited pro forma financial information for the Company and Ample is filed as Exhibit 99.3 to this Current Report on Form 8-K and is incorporated herein by reference.

(d) Exhibits

<u>Exhibit</u>	<u>Description</u>
2.1	<a href="#"><u>Arrangement Agreement dated December 18, 2019 (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed with the Commission on December 18, 2019)</u></a>
2.2	<a href="#"><u>Amendment to Arrangement Agreement dated February 28, 2020 (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed with the Commission on March 3, 2020)</u></a>
2.3*	<a href="#"><u>Amendment No. 2 to Arrangement Agreement dated May 26, 2020</u></a>
2.4*	<a href="#"><u>Amendment No. 3 to Arrangement Agreement dated June 1, 2020</u></a>
3.1*	<a href="#"><u>Certificate of Designation for the Special Voting Share</u></a>
9.1*	<a href="#"><u>Voting and Exchange Trust Agreement</u></a>
10.1*	<a href="#"><u>Exchangeable Share Support Agreement</u></a>
10.2*	<a href="#"><u>Escrow Agreement</u></a>
10.3*	<a href="#"><u>Rights Indenture</u></a>
23.1*	<a href="#"><u>Consent of Ernst &amp; Young LLP</u></a>
99.1**	<a href="#"><u>Investor Presentation</u></a>
99.2*	<a href="#"><u>Audited and Interim Financial Statements of Ample Organics, Inc.</u></a>
99.3*	<a href="#"><u>Unaudited Pro Forma Financial Information</u></a>
99.4**	<a href="#"><u>Press Release</u></a>

\* Filed herewith.

\*\* Furnished herewith.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**AKERNA CORP.**

By: /s/ Jessica Billingsley  
Jessica Billingsley  
*Chief Executive Officer*

Dated: July 8, 2020

AMENDMENT NO. 2 TO  
ARRANGEMENT AGREEMENT

THIS AMENDING AGREEMENT is made this 26<sup>th</sup> day of May, 2020,

AMONG:

AKERNA CORP., a corporation existing under the laws of the State of Delaware (“Akerna”)

AND

2732805 ONTARIO INC., a corporation existing under the laws of the Province of Ontario  
 (“Purchaser”)

AND

AMPLE ORGANICS INC., a corporation existing under the laws of the Province of Ontario  
 (“Ample”)

AND

JOHN PRENTICE, an individual resident in the Province of Ontario (hereinafter referred to as the  
 “Shareholder Representative”)

WHEREAS:

- A. The Parties entered into an Arrangement Agreement dated December 18, 2019 and amended on February 28, 2020 (the “Arrangement Agreement”) pursuant to which Akerna, through its wholly-owned subsidiary, Purchaser, agreed to acquire all of the issued and outstanding Ample Shares by way of the Arrangement; and
- B. the Parties wish to amend certain terms of the Arrangement Agreement as hereinafter provided.

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, the Parties hereto hereby covenant and agree as follows:

1. Terms denoted with initial capital letters and not otherwise defined herein have the meanings assigned to them in the Arrangement Agreement.
2. The definition of “Ample Articles” in Section 1.1 is hereby deleted and replaced by the following:  
 ““Ample Articles” means the certificate and articles of amendment of Ample dated October 1, 2019, as amended or otherwise modified by the Articles of Arrangement (as defined in the Plan of Arrangement);”
3. The definition of “Ample Articles” in Section 1.1 of the Plan of Arrangement appended as Schedule “B” to the Arrangement Agreement is hereby deleted in its entirety and replaced with the following:  
 ““Ample Articles” means the certificate and articles of amendment of Ample dated October 1, 2019, as amended or otherwise modified by the Articles of Arrangement;”
4. The following is hereby added as Section 6.1(h) of the Plan of Arrangement appended as Schedule “B” to the Arrangement Agreement:  
 “(h) The Articles of Arrangement shall amend and modify the certificate and articles of amendment of Ample dated October 1, 2019 such that, as at the Effective Date, the entitlement of each Ample Shareholder (other than a Dissenting Shareholder) under the Ample Articles with respect to the Closing Shares and the Escrowed Shares deliverable to the Ample Shareholders from time to time in accordance with the Arrangement Agreement and the Escrow Agreement shall be as set forth in that certain Acknowledgement, Waiver and Irrevocable Direction dated May 24, 2020 between

Osmington Inc., Green Acre Capital Fund 1 LP, by its general partner, Green Acre Capital Fund Inc., DGC Investments Inc. and John Prentice, in his capacity as Shareholder Representative, a copy of which is appended hereto as Annex "B".

5. The document attached hereto as Annex "A" is hereby added as Annex "B" to the Plan of Arrangement appended as Schedule "B" to the Arrangement Agreement.
6. The definition of "**Articles**" in Section 1.1 of the Form of Rights Indenture appended as Schedule "F" to the Arrangement Agreement is hereby deleted and replaced by the following:

""**Articles**" means the certificate and articles of amendment of Ample dated October 1, 2019, as amended or otherwise modified by the Articles of Arrangement (as defined in the Plan of Arrangement);"
7. This Amendment will be deemed effective as of the date first written above.
8. Except as specifically amended herein, all other terms of the Arrangement Agreement remain in full force and effect unamended as of the date hereof, and time shall remain of the essence.
9. This Amending Agreement may be executed in any number of counterparts, which taken together shall form one and the same agreement, and may be executed and delivered by electronic mail or facsimile transmission, which shall be binding on the Parties as though originally executed and delivered.

*[Signature Page Follows]*

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

**2732805 ONTARIO INC.**

Per: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AKERNA CORP.**

Per: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AMPLE ORGANICS INC.**

Per: /s/ John Prentice  
Name: John Prentice  
Title: Chief Executive Officer

/s/ John Prentice  
**JOHN PRENTICE**

[Amending Agreement to Arrangement Agreement]

Annex "A"

Acknowledgement, Waiver and Irrevocable Direction

Please see attached.

[Amending Agreement to Arrangement Agreement]

**AMENDING AGREEMENT NO. 3 TO  
ARRANGEMENT AGREEMENT**

**THIS AMENDING AGREEMENT** is made this 1<sup>st</sup> day of June, 2020,

AMONG:

**AKERNA CORP.**, a corporation existing under the laws of the State of Delaware (“**Akerna**”)

AND

**2732805 ONTARIO INC.**, a corporation existing under the laws of the Province of Ontario (“**Purchaser**”)

AND

**AMPLE ORGANICS INC.**, a corporation existing under the laws of the Province of Ontario (“**Ample**”)

AND

**JOHN PRENTICE**, an individual resident in the Province of Ontario (the “**Shareholder Representative**”)

**WHEREAS:**

- A. the Parties entered into an Arrangement Agreement dated December 18, 2019 and amended on February 28, 2020 and May 26, 2020 (the “**Arrangement Agreement**”) pursuant to which Akerna, through its wholly-owned subsidiary, Purchaser, agreed to acquire all of the issued and outstanding Ample Shares by way of the Arrangement; and
- B. the Parties wish to amend certain terms of the Arrangement Agreement as hereinafter provided.

**NOW THEREFORE** in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, the Parties hereto hereby covenant and agree as follows:

1. Terms denoted with initial capital letters and not otherwise defined herein have the meanings assigned to them in the Arrangement Agreement.
2. The definition of “Effective Time Shares” set forth in each of Section 1.1 of the Arrangement Agreement and Section 1.1 of the Plan of Arrangement is hereby deleted in its entirety and replaced by the following:  
“**Effective Time Shares**” means that number of Exchangeable Shares that is equal to twenty percent (20%) of the total aggregate number of Up-front Shares that are to be delivered by Akerna and Purchaser to the Ample Shareholders pursuant to the Arrangement Agreement;”
3. Section 2.4(c) is hereby deleted and replaced by the following:  
“that it is the intention of Akerna and Purchaser to rely upon Section 3(a)(10) of the U.S. Securities Act in connection with the offer and sale of Consideration Shares in accordance with the Arrangement, based on the Court’s approval of the Arrangement, which approval through the issuance of the Final Order will constitute its determination of the fairness of the Arrangement;”
4. Section 2.8(b) is hereby deleted and replaced by the following:  
“On the date of mailing thereof, Ample shall ensure that the Ample Circular complies in all material respects with all Applicable Laws and the Interim Order and shall contain sufficient detail to permit Ample Shareholders to form a reasoned judgment concerning the matters to be placed before them at the Ample Meeting, and, without limiting the generality of the foregoing, shall ensure that the Ample

Circular will not contain any misrepresentation (except that Ample shall not be responsible for the accuracy of any Purchaser Circular Disclosure). The Ample Circular shall also contain such information as may be required to allow Akerna and Purchaser to rely upon the exemption from registration provided under Section 3(a)(10) of the U.S. Securities Act with respect to the offer and sale of the Consideration Shares pursuant to the Arrangement.”

5. Section 2.11 is hereby deleted and replaced by the following:

“The Parties agree that the Arrangement will be carried out with the intention that all Consideration Shares issued under the Arrangement will be offered and sold by Akerna and Purchaser, whether in the United States, Canada or any other country, in reliance on the exemption from the registration requirements of the U.S. Securities Act provided by section 3(a)(10) thereunder. In order to ensure the availability of the exemption under section 3(a)(10) of the U.S. Securities Act and to facilitate Akerna’s compliance with other U.S. Securities Laws, the Parties agree that the Arrangement will be carried out on the following basis:

- (a) the Court will be asked to approve the procedural and substantive fairness of the terms and conditions of the Arrangement;
- (b) the Court will be advised of the intention of Akerna and Purchaser to rely on the exemption provided by Section 3(a)(10) of the U.S. Securities Act with respect to the issuance of Consideration Shares pursuant to the Arrangement, based on the Court’s approval of the Arrangement;
- (c) prior to the issuance of the Interim Order, Ample will file with the Court a draft copy of the proposed text of the Ample Circular together with any other documents required by Applicable Law in connection with the Ample Meeting;
- (d) the Court will be advised that its approval of the Arrangement will be relied upon as a determination that the Court has satisfied itself as to the procedural and substantive fairness of the terms and conditions of the Arrangement to all Persons who are entitled to receive Consideration Shares pursuant to the Arrangement;
- (e) Ample will ensure that each Ample Shareholder and any other Person entitled to receive Consideration Shares pursuant to the Arrangement, will be given adequate and appropriate notice advising them of their right to attend the hearing of the Court to approve the procedural and substantive fairness of the terms and conditions of the Arrangement and providing them with sufficient information necessary for them to exercise that right;
- (f) the Final Order will expressly state that (i) the terms and conditions of the issuance and exchange of the Consideration Shares are fair, both procedurally and structurally, to those to whom Consideration Shares will be issued, (ii) the terms and conditions of such issuance and exchange is approved by the Court, and (iii) the Arrangement is approved by the Court as being procedurally and substantively fair to all Persons entitled to receive Consideration Shares in each case pursuant to the Arrangement;
- (g) the Interim Order will specify that each Person entitled to receive Consideration Shares pursuant to the Arrangement will have the right to appear before the Court at the hearing of the Court to give approval of the Arrangement;
- (h) the Court will hold a hearing before approving the fairness of the terms and conditions of the Arrangement and issuing the Final Order;
- (i) all Consideration Shares issued to Persons in the United States will be registered or qualified under the securities laws of each state, territory or possession of the United States in which any Person receiving such securities is located, unless an exemption from such state securities law registration or qualification requirements is available. In addition, the issuer of any Consideration Shares issued to a Person in any state, territory or possession of the United States, shall comply with any

issuer broker-dealer registration requirement applicable in that state, territory or possession, unless an exemption from such issuer broker-dealer registration requirement is available; and

- (j) Akerna shall file a registration statement on appropriate form with the United States Securities and Exchange Commission (the “**Registration Statement**”) on the Effective Date or as soon as practicable thereafter in order to register under the U.S. Securities Act the Akerna Shares issuable upon exchange of the Exchangeable Shares and cause the Registration Statement to become effective as soon as practicable following the time that any Exchangeable Shares are first issued.

6. The following is hereby added as Section 3.3(i):

“(i) file the Registration Statement on the Effective Date or as soon as practicable thereafter in order to register under the U.S. Securities Act the Akerna Shares issuable upon exchange of the Exchangeable Shares, (ii) cause the Registration Statement to become effective as soon as practicable following the time that any Exchangeable Shares are first issued, and (iii) maintain the effectiveness of such registration for the period that the Exchangeable Shares remain outstanding. Akerna will provide Ample and its legal counsel with reasonable opportunity to review and comment upon drafts of the Registration Statement and any subsequent correspondence with the United States Securities and Exchange Commission in respect thereof and will give reasonable consideration to the comments of Ample and its counsel with respect to any information to be included in such material.”

7. Section 5.1(h) is hereby deleted and replaced by the following:

“the Exchangeable Shares and the CVRs to be issued pursuant to the Arrangement shall be exempt from the registration requirements of the U.S. Securities Act pursuant to Section 3(a)(10) thereof.”

8. Section 7 of the Form of Escrow Agreement appended as Schedule “D” to the Arrangement Agreement is hereby deleted in its entirety and replaced with the following:

**“Release of Deposited Shares.**

- (a) On the Business Day that is six (6) months following the Closing Date, provided that any Closing Shares remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of that number of Closing Shares equal to the lesser of (i) such number of Closing Shares as is required to cause the total number of all Effective Time Shares plus Closing Time Shares delivered to the Ample Shareholders under the Arrangement Agreement and this Agreement as of such date to equal 50% of the total number of Up-front Shares, and (ii) the number of Closing Shares then held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud.
- (b) On the Business Day that is nine (9) months following the Closing Date, provided that any Closing Shares remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of that number of Closing Shares equal to the lesser of (i) such number of Closing Shares as is required to cause the total number of all Effective Time Shares plus Closing Time Shares delivered to the Ample Shareholders under the Arrangement Agreement and this Agreement as of such date to equal 75% of the total number of Up-front Shares, and (ii) the number of Closing Shares then held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud.
- (c) On the Business Day that is twelve (12) months following the Closing Date (the “**Final Release Date**”), provided that any Closing Shares or Escrowed Shares, as the case may be, remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of:
  - (i) all, but not less than all, of the Closing Shares that are held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud; and

- (ii) all, but not less than all, of the Escrowed Shares held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim.
  - (d) Upon receipt by the Escrow Agent of Joint Instructions from time to time directing the release from escrow of Deposited Shares in accordance with Section 7(a), 7(b), 7(c) or 7(d), the Escrow Agent is hereby irrevocably authorized and directed, in each case, to release, transfer and deliver such Deposited Shares in accordance with Section 9(a).”
- 9. This Amendment shall be deemed effective as of the date first written above.
- 10. Except as specifically amended herein, all other terms of the Arrangement Agreement shall remain in full force and effect unamended as of the date hereof, and time shall remain of the essence.
- 11. This Amending Agreement may be executed in any number of counterparts, which taken together shall form one and the same agreement, and may be executed and delivered by electronic mail or facsimile transmission, which shall be binding on the Parties as though originally executed and delivered.

*[Signature Page Follows]*

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

**2732805 ONTARIO INC.**

Per: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AKERNA CORP.**

Per: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AMPLE ORGANICS INC.**

Per: /s/ John Prentice  
Name: John Prentice  
Title: Chief Executive Officer

/s/ John Prentice  
**JOHN PRENTICE**

**CERTIFICATE OF DESIGNATION, PREFERENCES AND RIGHTS  
OF  
SPECIAL VOTING PREFERRED STOCK  
OF  
AKERNA CORP.**

**(Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware)**

AKERNA CORP., a Delaware corporation (the "Company"), pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, does hereby make this Certificate of Designation under the corporate seal of the Company and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors (the "Board") of the Company by its Amended and Restated Certificate of Incorporation (as such may be amended, modified or restated from time to time, the "Certificate of Incorporation"), the Board has duly adopted the following resolutions:

**RESOLVED**, that, pursuant to the provisions of Article Fourth of the Certificate of Incorporation (which authorizes 5,000,000 shares of preferred stock, par value of \$0.0001 per share (the "Preferred Stock")), and the authority vested in the Board, a series of Preferred Stock be, and it hereby is, created, and the designation and number of shares of such series, and the voting and other powers, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof are as set forth in the Certificate of Incorporation and this Certificate of Designation (as it may be amended from time to time, this "Certificate of Designation") as follows:

**SPECIAL VOTING PREFERRED STOCK**

1. Designation, Amount and Par Value. The series of Preferred Stock shall be designated as "Special Voting Preferred Stock" and the number of shares so designated shall be one (1). The sole outstanding share of Special Voting Preferred Stock shall have a par value of \$0.0001 per share.

2. Dividends. Subject to the provisions of Section 4 of this Certificate of Designation, the holder of record of the share of Special Voting Preferred Stock shall not be entitled to receive any dividends declared and paid by the Company.

3. Voting Rights.

(a) The holder of record of the share of Special Voting Preferred Stock, except as otherwise required under applicable law or as set forth in Section 3(b) below, shall not be entitled to vote on any matter required or permitted to be voted upon by the stockholders of the Company.

(b) With respect to all meetings of the stockholders of the Company at which the holders of the Company's common stock, par value \$0.0001 per share (the "Common Stock"), are entitled to vote (each, a "Stockholder Meeting"), the holder of the share of Special Voting Preferred Stock shall vote together with the holders of such Common Stock as a single class except as otherwise required under applicable law, and the holder of the share of Special Voting Preferred Stock shall be entitled to cast on such matter a number of votes equal to the number of Exchangeable Shares (the "Exchangeable Shares") of Akerna Canada Ample Exchange Inc. (f/k/a 2732805 Ontario Inc.), an Ontario corporation ("Purchaser"), outstanding as of the record date for determining stockholders entitled to vote at such Stockholder Meeting (i) that are not owned by the Company or its affiliates and (ii) as to which the holder of the share of Special Voting Preferred Stock has received voting instructions from the holders of such Exchangeable Shares in accordance with the Voting and Exchange Trust Agreement (the "Trust Agreement"), to be entered into among the Company, Purchaser, 2732804 Ontario Inc., an Ontario corporation ("Callco"), and the trustee thereunder (the "Trustee").

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4. Liquidation. Upon any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holder of record of the Special Voting Preferred Stock shall (A) rank (i) senior to the holders of the Company's Common Stock and (ii) junior to all other classes or series of Preferred Stock of the Company (if any); and (B) be entitled to receive from the Company, prior to the holders of shares of Common Stock, an amount equal to \$1.00.

5. Other Provisions.

(a) The holder of record of the share of Special Voting Preferred Stock shall not have any rights hereunder to convert such share into, or exchange such share for, shares of any other series or class of capital stock of the Company.

(b) The Trustee shall exercise the voting rights attached to the share of Special Voting Preferred Stock pursuant to and in accordance with the Trust Agreement. The voting rights attached to the share of Special Voting Preferred Stock shall terminate pursuant to and in accordance with the Trust Agreement.

(c) At such time as the share of Special Voting Preferred Stock has no votes attached to it, the Special Voting Preferred Stock shall be automatically cancelled.

(d) This Certificate of Designation shall be effective upon filing.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the Company has caused this Certificate of Designations, Preferences and Rights of Special Voting Preferred Stock to be duly executed by its Chief Executive Officer this 26th day of June, 2020.

**AKERNA CORP.**

By: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

*Signature Page to Certificate of Designation, Preferences and Rights of Special Voting Preferred Stock of Akerna Corp.*

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## VOTING AND EXCHANGE TRUST AGREEMENT

**THIS VOTING AND EXCHANGE TRUST AGREEMENT** made as of July \_\_\_, 2020 among Akerna Corp., a corporation existing under the laws of the State of Delaware (“**Akerna**”), Akerna Canada Holdings Inc., a corporation existing under the laws of the Province of Ontario (“**Calco**”), Akerna Canada Ample Exchange Inc., a corporation existing under the laws of the Province of Ontario (“**Exchangeco**”), and Odyssey Trust Company (the “**Trustee**”).

## RECITALS:

- A. In connection with an arrangement agreement, as amended by amending agreements dated February 28, 2020, May 26, 2020 and June 1, 2020 (collectively, the “**Arrangement Agreement**”) dated December 18, 2019 among Akerna, Exchangeco and Ample Organics Inc. (“**Ample**”), Exchangeco is to issue exchangeable shares (the “**Exchangeable Shares**”) to certain holders of common shares and Class A Preferred Shares of Ample pursuant to an arrangement under the *Business Corporations Act* (Ontario) on the terms and conditions set out in the Plan of Arrangement (as defined in the Arrangement Agreement).
- B. Pursuant to the Arrangement Agreement, Akerna, Calco and Exchangeco are required to enter into a voting and exchange trust agreement (the “**Agreement**”) substantially in the form of this Agreement.
- C. These recitals and any statements of fact in this Agreement are made by Akerna, Calco and Exchangeco and not by the Trustee.

In consideration of the foregoing and the mutual agreements contained herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement, each capitalized term used and not otherwise defined herein shall have the meaning ascribed thereto in the rights, privileges, restrictions and conditions (collectively, the “**Exchangeable Share Provisions**”) attaching to the Exchangeable Shares as set out in the articles of Exchangeco and the following terms shall have the following meanings:

“**1933 Act**” has the meaning ascribed thereto in Section 5.10;

“**Agreement**” has the meaning ascribed thereto in Recital B;

“**Akerna**” has the meaning ascribed thereto in the introductory paragraph;

“**Akerna Consent**” has the meaning ascribed thereto in Section 4.2;

“**Akerna Meeting**” has the meaning ascribed thereto in Section 4.2;

“**Akerna Successor**” has the meaning ascribed thereto in Section 10.1(a);

“**Ample**” has the meaning ascribed thereto in the introductory paragraph;

“**Arrangement Agreement**” has the meaning ascribed thereto in Recital A;

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“**Automatic Exchange Right**” has the meaning ascribed thereto in Section 5.12(2);

“**Beneficiaries**” means the registered holders from time to time of Exchangeable Shares, other than Akerna and its affiliates;

“**Beneficiary Votes**” has the meaning ascribed thereto in Section 4.2;

“**Calco**” has the meaning ascribed thereto in the introductory paragraph;

“**Change of Law Call Right**” has the meaning ascribed thereto in the Plan of Arrangement;

“**Equivalent Vote Amount**” means, with respect to any matter, proposition, proposal or question on which holders of Akerna Shares are entitled to vote, consent or otherwise act, the number of votes to which a holder of one Akerna Share is entitled with respect to such matter, proposition or question;

“**Escrow Agreement**” means the escrow agreement substantially in the form of Schedule D of the Arrangement Agreement;

“**Exchange Right**” has the meaning ascribed thereto in Section 5.1;

“**Exchangeable Shares**” has the meaning ascribed thereto in Recital A, such Exchangeable Shares issuable in certificated form, or uncertificated form evidenced by Direct Registration System notifications issued by the Trustee;

“**Exchangeco**” has the meaning ascribed thereto in the introductory paragraph;

“**Indemnified Parties**” has the meaning ascribed thereto in Section 8.1;

“**Insolvency Event**” means: (i) the institution by Exchangeco of any proceeding to be adjudicated a bankrupt or insolvent or to be dissolved or wound up, or the consent of Exchangeco to the institution of bankruptcy, insolvency, dissolution or winding-up proceedings against it; (ii) the filing by Exchangeco of a petition, answer or consent seeking dissolution or winding-up under any bankruptcy, insolvency or analogous laws, including the *Companies Creditors' Arrangement Act* (Canada) and the *Bankruptcy and Insolvency Act* (Canada), or the failure by Exchangeco to contest in good faith any such proceedings commenced in respect of Exchangeco within 30 days of becoming aware thereof, or the consent by Exchangeco to the filing of any such petition or to the appointment of a receiver; (iii) the making by Exchangeco of a general assignment for the benefit of creditors, or the admission in writing by Exchangeco of its inability to pay its debts generally as they become due; or (iv) Exchangeco not being permitted, pursuant to solvency requirements of applicable law, to redeem any Retracted Shares pursuant to Section 6(a)(iii) of the Exchangeable Share Provisions specified in a retraction request delivered to Exchangeco in accordance with Section 6 of the Exchangeable Share Provisions;

“**Liquidation Event**” has the meaning ascribed thereto in Section 5.12(1)(a);

“**Liquidation Event Effective Date**” has the meaning ascribed thereto in Section 5.12(2);

“**List**” has the meaning ascribed thereto in Section 4.6;

“**Officer's Certificate**” means, with respect to Akerna, Calco or Exchangeco, a certificate signed by any one of the respective directors or officers of Akerna, Calco or Exchangeco;

“**Other Corporation**” has the meaning ascribed thereto in Section 10.4(c);

“**Other Shares**” has the meaning ascribed thereto in Section 10.4(c);

“**Privacy Laws**” has the meaning ascribed thereto in Section 6.18;

“**Put Right**” has the meaning ascribed thereto in Section 5.1(1).

“**Registration Statement**” has the meaning ascribed thereto in Section 5.10;

“**Retracted Shares**” has the meaning ascribed thereto in Section 5.7;

“**Special Voting Share**” means the special voting share in the capital of Akerna, issued by Akerna to and deposited with the Trustee, which, at any time, entitles the holder of record to that number of votes at meetings of holders of Akerna Shares equal to the number of Exchangeable Shares outstanding at such time (excluding Exchangeable Shares held by Akerna and its affiliates);

“**Support Agreement**” means the support agreement dated the date hereof between Akerna, Callco and Exchangeco, substantially in the form of Schedule E to the Arrangement Agreement;

“**Trust**” means the trust created by this Agreement under the laws of the Province of Ontario;

“**Trust Estate**” means the Special Voting Share, any other securities, the Exchange Right, the Put Right, the Automatic Exchange Right and any money or other property which may be held by the Trustee from time to time pursuant to this Agreement;

“**Trustee**” has the meaning ascribed thereto in the introductory paragraph; and

“**Voting Rights**” means the voting rights attached to the Special Voting Share.

## **1.2 Interpretation Not Affected by Headings**

The division of this Agreement into Articles, Sections, subsections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. Unless the contrary intention appears, references in this Agreement to an Article, Section, subsection, paragraph or Schedule by number or letter or both refer to the Article, Section, subsection, paragraph or Schedule, respectively, bearing that designation in this Agreement.

## **1.3 Number, Gender, etc.**

In this Agreement, unless the contrary intention appears, words importing the singular include the plural and vice versa, and words importing gender shall include all genders.

## **1.4 Date for any Action**

If the date on which any action is required to be taken hereunder by any person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

## **1.5 Currency**

Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada and “\$” refers to Canadian dollars.

## **1.6 Statutes**

Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.

**ARTICLE 2  
PURPOSE OF AGREEMENT**

**2.1 Establishment of Trust**

The purpose of this Agreement is to create the Trust for the benefit of the Beneficiaries as herein provided. Akerna, as the settlor of the Trust, hereby appoints the Trustee as trustee of the Trust. The Trustee shall hold the Special Voting Share in order to enable the Trustee to exercise the Voting Rights and shall hold the Exchange Right, the Put Right and the Automatic Exchange Right in order to enable the Trustee to exercise or enforce such rights, in each case as trustee for and on behalf of the Beneficiaries as provided in this Agreement.

**ARTICLE 3  
SPECIAL VOTING SHARE**

**3.1 Issue and Ownership of the Special Voting Share**

Immediately following execution and delivery of this Agreement, Akerna shall issue to and deposit with the Trustee the Special Voting Share (and shall deliver the certificate representing such share to the Trustee) to be hereafter held of record by the Trustee as trustee for and on behalf of, and for the use and benefit of, the Beneficiaries and in accordance with the provisions of this Agreement. Akerna hereby acknowledges receipt from the Trustee, as trustee for and on behalf of the Beneficiaries, of \$1.00 and other good and valuable consideration (and the adequacy thereof) for the issuance of the Special Voting Share by Akerna to the Trustee. During the term of the Trust, and subject to the terms and conditions of this Agreement, the Trustee shall possess and be vested with full legal ownership of the Special Voting Share and shall be entitled to exercise all of the rights and powers of an owner with respect to the Special Voting Share; provided, however, that:

- (a) the Trustee shall hold the Special Voting Share and the legal title thereto as trustee solely for the use and benefit of the Beneficiaries in accordance with the provisions of this Agreement; and
- (b) except as specifically authorized by this Agreement, the Trustee shall have no power or authority to sell, transfer, vote or otherwise deal in or with the Special Voting Share and the Special Voting Share shall not be used or disposed of by the Trustee for any purpose (including for exercising dissent or appraisal rights relating to the Special Voting Share) other than the purposes for which this Trust is created pursuant to this Agreement.

**3.2 Legended Share Certificates**

Exchangeco shall cause each certificate representing Exchangeable Shares to bear a legend notifying the Beneficiary of such shares of his, her or its right to instruct the Trustee with respect to the exercise of that portion of the Voting Rights which corresponds to the number of Exchangeable Shares held by each such Beneficiary.

**3.3 Safe Keeping of Certificate**

The certificate representing the Special Voting Share shall at all times be held in safe keeping by the Trustee or its duly authorized agent.

**ARTICLE 4**  
**EXERCISE OF VOTING RIGHTS**

**4.1 Voting Rights**

The Trustee, as the holder of record of the Special Voting Share, shall be entitled to exercise all of the Voting Rights, including the right to consent to or vote in person or by proxy the Special Voting Share, on any matter, question, proposal or proposition whatsoever that may properly come before the shareholders of Akerna at an Akerna Meeting or in connection with an Akerna Consent. The Voting Rights shall be and remain vested in and exercisable by the Trustee on behalf of the Beneficiaries as provided in this Agreement. Subject to Section 6.15:

- (a) the Trustee shall exercise the Voting Rights only on the basis of instructions received pursuant to this Article 4 from Beneficiaries on the record date established by Akerna or by applicable law for such Akerna Meeting or Akerna Consent who are entitled to instruct the Trustee as to the voting thereof;
- (b) to the extent that no instructions are received from a Beneficiary with respect to the Voting Rights in respect of which such Beneficiary is entitled to instruct the Trustee, the Trustee shall not exercise or permit the exercise of such Voting Rights; and
- (c) without prejudice to paragraph (b) above, under no circumstances shall the Trustee exercise or permit the exercise of a number of Voting Rights which is greater than the number of Exchangeable Shares outstanding at the relevant time.

**4.2 Number of Votes**

With respect to all meetings of shareholders of Akerna at which holders of Akerna Shares are entitled to vote (each, an “**Akerna Meeting**”) and with respect to all written consents sought by Akerna from holders of Akerna Shares (each, an “**Akerna Consent**”), each Beneficiary shall be entitled to instruct the Trustee to cast and exercise, in the manner instructed, that number of votes equal to the Equivalent Vote Amount for each Exchangeable Share owned of record by such Beneficiary at the close of business on the record date established by Akerna or by applicable law for such Akerna Meeting or Akerna Consent, as the case may be (collectively, the “**Beneficiary Votes**”), in respect of each matter, question, proposal or proposition to be voted on at such Akerna Meeting or consented to in connection with such Akerna Consent.

**4.3 Mailings to Shareholders**

- (1) With respect to each Akerna Meeting or Akerna Consent, the Trustee will mail or cause to be mailed (or otherwise communicate in the same manner as Akerna utilizes in communications to holders of Akerna Shares, subject to applicable regulatory requirements and to the Trustee being advised in writing of such manner of communications and provided that such manner of communications is reasonably available to the Trustee) to each Beneficiary named in the applicable List on the same day as the mailing (or other communication) with respect thereto is commenced by Akerna to its shareholders:
  - (a) a copy of such mailing, together with any related materials, including, without limitation, any proxy circular or information statement or listing particulars, to be provided to shareholders of Akerna;
  - (b) a statement that such Beneficiary is entitled to instruct the Trustee as to the exercise of the Beneficiary Votes with respect to such Akerna Meeting or Akerna Consent or, pursuant to Section 4.7, to attend such Akerna Meeting and to exercise personally the Beneficiary Votes thereat;

- (c) a statement as to the manner in which such instructions may be given to the Trustee, including an express indication that instructions may be given to the Trustee to give: (A) a proxy to such Beneficiary or his, her or its designee to exercise personally such holder's Beneficiary Votes; or (B) a proxy to a designated agent or other representative of Akerna to exercise such holder's Beneficiary Votes;
  - (d) a statement that if no such instructions are received from such Beneficiary, the Beneficiary Votes to which the Beneficiary is entitled will not be exercised;
  - (e) a form of direction such Beneficiary may use to direct and instruct the Trustee as contemplated herein; and
  - (f) a statement of: (A) the time and date by which such instructions must be received by the Trustee in order for such instructions to be binding upon the Trustee, which in the case of an Akerna Meeting shall not be earlier than the close of business on the Business Day immediately prior to the date by which Akerna has required proxies to be deposited for such meeting; and (B) of the method for revoking or amending such instructions.
- (2) The materials referred to in this Section 4.3 shall be provided to the Trustee by Akerna, and the materials referred to in Sections 4.3(1)(b), 4.3(1)(c), 4.3(1)(d), 4.3(1)(e) and 4.3(1)(f) shall (if reasonably practicable to do so) be subject to reasonable comment by the Trustee in a timely manner. Subject to the foregoing, Akerna shall ensure that the materials to be provided to the Trustee are provided in sufficient time to permit the Trustee to comment as aforesaid and to send all materials to each Beneficiary at the same time as such materials are first sent to holders of Akerna Shares. Akerna agrees not to communicate with holders of Akerna Shares with respect to the materials referred to in this Section 4.3 otherwise than by mail unless such method of communication is also reasonably available to the Trustee for communication with the Beneficiaries. Notwithstanding the foregoing, Akerna may, at its option, exercise the duties of the Trustee to deliver copies of all materials to all Beneficiaries as required by this Section 4.3 so long as, in each case, Akerna delivers a certificate to the Trustee stating that Akerna has undertaken to perform the obligations of the Trustee set forth in this Section 4.3.
- (3) For the purpose of determining the number of Beneficiary Votes to which a Beneficiary is entitled in respect of any Akerna Meeting or Akerna Consent, the number of Exchangeable Shares owned of record by the Beneficiary shall be determined at the close of business on the record date established by Akerna or by applicable law for purposes of determining shareholders entitled to vote at such Akerna Meeting or in respect of such Akerna Consent. Akerna shall notify the Trustee of any decision of the board of directors of Akerna with respect to the calling of any Akerna Meeting or any Akerna Consent and shall provide all necessary information and materials to the Trustee in each case promptly and, in any event, in sufficient time to enable the Trustee to perform the obligations of the Trustee set forth in this Section 4.3.

#### **4.4 Copies of Shareholder Information**

Akerna shall deliver to the Trustee copies of all proxy materials (including, without limitation, notices of Akerna Meetings but excluding proxies to vote Akerna Shares), information statements, reports (including, without limitation, all interim and annual financial statements) and other written communications that, in each case, are to be distributed by Akerna from time to time to holders of Akerna Shares in sufficient quantities and in sufficient time so as to enable the Trustee to send or cause to send those materials to each Beneficiary at the same time as such materials are first sent to holders of Akerna Shares. The Trustee shall mail or otherwise send to each Beneficiary, at the expense of Akerna, copies of all such materials (and all materials specifically directed to the Beneficiaries or to the Trustee for the benefit of the Beneficiaries by Akerna) received by the Trustee from Akerna contemporaneously with the sending of such materials to holders of Akerna Shares. The Trustee shall also make available for inspection during regular business hours by any Beneficiary at the Trustee's principal office in Calgary, Alberta all proxy materials, information statements, reports and other written communications that are:

- (a) received by the Trustee as the registered holder of the Special Voting Share and made available by Akerna generally to the holders of Akerna Shares; or
- (b) specifically directed to the Beneficiaries or to the Trustee for the benefit of the Beneficiaries by Akerna.

Notwithstanding the foregoing, Akerna may, at its option, exercise the duties of the Trustee to deliver copies of all such materials to all Beneficiaries as required by this Section 4.4 so long as, in each case, Akerna delivers a certificate to the Trustee stating that Akerna has undertaken to perform the obligations of the Trustee set forth in this Section 4.4.

#### **4.5 Other Materials**

As soon as reasonably practicable after receipt by Akerna or shareholders of Akerna (if such receipt is known by Akerna) of any material sent or given by or on behalf of a third party to holders of Akerna Shares generally, including dissident proxy and information circulars (and related information and material) and take-over bid and securities exchange take-over bid circulars (and related information and material), provided such material has not been sent to the Beneficiaries by or on behalf of such third party, Akerna shall obtain and deliver to the Trustee copies thereof in sufficient quantities so as to enable the Trustee to forward such material (unless the same has been provided directly to Beneficiaries by such third party) to each Beneficiary as soon as possible thereafter. As soon as reasonably practicable after receipt thereof, the Trustee shall mail or otherwise send to each Beneficiary, at the expense of Akerna, copies of all such materials received by the Trustee from Akerna. The Trustee shall also make available for inspection during regular business hours by any Beneficiary at the Trustee's principal office in Calgary, Alberta copies of all such materials. Notwithstanding the foregoing, Akerna may, at its option, exercise the duties of the Trustee to deliver copies of all such materials to all Beneficiaries as required by this Section 4.5 so long as, in each case, Akerna delivers a certificate to the Trustee stating that Akerna has undertaken to perform the obligations of the Trustee set forth in this Section 4.5.

#### **4.6 List of Persons Entitled to Vote**

Exchangeco shall: (a) prior to each annual or other Akerna Meeting or the seeking of any Akerna Consent; and (b) forthwith upon each request made at any time by the Trustee in writing, prepare or cause to be prepared a list (a "**List**") of the names and addresses of the Beneficiaries arranged in alphabetical order and showing the number of Exchangeable Shares held of record by each such Beneficiary, in each case at the close of business on the date specified by the Trustee in such request or, in the case of a List prepared in connection with an Akerna Meeting or Akerna Consent, at the close of business on the record date established by Akerna or pursuant to applicable law for determining the holders of Akerna Shares entitled to receive notice of and/or to vote at such Akerna Meeting or to give consent in connection with an Akerna Consent. Each such List shall be delivered to the Trustee promptly after receipt by Exchangeco of such request or the record date for such meeting or seeking of consent, as the case may be, and, in any event, within sufficient time as to permit the Trustee to perform its obligations under this Agreement. Akerna agrees to give Exchangeco notice (with a copy to the Trustee) of the calling of any Akerna Meeting or the seeking of any Akerna Consent, together with the record date therefor, sufficiently prior to the date of the calling of such meeting or seeking of such consent, so as to enable Exchangeco to perform its obligations under this Section 4.6.

#### **4.7 Entitlement to Direct Votes**

Subject to Section 4.8 and Section 4.11, any Beneficiary named in a List prepared in connection with any Akerna Meeting or Akerna Consent shall be entitled to: (a) instruct the Trustee in the manner described in Section 4.2 with respect to the exercise of the Beneficiary Votes to which such Beneficiary is entitled; (b) attend such meeting and personally exercise thereat (or to exercise with respect to any written consent), as the proxy of the Trustee, the Beneficiary Votes to which such Beneficiary is entitled; or (c) appoint a third party as the proxy of the Trustee to attend such meeting and exercise thereat the Beneficiary Votes to which such Beneficiary is entitled except, in each case, to the extent that such Beneficiary has transferred the ownership of any Exchangeable Shares in respect of which such Beneficiary is entitled to Beneficiary Votes after the close of business on the record date for such meeting or seeking of consent.

#### **4.8 Voting by Trustee and Attendance of Trustee Representative at Meeting**

- (1) In connection with each Akerna Meeting and Akerna Consent, the Trustee shall exercise, either in person or by proxy, in accordance with the instructions received from a Beneficiary pursuant to Section 4.2, the Beneficiary Votes as to which such Beneficiary is entitled to direct the vote (or any lesser number thereof as may be set forth in the instructions) other than any Beneficiary Votes that are the subject of Section 4.8(2); provided, however, that such written instructions are received by the Trustee from the Beneficiary prior to the time and date fixed by the Trustee for receipt of such instruction in the notice given by the Trustee to the Beneficiary pursuant to Section 4.3.
- (2) To the extent so instructed in accordance with the terms of this Agreement, the Trustee shall cause a representative who is empowered by it to sign and deliver, on behalf of the Trustee, proxies for Voting Rights enabling a Beneficiary to attend an Akerna Meeting. Upon submission by a Beneficiary (or its designee) named in the List prepared in connection with the relevant meeting of identification satisfactory to the Trustee's representative, and at the Beneficiary's request, such representative shall sign and deliver to such Beneficiary (or its designee) a proxy to exercise personally the Beneficiary Votes as to which such Beneficiary is otherwise entitled hereunder to direct the vote, if such Beneficiary either: (i) has not previously given the Trustee instructions pursuant to Section 4.3 in respect of such meeting; or (ii) submits to such representative written revocation of any such previous instructions. At such meeting, the Beneficiary (or its designee) exercising such Beneficiary Votes in accordance with such proxy shall have the same rights in respect of such Beneficiary Votes as the Trustee to speak at the meeting in favour of any matter, question, proposal or proposition, to vote by way of ballot at the meeting in respect of any matter, question, proposal or proposition, and to vote at such meeting by way of a show of hands in respect of any matter, question, proposal or proposition.

#### **4.9 Distribution of Written Materials**

Any written materials distributed by the Trustee to the Beneficiaries pursuant to this Agreement shall be sent by mail (or otherwise communicated in the same manner as Akerna utilizes in communications to holders of Akerna Shares subject to applicable regulatory requirements and to the Trustee being advised in writing of such manner and provided such manner of communications is reasonably available to the Trustee) to each Beneficiary at its address as shown on the register of holders of Exchangeable Shares maintained by the registrar. In connection with each such distribution, Exchangeco shall provide or cause to be provided to the Trustee for purposes of communication, on a timely basis and without charge or other expense, a current List, and upon the request of the Trustee, mailing labels to enable the Trustee to carry out its duties under this Agreement. Exchangeco's obligations under this Section 4.9 shall be deemed satisfied to the extent Akerna exercises its option to perform the duties of the Trustee to deliver copies of materials to each Beneficiary and Exchangeco provides the required information and materials to Akerna.

#### **4.10 Termination of Voting Rights**

Except as otherwise provided in the Exchangeable Share Provisions, all of the rights of a Beneficiary with respect to the Beneficiary Votes exercisable in respect of each Exchangeable Share held by such Beneficiary, including the right to instruct the Trustee as to the voting of or to vote personally such Beneficiary Votes, shall lapse and be deemed to be surrendered by the Beneficiary to Akerna or Calco, as the case may be, and such Beneficiary Votes and the Voting Rights represented thereby shall cease immediately upon:

- (a) the surrender of the Exchangeable Shares to Akerna for cancellation pursuant to the Escrow Agreement;

- (b) the delivery by such holder to the Trustee of the certificates representing such Exchangeable Shares in connection with the exercise by the Beneficiary of the Exchange Right or the Put Right;
- (c) the occurrence of the automatic exchange of the Exchangeable Shares for Akerna Shares, as specified in Article 5 (unless Akerna shall not have delivered the requisite Akerna Shares deliverable in exchange therefor to the Trustee pending delivery to the Beneficiaries);
- (d) the retraction or redemption of the Exchangeable Shares pursuant to Section 6 or 7 of the Exchangeable Share Provisions;
- (e) the effective date of the liquidation, dissolution or winding-up of Exchangeco or any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs pursuant to Section 5 of the Exchangeable Share Provisions; or
- (f) upon the purchase of the Exchangeable Shares from the holder thereof by Akerna or Calco, as the case may be, pursuant to the exercise by Akerna or Calco of the Liquidation Call Right, the Redemption Call Right, the Change of Law Call Right or the Retraction Call Right (unless, in any case, Akerna or Calco, as the case may be, shall not have delivered the requisite consideration deliverable in exchange therefor).

#### **4.11 Disclosure of Interest in Exchangeable Shares**

The Trustee or Exchangeco shall be entitled to require any Beneficiary or any person whom the Trustee or Exchangeco, as the case may be, knows or has reasonable cause to believe holds any interest whatsoever in an Exchangeable Share to: (a) confirm that fact; or (b) give such details as to whom has an interest in such Exchangeable Share, in each case as would be required (if the Exchangeable Shares were a class of "equity securities" of Exchangeco) under Section 5.2 of National Instrument 62-104 – *Take-Over Bids and Issuer Bids* or as would be required under the articles of Akerna or any laws or regulations, or pursuant to the rules or regulations of any regulatory agency, if and only to the extent that the Exchangeable Shares were Akerna Shares. If a Beneficiary does not provide the information required to be provided by such Beneficiary pursuant to this Section 4.11, the board of directors of Akerna may take any action permitted under the articles or by-laws of Akerna or any laws or regulations, or pursuant to the rules or regulations of any regulatory agency, with respect to the Voting Rights relating to the Exchangeable Shares held by such Beneficiary as if, and only to that the extent that, the Exchangeable Shares were Akerna Shares.

### **ARTICLE 5 EXCHANGE AND AUTOMATIC EXCHANGE**

#### **5.1 Grant and Ownership of the Exchange Right, Automatic Exchange Right and Put Right**

- (1) Akerna and, in the case of the Exchange Right and Put Right, Calco hereby grant to the Trustee as trustee for and on behalf of, and for the use and benefit of, the Beneficiaries: (i) the right (the "**Exchange Right**"), upon the occurrence and during the continuance of an Insolvency Event, to require Akerna or Calco to purchase from each or any Beneficiary all or any part of the Exchangeable Shares held by such Beneficiary, all in accordance with the provisions of this Agreement; (ii) the Automatic Exchange Right; and (iii) at any other time on not less than fifteen (15) days' written notice by the Trustee requiring Calco or Akerna to purchase from any Beneficiary all or any part of the Exchangeable Shares held by such Beneficiary, all in accordance with the provisions of this Agreement (the "**Put Right**"). Each of Akerna and Calco hereby acknowledges receipt from the Trustee as trustee for and on behalf of the Beneficiaries of good and valuable consideration (and the adequacy thereof) for the grant of the Exchange Right, the Automatic Exchange Right and the Put Right by Akerna or Calco, as the case may be, to the Trustee.

- (2) During the term of the Trust, and subject to the terms and conditions of this Agreement, the Trustee shall possess and be vested with full legal ownership of the Exchange Right, the Put Right and the Automatic Exchange Right and shall be entitled to exercise all of the rights and powers of an owner with respect to the Exchange Right, the Automatic Exchange Right and the Put Right, provided that the Trustee shall:
- (a) hold the Exchange Right, the Automatic Exchange Right, the Put Right and the legal title thereto as trustee solely for the use and benefit of the Beneficiaries in accordance with the provisions of this Agreement; and
  - (b) except as specifically authorized by this Agreement, have no power or authority to exercise or otherwise deal in or with the Exchange Right, the Automatic Exchange Right or the Put Right, and the Trustee shall not exercise any such rights for any purpose other than the purposes for which the Trust is created pursuant to this Agreement.

## **5.2 Legended Share Certificates**

Exchangeco shall cause each certificate representing Exchangeable Shares to bear a legend notifying the Beneficiary in respect of the Exchangeable Shares represented by such certificate of: (a) his, her or its right to instruct the Trustee with respect to the exercise of the Exchange Right in respect of the Exchangeable Shares held by such Beneficiary; (b) the Automatic Exchange Right; and (c) his, her or its right to instruct the Trustee with respect to the exercise of the Put Right in respect of the Exchangeable Shares held by such Beneficiary;

## **5.3 General Exercise of Exchange Right**

The Exchange Right and the Put Right shall be and remain vested in and exercisable by the Trustee. Subject to Section 6.15, the Trustee shall exercise the Exchange Right and the Put Right only on the basis of instructions received pursuant to this Article 5 from Beneficiaries entitled to instruct the Trustee as to the exercise thereof. To the extent that no instructions are received from any Beneficiary with respect to the Exchange Right or the Put Right, the Trustee shall not exercise or permit the exercise of the Exchange Right or the Put Right.

## **5.4 Purchase Price**

The purchase price payable by Akerna or Callco, as the case may be, for each Exchangeable Share to be purchased by Akerna or Callco, as the case may be, pursuant to the exercise of the Exchange Right or the Put Right shall be an amount per share equal to the Exchangeable Share Price on the last Business Day prior to the day of the closing of the purchase and sale of such Exchangeable Share pursuant to such exercise of the Exchange Right or the Put Right, as the case may be, which price may be satisfied only by Akerna or Callco, as the case may be, delivering or causing to be delivered to the Trustee, on behalf of the relevant Beneficiary, the Exchangeable Share Consideration representing such Exchangeable Share Price. In connection with each exercise of the Exchange Right or the Put Right, Akerna or Callco, as the case may be, shall provide to the Trustee an Officer's Certificate setting forth the calculation of the Exchangeable Share Price. Upon payment by Akerna or Callco, as the case may be, of the Exchangeable Share Price, the relevant Beneficiary shall cease to have any right to be paid any amount in respect of declared and unpaid dividends on each such Exchangeable Share by Exchangeco and Exchangeco shall cease to be obligated to pay any amount in respect of such dividends.

## 5.5 Exercise Instructions

Subject to the terms and conditions set forth herein, a Beneficiary shall be entitled upon the occurrence and during the continuance of an Insolvency Event and in respect of the Put Right, at any time, to instruct the Trustee to exercise the Exchange Right or the Put Right, as the case may be, with respect to all or any part of the Exchangeable Shares registered in the name of such Beneficiary. In order to cause the Trustee to exercise the Exchange Right or the Put Right with respect to all or any part of the Exchangeable Shares registered in the name of a Beneficiary, such Beneficiary shall deliver to the Trustee, in person or by certified or registered mail, at its principal office in Calgary, Alberta or at such other place as the Trustee may from time to time designate by written notice to the Beneficiaries, the certificates representing the Exchangeable Shares which such Beneficiary desires Akerna or Callco to purchase, duly endorsed in blank for transfer, and accompanied by such other documents and instruments as may be required to effect a transfer of the Exchangeable Shares under the *Business Corporations Act* (Ontario), the articles of Exchangeco and such additional documents and instruments as Akerna, Exchangeco or the Trustee may reasonably require together with:

- (a) a duly completed form of notice of exercise of the Exchange Right or the Put Right, as the case may be, contained on the reverse of or attached to the Exchangeable Share certificates, stating: (i) that the Beneficiary thereby instructs the Trustee to exercise the Exchange Right or the Put Right, as the case may be, so as to require Akerna or Callco to purchase from the Beneficiary the number of Exchangeable Shares specified therein; (ii) that such Beneficiary has good title to and owns all such Exchangeable Shares to be acquired by Akerna or Callco free and clear of all liens, claims, security interests and encumbrances; (iii) the names in which the certificates representing Akerna Shares issuable in connection with the exercise of the Exchange Right or the Put Right, as the case may be, are to be issued; and (iv) the names and addresses of the persons to whom such new certificates should be delivered; and
- (b) payment (or evidence satisfactory to Akerna, Exchangeco and the Trustee of payment) of the taxes (if any) payable as contemplated by Section 5.8 of this Agreement;

provided that if only a part of the Exchangeable Shares represented by any certificate or certificates delivered to the Trustee are to be purchased by Akerna or Callco pursuant to the exercise of the Exchange Right or the Put Right, as the case may be, a new certificate for the balance of such Exchangeable Shares shall be issued to the holder at the expense of Exchangeco.

## 5.6 Delivery of Akerna Shares; Effect of Exercise

Promptly after the receipt by the Trustee of the certificates representing the Exchangeable Shares which a Beneficiary desires Akerna or Callco to purchase pursuant to the exercise of the Exchange Right or the Put Right, as the case may be, together with a notice of exercise and such other documents and instruments specified by Section 5.5, the Trustee shall notify Akerna, Callco and Exchangeco of its receipt of the same, which notice to Akerna, Callco and Exchangeco shall constitute exercise of the Exchange Right or the Put Right, as the case may be, by the Trustee on behalf of such Beneficiary in respect of such Exchangeable Shares, and Akerna or Callco, as the case may be, shall promptly thereafter deliver or cause to be delivered to the Trustee, for delivery to such Beneficiary (or to such other persons, if any, properly designated by such Beneficiary) the Exchangeable Share Consideration (as defined in the Exchangeable Share terms) deliverable in connection with such exercise of the Exchange Right or the Put Right, as the case may be; provided, however, that no such delivery shall be made unless and until the Beneficiary requesting the same shall have paid (or provided evidence satisfactory to Akerna, Callco, Exchangeco and the Trustee of the payment of) the taxes (if any) payable as contemplated by Section 5.7 of this Agreement. Immediately upon the giving of notice by the Trustee to Akerna, Callco and Exchangeco of any exercise of the Exchange Right or the Put Right, as the case may be, as provided in this Section 5.6, the closing of the transaction of purchase and sale contemplated by the Exchange Right or the Put Right, as the case may be, shall be deemed to have occurred, and the Beneficiary in respect of such Exchangeable Shares shall be deemed to have transferred to Akerna or Callco, as the case may be, all of such Beneficiary's right, title and interest in and to such Exchangeable Shares and in the related interest in the Trust Estate and shall cease to be a holder of such Exchangeable Shares and shall not be entitled to exercise any of the rights of a holder in respect thereof, other than the right to receive the total Exchangeable Share Consideration in respect of such Exchangeable Shares, unless such Exchangeable Share Consideration is not delivered by Akerna or Callco, as the case may be, to the Trustee for delivery to such Beneficiary (or to such other person, if any, properly designated by such Beneficiary) within five (5) Business Days of the date of the giving of such notice by the Trustee, in which case the rights of the Beneficiary shall remain unaffected until such Exchangeable Share Consideration is so delivered. Upon delivery of such Exchangeable Share Consideration to the Trustee, the Trustee shall promptly deliver such Exchangeable Share Consideration to such Beneficiary (or to such other person, if any, properly designated by such Beneficiary). Concurrently with the closing of the transaction of purchase and sale contemplated by such exercise of the Exchange Right or the Put Right, as the case may be, the Beneficiary shall be considered and deemed for all purposes to be the holder of the Akerna Shares delivered to it pursuant to such exercise of the Exchange Right or the Put Right, as the case may be.

## **5.7 Exercise of Exchange Right Subsequent to Retraction**

In the event that a Beneficiary has exercised its retraction right under Section 6 of the Exchangeable Share Provisions to require Exchangeco to redeem any or all of the Exchangeable Shares held by the Beneficiary (the “**Retracted Shares**”) and is notified by Exchangeco pursuant to Section 6(a)(iii) of the Exchangeable Share Provisions that Exchangeco will not be permitted as a result of solvency requirements of applicable law to redeem all such Retracted Shares, subject to receipt by the Trustee of written notice to that effect from Exchangeco, and provided that neither Akerna nor Calco shall have exercised its Retraction Call Right with respect to the Retracted Shares and that the Beneficiary shall not have revoked the retraction request delivered by the Beneficiary to Exchangeco pursuant to Section 6(a)(iv) of the Exchangeable Share Provisions, the retraction request will constitute and will be deemed to constitute notice from the Beneficiary to the Trustee instructing the Trustee to exercise the Exchange Right with respect to those Retracted Shares that Exchangeco is unable to redeem. In any such event, Exchangeco hereby agrees with the Trustee, and in favour of the Beneficiary, promptly to notify the Trustee of such prohibition against Exchangeco and to forward or cause to be forwarded to the Trustee all relevant materials delivered by the Beneficiary to Exchangeco or to the Transfer Agent in connection with such proposed redemption of the Retracted Shares and the Trustee will thereupon exercise the Exchange Right with respect to the Retracted Shares that Exchangeco is not permitted to redeem and will require Akerna or, at the option of Akerna, Calco to purchase such shares in accordance with the provisions of this Article 5.

## **5.8 Stamp or Other Transfer Taxes**

Upon any sale or transfer of Exchangeable Shares to Akerna pursuant to the exercise of the Exchange Right, the Put Right or the Automatic Exchange Right, the share certificate or certificates representing the Akerna Shares to be delivered in connection with the payment of the purchase price therefor shall be issued in the name of the Beneficiary in respect of the Exchangeable Shares so sold or transferred or in such names as such Beneficiary may otherwise direct in writing without charge to the holder of the Exchangeable Shares so sold or transferred; provided, however, that such Beneficiary: (a) shall pay (and none of Akerna, Calco, Exchangeco or the Trustee shall be required to pay) any documentary, stamp, transfer or other taxes or duties that may be payable in respect of any sale or transfer involved in the issuance or delivery of such shares to a person other than such Beneficiary including, without limitation, in the event that Exchangeable Shares are being delivered, sold or transferred in the name of a clearing service or depositary or a nominee thereof; or (b) shall have evidenced to the satisfaction of Akerna, Calco, Exchangeco and the Trustee that such taxes or duties (if any) have been paid.

## **5.9 Notice of Insolvency Event**

As soon as practicable following the occurrence of an Insolvency Event or any event that with the giving of notice or the passage of time or both would be an Insolvency Event, Akerna and Exchangeco shall give written notice thereof to the Trustee. As soon as practicable after receiving notice from Akerna or Exchangeco of the occurrence of an Insolvency Event, or upon the Trustee otherwise becoming aware of an Insolvency Event, the Trustee shall mail to each Beneficiary, at the expense of Akerna (such funds to be received in advance), a notice of such Insolvency Event in the form provided by Akerna, which notice shall contain a brief statement of the rights of the Beneficiaries with respect to the Exchange Right.

## 5.10 U.S. Securities Law Compliance and Listing of Akerna Shares

Akerna covenants and agrees that it shall: (a) file a registration statement (the “**Registration Statement**”) under the U.S. Securities Act of 1933, as amended (the “**1933 Act**”) to register any and all of the Akerna Shares to be issued or delivered to holders of the Exchangeable Shares by Akerna or Calco (including, for greater certainty, pursuant to the Exchange Right, the Put Right or the Automatic Exchange Right); (b) cause the Registration Statement to become effective prior to the time that any Exchangeable Shares are first issued; and (c) cause the Registration Statement (or a successor registration statement) to remain effective at all times that any Exchangeable Shares remain outstanding, in each case unless the issuance of such securities is exempt from any requirement for registration under the 1933 Act and all applicable state securities laws. Without limiting the generality of the foregoing, Akerna and Calco each covenant and agree that it shall make such filings and seek such regulatory consents and approvals as are necessary so that the Akerna Shares to be issued or delivered to holders of Exchangeable Shares by Akerna or Calco pursuant to the terms of the Exchangeable Share Provisions, the Support Agreement and this Agreement will be offered, sold, issued and delivered in compliance with the 1933 Act and all applicable state securities laws, and applicable securities laws in Canada and shall ensure that the Akerna Shares will not be “restricted securities” within the meaning of Rule 144 under the 1933 Act. Akerna will in good faith expeditiously take all such actions and do all such things as are reasonably necessary or desirable to cause all Akerna Shares to be delivered to holders of Exchangeable Shares pursuant to the terms of the Exchangeable Share Provisions, the Support Agreement and this Agreement to be listed, quoted and posted for trading on all stock exchanges and quotation systems on which outstanding Akerna Shares have been listed by Akerna and remain listed and are quoted or posted for trading at such time.

## 5.11 Akerna Shares

Akerna hereby represents, warrants and covenants that the Akerna Shares deliverable as described herein will be duly authorized and validly issued as fully paid and non-assessable and shall be free and clear of any lien, claim or encumbrance.

## 5.12 Automatic Exchange on Liquidation of Akerna

- (1) Akerna shall give the Trustee written notice of each of the following events (each, a “**Liquidation Event**”) at the time set forth below:
- (a) in the event of any determination by the board of directors of Akerna to institute voluntary liquidation, dissolution or winding-up proceedings with respect to Akerna or to effect any other distribution of assets of Akerna among its shareholders for the purpose of winding up its affairs, at least 30 days prior to the proposed effective date of such liquidation, dissolution, winding-up or other distribution; and
  - (b) as soon as practicable following the earlier of: (A) receipt by Akerna of notice of; and (B) Akerna otherwise becoming aware of any instituted claim, suit, petition or other proceedings with respect to the involuntary liquidation, dissolution or winding-up of Akerna or to effect any other distribution of assets of Akerna among its shareholders for the purpose of winding up its affairs, in each case where Akerna has failed to contest in good faith any such proceeding commenced in respect of Akerna within 30 days of becoming aware thereof; and
  - (c) definitive documents respecting any Akerna Control Transaction (other than a transaction contemplated by Section 10.4) are entered into by Akerna and the board of directors of Akerna determines in good faith that it is not practicable to substantially replicate the terms and conditions of the Exchangeable Shares in connection with such Akerna Control Transaction.

- (2) As soon as practicable following receipt by the Trustee from Akerna of notice of a Liquidation Event, the Trustee shall give notice thereof to the Beneficiaries. Such notice shall be provided by Akerna to the Trustee and shall include a brief description of the automatic exchange of Exchangeable Shares for Akerna Shares provided for in Section 5.12(3) (the “**Automatic Exchange Right**”).
- (3) In order that the Beneficiaries will be able to participate on a pro rata basis with the holders of Akerna Shares in the distribution of assets of Akerna in connection with a Liquidation Event, immediately prior to the effective date (the “**Liquidation Event Effective Date**”) of a Liquidation Event, each of the then outstanding Exchangeable Shares (other than Exchangeable Shares held by Akerna and its affiliates) shall be automatically exchanged for Akerna Shares. To effect such automatic exchange, Akerna shall purchase each such Exchangeable Share outstanding immediately prior to the Liquidation Event Effective Date, and each Beneficiary shall sell each Exchangeable Shares held by it at such time, free and clear of any lien, claim or encumbrance, for a purchase price per share equal to the Exchangeable Share Price immediately prior to the Liquidation Event Effective Date, which price shall be satisfied in full by Akerna delivering to such holder the Exchangeable Share Consideration representing such Exchangeable Share Price. For greater certainty, the Beneficiary shall upon delivery of the Exchangeable Share Consideration cease to have any rights to be paid by Exchangeco any amount in respect of declared and unpaid dividends on the Exchangeable Shares.
- (4) The closing of the transaction of purchase and sale contemplated by any exercise of the Automatic Exchange Right shall be deemed to have occurred at the close of business on the Business Day immediately prior to the Liquidation Event Effective Date, and each Beneficiary shall be deemed to have transferred to Akerna all of such Beneficiary’s right, title and interest in and to the Exchangeable Shares held by such Beneficiary free and clear of any lien, claim or encumbrance and the related interest in the Trust Estate, any right of each such Beneficiary to receive declared and unpaid dividends from Exchangeco shall be deemed to be satisfied and discharged, and each such Beneficiary shall cease to be a holder of such Exchangeable Shares and Akerna shall deliver or cause to be delivered to the Trustee, for delivery to such Beneficiary, the Exchangeable Share Consideration deliverable to such Beneficiary upon such exercise of the Automatic Exchange Right. Concurrently with each such Beneficiary ceasing to be a holder of Exchangeable Shares, such Beneficiary shall be considered and deemed for all purposes to be the holder of the Akerna Shares included in the Exchangeable Share Consideration to be delivered to such Beneficiary and the certificates held by such Beneficiary previously representing the Exchangeable Shares exchanged by the Beneficiary with Akerna pursuant to the exercise of the Automatic Exchange Right shall thereafter be deemed to represent the Akerna Shares issued to such Beneficiary by Akerna pursuant to the exercise of the Automatic Exchange Right. Upon the request of any Beneficiary and the surrender by such Beneficiary of Exchangeable Share certificates deemed to represent Akerna Shares, duly endorsed in blank and accompanied by such instruments of transfer as Akerna may reasonably require, Akerna shall deliver or cause to be delivered to such Beneficiary certificates representing the Akerna Shares of which the Beneficiary is the holder.

### **5.13 Withholding Rights**

Akerna, Callco, Exchangeco and the Trustee shall be entitled to deduct and withhold from any dividend, distribution, price or other consideration otherwise payable under this Agreement to any holder of Exchangeable Shares or Akerna Shares such amounts as Akerna, Callco, Exchangeco or the Trustee is required to deduct and withhold with respect to such payment under the *Income Tax Act* (Canada) or United States tax laws or any provision of federal, provincial, territorial, state, local or foreign tax Law, in each case as amended or succeeded. The Trustee may act and rely on the advice of counsel with respect to such matters. To the extent that amounts are so deducted and withheld, such amounts shall be treated for all purposes as having been paid to the holder of the shares in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate taxing agency. To the extent that the amount so required to be deducted or withheld from any payment to a holder exceeds the cash portion of the consideration otherwise payable to the holder, Akerna, Callco, Exchangeco and the Trustee are hereby authorized to sell or otherwise dispose of such portion of the consideration as is necessary to provide sufficient funds to Akerna, Callco, Exchangeco or the Trustee, as the case may be, to enable it to comply with such deduction or withholding requirement and Akerna, Callco, Exchangeco or the Trustee, as the case may be, shall notify the holder thereof and remit to such holder any unapplied balance of the net proceeds of such sale.

#### 5.14 No Fractional Shares

A holder of an Exchangeable Share shall not be entitled to any fraction of an Akerna Share upon the exercise of the Exchange Right, the Put Right or Automatic Exchange Right hereunder and no certificates representing any such fractional interest shall be issued and the number of Akerna Shares to be received by any such holder otherwise entitled to a fractional interest shall be rounded to the nearest whole Akerna Share (with fractions equal to or greater than 0.5 being rounded up).

### ARTICLE 6 CONCERNING THE TRUSTEE

#### 6.1 Powers and Duties of the Trustee

- (1) The rights, powers, duties and authorities of the Trustee under this Agreement, in its capacity as Trustee of the Trust, shall include:
  - (a) receipt and deposit of the Special Voting Share from Akerna as trustee for and on behalf of the Beneficiaries in accordance with the provisions of this Agreement;
  - (b) granting proxies and distributing materials to Beneficiaries as provided in this Agreement;
  - (c) voting the Beneficiary Votes on the direction and behalf of the Beneficiaries in accordance with the provisions of this Agreement;
  - (d) receiving the grant of the Exchange Right and Put Right from Akerna and Calco, and the Automatic Exchange Right from Akerna, as trustee for and on behalf of the Beneficiaries in accordance with the provisions of this Agreement;
  - (e) exercising the Exchange Right and Put Right and enforcing the benefit of the Automatic Exchange Right, in each case in accordance with the provisions of this Agreement, and in connection therewith receiving from Beneficiaries any requisite documents and distributing to such Beneficiaries the Exchangeable Share Consideration to which such Beneficiaries are entitled pursuant to the exercise of the Exchange Right, the Put Right or the Automatic Exchange Right, as the case may be;
  - (f) holding title to the Trust Estate;
  - (g) investing any moneys forming, from time to time, a part of the Trust Estate as provided in this Agreement;
  - (h) taking action at the direction of a Beneficiary or Beneficiaries to enforce the obligations of Akerna, Calco and Exchangeco under this Agreement; and
  - (i) taking such other actions and doing such other things as are specifically provided in this Agreement to be carried out by the Trustee.
- (2) In the exercise of such rights, powers, duties and authorities, the Trustee shall have (and is granted) such incidental and additional rights, powers, duties and authority not in conflict with any of the provisions of this Agreement as the Trustee, acting in good faith and in the reasonable exercise of its discretion, may deem necessary, appropriate or desirable to effect the purpose of the Trust. Any exercise of such discretionary rights, powers, duties and authorities by the Trustee shall be final, conclusive and binding upon all persons. For greater certainty, the Trustee shall have only those duties as are set out specifically in this Agreement.

- (3) The Trustee, in exercising its rights, powers, duties and authorities hereunder, shall act honestly and in good faith and with a view to the best interests of the Beneficiaries and shall exercise the care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.
- (4) The Trustee shall not be bound to give notice or do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall be specifically required to do so under the terms hereof; nor shall the Trustee be required to take any notice of, or to do, or to take any act, action or proceeding as a result of any default or breach of any provision hereunder, unless and until notified in writing of such default or breach, which notices shall distinctly specify the default or breach desired to be brought to the attention of the Trustee, and in the absence of such notice the Trustee may for all purposes of this Agreement conclusively assume that no default or breach has been made in the observance or performance of any of the representations, warranties, covenants, agreements or conditions contained herein.

## **6.2 No Conflict of Interest**

The Trustee represents to Akerna, Callco and Exchangeco that, at the date of execution and delivery of this Agreement, there exists no material conflict of interest in the role of the Trustee as a fiduciary hereunder and the role of the Trustee in any other capacity. The Trustee shall, within 90 days after it becomes aware that such material conflict of interest exists, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Article 9. If, notwithstanding the foregoing provisions of this Section 6.2, the Trustee has such a material conflict of interest, the validity and enforceability of this Agreement shall not be affected in any manner whatsoever by reason only of the existence of such material conflict of interest. If the Trustee contravenes the foregoing provisions of this Section 6.2, any interested party may apply to the courts of Ontario for an order that the Trustee be replaced as Trustee hereunder.

## **6.3 Dealings with Transfer Agents, Registrars, etc.**

- (1) (a) Each of Akerna, Callco and Exchangeco irrevocably authorizes the Trustee, from time to time, to:
  - (a) consult, communicate and otherwise deal with the respective registrars and transfer agents, and with any such subsequent registrar or transfer agent, of the Exchangeable Shares and Akerna Shares; and
  - (b) requisition, from time to time, from any such registrar or transfer agent, any information readily available from the records maintained by it which the Trustee may reasonably require for the discharge of its duties and responsibilities under this Agreement.
- (2) Each of Akerna and Callco irrevocably authorizes its respective registrar and Transfer Agent to comply with all such requests and covenants that it shall supply the Trustee or its transfer agent, as the case may be, in a timely manner with duly executed share certificates for the purpose of completing the exercise from time to time of all rights to acquire Akerna Shares hereunder, under the Exchangeable Share Provisions and under any other security or commitment given to the Beneficiaries pursuant thereto, in each case pursuant to the provisions hereof or of the Exchangeable Share Provisions or otherwise.

#### **6.4 Books and Records**

The Trustee shall keep available for inspection during regular business hours by Akerna, Callco and Exchangeco at the Trustee's principal office in Calgary, Alberta correct and complete books and records of account relating to the Trust created by, and Trustee's actions under, this Agreement, including all relevant data relating to mailings and instructions to and from Beneficiaries and all transactions pursuant to the Exchange Right, the Put Right and the Automatic Exchange Right. On or before March 31, 2021, and on or before March 31 in every year thereafter, so long as the Special Voting Share is registered in the name of the Trustee, the Trustee shall transmit to Akerna, Callco and Exchangeco a brief report, dated as of the preceding December 31, with respect to:

- (a) the property and funds comprising the Trust Estate as of that date;
- (b) the number of exercises of any Exchange Right or Put Right, as the case may be, and the aggregate number of Exchangeable Shares received by the Trustee on behalf of Beneficiaries in consideration of the issuance and delivery by Akerna or Callco of Akerna Shares in connection with the Exchange Right or Put Right, as the case may be, during the calendar year ended on such December 31; and
- (c) any action taken by the Trustee in the performance of its duties under this Agreement which it had not previously reported.

#### **6.5 Income Tax Returns and Reports**

The Trustee shall, to the extent necessary, prepare and file, or cause to be prepared and filed, on behalf of the Trust appropriate Canadian income tax returns and any other returns or reports as may be required by applicable law, by any court, tribunal, government, governmental or regulatory agency or public official, or pursuant to the rules and regulations of any securities exchange or other trading system through which the Exchangeable Shares are traded. In connection therewith, the Trustee may obtain the advice and assistance of such experts or advisors (who may be experts or advisors to Akerna, Callco and/or Exchangeco) as the Trustee considers necessary or advisable. If requested by the Trustee, Akerna shall retain or caused to be retained qualified experts or advisors for the purpose of providing such tax advice or assistance.

#### **6.6 Indemnification Prior to Certain Actions by Trustee**

- (1) The Trustee shall exercise any or all of the rights, duties, powers or authorities vested in it by this Agreement at the request, order or direction of any Beneficiary upon such Beneficiary furnishing to the Trustee reasonable funding, security or indemnity against the costs, expenses and liabilities which may be incurred by the Trustee therein or thereby, provided that no Beneficiary shall be obligated to furnish to the Trustee any such funding, security or indemnity in connection with the exercise by the Trustee of any of its rights, duties, powers and authorities with respect to the Special Voting Share pursuant to Article 4, subject to Section 6.15, and with respect to the Exchange Right and the Automatic Exchange Right pursuant to Article 5.
- (2) None of the provisions contained in this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the exercise of any of its rights, powers, duties, or authorities unless funded, given security and indemnified as aforesaid.

## **6.7 Action of Beneficiaries**

No Beneficiary shall have the right to institute any action, suit or proceeding or to exercise any other remedy authorized by this Agreement for the purpose of enforcing any of its rights or for the execution of any trust or power hereunder unless the Beneficiary has requested the Trustee to take or institute such action, suit or proceeding and furnished the Trustee with the funding, security or indemnity referred to in Section 6.6 and the Trustee shall have failed to act within a reasonable time thereafter. In such case, but not otherwise, the Beneficiary shall be entitled to take proceedings in any court of competent jurisdiction such as the Trustee might have taken; it being understood and intended that no one or more Beneficiaries shall have any right in any manner whatsoever to affect, disturb or prejudice the rights hereby created by any such action, or to enforce any right hereunder or the Voting Rights, the Exchange Right, the Put Right or the Automatic Exchange Right except subject to the conditions and in the manner herein provided, and that all powers and trusts hereunder shall be exercised and all proceedings at law shall be instituted, had and maintained by the Trustee, except only as herein provided, and in any event for the equal benefit of all Beneficiaries.

## **6.8 Reliance Upon Declarations**

The Trustee shall not be considered to be in contravention of any of its rights, powers, duties and authorities hereunder if, when required, it acts and relies in good faith upon statutory declarations, certificates, opinions or reports furnished pursuant to the provisions hereof or required by the Trustee to be furnished to it in the exercise of its rights, powers, duties and authorities hereunder if such statutory declarations, certificates, opinions or reports comply with the provisions of Section 6.9, if applicable, and with any other applicable provisions of this Agreement.

## **6.9 Evidence and Authority to Trustee**

- (1) Akerna, Callco and/or Exchangeco shall furnish to the Trustee evidence of compliance with the conditions provided for in this Agreement relating to any action or step required or permitted to be taken by Akerna, Callco and/or Exchangeco or the Trustee under this Agreement or as a result of any obligation imposed under this Agreement, including in respect of the Voting Rights, the Exchange Right, the Put Right or the Automatic Exchange Right and the taking of any other action to be taken by the Trustee at the request of or on the application of Akerna, Callco and/or Exchangeco promptly if and when:
  - (a) such evidence is required by any other Section of this Agreement to be furnished to the Trustee in accordance with the terms of this Section 6.9; or
  - (b) the Trustee, in the exercise of its rights, powers, duties and authorities under this Agreement, gives Akerna, Callco and/or Exchangeco written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice.
- (2) Such evidence shall consist of an Officer's Certificate of Akerna, Callco and/or Exchangeco or a statutory declaration or a certificate made by persons entitled to sign an Officer's Certificate stating that any such condition has been complied with in accordance with the terms of this Agreement.
- (3) Whenever such evidence relates to a matter other than the Voting Rights, the Exchange Right, the Put Right or the Automatic Exchange Right or the taking of any other action to be taken by the Trustee at the request or on the application of Akerna, Callco and/or Exchangeco, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, attorney, auditor, accountant, appraiser, valuer or other expert or any other person whose qualifications give authority to a statement made by such person; provided, however, that if such report or opinion is furnished by a director, officer or employee of Akerna, Callco and/or Exchangeco it shall be in the form of an Officer's Certificate or a statutory declaration.
- (4) Each statutory declaration, Officer's Certificate, opinion or report furnished to the Trustee as evidence of compliance with a condition provided for in this Agreement shall include a statement by the person giving the evidence:
  - (a) declaring that such person has read and understands the provisions of this Agreement relating to the condition in question;

- (b) describing the nature and scope of the examination or investigation upon which such person based the statutory declaration, certificate, statement or opinion; and
- (c) declaring that such person has made such examination or investigation as such person believes is necessary to enable such person to make the statements or give the opinions contained or expressed therein.

#### **6.10 Experts, Advisers and Agents**

The Trustee may:

- (a) in relation to these presents act and rely on the opinion or advice of or information obtained from any solicitor, attorney, auditor, accountant, appraiser, valuer or other expert, whether retained by the Trustee or by Akerna, Callico and/or Exchangeco or otherwise, and may retain or employ such assistants as may be necessary to the proper discharge of its powers and duties and determination of its rights hereunder and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid;
- (b) employ such agents and other assistants as it may reasonably require for the proper determination and discharge of its powers and duties hereunder; and
- (c) pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all reasonable disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the Trust.

#### **6.11 Investment of Moneys Held by Trustee**

Unless otherwise provided in this Agreement, any moneys held by or on behalf of the Trustee which under the terms of this Agreement may or ought to be invested or which may be on deposit with the Trustee or which may be in the hands of the Trustee may be invested or reinvested in the name or under the control of the Trustee in securities in which, under the laws of the Province of Alberta, trustees are authorized to invest trust moneys or as otherwise agreed upon in writing by the Trustee and Exchangeco, provided that such securities are stated to mature within two years after their purchase by the Trustee and the Trustee shall so invest such money on the written direction of Exchangeco. Pending the investment of any money as herein provided, such moneys may be deposited in the name of the Trustee in any chartered bank in Canada or, with the consent of Exchangeco, in the deposit department of the Trustee or any other specified loan or trust company authorized to accept deposits under the laws of Canada or any province thereof at the rate of interest then current on similar deposits. The Trustee shall not be held liable for any losses incurred in the investment of any funds as herein provided and all interest on monies held by or on behalf of the Trustee shall be for the account of Exchangeco and held by the Trustee for the benefit of Exchangeco.

#### **6.12 Trustee Not Required to Give Security**

The Trustee shall not be required to give any bond or security in respect of the execution of the trusts, rights, duties, powers and authorities of this Agreement or otherwise in respect of the premises.

### **6.13 Trustee Not Bound to Act on Request**

Except as in this Agreement otherwise specifically provided, the Trustee shall not be bound to act in accordance with any direction or request of Akerna, Callco and/or Exchangeco or of the respective directors thereof until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Trustee, and the Trustee shall be empowered to act upon any such copy purporting to be authenticated and believed by the Trustee to be genuine. The Trustee shall have the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation or regulation. Further, should the Trustee, in its sole judgment, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering or antiterrorist legislation or regulation, then it shall have the right to resign on fifteen days written notice to the other parties to this Agreement, provided that: (a) the Trustee's written notice shall describe the circumstances of such non-compliance; and (b) if such circumstances are rectified to the Trustee's satisfaction within such fifteen day period, such resignation shall not be effective.

### **6.14 Authority to Carry on Business**

The Trustee represents to Akerna, Callco and Exchangeco that, at the date of execution and delivery by it of this Agreement, it is authorized to carry on the business of a trust company in the provinces of Alberta and British Columbia but if, notwithstanding the provisions of this Section 6.14, it ceases to be so authorized to carry on business, the validity and enforceability of this Agreement and the Voting Rights, the Exchange Right, the Put Right and the Automatic Exchange Right and the other rights granted in or resulting from the Trustee being a party to this Agreement shall not be affected in any manner whatsoever by reason only of such event but the Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in any province or territory of Canada, either become so authorized or resign in the manner and with the effect specified in Article 9.

### **6.15 Conflicting Claims**

- (1) If conflicting claims or demands are made or asserted with respect to any interest of any Beneficiary in any Exchangeable Shares, including any disagreement between the heirs, representatives, successors or assigns succeeding to all or any part of the interest of any Beneficiary in any Exchangeable Shares, resulting in conflicting claims or demands being made in connection with such interest, then the Trustee shall be entitled, in its sole discretion, to refuse to recognize or to comply with any such claims or demands. In so refusing, the Trustee may elect not to exercise any Voting Rights, Exchange Right, the Put Right, Automatic Exchange Right or other rights subject to such conflicting claims or demands and, in so doing, the Trustee shall not be or become liable to any person on account of such election or its failure or refusal to comply with any such conflicting claims or demands. The Trustee shall be entitled to continue to refrain from acting and to refuse to act until:
  - (a) the rights of all adverse claimants with respect to the Voting Rights, Put Right, Exchange Right, Automatic Exchange Right or other rights subject to such conflicting claims or demands have been adjudicated by a final judgement of a court of competent jurisdiction and all rights of appeal have expired; or
  - (b) all differences with respect to the Voting Rights, Exchange Right, Put Right, Automatic Exchange Right or other rights subject to such conflicting claims or demands have been conclusively settled by a valid written agreement binding on all such adverse claimants, and the Trustee shall have been furnished with an executed copy of such agreement certified to be in full force and effect.
- (2) If the Trustee elects to recognize any claim or comply with any demand made by any such adverse claimant, it may in its discretion require such claimant to furnish such surety bond or other security satisfactory to the Trustee as it shall deem appropriate to fully indemnify it as between all conflicting claims or demands.

#### **6.16 Acceptance of Trust**

The Trustee hereby accepts the Trust created and provided for, by and in this Agreement and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various persons who shall from time to time be Beneficiaries, subject to all the terms and conditions herein set forth.

#### **6.17 Third Party Interests**

Each party to this Agreement hereby represents to the Trustee that any account to be opened by, or interest to be held by the Trustee in connection with this Agreement, for or to the credit of such party, either: (a) is not intended to be used by or on behalf of any third party; or (b) is intended to be used by or on behalf of a third party, in which case such party hereto agrees to complete and execute forthwith a declaration in the Trustee's prescribed form as to the particulars of such third party.

#### **6.18 Privacy**

The parties acknowledge that Canadian federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "Privacy Laws") applies to obligations and activities under this Agreement. Despite any other provision of this Agreement, no party shall take or direct any action that would contravene, or cause the others to contravene, applicable Privacy Laws. The parties shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. Specifically, the Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Agreement and not to use it for any purpose except with the consent of or direction from the other parties or the individual involved; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

### **ARTICLE 7 COMPENSATION**

#### **7.1 Fees and Expenses of the Trustee**

Akerna, Callco and Exchangeco jointly and severally agree to pay the Trustee reasonable compensation for all of the services rendered by it under this Agreement and shall reimburse the Trustee for all reasonable expenses (including, but not limited to, taxes (other than taxes based on the net income or capital of the Trustee), fees paid to legal counsel and other experts and advisors and agents and travel expenses) and disbursements, including the reasonable cost and expense of any suit or litigation of any character and any proceedings before any governmental agency, in each case reasonably incurred by the Trustee in connection with its duties under this Agreement; provided, however, that Akerna, Callco and Exchangeco shall have no obligation to reimburse the Trustee for any expenses or disbursements paid, incurred or suffered by the Trustee in any suit or litigation or any such proceedings in which the Trustee is determined to have acted in bad faith or with fraud, gross negligence, recklessness or wilful misconduct.

**ARTICLE 8  
INDEMNIFICATION AND LIMITATION OF LIABILITY**

**8.1 Indemnification of the Trustee**

- (1) Akerna, Callco and Exchangeco jointly and severally agree to indemnify and hold harmless the Trustee and each of its directors, officers, employees and agents appointed and acting in accordance with this Agreement (collectively, the “**Indemnified Parties**”) against all claims, losses, damages, reasonable costs, penalties, fines and reasonable expenses (including reasonable expenses of the Trustee’s legal counsel) which, without bad faith, fraud, gross negligence, recklessness or wilful misconduct on the part of such Indemnified Party, may be paid, incurred or suffered by the Indemnified Party by reason or as a result of the Trustee’s acceptance or administration of the Trust, its compliance with its duties set forth in this Agreement, or any written or oral instruction delivered to the Trustee by Akerna, Callco or Exchangeco pursuant hereto.
- (2) The Trustee shall promptly notify Akerna, Callco and Exchangeco of a claim or of any action commenced against any Indemnified Parties promptly after the Trustee or any of the Indemnified Parties shall have received written assertion of such a claim or action or have been served with a summons or other first legal process giving information as to the nature and basis of the claim or action; provided, however, that the omission to so notify Akerna, Callco or Exchangeco shall not relieve Akerna, Callco or Exchangeco of any liability which any of them may have to any Indemnified Party except to the extent that any such delay prejudices the defence of any such claim or action or results in any increase in the liability which Akerna, Callco or Exchangeco have under this indemnity. Subject to (ii) below, Akerna, Callco and Exchangeco shall be entitled to participate at their own expense in the defence and, if Akerna, Callco and Exchangeco so elect at any time after receipt of such notice, either of them may assume the defence of any suit brought to enforce any such claim. The Trustee shall have the right to employ separate counsel in any such suit and participate in the defence thereof, but the fees and expenses of such counsel shall be at the expense of the Trustee unless: (i) the employment of such counsel has been authorized by Akerna, Callco or Exchangeco; or (ii) the named parties to any such suit include both the Trustee and Akerna, Callco or Exchangeco and the Trustee shall have been advised by counsel acceptable to Akerna, Callco and Exchangeco that there may be one or more legal defences available to the Trustee that are different from or in addition to those available to Akerna, Callco or Exchangeco and that, in the judgement of such counsel, would present a conflict of interest were a joint representation to be undertaken (in which case Akerna, Callco and Exchangeco shall not have the right to assume the defence of such suit on behalf of the Trustee but shall be liable to pay the reasonable fees and expenses of counsel for the Trustee). This indemnity shall survive the termination of the Trust and the resignation or removal of the Trustee.

**8.2 Limitation of Liability**

The Trustee shall not be held liable for any loss which may occur by reason of depreciation of the value of any part of the Trust Estate or any loss incurred on any investment of funds pursuant to this Agreement, except to the extent that such loss is attributable to the bad faith, fraud, gross negligence, recklessness or willful misconduct on the part of the Trustee.

**ARTICLE 9  
CHANGE OF TRUSTEE**

**9.1 Resignation**

The Trustee, or any trustee hereafter appointed, may at any time resign by giving written notice of such resignation to Akerna, Callco and Exchangeco specifying the date on which it desires to resign, provided that such notice shall not be given less than 30 days before such desired resignation date unless Akerna, Callco and Exchangeco otherwise agree and provided further that such resignation shall not take effect until the date of the appointment of a successor trustee and the acceptance of such appointment by the successor trustee. Upon receiving such notice of resignation, Akerna, Callco and Exchangeco shall promptly appoint a successor trustee, which successor trustee shall be a corporation organized and existing under the laws of Canada and authorized to carry on the business of a trust company in one or more provinces and territories of Canada, by written instrument in duplicate, one copy of which shall be delivered to the resigning trustee and one copy to the successor trustee. Failing the appointment and acceptance of a successor trustee, a successor trustee may be appointed by order of a court of competent jurisdiction upon application of one or more of the parties to this Agreement. If the retiring trustee is the party initiating an application for the appointment of a successor trustee by order of a court of competent jurisdiction, Akerna, Callco and Exchangeco shall be jointly and severally liable to reimburse the retiring trustee for its legal costs and expenses in connection with same.

## 9.2 Removal

The Trustee, or any trustee hereafter appointed, may (provided a successor trustee is appointed) be removed at any time on not less than 30 days' prior notice by written instrument executed by Akerna, Callco and Exchangeco, in duplicate, one copy of which shall be delivered to the trustee so removed and one copy to the successor trustee, provided that such removal shall not take effect until the date of acceptance of appointment by the successor trustee.

## 9.3 Successor Trustee

Any successor trustee appointed as provided under this Agreement shall execute, acknowledge and deliver to Akerna, Callco and Exchangeco and to its predecessor trustee an instrument accepting such appointment. Thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor under this Agreement, with the like effect as if originally named as trustee in this Agreement. However, on the written request of Akerna, Callco and Exchangeco or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due to it pursuant to the provisions of this Agreement, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon the request of any such successor trustee, Akerna, Callco, Exchangeco and such predecessor trustee shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers.

## 9.4 Notice of Successor Trustee

Upon acceptance of appointment by a successor trustee as provided herein, Akerna, Callco and Exchangeco shall cause to be mailed notice of the succession of such trustee hereunder to each Beneficiary specified in a List. If Akerna, Callco or Exchangeco shall fail to cause such notice to be mailed within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of Akerna, Callco and Exchangeco.

# ARTICLE 10 AKERNA SUCCESSORS

## 10.1 Certain Requirements in Respect of Combination, etc.

So long as any Exchangeable Shares not owned by Akerna or its affiliates are outstanding, Akerna shall not enter into any transaction (whether by way of reorganization, consolidation, arrangement, amalgamation, merger, transfer, sale for otherwise) whereby all or substantially all of its undertaking, property and assets would become the property of any other person or, in the case of an amalgamation or merger, of the continuing corporation resulting therefrom, provided that it may do so if:

- (a) such other person or continuing corporation (the "**Akerna Successor**"), by operation of law, becomes, without more, bound by the terms and provisions of this Agreement or, if not so bound, executes, prior to or contemporaneously with the consummation of such transaction, a trust agreement supplemental hereto and such other instruments (if any) as are necessary or advisable to evidence the assumption by the Akerna Successor of liability for all moneys payable and property deliverable hereunder and the covenant of such Akerna Successor to pay and deliver or cause to be paid and delivered the same and its agreement to observe and perform all the covenants and obligations of Akerna under this Agreement; and

- (b) such transaction shall be upon such terms and conditions as to substantially preserve and not impair any of the rights, duties, powers and authorities of the Trustee or the holders of the Exchangeable Shares.

#### 10.2 Vesting of Powers in Successor

Whenever the conditions of Section 10.1 have been duly observed and performed, the parties, if required by Section 10.1, shall execute and deliver the supplemental trust agreement provided for in Section 10.1(a) and thereupon the Akerna Successor and such other person that may then be the issuer of the Akerna Shares shall possess and from time to time may exercise each and every right and power of Akerna under this Agreement in the name of Akerna or otherwise and any act or proceeding by any provision of this Agreement required to be done or performed by the board of directors of Akerna or any officers of Akerna may be done and performed with like force and effect by the directors or officers of such Akerna Successor.

#### 10.3 Wholly-Owned Subsidiaries

Nothing herein shall be construed as preventing: (a) the amalgamation or merger of any wholly-owned direct or indirect subsidiary of Akerna (other than Exchangeco or Callco) with or into Akerna; (b) the winding-up, liquidation or dissolution of any wholly-owned direct or indirect subsidiary of Akerna (other than Exchangeco or Callco), provided that all of the assets of such subsidiary are transferred to Akerna or another wholly-owned direct or indirect subsidiary of Akerna; (c) any other distribution of the assets of any wholly-owned direct or indirect subsidiary of Akerna among the shareholders of such subsidiary for the purpose of winding up its affairs; and (d) any such transactions which are expressly permitted by this Article 10.

#### 10.4 Successor Transactions

Notwithstanding the foregoing provisions of this Article 10, in the event of an Akerna Control Transaction:

- (a) in which Akerna merges or amalgamates with, or in which all or substantially all of the then outstanding Akerna Shares are acquired by, one or more other corporations to which Akerna is, immediately before such merger, amalgamation or acquisition, “related” within the meaning of the *Income Tax Act* (Canada) (otherwise than by virtue of a right referred to in paragraph 251(5)(b) thereof);
- (b) which does not result in an acceleration of the Redemption Date in accordance with paragraph (ii) of the definition of Redemption Date in the Exchangeable Share Provisions; and
- (c) in which all or substantially all of the then outstanding Akerna Shares are converted into or exchanged for shares or rights to receive such shares (the “**Other Shares**”) of another corporation (the “**Other Corporation**”) that, immediately after such Akerna Control Transaction, owns or controls, directly or indirectly, Akerna;

then: (i) all references herein to “Akerna” shall thereafter be and be deemed to be references to “Other Corporation” and all references herein to “Akerna Shares” shall thereafter be and be deemed to be references to “Other Shares” (with appropriate adjustments, if any, as are required to result in a holder of Exchangeable Shares on the exchange, redemption or retraction of such shares pursuant to the Exchangeable Share Provisions or the Plan of Arrangement or the exchange of such shares pursuant to this Agreement immediately subsequent to the Akerna Control Transaction being entitled to receive that number of Other Shares equal to the number of Other Shares such holder of Exchangeable Shares would have received if the exchange, redemption or retraction of such shares pursuant to the Exchangeable Share Provisions or the Plan of Arrangement, or the exchange of such shares pursuant to this Agreement had occurred immediately prior to the Akerna Control Transaction and the Akerna Control Transaction was completed) but subject to subsequent adjustments to reflect any subsequent changes in the share capital of the issuer of the Other Shares, including without limitation, any subdivision, consolidation or reduction of share capital, without any need to amend the terms and conditions of this Agreement and without any further action required; and (ii) Akerna shall cause the Other Corporation to deposit one or more voting securities of such Other Corporation to allow Beneficiaries to exercise voting rights in respect of the Other Corporation substantially similar to those provided for in this Agreement.

## **ARTICLE 11 AMENDMENTS AND SUPPLEMENTAL TRUST AGREEMENTS**

### **11.1 Amendments, Modifications, etc.**

Subject to Section 11.2, 11.4 and 13.1 this Agreement may not be amended or modified except by an agreement in writing executed by Akerna, Callco, Exchangeco and the Trustee and approved by the Beneficiaries in accordance with Section 11(b) of the Exchangeable Share Provisions.

### **11.2 Ministerial Amendments**

Notwithstanding the provisions of Section 11.1, the parties to this Agreement may in writing, at any time and from time to time, without the approval of the Beneficiaries, amend or modify this Agreement for the purposes of:

- (a) adding to the covenants of any or all parties hereto for the protection of the Beneficiaries hereunder provided that the board of directors of each of Akerna, Callco and Exchangeco shall be of the good faith opinion that such additions will not be prejudicial to the rights or interests of the Beneficiaries;
- (b) evidencing the succession of Akerna Successors and the covenants of and obligations assumed by each such Akerna Successor in accordance with the provisions of Article 10;
- (c) making such amendments or modifications not inconsistent with this Agreement as may be necessary or desirable with respect to matters or questions arising hereunder which, in the good faith opinion of the board of directors of each of Akerna, Callco and Exchangeco and in the opinion of the Trustee it may be expedient to make, provided that each such board of directors and the Trustee shall be of the good faith opinion, after consultation with counsel, that such amendments or modifications will not be prejudicial to the rights or interests of the Beneficiaries; or
- (d) making such changes or corrections which, on the advice of counsel to Akerna, Callco, Exchangeco and the Trustee, are required for the purpose of curing or correcting any ambiguity or defect or inconsistent provision or clerical omission or mistake or manifest error, provided that each such board of directors and the Trustee shall be of the good faith opinion that such changes or corrections will not be prejudicial to the rights or interests of the Beneficiaries.

### 11.3 Meeting to Consider Amendments

Exchangeco, at the request of Akerna, shall call a meeting or meetings of the Beneficiaries for the purpose of considering any proposed amendment or modification requiring approval pursuant hereto. Any such meeting or meetings shall be called and held in accordance with the articles of Exchangeco, the Exchangeable Share Provisions and all applicable laws.

### 11.4 Changes in Capital of Akerna and Exchangeco

Notwithstanding the provisions of Section 11.1, at all times after the occurrence of any event contemplated pursuant to Sections 2.7 or 2.8 of the Support Agreement or otherwise, as a result of which either Akerna Shares or the Exchangeable Shares or both are in any way changed, this Agreement shall forthwith be amended and modified as necessary in order that it shall apply with full force and effect, *mutatis mutandis*, to all new securities into which Akerna Shares or the Exchangeable Shares or both are so changed and the parties hereto shall execute and deliver a supplemental trust agreement giving effect to and evidencing such necessary amendments and modifications.

### 11.5 Execution of Supplemental Trust Agreements

No amendment to or modification or waiver of any of the provisions of this Agreement otherwise permitted hereunder shall be effective unless made in writing and signed by all of the parties hereto. Notwithstanding the provisions of Section 11.1, from time to time Akerna, Callco and Exchangeco (in each case, when authorized by a resolution of its board of directors) and the Trustee may, subject to the provisions of these presents, and they shall, when so directed by these presents, execute and deliver by their proper officers, trust agreements or other instruments supplemental hereto, which thereafter shall form part hereof, for any one or more of the following purposes:

- (a) evidencing the succession of Akerna Successors and the covenants of and obligations assumed by each such Akerna Successor in accordance with the provisions of Article 10 and the successors of the Trustee or any successor trustee in accordance with the provisions of Article 9;
- (b) making any additions to, deletions from or alterations of the provisions of this Agreement or the Voting Rights, the Exchange Right, the Put Right or the Automatic Exchange Right which, in the opinion of the Trustee, will not be prejudicial to the interests of the Beneficiaries or are, in the opinion of counsel to the Trustee, necessary or advisable in order to incorporate, reflect or comply with any legislation the provisions of which apply to Akerna, Callco, Exchangeco, the Trustee or this Agreement; and
- (c) for any other purposes not inconsistent with the provisions of this Agreement, including without limitation to make or evidence any amendment or modification to this Agreement as contemplated hereby; provided that, in the opinion of the Trustee, relying on the advice of counsel, the rights of the Trustee and Beneficiaries will not be prejudiced thereby.

## ARTICLE 12 TERMINATION

### 12.1 Term

The Trust created by this Agreement shall continue until the earliest to occur of the following events:

- (a) no outstanding Exchangeable Shares are held by a Beneficiary;

- (b) each of Akerna, Callco and Exchangeco elects in writing to terminate the Trust and such termination is approved by the Beneficiaries in accordance with Section 11(b) of the Exchangeable Share Provisions; and
- (c) 21 years after the death of the last survivor of the descendants of His Majesty King George VI of Canada and the United Kingdom of Great Britain and Northern Ireland living on the date of the creation of the Trust.

## **12.2 Survival of Agreement**

This Agreement shall survive any termination of the Trust and shall continue until there are no Exchangeable Shares outstanding held by a Beneficiary; provided, however, that the provisions of Article 7 and Article 8 shall survive any such termination of this Agreement.

## **ARTICLE 13 GENERAL**

### **13.1 Severability**

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

### **13.2 Escrow Agreement**

Notwithstanding any other provision hereof, the parties hereto acknowledge and agree that the Exchangeable Shares and Akerna Shares are, as at the date hereof, subject to the terms and conditions of the Escrow Agreement (as defined in the Arrangement Agreement), and for so long as such shares continue to be subject to the Escrow Agreement, any transfer or exchange of Exchangeable Shares pursuant to this Agreement will be made subject to the Escrow Agreement and any Exchangeable Share Consideration issued in respect of Exchangeable Shares will be subject to the Escrow Agreement.

### **13.3 Enurement**

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns and, subject to the terms hereof, to the benefit of the Beneficiaries.

### **13.4 Notices to Parties**

Any notice and other communications required or permitted to be given pursuant to this Agreement shall be sufficiently given if delivered in person or if sent by facsimile transmission (provided such transmission is recorded as being transmitted successfully) to the parties at the following addresses:

- (a) In the case of Akerna, at the following address:

Akerna Corp.  
1601 Arapahoe Street  
Denver, CO 80202

Attention:                      John Fowle, Chief Financial Officer  
Email:                              john.fowle@akerna.com

with copies (which shall not constitute notice) to:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: Bennett.Wong@dentons.com

(b) In the case of Callco or Exchangeco, at the following addresses:

Akerna Corp.  
1601 Arapahoe Street  
Denver, CO 80202

Attention: John Fowle, Chief Financial Officer  
Email: john.fowle@akerna.com

with copies (which shall not constitute notice) to:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: bennett.wong@dentons.com

(c) In the case of Trustee, at the following addresses:

Odyssey Trust Company  
1230, 300 5<sup>th</sup> Ave S.W.  
Calgary, Alberta T2P 3C4

Attention: VP, Corporate Trust  
Email: corptrust@odysseytrust.com

and such notice or other communication shall be deemed to have been given and received: (x) if delivered on a Business Day prior to 5:00 p.m. (local time in the place where the notice or other communication is received), on the date of delivery; or (y) otherwise, on the next Business Day. Either party may change its address for notice by giving notice to the other parties in accordance with the foregoing provisions.

### **13.5 Notice to Beneficiaries**

Any notice, request or other communication to be given to a Beneficiary shall be given or sent to the address of the holder recorded in the securities register of Exchangeco or, in the event of the address of any such holder not being so recorded, then at the last known address of such holder, in any manner permitted by the articles of Exchangeco, and shall be deemed received at the time specified by such articles. Accidental failure or omission to give any notice, request or other communication to one or more holders of Exchangeable Shares, or any defect in such notice, shall not invalidate or otherwise alter or affect any action or proceeding to be taken pursuant thereto.

### **13.6 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**13.7 Jurisdiction**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**13.8 Attornment**

Each of Akerna, Callco, Exchangeco and the Trustee agrees that any action or proceeding arising out of or relating to this Agreement may be instituted in the courts of Ontario, waives any objection which it may have now or hereafter to the venue of any such action or proceeding, irrevocably submits to the non-exclusive jurisdiction of the said courts in any such action or proceeding, agrees to be bound by any judgement of the said courts and not to seek, and hereby waives, any review of the merits of any such judgement by the courts of any other jurisdiction, and Akerna hereby appoints Exchangeco at its registered office in the Province of Ontario as attorney for service of process.

*[Remainder of this page left intentionally blank]*

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

**AKERNA CORP.**

By: /s/ John Fowle  
Name: John Fowle  
Title: Chief Financial Officer

**AKERNA CANADA AMPLE EXCHANGE INC.**

By: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AKERNA CANADA HOLDINGS INC.**

By: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**ODYSSEY TRUST COMPANY**

By: /s/ Dan Sander  
Name: Dan Sander  
Title: Shareholder Representative

By: /s/ Amy Douglas  
Name: Amy Douglas  
Title: Shareholder Representative

[Voting and Exchange Trust Agreement]

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## EXCHANGEABLE SHARE SUPPORT AGREEMENT

**THIS EXCHANGEABLE SHARE SUPPORT AGREEMENT** made as of July \_\_\_, 2020 among Akerna Corp., a corporation existing under the laws of the State of Delaware (“**Akerna**”), Akerna Canada Holdings Inc., a corporation existing under the laws of the Province of Ontario (“**Calco**”), and Akerna Canada Ample Exchange Inc., a corporation existing under the laws of the Province of Ontario (“**Exchangeco**”).

**RECITALS:**

- A. In connection with an arrangement agreement dated December 18, 2019 among Akerna, Exchangeco and Ample Organics Inc. (“**Ample**”), as amended by amending agreements dated February 28, 2020, May 26, 2020 and June 1, 2020 (collectively, the “**Arrangement Agreement**”), Exchangeco is to issue exchangeable shares (the “**Exchangeable Shares**”) to certain holders of common shares of Ample pursuant to an arrangement under the *Business Corporations Act* (Ontario) (the “**Arrangement**”) on the terms and conditions set out in the Plan of Arrangement (as defined in the Arrangement Agreement).
- B. Pursuant to the Arrangement Agreement, Akerna, Calco and Exchangeco are required to enter into an exchangeable share support agreement (the “**Agreement**”) substantially in the form of this Agreement.

In consideration of the foregoing and the mutual agreements contained herein and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the parties hereby agree as follows:

**ARTICLE 1  
INTERPRETATION****1.1 Defined Terms**

In this Agreement, each capitalized term used and not otherwise defined herein shall have the meaning ascribed thereto in the rights, privileges, restrictions and conditions (collectively, the “**Exchangeable Share Provisions**”) attaching to the Exchangeable Shares as set out in the articles of Exchangeco, unless the context requires otherwise.

**1.2 Interpretation Not Affected by Headings**

The division of this Agreement into Articles, Sections, subsections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. Unless the contrary intention appears, references in this Agreement to an Article, Section, subsection, paragraph or Schedule by number or letter or both refer to the Article, Section, subsection, paragraph or Schedule, respectively, bearing that designation in this Agreement.

**1.3 Number and Gender**

In this Agreement, unless the contrary intention appears, words importing the singular include the plural and vice versa, and words importing gender shall include all genders.

**1.4 Date of any Action**

If the date on which any action is required to be taken hereunder by any person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

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## 1.5 Statutes

Any reference to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended or re-enacted, unless stated otherwise.

## ARTICLE 2 COVENANTS OF AKERNA AND EXCHANGECO

### 2.1 Covenants Regarding Exchangeable Shares

So long as any Exchangeable Shares not owned by Akerna or its affiliates are outstanding, Akerna shall:

- (a) not take any action that will result in the declaration or payment of any dividend or make any other distribution on the Akerna Shares unless:
  - (i) Exchangeco shall: (A) simultaneously declare or pay, as the case may be, an equivalent dividend or other distribution economically equivalent thereto (as determined in accordance with the Exchangeable Share Provisions) on the Exchangeable Shares (an “**Equivalent Dividend**”); and (B) have sufficient money or other assets or authorized but unissued securities available to enable the due declaration and the due and punctual payment, in accordance with applicable law and the Exchangeable Share Provisions, of any such Equivalent Dividend; or
  - (ii) if the dividend or other distribution is a stock or share dividend or distribution of stock or shares, and if Exchangeco so chooses as an alternative to taking the action described in (i), in lieu of such dividend or other distribution on the Akerna Shares, Exchangeco shall:
    - (A) effect a corresponding, contemporaneous and economically equivalent subdivision of the outstanding Exchangeable Shares (as determined in accordance with the Exchangeable Share Provisions) (an “**Equivalent Stock Subdivision**”); and
    - (B) have sufficient authorized but unissued securities available to enable the Equivalent Stock Subdivision;
- (b) advise Exchangeco sufficiently in advance of the declaration by Akerna of any dividend or other distribution on the Akerna Shares and take all such other actions as are reasonably necessary or desirable, in co-operation with Exchangeco, to ensure that:
  - (i) the respective declaration date, record date and payment date for an Equivalent Dividend shall be the same as the declaration date, record date and payment date for the corresponding dividend or other distribution on the Akerna Shares; or
  - (ii) the record date and effective date for an Equivalent Stock Subdivision shall be the same as the record date and payment date for the corresponding stock or share dividend or distribution of stock or shares, in lieu of such a dividend or other distribution on the Akerna Shares and that such Equivalent Stock Subdivision shall comply with the requirements of the stock exchange on which the Exchangeable Shares are then listed;

- (c) take all such actions and do all such things as are reasonably necessary or desirable to enable and permit Exchangeco, in accordance with applicable law, to pay and otherwise perform its obligations with respect to the satisfaction of the Liquidation Amount, the Retraction Price or the Redemption Price in respect of each issued and outstanding Exchangeable Share upon the liquidation, dissolution or winding-up of Exchangeco or any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs, the delivery of a Retraction Request by a holder of Exchangeable Shares or a redemption of Exchangeable Shares by Exchangeco, as the case may be, including without limitation all such actions and all such things as are necessary or desirable to enable and permit Exchangeco to deliver or cause to be delivered Akerna Shares or other property to the holders of Exchangeable Shares in accordance with the provisions of Sections 5, 6 or 7, as the case may be, of the Exchangeable Share Provisions;
- (d) take all such actions and do all such things as are reasonably necessary or desirable to enable and permit the Trustee in accordance with applicable law to perform its obligations under the Voting and Exchange Trust Agreement, including, without limitation, all such actions and all such things as are reasonably necessary or desirable to enable and permit the Trustee in its capacity as trustee under the Voting and Exchange Trust Agreement to exercise such number of votes in respect of an Akerna Meeting or an Akerna Consent (as such terms are defined in the Voting and Exchange Trust Agreement) as is equal to the aggregate number of Exchangeable Shares outstanding at the relevant time other than those held by Akerna and its affiliates;
- (e) take all such actions and do all such things as are reasonably necessary or desirable to enable and permit Akerna or Calco, as the case may be, in accordance with applicable law, to perform its obligations arising upon the exercise by it of the Liquidation Call Right, the Retraction Call Right, the Change of Law Call Right (as defined in the Plan of Arrangement) or the Redemption Call Right, including without limitation all such actions and all such things as are necessary or desirable to enable and permit Akerna or Calco, as the case may be, to deliver or cause to be delivered Akerna Shares or other property to the holders of Exchangeable Shares in accordance with the provisions of the Liquidation Call Right, the Retraction Call Right, the Change of Law Call Right or the Redemption Call Right, as the case may be; and
- (f) not exercise its vote as a shareholder of Exchangeco to initiate the voluntary liquidation, dissolution or winding up of Exchangeco or any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs, nor take any action or omit to take any action that is designed to result in the liquidation, dissolution or winding up of Exchangeco or any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs.

## **2.2 Segregation of Funds**

Akerna will cause Exchangeco to deposit a sufficient amount of funds in a separate account of Exchangeco and segregate a sufficient amount of such other assets and property as is necessary to enable Exchangeco to pay or otherwise satisfy its obligations with respect to the applicable dividend, Liquidation Amount, Retraction Price or Redemption Price, in each case once such amounts become payable under the terms of this Agreement or the Exchangeable Share Provisions. Exchangeco will use such funds, assets and property so segregated exclusively for the payment of dividends and the payment or other satisfaction of the Liquidation Amount, the Retraction Price or the Redemption Price, as applicable net of any corresponding withholding tax obligations and for the remittance of such withholding tax obligations.

### 2.3 Reservation of Akerna Shares

Akerna hereby represents, warrants and covenants in favour of Exchangeco and Callco that Akerna has reserved for issuance and shall, at all times while any Exchangeable Shares are outstanding, keep available, free from pre-emptive and other rights, out of its authorized and unissued capital stock such number of Akerna Shares (or other shares or securities into which Akerna Shares may be reclassified or changed as contemplated by Section 2.7):

- (a) as is equal to the sum of: (i) the number of Exchangeable Shares issued and outstanding from time to time; and (ii) the number of Exchangeable Shares issuable upon the exercise of all rights to acquire Exchangeable Shares outstanding from time to time; and
- (b) as are now and may hereafter be required to enable and permit each of Akerna, Callco and Exchangeco to meet its obligations under the Voting and Exchange Trust Agreement, the Exchangeable Share Provisions and any other security or commitment relating to the Arrangement pursuant to which Akerna may now or hereafter be required to issue or cause to be issued Akerna Shares.

### 2.4 Notification of Certain Events

In order to assist Akerna to comply with its obligations hereunder and to permit Akerna or Callco to exercise, as the case may be, the Liquidation Call Right, the Retraction Call Right, the Change of Law Call Right or the Redemption Call Right, as applicable, Exchangeco shall notify Akerna and Callco of each of the following events at the time set forth below:

- (a) in the event of any determination by the board of directors of Exchangeco to institute voluntary liquidation, dissolution or winding-up proceedings with respect to Exchangeco or to effect any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs, at least 60 days prior to the proposed effective date of such liquidation, dissolution, winding-up or other distribution;
- (b) promptly upon the earlier of: (i) receipt by Exchangeco of notice of; and (ii) Exchangeco otherwise becoming aware of, any threatened or instituted claim, suit, petition or other proceedings with respect to the involuntary liquidation, dissolution or winding-up of Exchangeco or to effect any other distribution of the assets of Exchangeco among its shareholders for the purpose of winding up its affairs;
- (c) immediately, upon receipt by Exchangeco of a Retraction Request;
- (d) on the same date on which notice of redemption is given to holders of Exchangeable Shares, upon the determination of a Redemption Date in accordance with the Exchangeable Share Provisions;
- (e) as soon as practicable upon the issuance by Exchangeco of any Exchangeable Shares or rights to acquire Exchangeable Shares (other than the issuance of Exchangeable Shares and rights to acquire Exchangeable Shares pursuant to the Arrangement); and
- (f) promptly, upon receiving notice of a Change of Law (as such term is defined in the Plan of Arrangement).

## 2.5 Delivery of Akerna Shares

Upon notice from Callco or Exchangeco of any event that requires Callco or Exchangeco to deliver or cause to be delivered Akerna Shares to any holder of Exchangeable Shares, Akerna shall forthwith issue and deliver or cause to be delivered the requisite number of shares of Akerna Shares for the benefit of Callco or Exchangeco, as appropriate, and Callco or Exchangeco, as the case may be, shall forthwith cause to be delivered the requisite number of Akerna Shares to be received by or for the benefit of the former holder of the surrendered Exchangeable Shares. All such Akerna Shares shall be duly authorized and validly issued as fully paid, non-assessable, free of preemptive rights and shall be free and clear of any lien, claim or encumbrance.

## 2.6 Qualification of Akerna Shares

- (1) Akerna covenants and agrees that it shall: (a) file a registration statement (the “**Registration Statement**”) under the U.S. Securities Act of 1933, as amended (the “**1933 Act**”) to register any and all of the Akerna Shares to be issued or delivered to holders of the Exchangeable Shares by Akerna or Callco (including, for greater certainty, pursuant to the Exchange Right or the Automatic Exchange Right); (b) cause the Registration Statement to become effective prior to the time that any Exchangeable Shares are first issued; and (c) cause the Registration Statement (or a successor registration statement) to remain effective at all times that any Exchangeable Shares remain outstanding, in each case unless the issuance of such securities is exempt from any requirement for registration under the 1933 Act and all applicable state securities laws. Without limiting the generality of the foregoing, Akerna and Callco each covenant and agree that it will to make such filings and seek such regulatory consents and approvals as are necessary so that the Akerna Shares to be issued or delivered to holders of Exchangeable Shares by Akerna or Callco pursuant to the terms of the Exchangeable Share Provisions, the Voting and Exchange Trust Agreement and this Agreement will be offered, sold, issued and delivered in compliance with the 1933 Act and all applicable state securities laws, and applicable securities laws in Canada and shall ensure that the Akerna Shares will not be “restricted securities” within the meaning of Rule 144 under the 1933 Act. Akerna will in good faith expeditiously take all such actions and do all such things as are reasonably necessary or desirable to cause all Akerna Shares to be delivered to holders of Exchangeable Shares pursuant to the terms of the Exchangeable Share Provisions, the Voting and Exchange Trust Agreement and this Agreement to be listed, quoted and posted for trading on all stock exchanges and quotation systems on which outstanding Akerna Shares have been listed by Akerna and remain listed and are quoted or posted for trading at such time.
- (2) Notwithstanding any other provision of the Exchangeable Share Provisions, or any term of this Agreement, the Voting and Exchange Trust Agreement or the Plan of Arrangement, no Akerna Shares shall be issued (and Akerna will not be required to issue any Akerna Shares) in connection with any liquidation, dissolution or winding-up of Exchangeco, or any retraction, redemption or any other exchange, direct or indirect, of Exchangeable Shares, if such issuance of Akerna Shares would not be permitted by applicable laws.

## 2.7 Economic Equivalence

- (1) So long as any Exchangeable Shares not owned by Akerna or its affiliates are outstanding:
  - (a) Akerna shall not without the prior approval of Exchangeco and the prior approval of the holders of the Exchangeable Shares given in accordance with Section 11(b) of the Exchangeable Share Provisions:
    - (i) issue or distribute Akerna Shares (or securities exchangeable for or convertible into or carrying rights to acquire Akerna Shares) to the holders of all or substantially all of the then outstanding Akerna Shares by way of stock or share dividend or other distribution, other than an issue of Akerna Shares (or securities exchangeable for or convertible into or carrying rights to acquire Akerna Shares) to holders of Akerna Shares: (A) who exercise an option to receive dividends in Akerna Shares (or securities exchangeable for or convertible into or carrying rights to acquire Akerna Shares) in lieu of receiving cash dividends; or (B) pursuant to any dividend reinvestment plan or scrip dividend or similar arrangement; or

- (ii) issue or distribute rights, options or warrants to the holders of all or substantially all of the then outstanding Akerna Shares entitling them to subscribe for or to purchase Akerna Shares (or securities exchangeable for or convertible into or carrying rights to acquire Akerna Shares); or
- (iii) issue or distribute to the holders of all or substantially all of the then outstanding Akerna Shares: (A) shares or securities of Akerna of any class other than Akerna Shares (or securities convertible into or exchangeable for or carrying rights to acquire Akerna Shares); (B) rights, options, warrants or other assets other than those referred to in Section 2.7(1)(a)(ii); (C) evidence of indebtedness of Akerna; or (D) assets of Akerna;

unless, in each case, Exchangeco issues or distributes the economic equivalent of such rights, options, warrants, securities, shares, evidences of indebtedness or other assets simultaneously to holders of the Exchangeable Shares; provided, however, that, for greater certainty, the above restrictions shall not apply to any securities issued or distributed by Akerna in order to give effect to and to consummate the transactions contemplated by, and in accordance with, the Arrangement Agreement and the Plan of Arrangement.

- (b) Akerna shall not without the prior approval of Exchangeco and the prior approval of the holders of the Exchangeable Shares given in accordance with Section 11(b) of the Exchangeable Share Provisions:

- (i) subdivide, redivide or change the then outstanding Akerna Shares into a greater number of Akerna Shares; or
- (ii) reduce, combine, consolidate or change the then outstanding Akerna Shares into a lesser number of Akerna Shares; or
- (iii) reclassify or otherwise change the Akerna Shares or effect an amalgamation, merger, reorganization or other transaction affecting the Akerna Shares;

unless, in each case, the same or an economically equivalent change is made simultaneously to, or in the rights of the holders of, the Exchangeable Shares; provided, however, that, for greater certainty, the above restrictions shall not apply to any securities issued or distributed by Akerna in order to give effect to and to consummate the transactions contemplated by, and in accordance with the Arrangement Agreement and the Plan of Arrangement.

- (2) The board of directors of Exchangeco shall determine, in good faith and in its sole discretion (with the assistance of such financial or other advisors as the board of may determine), “economic equivalence” for the purposes of any event referred to in Section 2.7(1)(a) or Section 2.7(1)(b) and each such determination shall be conclusive and binding on Akerna. In making each such determination, the following factors shall, without excluding other factors determined by the board of directors of Exchangeco to be relevant, be considered by the board of directors of Exchangeco:

- (a) in the case of any stock or share dividend or other distribution payable in Akerna Shares, the number of such shares issued as a result of such stock or share dividend or other distribution in proportion to the number of Akerna Shares previously outstanding;

- (b) in the case of the issuance or distribution of any rights, options or warrants to subscribe for or purchase Akerna Shares (or securities exchangeable for or convertible into or carrying rights to acquire Akerna Shares), the relationship between the exercise price of each such right, option or warrant, the number of such rights, options or warrants to be issued or distributed in respect of each Akerna Share and the Current Market Price of an Akerna Share, the price volatility of the Akerna Shares and the terms of any such instrument;
  - (c) in the case of the issuance or distribution of any other form of property (including without limitation any shares or securities of Akerna of any class other than Akerna Shares, any rights, options or warrants other than those referred to in Section 2.7(2)(b), any evidences of indebtedness of Akerna or any assets of Akerna), the relationship between the fair market value (as determined by the board of directors of Exchangeco in the manner above contemplated) of such property to be issued or distributed with respect to each outstanding Akerna Share and the Current Market Price of an Akerna Share;
  - (d) in the case of any subdivision, redivision or change of the then outstanding Akerna Shares into a greater number of Akerna Shares or the reduction, combination, consolidation or change of the then outstanding Akerna Shares into a lesser number of Akerna Shares or any amalgamation, merger, arrangement, reorganization or other transaction affecting Akerna Shares, the effect thereof upon the then outstanding Akerna Shares; and
  - (e) in all such cases, the general taxation consequences of the relevant event to holders of Exchangeable Shares to the extent that such consequences may differ from the taxation consequences to holders of Akerna Shares as a result of differences between taxation laws of Canada and the United States (except for any differing consequences arising as a result of differing marginal taxation rates and without regard to the individual circumstances of holders of Exchangeable Shares).
- (3) Exchangeco agrees that, to the extent required, upon due notice from Akerna, Exchangeco shall use its best efforts to take or cause to be taken such steps as may be necessary for the purposes of ensuring that appropriate dividends are paid or other distributions are made by Exchangeco, or subdivisions, redivisions or changes are made to the Exchangeable Shares, in order to implement the required economic equivalence with respect to the Akerna Shares and Exchangeable Shares as provided for in this Section 2.7.

## **2.8 Tender Offers**

In the event that a tender offer, share exchange offer, issuer bid, take-over bid or similar transaction with respect to Akerna Shares (an “Offer”) is proposed by Akerna or is proposed to Akerna or its shareholders and is recommended by the board of directors of Akerna, or is otherwise effected or to be effected with the consent or approval of the board of directors of Akerna, and the Exchangeable Shares are not redeemed by Exchangeco or purchased by Akerna or Callco pursuant to the Redemption Call Right, Akerna and Exchangeco will use reasonable efforts to take all such actions and do all such things as are necessary or desirable to enable and permit holders of Exchangeable Shares (other than Akerna and its affiliates) to participate in such Offer to the same extent and on an economically equivalent basis as the holders of Akerna Shares, without discrimination. Without limiting the generality of the foregoing, Akerna and Exchangeco will use reasonable efforts in good faith to ensure that holders of Exchangeable Shares may participate in each such Offer without being required to retract Exchangeable Shares as against Exchangeco (or, if so required, to ensure that any such retraction shall be effective only upon, and shall be conditional upon, the closing of such Offer and only to the extent necessary to tender or deposit to the Offer). Nothing herein shall affect the rights of Exchangeco to redeem, or Akerna or Callco to purchase pursuant to the Redemption Call Right, Exchangeable Shares in the event of an Akerna Control Transaction.

## **2.9 Akerna and Affiliates Not to Vote Exchangeable Shares**

Each of Akerna and Calco covenants and agrees that it shall appoint and cause to be appointed proxyholders with respect to all Exchangeable Shares held by it and its affiliates for the sole purpose of attending each meeting of holders of Exchangeable Shares in order to be counted as part of the quorum for each such meeting. Each of Akerna and Calco further covenants and agrees that it shall not, and shall cause its affiliates not to, exercise any voting rights which may be exercisable by holders of Exchangeable Shares from time to time pursuant to the Exchangeable Share Provisions or pursuant to the provisions of the *Business Corporations Act* (Ontario) (or any successor or other corporate statute by which Exchangeco may in the future be governed) with respect to any Exchangeable Shares held by it or by its affiliates in respect of any matter considered at any meeting of holders of Exchangeable Shares; provided however, for further clarity, that this Section 2.9 shall not in any way restrict the right of Akerna or any of its affiliates to vote their common shares of Exchangeco in accordance with the Exchangeable Share Provisions.

## **2.10 Ordinary Market Purchases**

For greater certainty, nothing contained in this Agreement, including without limitation the obligations of Akerna contained in Section 2.8, shall limit the ability of Akerna (or any of its affiliates) to make ordinary market or other voluntary purchases of Akerna Shares in accordance with applicable laws and regulatory or stock exchange requirements.

## **2.11 Ownership of Outstanding Shares**

Without the prior approval of Exchangeco and the prior approval of the holders of the Exchangeable Shares given in accordance with Section 11(b) of the Exchangeable Share Provisions, Akerna covenants and agrees in favour of Exchangeco that, as long as any outstanding Exchangeable Shares not owned by Akerna or its affiliates are outstanding, Akerna will be and remain the direct or indirect beneficial owner of all issued and outstanding common shares in the capital of Exchangeco and Calco. Notwithstanding the foregoing, Akerna shall not be in violation of this Section 2.11 if any person or group of persons acting jointly or in concert acquires all or substantially all of the assets of Akerna or the Akerna Shares pursuant to any merger or similar transaction involving Akerna pursuant to which Akerna is not the surviving corporation.

### **ARTICLE 3 AKERNA SUCCESSORS**

## **3.1 Certain Requirements in Respect of Combination, etc.**

So long as any Exchangeable Shares not owned by Akerna or its affiliates are outstanding, Akerna shall not enter into any transaction (whether by way of reorganization, consolidation, arrangement, amalgamation, merger, transfer, sale, lease or otherwise) whereby all or substantially all of its undertaking, property and assets would become the property of any other person or, in the case of an amalgamation or merger, of the continuing corporation resulting therefrom, provided that it may do so if:

- (a) such other person or continuing corporation (the “**Akerna Successor**”) by operation of law, becomes, without more, bound by the terms and provisions of this Agreement or, if not so bound, executes, prior to or contemporaneously with the consummation of such transaction, an agreement supplemental hereto and such other instruments (if any) as are necessary or advisable to evidence the assumption by the Akerna Successor of liability for all moneys payable and property deliverable hereunder and the covenant of such Akerna Successor to pay and deliver or cause to be paid and delivered the same and its agreement to observe and perform all the covenants and obligations of Akerna under this Agreement; and

- (b) such transaction shall be upon such terms and conditions as to preserve and not to impair any of the rights, duties, powers and authorities of the other parties hereunder or the holders of the Exchangeable Shares.

### 3.2 Vesting of Powers in Successor

Whenever the conditions of Section 3.1 have been duly observed and performed, the parties, if required by Section 3.1, shall execute and deliver the supplemental agreement provided for in Section 3.1(a) and thereupon the Akerna Successor and such other person that may then be the issuer of the Akerna Shares shall possess and from time to time may exercise each and every right and power of Akerna under this Agreement in the name of Akerna or otherwise and any act or proceeding by any provision of this Agreement required to be done or performed by the board of directors of Akerna or any officers of Akerna may be done and performed with like force and effect by the directors or officers of such Akerna Successor.

### 3.3 Wholly-Owned Subsidiaries

Nothing herein shall be construed as preventing: (a) the amalgamation or merger of any wholly-owned direct or indirect subsidiary of Akerna (other than Exchangeco or Callco) with or into Akerna; (b) the winding-up, liquidation or dissolution of any wholly-owned direct or indirect subsidiary of Akerna (other than Exchangeco or Callco), provided that all of the assets of such subsidiary are transferred to Akerna or another wholly-owned direct or indirect subsidiary of Akerna; (c) any other distribution of the assets of any wholly-owned direct or indirect subsidiary of Akerna among the shareholders of such subsidiary for the purpose of winding up its affairs; and (d) any such transactions are expressly permitted by this Article 3.

### 3.4 Successorship Transaction

Notwithstanding the foregoing provisions of this Article 3, in the event of an Akerna Control Transaction:

- (a) in which Akerna merges or amalgamates with, or in which all or substantially all of the then outstanding Akerna Shares are acquired by, one or more other corporations to which Akerna is, immediately before such merger, amalgamation or acquisition, “related” within the meaning of the *Income Tax Act* (Canada) (otherwise than by virtue of a right referred to in paragraph 251(5)(b) thereof);
- (b) which does not result in an acceleration of the Redemption Date in accordance with paragraph (ii) of the definition of Redemption Date in the Exchangeable Share Provisions; and
- (c) in which all or substantially all of the then outstanding Akerna Shares are converted into or exchanged for shares or rights to receive such shares (the “**Other Shares**”) or another corporation (the “**Other Corporation**”) that, immediately after such Akerna Control Transaction, owns or controls, directly or indirectly, Akerna;

then all references herein to “Akerna” shall thereafter be and be deemed to be references to “Other Corporation” and all references herein to “Akerna Shares” shall thereafter be and be deemed to be references to “Other Shares” (with appropriate adjustments if any, as are required to result in a holder of Exchangeable Shares on the exchange, redemption or retraction of such shares pursuant to the Exchangeable Share Provisions or the Plan of Arrangement or the exchange of such shares pursuant to the Voting and Exchange Trust Agreement immediately subsequent to the Akerna Control Transaction being entitled to receive that number of Other Shares equal to the number of Other Shares such holder of Exchangeable Shares would have received if the exchange, redemption or retraction of such shares pursuant to the Exchangeable Share Provisions or the Plan of Arrangement, or the exchange of such shares pursuant to the Voting and Exchange Trust Agreement had occurred immediately prior to the Akerna Control Transaction and the Akerna Control Transaction was completed) but subject to subsequent adjustments to reflect any subsequent changes in the share capital of the issuer of the Other Shares, including without limitation, any subdivision, consolidation or reduction of share capital, without any need to amend the terms and conditions of the Exchangeable Shares and without any further action required.

**ARTICLE 4  
GENERAL**

**4.1 Term**

This Agreement shall come into force and be effective as of the date hereof and shall terminate and be of no further force and effect at such time as no Exchangeable Shares (or securities or rights convertible into or exchangeable for or carrying rights to acquire Exchangeable Shares) are held by any person other than Akerna and any of its affiliates.

**4.2 Changes in Capital of Akerna and Exchangeco**

Notwithstanding the provisions of Section 4.4, at all times after the occurrence of any event contemplated pursuant to Section 2.7 and Section 2.8 or otherwise, as a result of which either Akerna Shares or the Exchangeable Shares or both are in any way changed, this Agreement shall forthwith be amended and modified as necessary in order that it shall apply with full force and effect, *mutatis mutandis*, to all new securities into which Akerna Shares or the Exchangeable Shares or both are so changed and the parties hereto shall execute and deliver an agreement in writing giving effect to and evidencing such necessary amendments and modifications.

**4.3 Severability**

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

**4.4 Amendments, Modifications**

Subject to Section 4.2, Section 4.3 and Section 4.5 this Agreement may not be amended or modified except by an agreement in writing executed by Akerna, Callco and Exchangeco and approved by the holders of the Exchangeable Shares in accordance with Section 11(b) of the Exchangeable Share Provisions. No amendment or modification or waiver of any of the provisions of this Agreement otherwise permitted hereunder shall be effective unless made in writing and signed by all of the parties hereto.

**4.5 Ministerial Amendments**

Notwithstanding the provisions of Section 4.4, the parties to this Agreement may in writing at any time and from time to time, without the approval of the holders of the Exchangeable Shares, amend or modify this Agreement for the purposes of:

- (a) adding to the covenants of any or all of the parties hereto if the board of directors of each of Akerna, Callco and Exchangeco shall be of the good faith opinion that such additions will not be prejudicial to the rights or interests of the holders of the Exchangeable Shares;
- (b) evidencing the succession of Akerna Successors and the covenants of and obligations assumed by each such Akerna Successor in accordance with the provisions of Article 3;

- (c) making such amendments or modifications not inconsistent with this Agreement as may be necessary or desirable with respect to matters or questions arising hereunder which, in the good faith opinion of the board of directors of each of Akerna, Calco and Exchangeco, it may be expedient to make, provided that each such board of directors shall be of the good faith opinion, after consultation with counsel, that such amendments or modifications will not be prejudicial to the rights or interests of the holders of the Exchangeable Shares; or
- (d) making such changes or corrections hereto which, on the advice of counsel to Akerna, Calco and Exchangeco, are required for the purpose of curing or correcting any ambiguity or defect or inconsistent provision or clerical omission or mistake or manifest error contained herein, provided that the boards of directors of each of Akerna, Calco and Exchangeco shall be of the good faith opinion that such changes or corrections will not be prejudicial to the rights or interests of the holders of the Exchangeable Shares.

#### **4.6 Meeting to Consider Amendments**

Exchangeco, at the request of Akerna, shall call a meeting or meetings of the holders of the Exchangeable Shares for the purpose of considering any proposed amendment or modification requiring approval pursuant to Section 4.4. Any such meeting or meetings shall be called and held in accordance with the articles of Exchangeco, the Exchangeable Share Provisions and all applicable laws.

#### **4.7 Escrow Agreement**

Notwithstanding any other provision hereof, the parties hereto acknowledge and agree that the Exchangeable Shares and Akerna Shares are, as at the date hereof, subject to the terms and conditions of the Escrow Agreement (as defined in the Arrangement Agreement), and for so long as such shares continue to be subject to the Escrow Agreement, any transfer or exchange of Exchangeable Shares pursuant to this Agreement will be made subject to the Escrow Agreement and any Exchangeable Share consideration issued in respect of Exchangeable Shares will be subject to the Escrow Agreement.

#### **4.8 Enurement**

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

#### **4.9 Notices to Parties**

Any notice and other communications required or permitted to be given pursuant to this Agreement shall be sufficiently given if delivered in person or if sent by facsimile transmission (provided such transmission is recorded as being transmitted successfully) to the parties at the following addresses:

- (a) In the case of Akerna, at the following address:

Akerna Corp.  
1601 Arapahoe Street  
Denver, CO 80202

Attention: John Fowle, Chief Financial Officer  
Email: john.fowle@akerna.com

with copies (which shall not constitute notice) to:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: bennett.wong@dentons.com

(b) In the case of Callco or Exchangeco, at the following address:

Akerna Corp.  
1601 Arapahoe Street  
Denver, CO 80202

Attention: John Fowle, Chief Financial Officer  
Email: john.fowle@akerna.com

with copies (which shall not constitute notice) to:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: bennett.wong@dentons.com

and such notice or other communication shall be deemed to have been given and received: (x) if delivered on a Business Day prior to 5:00 p.m. (local time in the place where the notice or other communication is received), on the date of delivery; or (y) otherwise, on the next Business Day. Either party may change its address for notice by giving notice to the other parties in accordance with the foregoing provisions.

#### **4.10 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

#### **4.11 Jurisdiction**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Each party hereto irrevocably submits to the exclusive jurisdiction of the courts of the Province of Ontario with respect to any matter arising hereunder or related hereto.

*[Remainder of this page left intentionally blank]*

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

**AKERNA CORP.**

By: /s/ John Fowle  
Name: John Fowle  
Title: Chief Financial Officer

**AKERNA CANADA AMPLE EXCHANGE INC.**

By: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Executive Officer

**AKERNA CANADA HOLDINGS INC.**

By: /s/ John Prentice  
Name: John Prentice  
Title: Shareholder Representative

[Exchangeable Share Support Agreement]

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## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (the “**Agreement**”) is made as of July \_\_\_, 2020,

AMONG:

**AKERNA CORP.**, a company existing under the laws of the State of Delaware (“**Akerna**”);

AND

**AKERNA CANADA AMPLE EXCHANGE INC.**, a company existing under the laws of the Province of Ontario (“**Exchangeco**”);

AND

**JOHN PRENTICE**, an individual resident in the Province of Ontario (hereinafter referred to as the “**Shareholder Representative**”);

AND

**ODYSSEY TRUST COMPANY, INC.**, a trust company licensed to carry on business in the provinces of Alberta and British Columbia (the “**Escrow Agent**”).

**WHEREAS** pursuant to an arrangement agreement dated December 18, 2019, as amended by amending agreements dated February 28, 2020, May 26, 2020 and June 1, 2020 (collectively, the “**Arrangement Agreement**”) entered into among Akerna, Exchangeco, Ample Organics Inc. (“**Ample**”) and the Shareholder Representative, the parties thereto have agreed that Akerna will purchase, through its wholly-owned subsidiary, Exchangeco, all of the issued and outstanding common and preferred shares in the capital of Ample (the “**Ample Shares**”) by way of an arrangement under section 182 of the OBCA;

**AND WHEREAS** pursuant to the Arrangement Agreement, Akerna and Exchangeco have agreed to pay to the shareholders of Ample as a portion of the consideration for the Ample Shares, redeemable preferred shares in the capital of Exchangeco (“**Exchangeable Shares**”);

**AND WHEREAS** pursuant to the Arrangement, the Shareholder Representative has been appointed as the true, exclusive and lawful representative, attorney-in-fact and agent for the Ample Shareholders in connection with this Agreement and is thereby authorized to make all decisions, take all actions or do any and all thing necessary on their behalf relating to the matters contained herein;

**AND WHEREAS** the Arrangement Agreement contemplates that Akerna and Exchangeco will deposit in escrow certain Exchangeable Shares with the Escrow Agent, to be contributed, held and distributed by the Escrow Agent subject to the terms and conditions hereof;

**AND WHEREAS** the foregoing recitals are representations and statements of fact made by the parties hereto and not by the Escrow Agent.

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**NOW, THEREFORE, THIS AGREEMENT WITNESSETH THAT**, in consideration of the foregoing recitals, the covenants and agreements hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

1. **Definitions.** For the purposes of this Agreement, the following terms shall have the following meanings:

- (a) “**Affiliate**” has the meaning ascribed thereto under the *Securities Act* (Ontario) and the rules, regulations and published policies made thereunder.
- (b) “**Akerna Shares**” means the shares in the common stock in the share capital of Akerna.
- (c) “**Ample Shareholders**” means the holders of issued and outstanding shares in the capital of Ample immediately prior to the Closing Time that are entitled to receive Exchangeable Shares in accordance with the Arrangement Agreement and the Plan of Arrangement.
- (d) “**Arrangement**” means an arrangement under the OBCA on the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or any variations to the Plan of Arrangement made in accordance with the terms of the Arrangement Agreement.
- (e) “**Business Day**” means a day on which banks are generally open for the transaction of commercial business in Toronto, Ontario, Calgary, Alberta or Denver, Colorado but does not in any event include a Saturday or Sunday or statutory holiday in Ontario, Alberta or Colorado.
- (f) “**Callco**” means Akerna Canada Holdings Inc.
- (g) “**Claim Notice**” means written notification of a Claim pursuant to the Arrangement Agreement containing:
  - (i) a description and the amount of Damages incurred or reasonably expected to be incurred by Akerna or Exchangeco, as applicable; and
  - (ii) a statement that Akerna or Exchangeco, as applicable, is entitled to indemnification under Article 6 of the Arrangement Agreement for such Damages and a reasonable explanation of the basis therefor.
- (h) “**Claims**” means any claim by Akerna or Exchangeco for indemnification in accordance with the Arrangement Agreement.
- (i) “**Closing Date**” means July \_\_, 2020.
- (j) “**Closing Shares**” means 2,306,202 Exchangeable Shares deposited into escrow pursuant to this Agreement on the date hereof.
- (k) “**Closing Time**” means the time at which the Arrangement becomes effective on the Closing Date pursuant to the OBCA.
- (l) “**Court**” means the Ontario Superior Court of Justice.
- (m) “**Damages**” means any and all claims, debts, obligations and other liabilities (whether absolute, accrued, contingent, fixed or otherwise, or whether known or unknown, or due to become due or otherwise), diminution in value, monetary damages, fines, fees, penalties, interest obligations, deficiencies, losses and expenses (including amounts paid in settlement, interest, court costs, reasonable fees and expenses of attorneys, accountants, financial advisors, investigators, and other experts, and other reasonable expenses of litigation, arbitration or other dispute resolution procedures).

- (n) “**Deposited Shares**” means, collectively, the Closing Shares and the Escrowed Shares.
- (o) “**Escrowed Shares**” means 329,457 Exchangeable Shares deposited into escrow pursuant to this Agreement on the date hereof.
- (p) “**Exchangeco Articles**” means the articles of incorporation of Exchangeco, as may be amended by any articles of amendment.
- (q) “**Final Order**” means an order issued by a court of competent jurisdiction, accompanied by a written certification from counsel for the instructing party attesting that such order is final and not subject to further proceedings or appeal along with a written instruction from an authorized representative of such instructing party given to effectuate such order and the Escrow Agent shall be entitled to conclusively rely upon any such certification and instruction and shall have no responsibility to review the order to which such certification and instruction refers or to make any determination as to whether such order is final;
- (r) “**Final Release Date**” has the meaning specified in Section 7(b);
- (s) “**Joint Instructions**” means joint, written instructions executed by each of Akerna and the Shareholder Representative substantially in the form attached as Schedule “A”.
- (t) “**OBCA**” means the *Business Corporations Act*, R.S.O. 1900, c. B.16, as amended, including the regulations promulgated thereunder.
- (u) “**Person**” means any individual, firm, partnership, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate group, body corporate, corporation, unincorporated association or organization, governmental entity, syndicate or other entity, whether or not having legal status.
- (v) “**Plan of Arrangement**” means the plan of arrangement set forth in Schedule “B” to the Arrangement Agreement, as such plan of arrangement may be amended or supplemented from time to time.
- (w) “**Resignation Date**” has the meaning specified in Section 16(a).
- (x) “**Shareholder Correspondence**” has the meaning specified in Section 6(b).
- (y) “**Trustee**” means Odyssey Trust Company, acting in its capacity as trustee pursuant to the Voting and Exchange Trust Agreement.
- (z) “**Unresolved Claims**” means all Claims asserted against an Ample Shareholder pursuant to the delivery of a Claim Notice in accordance with this Agreement and the Arrangement Agreement prior to the Final Release Date and that are not resolved as of the Final Release Date.
- (aa) “**Voting and Exchange Trust Agreement**” means the Voting and Exchange Trust Agreement entered into by Akerna, Exchangeco, Callco, the Trustee and the Shareholder Representative as of the date hereof.

2. **Appointment of Escrow Agent.** Akerna, Exchangeco and the Shareholder Representative hereby appoint the Escrow Agent to act as agent on their behalf pursuant to this Agreement, and the Escrow Agent hereby accepts such appointment on the terms and conditions of this Agreement.
3. **Delivery of the Escrowed Shares.** Akerna and Exchangeco hereby deposit with the Escrow Agent a total of 2,635,659 Exchangeable Shares, representing in the aggregate the Deposited Shares. The Deposited Shares shall be registered in the name of the Escrow Agent and shall be held and retained by the Escrow Agent until released from escrow solely in accordance with the terms and conditions of this Agreement.
4. **Retention in Escrow.** The Deposited Shares and all cash and all other securities and property as may be held by the Escrow Agent from time to time in accordance with the terms hereof, including, any securities or other property that may be issued in connection with share splits, share dividends, distributions, combinations, exchanges and like transactions affecting the Deposited Shares (or any of them) shall be held by the Escrow Agent in escrow pursuant to the terms hereof and for the limited purposes specified herein. Unless otherwise expressly stated herein, the Deposited Shares shall not be sold, assigned, hypothecated, alienated, released from escrow, transferred within escrow, or otherwise in any manner dealt with, without the prior written consent of the Shareholder Representative and Akerna being given to the Escrow Agent.
5. **Reorganizations, Dividends etc.**
  - (a) If, during the period in which any of the Deposited Shares are held in escrow pursuant to this Agreement, a share split or consolidation, share dividend, recapitalization, exchange or similar transaction affecting the share capital of Exchangeco occurs, then in each such event, the Deposited Shares so affected and that are then held in escrow pursuant to this Agreement shall be released and remitted by the Escrow Agent to such Person(s) in order to give effect to such share split or consolidation, share dividend, recapitalization, exchange or similar transaction.
  - (b) Subject to Section 10, any cash, securities or other property that is issued from time to time with respect to any Deposited Shares or other property then held in escrow pursuant to this Agreement shall be deposited in escrow with the Escrow Agent and shall be held on the same terms as the Deposited Shares or other property with respect to which such cash, securities or other property shall have been delivered.
6. **Voting of Deposited Shares**
  - (a) **Grant of Power of Attorney and Proxy.** The Escrow Agent, as holder of record of the Deposited Shares, to the extent that such shares are held in escrow pursuant to this Agreement, hereby irrevocably appoints the Shareholder Representative as its true, exclusive and lawful representative, attorney-in-fact, agent and proxy:
    - (i) to exercise any and all voting rights held by the Escrow Agent in its capacity as a Beneficiary (as such term is defined in the Voting and Exchange Trust Agreement) under the Voting and Exchange Trust Agreement, including, without limitation, to direct and instruct the Trustee with respect to the voting of the Special Voting Share (as such term is defined in the Voting and Exchange Trust Agreement) in accordance with the Voting and Exchange Trust Agreement and with respect to all rights granted to Beneficiaries under the Voting and Exchange Trust Agreement respecting (A) the attendance at meetings of the shareholders of Akerna and the voting of the Special Voting Share thereat, and (B) the provision of any consents in writing that are sought by Akerna from holders of Akerna Shares; and

- (ii) to attend any meeting of the holders of Exchangeable Shares, including any adjournment or postponement thereof, on behalf of the Escrow Agent, and to exercise any and all rights with respect to the voting of the Deposited Shares registered in the name of the Escrow Agent and held in escrow pursuant to this Agreement, including the right to vote the Deposited Shares in respect of any matter, question, proposal or proposition whatsoever that may properly come before the holders of Exchangeable Shares at any meeting of Exchangeco or in any consent sought by Exchangeco, as applicable, for such time as any Deposited Shares remain in escrow pursuant to this Agreement.

(b) Delivery of Meeting Materials. Akerna and Exchangeco shall deliver to the Shareholder Representative and each Ample Shareholder any notice or correspondence (“**Shareholder Correspondence**”) required to be delivered to the registered holders of Exchangeable Shares at the same time, in the same form and on the same basis as Akerna, Exchangeco or the Trustee are required under applicable law, by contract, or otherwise, to deliver such notice or other correspondence to registered holders of Exchangeable Shares. Concurrently with the delivery of any Shareholder Correspondence in respect of which any voting rights (including any right to direct the voting of the Special Voting Share) or consent rights attaching to the Exchangeable Shares shall arise, Akerna and Exchangeco shall deliver to each Ample Shareholder:

- (i) a statement that such Ample Shareholder is entitled to instruct the Shareholder Representative as to the exercise of voting rights (including any right to direct the voting of the Special Voting Share) or consent rights attaching to such portion of the Deposited Shares as the Shareholder Representative shall determine in accordance with the Arrangement Agreement and Plan of Arrangement;
- (ii) a form of direction whereby the Ample Shareholder may so direct and instruct the Shareholder Representative; and
- (iii) a statement of the time by which such instructions must be received by the Shareholder Representative in order to be binding upon them and the method for revoking or amending any such instructions.

(c) Exercise of Voting Rights. The Shareholder Representative has been granted the authority under the Arrangement Agreement and the Plan of Arrangement, in its capacity as the representative, attorney-in-fact and agent for each Ample Shareholder, to determine from time to time while the Deposited Shares (or any of them) are held in escrow pursuant to this Agreement, the number (if any) of all Deposited Shares in respect of which each Ample Shareholder shall be entitled to provide instructions with respect to the exercise of any voting rights (including any right to direct the voting of the Special Voting Share) or any consent rights. The Shareholder Representative hereby agrees and covenants that it shall exercise any voting rights (including any right to direct the voting of the Special Voting Share) or consent rights attaching to each Deposited Shares exclusively in accordance with the written instructions of the Ample Shareholder that the Shareholder Representative has determined, in accordance with the Arrangement Agreement and the Plan of Arrangement, is entitled to provide instructions with respect to such Deposited Share.

7. **Release of Deposited Shares.**

(a) On the Business Day that is six (6) months following the Closing Date, provided that any Closing Shares remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of that number of Closing Shares equal to the lesser of (i) such number of Closing Shares as is required to cause the total number of all Effective Time Shares (as such term is defined in the Arrangement Agreement) plus Closing Shares delivered to the Ample Shareholders under the Arrangement Agreement and this Agreement as of such date to equal fifty percent (50%) of the total number of Up-front Shares (as such term is defined in the Arrangement Agreement), and (ii) the number of Closing Shares then held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud.

(b) On the Business Day that is nine (9) months following the Closing Date, provided that any Closing Shares remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of that number of Closing Shares equal to the lesser of (i) such number of Closing Shares as is required to cause the total number of all Effective Time Shares (as such term is defined in the Arrangement Agreement) plus Closing Shares delivered to the Ample Shareholders under the Arrangement Agreement and this Agreement as of such date to equal seventy five percent (75%) of the total number of Up-front Shares (as such term is defined in the Arrangement Agreement), and (ii) the number of Closing Shares then held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud.

(c) On the Business Day that is twelve (12) months following the Closing Date (the “**Final Release Date**”), provided that any Closing Shares or Escrowed Shares, as the case may be, remain subject to escrow at such time, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent directing the release from escrow to the Ample Shareholders of:

- (i) all, but not less than all, of the Closing Shares that are held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim in respect of fraud; and
- (ii) all, but not less than all, of the Escrowed Shares held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim.

(d) Upon receipt by the Escrow Agent of Joint Instructions from time to time directing the release from escrow of Deposited Shares in accordance with Section 7(a), 7(b), 7(c) or 7(d), the Escrow Agent is hereby irrevocably authorized and directed, in each case, to release, transfer and deliver such Deposited Shares in accordance with Section 9(a).

8. **Indemnification Claims.**

(a) If Akerna or Exchangeco provides to the Shareholder Representative a Claim Notice on or before the Final Release Date and otherwise in accordance with Section 6.3(a) of the Arrangement Agreement, Akerna or Exchangeco, as applicable, shall concurrently provide a copy of the same Claim Notice to the Escrow Agent.

(b) If in respect of any Claim Notice that has been received by the Escrow Agent on or before 5:00 p.m. (Eastern Standard Time) on the Final Release Date, then the Escrow Agent shall hold the portion of the Deposited Shares that are subject to such Claim Notice until the Escrow Agent receives either (i) Joint Instructions authorizing the release to Akerna and/or Exchangeco of all or any portion of the Deposited Shares that are subject to such Claim Notice, or (ii) a Final Order directing the release to Akerna and/or Exchangeco of all or any portion of the portion of the Deposited Shares that are subject to such Claim Notice. Within five (5) Business Days after the Escrow Agent's receipt of such Joint Instructions or Final Order, as the case may be, the Escrow Agent shall release from escrow the portion of the Deposited Shares required to be released in accordance with such Joint Instructions or Final Order.

(c) On the Final Release Date, the Shareholder Representative and Akerna shall jointly provide a certificate to the Escrow Agent setting forth the aggregate amount of all Unresolved Claims as of the Final Release Date based on all Claim Notices submitted in accordance with this Agreement and the Arrangement Agreement prior to the Final Release Date.

(d) Following the Final Release Date, within five (5) Business Days after the Escrow Agent's receipt of Joint Instructions or Final Order, in either case, containing the final determination of any Unresolved Claims, the Escrow Agent shall (i) first, distribute from the Deposited Shares to Akerna and/or Exchangeco an amount equal to the lesser of (A) such portion of the Deposited Shares to be released to Akerna and/or Exchangeco pursuant to such Joint Instructions or Final Order, as the case may be, and (B) the portion of the Deposited Shares remaining in escrow pursuant to this Agreement and available to satisfy such Claim at such time, and (ii) second, after distributing any Deposited Shares pursuant to Section 8(d)(i), distribute from the Deposited Shares to the Ample Shareholders the remaining amount of any Deposited Shares then held by the Escrow Agent.

9. **Allocation of Released Shares.**

(a) All Deposited Shares released by the Escrow Agent to the Ample Shareholders in accordance with the terms of this Agreement shall be transferred to such Ample Shareholders in such proportions as the Shareholder Representative shall direct in writing, which direction shall be provided by the Shareholder Representative to the Escrow Agent within two (2) Business Days of the date on which any Deposited Shares are directed to be released to the Ample Shareholders pursuant to any Joint Instructions or Final Order.

(b) Upon the release and transfer of Deposited Shares to Ample Shareholders pursuant to this Agreement, each of Akerna and Exchangeco shall take all steps reasonably required to facilitate such transfer, including obtaining all approvals and consents, and executing all such documents and instruments, as may be reasonably required to complete the release and transfer of Deposited Shares to the Ample Shareholders (or any of them) in accordance with this Agreement.

10. **Exchange of Exchangeable Shares.**

(a) During such time as any Deposited Shares are held in escrow pursuant to this Agreement, neither the Escrow Agent nor the Shareholder Representative shall be required to act upon or otherwise give effect to any request by any Ample Shareholder that the Escrow Agent or Shareholder Representative request or otherwise cause the exchange of any Deposited Shares at the option or election of the registered holder thereof for any shares in the capital of Akerna, whether pursuant to the Voting and Exchange Trust Agreement or in accordance with the terms of Exchangeco Articles.

(b) If at any time, Exchangeable Shares comprising part of the Deposited Shares subject to escrow hereunder are to be exchanged pursuant to a call right granted to Akerna or any of its Affiliates pursuant to the Voting and Exchange Trust Agreement, the Plan of Arrangement or the terms of Exchangeable Articles, Akerna shall notify the Escrow Agent in writing with a simultaneously delivered notice from Akerna or its Affiliates with respect to the exercise of such call right. Subject to Section 10(c), the Escrow Agent shall deliver the Akerna Shares to be issued in exchange for the Exchangeable Shares to the Person designated in the notice in the manner and at the time and place specified in the notice. The terms and procedures for any such exchange shall be as set forth in the Plan of Arrangement, the Exchangeable Articles and the Voting and Exchange Trust Agreement (copies of which have been delivered to the Escrow Agent), as applicable.

(c) Within five (5) Business Days following the exchange of any Deposited Shares for shares in the capital of Akerna (or any other Person) pursuant to the exercise by Akerna or any of its Affiliates of any call right provided for the Plan of Arrangement, the Exchangeable Articles or the Voting and Exchange Trust Agreement, Akerna and the Shareholder Representative shall deliver Joint Instructions to the Escrow Agent instructing the Escrow Agent to release to the Ample Shareholders all but not less than all of the Deposited Shares that are then held in escrow pursuant to this Agreement and are not then subject to an Unresolved Claim.

11. **Termination of Escrow.** Upon release and distribution by the Escrow Agent of all Deposited Shares and any other property subject to escrow and/or distribution pursuant to this Agreement, this Agreement shall terminate, provided, however, that the termination of this Agreement shall be without prejudice to any rights and obligations accrued prior to such termination and shall not in any way limit the indemnification obligations of the Ample Shareholders as set out in the Arrangement Agreement.
12. **Shareholder Representative.** The Shareholder Representative, or any successor hereafter appointed, shall be discharged of its duties hereunder upon appointment of a successor Shareholder Representative appointed in accordance with applicable law. Each such successor Shareholder Representative shall have all the power, authority, rights and privileges conferred upon the original Shareholder Representative, and the term "Shareholder Representative" as used herein shall be deemed to include such successor Shareholder Representative.
13. **Responsibility of the Escrow Agent; Indemnification.**

(a) The parties hereto acknowledge and agree that the Escrow Agent acts hereunder as a depository only and (i) shall not be responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of any instrument, statement, certificate, request or other document deposited with it (including, without limitation, the Arrangement Agreement), for the form or execution of such documents, for the identity, authority or right of any Person or party executing or depositing such instruments or for determining or compelling compliance therewith, and shall not otherwise be bound thereby; (ii) shall be obligated only for the performance of such duties as are expressly and specifically set forth in this Agreement on its part to be performed, and no implied duties or obligations of any kind shall be read into this Agreement against or on the part of the Escrow Agent; (iii) shall not be required to take notice of any default or to take any action with respect to such default; (iv) may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction (including, without limitation, wire transfer instructions, whether incorporated herein or provided in a separate written instruction), instrument, statement, certificate, request or other document furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper Person, and shall have no responsibility for determining the accuracy thereof; and, (v) may employ and consult counsel satisfactory to it, including in-house counsel for any of the parties hereto, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the opinion of such counsel.

(b) The Escrow Agent may employ such counsel, accountants, engineers, appraisers, other experts, agents, agencies and advisors as it may reasonably require for the purpose of discharging its duties under this Agreement, and the Escrow Agent may act and shall be protected in acting or not acting in good faith on the opinion or advice or on information obtained from any such parties and shall not be responsible for any misconduct on the part of any of them. The reasonable costs of such services shall be added to and be part of the Escrow Agent's fee hereunder.

(c) The Escrow Agent retains the right not to act and shall not be held liable for refusing to act unless it has received clear and reasonable documentation which complies with the terms of this Agreement. Such documentation must not require the exercise of any discretion or independent judgment.

(d) No provision of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or the exercise of any of its rights or powers unless indemnified and funded as provided for herein, other than as a result of its own gross negligence or bad faith.

(e) The Escrow Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except for its own gross negligence or wilful misconduct.

(f) The Escrow Agent shall incur no liability with respect to the delivery or non-delivery of any cash or securities whether delivered by hand, wire transfer, registered mail or bonded courier.

(g) The forwarding of a cheque by the Escrow Agent will satisfy and discharge the liability for any cash amounts due to the extent of the sum or sums represented thereby (plus the amount of any tax deducted or withheld as required by law) unless such cheque is not honoured on presentation; provided that in the event of non-receipt of such cheque by the payee, or loss or destruction thereof, the Escrow Agent upon being furnished with reasonable evidence of such non-receipt, loss or destruction and indemnity reasonably satisfactory to it, will issue to such payee a replacement cheque for the amount of such cheque.

(h) Akerna shall pay the costs and expenses reasonably incurred by the Escrow Agent's services hereunder, in connection with the administration of the escrow created hereby or the performance or observance of its duties hereunder; covered by the remuneration are included, without limitation, all out-of-pocket expenses and disbursements incurred or made by the Escrow Agent in the administration of its services and duties created hereby, in excess of its compensation for normal services or not (including the reasonable fees and disbursements of its outside counsel and other outside advisors required for discharge of its duties hereunder). Any amount owing under this Section 13(h) and unpaid thirty (30) days after request for such payment will bear interest from the expiration of such thirty (30) days at a rate per annum equal to the then current rate charged by the Escrow Agent, payable on demand. The Escrow Agent is not required to effect any partial or full release unless its fees and expenses are paid in full. The parties hereto further agree that any residual fees or expenses incurred by the Escrow Agent after termination of the Agreement will be reimbursed by Akerna.

(i) Akerna agrees to indemnify the Escrow Agent and its officers, directors, employees, agents, successors and assigns and hold it and them harmless from and against any loss, fee, claim, demand, penalty, liability, damage, cost and expense of any nature incurred by the Escrow Agent and its officers, directors, employees, agents, successors and assigns arising out of or in connection with this Agreement or with the administration of its duties hereunder, including but not limited to, reasonable attorneys' fees and other costs and expenses of defending or preparing to defend against any claim of liability, unless and except to the extent such loss, liability, damage, cost and expense shall be caused by the Escrow Agent's or its officers', directors', employees' agents', successors' or assigns' gross negligence or wilful misconduct. The foregoing indemnification and agreement to hold harmless shall survive the release of all property held in escrow pursuant to this Agreement, the resignation or removal of the Escrow Agent or the termination of this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, any liability of the Escrow Agent shall be limited, in the aggregate, to the amount of annual retainer fees paid by Akerna to the Escrow Agent under this Agreement in the twelve (12) months immediately prior to the Escrow Agent receiving the first notice of the claim.

(j) Notwithstanding any other provision of this Agreement, and whether such losses or damages are foreseeable or unforeseeable, the Escrow Agent shall not be liable under any circumstances whatsoever for any: (i) breach by any other party of securities law or other rule of any securities regulatory authority; (ii) lost profits; or (iii) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages.

(k) The Escrow Agent does not have any interest in the Deposited Shares but is serving as escrow agent only and having only possession thereof.

(l) The Escrow Agent shall have no duties except those which are expressly set forth herein, and it shall not be bound by any notice of a claim or demand with respect to, or any waiver, modification, amendment, termination or rescission of this Agreement, unless received by it in writing, and signed by the parties hereto and if its duties herein are affected, unless it shall have given its prior written consent thereto.

(m) The Escrow Agent accepts the duties and responsibilities under this Agreement as agent and no trust is intended to be, or is or will be, created hereby and the Escrow Agent shall owe no duties hereunder as trustee.

(n) The Escrow Agent shall have no responsibility for seeking, obtaining, compiling, preparing or determining the accuracy of any information or document, including the representative capacity in which a party purports to act, that the Escrow Agent receives as a condition to a release from escrow or a transfer of the Deposited Shares or any other property subject to escrow.

(o) The Escrow Agent shall have no responsibility for escrow securities that it has released to a securityholder or at a securityholder's direction according to this Agreement.

(p) The Escrow Agent is authorized to hold such escrow securities in electronic or uncertificated form only, pending release of such securities from escrow.

(q) The Escrow Agent shall have no responsibility with respect to any escrow securities in respect of which no share certificate or other evidence or electronic or uncertificated form of these securities has been delivered to it, or otherwise received by it.

(r) The Escrow Agent shall have no responsibility or liability for any diminution in the value of any of the Deposited Shares or any securities which may be deposited with it hereunder.

(s) This Section 13 shall survive notwithstanding any termination of the Agreement or the resignation or removal of the Escrow Agent.

14. **Dispute Resolution.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession and/or disposition of the Deposited Shares or any other property subject to escrow hereunder, or should any claim be made against the Escrow Agent or upon such shares by a third party, the Escrow Agent, upon receipt of notice of such dispute or claim, is authorized and shall be entitled (at its sole option and election) to retain in its possession without liability, all or any of said escrowed shares, until such dispute shall have been settled either by the mutual written agreement of the parties involved, or by a final order, decree or judgment of a court or arbitrator of competent jurisdiction, the time for perfection of an appeal of such order, decree or judgment having expired. A copy of any such settlement or final order, decree or judgment of a court or arbitrator of competent jurisdiction shall be delivered to the Escrow Agent by Akerna and the Shareholder Representative forthwith upon receipt thereof. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Deposited Shares or any other property subject to escrow hereunder. In the event that the Escrow Agent shall become involved in any arbitration or litigation relating to the Deposited Shares or any other property subject to escrow hereunder, the Escrow Agent is authorized to comply with any decision reached through such arbitration or litigation.
15. **Arbitration.** Any disputes with respect to this Agreement shall be resolved by arbitration and any party may demand by written notice to the other party that the matter be submitted to arbitration. The notice shall set out the reasons for the dispute and reasonable details to support the dispute. The parties hereto shall cooperate in completing any arbitration as expeditiously as possible, the procedure to commence no later than thirty (30) days from the date the notice was sent, and the arbitrator may hire such experts as may appear to be appropriate. All of the costs and expenses of the arbitration shall be borne equally by Akerna and the Shareholder Representative. Any award rendered by the arbitrator shall be final and binding on the parties.
16. **Resignation of Escrow Agent; Successor by Merger.**
- (a) The Escrow Agent may at any time resign as such, subject to this Section 16, by delivering written notice of resignation to the other parties to this Agreement and by delivering all Deposited Shares subject to escrow (less any portion thereof previously distributed in accordance with this Agreement) to any successor escrow agent designated by Akerna and the Shareholder Representative, jointly, or by a court of competent jurisdiction, whereupon the Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of the Escrow Agent will take effect on the earlier to occur of (the “**Resignation Date**”): (i) the appointment of a successor escrow agent as aforesaid or by a court of competent jurisdiction; or (ii) the day which is thirty (30) days after the date of delivery of the Escrow Agent’s written notice of resignation to the other parties hereto, or such shorter notice as the parties accept as sufficient. If the Escrow Agent has not received written notice of the designation of a successor escrow agent by the Resignation Date, the Escrow Agent’s sole responsibility after such time shall be to retain and safeguard the Deposited Shares and all other property subject to escrow until receipt of written notice of the designation of a successor escrow agent hereunder or pursuant to a final non-appealable order of a court of competent jurisdiction. If a successor escrow agent has not been appointed within ninety (90) days of the date of the delivery of its written notice of resignation, the Escrow Agent shall deliver the Deposited Shares and all other property subject to escrow (less any portion thereof previously distributed in accordance with this Agreement) to the legal counsel designated by Akerna and the Shareholder Representative, jointly, and all of the Escrow Agent’s duties and obligations under this Agreement shall thereupon cease immediately. Failing such designation by Akerna and the Shareholder Representative, jointly, the Escrow Agent shall deliver such Deposited Shares to a court of competent jurisdiction directed to hold such shares for the benefit of Akerna and the Shareholder Representative, whereupon this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations under this Agreement. Akerna and the Shareholder Representative, acting together, shall have power at any time to remove the existing Escrow Agent and to appoint a successor escrow agent.

(b) If any Deposited Shares and all other property subject to escrow or other property is to be released hereunder to a party who has become bankrupt, has gone into liquidation or has otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver such shares to the estate and other representatives of such party. If all of the parties hereunder have become bankrupt, have gone into liquidation or have otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver the Deposited Shares and all other property subject to escrow to the estate and other representatives of such party, and provide written notice to all of the other parties to this Agreement of the disposition of such shares. Upon such delivery of shares, this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations.

(c) In the event of the Escrow Agent resigning or being removed as aforesaid or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, Akerna and the Shareholder Representative, jointly, shall forthwith appoint a successor escrow agent; failing such appointment by Akerna and the Shareholder Representative, the retiring Escrow Agent, acting alone, may apply, at the expense of Akerna and the Shareholder Representative, jointly, to a justice of the Court on such notice as such justice may direct, for the appointment of a successor escrow agent; but any successor escrow agent so appointed by the Court shall be subject to removal as aforesaid.

(d) Any successor escrow agent appointed under any provision of this Section 16 shall be a corporation authorized to carry on the business of a trust company in one or more of the provinces of Canada and, if required by the applicable legislation for any other jurisdiction, in such other jurisdictions. On any such appointment, the successor escrow agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Escrow Agent hereunder. At the request of Akerna and the Shareholder Representative, or the successor escrow agent, the retiring Escrow Agent, upon payment of the amounts, if any, due to it pursuant to this Agreement, including any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, shall duly assign, transfer and deliver to the successor escrow agent all property and money held, and all records kept, by the retiring Escrow Agent hereunder or in connection herewith.

(e) Any corporation into or with which the Escrow Agent may be merged or consolidated or amalgamated, or any corporation resulting therefrom to which the Escrow Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor to the Escrow Agent hereunder without any further act on its part or any of the parties hereto, provided that such corporation would be eligible for appointment as a successor escrow agent hereunder.

17. **Anti-money Laundering.**

(a) Each party to this Agreement (in this paragraph referred to as a “**representing party**”), other than the Escrow Agent, hereby represents to the Escrow Agent that any account to be opened by, or interest to be held by, the Escrow Agent in connection with this Agreement, for or to the credit of such representing party, either: (i) is not intended to be used by or on behalf of any third party (other than an Ample Shareholder); or (ii) is intended to be used by or on behalf of a third party, in which case such representing party hereby agrees to complete, execute and deliver forthwith to the Escrow Agent a declaration, in the Escrow Agent’s prescribed form or in such other form as may be satisfactory to it, as to the particulars of such third party (other than an Ample Shareholder).

(b) The Escrow Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Escrow Agent, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Escrow Agent, in its sole judgment, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to the other parties to this Agreement, provided: (i) that the Escrow Agent’s written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Escrow Agent’s satisfaction within such ten (10) day period, then such resignation shall not be effective.

18. **Privacy.** The parties acknowledge that the Escrow Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:

(a) to provide the services required under this Agreement and other services that may be requested from time to time;

(b) to help the Escrow Agent manage its servicing relationships with such individuals;

(c) to meet the Escrow Agent’s legal and regulatory requirements; and

(d) if Social Insurance Numbers are collected by the Escrow Agent, to perform tax reporting and to assist in verification of an individual’s identity for security purposes.

(e) Each party acknowledges and agrees that the Escrow Agent may receive, collect, use and disclose personal information provided to it or acquired by it in the course of this Agreement for the purposes described above and, generally, in the manner and on the terms described in its privacy policies, which the Escrow Agent shall make available on its website, [www.odysseytrust.com](http://www.odysseytrust.com), or upon request, including revisions thereto. The Escrow Agent may transfer personal information to other companies in or outside of Canada that provide data processing and storage or other support in order to facilitate the services it provides.

19. **Notices.** Any notice, direction or other communication given under this Agreement shall be in writing and given by delivering it or sending it by personal delivery, nationally recognized overnight courier (with all fees prepaid), email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid), addressed:

to Akerna and Exchangeco at:

Akerna Corp.  
1601 Arapahoe Street  
Denver, CO 80202

Attention: John Fowle, Chief Financial Officer  
Email: John.fowle@akerna.com

With a copy to Dentons Canada LLP (which copy shall not constitute notice hereunder) at:

Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: Bennett Wong  
Email: Bennett.wong@dentons.com

to the Shareholder Representative at:

John Prentice  
14A Bingham Ave.  
Toronto, ON M4E 3P9

Attention: John Prentice  
Email: john.prentice@ampleorganics.com

With a copy to Dentons Canada LLP (which copy shall not constitute notice hereunder) at:

Dentons Canada LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario M5K 0A1

Attention: Eric Foster  
Email: Eric.foster@dentons.com

to the Escrow Agent at:

Odyssey Trust Company  
1230, 300 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 3C4

Attention: VP, Corporate Trust  
Email: Corptrust@odysseytrust.com

Any such communication shall be deemed to have been validly and effectively given and received (a) if sent by personal delivery or by courier (all fees prepaid) on the date of actual receipt by the receiving party; (b) if sent by email on the date of transmission if a Business Day or if not a Business Day or after 5:00 p.m. (Eastern Standard Time) on the date of transmission, on the next following Business Day; or (c) if sent by certified or registered mail (postage prepaid) on the date indicated in the return receipt. Any party to this Agreement may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

20. **Miscellaneous.**

- (a) This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart by facsimile (followed by the originally executed document forwarded promptly thereafter to the other party hereto), each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by all of the parties. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.
- (b) This Agreement or any provision hereof may be amended or waived only by written instrument duly signed by the party against whom such amendment or waiver is sought to be enforced.
- (c) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (d) No failure on the part of Akerna, Exchangeco or the Shareholder Representative to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.
- (e) If one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect under applicable law, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and the remaining provisions hereof shall remain in full force and effect.
- (f) This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other Person any rights, remedies or any other type or types of benefits.
- (g) No party may assign its rights hereunder without the prior written consent of the other parties.
- (h) This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
- (i) This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (j) The Schedules attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it. This Agreement shall override the Schedules attached hereto to the extent of any inconsistency.
- (k) Any reference to time of day or date means the local time or date in Toronto, Ontario, Canada.

21. **Force Majeure.** Except for the payment obligations of Akerna contained herein, none of the parties shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, strikes, lockouts, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 21.

22. **Interpretation.**

(a) The division of this Agreement into Sections, subsections and other portions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation hereof. Unless otherwise indicated, all references to a "Section" followed by a number and/or a letter refer to the specified Section or subsection of this Agreement.

(b) Unless the context otherwise requires, in this Agreement, words importing the singular number include the plural and *vice versa*, and words importing the use of any gender include all genders. If a word is defined in this Agreement a grammatical derivative of that word will have a corresponding meaning. The words "include", "includes" and "including" shall be deemed to be followed by the words "without limitation".

(c) Whenever any payment shall be due, any period of time shall begin or end, any calculation is to be made or any other action is to be taken on, or as of, or from a period ending on, a day other than a Business Day, such payment shall be made, such period of time shall begin or end, and such other actions shall be taken, as the case may be, on, or as of, or from a period ending on, the next succeeding Business Day.

(d) All sums of money that are referred to in this Agreement are expressed in lawful money of Canada unless otherwise noted.

*[Remainder of this page left intentionally blank]*

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

**AKERNA CORP.**

By: /s/ John Fowle  
Authorized Signing Officer

**AKERNA CANADA AMPLE EXCHANGE INC.**

By: /s/ Jessica Billingsley  
Authorized Signing Officer

/s/ John Prentice  
John Prentice, in his capacity as Shareholder Representative

**ODYSSEY TRUST COMPANY**

By: /s/ Dan Sander  
Authorized Signing Officer

By: /s/ Amy Douglas  
Authorized Signing Officer

[Escrow Agreement]

SCHEDULE A

Form of Joint Instruction

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Date: \_\_\_\_\_, 20\_\_

TO: Odyssey Trust Company (“Escrow Agent”)

Pursuant to the Escrow Agreement entered into as of July \_\_, 2020 by and among Akerna Corp. (“Akerna”), Akerna Canada Ample Exchange Inc. (“Exchangeco”), John Prentice (“Shareholder Representative”) and the Escrow Agent (the “Escrow Agreement”), you are hereby instructed to release out of the Deposited Shares (as defined in the Escrow Agreement), the following amount of shares: \_\_\_\_\_.

**AKERNA CORP.**

By: \_\_\_\_\_  
Authorized Signing Officer

**AKERNA CANADA AMPLE EXCHANGE INC.**

By: \_\_\_\_\_  
Authorized Signing Officer

\_\_\_\_\_  
John Prentice, in his capacity as Shareholder Representative

**AKERNA CORP.**

– and –

**AKERNA CANADA AMPLE EXCHANGE INC.**

– and –

**JOHN PRENTICE**

– and –

**ODYSSEY TRUST COMPANY**

**RIGHTS INDENTURE**

Providing for the Issue of Certain Contingent Value Rights

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**SCHEDULE "A" – FORM OF RIGHTS CERTIFICATE**

THIS RIGHTS INDENTURE dated as of July \_\_\_\_, 2020

**BETWEEN:**

**AKERNA CORP.,**

a corporation existing under the laws of the State of Delaware (“**Akerna**”)

- AND -

**AKERNA CANADA AMPLE EXCHANGE INC.**

a corporation existing under the laws of the Province of Ontario (“**Exchangeco**”)

- AND -

**JOHN PRENTICE,**

an individual resident in the Province of Ontario  
(the “**Shareholder Representative**”)

- AND -

**ODYSSEY TRUST COMPANY,**

a trust company existing under the laws of Alberta (the “**Rights Agent**”)

**WHEREAS:**

- A. All capitalized terms used in these recitals have the meanings ascribed to them in Section 1.1 below;
- B. Akerna, Ample, Exchangeco and the Shareholder Representative have entered into the Arrangement Agreement;
- C. Pursuant to the terms of the Arrangement Agreement and the Plan of Arrangement, Akerna and Exchangeco proposes to issue to the Ample Shareholders the Rights on the terms and conditions herein set forth;
- D. Each Right shall entitle the Holder to receive, without payment of any further consideration and without further action on the part of the holder thereof, a portion of the Deferred Consideration, which portion shall be determined in accordance with the Arrangement Agreement and the terms and conditions herein set forth;

- E. Akerna and Exchangeco are each duly authorized to create and issue the Rights to be issued as herein provided;
- F. All things necessary have been done and performed to make the Rights, when issued as provided in this Indenture, legal, valid and binding upon Akerna and Exchangeco with the benefits of and subject to the terms of this Indenture;
- G. The foregoing recitals are made as representations and statements of fact by Akerna and Exchangeco and not by the Rights Agent; and
- H. The Rights Agent has agreed to act as the rights agent in respect of the Rights on behalf of the Holders on the terms and conditions herein set forth;

**NOW THEREFORE THIS INDENTURE WITNESSES** that for good and valuable consideration mutually given and received, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed and declared as follows:

**ARTICLE 1**  
**INTERPRETATION**

**1.1 DEFINITIONS**

In this Indenture, including the recitals and schedules hereto, the following words and phrases shall have the following meanings:

- (a) “**Akerna Shares**” means the shares in the common stock in the share capital of Akerna;
- (b) “**Allocation Notice**” has the meaning ascribed thereto in Section 3.2(a);
- (c) “**Ample**” means Ample Organics Inc.;
- (d) “**Ample Common Shareholders**” means the holders of Ample Common Shares immediately prior to the Closing Time;
- (e) “**Ample Common Shares**” means the Common Shares in the authorized capital of Ample;
- (f) “**Ample Preferred Shareholders**” means the holders of Ample Preferred Shares immediately prior to the Closing Time;
- (g) “**Ample Preferred Shares**” means each issued and outstanding Class A Preferred Share in the capital of Ample, being all issued and outstanding Class A-1 Preferred Shares, Class A-2 Preferred Shares and Class A-3 Preferred Shares;
- (h) “**Ample Shareholders**” means collectively the Ample Common Shareholders and the Ample Preferred Shareholders;
- (i) “**Arrangement**” means an arrangement under the *Business Corporations Act* (Ontario) on the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or any variations to the Plan of Arrangement made in accordance with the terms of the Arrangement Agreement;

- (j) “**Arrangement Agreement**” means, collectively, the arrangement agreement dated December 18, 2019 between Akerna, Ample, Exchangeco and the Shareholder Representative in respect of the Arrangement, as amended by amending agreements dated February 28, 2020, May 26, 2020 and June 1, 2020, and as such agreement may be further amended from time to time;
- (k) “**Articles**” means the certificate and articles of amendment of Ample dated October 1, 2019, as amended or otherwise modified by the Articles of Arrangement (as defined in the Plan of Arrangement);
- (l) “**Business Day**” means any day, other than Saturday, Sunday or a statutory holiday in the Province of Alberta;
- (m) “**Closing Date**” means the date hereof;
- (n) “**Closing Time**” means the time at which the Arrangement becomes effective on the Closing Date pursuant to the *Business Corporations Act* (Ontario);
- (o) “**Counsel**” means a barrister or solicitor or firm of barristers or solicitors retained by the Rights Agent or retained or employed by Akerna and acceptable to the Rights Agent, acting reasonably;
- (p) “**Court**” means the Ontario Superior Court of Justice;
- (q) “**Deferred Consideration**” means \$10,000,000, payable in Exchangeable Shares; provided that in the event the Recurring Revenue recognized during the Deferred Consideration Period is less than \$9,000,000, the Deferred Consideration amount of \$10,000,000 shall be reduced by an amount equal to the product of \$6.67 multiplied by the difference between \$9,000,000 and the amount of Recurring Revenue realized during the Deferred Consideration Period (up to a maximum reduction of \$10,000,000), all as calculated in the Deferred Consideration Statement finally determined in accordance with the Arrangement Agreement;
- (r) “**Deferred Consideration Payment Date**” means the date that the Deferred Consideration is payable by Akerna and Exchangeco to the Rights Agent in accordance with Section 2.19 of the Arrangement Agreement;
- (s) “**Deferred Consideration Period**” means the period of time beginning on the Closing Date, and ending on the date that is 12 months after the Closing Date;
- (t) “**Deferred Consideration Statement**” has the meaning ascribed thereto in the Arrangement Agreement;
- (u) “**Director**” means a director of Akerna and “**Directors**” or “**Board of Directors**” means the board of directors of Akerna or, whenever duly empowered, a committee of the board of directors of Akerna, and reference to “**action by the directors**” means action by the directors of Akerna as a board or action by a committee as a committee;

- (v) “**distributions**” means distributions (payable in cash or in securities, property or assets of equivalent value) declared payable on Exchangeable Shares;
- (w) “**DRS**” means the Direct Registration System maintained by the Rights Agent;
- (x) “**DRS Advice**” means the notification produced by the DRS system evidencing ownership of the Rights;
- (y) “**Exchange Rate**” means, on any date of determination, the CAD/USD daily exchange rate quoted by the Bank of Canada three Business Days prior to such date;
- (z) “**Exchangeable Shares**” means the redeemable preferred shares in the capital of Exchangeco;
- (aa) “**Exchangeco**” means Akerna Canada Ample Exchange Inc.;
- (bb) “**Holder**” means a Person for the time being who is the registered holder of a Right;
- (cc) “**Indenture**” or “**this Indenture**” and “**hereto**”, “**herein**”, “**hereby**”, “**hereunder**”, “**hereof**” and similar expressions refer to this instrument and not to any particular Article, Section, clause, subdivision or other portion hereof, and include each instrument supplemental or ancillary hereto or required to implement this instrument;
- (dd) “**NASDAQ**” means the National Association of Securities Dealers Automated Quotations exchange;
- (ee) “**Permitted Transfer**” means a transfer of Rights (i) upon death of a Holder by will or intestacy; (b) pursuant to a court order; or (c) by operation of law (including any consolidation or merger) or without consideration in connection with the dissolution, liquidation or termination of any corporation, limited liability company, partnership or other entity;
- (ff) “**Person**” includes any individual, corporation, company, partnership, association, joint venture, trust, unincorporated association, government or governmental authority;
- (gg) “**Plan of Arrangement**” means the plan of arrangement attached as Schedule “C” to the Arrangement Agreement, as amended from time to time;
- (hh) “**Recurring Revenue**” means all revenue that is derived from or that is associated with license revenue from Ample’s core seed-to-sale, AmpleCentral and “Last Call Analytics” products;
- (ii) “**Regulatory Authorities**” means securities regulatory authorities in Canada, the United States and/or a jurisdiction outside Canada and the United States where a Holder is resident;
- (jj) “**Rights**” mean the contingent value rights issued and certified hereunder, evidenced in certificated form by a Rights Certificate or uncertificated form by a DRS Advice, and for the time being outstanding, entitling Holders thereof to receive Exchangeable Shares, in accordance with the terms hereof, and “**Right**” means any one of them;

- (kk) **“Rights Agency”** means the transfer office of the Rights Agent in Calgary, Alberta and such other locations as Akerna may designate, with the approval of the Rights Agent;
- (ll) **“Rights Agent”** means Odyssey Trust Company or its successor or successors for the time being as rights agent hereunder, at its offices in Calgary, Alberta;
- (mm) **“Rights Certificate”** means a certificate in substantially the form set out in Schedule “A” hereto, issued and certified hereunder to evidence a Right;
- (nn) **“Successor Entity”** has the meaning ascribed thereto in Section 7.1;
- (oo) **“Termination Date”** means the date that Akerna and/or Exchangeco fully pays to the Holders all Deferred Consideration to which such holders are entitled;
- (pp) **“United States”** means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia;
- (qq) **“U.S. Person”** means a “U.S. person” as that term is defined in Rule 902(k) of Regulation S of the U.S. Securities Act;
- (rr) **“U.S. Securities Act”** means the *United States Securities Act of 1933*, as amended;
- (ss) **“U.S. Securities Exchange Act”** means the *United States Securities Exchange Act of 1934*;
- (tt) **“written request of Akerna”** and **“certificate of Akerna”** mean, respectively, a written order, request, consent and certificate signed in the name of Akerna by any one or more of the officers or Directors of Akerna and may consist of one or more instruments so executed and any other documents referred to herein which is required or contemplated to be provided or given by Akerna is a document signed on behalf of Akerna by any one or more of such officers or Directors;

and a derivative of any defined word or phrase has the meaning appropriate to the derivation of the word or phrase.

## 1.2 MEANING OF “OUTSTANDING” FOR CERTAIN PURPOSES

Except as provided in Section 3.4, every Rights Certificate countersigned and delivered by the Rights Agent or Rights evidenced by a DRS Advice issued under this Indenture shall be deemed to be outstanding until the Termination Date, provided however that where a Rights Certificate has been issued in substitution for a Rights Certificate that has been lost, stolen or destroyed, only one of them shall be counted for the purpose of determining the Rights outstanding.

## 1.3 CERTAIN RULES OF INTERPRETATION

Unless otherwise specified in this Indenture:

- (a) words importing the singular number include the plural and *vice versa*;

- (b) words importing gender include both genders and *vice versa* and words importing individuals include firms and corporations and *vice versa*;
- (c) “**in writing**” or “**written**” includes printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception, including facsimile;
- (d) “**including**” is used for illustration only and not to limit the generality of any preceding words, whether or not non-limiting language (such as, “**without limitation**”, “**but not limited to**” and similar expressions) is used with reference thereto; and
- (e) reference to any statute, regulation or by-law includes amendments, consolidations, re-enactments and replacements thereof and instruments and legislation thereunder.

#### **1.4 INTERPRETATION NOT AFFECTED BY HEADINGS, ETC.**

The division of this Indenture into Articles, Sections and other subdivisions, the inclusion of a table of contents and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Indenture.

#### **1.5 APPLICABLE LAW**

This Indenture, the Rights and the Rights Certificates shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any and all disputes arising under this Indenture, the Rights and the Rights Certificates, whether as to interpretation, performance or otherwise, shall be subject to the non-exclusive jurisdiction of the courts of the Province of Ontario and each of the parties hereto irrevocably attorns to the jurisdiction of the courts of such province.

#### **1.6 DAY NOT A BUSINESS DAY**

Whenever any payment is due or required to be made or any other action is required to be taken under this Indenture or the Rights Certificates on or as of a day that is not a Business Day, that payment must be made and the other action must be taken on or as of the next day that is a Business Day.

#### **1.7 CONFLICT**

In the event of a conflict or inconsistency between a provision of this Indenture and in the Rights Certificates issued hereunder, the relevant provision in this Indenture shall prevail to the extent of the inconsistency.

#### **1.8 TIME OF THE ESSENCE**

Time shall be of the essence of this Indenture, the Rights and the Rights Certificates.

#### **1.9 CURRENCY**

Except as otherwise stated, all dollar amounts herein are expressed in Canadian dollars.

## 1.10 SCHEDULES

Schedule "A" to this Indenture is incorporated into this Indenture by reference.

## **ARTICLE 2** **ISSUE OF RIGHTS**

### 2.1 CREATION AND ISSUE OF RIGHTS

- (a) The Rights Agent is hereby appointed rights agent in respect of the Rights.
- (b) Pursuant to the Arrangement Agreement and the Plan of Arrangement, each Ample Shareholder immediately prior to the Closing Time (other than any Ample Shareholder that validly exercised dissent rights in connection with the Arrangement and which dissent right remains valid immediately prior to the Closing Time) shall be entitled to a Right upon the Closing Time.
- (c) Pursuant to the Arrangement Agreement and the Plan of Arrangement, to the extent that an Ample Shareholder who has validly exercised dissent rights in connection with the Arrangement is ultimately deemed to have participated in the Arrangement on the same basis as a non-dissenting Ample Shareholder, Akerna and Exchangeco shall cause the Rights Agent to forward the Rights to such Holder, pursuant to the Arrangement Agreement and the Plan of Arrangement and upon the written request of Akerna.

### 2.2 TERMS OF RIGHTS

- A. Each Right shall entitle the Holder thereof to receive that portion of the Deferred Consideration that the initial Holder of such Right is entitled to receive in its capacity as an Ample Shareholder pursuant to the Articles. The amount of the entitlement attaching to each Right shall be determined in accordance with the Articles and the Plan of Arrangement by the Shareholder Representative acting reasonably and with reference to the shareholder register of Ample delivered by Ample as of the Effective Time in accordance with the Arrangement Agreement.
- (b) Akerna and Exchangeco shall remit any Deferred Consideration accruing to a Holder on or before the Deferred Consideration Payment Date by delivery of Exchangeable Shares in accordance with Section 3.2.
- (c) Subject to the terms and conditions of this Indenture, all Rights shall rank *pari passu*, whatever may be the actual date of issue thereof.
- (d) The Rights shall terminate in accordance with the provisions of Section 3.4 and the Plan of Arrangement.

### 2.3 FORM OF RIGHTS, CERTIFICATED RIGHTS

- (a) The Rights may be issued in both certificated and uncertificated form. All rights issued in certificated form shall be evidenced by a Rights Certificate (including all replacements issued in accordance with this Indenture). All Rights issued in uncertificated form will be evidenced by a DRS Advice and reflected on the register of the Rights and in accordance with the procedures of the Rights Agent for its DRS.

- (b) The Rights Certificates to be issued to evidence the Rights authorized for issuance pursuant to Section 2.1 shall be substantially in the form set out in Schedule “A”.
- (c) All Rights Certificates shall be dated as of the date of their issuance, and shall bear such distinguishing letters and numbers as Akerna may, with the approval of the Rights Agent, prescribe.
- (d) Rights Certificates shall continue to be in the form set out in Schedule “A” and shall continue to express the Deferred Consideration deliverable thereunder.
- (e) Akerna covenants that (i) the Rights and the Exchangeable Shares issuable pursuant to the Rights shall be registered or qualified for distribution, or exempt from or not subject to any requirement for registration or qualification for distribution, under the U.S. Securities Act and the applicable securities laws of U.S. states and (ii) such securities shall not be “restricted securities” within the meaning of Rule 144 under the U.S. Securities Act or under any other U.S. federal or state securities laws.
- (f) Any certificates representing Rights, and, if applicable, any certificates representing Exchangeable Shares issued pursuant to the Rights, and any certificates issued in replacement thereof or in substitution therefor, shall, until such time as the same is no longer required under applicable requirements of the U.S. Securities Act or applicable state securities laws, bear a legend in substantially the following form:

THE SECURITIES REPRESENTED HEREBY [For Rights Include: AND THE SECURITIES ISSUABLE PURSUANT THERETO] ARE SUBJECT TO THE TERMS AND CONDITIONS OF (I) AN ARRANGEMENT AGREEMENT DATED AS OF DECEMBER 18, 2019, AS AMENDED BY AMENDING AGREEMENTS DATED FEBRUARY 28, 2020, MAY 26, 2020 AND JUNE 1, 2020; AND (II) A RIGHTS INDENTURE DATED AS OF JULY \_\_, 2020, INCLUDING TERMS AND CONDITIONS THAT RESTRICT THE SALE, ASSIGNMENT, PLEDGE, ENCUMBRANCE, TRANSFER, OR DISPOSITION OF SUCH SECURITIES.

#### **2.4 SIGNING OF RIGHTS CERTIFICATES**

The Rights Certificates shall be signed by any Director or officer of each of Akerna and Exchangeco at or prior to the date of issue of such Rights Certificate and the date of certification or delivery thereof. The signature of such signing officer may be mechanically reproduced in facsimile or electronically and Rights Certificates bearing such facsimile or electronic signature shall be binding upon Akerna and Exchangeco as if they had been manually signed by such signing officer. Notwithstanding that any individual whose manual, facsimile or electronic signature appears on any Rights Certificate as a signing officer may no longer hold office or a trusteeship, as applicable, at the date of issue of such Rights Certificate or at the date of certification or delivery thereof, any Rights Certificate signed as aforesaid shall, subject to Section 2.5, be valid and binding upon Akerna, Exchangeco and the Holder thereof shall be entitled to the benefits of this Indenture.

## **2.5 CERTIFICATION BY THE RIGHTS AGENT**

- (a) Rights Certificates evidencing the Rights shall be certified by or on behalf of the Rights Agent on written direction of Akerna.
- (b) No Rights Certificate shall be issued or, if issued, shall be valid for any purpose or entitle the Holder to the benefits hereof until it has been certified by manual signature by or on behalf of the Rights Agent substantially in the form of the certificate set out in Schedule "A", and such certification by the Rights Agent upon any Rights Certificate shall be conclusive evidence as against Akerna and Exchangeco that the Rights Certificate so certified has been duly issued hereunder and that the Holder is entitled to the benefits hereof.
- (c) The certification of the Rights Agent on Rights Certificates issued hereunder shall not be construed as a representation or warranty by the Rights Agent as to the validity of this Indenture or the Rights Certificates (except the due certification thereof) and the Rights Agent shall in no respect be liable or answerable for the use made of the Rights Certificates or any of them or of the consideration therefor except as otherwise specified herein.

## **2.6 HOLDER NOT A SHAREHOLDER**

Nothing in this Indenture or in the holding of a Right itself evidenced by a Rights Certificate, or otherwise, shall be construed as conferring upon a Holder any right or interest whatsoever as a shareholder of Akerna or Exchangeco, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of Akerna or Exchangeco, or the right to receive distributions, except as may be provided herein or in the Rights Certificates.

## **2.7 ISSUE IN SUBSTITUTION FOR LOST RIGHTS CERTIFICATE**

- (a) If any of the Rights Certificates shall become mutilated or lost, destroyed or stolen, Akerna and Exchangeco, subject to applicable law and to Subsection 2.7(b), shall issue and thereupon the Rights Agent shall certify and deliver a new Rights Certificate of like date and tenor as the one mutilated, lost, destroyed or stolen upon surrender and in place of and upon cancellation of such mutilated Rights Certificate, or in lieu of and in substitution for such lost, destroyed or stolen Rights Certificate, and the substituted Rights Certificate shall be in a form approved by the Rights Agent and shall be entitled to the benefits hereof and shall rank equally in accordance with its terms with all other Rights Certificates issued or to be issued hereunder.
- (b) The applicant for the issue of a new Rights Certificate pursuant to this Section 2.7 shall bear the cost of the issue thereof and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to Akerna and to the Rights Agent evidence of ownership and of the loss, destruction or theft of the Rights Certificate so lost, destroyed or stolen satisfactory to Akerna and to the Rights Agent in their sole discretion, in each case acting reasonably, and such applicant may also be required to furnish an indemnity or surety bond in amount and form satisfactory to Akerna and the Rights Agent in their sole discretion, in each case acting reasonably, and shall pay the reasonable charges of Akerna and the Rights Agent in connection therewith.

## 2.8 REGISTER FOR RIGHTS

Akerna and Exchangeco shall cause to be kept by and at the Rights Agency which is the transfer office of the Rights Agent in Calgary, Alberta and in such other place or places as Akerna with the approval of the Rights Agent may designate, a securities register in which shall be entered the names and addresses of Holders and the other particulars, prescribed by law, of the Rights held by them. Akerna and Exchangeco shall also cause to be kept by and at such office the register of transfers, and may also cause to be kept by the Rights Agent or such other registrar or registrars and at such other place or places as Akerna may designate with the approval of the Rights Agent, branch registers of transfers (including, without limitation, branch registers of transfers at each of the other Rights Agencies) in which shall be recorded the particulars of the transfers of Rights registered in that branch register of transfers.

## 2.9 TRANSFER OF RIGHTS

- (a) The Rights may not be sold, assigned, transferred, pledged, encumbered or in any other manner transferred or disposed of, in whole or in part, other than through a Permitted Transfer. Any attempted sale, assignment, transfer, pledge, encumbrance or disposition of Rights, in whole or in part, in violation of this Section 2.9(a) shall be void *ab initio* and of no effect.
- (b) Subject to Sections 2.8, 2.9(a) and 2.9(c) and such reasonable requirements as the Rights Agent may prescribe and all applicable securities laws and requirements of Regulatory Authorities, the Rights may be transferred on the register kept at the Rights Agency pursuant to a Permitted Transfer by the Holder or its legal representatives or its attorney duly appointed by an instrument in writing in form and manner of execution satisfactory to the Rights Agent only upon: (i) in the case of a Rights Certificate, the surrendering of the relevant Rights Certificate with a written instrument of transfer in form reasonably satisfactory to the Rights Agent; and (ii) in the case of DRS Advices, in accordance with the procedures described by the Rights Agent. Upon the Holder surrendering the same and/or meeting the requirements set forth above, the Rights Agent shall issue to the transferee a Rights Certificate or DRS Advice, as applicable, representing the Rights transferred pursuant to the Permitted Transfer.
- (c) No transfer of a Right shall be effective or shall be entered on the register kept by the Rights Agent unless the transferee thereof certifies in writing to Akerna's satisfaction that the transfer is a Permitted Transfer and:
  - (i) the Rights may be transferred in the manner contemplated pursuant to an applicable exemption from the registration requirements of the U.S. Securities Act and applicable state securities laws; or
  - (ii) (A) it is not a U.S. Person; (B) at the time of transfer it is not within the United States; and (C) it is not acquiring such Right for the account or benefit of a U.S. Person or a Person within the United States.

The transferee shall also be required to acknowledge that it shall notify Akerna prior to the Termination Date if the representations, warranties and certifications contained in the written instrument of transfer attached to the Rights Certificate, as applicable, are no longer true and correct.

- (d) No transfer of a Right shall be valid:
  - (i) unless made in accordance with the provisions hereof;
  - (ii) until, upon compliance with such reasonable requirements as the Rights Agent may prescribe, such transfer is recorded on the register maintained by the Rights Agent pursuant to Subsection 2.8; and
  - (iii) until all governmental or other charges arising by reason of such transfer have been paid.
- (e) The Rights Agent will promptly advise Akerna of any requested transfer of the Rights. Akerna and Exchangeco will be entitled, and Akerna may direct the Rights Agent, to refuse to recognize any transfer, or enter the name of any transferee, of any Rights on the register kept by the Rights Agent, if such transfer is not a Permitted Transfer and/or would constitute a violation of the securities laws of any jurisdiction or the rules, regulations or policies or any Regulatory Authority having jurisdiction.
- (f) The transfer register for the Rights shall be closed as of the close on business on the last Business Day immediately preceding the Termination Date.

#### **2.10 TRANSFEREE ENTITLED TO REGISTRATION**

The transferee of a Right in accordance with Sections 2.8 and 2.9 shall, after the written instrument of transfer attached to the Rights Certificate or DRS Advice is duly completed and the required written instrument(s) of transfer are lodged with the Rights Agent, and upon compliance with all other conditions in that regard required by this Indenture and by all applicable securities laws and requirements of Regulatory Authorities, be entitled to have its name entered on the register as the owner of such Right free from all equities or rights of set-off or counterclaim between Akerna or Exchangeco and its transferor or any previous Holder of such Right, save in respect of equities of which Akerna or Exchangeco or the transferee is required to take notice by statute or by order of a court of competent jurisdiction.

No duty shall rest with the Rights Agent to determine compliance of the transferee or transferor of any Rights with applicable securities laws. The Rights Agent may assume for the purposes of this Indenture that the address on the register of Holders of any Holder is the actual address of such Holder and is also determinative of the residence of such Holder and that the address of any transferee to whom any Rights or other securities deliverable in connection with any Rights are to be registered, as shown on the transfer document, is the actual address of the transferee and is also determinative of the residency of the transferee.

#### **2.11 REGISTERS OPEN FOR INSPECTION**

The registers hereinbefore referred to shall be open at all reasonable times and upon reasonable notice for inspection by Akerna, Exchangeco, the Rights Agent, the Shareholder Representative or any Holder. The Rights Agent shall, from time to time when requested to do so in writing by Akerna, furnish Akerna and/or Exchangeco, upon payment of the Rights Agent's reasonable charges, with a list of the names and addresses of Holders entered in the register kept by the Rights Agent and showing the number of Rights held by each such Holder.

## **2.12 OWNERSHIP OF RIGHTS**

- (a) Akerna, Exchangeco and the Rights Agent may deem and treat the registered Holder of any Rights Certificate or DRS Advice as the absolute owner of the Right represented thereby for all purposes and Akerna, Exchangeco and the Rights Agent shall not be affected by any notice or knowledge to the contrary, except where Akerna, Exchangeco or the Rights Agent is required to take notice by statute or by order of a court of competent jurisdiction. For greater certainty, subject to applicable law, none of Akerna, Exchangeco nor the Rights Agent shall be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of any Right, and may transfer any Right in accordance with Section 2.9 on the direction of the Person registered as Holder thereof, whether named as rights agent or otherwise, as though that Person were the beneficial owner thereof.
- (b) Subject to the provisions of this Indenture and applicable law, each Holder shall be entitled to the rights and privileges attaching to the Rights held thereby.

## **2.13 EXCHANGE OF RIGHTS CERTIFICATES**

- (a) Rights Certificates, representing Rights entitling the Holders to receive Deferred Consideration may, prior to the Termination Date and upon compliance with the reasonable requirements of the Rights Agent, be exchanged for another Rights Certificate or Rights Certificates entitling the Holder thereof to receive any Deferred Consideration payable under the Rights Certificate or Rights Certificates so exchanged of equal aggregate amount.
- (b) Rights Certificates may be exchanged only at the Rights Agency or at any other place that is designated by Akerna with the approval of the Rights Agent. Any Rights Certificates tendered for exchange shall be surrendered to the Rights Agent and shall be cancelled.
- (c) Except as otherwise herein provided, the Rights Agent shall charge to the Holder requesting an exchange a reasonable sum for each new Rights Certificate issued in exchange for a surrendered Rights Certificate(s).

## **2.14 PRINCIPAL OFFICE**

If the principal transfer office of the Rights Agent in the city where the Rights Agency is situated is for any reason not available to act in connection with the exchange of Rights Certificates as contemplated by this Indenture, Akerna and the Rights Agent shall arrange for another office in such city to act in connection with the exchange of Rights Certificates and shall give notice of the change of such office to the Shareholder Representative.

### **ARTICLE 3 DELIVERY OF DEFERRED CONSIDERATION**

#### **3.1 METHOD OF DELIVERY OF DEFERRED CONSIDERATION**

At least three (3) Business Days prior to the Deferred Consideration Payment Date determined in accordance with the Arrangement Agreement, Akerna shall provide the Rights Agent with a written notice setting out the Deferred Consideration Payment Date, the amount and kind of Deferred Consideration to be issued to the Holders in accordance with the Deferred Consideration Statement finally determined in accordance with the Arrangement Agreement, together with a detailed description of the calculation thereof in accordance with Section 3.2.

### 3.2 PAYMENT MECHANISM

- (a) The aggregate number of Exchangeable Shares to be issued in respect of all Rights held by the Holders shall be equal to the quotient obtained by dividing: (i) the amount of the Deferred Consideration payable in accordance with Section 2.2, divided by (ii) the 20 day volume weighted average price of the Akerna Shares (converted to Canadian dollars from US dollars using the Exchange Rate as of the Deferred Consideration Payment Date) as quoted on the NASDAQ on the last trading day immediately preceding the Deferred Consideration Payment Date.
- (b) Following the determination of the aggregate number of Exchangeable Shares to be issued in accordance with Section 3.2(a), the Shareholder Representative shall provide written notice (the “**Allocation Notice**”) to the Rights Agent, Akerna and Exchangeco setting forth the Seller Representative’s final determination with respect to number of Exchangeable Shares payable in respect of each Right, together with instructions for the issuance of Exchangeable Shares to each Holder of a Right in satisfaction of the obligations of Akerna and Exchangeco thereunder.
- (c) On the Deferred Consideration Payment Date, Akerna and Exchangeco shall cause the Rights Agent to deliver Exchangeable Shares to the Holders in accordance with the instructions set forth in the Allocation Notice.
- (d) No certificates or other entitlements to fractional Exchangeable Shares shall be issued to any Holder, and any Holder otherwise entitled to a fractional interest in an Exchangeable Share will receive the nearest whole number of Exchangeable Shares (with fractions equal to or greater than 0.5 being rounded up and fractions less than 0.5 being rounded down).

### 3.3 CANCELLATION OF RIGHTS

At the Termination Date, all Rights Certificates shall be cancelled.

### 3.4 RIGHTS VOID

The Rights shall, as at the Termination Date, be null, void and of no effect.

### 3.5 ACCOUNTING AND RECORDING

Exchangeco shall cause its registrar and transfer agent to account to the Rights Agent with respect to the issuance of Exchangeable Shares as soon as reasonably practicable upon such issuance. Such accounting will include the particulars of the issuance of Exchangeable Shares pursuant to the Rights, including the names and addresses of the Persons who become holders of Exchangeable Shares pursuant to the Rights and the certificate numbers. The Rights Agent shall rely, and shall be protected in so doing, upon the certificate of Exchangeco or of its registrar and transfer agent and any other document filed by Exchangeco pursuant to this Section for all purposes.

Any instruments, from time to time received by the Rights Agent, shall be received in trust for, and shall be segregated and kept apart by the Rights Agent in trust for, Akerna.

**ARTICLE 4**  
**COVENANTS OF AKERNA AND EXCHANGECO**

**4.1 MAINTENANCE**

So long as any Rights are outstanding, each of Akerna and Exchangeco shall use its commercially reasonable efforts to at all times maintain its existence, carry on and conduct its business, and that of its material subsidiaries, in accordance with good business practice.

**4.2 TO PAY RIGHTS AGENT REMUNERATION AND EXPENSES**

Akerna covenants that it shall pay to the Rights Agent from time to time reasonable remuneration for its services hereunder and shall pay or reimburse the Rights Agent upon its request for all expenses, disbursements and advances incurred or made by the Rights Agent in the administration or execution of its duties hereunder (including the reasonable compensation and the disbursements of its Counsel and all other advisors and assistants not regularly in its employ) both before any default hereunder and thereafter until all duties of the Rights Agent hereunder shall be finally and fully performed and even after the termination of this Indenture, except any such expenses, disbursement or advance as may arise out of or result from the Rights Agent's gross negligence, wilful misconduct or bad faith. Such remuneration which shall remain unpaid for a period of 30 Business Days after invoicing shall incur interest at the rate then charged by the Rights Agent to its corporate clients. The Rights Agent shall not have any recourse against the securities or any other property held by it pursuant to this Indenture for payment of its fees. This Section 4.2 shall survive the resignation or removal of the Rights Agent and the termination and discharge of this Indenture. The Rights Agent shall have no obligation to take any action under this Indenture so long as any payment remains due to the Rights Agent for any reasonable fees, expenses and disbursements.

**4.3 TO PERFORM COVENANTS**

Each of Akerna and Exchangeco shall perform and carry out all of the acts or things to be done by it as provided in this Indenture and shall promptly advise the Rights Agent in writing of any material default by Akerna or Exchangeco in the performance of its covenants hereunder.

**4.4 RIGHTS AGENT MAY PERFORM COVENANTS**

If Akerna or Exchangeco fails to perform any of its covenants contained in this Indenture, the Rights Agent, upon receipt of written notice from Akerna or Exchangeco of such failure to perform, shall notify the Shareholder Representative of such failure on the part of Akerna or may itself perform any of the covenants capable of being performed by it but, subject to ARTICLE 9, shall be under no obligation to perform said covenants or to notify the Shareholder Representative that it is doing so. All sums expended or advanced by the Rights Agent in so doing shall be repayable as provided in Section 4.2, but the Rights Agent shall not be required to expend or risk its own funds. No such performance, expenditure or advance by the Rights Agent shall relieve Akerna of any default hereunder or of its continuing obligations under the covenants herein contained.

#### **4.5 CREATION AND ISSUE OF THE RIGHTS**

Akerna and Exchangeco are each duly authorized to create and issue the Rights and, the Rights, when issued and countersigned as herein provided, shall be valid and enforceable against Akerna and Exchangeco and, subject to the provisions of this Indenture, Akerna and Exchangeco shall cause the Exchangeable Shares, to be issued pursuant to ARTICLE 3 under this Indenture and cause the certificates representing such Exchangeable Shares to be duly issued and delivered in accordance with the Right Certificates and the terms hereof. At all times prior to and as at the Termination Date, while any of the Rights are outstanding, Exchangeco shall reserve, and Akerna shall cause Exchangeco to reserve, and there shall be conditionally allotted but unissued out of Exchangeco's authorized capital that number of Exchangeable Shares sufficient to enable Akerna and Exchangeco to meet their respective obligations hereunder. All Exchangeable Shares issued pursuant to the Rights shall be issued as fully paid and non-assessable. Akerna and Exchangeco shall make or cause to be made all requisite filings, and pay all applicable fees, under applicable securities laws to report the issuance of Exchangeable Shares pursuant to the Rights.

### **ARTICLE 5 ROLE OF RIGHTS AGENT**

#### **5.1 ROLE AS RIGHTS AGENT**

The Rights Agent accepts its duties and responsibilities under this Indenture solely as a custodian, bailee and agent, and no trust is intended to be, or is or shall be, created hereby, except as otherwise expressly stated herein, and the Rights Agent shall owe no duty hereunder as a trustee, except as otherwise expressly stated herein.

### **ARTICLE 6 ENFORCEMENT**

#### **6.1 SUITS BY HOLDERS OF RIGHTS**

All or any of the rights conferred upon any Holder by any of the terms of the Rights Certificates or this Indenture may be enforced on behalf of the Holders (or any of them) by the Shareholder Representative by appropriate legal proceedings but without prejudice to the right which is hereby conferred upon the Rights Agent to proceed in its own name to enforce each and all of the provisions herein contained for the benefit of the Holders.

#### **6.2 WAIVER OF DEFAULT**

Upon the happening of any default hereunder, the Shareholder Representative shall have the power by requisition in writing to instruct the Rights Agent to waive any default hereunder and the Rights Agent shall thereupon waive the default upon such terms and conditions as shall be prescribed in such requisition, provided that no delay or omission of the Rights Agent or of the Shareholder Representative, as applicable, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein and provided further that no act or omission either of the Rights Agent or the Shareholder Representative in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default hereunder or the rights resulting therefrom.



with a copy to: Dentons Canada LLP  
15th Floor, Bankers Court, 850 – 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
Email: bennett.wong@dentons.com

Attention: Bennett Wong

if to the Rights Agent: Odyssey Trust Company  
1230, 300 5th Avenue S.W.  
Calgary, Alberta T2P 3C4  
Email: corptrust@odysseytrust.com

Attention: VP, Corporate Trust

if to the Shareholder  
Representative: John Prentice  
629 Eastern Avenue, Building B  
Toronto, Ontario M4M 1E4  
Email: john.prentice@ampleorganics.com

and any such notice delivered in accordance with the foregoing shall be deemed to have been received on the date of delivery or if sent by electronic transmission, on the first Business Day following such transmission or, if mailed, on the fifth Business Day following the date of the postmark on such notice.

- (b) Akerna, the Shareholder Representative or the Rights Agent, as the case may be, may from time to time notify the others in the manner provided in Subsection 8.1(a) of a change of address which, from the effective date of such notice and until changed by like notice, shall be the address of Akerna or the Rights Agent, as the case may be, for all purposes of this Indenture.

**ARTICLE 9**  
**CONCERNING THE RIGHTS AGENT**

**9.1 NO CONFLICT OF INTEREST**

The Rights Agent represents to Akerna that to the best of its knowledge, at the date of the execution and delivery of this Indenture there exists no material conflict of interest in its role as a fiduciary hereunder. In the event of a material conflict of interest arising in the Rights Agent's role as fiduciary hereunder the Rights Agent shall, as soon as practicable but in any case within 20 days after ascertaining that it has such material conflict of interest, either eliminate the same or assign its trust hereunder to a successor rights agent approved by Akerna. Notwithstanding the foregoing provisions of this section, if any such material conflict of interest exists or hereafter shall exist, the validity and enforceability of this Indenture and the Rights Certificate(s) shall not be affected in any manner whatsoever by reason hereof.

## 9.2 REPLACEMENT OF RIGHTS AGENT

- (a) The Rights Agent may resign its trust and be discharged from all further duties and liabilities hereunder by giving to Akerna at least 45 days' notice in writing or such shorter notice as Akerna may accept as sufficient. The Shareholder Representative shall have the power at any time to remove the existing Rights Agent and to appoint a new rights agent. If the Rights Agent resigns or is removed by the Shareholder Representative or is dissolved, becomes bankrupt, goes into liquidation or otherwise becomes incapable of acting hereunder, Akerna shall forthwith appoint a new rights agent unless a new rights agent has already been appointed by the Shareholder Representative; failing such appointment by Akerna, the retiring Rights Agent or the Shareholder Representative may apply to a court of competent jurisdiction, on such notice as such court may direct, for the appointment of a new rights agent; but any new rights agent so appointed by Akerna or by such court shall be subject to removal as aforesaid by the Shareholder Representative. Any new rights agent appointed under any provision of this section must be a corporation authorized to carry on the business of a trust company in one or more provinces of Canada and, if required by the applicable trust indenture legislation of any other province or territory, in that other province or territory, and must be a corporation which is independent of Akerna and has no material conflict of interest. On any new appointment the new rights agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Rights Agent.
- (b) Any entity into which the Rights Agent may be merged or with which it may be consolidated or amalgamated or any entity resulting from any merger, consolidation or amalgamation to which the Rights Agent shall be a party or any entity succeeding to the trust business of the Rights Agent, shall be the successor rights agent under this Indenture without the execution of any instrument or any further act.

## 9.3 EVIDENCE, EXPERTS AND ADVISERS

- (a) In addition to the reports, certificates, opinions and other evidence required by this Indenture, Akerna and Exchangeco shall furnish to the Rights Agent such additional evidence of compliance with any provision hereof, and in such form, as may be prescribed by any trust indenture legislation or as the Rights Agent may reasonably require by written notice to Akerna.
- (b) In the exercise of its rights and duties hereunder, the Rights Agent may, if it is acting in good faith, rely as to the truth of the statements and the accuracy of the opinions expressed in statutory declarations, opinions, reports, written requests, consents, or orders of Akerna, certificates of Akerna or other evidence furnished to the Rights Agent pursuant to any provision hereof or any trust indenture legislation or pursuant to a request of the Rights Agent, not only as to its due execution and the validity and effectiveness of its provisions, but also to the truth and acceptability of any information therein contained which the Rights Agent in good faith believes to be genuine.
- (c) Proof of the execution of an instrument in writing, including a Holders' Request, by any Holder may be made by the certificate of a notary public, or other officer with similar powers, that the Person signing such instrument acknowledged to it the execution thereof, or by an affidavit of a witness to such execution or in any other manner which the Rights Agent may consider adequate.
- (d) The Rights Agent may, at the expense of Akerna employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of discharging its duties hereunder and may pay reasonable remuneration for all services so performed by any of them, without taxation of costs of any counsel, and shall not be responsible for any misconduct or negligence on the part of any such experts or advisers who have been appointed with due care by the Rights Agent.

#### **9.4 RIGHTS AGENT MAY DEAL IN SECURITIES**

Subject to Section 9.1, the Rights Agent may buy, sell, lend upon and deal in securities of Akerna and generally contract and enter into financial transactions with Akerna or otherwise, without being liable to account for any profits made thereby.

#### **9.5 RIGHTS AGENT NOT ORDINARILY BOUND**

Except as otherwise specifically provided herein, the Rights Agent shall not be bound to give notice to any Person of the execution hereof, nor to do, observe or perform or see to the observance or performance by Akerna of any of the obligations herein imposed upon Akerna or of the covenants on the part of Akerna herein contained.

#### **9.6 RIGHTS AGENT NOT REQUIRED TO GIVE SECURITY**

The Rights Agent shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

#### **9.7 RIGHTS AGENT NOT REQUIRED TO GIVE NOTICE OF DEFAULT**

The Rights Agent shall not be bound to give any notice or do or take any act, action or proceeding by virtue of the powers conferred on it hereby unless and until it shall have been required to do so under the terms hereof; nor shall the Rights Agent be required to take notice of any default hereunder, unless and until notified in writing of such default, which notice shall distinctly specify the default desired to be brought to the attention of the Rights Agent and in the absence of any such notice the Rights Agent may for all purposes of this Indenture conclusively assume that no default has been made in the observance or performance of any of the representations, warranties, covenants, agreements or conditions contained herein. Any such notice shall in no way limit any discretion herein given to the Rights Agent to determine whether or not the Rights Agent shall take action with respect to any default.

#### **9.8 ACCEPTANCE OF APPOINTMENT**

The Rights Agent hereby accepts its appointment as Rights Agent and its duties and obligations in this Indenture declared and provided for and agrees to perform them upon the terms and conditions herein set forth and to hold and exercise the rights, privileges and benefits conferred upon it hereby, subject to all the terms and conditions herein set forth, until discharged therefrom by resignation or other lawful removal.

#### **9.9 DUTIES OF RIGHTS AGENT**

The Rights Agent, in exercising its powers and discharging its duties hereunder, shall:

- (a) act honestly and in good faith with a view to the best interests of the Holders; and

- (b) exercise the care, diligence and skill that a reasonably prudent rights agent would exercise in comparable circumstances.

#### **9.10 ACTIONS BY RIGHTS AGENT**

- (a) Subject only to Section 9.9, the obligation of the Rights Agent to commence or continue any act, action or proceeding for the purpose of enforcing any rights of the Rights Agent or the Holders hereunder shall be conditional upon the Holders delivering to the Rights Agent:
  - (i) a written request by the Shareholder Representative directing the Rights Agent to take such act, action, or proceeding;
  - (ii) sufficient funds to commence or continue such act, action or proceeding; and
  - (iii) an indemnity reasonably satisfactory to the Rights Agent to protect and hold harmless the Rights Agent against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damages it may suffer by reason thereof.
- (b) None of the provisions contained in this Indenture shall require the Rights Agent to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified and funded as aforesaid.
- (c) The Rights Agent may, before commencing or at any time during the continuance of any such act, action or proceeding, require the Shareholder Representative (for and on behalf of the Holders), at whose instance it is acting, to deposit with the Rights Agent the Rights held by them, for which Rights the Rights Agent shall issue receipts.

#### **9.11 PROTECTION OF RIGHTS AGENT**

By way of supplement to the provisions of any law for the time being relating to trustees it is expressly declared and agreed as follows:

- (a) the Rights Agent shall not be liable for or by reason of any statements of fact or recitals in this Indenture or in the Rights Certificates (except the representation contained in Section 9.1 or in the certificate of the Rights Agent on the Rights Certificates) or be required to verify the same, but all such statements or recitals are and shall be deemed to be made by Akerna;
- (b) nothing herein contained shall impose any obligation on the Rights Agent to see to or to require evidence of the registration or filing (or renewal thereof) of this Indenture or any instrument ancillary or supplemental hereto; and
- (c) the Rights Agent shall not be bound to give notice to any Person or Persons of the execution hereof.

### **9.12 INDEMNIFICATION OF THE RIGHTS AGENT**

The Rights Agent, its officers, directors, agents and employees shall at all times be indemnified and saved harmless by Akerna from and against all claims, demands, losses, actions, causes of action, suits, proceedings, costs, charges, expenses, assessments, judgements, damages and liabilities whatsoever arising in connection with this Indenture, including, without limitation, those arising out of or related to actions taken or omitted to be taken by the Rights Agent contemplated hereby, reasonable expert consultant and legal fees and disbursements on a solicitor and client basis and reasonable costs and expenses incurred in connection with the enforcement of this indemnity, which the Rights Agent may suffer or incur, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties as Rights Agent. The foregoing provisions of this section do not apply to the extent that in any circumstance there have been acts of gross negligence, wilful misconduct, or bad faith by the Rights Agent. This indemnity shall survive the termination or discharge of this Indenture and the resignation or removal of the Rights Agent.

### **9.13 THIRD PARTY INTERESTS**

Each party to this Indenture hereby represents to the Rights Agent that any account to be opened by, or interest to be held by the Rights Agent in connection with this Indenture, for or to the credit of such party, either: (a) is not intended to be used by or on behalf of any third party; or (b) is intended to be used by or on behalf of a third party, in which case such party hereto agrees to complete and execute forthwith a declaration in the Rights Agent's prescribed form as to the particulars of such third party.

### **9.14 NOT BOUND TO ACT / ANTI-MONEY LAUNDERING**

The Rights Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Rights Agent, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Rights Agent, in its sole judgment, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on 10 days written notice to Akerna, provided: (a) that the Rights Agent's written notice shall describe the circumstances of such non-compliance; and (b) that if such circumstances are rectified to the Rights Agent's satisfaction within such 10 day period, then such resignation shall not be effective.

### **9.15 PRIVACY LAWS**

The parties acknowledge that the Rights Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes: (a) to provide the services required under this Indenture and other services that may be requested from time to time; (b) to help the Rights Agent manage its servicing relationships with such individuals; (c) to meet the Rights Agent's legal and regulatory requirements; and (d) if Social Insurance Numbers are collected by the Rights Agent, to perform tax reporting and to assist in verification of an individual's identity for security purposes.

Each party acknowledges and agrees that the Rights Agent may receive, collect, use and disclose personal information provided to it or acquired by it in the course of its acting as agent hereunder this Indenture for the purposes described above and, generally, in the manner and on the terms described in its Privacy Code, which the Rights Agent shall make available on its website, www.odysseytrust.com, or upon request, including revisions thereto. The Rights Agent may transfer personal information to other companies in or outside of Canada that provide data processing and storage or other support in order to facilitate the services it provides.

Further, each party agrees that it shall not provide or cause to be provided to the Rights Agent any personal information relating to an individual who is not a party to this Indenture unless the that party has assured itself that such individual understands and has consented to the aforementioned uses and disclosures.

#### **9.16 FORCE MAJEURE**

Except for the payment obligations of Akerna contained herein, neither party shall be liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provisions contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, economic sanctions or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this section.

### **ARTICLE 10 SUPPLEMENTAL INDENTURES**

#### **10.1 SUPPLEMENTAL INDENTURES**

The Rights Agent may, without the consent or concurrence of the Holders, by supplemental Indenture or otherwise, concur with Akerna in making any changes or corrections in this Indenture which it has been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or clerical omission or mistake or manifest error contained herein or in any deed or indenture supplemental or ancillary hereto, provided that the Rights Agent, relying on the opinion of Counsel, the rights of the Rights Agent and of the Holders are in no way prejudiced thereby.

### **ARTICLE 11 GENERAL PROVISIONS**

#### **11.1 EXECUTION**

This Indenture may be simultaneously executed in several counterparts, and may be executed by facsimile or other means of electronic communication producing a printed copy, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution they shall be deemed to be dated as of the date hereof.

## **11.2 AMENDMENT**

This provisions of this Indenture may be waived, altered, amended or supplemented, in whole or in part, only by a writing signed by Akerna, the Shareholder Representative and the Rights Agent.

## **11.3 FORMAL DATE**

This Indenture may be referred to as bearing the formal date July \_\_\_\_, 2020 irrespective of the actual date of execution hereof.

## **11.4 SATISFACTION AND DISCHARGE OF INDENTURE**

Upon the Termination Date, this Indenture shall cease to be of any force and effect and the Rights Agent, on demand of and at the cost and expense of Akerna and upon delivery to the Rights Agent of a certificate of Akerna stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with, shall execute instruments as requested by Akerna acknowledging satisfaction of and discharging this Indenture. Notwithstanding the foregoing, the indemnities provided to the Rights Agent by Akerna hereunder shall remain in full force and effect and survive the termination of this Indenture.

## **11.5 PROVISIONS OF INDENTURE AND RIGHTS FOR THE SOLE BENEFIT OF PARTIES AND HOLDERS**

Nothing in this Indenture or in the Rights Certificates, expressed or implied, shall give or be construed to give to any Person other than the parties thereto and the Holders, as the case may be, any legal or equitable right, remedy or claim under this Indenture, or under any covenant or provision herein or therein contained, all such covenants and provisions being for the sole benefit of the parties hereto and the Holders.

## **11.6 WITHHOLDING**

Each of Akerna, Exchangeco and the Rights Agent shall be entitled to deduct and withhold from any amounts or property to be issued, paid, assigned or conveyed hereunder, such amounts as Akerna, Exchangeco or the Rights Agent, as the case may be, is required to deduct and withhold with respect to such payment or transfer under the *Income Tax Act* (Canada) or any provision of federal, provincial, state, local or foreign tax law. In lieu of withholding such amounts Akerna, Exchangeco and the Rights Agent shall be entitled to otherwise recover or to require a Holder to provide for such applicable taxes. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes hereof as having been paid to the relevant Holder, provided that such withheld amounts are actually remitted to the appropriate taxing authority.

*[Remainder of this page left intentionally blank]*

IN WITNESS WHEREOF the parties hereto have executed this Indenture under the hands of their proper officers in that behalf.

By: /s/ John Prentice  
Name: John Prentice, exclusively in his capacity as  
Shareholder Representative

**AKERNA CANADA AMPLE EXCHANGE INC.**

By: /s/ Jessica Billingsley  
Name: Jessica Billingsley  
Title: Chief Financial Officer

**AKERNA CORP.**

By: /s/ John Fowle  
Name: John Fowle  
Title: Chief Financial Officer

**ODYSSEY TRUST COMPANY**

By: /s/ Dan Sander  
Name: Dan Sander  
Title: Authorized Officer

By: /s/ Amy Douglas  
Name: Amy Douglas  
Title: Authorized Officer

**SCHEDULE "A"**  
**FORM OF RIGHTS CERTIFICATE**

(see attached)

**THIS IS SCHEDULE "A" to the Rights Indenture made as of July \_\_, 2020 between Akerna Corp., Akerna Canada Ample Exchange Inc., John Prentice, as Shareholder Representative, and Odyssey Trust Company, as Rights Agent.**

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**RIGHTS CERTIFICATE**

**AKERNA CORP.**

(a corporation existing under the laws of Delaware)  
("Akerna")

RIGHTS CERTIFICATE NO. \_\_\_\_\_

ONE RIGHT, entitling the holder to acquire such share of the Deferred Consideration as specified in Section 2.2 of the Rights Indenture (as defined below).

**THIS IS TO CERTIFY THAT** \_\_\_\_\_

(the "**holder**") is the registered holder of a right (the "**Right**") entitling the holder to receive Exchangeable Shares all on the terms and conditions set out in a rights indenture (the "**Rights Indenture**") between Akerna, Exchangeco, John Prentice, as Shareholder Representative, and Odyssey Trust Company dated July \_\_, 2020.

The Right represented by this certificate is issued under and pursuant to the Rights Indenture. Reference is made to the Rights Indenture and any instruments supplemental thereto for a full description of the rights of the holders of the Rights and the terms and conditions upon which the Rights are, or are to be, issued and held, with the same effect as if the provisions of the Rights Indenture and all instruments supplemental thereto were herein set forth. By acceptance hereof, the holder assents to all provisions of the Rights Indenture. In the event of a conflict between the provisions of this Rights Certificate and the Rights Indenture, the provisions of the Rights Indenture shall govern. Capitalized terms used in the Rights Indenture have the same meaning herein as therein, unless otherwise defined.

The registered holder of this Rights Certificate may, at any time prior to the close of business on the last Business Day immediately preceding the Termination Date, upon surrender hereof to the Rights Agent at its offices in the city of Calgary, Alberta, exchange this Rights Certificate for other Rights Certificates entitling the holder to acquire, in the aggregate, the same Deferred Consideration as may be acquired under this Rights Certificate.

The holding of the Right evidenced by this Rights Certificate shall not constitute the holder hereof a shareholder of Akerna or Exchangeco or entitle the holder to any right or interest in respect thereof except as expressly provided in the Rights Indenture and in this Rights Certificate.

The Right evidenced by this Rights Certificate may only be transferred in accordance with the terms of the Rights Indenture and upon compliance with such reasonable requirements as the Rights Agent may prescribe.

This Rights Certificate shall not be valid for any purpose whatever unless and until it has been certified by or on behalf of the Rights Agent.

Time shall be of the essence hereof.

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IN WITNESS WHEREOF Akerna has caused this Rights Certificate to be signed by its duly authorized officer as of July \_\_\_, 2020.

**AKERNA CORP.**

Per: \_\_\_\_\_  
(Authorized Signatory)

**AKERNA CANADA AMPLE EXCHANGE INC.**

Per: \_\_\_\_\_  
(Authorized Signatory)

Certified by:

**ODYSSEY TRUST COMPANY**  
Rights Agent

Per: \_\_\_\_\_  
(Authorized Signatory)

Per: \_\_\_\_\_  
(Authorized Signatory)

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## Akerna Corp.

## 2019 Long Term Incentive Plan

**Section 1. Purpose; Definitions.**

1.1. Purpose. The purpose of the Plan is to enable the Company to offer to employees, officers and directors of and consultants to the Company and its Subsidiaries, Parent and Affiliates whose past, present and/or potential future contributions to the Company and its Subsidiaries have been, are or will be important to the success of the Company, an opportunity to share monetarily in the success of and/or acquire a proprietary interest in the Company. The various types of long-term incentive awards that may be provided under the Plan will enable the Company to respond to changes in compensation practices, tax laws, accounting regulations and the size and diversity of its businesses.

1.2. Definitions. For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "Affiliate" means a corporation, limited liability company or other entity that controls, is controlled by, or is under common control with the Company and designated by the Committee from time to time as such.

(b) "Agreement" means the agreement between the Company and the Holder, or such other document as may be determined by the Committee, setting forth the terms and conditions of an award under the Plan.

(c) "Asset Sale" means an acquisition by any one person, or more than one person acting as a group, together with acquisitions during the 12-month period ending on the date of the most recent acquisition by such person or persons, of assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately before such acquisition or acquisitions. For this purpose, gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

(d) "Board" means the Board of Directors of the Company.

(e) "Change of Control" means a transaction in which any one person, or more than one person acting as a group, acquires the ownership of stock of the Company that, together with the stock held by such person or group, constitutes more than 50% of the total Fair Market Value or combined voting power of the stock of the Company. A Change in Control caused by an increase in the percentage of stock owned by any one person, or persons acting as a group, as a result of a transaction in which the Company acquires its stock in exchange for property is not treated as a Change of Control for purposes of the Plan.

(f) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(g) "Committee" means the committee of the Board designated to administer the Plan as provided in Section 2.1. If no Committee is so designated, then all references in this Plan to "Committee" shall mean the Board.

(h) "Common Stock" means the Common Stock of the Company, par value \$.0001 per share.

(i) "Company" means Akerna Corp., a corporation organized under the laws of the State of Delaware.

(j) "Disability" means physical or mental impairment as determined under procedures established by the Committee for purposes of the Plan.

(k) "Effective Date" means the date determined pursuant to Section 11.1.

(l) "Fair Market Value," unless otherwise required by any applicable provision of the Code or any regulations issued thereunder, means, as of any given date: (i) if the Common Stock is listed on a national securities exchange or is traded over-the-counter and last sale information is available, unless otherwise determined by the Committee, the last sale price of the Common Stock in the principal trading market for the Common Stock on such date, as reported by the exchange or by such source that the Committee deems reliable, as the case may be; or (ii) if the fair market value of the Common Stock cannot be determined pursuant to clause (i), such price as the Committee shall determine, in good faith.

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(m) "Holder" means a person who has received an award under the Plan.

(n) "Incentive Stock Option" means any Stock Option intended to be and designated as an "incentive stock option" within the meaning of Section 422 of the Code.

(o) "Non-qualified Stock Option" means any Stock Option that is not an Incentive Stock Option.

(p) "Normal Retirement" means retirement from active employment with the Company or any Subsidiary on or after such age which may be designated by the Committee as "retirement age" for any particular Holder. If no age is designated, it shall be 65.

(q) "Other Stock-Based Award" means an award under Section 8 that is valued in whole or in part by reference to, or is otherwise based upon, Common Stock.

(r) "Parent" means any present or future "parent corporation" of the Company, as such term is defined in Section 424(e) of the Code.

(s) "Plan" means the Company's 2019 Long Term Incentive Plan, as hereinafter amended from time to time.

(t) "Repurchase Value" shall mean the Fair Market Value if the award to be settled under Section 2.2(e) or repurchased under Section 5.2(l) is comprised of shares of Common Stock and the difference between Fair Market Value and the exercise price (if lower than Fair Market Value) if the award is a Stock Option or Stock Appreciation Right; in each case, multiplied by the number of shares subject to the award. "Repurchase Value" if the award to be repurchased under Section 9.2 is comprised of shares of Common Stock shall mean the greater of the Fair Market Value or the value of such award based upon the price per share of Common Stock received or to be received by other shareholders of the Company in the event. "Repurchase Value" if the award to be repurchased under Section 9.2 is comprised of Stock Options or Stock Appreciation Rights shall mean the difference between the greater of (1) the Fair Market Value or the value of such award based upon the price per share of Common Stock received or to be received by other shareholders of the Company in the event and (2) the exercise price (if lower), multiplied by the number of shares subject to the award.

(u) "Restriction Period" means the time or times within which awards may be subject to forfeiture, including upon termination of employment or failure of performance conditions.

(v) "Restricted Stock" means Common Stock received under an award made pursuant to Section 7 that is subject to restrictions under Section 7.

(w) "Restricted Stock Unit" means an unfunded, unsecured right to receive, on the applicable settlement date, one share or an amount in cash or other consideration determined by the Committee to be of equal value as of such settlement date, subject to certain vesting conditions and other restrictions.

(x) "SAR Value" means the excess of the Fair Market Value (on the exercise date) over (a) the exercise price that the participant would have otherwise had to pay to exercise the related Stock Option or (b) if a Stock Appreciation Right is granted unrelated to a Stock Option, the Fair Market Value of a share of Common Stock on the date of grant of the Stock Appreciation Right, in either case, multiplied by the number of shares for which the Stock Appreciation Right is exercised.

(y) "Stock Appreciation Right" means the right to receive from the Company, without a cash payment to the Company, either a number of shares of Common Stock equal to the SAR Value divided by the Fair Market Value (on the exercise date), or, at the Company's election, cash in the amount of the SAR Value.

(z) "Stock Option" or "Option" means any option to purchase shares of Common Stock which is granted pursuant to the Plan.

(aa) "Subsidiary" means any present or future "subsidiary corporation" of the Company, as such term is defined in Section 424(f) of the Code.

(bb) "Vest" means to become exercisable or to otherwise obtain ownership rights in an award. No award shall vest in less than a one-year period.

## **Section 2. Administration.**

2.1. Committee Membership. The Plan shall be administered by the Board or a Committee. If administered by a Committee, such Committee shall be composed of at least two directors, all of whom are "non-employee" directors within the meaning of Rule 16b-3 under the Securities Exchange Act of 1934, as amended. Committee members shall serve for such term as the Board may in each case determine and shall be subject to removal at any time by the Board.

2.2. Powers of Committee. The Committee shall have full authority to award, pursuant to the terms of the Plan: (i) Stock Options, (ii) Stock Appreciation Rights, (iii) Restricted Stock, (iv) Restricted Stock Units, and/or (v) Other Stock-Based Awards. For purposes of illustration and not of limitation, the Committee shall have the authority (subject to the express provisions of this Plan):

(a) to select the officers, employees, directors and consultants of the Company, Parent, Subsidiary or Affiliate to whom Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units and/or Other Stock-Based Awards may from time to time be awarded hereunder;

(b) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any award granted hereunder (including, but not limited to, number of shares, share exercise price or types of consideration paid upon exercise of such options, such as other securities of the Company or other property, any restrictions or limitations, and any vesting, exchange, surrender, cancellation, acceleration, termination, exercise or forfeiture provisions, as the Committee shall determine);

(c) to determine any specified performance goals or such other factors or criteria which need to be attained for the vesting of an award granted hereunder;

(d) to determine the terms and conditions under which awards granted hereunder are to operate on a tandem basis and/or in conjunction with or apart from other awards under this Plan and cash and non-cash awards made by the Company, Parent, Subsidiary and/or Affiliate outside of this Plan; and

(e) to make payments and distributions with respect to awards (*i.e.*, to "settle" awards) through cash payments in an amount equal to the Repurchase Value.

The Committee may not modify or amend any outstanding Option or Stock Appreciation Right to reduce the exercise price of such Option or Stock Appreciation Right, as applicable, below the exercise price as of the date of grant of such Option or Stock Appreciation Right. In addition, no payment of cash or other property having a value greater than the Repurchase Value may be made, and no Option or Stock Appreciation Right with a lower exercise price may be granted, in exchange for, or in connection with, the cancellation or surrender of an Option or Stock Appreciation Right.

Non-employee directors may not be granted any awards covering more than [●] shares of Common Stock in any year.

2.3. Interpretation of Plan. Subject to Section 10, the Committee shall have the authority to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable, to interpret the terms and provisions of the Plan and any award issued under the Plan (and to determine the form and substance of all Agreements relating thereto), and to otherwise supervise the administration of the Plan. Subject to Section 10, all decisions made by the Committee pursuant to the provisions of the Plan shall be made in the Committee's sole discretion and shall be final and binding upon all persons, including the Company, its Parent, Subsidiaries, Affiliates and Holders.

### **Section 3. Stock Subject to Plan.**

3.1. Number of Shares. The total number of shares of Common Stock reserved and available for issuance under the Plan shall be up to 1,565,038 shares. Shares of Common Stock under the Plan (“Shares”) may consist, in whole or in part, of authorized and unissued shares or treasury shares. If any shares of Common Stock that have been granted pursuant to a Stock Option cease to be subject to a Stock Option, or if any shares of Common Stock that are subject to any Stock Appreciation Right, Restricted Stock award, Restricted Stock Units or Other Stock-Based Award granted hereunder are forfeited, or any such award otherwise terminates without a payment being made to the Holder in the form of Common Stock, such shares shall again be available for distribution in connection with future grants and awards under the Plan. If a Holder pays the exercise price of a Stock Option by surrendering any previously owned shares and/or arranges to have the appropriate number of shares otherwise issuable upon exercise withheld to cover the withholding tax liability associated with the Stock Option exercise, then, in the Committee’s discretion, the number of shares available under the Plan may be increased by the lesser of (i) the number of such surrendered shares and shares used to pay taxes; and (ii) the number of shares purchased under such Stock Option.

3.2. Adjustment Upon Changes in Capitalization, Etc. In the event of any common stock dividend payable on shares of Common Stock, Common Stock split or reverse split, combination or exchange of shares of Common Stock, or other extraordinary or unusual event which results in a change in the shares of Common Stock of the Company as a whole, the Committee shall determine, in its sole discretion, whether such change equitably requires an adjustment in the terms of any award in order to prevent dilution or enlargement of the benefits available under the Plan (including number of shares subject to the award and the exercise price) or the aggregate number of shares reserved for issuance under the Plan. Any such adjustments will be made by the Committee, whose determination will be final, binding and conclusive.

3.3. Administrative Stand Still. In the event of any changes in capitalization described above in Section 3.2, or any other extraordinary transaction or change affecting the shares or the share price of Common Stock, including any equity restructuring or any securities offering or other similar transaction, for administrative convenience, the Committee may refuse to permit the exercise of any award for up to sixty days before and/or after such transaction; provided, however, that the Committee may not refuse to permit the exercise of any award during the last five trading days prior to the expiration of such award.

3.4. Substitute Awards. In connection with an entity’s merger or consolidation with the Company or any Subsidiary or Affiliate or the Company’s or any Subsidiary’s or Affiliate’s acquisition of an entity’s property or stock, the Committee may grant awards in substitution for any options or other stock or stock-based awards granted before such merger or consolidation by such entity or its affiliate. Substitute awards may be granted on such terms as the Committee deems appropriate, notwithstanding limitations on awards in the Plan. Substitute awards will not count against the plan limit, except that shares acquired by exercise of substitute Incentive Stock Options will count against the maximum number of shares that may be issued pursuant to the exercise of Incentive Stock Options under the Plan.

### **Section 4. Eligibility.**

Awards may be made or granted to employees, officers, directors and consultants of the Company or its Subsidiaries, Parent or Affiliates who are deemed to have rendered or to be able to render significant services to the Company or its Subsidiaries and who are deemed to have contributed or to have the potential to contribute to the success of the Company or Subsidiary and which recipients are qualified to receive options under the regulations governing Form S-8 registration statements under the Securities Act of 1933, as amended (“Securities Act”). No Incentive Stock Option shall be granted to any person who is not an employee of the Company, a Subsidiary, Parent or Affiliate (including any non-employee directors) at the time of grant or so qualified as set forth in the immediately preceding sentence. Notwithstanding anything to the contrary, an award may be made or granted to a person in connection with his hiring or retention, or at any time on or after the date he reaches an agreement (oral or written) with the Company or its Subsidiaries, Parent or Affiliates with respect to such hiring or retention, even though it may be prior to the date the person first performs services for the Company or its Subsidiaries; provided, however, that no portion of any such award shall vest prior to the date the person first performs such services and the date of grant shall be deemed to be the date hiring or retention commences.

## Section 5. Stock Options.

5.1. Grant and Exercise. Stock Options granted under the Plan may be of two types: (i) Incentive Stock Options and (ii) Non-qualified Stock Options. Any Stock Option granted under the Plan shall contain such terms, not inconsistent with this Plan, or with respect to Incentive Stock Options, not inconsistent with the Plan and the Code, as the Committee may from time to time approve. The Committee shall have the authority to grant Incentive Stock Options or Non-qualified Stock Options, or both types of Stock Options which may be granted alone or in addition to other awards granted under the Plan.

5.2. Terms and Conditions. Stock Options granted under the Plan shall be subject to the following terms and conditions:

(a) Option Term. The term of each Stock Option shall be fixed by the Committee; provided, however, that no Stock Option may be exercisable after the expiration of ten years from the date of grant; provided, further, that no Incentive Stock Option granted to a person who, at the time of grant, owns stock possessing more than 10% of the total combined voting power of all classes of voting stock of the Company (“10% Shareholder”) may be exercisable after the expiration of five years from the date of grant.

(b) Exercise Price. The exercise price per share of Common Stock purchasable under a Stock Option shall be determined by the Committee at the time of grant; provided, however, that the exercise price of a Stock Option may not be less than 100% of the Fair Market Value on the date of grant or, if greater, the par value of a share of Common Stock; provided, further, that the exercise price of an Incentive Stock Option granted to a 10% Shareholder may not be less than 110% of the Fair Market Value on the date of grant.

(c) Exercisability. Stock Options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee. The Committee intends generally to provide that Stock Options be exercisable only in installments, i.e., that they vest over time, typically over a two- to five-year period. The Committee may waive such installment exercise provisions at any time at or after the time of grant in whole or in part, based upon such factors as the Committee determines.

(d) Method of Exercise. Subject to whatever installment, exercise and waiting period provisions are applicable in a particular case, Stock Options may be exercised in whole or in part at any time during the term of the Option by giving written notice of exercise to the Company specifying the number of shares of Common Stock to be purchased. Such notice shall be accompanied by payment in full of the purchase price, which shall be in cash or, if provided in the Agreement, either in shares of Common Stock (including Restricted Stock and other contingent awards under this Plan) or partly in cash and partly in such Common Stock, or such other means which the Committee determines are consistent with the Plan’s purpose and applicable law. Cash payments shall be made by wire transfer, certified or bank check or personal check, in each case payable to the order of the Company; provided, however, that the Company shall not be required to deliver certificates for shares of Common Stock with respect to which an Option is exercised until the Company has confirmed the receipt of good and available funds in payment of the purchase price thereof (except that, in the case of an exercise arrangement approved by the Committee and described in the next sentence of this section, payment may be made as soon as practicable after the exercise). The Committee may permit a Holder to elect to pay the exercise price upon the exercise of a Stock Option by irrevocably authorizing a third party to sell shares of Common Stock (or a sufficient portion of the shares) acquired upon exercise of the Stock Option and remit to the Company a sufficient portion of the sale proceeds to pay the entire exercise price and any tax withholding resulting from such exercise. The Committee may also authorize other means for paying the exercise price of a Stock Option, including using the value of the Stock Option (as determined by the difference in the Fair Market Value of the Common Stock and the exercise price of the Stock Option or other means determined by the Committee).

(e) Stock Payments. Payments in the form of Common Stock shall be valued at the Fair Market Value on the date of exercise. Such payments shall be made by delivery of stock certificates in negotiable form that are effective to transfer good and valid title thereto to the Company, free of any liens or encumbrances.

(f) Transferability. Except as may be set forth in the next sentence of this Section or in the Agreement, no Stock Option shall be transferable by the Holder other than by will or by the laws of descent and distribution, and all Stock Options shall be exercisable, during the Holder's lifetime, only by the Holder (or, to the extent of legal incapacity or incompetency, the Holder's guardian or legal representative). Notwithstanding the foregoing, a Holder, with the approval of the Committee, may transfer a Non-Qualified Stock Option (i) (A) by gift, for no consideration, or (B) pursuant to a domestic relations order, in either case, to or for the benefit of the Holder's "Immediate Family" (as defined below), or (ii) to an entity in which the Holder and/or members of Holder's Immediate Family own more than fifty percent of the voting interest, subject to such limits as the Committee may establish and the execution of such documents as the Committee may require, and the transferee shall remain subject to all the terms and conditions applicable to the Non-Qualified Stock Option prior to such transfer. The term "Immediate Family" shall mean any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, including adoptive relationships, any person sharing the Holder's household (other than a tenant or employee), a trust in which these persons have more than fifty percent beneficial interest, and a foundation in which these persons (or the Holder) control the management of the assets. The Committee may, in its sole discretion, permit transfer of an Incentive Stock Option in a manner consistent with applicable tax and securities law upon the Holder's request.

(g) Termination by Reason of Death. If a Holder's employment by, or association with, the Company, Parent, Subsidiary or Affiliate terminates by reason of death, any Stock Option held by such Holder, unless otherwise determined by the Committee and set forth in the Agreement, shall thereupon automatically terminate, except that the portion of such Stock Option that has vested on the date of death may thereafter be exercised by the legal representative of the estate or by the legatee of the Holder under the will of the Holder, for a period of one year (or such other greater or lesser period as the Committee may specify in the Agreement) from the date of such death or until the expiration of the stated term of such Stock Option, whichever period is shorter.

(h) Termination by Reason of Disability. If a Holder's employment by, or association with, the Company, Parent, Subsidiary or Affiliate terminates by reason of Disability, any Stock Option held by such Holder, unless otherwise determined by the Committee and set forth in the Agreement, shall thereupon automatically terminate, except that the portion of such Stock Option that has vested on the date of termination may thereafter be exercised by the Holder for a period of one year (or such other greater or lesser period as the Committee may specify in the Agreement) from the date of such termination or until the expiration of the stated term of such Stock Option, whichever period is shorter.

(i) Termination by Reason of Normal Retirement. Subject to the provisions of Section 12.3, if such Holder's employment by, or association with, the Company, Parent, Subsidiary or Affiliate terminates due to Normal Retirement, any Stock Option held by such Holder, unless otherwise determined by the Committee and set forth in the Agreement, shall thereupon automatically terminate, except that the portion of such Stock Option that has vested on the date of termination may thereafter be exercised by the Holder for a period of one year in the case of a Non-Qualified Stock Option or three months in the case of an Incentive Stock Option (or such other greater or lesser period as the Committee may specify in the Agreement) from the date of such termination or until the expiration of the stated term of such Stock Option, whichever period is shorter.

(j) Other Termination. Subject to the provisions of Section 12.3, if such Holder's employment by, or association with, the Company, Parent, Subsidiary or Affiliate terminates for any reason other than death, Disability or Normal Retirement, any Stock Option held by such Holder, unless otherwise determined by the Committee and set forth in the Agreement, shall thereupon automatically terminate, except that, if the Holder's employment is terminated by the Company, Parent, Subsidiary or Affiliate without cause, the portion of such Stock Option that has vested on the date of termination may thereafter be exercised by the Holder for a period of three months (or such other greater or lesser period as the Committee may specify in the Agreement) from the date of such termination or until the expiration of the stated term of such Stock Option, whichever period is shorter.

(k) Incentive Stock Options. The aggregate Fair Market Value (on the date of grant of the Stock Option) of shares of Common Stock with respect to which Incentive Stock Options become exercisable for the first time by a Holder during any calendar year (under all such plans of the Company and its Parent and Subsidiaries) shall not exceed \$100,000. To the extent that any Stock Option intended to qualify as an Incentive Stock Option does not so qualify, including by reason of the immediately preceding sentence, it shall constitute a separate Non-qualified Stock Option. The Company shall have no liability to any Holder or any other person if a Stock Option designated as an Incentive Stock Option fails to qualify as such at any time or if a Stock Option is determined to constitute “nonqualified deferred compensation” within the meaning of Section 409A of the Code and the terms of such Stock Option do not satisfy the requirements of Section 409A of the Code.

(l) Buyout and Settlement Provisions. The Committee may at any time, in its sole discretion, offer to repurchase a Stock Option previously granted, at a purchase price not to exceed the Repurchase Value, based upon such terms and conditions as the Committee shall establish and communicate to the Holder at the time that such offer is made.

(m) Rights as Shareholder. A Holder shall have none of the rights of a Shareholder with respect to the shares subject to the Option until such shares shall be transferred to the Holder upon the exercise of the Option.

## **Section 6. Stock Appreciation Rights.**

6.1. Grant and Exercise. Subject to the terms and conditions of the Plan, the Committee may grant Stock Appreciation Rights in tandem with an Option or alone and unrelated to an Option. The Committee may grant Stock Appreciation Rights to participants who have been or are being granted Stock Options under the Plan as a means of allowing such participants to exercise their Stock Options without the need to pay the exercise price in cash. In the case of a Non-qualified Stock Option, a Stock Appreciation Right may be granted either at or after the time of the grant of such Non-qualified Stock Option. In the case of an Incentive Stock Option, a Stock Appreciation Right may be granted only at the time of the grant of such Incentive Stock Option.

6.2. Terms and Conditions. Stock Appreciation Rights shall be subject to the following terms and conditions:

(a) Exercisability. Stock Appreciation Rights shall be exercisable as shall be determined by the Committee and set forth in the Agreement, subject, for Stock Appreciation Rights granted in tandem with an Incentive Stock Option, to the limitations, if any, imposed by the Code with respect to related Incentive Stock Options.

(b) Termination. All or a portion of a Stock Appreciation Right granted in tandem with a Stock Option shall terminate and shall no longer be exercisable upon the termination or after the exercise of the applicable portion of the related Stock Option.

(c) Method of Exercise. Stock Appreciation Rights shall be exercisable upon such terms and conditions as shall be determined by the Committee and set forth in the Agreement and, for Stock Appreciation Rights granted in tandem with a Stock Option, by surrendering the applicable portion of the related Stock Option. Upon exercise of all or a portion of a Stock Appreciation Right and, if applicable, surrender of the applicable portion of the related Stock Option, the Holder shall be entitled to receive a number of shares of Common Stock equal to the SAR Value divided by the Fair Market Value on the date the Stock Appreciation Right is exercised or, at the Company's election, cash for the value so calculated.

(d) Shares Available Under Plan. The granting of a Stock Appreciation Right in tandem with a Stock Option shall not affect the number of shares of Common Stock available for awards under the Plan. The number of shares available for awards under the Plan will, however, be reduced by the number of shares of Common Stock acquirable upon exercise of the Stock Option to which such Stock Appreciation Right relates.

## Section 7. Restricted Stock; Restricted Stock Units.

7.1. Grant. Shares of Restricted Stock may be awarded either alone or in addition to other awards granted under the Plan. The Committee shall determine the eligible persons to whom, and the time or times at which, grants of Restricted Stock will be awarded, the number of shares to be awarded, the price (if any) to be paid by the Holder, any Restriction Period, the vesting schedule and rights to acceleration thereof, and all other terms and conditions of the awards. In addition, the Committee may award Restricted Stock Units, which may be subject to vesting and forfeiture conditions during the applicable Restriction Period, as set forth in an Agreement.

7.2. Restricted Stock Terms and Conditions. Each Restricted Stock award shall be subject to the following terms and conditions:

(a) Certificates. Restricted Stock, when issued, will be represented by a stock certificate or certificates registered in the name of the Holder to whom such Restricted Stock shall have been awarded. During the Restriction Period, certificates representing the Restricted Stock and any securities constituting Retained Distributions (as defined below) shall bear a legend to the effect that ownership of the Restricted Stock (and such Retained Distributions) and the enjoyment of all rights appurtenant thereto are subject to the restrictions, terms and conditions provided in the Plan and the Agreement. Such certificates shall be deposited by the Holder with the Company, together with stock powers or other instruments of assignment, each endorsed in blank, which will permit transfer to the Company of all or any portion of the Restricted Stock and any securities constituting Retained Distributions that shall be forfeited or that shall not become vested in accordance with the Plan and the Agreement.

(b) Rights of Holder. Restricted Stock shall constitute issued and outstanding shares of Common Stock for all corporate purposes. The Holder will have the right to vote such Restricted Stock and to exercise all other rights, powers and privileges of a holder of Common Stock with respect to such Restricted Stock, with the exceptions that (i) the Holder will not be entitled to delivery of the stock certificate or certificates representing such Restricted Stock until the Restriction Period shall have expired and unless all other vesting requirements with respect thereto shall have been fulfilled; (ii) the Company will retain custody of the stock certificate or certificates representing the Restricted Stock during the Restriction Period; (iii) the Company will retain custody of all dividends and distributions ("Retained Distributions") made, paid or declared with respect to the Restricted Stock (and such Retained Distributions will be subject to the same restrictions, terms and conditions as are applicable to the Restricted Stock) until such time, if ever, as the Restricted Stock with respect to which such Retained Distributions shall have been made, paid or declared shall have become vested and with respect to which the Restriction Period shall have expired; and (iv) a breach by the Holder of any of the restrictions, terms or conditions contained in this Plan or the Agreement or otherwise established by the Committee with respect to any Restricted Stock or Retained Distributions will cause a forfeiture of such Restricted Stock and any Retained Distributions with respect thereto.

(c) Vesting; Forfeiture. Upon the expiration of the Restriction Period with respect to each award of Restricted Stock and the satisfaction of any other applicable restrictions, terms and conditions (i) all or part of such Restricted Stock shall become vested in accordance with the terms of the Agreement, and (ii) any Retained Distributions with respect to such Restricted Stock shall become vested to the extent that the Restricted Stock related thereto shall have become vested. Any such Restricted Stock and Retained Distributions that do not vest shall be forfeited to the Company and the Holder shall not thereafter have any rights with respect to such Restricted Stock and Retained Distributions that shall have been so forfeited.

7.3. Restricted Stock Units Terms and Conditions. Each Restricted Stock Units award shall be subject to the following terms and conditions:

(a) Settlement. The Committee may provide that settlement of Restricted Stock Units will occur upon or as soon as reasonably practicable after the Restricted Stock Units vest or will instead be deferred, on a mandatory basis or at the Holder's election, in a manner intended to comply with Section 409A.

(b) Stockholder Rights. A Holder will have no rights of a holder of Common Stock with respect to shares subject to any Restricted Stock Unit unless and until the shares are delivered in settlement of the Restricted Stock Unit.

(c) Dividend Equivalents. If the Committee provides, a grant of Restricted Stock Units may provide a Holder with the right to receive dividend equivalents. Dividend equivalents may be paid currently or credited to an account for the Holder, settled in cash or shares and subject to the same restrictions on transferability and forfeitability as the Restricted Stock Units with respect to which the dividend equivalents are granted and subject to other terms and conditions as set forth in the Agreement.

#### **Section 8. Other Stock-Based Awards.**

Other Stock-Based Awards may be awarded, subject to limitations under applicable law, that are denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, shares of Common Stock, as deemed by the Committee to be consistent with the purposes of the Plan, including, without limitation, purchase rights, shares of Common Stock awarded which are not subject to any restrictions or conditions, convertible or exchangeable debentures, or other rights convertible into shares of Common Stock and awards valued by reference to the value of securities of or the performance of specified Subsidiaries. These Other Stock-Based Awards may include performance shares or options, whose award is tied to specific performance goals. Other Stock-Based Awards may be awarded either alone or in addition to or in tandem with any other awards under this Plan or any other plan of the Company. Each Other Stock-Based Award shall be subject to such terms and conditions as may be determined by the Committee.

#### **Section 9. Accelerated Vesting and Exercisability.**

9.1. Non-Approved Transactions. If there is a Change of Control, and the Board does not authorize or otherwise approve such transaction, then the vesting periods of any and all Stock Options and other awards granted and outstanding under the Plan shall be accelerated and all such Stock Options and awards will immediately and entirely vest, and the respective holders thereof will have the immediate right to purchase and/or receive any and all Common Stock subject to such Stock Options and awards on the terms set forth in this Plan and the respective Agreements respecting such Stock Options and awards, and all performance goals will be deemed achieved at 100% of target levels and all other terms and conditions will be deemed met.

9.2. Approved Transactions. In the event of an Asset Sale or if there is a Change of Control that has been approved by the Company's Board of Directors, then the Committee may (i) accelerate the vesting of any and all Stock Options and other awards granted and outstanding under the Plan; (ii) require a Holder of any Stock Option, Stock Appreciation Right, Restricted Stock award or Other Stock-Based Award granted under this Plan to relinquish such award to the Company upon the tender by the Company to Holder of cash, stock or other property, or any combination thereof, in an amount equal to the Repurchase Value of such award; provided, however, that the obligation to tender the Repurchase Value to such Holders may be subject to any terms and conditions to which the tender of consideration to the Company's stockholders in connection with the acquisition is subject, including any terms and conditions of the acquisition providing for an adjustment to or escrow of such consideration; and provided, further, that in the case of any Stock Option or Stock Appreciation Right with an exercise price that equals or exceeds the price paid for a share of Common Stock in connection with the acquisition, the Committee may cancel the Stock Option or Stock Appreciation Right without the payment of consideration therefor; and/or (iii) terminate all incomplete performance periods in respect of awards in effect on the date the acquisition occurs, determine the extent to which performance goals have been met based upon such information then available as it deems relevant and cause to be paid to the Holder all or the applicable portion of the award based upon the Committee's determination of the degree of attainment of performance goals, or on such other basis determined by the Committee.

9.3. Code Section 409A. Notwithstanding any provisions of this Plan or any award granted hereunder to the contrary, no acceleration shall occur with respect to any award to the extent such acceleration would cause the Plan or an award granted hereunder to fail to comply with Code Section 409A.

#### **Section 10. Amendment and Termination.**

The Board may at any time, and from time to time, amend alter, suspend or discontinue any of the provisions of the Plan or any Agreement, but no amendment, alteration, suspension or discontinuance shall be made that would impair the rights of a Holder under any Agreement theretofore entered into hereunder, without the Holder's consent, except as set forth in this Plan or the Agreement. Notwithstanding anything to the contrary herein, no amendment to the provisions of the Plan shall be effective unless approved by the shareholders of the Company to the extent shareholder approval is necessary to satisfy any provision of the Code or other applicable law or the listing requirements of any national securities exchange on which the Company's securities are listed.

## Section 11. Term of Plan.

11.1. Effective Date. The Plan shall be effective upon the approval of the Company's shareholders.

11.2. Termination Date. Unless terminated by the Board, this Plan shall continue to remain effective until such time as no further awards may be granted and all awards granted under the Plan are no longer outstanding. Notwithstanding the foregoing, grants of Incentive Stock Options may be made only during the ten-year period beginning on the Effective Date.

## Section 12. General Provisions.

12.1. Written Agreements. Each award granted under the Plan shall be confirmed by, and shall be subject to the terms of, the Agreement executed by the Company and the Holder, or such other document as may be determined by the Committee. The Committee may terminate any award made under the Plan if the Agreement relating thereto is not executed and returned to the Company within 10 days after the Agreement has been delivered to the Holder for his or her execution.

12.2. Unfunded Status of Plan. The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Holder by the Company, nothing contained herein shall give any such Holder any rights that are greater than those of a general creditor of the Company.

### 12.3. Employees.

(a) Engaging in Competition With the Company; Solicitation of Customers and Employees; Disclosure of Confidential Information. If a Holder's employment with the Company, Parent, Subsidiary or Affiliate is terminated for any reason whatsoever, and Holder (i) within three months after the date thereof, accepts employment with any competitor of, or otherwise engages in competition with, the Company, Parent, Subsidiary or Affiliate, (ii) within two years after the date thereof, solicits any customers or employees of the Company, Parent, Subsidiary or Affiliate to do business with or render services to the Holder or any business with which the Holder becomes affiliated or to which the Holder renders services or (iii) at any time uses or discloses to anyone outside the Company any confidential information of the Company, Parent, Subsidiary or Affiliate in violation of the Company's policies or any agreement between the Holder and the Company, Parent, Subsidiary or Affiliate, the Committee, in its sole discretion, may require such Holder to return (through the payment of cash, return and transfer to the Company of shares of Common Stock or by other methods determined by the Committee) to the Company the economic value of any award that was realized or obtained by such Holder at any time during the period beginning on the date that is six months prior to the date such Holder's employment with the Company is terminated; provided, however, that if the Holder is a resident of the State of California, such right must be exercised by the Company for cash within six months after the date of termination of the Holder's service to the Company or within six months after exercise of the applicable Stock Option, whichever is later. In such event, Holder agrees to (1) remit to the Company, in cash, an amount equal to the difference between the Fair Market Value of the shares subject to the award on the date of termination (or the sales price of such Shares if the Shares were sold during such six month period) and the price the Holder paid the Company for such shares, or (2) in the case of SARs, shall, at the Company's election, return the full amount paid to the Holder in connection therewith.

(b) Termination for Cause. If a Holder's employment with the Company, Parent, subsidiary or Affiliate is terminated for cause, the Committee may, in its sole discretion, require such Holder to return to the Company the economic value of any award that was realized or obtained by such Holder at any time during the period beginning on that date that is six months prior to the date such Holder's employment with the Company is terminated. In such event, Holder agrees to (1) remit to the Company, in cash, an amount equal to the difference between the Fair Market Value of the shares on the date of termination (or the sales price of such Shares if the shares were sold during such six month period) and the price the Holder paid the Company for such shares, (2) with the consent of the Company, which may be withheld for any reason or no reason, surrender to the Company shares of Common Stock having Fair Market Value equal to the Fair Market Value on the date they were acquired upon exercise of the Option or (3) in the case of SARs, shall return the full amount paid to the Holder in connection therewith.

(c) No Right of Employment. Nothing contained in the Plan or in any award hereunder shall be deemed to confer upon any Holder who is an employee of the Company, Parent, Subsidiary or Affiliate any right to continued employment with the Company, Parent, Subsidiary or Affiliate, nor shall it interfere in any way with the right of the Company, Parent, Subsidiary or Affiliate to terminate the employment of any Holder who is an employee at any time.

12.4. No Fractional Shares. No fractional shares of Common Stock shall be issued or delivered pursuant to the Plan. The Committee shall determine whether cash, additional awards or other securities or property shall be issued or paid in lieu of fractional shares of Common Stock or whether any fractional shares should be rounded, forfeited or otherwise eliminated.

12.5. Provisions for Foreign Participants. The Committee may modify awards granted to Holders who are foreign nationals or employed outside the United States or establish subplans or procedures under the Plan to address differences in laws, rules, regulations or customs of such foreign jurisdictions with respect to tax, securities, currency, employee benefit or other matters.

12.6. Limitations on Liability.

(a) Notwithstanding any other provisions of the Plan, no individual acting as a director, officer, other employee or agent of the Company or any Subsidiary, Parent or Affiliate will be liable to any Holder, former Holder, spouse, beneficiary, or any other person for any claim, loss, liability, or expense incurred in connection with the Plan or any award, and such individual will not be personally liable with respect to the Plan because of any contract or other instrument executed in his or her capacity as member of the Committee, director, officer, other employee or agent of the Company or any Subsidiary, Parent or Affiliate. The Company will indemnify and hold harmless each director, officer, other employee and agent of the Company or any Subsidiary, Parent or Affiliate that has been or will be granted or delegated any duty or power relating to the Plan's administration or interpretation, against any cost or expense (including attorneys' fees) or liability (including any sum paid in settlement of a claim with the Committee's approval) arising from any act or omission concerning this Plan unless arising from such person's own fraud or bad faith.

(b) Neither the Company nor any Subsidiary shall be liable to a Holder or any other person as to: (i) the non-issuance or sale of shares as to which the Company has been unable to obtain from any regulatory body having jurisdiction the authority deemed by the Company's counsel to be necessary to the lawful issuance and sale of any shares hereunder; and (ii) any tax consequence expected, but not realized, by any Holder or other person due to the receipt, exercise or settlement of any Award granted hereunder.

12.7. Lock-Up Period. The Company may, at the request of any underwriter, placement agent or otherwise, in connection with the registered offering of any Company securities under the Securities Act or pursuant to an exemption therefrom, prohibit Holders from, directly or indirectly, selling or otherwise transferring any shares or other Company securities acquired under this Plan during a period of up to one hundred eighty days following either the effective date of a Company registration statement filed under the Securities Act, in the case of a registered offering, or the closing date of the sale of the Company securities, in the case of an offering exempt from registration, or for such longer period as determined by the underwriter or placement agent.

12.8. Data Privacy. As a condition for receiving any award, each Holder explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of personal data as described in this paragraph by and among the Company and its Parent, Subsidiaries and Affiliates exclusively for implementing, administering and managing the Holder's participation in the Plan. The Company and its Parent, Subsidiaries and Affiliates may hold certain personal information about a Holder, including the Holder's name, address and telephone number; birthdate; social security, insurance number or other identification number; salary; nationality; job title(s); any shares held in the Company or its Parent, Subsidiaries and Affiliates; and award details, to implement, manage and administer the Plan and awards (the "Data"). The Company and its Parent, Subsidiaries and Affiliates may transfer the Data amongst themselves as necessary to implement, administer and manage a Holder's participation in the Plan, and the Company and its Parent, Subsidiaries and Affiliates may transfer the Data to third parties assisting the Company with Plan implementation, administration and management. These recipients may be located in the Holder's country, or elsewhere, and the Holder's country may have different data privacy laws and protections than the recipients' country. By accepting an award, each Holder authorizes such recipients to receive, possess, use, retain and transfer the Data, in electronic or other form, to implement, administer and manage the Holder's participation in the Plan, including any required Data transfer to a broker or other third party with whom the Company or the Holder may elect to deposit any shares. The Data related to a Holder will be held only as long as necessary to implement, administer, and manage the Holder's participation in the Plan. A Holder may, at any time, view the Data that the Company holds regarding such Holder, request additional information about the storage and processing of the Data regarding such Holder, recommend any necessary corrections to the Data regarding the Holder or refuse or withdraw the consents in this Section 12.8 in writing, without cost, by contacting the local human resources representative. The Company may cancel Holder's ability to participate in the Plan and, in the Committee's discretion, the Holder may forfeit any outstanding awards if the Holder refuses or withdraws the consents in this Section 12.8. For more information on the consequences of refusing or withdrawing consent, Holders may contact their local human resources representative.

12.9. Successor. The obligations of the Company under the Plan shall be binding upon any successor corporation or organization resulting from the merger, consolidation or other reorganization of the Company, or upon any successor corporation or organization succeeding to all or substantially all of the assets and business of the Company and its Subsidiaries, taken as a whole.

12.10. Investment Representations; Company Policy. The Committee may require each person acquiring shares of Common Stock pursuant to a Stock Option or other award under the Plan to represent to and agree with the Company in writing that the Holder is acquiring the shares for investment without a view to distribution thereof. Each person acquiring shares of Common Stock pursuant to a Stock Option or other award under the Plan shall be required to abide by all policies of the Company in effect at the time of such acquisition and thereafter with respect to the ownership and trading of the Company's securities.

12.11. Additional Incentive Arrangements. Nothing contained in the Plan shall prevent the Board from adopting such other or additional incentive arrangements as it may deem desirable, including, but not limited to, the granting of Stock Options and the awarding of Common Stock and cash otherwise than under the Plan; and such arrangements may be either generally applicable or applicable only in specific cases.

12.12. Withholding Taxes. Not later than the date as of which an amount must first be included in the gross income of the Holder for Federal income tax purposes with respect to any Stock Option or other award under the Plan, the Holder shall pay to the Company, or make arrangements satisfactory to the Committee regarding the payment of, any Federal, state and local taxes of any kind required by law to be withheld or paid with respect to such amount. If permitted by the Committee, tax withholding or payment obligations may be settled with Common Stock, including Common Stock that is part of the award that gives rise to the withholding requirement. The obligations of the Company under the Plan shall be conditioned upon such payment or arrangements and the Company or the Holder's employer (if not the Company) shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Holder from the Company or any Subsidiary.

12.13. Clawback. Notwithstanding any other provisions of the Plan, any award which is subject to recovery under any law, government regulation or listing requirement of any national securities exchange on which the Company's securities are listed, will be subject to such deductions and clawback as may be required to be made pursuant to such law, government regulation or listing requirement (or any policy adopted by the Company pursuant to any such law, government regulation or listing requirement).

12.14. Governing Law. The Plan and all awards made and actions taken thereunder shall be governed by and construed in accordance with the law of the State of Delaware (without regard to choice of law provisions).

12.15. Other Benefit Plans. Any award granted under the Plan shall not be deemed compensation for purposes of computing benefits under any retirement plan of the Company or any Parent, Subsidiary or Affiliate and shall not affect any benefits under any other benefit plan now or subsequently in effect under which the availability or amount of benefits is related to the level of compensation (unless required by specific reference in any such other plan to awards under this Plan).

12.16. Non-Transferability. Except as otherwise expressly provided in the Plan or the Agreement, no right or benefit under the Plan may be alienated, sold, assigned, hypothecated, pledged, exchanged, transferred, encumbered or charged, and any attempt to alienate, sell, assign, hypothecate, pledge, exchange, transfer, encumber or charge the same shall be void.

12.17. Applicable Laws. The obligations of the Company with respect to all Stock Options and other awards under the Plan shall be subject to (i) all applicable laws, rules and regulations and such approvals by any governmental agencies as may be required, including, without limitation, the Securities Act, and (ii) the rules and regulations of any securities exchange on which the Common Stock may be listed. Notwithstanding anything herein to the contrary, the Plan and all awards will be administered only in conformance with such applicable laws. To the extent such applicable laws permit, the Plan and all Agreements will be deemed amended as necessary to conform to such applicable laws.

12.18. Conflicts. If any of the terms or provisions of the Plan or an Agreement conflict with the requirements of Section 422 of the Code, then such terms or provisions shall be deemed inoperative to the extent they so conflict with such requirements. Additionally, if this Plan or any Agreement does not contain any provision required to be included herein under Section 422 of the Code, such provision shall be deemed to be incorporated herein and therein with the same force and effect as if such provision had been set out at length herein and therein. If any of the terms or provisions of any Agreement conflict with any terms or provisions of the Plan, then such terms or provisions shall be deemed inoperative to the extent they so conflict with the requirements of the Plan. Additionally, if any Agreement does not contain any provision required to be included therein under the Plan, such provision shall be deemed to be incorporated therein with the same force and effect as if such provision had been set out at length therein.

12.19. Compliance with Section 409A of the Code. The Company intends that any awards be structured in compliance with, or to satisfy an exemption from, Section 409A of the Code, such that there are no adverse tax consequences, interest, or penalties pursuant to Section 409A of the Code as a result of the awards. Notwithstanding the Company's intention, in the event any award is subject to Section 409A of the Code, the Committee may, in its sole discretion and without a participant's prior consent, amend this Plan and/or outstanding Agreements, adopt policies and procedures, or take any other actions (including amendments, policies, procedures and actions with retroactive effect) as are necessary or appropriate to (i) exempt this Plan and/or any award from the application of Section 409A of the Code, (ii) preserve the intended tax treatment of any such award, or (iii) comply with the requirements of Section 409A of the Code, including without limitation any such regulations guidance, compliance programs and other interpretive authority that may be issued after the date of grant of an award. This Plan shall be interpreted at all times in such a manner that the terms and provisions of the Plan and the awards are exempt from or comply with Section 409A of the Code.

12.20. Sub-Plans. The Committee may from time to time establish sub-plans under the Plan for purposes of satisfying blue sky, securities, tax or other laws of various jurisdictions in which the Company intends to grant awards. Any sub-plans shall contain such limitations and other terms and conditions as the Committee determines are necessary or desirable. All sub-plans shall be deemed a part of the Plan, but each sub-plan shall apply only to the participants in the jurisdiction for which the sub-plan was designed.

12.21. Non-Registered Stock. The shares of Common Stock to be distributed under this Plan have not been, as of the Effective Date, registered under the Securities Act or any applicable state or foreign securities laws and the Company has no obligation to any Holder to register the Common Stock or to assist the Holder in obtaining an exemption from the various registration requirements, or to list the Common Stock on a national securities exchange or any other trading or quotation system.

12.22. Non-Uniform Treatment. The Committee's determinations under the Plan need not be uniform and may be made by it selectively among persons who are eligible to receive, or actually receive, awards. Without limiting the generality of the foregoing, the Committee shall be entitled to make non-uniform and selective determinations, amendments and adjustments, and to enter into non-uniform and selective Agreements.

**Consent of Independent auditor**

We consent to the incorporation by reference in Registration Statement on Form S-3 (File No. 333-232694) and Form S-8 (File No. 333-233480) of Akerna Corp. of our report dated June 11, 2020, relating to the consolidated financial statements of Ample Organics Inc. as of and for the years ended December 31, 2019 and 2018 appearing in this Current Report on Form 8-K of Akerna Corp.

/s/ Ernst & Young LLP  
Chartered Professional Accountants  
Licensed Public Accountants

Toronto, Canada  
July 8, 2020



# Investor Presentation

July 2020

# Disclosures



## **Forward-Looking Statements**

This Presentation includes "forward-looking statements" regarding Akerna Corp. ("Akerna") and its wholly-owned subsidiary MJ Freeway LLC ("MJF" and, together with Akerna, the "Company"), its financial condition and results of operations that reflect the Company's current views and information currently available. This information is, where applicable, based on estimates, assumptions and analysis that MJF believes, as of the date hereof, provide a reasonable basis for the information contained herein. Forward-looking statements can generally be identified by the use of forward-looking words such as "may", "will", "would", "could", "expect", "intend", "plan", "aim", "estimate", "target", "anticipate", "believe", "continue", "objectives", "outlook", "guidance" or other similar words, and include statements regarding MJF's plans, strategies, objectives, targets and expected financial performance. These forward-looking statements involve known and unknown risks, uncertainties and other factors, many of which are outside the control of MJF and Akerna and their respective officers, employees, agents or associates. Actual results, performance or achievements may differ materially, and potentially adversely, from any projections and forward-looking statements and the assumptions on which those vary from forward-looking statements are based. There can be no assurance that the data contained herein is reflective of future performance to any degree. Potential investors are cautioned not to place undue reliance on forward-looking statements as a predictor of future performance as projected financial information, cost savings, synergies and other information are based on estimates and assumptions that are inherently subject to various significant risks, uncertainties and other factors, many of which are beyond the control of MJF, Akerna and their respective officers, employees, agents or associates. All information herein speaks only as of (1) the date hereof, in the case of information about MJF and Akerna, or (2) the date of such information, in the case of information from persons other than MJF and Akerna. None of MJF and Akerna undertake any duty to update or revise the information contained herein. Forecasts and estimates regarding MJF's industry and markets are based on sources that are believed to be reliable or in compliance with an available exemption from the registration requirements of such act. However, there can be no assurance these forecasts and estimates will prove accurate in whole or in part.

## **No Offer or Solicitation**

This announcement is for informational purposes only and is neither an offer to purchase, nor a solicitation of an offer to sell, subscribe for or buy any securities or the solicitation of any vote in any jurisdiction pursuant to the proposed transactions or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended or in compliance with an available exemption from the registration requirements of such act.

## **Industry and Market Data**

The information contained herein also includes information provided by third parties, such as market research firms. None of MJF, Akerna and their respective affiliates and any third parties that provide information to MJF or Akerna, such as market research firms, guarantee the accuracy, completeness, timeliness or availability of any information. None of MJF, Akerna and their respective affiliates and any third parties that provide information to MJF, Akerna, such as market research firms, are responsible for any errors or omissions (negligent or otherwise), regardless of the cause, or the results obtained from the use of such content. None of MJF, Akerna and their respective affiliates give any express or implied warranties, including, but not limited to, any warranties of merchantability or fitness for a particular purpose or use, and they expressly disclaim any responsibility or liability for direct, indirect, incidental, exemplary, compensatory, punitive, special or consequential damages, costs expenses, legal fees or losses (including lost income or profits and opportunity costs) in connection with the use of the information herein.



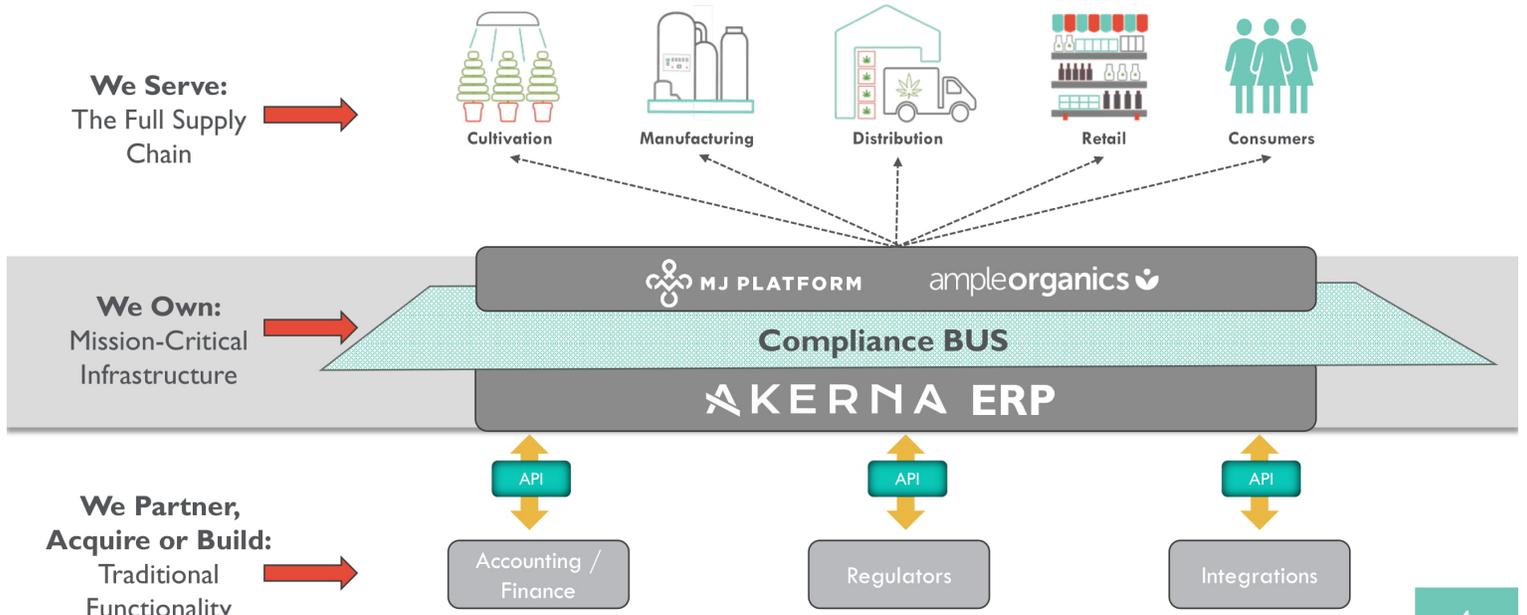
### The Cannabis Economy Runs on Akerna.

We are the technology backbone upon which the cannabis industry is built, enabling compliance, regulation, and taxation.



# Essential Technology Infrastructure

For the full cannabis supply chain





# Building the Cannabis Market Leader

1st Nasdaq-listed Enterprise Software Company Serving the Cannabis Industry

2010



MJ FREEWAY

MJ Freeway founded and invented seed-to-sale

2019



AKERNA  
CORP.

MJ Freeway goes public and becomes Akerna

TODAY



CORP.



The only scaled technology player meeting all client needs poised to accelerate growth

### Stock Information

Common Shares: 17M

Current Market Cap: \$142M

Last Sale Price: \$8.40 per share

Avg. Daily Volume: 140K

# Investment Highlights



#1

In market share with \$18B transactions tracked

33%+

TTM YoY organic, accelerating growth

\$29M

Cash on balance sheet with strong liquidity\*

80+

Integration partners feeding expansive ecosystem & inorganic opportunity

\$344B<sup>(1)</sup>

Global market & increased TAM from recent acquisitions

Sources:  
(1) New Frontier Data

\*Includes March Reported cash of \$14M and \$15M debt financing

# Market Opportunity



- Enterprise Software & IT Services Spend<sup>(2)</sup>
- Cannabis Technology Market Size<sup>(3)</sup>

Sources:  
 (1) Arcview Market Research, "The State of Legal Marijuana Markets," Spring 2019  
 (2) On average, companies spend 37% of their total technology spend on enterprise solutions—Gartner, 2017  
 (3) On average, companies spend 6.64% of their gross revenue on technology solutions—Gartner, 2017

Akerna's PF USD\$27.5M+ NTM revenue captures only 5% of the addressable market, while our largest competitor captures less than 2%

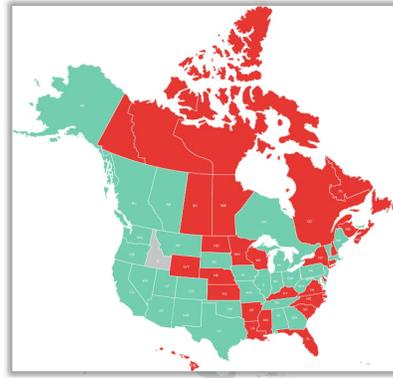
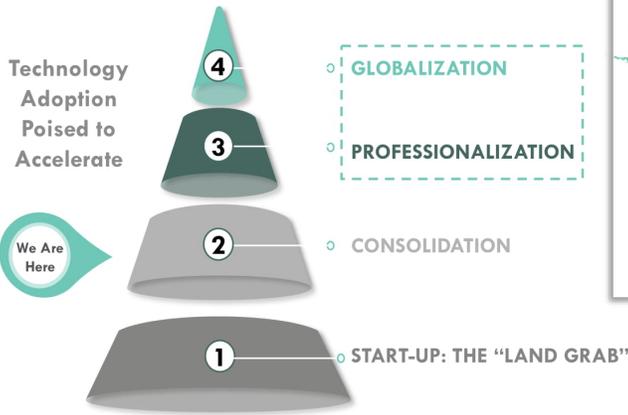
# Execution Strategy



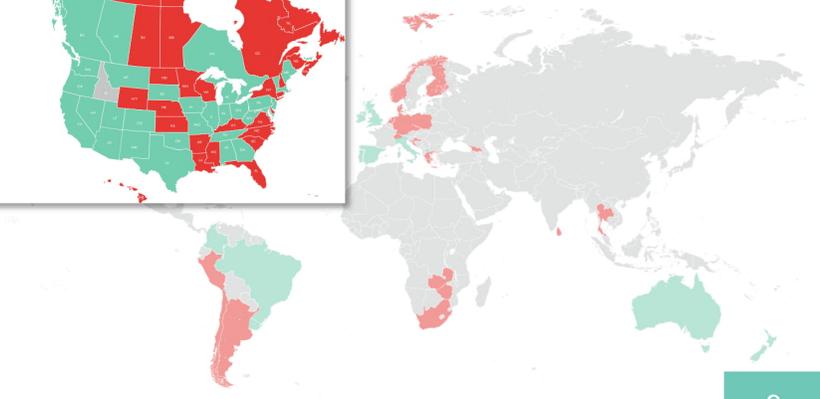


# Software Infrastructure Built for Expansion

Akerna's primary competition remains spreadsheets; however, consolidation among operators that are also rapidly scaling is accelerating the adoption of technology and the utilization of data-driven decisions.



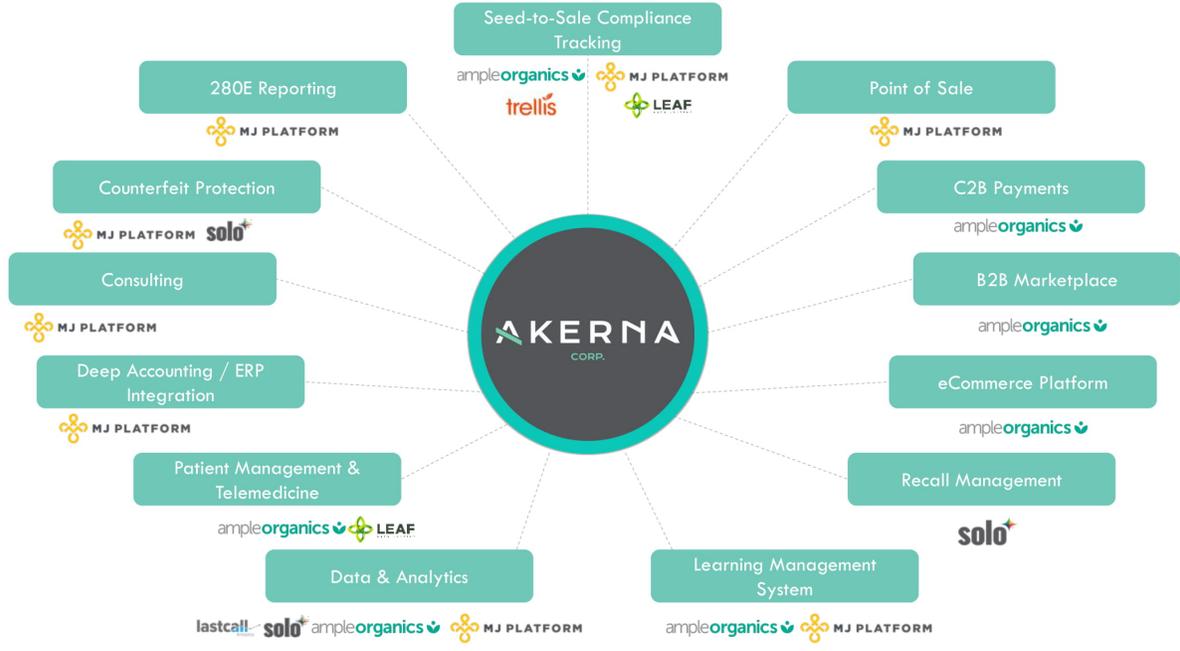
- Existing Akerna footprint
- Expansion opportunities within existing footprint\*
- Expansion opportunities\*
- No legal market



\*Based on regulatory initiatives and existing legal markets in Canada and Internationally



# Scaled Ecosystem Maximizes Wallet Share



# Leverage Unrivaled Data Repository



Growers   Manufacturers   Retailers   Distributors   Medical   Consumers



*Akerna's strategy leverages data monetization*

# Inorganic Strategy

Infrastructure powers our advantage



INFASTRUCTURE

+

TARGETS

=

NETWORK EFFECTS



## Technology

- Cloud Hosted
- API Framework
- Micro Services



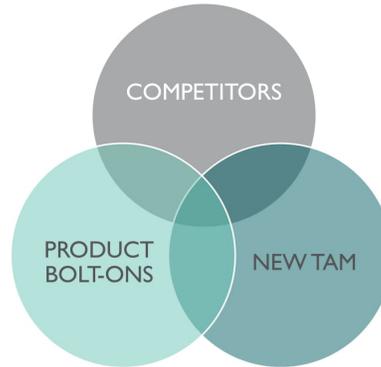
## Geography

- Compliant in more legal markets than any competitors



## Ability to Execute

- Public Currency
- Integration Roadmap Successfully Implemented



## The technology solution for cannabis operators

- Increased wallet share
- Increased stickiness
- Increased exposure to growing cannabis sales

# U.S. Federal Legalization is an Inflection Point



More states are accelerating cannabis legalization to close budget gaps.



### We Win Today:

The existing Federal / State conflict limits competition from traditional competitors, providing Akerna an extended window to extend our lead



### We Win Tomorrow:

Resolution of the Federal / State conflict dramatically expands the addressable market and accelerates Akerna's growth

We expect accelerated adoption of technology solutions with arrival of increased regulations. Passage of the SAFE Act may open up the ability to monetize payments.

# Proven Execution



## Revenue Growth of the Combined Enterprise \*\*

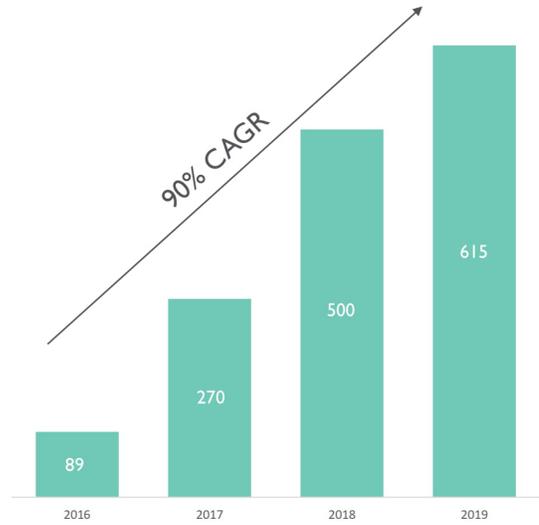
\$ in USD millions



\* Unaudited

\*\* Annualized figures estimated based on different fiscal year end, includes Akerna, Ample & Trellis proforma

## Customer Growth of the Combined Enterprise \*\*





# Valuation Creation Roadmap

## Where We Are Today

Foundation in Place

- ✓ Largest Footprint in the U.S. & Canada
- ✓ Public Currency
- ✓ Strong M&A Pipeline



## Where We Are Going



**Clear Leader in One of the World's Fastest Growing Industries**  
Powerful Network Effects

## Long-Term Financial Targets:

**Annual Organic Growth** ..... **30%+**

**Gross Margin** ..... **65%**

**Adjusted EBITDA Margin** ..... **20%+**

# Executive Leadership



**Jessica Billingsley**  
Chief Executive Officer



**Ray Thompson**  
Chief Operating Officer



**John Fowle**  
Chief Financial Officer



**Nina Simosko**  
Chief Commercial Officer



**David McCullough**  
Chief Technology Officer

# Board of Directors



**Jessica Billingsley**  
Akerna



**Mark D. Iwanowski**  
Former CIO Oracle



**Matt Kane**  
Green Shades Software



**Tahira Rehmatullah**  
T3 Ventures



**Scott Sozio**  
Head of Corporate Development,  
Akerna



**Roger McNamee**  
Senior Strategic Advisor

# Competitive Advantage



First Nasdaq traded  
cannabis enterprise  
software company



More than 10 years of  
industry experience with  
\$18B tracked



Global operations in  
North America and 15  
other countries



Full supply chain in  
every legal jurisdiction



True platform ecosystem with  
80+ integrated products



Only company with B2B,  
B2G, and B2C capabilities



## Why Akerna Now



### **RECESSION RESILIENT**

High growth 2026 projected \$97.35 billion industry

### **COMPELLING BUSINESS MODEL**

Strong recurring revenue enables margin expansion with scale

### **MARKET CONSOLIDATION**

Only platform designed for the entire supply chain

### **ECOSYSTEM ADVANTAGE**

Technology embedded in client's business processes and systems creates stickiness

### **PROVEN EXECUTION**

Highly experienced management team and board of directors

### **CAPITAL MARKETS ADVANTAGE**

Unique public currency leverage to fuel growth



Q&A





## CONTACT US

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## INDEX TO AMPLE'S FINANCIAL STATEMENTS

**Unaudited Interim Financial Statements***(Please note unless otherwise indicated, dollar amounts refer to U.S. dollars)*

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<a href="#">Interim Condensed Consolidated Statements of Changes in Stockholders' Equity (unaudited)</a>	4
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**Annual Financial Statements***(Please note unless otherwise indicated, dollar amounts refer to Canadian dollars)*

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**Ample Organics Inc.**  
**Interim condensed consolidated statements of financial position**  
[expressed in Canadian dollars]  
[unaudited]  
As at

	<b>March 31, 2020 CAD\$</b>	<b>December 31, 2019 CAD\$</b>
<b>Assets</b>		
<b>Current</b>		
Cash	1,144,834	986,874
Trade and other receivables [note 4]	1,553,158	1,549,710
Inventories	26,810	39,437
Prepaid expenses	228,804	329,791
<b>Total current assets</b>	<b>2,953,606</b>	<b>2,905,812</b>
Property and equipment, net [note 5]	1,896,538	1,983,865
Right of use assets, net [note 6]	2,566,826	2,657,120
Other financial assets	—	—
Goodwill and other intangible assets [note 7]	5,773,861	5,856,821
	<b>13,190,831</b>	<b>13,403,618</b>
<b>Liabilities</b>		
<b>Current</b>		
Trade and other payables [note 8]	1,498,116	1,423,359
Deferred revenue	501,940	495,797
Lease liabilities [note 9]	541,368	544,226
Short-term debt [note 10]	5,779,432	4,746,189
<b>Total current liabilities</b>	<b>8,320,856</b>	<b>7,209,571</b>
Lease liabilities [note 9]	3,035,642	3,113,228
Preferred share liabilities [note 11]	13,758,104	13,636,522
Deferred tax liability	326,384	348,368
<b>Total liabilities</b>	<b>25,440,986</b>	<b>24,307,689</b>
<b>Shareholders' equity</b>		
Share capital [note 12]	14,345,721	14,345,721
Warrants [note 12]	823,778	823,778
Contributed surplus	777,274	642,407
Deficit	(28,196,928)	(26,715,977)
<b>Total shareholders' equity</b>	<b>(12,250,155)</b>	<b>(10,904,071)</b>
	<b>13,190,831</b>	<b>13,403,618</b>

Commitments and contingencies [note 15]

*The accompanying notes are an integral part of these unaudited interim condensed consolidated financial statements*

On behalf of the Board:

/s/ John Prentice  
Director

/s/ Cal Miller  
Director

**Ample Organics Inc.**  
**Interim condensed consolidated statements of loss and comprehensive loss**  
[Expressed in Canadian dollars]  
[unaudited]  
Three months ended March 31,

	2020 CAD\$	2019 CAD\$
<b>Revenue [note 13]</b>	<b>1,874,726</b>	1,715,983
Cost of sales	<b>708,466</b>	1,085,636
<b>Gross profit</b>	<b>1,166,260</b>	630,347
General and administrative expenses [note 14]	<b>738,965</b>	869,992
Sales and marketing [note 14]	<b>375,861</b>	578,330
Research and development [note 14]	<b>850,080</b>	2,280,974
Share-based compensation [note 12]	<b>134,867</b>	120,820
Depreciation and amortization [notes 5,6 and 7]	<b>260,581</b>	246,097
Finance costs	<b>308,841</b>	111,598
Loss on fair value of preferred share liabilities [note 11]	<b>—</b>	1,816,139
Loss before income taxes	<b>(1,502,935)</b>	(5,393,603)
Deferred income tax recovery	<b>21,984</b>	25,367
<b>Net loss and comprehensive loss for the year</b>	<b>(1,480,951)</b>	(5,638,236)

*The accompanying notes are an integral part of these unaudited interim condensed consolidated financial statements*

**Ample Organics Inc.**  
**Interim condensed consolidated statements of changes in shareholders' deficiency**  
[Expressed in Canadian dollars]  
[unaudited]

	<u>Common Shares</u>		<u>Warrants</u>		<u>Contributed Surplus</u>	<u>Deficit</u>	<u>Total</u>
	<u>#</u>	<u>CAD\$</u>	<u>#</u>	<u>CAD\$</u>	<u>CAD\$</u>	<u>CAD\$</u>	<u>CAD\$</u>
<b>Balance, December 31, 2018</b>	33,271,650	8,055,303	—	—	260,790	(8,350,359)	(34,266)
Impact of IFRS 16 adoption	—	—	—	—	—	(344,834)	(344,834)
Issuance of shares, net of costs [note 12]	2,436,207	3,817,067	1,218,100	471,828	—	—	4,288,895
Share-based compensation [note 12]	—	—	—	—	120,820	—	120,820
Net loss and comprehensive loss for the period	—	—	—	—	—	(5,368,236)	(5,368,236)
Balance, March 31, 2019	35,707,857	11,872,370	1,218,100	471,828	381,610	(14,063,429)	(1,337,621)
<b>Balance, December 31, 2019</b>	<b>37,447,622</b>	<b>14,345,721</b>	<b>2,217,161</b>	<b>823,778</b>	<b>642,407</b>	<b>(26,196,928)</b>	<b>(10,904,071)</b>
Share-based compensation [note 12]	—	—	—	—	134,867	—	134,867
Net loss and comprehensive loss for the year	—	—	—	—	—	(1,480,951)	(1,480,951)
<b>Balance, March 31, 2020</b>	<b>37,447,622</b>	<b>14,345,721</b>	<b>2,217,161</b>	<b>823,778</b>	<b>777,274</b>	<b>(28,196,928)</b>	<b>(12,250,155)</b>

*The accompanying notes are an integral part of these unaudited interim condensed consolidated financial statements*

**Ample Organics Inc.**  
**Interim condensed consolidated statements of cash flows**  
[Expressed in Canadian dollars]  
[unaudited]  
Three months ended March 31,

	<b>2020</b>	<b>2019</b>
	<b>CADS</b>	<b>CADS</b>
<b>Operating activities</b>		
Net loss for the year	(1,480,951)	(5,368,236)
Add items not involving cash		
Depreciation and amortization [notes 5,6,7]	260,581	246,097
Share-based compensation [note 12]	134,867	120,820
Loss on fair value of preferred share liabilities [note 11]	—	1,816,139
Finance costs	242,668	61,358
Deferred income tax recovery	(21,984)	(25,367)
Impairment of financial asset	—	—
Loss on sale of fixed assets	—	161
	<u>(864,819)</u>	<u>(3,149,028)</u>
Net changes in non-cash working capital balances related to operations		
Trade and other receivables	(3,448)	59,985
Inventories	12,627	12,952
Prepaid expenses	100,987	(6,773)
Trade and other payables	113,986	143,688
Deferred revenue	6,143	130,093
<b>Cash used in operating activities</b>	<u>(634,524)</u>	<u>(2,809,083)</u>
<b>Investing activities</b>		
Disposal of property and equipment [note 5]	—	1,075
Purchase of property and equipment [note 5]	—	(98,802)
<b>Cash used in investing activities</b>	<u>—</u>	<u>(97,727)</u>
<b>Financing activities</b>		
Proceeds from issuance of shares and warrants, net of costs [note 12]	—	4,288,895
Repayment of short-term debt [note 10]	—	(3,601,786)
Proceeds from issuance of short-term debt, net of costs [note 10]	929,473	2,000,000
Payments for lease obligations	(136,989)	(136,206)
<b>Cash provided by financing activities</b>	<u>792,484</u>	<u>2,550,903</u>
<b>Net increase (decrease) in cash during the period</b>	<b>157,960</b>	<b>(355,907)</b>
Cash, beginning of the period	<u>986,874</u>	<u>1,062,209</u>
<b>Cash, end of the period</b>	<u><b>1,144,834</b></u>	<u><b>706,302</b></u>

*The accompanying notes are an integral part of these unaudited interim condensed consolidated financial statements*

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
[Expressed in Canadian dollars, except share amounts]  
[unaudited]  
March 31, 2020 and 2019

**1. Nature of business and going concern uncertainty**

**Nature of business**

Ample Organics Inc. [the “Company” or “Ample Organics”] is Canada’s leading cannabis software company. The software is built for compliance with the Access to Cannabis for Medical Purposes Regulations [“ACMPR”], which tracks everything from seed to sale of cannabis and beyond. Ample Organics’ platform allows customers to run their licensed facilities from end-to-end while meeting the record keeping and traceability requirements of ACMPR.

The Company was incorporated on August 1, 2014. The Company’s head office is located at 629 Eastern Ave, Building B, Toronto, Ontario M4M 1E3.

**Going concern uncertainty**

The preparation of these unaudited interim condensed consolidated financial statements requires management to make judgments regarding the Company’s ability to continue as a going concern. Management has determined that as at March 31, 2020, it does not have adequate working capital for the coming year based on current capital resources. The Company has incurred a total comprehensive loss of CAD\$1,480,951 for the three-month period ended March 31, 2020, an accumulated deficit of CAD\$28,196,928 and, as of March 31, 2020, the Company’s current liabilities exceeded current assets by CAD\$5,367,250. These events or conditions indicate that a material uncertainty exists that raises substantial doubt about the Company’s ability to continue as a going concern and therefore, that it may be unable to realize its assets or discharge its liabilities in the normal course of business. The Company believes it will be able to complete a transaction that will provide the consolidated entity with sufficient funding to meet its expenditure commitments and support its planned level of spending, and therefore it is appropriate to prepare the unaudited interim condensed consolidated financial statements on a going concern basis.

**2. Basis of presentation**

These unaudited interim condensed consolidated financial statements [“financial statements”] were prepared using the same accounting policies and methods as those used in the Company’s consolidated financial statements for the year ended December 31, 2019. These financial statements have been prepared in compliance with IAS 34 – Interim Financial Reporting. Accordingly, certain disclosures normally included in annual financial statements prepared in accordance with International Financial Reporting Standards [“IFRS”] as issued by the International Accounting Standards Board have been omitted or condensed. These interim condensed consolidated financial statements should be read in conjunction with the Company’s consolidated financial statements for the year ended December 31, 2019.

These financial statements were approved and authorized for issuance by the Board of Directors of the Company on June 11, 2020.

**COVID-19**

During the three-month period ended March 31, 2020, the outbreak of the recent novel coronavirus [“COVID-19”] has resulted in governments worldwide enacting emergency measures to combat the spread of the virus. These measures, which include the implementation of travel bans, self-imposed quarantine periods and social distancing, have caused disruption to certain businesses globally; as a result, there could be a possibility of recession in the near future. While the impact of COVID-19 on the Company has been minimal to date, there is uncertainty around its duration and future business conditions. If the outbreak were to cause disruption to the Company’s supply chain or its service capabilities in the future, it would have a negative impact on revenue, which could be material. In addition, any material negative impact on revenue would impact profitability, as well as liquidity and capital resources.

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
[Expressed in Canadian dollars, except share amounts]  
[unaudited]  
March 31, 2020 and 2019

**3. Summary of Significant accounting policies**

The preparation of these unaudited interim condensed consolidated financial statements in accordance with IFRS requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities and reported amounts of revenues and expenses during the period. These estimates and assumptions are based on historical experience, expectations of the future, and other relevant factors and are reviewed regularly. Revisions to accounting estimates are recognized in the period in which the estimates are revised and in any future period affected. Actual results may differ from these estimates.

In preparing these unaudited interim condensed consolidated financial statements, the significant judgments made by management in applying the Company's accounting policies and the key sources of uncertainty are the same as those applied and described in the Company's audited annual consolidated financial statements for the fiscal year ended December 31, 2019.

**4. Trade and other receivables**

The Company's trade and other receivables include the following:

	<b>March 31, 2020 CAD\$</b>	<b>December 31, 2019 CAD\$</b>
Trade receivable, net of allowance of CAD\$13,667 [2019 – CAD\$70,953]	<b>924,155</b>	920,707
Investment tax credit receivable	<b>629,003</b>	629,003
	<b>1,553,158</b>	1,549,710

**5. Property and equipment**

	<b>Leasehold improvements CAD\$</b>	<b>Furniture and equipment CAD\$</b>	<b>Computer hardware CAD\$</b>	<b>Total CAD\$</b>
<b>Cost</b>				
As at December 31, 2018	1,315,090	203,919	317,707	1,836,716
Impact of IFRS 16 adoption	383,294	—	—	383,294
Additions	100,167	17,183	31,143	148,493
Disposals	—	—	(2,232)	(2,232)
<b>As at December 31, 2019</b>	<b>1,798,551</b>	<b>221,102</b>	<b>346,618</b>	<b>2,366,271</b>
<b>As at March 31, 2020</b>	<b>1,798,551</b>	<b>221,102</b>	<b>346,618</b>	<b>2,366,271</b>
<b>Accumulated depreciation</b>				
As at December 31, 2018	44,334	32,854	86,542	163,730
Depreciation	63,630	42,822	113,220	219,672
Disposals	—	—	(996)	(996)
<b>As at December 31, 2019</b>	<b>107,964</b>	<b>75,676</b>	<b>198,766</b>	<b>382,406</b>
Depreciation	47,843	10,879	28,605	87,327
<b>As at March 31, 2020</b>	<b>155,807</b>	<b>86,555</b>	<b>227,371</b>	<b>469,733</b>
<b>Net book value</b>				
<b>As at December 31, 2019</b>	<b>1,690,587</b>	<b>145,426</b>	<b>147,852</b>	<b>1,983,865</b>
<b>As at March 31, 2020</b>	<b>1,642,744</b>	<b>134,547</b>	<b>119,247</b>	<b>1,896,538</b>

For the three-month period ended March 31, 2020, a depreciation expense of CAD\$87,327 [2019 – CAD\$44,329] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss in relation to the property and equipment.

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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March 31, 2020 and 2019

**6. Right-of-use assets**

The Company has lease contracts for office space, vehicles and equipment with remaining terms up to eight years in length. The following is a summary of the changes in the Company's right-of-use assets during the year:

	<b>CAD\$</b>
<b>As at January 1, 2019</b>	3,034,001
Depreciation	(376,881)
<b>As at December 31, 2019</b>	2,657,120
Depreciation	(90,294)
<b>As at March 31, 2020</b>	2,566,826

For the three-month period ended March 31, 2020, depreciation expense of CAD\$90,294 [2019 – CAD\$93,531] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss in relation to the right of use assets.

**7. Goodwill and other intangible assets**

The Company's intangible assets comprise customer relationships and technology, both of which are being amortized over their useful lives of five years.

	<b>2020 CAD\$</b>	<b>2019 CAD\$</b>
Goodwill	4,542,224	4,542,224
Intangible assets	1,231,637	1,314,597
	5,773,861	5,856,821

**Intangible assets**

	<b>CAD\$</b>
<b>Cost</b>	
<b>As at December 31, 2018</b>	1,659,200
<b>As at March 31, 2020 and December 31, 2019</b>	1,659,200
<b>Accumulated amortization</b>	
<b>As at December 31, 2018</b>	12,763
Amortization	331,840
<b>As at December 31, 2019</b>	344,603
Amortization	82,960
<b>As at March 31, 2020</b>	427,563
<b>Net book value</b>	
<b>As at December 31, 2019</b>	1,314,597
<b>As at March 31, 2020</b>	1,231,637

For the three-month period year ended March 31, 2020, amortization expense of CAD\$82,960 [2019 – CAD\$82,960] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss in relation to the intangible assets.

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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**8. Trade and other payables**

The Company's trade and other payables include the following:

	March 31, 2020 CAD\$	December 31, 2019 CAD\$
Trade payables	1,410,004	1,316,653
Sales tax payable	88,072	106,706
	<u>1,498,076</u>	<u>1,423,359</u>

**9. Lease liabilities**

The following is a summary of the changes in the Company's lease liabilities during the period:

	CAD\$
<b>As at January 1, 2019</b>	3,964,299
Interest accretion	237,977
Lease repayments	(544,822)
<b>As at December 31, 2019</b>	3,657,454
Interest accretion	56,545
Lease repayments	(136,989)
<b>As at March 31, 2020</b>	<u>3,577,010</u>
Current	541,368
Non-current	<u>3,035,642</u>

For the three-month period ended March 31, 2020, interest expense of CAD\$56,545 [2019 – CAD\$61,356] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss in relation to the lease liability.

**10. Short-term debt**

	March 31, 2020 CAD\$	December 31, 2019 CAD\$
Short-term debt due in September 2020	2,134,468	2,097,335
Short-term debt due in October 2020	3,644,964	2,648,854
	<u>5,779,432</u>	<u>4,746,189</u>

On February 15, 2019, in order to repay the promissory note for the acquisition of LCA, the Company entered into a CAD\$2,000,000 loan bearing interest of 15% per annum, maturing in six months. At inception, the Company recognized the loan at its fair value plus transaction costs directly attributable to its issuance of CAD\$87,165. Subsequent to initial recognition, the loan was carried at amortized cost. Financing costs of CAD\$87,165 related to this loan were recorded in the consolidated statement of loss and comprehensive loss for the year ended December 31, 2019.

On September 25, 2019, the loan was amended to extend the maturity date to September 25, 2020 and the interest rate to 12% per annum. In addition, 600,000 warrants convertible into Class A-3 Preferred Shares of the Company were issued to the lender [note 11]. On entering into the amended loan, the Company completed an assessment that showed that the present value of the cash flows under the amended loan facility, including the financing costs and cost of warrants issued, differed more than 10% from the present value of the remaining cash flows of the loan. The amendment was treated as an extinguishment of the original loan and the establishment of a new loan at its fair value plus transaction costs of CAD\$211,567 directly attributable to its issuance. A loss on extinguishment of CAD\$1,001,928 was recorded within finance costs related to the amendment. In December 2019, upon announcement of the Akerna Transaction [note 11], the carrying value of the amended loan was adjusted for a revised estimate of future expected cash flows discounted over the remaining estimated life of the amended loan.

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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**10. Short-term debt (cont.)**

On October 1, 2019, the Company entered into a CAD\$2,500,000 loan bearing interest of 12% per annum maturing on October 1, 2020. In addition, 204,000 warrants convertible into Class A-3 Preferred Shares of the Company were issued to the lender [note 11]. At inception, the Company recognized the loan at its fair value plus transaction costs directly attributable to its issuance of CAD\$246,368. Subsequent to initial recognition, the loan was carried at amortized cost. In December 2019, upon announcement of the Akerna Transaction [see note 11], the carrying value of the loan was adjusted for a revised estimate of future expected cash flows discounted over the remaining estimated life of the amended loan.

On March 9, 2020, the Company drew down on a supplemental advance of CAD\$1,000,000 from the October loan bearing interest of 14% per annum and maturing on October 1, 2020. In addition, 81,600 Class A-3 Preferred Shares warrants of the Company were issued to the lender [note 11]. The Company recognized the loan at its fair value plus transaction costs directly attributable to its issuance of CAD\$170,527.

For the three-month period ended March 31, 2020, interest expense of CAD\$252,296 [2019 – CAD\$50,240] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss in relation to the short-term debt.

At March 31, 2020, the Company was in breach of the covenants for its short-term debt. No waivers were obtained by the Company for these covenant breaches.

**11. Preferred share liabilities**

The following is a summary of the changes in the Company's preferred liabilities:

	<b>March 31, 2020 CAD\$</b>	<b>December 31, 2019 CAD\$</b>
Opening balance	<u>13,636,522</u>	<u>5,234,811</u>
Additions	121,582	1,089,073
Change in fair value of preferred share liabilities	—	7,312,638
Ending balance	<u><u>13,758,104</u></u>	<u><u>13,636,522</u></u>

In June 2018, the Company issued 3,000,000 preferred share units at CAD\$1.50 per unit, consisting of 3,000,000 Class A-1 Preferred Shares and 1,500,000 warrants convertible into Class A-2 Preferred Shares at an exercise price of CAD\$2.25 per share for gross proceeds of CAD\$4,500,000. As the Class A-1 Preferred Shares and Class A-2 Preferred Shares are convertible into a variable number of common shares depending on subsequent issuances of common shares, these preferred shares and the warrants convertible to the preferred shares are considered financial liabilities. The net proceeds were allocated to the preferred shares and warrants based on the relative fair value of each instrument.

In October 2019, the Company issued 804,000 warrants convertible into Class A-3 Preferred Shares at an exercise price of CAD\$1.20 to lenders in connection with loans received [note 10]. As the Class A-3 Preferred Shares are convertible into a variable number of common shares depending on subsequent issuances of common shares, these preferred shares and the warrants convertible to the preferred shares are considered financial liabilities.

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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**11. Preferred share liabilities (cont.)**

In March 2020, the Company issued 81,600 warrants convertible into Class A-3 Preferred Shares at an exercise price of CAD\$1.20 to lenders in connection with loans received [note 10].

The Company determined that each of the Company's Class A-1 Preferred Shares, Class A-2 Preferred Shares and Class A-3 Preferred Shares [collectively the "Class A Preferred Shares"] and warrants that are convertible into Class A Preferred Shares, did not meet the IFRS definition of equity due to the variability of the conversion price. Accordingly, the Class A Preferred Shares and the related warrants are treated as financial liabilities measured at fair value through profit or loss.

In determining the fair values of the warrants issued, the Company used the Black-Scholes pricing model applying the following inputs:

	<u>2020</u>		<u>2019</u>
Risk-free interest rate	0.52%		1.47%
Term [years]	3		3
Estimated volatility	70%		70%
Warrant value	CAD\$ 2.08	CAD\$	1.40
Share price	CAD\$ 3.00	CAD\$	2.22
Exercise price	CAD\$ 1.20	CAD\$	1.20

In December 2019, 1,500,000 warrants convertible into Class A-2 Preferred Shares were converted into 777,637 Class A-2 Preferred Shares and 492,000 warrants convertible into Class A-3 Preferred Shares were converted into 283,721 Class A-3 Preferred Shares.

For the three-month period year ended March 31, 2020, a CAD\$nil change on fair value of preferred share liabilities [2019 – CAD\$1,816,139 loss] was recorded in the unaudited interim condensed consolidated statement of loss and comprehensive loss.

**12. Share capital**

**[a] Authorized**

The authorized share capital of the Company consists of an unlimited number of common shares and 5,304,000 Class A Preferred Shares, issuable in series, of which 3,000,000 are designated as Class A-1 Preferred Shares, 1,500,000 are designated as Class A-2 Preferred Shares and 804,000 are designated as Class A-3 Preferred Shares.

Class A Preferred Shares are convertible, at the option of the holder, into a number of fully paid and non-assessable common shares as determined by dividing the original issue price of the series of Class A Preferred Shares by the then effective conversion price and adjustments to the conversion price in the event the Company issues additional common shares and amounts less than the original conversion price. The conversion and original issue price is CAD\$1.50 for Class A-1 Preferred Shares, CAD\$2.25 for Class A-2 Preferred Shares, and CAD\$1.20 for Class A-3 Preferred Shares, subject to anti-dilution provisions. Preferred shares automatically convert to common shares upon: [i] an amalgamation, arrangement, consolidation, merger, reorganization or similar transaction of the Company, [ii] the sale, lease, transfer, exclusive license or disposition of substantially all of the Company's assets, [iii] the closing of a public offering of the Company's common shares provided the offering price per share is not less than CAD\$4.50 and aggregate gross proceeds are greater than CAD\$20,000,000, or [iv] the vote of the majority of holders of Class A Preferred Shares to convert.

**Ample Organics Inc.**  
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**12. Share capital (cont.)**

**[b] Issued and outstanding**

On February 22, 2019, the Company issued 2,436,207 common share units at CAD\$1.80 per unit, consisting of 2,436,207 common shares and 1,218,100 warrants convertible into common shares at an exercise price of CAD\$2.70 until February 22, 2021. In connection with this transaction, the Company issued 27,698 broker warrants convertible into common shares at an exercise price of CAD\$1.80 until February 22, 2021 and paid CAD\$96,278 in transaction costs.

On April 25, 2019, the Company issued 1,358,052 common share units at CAD\$1.80 per unit, consisting of 1,358,052 common shares and 679,024 warrants convertible into common shares at an exercise price of CAD\$2.70 until April 25, 2021. In connection with this transaction, the Company issued 81,483 broker warrants convertible into common shares at an exercise price of CAD\$1.80 until April 25, 2021 and paid CAD\$246,389 in transaction costs.

On May 2, 2019, the Company issued 309,200 common share units at CAD\$1.80 per unit, consisting of 309,200 common shares and 154,600 warrants convertible into common shares at an exercise price of CAD\$2.70 until May 2, 2021. In connection with this transaction, the Company issued 20,000 advisory warrants convertible into common shares at an exercise price of CAD\$1.80 until May 2, 2021 and paid CAD\$29,944 in transaction costs.

On May 15, 2019, the Company issued 72,513 common share units at CAD\$1.80 per unit, consisting of 72,513 common shares and 36,256 warrants convertible into common shares at an exercise price of CAD\$2.70 until May 15, 2021. In connection with this transaction, the Company paid CAD\$29,944 in transaction costs.

All of the warrants convertible to common shares for these transactions are convertible into common shares at a 1:1 ratio. The warrants were valued using the Black-Scholes pricing model with the following inputs:

	<b>2019</b>
Risk-free interest rate	1.54% – 1.79%
Term [years]	2
Volatility	70%
Dividend yield	Nil
Warrant value	CAD\$0.38 – CAD\$0.57
Share price	CAD\$1.61
Exercise price	CAD\$1.80 – CAD\$2.70

**[c] Employee stock option plan**

The Company has an Employee Stock Option Plan [the “Plan”] that is administered by the Board of Directors of the Company who establishes exercise prices, at not less than market price at the date of grant, and expiry dates, which have been set at ten years from issuance. Options under the Plan remain exercisable in increments with 1/4 being exercisable on each of the first and second anniversary and 2/4 being exercisable on the third anniversary from the date of grant, except as otherwise approved by the Board of Directors. The maximum number of common shares reserved for issuance for options that may be granted under the Plan is 10% of the common shares outstanding, which amounts to 3,744,762 at March 31, 2020 [2019 – 3,744,762].

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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**12. Share capital (cont.)**

The following is a summary of the changes in the Company's stock options:

	Number of options #	Weighted average exercise price CAD\$
<b>Outstanding as at December 31, 2018</b>	1,070,500	1.50
Granted	888,500	1.80
Forfeited	(915,188)	1.60
Expired	(25,312)	1.50
<b>Outstanding as at December 31, 2019</b>	<b>1,018,500</b>	<b>1.67</b>
Forfeited	(37,500)	1.50
Expired	(31,250)	1.50
<b>Outstanding as at March 31, 2020</b>	<b>949,750</b>	<b>1.68</b>

For the three-month period ended March 31, 2020, the Company recorded CAD\$134,867 [2019 – CAD\$120,820] in share-based compensation expense related to options, which are measured at the fair value at the date of grant and expensed over the option's vesting period.

In determining the amount of share-based compensation, the Company used the Black-Scholes option pricing model to establish the fair value of options granted by applying the following assumptions:

	2019
Grant date share price	CAD\$ 1.61
Exercise price	CAD\$ 1.80
Expected dividend yield	—
Risk free interest rate	1.49% – 1.76%
Expected life	10 years
Expected volatility	70%

Expected volatility was estimated by using the historical volatility of other companies that the Company considers comparable that have trading and volatility history. The expected option life represents the period of time that options granted are expected to be outstanding. The risk-free interest rate is based on government bonds with a remaining term equal to the expected life of the options.

The following table is a summary of the Company's share options outstanding as at March 31, 2020:

	Options outstanding			Options exercisable	
	Exercise price CAD\$	Number outstanding #	Weighted average remaining contractual life [years] #	Exercise price CAD\$	Number exercisable #
	1.50	376,750	9.85	1.50	94,188
	1.80	573,000	8.41	1.80	54,750
	1.68	949,750	8.98	1.61	148,938

**Ample Organics Inc.**  
**Notes to the interim condensed consolidated financial statements**  
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March 31, 2020 and 2019

**12. Share capital (cont.)**

The following table is a summary of the Company's share options outstanding as at March 31, 2019:

Exercise price CAD\$	Options outstanding		Options exercisable	
	Number outstanding #	Weighted average remaining contractual life [years] #	Exercise price CAD\$	Number exercisable #
1.50	944,500	4.40	1.50	—
1.80	276,500	7.88	1.80	—
1.57	1,221,000	5.19	—	—

**13. Disaggregated revenue**

The Company derives its revenues from two main sources, software-as-a-service application ["SaaS"], and professional services revenue, which includes services such system integration and training, and process-change analysis. Subscription revenue related to the provision of SaaS is recognized ratably over the contract term as the service is delivered. Professional services revenue is recognized as services are rendered. Other revenue relates mainly to sale of hardware.

The following table represents disaggregation of revenue for the three-month period ended March 31, 2020 and 2019:

	2020 CAD\$	2019 CAD\$
Subscription revenues	1,447,671	911,039
Professional services	198,432	203,965
Other	198,623	600,979
Total	1,874,726	1,715,983

**14. Expenses by nature**

Components of general and administrative expenses, sales and marketing and research and development expenses for the three-month period ended March 31, 2020 and 2019 were as follows:

	2020 CAD\$	2019 CAD\$
Salaries and wages	1,364,120	1,850,419
Professional fees [include outsourced software development]	479,377	1,760,466
Other	121,409	118,411
	1,964,906	3,729,296

**15. Commitments and contingencies**

In the ordinary course of business, from time to time, the Company is involved in various claims related to operations, rights, commercial, employment or other claims. Although such matters cannot be predicted with certainty, management does not consider the Company's exposure to these claims to be material to these financial statements.

## Report of independent auditor

To the Board of Directors of Ample Organics Inc.

We have audited the accompanying consolidated financial statements of Ample Organics Inc. [the “Company”], which comprise the consolidated statement of financial position as of December 31, 2019 and 2018, and the related consolidated statement of loss and comprehensive loss, changes in stockholders' deficiency, and cash flows for each of the two years in the period ended December 31, 2019, and the related notes to the financial statements.

### Management's responsibility for the consolidated financial statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in conformity with International Financial Reporting Standards [“IFRS”], this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Ample Organics Inc. at December 31, 2019 and 2018, and the consolidated results of its operations and its cash flows for the two years in the period ended December 31, 2019 in conformity with IFRS.

### The Company's ability to continue as a going concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has recurring losses from operations, has a working capital deficiency, and has stated that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

/s/ Ernst & Young LLP

Toronto, Ontario  
June 11, 2020

**Ample Organics Inc.**  
**Consolidated statements of financial position**  
[Expressed in Canadian dollars]  
As at December 31

	<u>2019</u> CAD\$	<u>2018</u> CAD\$
<b>Assets</b>		
<b>Current</b>		
Cash	986,874	1,062,209
Trade and other receivables [note 4]	1,549,710	1,630,439
Inventories	39,437	210,507
Prepaid expenses	329,791	385,054
<b>Total current assets</b>	<b>2,905,812</b>	<b>3,288,209</b>
Property and equipment, net [note 5]	1,983,865	1,672,986
Right of use assets, net [note 6]	2,657,120	—
Other financial assets	—	25,000
Goodwill and other intangible assets [note 7]	5,856,821	6,188,661
	<u>13,403,618</u>	<u>11,174,856</u>
<b>Liabilities</b>		
<b>Current</b>		
Trade and other payables [note 8]	1,423,359	1,200,860
Deferred revenue	495,797	731,977
Lease liabilities [note 9]	544,226	—
Short-term debt [note 10]	4,746,189	3,601,786
<b>Total current liabilities</b>	<b>7,209,571</b>	<b>5,534,623</b>
Lease liabilities [note 9]	3,113,228	—
Preferred share liabilities [note 11]	13,636,522	5,234,811
Deferred tax liability [note 13]	348,368	439,688
<b>Total liabilities</b>	<b>24,307,689</b>	<b>11,209,122</b>
<b>Shareholders' deficiency</b>		
Share capital [note 12]	14,345,721	8,055,303
Warrants [note 12]	823,778	—
Contributed surplus	642,407	260,790
Deficit	(26,715,977)	(8,350,359)
<b>Total shareholders' deficiency</b>	<b>(10,904,071)</b>	<b>(34,266)</b>
	<u>13,403,618</u>	<u>11,174,856</u>

Commitments and contingencies [note 16]

Subsequent events [note 21]

*The accompanying notes are an integral part of these consolidated financial statements*

On behalf of the Board:

/s/ John Prentice  
\_\_\_\_\_  
Director

/s/ Cal Miller  
\_\_\_\_\_  
Director

**Ample Organics Inc.**  
**Consolidated statements of loss and comprehensive loss**  
[Expressed in Canadian dollars]  
Years ended December 31

	2019 CAD\$	2018 CAD\$
<b>Revenue</b> [note 14]	<b>7,420,199</b>	6,436,876
Cost of sales	<b>4,363,863</b>	3,291,566
<b>Gross profit</b>	<b>3,056,336</b>	3,145,310
General and administrative expenses [note 15]	<b>3,520,720</b>	2,283,351
Sales and marketing [note 15]	<b>2,079,045</b>	1,616,103
Research and development [note 15]	<b>4,777,996</b>	4,737,175
Share-based compensation [note 12]	<b>381,617</b>	260,790
Depreciation and amortization [notes 5,6,7]	<b>928,393</b>	162,853
Finance costs [note 10]	<b>2,143,031</b>	5,409
Loss on fair value of preferred share liabilities [note 11]	<b>7,312,638</b>	776,000
Other expense	<b>25,000</b>	—
Loss before income taxes	<b>(18,112,104)</b>	(6,696,371)
Deferred income tax recovery [note 13]	<b>91,320</b>	—
<b>Net loss and comprehensive loss for the year</b>	<b>(18,020,784)</b>	(6,696,371)

*The accompanying notes are an integral part of these consolidated financial statements*

**Ample Organics Inc.**  
**Consolidated statements of changes in shareholders' deficiency**  
[Expressed in Canadian dollars]

	Common Shares		Warrants		Contributed Surplus	Deficit	Total
	#	CAD\$	#	CAD\$	CAD\$	CAD\$	CAD\$
<b>Balance, December 31, 2017</b>	29,969,426	2,975,522	—	—	—	(1,653,988)	1,321,534
Issuance of shares, net of costs [note 12]	3,302,224	5,079,781	—	—	—	—	5,079,781
Share-based compensation [note 12]	—	—	—	—	260,790	—	260,790
Net loss and comprehensive loss for the year	—	—	—	—	—	(6,696,371)	(6,696,371)
<b>Balance, December 31, 2018</b>	<b>33,271,650</b>	<b>8,055,303</b>	<b>—</b>	<b>—</b>	<b>260,790</b>	<b>(8,350,359)</b>	<b>(34,266)</b>
Impact of IFRS 16 adoption [note 3]	—	—	—	—	—	(344,834)	(344,834)
Issuances of shares and warrants, net of costs [note 12]	4,175,972	6,290,418	2,217,161	823,778	—	—	7,114,196
Share-based compensation [note 12]	—	—	—	—	381,617	—	381,617
Net loss and comprehensive loss for the year	—	—	—	—	—	(18,020,784)	(18,020,784)
<b>Balance, December 31, 2019</b>	<b>37,447,622</b>	<b>14,345,721</b>	<b>2,217,161</b>	<b>823,778</b>	<b>642,407</b>	<b>(26,715,977)</b>	<b>(10,904,071)</b>

*The accompanying notes are an integral part of these consolidated financial statements*

**Ample Organics Inc.**  
**Consolidated statements of cash flows**  
[Expressed in Canadian dollars]  
Year ended December 31

	<b>2019</b>	<b>2018</b>
	<b>CADS</b>	<b>CADS</b>
<b>Operating activities</b>		
Net loss for the year	(18,020,784)	(6,696,371)
Add items not involving cash		
Depreciation and amortization [notes 5,6,7]	928,393	162,853
Share-based compensation [note 12]	381,617	260,790
Loss on fair value of preferred share liabilities [note 11]	7,312,638	776,000
Finance costs	1,792,435	—
Deferred income tax recovery	(91,320)	—
Impairment of financial asset	25,000	—
Loss on sale of fixed assets	161	1,070
	<u>(7,671,860)</u>	<u>(5,495,658)</u>
Net changes in non-cash working capital balances related to operations		
Trade and other receivables	282,899	(1,180,641)
Inventories	171,070	(161,945)
Prepaid expenses	55,263	(157,854)
Trade and other payables	222,497	468,942
Deferred revenue	(236,180)	25,269
<b>Cash used in operating activities</b>	<u>(7,176,311)</u>	<u>(6,501,887)</u>
<b>Investing activities</b>		
Acquisition	—	(3,525,627)
Disposal of property and equipment [note 5]	1,075	8,988
Purchase of property and equipment [note 5]	(148,493)	(981,901)
<b>Cash used in investing activities</b>	<u>(147,418)</u>	<u>(4,498,540)</u>
<b>Financing activities</b>		
Proceeds from issuance of shares and warrants, net of costs [note 12]	7,114,196	7,303,283
Repayment of short-term debt [note 10]	(5,601,786)	—
Proceeds from issuance of short-term debt, net of costs [note 10]	6,280,806	3,601,786
Payments for lease obligations	(544,822)	—
<b>Cash provided by financing activities</b>	<u>7,248,394</u>	<u>10,905,069</u>
<b>Net decrease in cash during the year</b>	<u>(75,335)</u>	<u>(95,358)</u>
Cash, beginning of the year	1,062,209	1,157,567
<b>Cash, end of the year</b>	<u>986,874</u>	<u>1,062,209</u>

*The accompanying notes are an integral part of these consolidated financial statements*

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**1. Nature of business and going concern uncertainty**

**Nature of business**

Ample Organics Inc. [the “Company” or “Ample Organics”] is Canada’s leading cannabis software company. The software is built for compliance with the Access to Cannabis for Medical Purposes Regulations [“ACMPR”], which tracks everything from seed to sale of cannabis and beyond. Ample Organics’ platform allows customers to run their licensed facilities from end-to-end while meeting the record keeping and traceability requirements of ACMPR.

The Company was incorporated on August 1, 2014. The Company’s head office is located at 629 Eastern Ave, Building B, Toronto, Ontario M4M 1E3.

**Going concern uncertainty**

The preparation of these consolidated financial statements requires management to make judgments regarding the Company’s ability to continue as a going concern. Management has determined that as at December 31, 2019, it does not have adequate working capital for the coming year based on current capital resources. The Company has incurred a total comprehensive loss of CAD\$18,020,784 for the year ended December 31, 2019, an accumulated deficit of CAD\$26,715,977 and, as of December 31, 2019, the Company’s current liabilities exceeded current assets by CAD\$4,303,759. These events or conditions indicate that a material uncertainty exists that raise substantial doubt about the Company’s ability to continue as a going concern and therefore, that it may be unable to realize its assets or discharge its liabilities in the normal course of business. The Company believes it will be able to complete a transaction that will provide the Company with sufficient funding to meet its expenditure commitments and support its planned level of spending, and therefore it is appropriate to prepare the consolidated financial statements on a going concern basis.

**2. Basis of presentation**

**[a] Statement of compliance**

These consolidated financial statements [the “financial statements”] have been prepared by management on a going concern basis in accordance with generally accepted accounting principles in Canada for publicly accountable enterprises, as set out in the CPA Canada Handbook — Accounting, which incorporates International Financial Reporting Standards [“IFRS”] as issued by the International Accounting Standards Board [“IASB”]. The policies set out below have been consistently applied to all periods presented unless otherwise noted.

These financial statements were approved and authorized for issuance by the Board of Directors of the Company on June 11, 2020.

**[b] Basis of measurement**

These financial statements have been prepared on a historical cost basis. Historical costs are generally based upon the fair value of the consideration given in exchange for goods and services.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, regardless of whether that price is directly observable or estimated using another valuation technique. In estimating the fair value of an asset or a liability, the Company takes into account the characteristics of the asset or liability if market participants would take those characteristics into account when pricing the asset or liability at the measurement date. Fair value for measurement and/or disclosure purposes in these financial statements is determined on such a basis, except for share-based payment transactions that are within the scope of IFRS 2 Share-based Payment [“IFRS 2”] and measurements that have some similarities to fair value, but are not fair value, such as value in use in IAS 36 Impairment of Assets.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**2. Basis of presentation (cont.)**

**[c] Basis of presentation**

These financial statements comprise the accounts of the Company, and its wholly owned legal subsidiary, Last Call Analytics Inc. [“LCA”] and Ample Organics Australia PTY LTD, after the elimination of all intercompany balances and transactions.

*Subsidiary*

The subsidiary is an entity over which the Company has exposure to variable returns from its involvement and has the ability to use power over the investee to affect its returns. The existence and effect of potential voting rights that are currently exercisable or convertible are considered when assessing whether the Company controls another entity. The subsidiary is fully consolidated from the date on which control is transferred to the Company until the date on which control ceases. The accounts of the subsidiary are prepared for the same reporting period as the parent company, using consistent accounting policies. Intercompany transactions, balances and unrealized gains or losses on transactions are eliminated upon consolidation.

**[d] Functional currency and presentation currency**

These financial statements are presented in Canadian dollars, which is the Company’s functional currency.

**[e] Use of estimates and judgments**

The preparation of these financial statements in conformity with IFRS requires management to make estimates, judgments and assumptions that affect the application of accounting policies and the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from these estimates.

Estimates are based on management’s best knowledge of current events and actions that the Company may undertake in the future. Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimate is revised if the revision affects only that reporting period, or in the period of the revision and future periods if the revision affects both current and future periods.

The following are the critical judgments, apart from those involving estimations, that management has made in the process of applying the Company’s accounting policies and that have the most significant effect on the amounts recognized in the financial statements:

**[i] Revenue recognition**

Multi-element or bundled contracts require an estimate of the relative stand-alone selling prices of separate elements. The Company assesses the criteria for the recognition of revenue related to arrangements that have multiple components. These assessments require judgment by management to determine if there are separately identifiable components as well as how to allocate the total price among the components. Deliverables are accounted for as separately identifiable components. In concluding whether components are separately identifiable, management considers the transaction from the customer’s perspective. Among other factors, management assesses whether the service or product is sold separately by the Company in the normal course of business or whether the customer could purchase the service or product separately.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**2. Basis of presentation (cont.)**

[ii] Estimated useful lives, residual values and depreciation of property and equipment

Depreciation of property and equipment are dependent upon estimates of useful lives and residual values, which are determined through the exercise of judgment. The assessment of any impairment of these assets is dependent upon estimates of recoverable amounts that take into account factors such as economic and market conditions and the useful lives of assets.

[iii] Estimated useful lives and amortization of intangible assets

The Company employs significant estimates to determine the estimated useful lives of intangible assets, considering technology trends, contractual rights, past experience, expected use and review of asset useful lives. The Company reviews amortization methods and useful lives annually or when circumstances change and adjusts its amortization methods and assumptions prospectively.

[iv] Valuation of share-based payments, warrants and Class A-3 Preferred Shares

Management measures the fair value for share-based payments, warrants and Class A-3 Preferred Shares using market-based option valuation techniques. Assumptions are made and estimates are used in applying the valuation techniques. These include estimating the future volatility of the share price, expected dividend yield, expected risk-free interest rate and the rate of forfeiture. Such estimates and assumptions are inherently uncertain. Changes in these assumptions affect the fair value estimates of share-based payments, warrants and Class A-3 preferred shares.

**3. Significant accounting policies**

**[a] Cash**

Cash includes cash deposits in financial institutions.

**[b] Foreign currency translation**

Foreign currency transactions are translated into Canadian dollars at exchange rates in effect on the date of the transactions. At the end of each reporting period, monetary assets and liabilities denominated in foreign currencies are translated into Canadian dollars at the foreign exchange rate applicable at that period-end date. Non-monetary assets and liabilities that are measured in terms of historical cost in a foreign currency are translated using the exchange rate at the date of the transaction. Expenses are translated at the exchange rates that approximate those in effect on the date of the transaction. Realized and unrealized exchange gains and losses are recognized in the consolidated statements of loss and comprehensive loss.

**[c] Business combinations**

Business combinations are accounted for using the acquisition method. In applying the acquisition method, the Company separately measures at their acquisition-date fair values, the identifiable assets acquired, the liabilities assumed, and goodwill acquired and any non-controlling interest in the acquired entity. The consideration transferred for the acquisition of a subsidiary is the fair value of the assets transferred, the liabilities incurred to the former owners of the acquiree and the equity interests issued by the Company. The consideration transferred includes the fair value of any asset or liability resulting from a contingent consideration arrangement. Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured initially at their fair values at the acquisition date.

Acquisition costs in connection with a business combination are expensed as incurred.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**3. Significant accounting policies (cont.)**

Goodwill is measured as the excess of the fair value of the consideration transferred, less any non-controlling interest in the entity being acquired at the proportionate share of the recognized net identifiable assets acquired. Goodwill acquired through a business combination is allocated to each cash-generating unit ["CGU"] or group of CGUs that are expected to benefit from the related business combination. A group of CGUs represents the lowest level within the entity at which the goodwill is monitored for internal management purposes, which is not higher than an operating segment. Goodwill is tested for impairment annually or more frequently if certain indicators arise that indicate they are impaired.

**[d] Inventories**

Inventories are measured at the lower of cost and net realizable value. The costs of inventories are determined on a weighted average cost basis. Net realizable value represents the estimated selling price for inventories less estimated costs necessary to make the sale.

The cost of inventories, which consists of computer equipment, comprises all costs of purchase and other costs incurred in bringing the inventories to their present location and condition. The cost of purchase comprises the purchase price, non-recoverable taxes, transport, handling, and other costs directly attributable to the acquisition of goods.

Inventory allowances are recorded in the period in which management determines the inventory to be obsolete.

**[e] Revenue from contracts with customers**

Revenue is recognized upon transfer of control of the promised goods or services to customers in an amount that reflects the consideration the Company expects to receive in exchange for those goods or services. Performance obligations related to a contract are satisfied through the transfer of a promised good or service [i.e., an asset] to a customer, either over time or at a point in time. An asset is transferred when [or as] the customer obtains control of that asset, which refers to the ability to use and obtain substantially all of the remaining benefits from the asset, such as by:

- [i] using the asset to produce goods or provide services [including public services];
- [ii] using the asset to enhance the value of other assets;
- [iii] using the asset to settle liabilities or reduce expenses;
- [iv] selling or exchanging the asset;
- [v] pledging the asset to secure a loan; and
- [vi] holding the asset.

Payment terms are typically 30 days with a CAD\$20,000 credit limit on services. Deferred revenue, classified as contract liabilities under International Financial Reporting Standards ["IFRS"] 15, relates to payments received in advance of performance under contracts with customers. Contract liabilities are recognized as [or when] the Company satisfies its performance obligation under the contracts.

*Software licenses and services*

The Company provides software licenses for contract terms of generally one year, along with implementation [professional] services to provide support and training for customers. These are considered to be one performance obligation under IFRS 15 and are satisfied over the contract term. Revenue is recognized rateably on the basis of time remaining from the start of the contract to its conclusion, on a contract-by-contract basis.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**3. Significant accounting policies (cont.)**

The first three months of a contract are typically pre-billed upon scheduling of an onsite implementation date, resulting in contract liabilities. The remaining payments under the contract are billed on a monthly basis, subsequent to revenue recognition and resulting in contract assets.

*Hardware and third — party licenses*

The Company provides its software pre-installed and configured on its own dedicated device/hardware and can also install third-party licenses necessary for the operation of the hardware network. These are considered distinct, separate performance obligations under IFRS 15, and are satisfied at a point in time once the setup is complete. Hardware purchases by new customers must be paid for upfront prior to installation, resulting in contract liabilities until the setup is complete. Hardware purchases by existing customers are billed once the devices have been shipped and configured, resulting in contract assets.

The Company measures revenue at the fair value of consideration received or receivable, taking into account any contractually defined terms for volume discounts or refunds. As contracts are generally one year in length, performance obligations related to existing contract liabilities are expected to be satisfied by the end of the next fiscal year-end.

**[f] Property and equipment**

The Company's property and equipment are measured at cost less accumulated depreciation and impairment losses.

The cost of an item of property and equipment includes expenditures that are directly attributable to the acquisition or construction of the asset.

Depreciation is recorded over the estimated useful lives as outlined below:

Computer hardware	3 – 5 years
Furniture and equipment	3 – 5 years
Leasehold improvements	Lesser of useful life or term of lease

The Company assesses an asset's residual value, useful life and depreciation method on a regular basis and if any events have indicated a change and makes adjustments if appropriate.

Gains and losses on disposal of property and equipment are determined by comparing the proceeds from disposal with the carrying amount of the property and equipment and are recognized in the consolidated statement of loss and comprehensive loss.

**[g] Intangible assets**

The Company's intangible assets relate to customer relationships and technology. The cost of an intangible asset acquired in a business combination is its fair value at the acquisition date.

Research costs are expensed as incurred.

The useful lives of intangible assets are assessed as either finite or indefinite. Intangible assets with a finite life are amortized over the estimated useful life. Intangible assets are amortized on a straight-line basis as follows:

Customer relationships	5 years
Technology	5 years

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**3. Significant accounting policies (cont.)**

The amortization period and the amortization method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period. Changes in the expected useful life or the expected pattern of consumption of future economic benefits embodied in the asset are accounted for by changing the amortization period or method, as appropriate, and are treated as changes in accounting estimates.

**[h] Impairment of non-financial assets**

The carrying amounts of the Company's non-financial assets are reviewed for impairment as at each consolidated statement of financial position date or whenever events or changes in circumstances indicate that the carrying amount of an asset exceeds its recoverable amount. For the purpose of impairment testing, assets that cannot be tested individually are grouped together into the smallest group of assets that generates cash inflows from continuing use that are largely independent of the cash inflows of other assets or groups of assets. The recoverable amount of an asset or a cash-generating unit is the higher of its fair value, less cost to sell, and its value in use. If the carrying amount of an asset exceeds its recoverable amount, an impairment charge is recognized immediately in profit or loss by the amount by which the carrying amount of the asset exceeds the recoverable amount. Where an impairment loss subsequently reverses, the carrying amount of the asset is increased to the lesser of the revised estimate of recoverable amount and the carrying amount that would have been recorded had no impairment loss been recognized previously.

**[i] Leases**

At inception of a contract, the Company assesses whether a contract is, or contains, a lease based on whether the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Company recognizes a right-of-use asset and a lease liability at the lease commencement date. The right-of-use asset is initially measured based on the initial amount of the lease liability adjusted for any lease payments made at or before the commencement date, plus any initial direct costs incurred and an estimate of costs to dismantle and remove the underlying asset or to restore the underlying asset or the site on which it is located, less any lease incentives received. The assets are depreciated to the earlier of the end of the useful life of the right-of-use asset or the lease term using the straight-line method as this most closely reflects the expected pattern of consumption of the future economic benefits. The lease term includes periods covered by an option to extend if the Company is reasonably certain to exercise that option. In addition, the right-of-use asset is periodically reduced by impairment losses, if any, and adjusted for certain remeasurements of the lease liability.

The lease liability is initially measured at the present value of the lease payments that are not paid at the commencement date, discounted using the interest rate implicit in the lease or, if that rate cannot be readily determined, the Company's incremental borrowing rate. Generally, the Company uses its incremental borrowing rate as the discount rate. Variable lease payments that do not depend on an index or rate are not included in the measurement of the lease liability. The lease liability is measured at amortized cost using the effective interest method. It is remeasured when there is a change in future lease payments arising from a change in an index or rate, or if the Company changes its assessment of whether it will exercise a purchase, extension or termination option. When the lease liability is remeasured in this way, a corresponding adjustment is made to the carrying amount of the right-of-use asset, or is recorded in profit or loss if the carrying amount of the right-of-use asset has been reduced to zero.

The Company has elected to apply the practical expedient to account for each lease component and any non-lease components as a single lease component. The Company has also elected to apply the practical expedient not to recognize right-of-use assets and lease liabilities for short-term leases that have a lease term of 12 months or less and leases of low-value assets.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**3. Significant accounting policies (cont.)**

**[j] Share-based compensation**

The Company grants stock options to certain employees. When stock options are exercised, the Company issues new common shares. The consideration received on the exercise of stock options is credited to share capital at the time of exercise. The Company's stock option compensation plan is described in note 12[c]. Stock options generally vest over three years in a tiered manner and expire after ten years. Each tranche in an award is considered a separate award with its own vesting period and grant date fair value. Fair value of each tranche is measured at the date of grant using the Black-Scholes option pricing model. Compensation expense is recognized over the tranche's vesting period on a straight-line basis based on the number of awards expected to vest, with a corresponding credit to contributed surplus. The number of awards expected to vest is reviewed at least annually, with any impact being recognized immediately. The stock options recognized is also determined based on management's grant date estimate of the forfeitures that are expected to occur over the life of the stock options. The number of stock options that actually vest could differ from the estimated number of awards expected to vest and any differences between the actual and estimated forfeitures are recognized prospectively as they occur.

**[k] Income taxes**

The income taxes currently payable is based on taxable profit for the year. Taxable profit differs from "income before income taxes" as reported in the consolidated statement of loss and comprehensive loss because of items of income or expenses that are taxable or deductible in other years and items that are never taxable or deductible. The Company's current income taxes are calculated using tax rates that have been enacted or substantively enacted by the end of the year.

Deferred income taxes are recognized on temporary differences between the carrying amounts of assets and liabilities in the financial statements and the corresponding tax bases used in the computation of taxable profit. Deferred income tax liabilities are generally recognized for all taxable temporary differences. Deferred income tax assets are generally recognized for all deductible temporary differences to the extent that it is probable that taxable profits will be available against which those deductible temporary differences can be utilized. Such deferred income tax assets and liabilities are not recognized if the temporary difference arises from the initial recognition [other than in a business combination] of assets and liabilities in a transaction that affects neither the taxable profit nor the accounting profit. In addition, deferred income tax liabilities are not recognized if the temporary difference arises from the initial recognition of goodwill.

The carrying amount of deferred income tax assets is reviewed at the end of each year and reduced to the extent that it is no longer probable that sufficient taxable profits will be available to allow all or part of the asset to be recovered. Deferred income tax liabilities and assets are measured at the tax rates that are expected to apply in the year in which the liability is settled or the asset realized, based on tax rates [and tax laws] that have been enacted or substantively enacted by the end of the year.

The measurement of deferred income tax liabilities and assets reflects the tax consequences that would follow from the manner in which the Company expects, at the end of the year, to recover or settle the carrying amount of its assets and liabilities.

Current and deferred income taxes are recognized in profit or loss, except when they relate to items that are recognized in other comprehensive loss or directly in equity, in which case the current and deferred income taxes are also recognized in other comprehensive loss or directly in equity, respectively. Where current income taxes or deferred income taxes arise from the initial accounting for a business combination, the tax effect is included in the accounting for the business combination.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
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**3. Significant accounting policies (cont.)**

**[l] Government assistance**

Government assistance, which mainly consists of refundable investment tax credits for research and development expenses, is recognized when there is reasonable assurance that the government assistance will be received and all attached conditions will be complied with. When the government assistance relates to an expense item, it is recognized as a reduction in the related expense on a systematic basis over the period necessary to match the government assistance to the costs it is intended to subsidize.

**[m] Financial instruments**

Financial assets and financial liabilities are recognized when the Company becomes a party to the contractual provisions of the instruments.

Financial assets and financial liabilities are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities [other than financial assets and financial liabilities at fair value through profit or loss] are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognized immediately in profit or loss.

*Financial assets*

The Company initially recognizes financial assets at fair value on the date at which the Company becomes a party to the contractual provisions of the instrument.

The Company classifies its financial assets on initial recognition and subsequent measurement as amortized cost, fair value through other comprehensive income ["FVTOCI"], or fair value through profit or loss ["FVTPL"].

Financial assets are subsequently measured at amortized cost if both the following conditions are met and they are not designated as FVTPL:

- the financial asset is held within a business model with the objective to hold financial assets in order to collect contractual cash flows; and
- the contractual terms of the financial asset give rise on specified dates to cash flows that are solely payments of principal and interest on the principal amount outstanding.

These assets are subsequently measured at amortized cost using the effective interest method and are subject to impairment. Gains and losses are recognized in the statement of loss and comprehensive loss when the asset is derecognized, modified or impaired.

The Company derecognizes a financial asset when the contractual rights to the cash flows from the asset expire, or it transfers the rights to receive the contractual cash flows on the financial asset in a transaction in which substantially all the risks and rewards of ownership of the financial asset are transferred. Any interest in transferred financial assets that is created or retained by the Company is recognized as a separate asset or liability.

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**3. Significant accounting policies (cont.)**

*Financial liabilities*

The Company initially recognizes financial liabilities at fair value on the date at which the Company becomes a party to the contractual provisions of the instrument.

The Company classifies its financial liabilities as either financial liabilities at amortized cost or FVTPL on initial recognition and subsequent measurement. Financial liabilities are classified as FVTPL when the financial liability is (i) contingent consideration of an acquirer in a business combination, (ii) held for trading, or (iii) it is designated as FVTPL.

Financial liabilities that are not (i) contingent consideration of an acquirer in a business combination, (ii) held for trading, or (iii) designated as FVTPL are subsequently measured at amortized cost using the effective interest rate method. Interest paid from these financial liabilities is included in finance costs using the effective interest rate method.

The Company derecognizes a financial liability when its contractual obligations are discharged or cancelled or expire.

*Financial liabilities and equity instruments*

[i] Classification as debt or equity

Debt and equity instruments issued by the Company are classified as either financial liabilities or as equity in accordance with the substance of the contractual arrangements and the definitions of a financial liability and an equity instrument.

[ii] Equity instruments

An equity instrument is any contract that evidences a residual interest in the assets of an entity after deducting all of its liabilities. Equity instruments issued by a group entity are recognized at the proceeds received, net of direct issue costs.

*Classification of financial instruments*

The Company classifies its financial assets and liabilities depending on the purpose for which the financial instruments were acquired, their characteristics, and management intent as outlined below:

Cash	Fair value through profit and loss
Trade and other receivables	Amortized cost
Other financial assets	Fair value through profit and loss
Trade and other payables	Amortized cost
Short-term debt	Amortized cost
Preferred share liabilities	Fair value through profit and loss
Warrant liabilities	Fair value through profit and loss

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**3. Significant accounting policies (cont.)**

*Impairment of financial assets*

As the Company's financial assets are substantially made up of trade receivables, which are measured at amortized cost, the Company has elected to apply the simplified approach for measuring the loss allowance at an amount equal to lifetime expected credit losses ["ECL"]. The Company recognizes lifetime expected losses on initial recognition through both the analysis of historical defaults and a reassessment of counterparty credit risk in revenue contracts on an annual basis. An impairment loss is reversed in subsequent periods if the amount of the expected loss decreases and the decrease can be objectively related to an event occurring after the initial impairment was recognized.

Preferred share liabilities

The preferred share and the warrants issued in 2018 met the definition of financial liabilities subject to measurement at fair value at each reporting period-end with changes in fair value to be reflected in the Company's consolidated statements of loss and comprehensive loss. The Company determined that the preferred share liabilities did not meet the IFRS definition of equity due to the variability of the conversion ratio to common shares.

The warrants are convertible into preferred shares which are a financial liability, therefore, the warrants are measured at financial liability through profit or loss.

**[n] New standards adopted in the current period**

The Company applied IFRS 16, *Leases* and IFRIC Interpretation 23, *Uncertainty over Income Tax Treatments* for the first-time effective January 1, 2019. The nature and effect of the changes as a result of adoption of these new accounting standards are described below.

*IFRS 16, Leases ["IFRS 16"]*

IFRS 16 supersedes IAS 17 Leases, IFRIC 4 Determining whether an Arrangement contains a Lease, SIC-15 Operating Leases-Incentives and SIC-27 Evaluating the Substance of Transactions Involving the Legal Form of a Lease.. The standard sets out the principles for the recognition, measurement, presentation and disclosure of leases and requires lessees to recognise most leases on the balance sheet.

The Company, as a lessee, has applied IFRS 16 using the modified retrospective approach and recognized right-of-use assets representing the rights to use the underlying assets, equal to the lease liabilities representing the obligation to make lease payments effective January 1, 2019. In accordance with the practical expedients permitted under the standard, comparative information for 2018 has not been restated. In applying IFRS 16 for the first time, the Company used the following practical expedients permitted by the standard:

- Reliance on previous assessments on whether leases are onerous
- Use of hindsight in determining the lease term where the contract contains options to extend or terminate the lease
- Account for leases for which the lease term ends within 12 months of the date of initial application as short-term leases
- Record right-of-use assets based on the corresponding lease liability, with no net impact on deficit

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**3. Significant accounting policies (cont.)**

As a result of the adoption of IFRS 16, the Company recognized an increase to both assets and liabilities on the consolidated statement of financial position. The Company also recognized a decrease in general and administrative expenses for the removal of rent expense for operating leases partially offset by accretion of lease liabilities and an increase in depreciation and amortization related to the right-of-use assets in the consolidated statement of loss and comprehensive loss. The weighted average incremental borrowing rate applied to the lease liabilities on January 1, 2019 was 6.5%. The following table illustrates the impact of IFRS 16 on the consolidated statements of financial position on the date of initial application using the modified retrospective approach resulting in the recognition of a right-of-use assets as if the standard had always been applied, representing the rights to use the underlying assets, a lease liabilities amount representing the future obligation associated with the underlying lease arrangement, resulting in a charge to deficit as at January 1, 2019:

	<b>Balance at December 31, 2018</b>	<b>IFRS 16 adjustments</b>	<b>Balance at January 1, 2019</b>
Assets			
Current assets:			
Trade and other receivables	1,630,439	202,170	<b>1,832,609</b>
Non-current assets:			
Property and equipment, net	1,672,986	383,294	<b>2,056,280</b>
Right-of-use-assets, net	—	3,034,001	<b>3,034,001</b>
Liabilities			
Current liabilities:			
Lease liabilities	—	544,822	<b>544,822</b>
Non-current liabilities:			
Lease liabilities	—	3,419,477	<b>3,419,477</b>
Shareholders' equity			
Deficit	(7,574,359)	(344,834)	<b>(7,919,193)</b>

The adjustments to trade and other receivables and property and equipment, net relate to tenant inducements.

[ii] IFRIC 23, *Uncertainty over Income Tax Treatment* ["IFRIC 23"]

In June 2017, the IASB issued IFRIC 23, which clarifies the accounting for uncertainties in income taxes. IFRIC 23 is effective for annual periods beginning on or after January 1, 2019. The requirements are applied by recognizing the cumulative effect of initially applying them in retained earnings, or in other appropriate components of equity, at the start of the reporting period in which the Company first applies them, without adjusting comparative information. Full retrospective application is permitted, if the Company can do so without using hindsight. The Company has adopted the new Interpretation beginning January 1, 2019. The adoption of IFRIC 23 did not have any impact on the Company's financial statements.

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**4. Trade and other receivables**

The Company's trade and other receivables include the following:

	2019 CAD\$	2018 CAD\$
Trade receivable, net of allowance of CAD\$70,953 [2018 – CAD\$22,348]	920,707	1,533,285
Input tax receivable	—	97,154
Investment tax credit receivable	629,003	—
	<u>1,549,710</u>	<u>1,630,439</u>

**5. Property and equipment**

	Leasehold improvements CAD\$	Furniture and equipment CAD\$	Computer hardware CAD\$	Total CAD\$
<b>Cost</b>				
As at December 31, 2017	665,466	85,292	115,241	865,999
Additions	649,624	119,172	213,105	981,901
Disposals	—	(545)	(10,639)	(11,184)
As at December 31, 2018	1,315,090	203,919	317,707	1,836,716
Impact of IFRS 16 adoption	383,294	—	—	383,294
Additions	100,167	17,183	31,143	148,493
Disposals	—	—	(2,232)	(2,232)
<b>As at December 31, 2019</b>	<u>1,798,551</u>	<u>221,102</u>	<u>346,618</u>	<u>2,366,271</u>
<b>Accumulated depreciation</b>				
As at December 31, 2017	—	3,627	11,139	14,766
Depreciation	44,334	29,265	76,491	150,090
Disposals	—	(38)	(1,088)	(1,126)
As at December 31, 2018	44,334	32,854	86,542	163,730
Depreciation	63,630	42,822	113,220	219,672
Disposals	—	—	(996)	(996)
<b>As at December 31, 2018</b>	<u>107,964</u>	<u>75,676</u>	<u>198,766</u>	<u>382,406</u>
<b>Net book value</b>				
<b>As at December 31, 2018</b>	1,270,756	171,065	231,165	1,672,986
<b>As at December 31, 2019</b>	<u>1,690,587</u>	<u>145,426</u>	<u>147,852</u>	<u>1,983,865</u>

**6. Right-of-use assets**

The Company has lease contracts for office space, vehicles and equipment with remaining terms up to eight years in length. The following is a summary of the changes in the Company's right-of-use assets during the year:

	CAD\$
<b>As at January 1, 2019</b>	<u>3,034,001</u>
Depreciation	(376,881)
<b>As at December 31, 2019</b>	<u>2,657,120</u>

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**7. Goodwill and other intangible assets**

The Company's intangible assets consist of customer relationships and technology, both of which are being amortized over their useful lives of five years.

	2019 CAD\$	2018 CAD\$
Goodwill	4,542,224	4,542,224
Intangible assets	1,314,597	1,646,437
	<b>5,856,821</b>	<b>6,188,661</b>
<b>Intangible assets</b>		<b>CAD\$</b>
<b>Cost</b>		
As at December 31, 2018		1,659,200
As at December 31, 2019		<b>1,659,200</b>
<b>Accumulated amortization</b>		
As at December 31, 2018		12,763
Amortization		<b>331,840</b>
As at December 31, 2019		<b>344,603</b>
<b>Net book value</b>		
As at December 31, 2018		1,646,437
As at December 31, 2019		<b>1,314,597</b>

**8. Trade and other payables**

The Company's trade and other payables include the following:

	2019 CAD\$	2018 CAD\$
Trade payables	1,316,653	1,190,701
Sales tax payable	106,706	10,159
	<b>1,423,359</b>	<b>1,200,860</b>

**9. Lease liabilities**

The Company has lease contracts for office space and equipment, which range from one and nine years.

The following is a summary of the changes in the Company's lease liabilities during the period:

	CAD\$
As at January 1, 2019	3,964,299
Interest accretion	237,977
Lease repayments	(544,822)
As at December 31, 2019	<b>3,657,454</b>
Current	544,226
Non-current	<b>3,113,228</b>

Expenses incurred for the year ended December 31, 2019 relating to variable lease payments were CAD\$157,553.

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**10. Short-term debt**

	<b>2019</b>	<b>2018</b>
	<b>CAD\$</b>	<b>CAD\$</b>
Promissory note due in February 2019	—	3,601,786
Short-term debt due in September 2020	2,097,335	—
Short-term debt due in October 2020	2,648,854	—
	<b>4,746,189</b>	<b>3,601,786</b>

In December 2018, the Company obtained a promissory note in the amount of CAD\$3,601,786 to finance its acquisition of LCA, payable in 60 days with no interest. In February 2019, the Company paid this note in full. Due to late payment, CAD\$13,254 in interest was incurred and paid.

On February 15, 2019, in order to repay the promissory note for the acquisition of LCA, the Company entered into a CAD\$2,000,000 loan bearing interest of 15% per annum, maturing in six months. At inception, the Company recognized the loan at its fair value plus transaction costs directly attributable to its issuance of CAD\$87,165, which was recorded as finance costs in the consolidated statement of loss and comprehensive loss for the year ended December 31, 2019. Subsequent to initial recognition, the loan was carried at amortized cost.

On September 25, 2019, the loan was amended to extend the maturity date to September 25, 2020 and the interest rate to 12% per annum. In addition, 600,000 warrants convertible into Class A-3 Preferred Shares of the Company were issued to the lender [see note 11]. On entering into the amended loan, the Company completed an assessment that showed that the present value of the cash flows under the amended loan facility, including the financing costs and cost of warrants issued, differed more than 10% from the present value of the remaining cash flows of the loan. The amendment was treated as an extinguishment of the original loan and the establishment of a new loan at its fair value plus transaction costs of CAD\$211,567 directly attributable to its issuance. A loss on extinguishment of CAD\$1,001,928 was recorded within finance costs related to the amendment. In December 2019, upon announcement of the Akerna Transaction [see note 11], the carrying value of the amended loan was adjusted for a revised estimate of future expected cash flows discounted over the remaining estimated life of the amended loan.

On October 1, 2019, the Company entered into a CAD\$2,500,000 loan bearing interest of 12% per annum maturing on October 1, 2020. In addition, 204,000 warrants convertible into Class A-3 Preferred Shares of the Company were issued to the lender [see note 11]. At inception, the Company recognized the loan at its fair value plus transaction costs directly attributable to its issuance of CAD\$246,368. Subsequent to initial recognition, the loan was carried at amortized cost. In December 2019, upon announcement of the Akerna Transaction [see note 11], the carrying value of the loan was adjusted for a revised estimate of future expected cash flows discounted over the remaining estimated life of the amended loan.

At December 31, 2019, the Company was in compliance with all covenants for its short-term debt. Subsequent to December 31, 2019, the Company was in breach of its covenants for its short-term debt.

**11. Preferred share liabilities**

The following is a summary of the changes in the Company's preferred liabilities:

	<b>2019</b>	<b>2018</b>
	<b>CAD\$</b>	<b>CAD\$</b>
As at January 1	5,234,811	—
Additions	1,089,073	4,458,811
Change in fair value of preferred share liabilities	7,312,638	776,000
As at December 31	<b>13,636,522</b>	<b>5,234,811</b>

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**11. Preferred share liabilities (cont.)**

In June 2018, the Company issued 3,000,000 preferred share units at CAD\$1.50 per unit, consisting of 3,000,000 Class A-1 Preferred Shares and 1,500,000 warrants convertible into Class A-2 Preferred Shares at an exercise price of CAD\$2.25 per share for gross proceeds of CAD\$4,500,000. As the Class A-1 Preferred Shares and Class A-2 Preferred Shares are convertible into a variable number of common shares depending on subsequent issuances of common shares, these preferred shares and the warrants convertible to the preferred shares are considered financial liabilities. The net proceeds were allocated to the preferred shares and warrants based on the relative fair value of each instrument.

In October 2019, the Company issued 804,000 warrants convertible into Class A-3 Preferred Shares at an exercise price of CAD\$1.20 to lenders in connection with loans received [see note 10].

The Company determined that each of the Company's Class A-1 Preferred Shares, Class A-2 Preferred Shares and Class A-3 Preferred Shares [collectively the "Class A Preferred Shares"] and warrants that are convertible into Class A Preferred Shares, did not meet the IFRS definition of equity due to the variability of the conversion price. Accordingly, the Class A Preferred Shares and the related warrants are treated as financial liabilities measured at fair value through profit or loss. The fair values of the convertible notes are classified as Level 3 in the fair value hierarchy.

In determining the fair values of the warrants issued, the Company used the Black-Scholes pricing model applying the following inputs:

	<b>2019</b>	<b>2018</b>
Risk-free interest rate	1.47%	1.46%
Term [years]	3	3
Estimated volatility	70%	70%
Expected dividend yield	Nil	Nil
Warrant value	CAD\$ 1.40	CAD\$ 0.41
Share price	CAD\$ 2.22	CAD\$ 1.30
Exercise price	CAD\$ 1.20	CAD\$ 2.25

In December 2019, 1,500,000 warrants convertible into Class A-2 Preferred Shares were converted into 777,637 Class A-2 Preferred Shares and 492,000 warrants convertible into Class A-3 Preferred Shares were converted into 283,721 Class A-3 Preferred Shares.

For the year ended December 31, 2019, a CAD\$7,312,638 loss on fair value of preferred share liabilities [2018 — CAD\$776,000 loss] was recorded in the statement of loss and comprehensive loss.

**12. Share capital**

**[a] Authorized**

The authorized share capital of the Company consists of an unlimited number of common shares and 5,304,000 Class A Preferred Shares, issuable in series, of which 3,000,000 are designated as Class A-1 Preferred Shares, 1,500,000 are designated as Class A-2 Preferred Shares and 804,000 are designated as Class A-3 Preferred Shares.

Class A Preferred Shares are convertible, at the option of the holder, into a number of fully paid and non-assessable common shares as determined by dividing the original issue price of the series of Class A Preferred Shares by the then effective conversion price and adjustments to the conversion price in the event the Company issues additional common shares and amounts less than the original conversion price. The conversion and original issue price is

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**12. Share capital (cont.)**

CAD\$1.50 for Class A-1 Preferred Shares, CAD\$2.25 for Class A-2 Preferred Shares, and CAD\$1.20 for Class A-3 Preferred Shares, subject to anti-dilution provisions. Preferred shares automatically convert to common shares upon: (i) an amalgamation, arrangement, consolidation, merger, reorganization or similar transaction of the Company, (ii) the sale, lease, transfer, exclusive license or disposition of substantially all of the Company's assets, (iii) the closing of a public offering of the Company's common shares provided the offering price per share is not less than CAD\$4.50 and aggregate gross proceeds are greater than CAD\$20,000,000, or (iv) the vote of the majority of holders of Class A Preferred Shares to convert.

**[b] Issued and outstanding**

On February 22, 2019, the Company issued 2,436,207 common share units at CAD\$1.80 per unit, consisting of 2,436,207 common shares and 1,218,100 warrants convertible into common shares at an exercise price of CAD\$2.70 until February 22, 2021. In connection with this transaction, the Company issued 27,698 broker warrants convertible into common shares at an exercise price of CAD\$1.80 until February 22, 2021 and paid CAD\$96,278 in transaction costs.

On April 25, 2019, the Company issued 1,358,052 common share units at CAD\$1.80 per unit, consisting of 1,358,052 common shares and 679,024 warrants convertible into common shares at an exercise price of CAD\$2.70 until April 25, 2021. In connection with this transaction, the Company issued 81,483 broker warrants convertible into common shares at an exercise price of CAD\$1.80 until April 25, 2021 and paid CAD\$246,389 in transaction costs.

On May 2, 2019, the Company issued 309,200 common share units at CAD\$1.80 per unit, consisting of 309,200 common shares and 154,600 warrants convertible into common shares at an exercise price of CAD\$2.70 until May 2, 2021. In connection with this transaction, the Company issued 20,000 advisory warrants convertible into common shares at an exercise price of CAD\$1.80 until May 2, 2021 and paid CAD\$29,944 in transaction costs.

On May 15, 2019, the Company issued 72,513 common share units at CAD\$1.80 per unit, consisting of 72,513 common shares and 36,256 warrants convertible into common shares at an exercise price of CAD\$2.70 until May 15, 2021. In connection with this transaction, the Company paid CAD\$29,944 in transaction costs.

All of the warrants convertible to common shares for these transactions are convertible into common shares at a 1:1 ratio. The warrants were valued using the Black-Scholes pricing model with the following inputs:

	<b>2019</b>
Risk-free interest rate	1.54% – 1.79%
Term [years]	2
Volatility	70%
Dividend yield	Nil
Warrant value	CAD\$0.38 – CAD\$0.57
Share price	CAD\$1.61
Exercise price	CAD\$1.80 – CAD\$2.70

**[c] Employee stock option plan**

The Company has an Employee Stock Option Plan [the "Plan"] that is administered by the Board of Directors of the Company who establishes exercise prices, at not less than market price at the date of grant, and expiry dates, which have been set at ten years from issuance. Options under the Plan remain exercisable in increments with 1/4 being exercisable on each of the first and second anniversary and 2/4 being exercisable on the third anniversary from the date of grant, except as otherwise approved by the Board of Directors. The maximum number of common shares reserved for issuance for options that may be granted under the Plan is 10% of the common shares outstanding, which amounts to 3,744,762 at December 31, 2019 [2018 — 3,327,165].

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**12. Share capital (cont.)**

The following is a summary of the changes in the Company's stock options:

	Number of options #	Weighted average exercise price CAD\$
Outstanding as at December 31, 2017	—	—
Granted	1,180,500	1.50
Forfeited	(110,000)	1.50
Outstanding as at December 31, 2018	1,070,500	1.50
Granted	888,500	1.80
Forfeited	(915,188)	1.60
Expired	(25,312)	1.50
<b>Outstanding as at December 31, 2019</b>	<b>1,018,500</b>	<b>1.67</b>

The Company recorded CAD\$381,617 [2018 — CAD\$260,970] in share-based compensation expense related to options, which are measured at the fair value at the date of grant and expensed over the option's vesting period.

In determining the amount of share-based compensation, the Company used the Black-Scholes option pricing model to establish the fair value of options granted during the years ended December 31, 2019 and 2018 by applying the following assumptions:

	2019	2018
Grant date share price	CAD\$ 1.61	CAD\$ 1.50
Exercise price	CAD\$ 1.80	CAD\$ 1.50
Expected dividend yield	—	—
Risk free interest rate	1.49% – 1.76%	1.46%
Expected life	10 years	10 years
Expected volatility	70%	70%

Expected volatility was estimated by using the historical volatility of other companies that the Company considers comparable that have trading and volatility history. The expected option life represents the period of time that options granted are expected to be outstanding. The risk-free interest rate is based on government bonds with a remaining term equal to the expected life of the options.

The following table is a summary of the Company's share options outstanding as at December 31, 2019:

Options outstanding			Options exercisable	
Exercise price CAD\$	Number outstanding #	Weighted average remaining contractual life [years] #	Exercise price CAD\$	Number exercisable #
1.50	445,500	8.58	1.50	125,438
1.80	573,000	9.44	1.80	—
1.67	1,018,500	9.06	1.50	125,438

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**12. Share capital (cont.)**

The following table is a summary of the Company's share options outstanding as at December 31, 2018:

Exercise price CAD\$	Options outstanding		Weighted average remaining contractual life [years]	Exercise price CAD\$	Options exercisable	
	Number outstanding #				Number exercisable #	
1.50	125,438	9.60	1.50	—		

**13. Income taxes**

A reconciliation of income taxes at statutory rates to actual income taxes are as follows:

	2019 CAD\$	2018 CAD\$
Loss before income taxes	(18,112,104)	(6,696,371)
Statutory federal and provincial tax rate	26.5%	26.5%
Income tax recovery at the statutory tax rate	(4,799,708)	(1,774,538)
Permanent differences	2,045,604	317,905
Reversal of temporary differences	576,641	—
Deferred income tax asset not recognized	2,086,144	1,456,633
Deferred income tax recovery	(91,320)	—

Deferred income tax assets have not been recognized in respect of tax losses, because it is not probable that future taxable profit will be available against which the Company can utilize the benefits therefrom.

The Company's deferred tax liability is the result of the origination and reversal of temporary differences and comprise the following:

	2019 CAD\$	2018 CAD\$
Deferred tax liability		
Intangible assets	348,368	439,688

As at December 31, 2019, The Company's estimated non-capital losses that can be applied against future taxable profit amount to CAD\$15,256,571. These non-capital losses expire in the years ended:

	CAD\$
2035	111,000
2036	469,000
2037	963,000
2038	5,496,728
2039	8,216,843
	<u>15,256,571</u>

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**14. Disaggregated revenue**

The Company derives its revenues from two main sources, software-as-a-service application (“SaaS”), and professional services revenue, which includes services such system integration and training, and process-change analysis. Subscription revenue related to the provision of SaaS is recognized ratably over the contract term as the service is delivered. Professional services revenue is recognized as services are rendered. Other revenue relates mainly to sale of hardware.

The following table represents disaggregation of revenue for the year ended December 31, 2019 and 2018:

	<b>2019</b>	<b>2018</b>
	<b>CAD\$</b>	<b>CAD\$</b>
Subscription revenues	<b>5,001,026</b>	2,402,140
Professional services	727,792	1,337,707
Other	<b>1,691,381</b>	2,697,029
Total	<b>7,420,199</b>	6,436,876

**15. Expenses by nature**

Components of general and administrative expenses, sales and marketing and research and development expenses for the year ended December 31, 2019 were as follows:

	<b>2019</b>	<b>2018</b>
	<b>CAD\$</b>	<b>CAD\$</b>
Salaries and wages	<b>5,422,757</b>	5,342,674
Professional fees [include outsourced software development]	<b>4,143,494</b>	2,444,456
Other	<b>811,510</b>	849,499
	<b>10,377,761</b>	8,636,629

The salaries and wages for research and development are presented net of CAD\$629,003 investment tax credit expected and CAD\$366,280 grant received for research and development activities conducted in 2019 [see note 4].

**16. Commitments and contingencies**

In the ordinary course of business, from time to time, the Company is involved in various claims related to operations, rights, commercial, employment or other claims. Although such matters cannot be predicted with certainty, management does not consider the Company’s exposure to these claims to be material to these financial statements.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**17. Acquisition of LCA**

On December 14, 2018, the Company completed the acquisition of Last Call Analytics Inc. [“LCA”], an alcohol and beverage data analytics company. The total consideration paid was CAD\$5,837,896, consisting of CAD\$2,236,110 in the Company’s common shares, valued at CAD\$1.61 per share, based on the fair value of the common shares at the date of acquisition, and CAD\$3,601,786 in promissory notes. The fair values of the assets acquired and liabilities assumed of the acquisition of LCA presented in the 2018 Annual Consolidated Financial Statements have been finalized and are as follows:

	<b>CAD\$</b>
Purchase price	<b>5,837,896</b>
<b>Assets acquired:</b>	
Net working capital	51,924
Cash acquired	24,236
Intangible assets	1,659,200
Goodwill	4,542,224
Deferred tax liability	(439,688)
<b>Total assets</b>	<b>5,837,896</b>

**18. Related party transactions**

Key management personnel are those persons having the authority and responsibility for planning, directing and controlling activities of the entity, directly or indirectly, including the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Technology Officer and equivalent, and Directors.

Compensation expense for the Company’s key management personnel are as follows:

	<b>2019 CAD\$</b>	<b>2018 CAD\$</b>
Salaries and benefits	<b>689,903</b>	624,347
Share-based compensation	<b>129,681</b>	90,625
	<b>819,584</b>	714,972

During the year ended December 31, 2019, the Company paid CAD\$9,341 (2018 – CAD\$nil) of legal fees on behalf of employees.

**19. Capital management**

Ample Organics is an early stage company that is dependent on raising further capital to fund its capital and operating expenses in excess of revenue until such time that it reaches cash break-even. The Company’s capital structure as at December 31, 2019 primarily consists of shareholders’ equity from common shares and warrants, preferred share liabilities from preferred shares and warrants for preferred shares, and short-term debt.

On December 18, 2019, the Company entered into a definitive agreement to be acquired by Akerna Corp. (“Akerna”) whereby Akerna will acquire all issued and outstanding shares of the Company for up to CAD\$60 million (US\$45 million) (the “Akerna Transaction”). The purchase consideration consists of CAD\$7.5 million in cash (US\$5.7 million) and 3,294,574 redeemable preferred shares of Akerna with a value of CAD\$42.5 million (US\$32.3 million) in Akerna shares on close, as well as contingent consideration of up to CAD\$10 million (US\$7.6 million) in deferred share-based consideration upon the Company’s achievement of certain revenue targets in 2020. The transaction is expected to close in mid-2020. The Company expects the Akerna Transaction to provide sufficient funding to meet its objectives stated above.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**19. Capital management (cont.)**

In the event that the Akerna Transaction does not close, the Company is dependent on raising further capital in the form of equity, debt, or instruments convertible into equity to fund its capital and operating expenses in excess of revenue until such time that it reaches cash break-even. While the Company raised CAD\$4,500,000 in gross proceeds for short-term debt and CAD\$7,516,750 in gross proceeds for common shares as well as warrants for common shares and preferred shares during the year ended December 31, 2019, there can be no assurance that the Company will be successful in raising additional funds in the future.

**20. Financial instruments and risk management**

**Credit risk**

Credit risk is the risk of financial loss to the Company if a customer or counterparty to a financial instrument fails to meet its contractual obligations and arises principally from deposits with banks and outstanding receivables. The Company trades only with recognized, creditworthy third parties. The Company performs credit checks for all customers who wish to trade on credit terms. As at December 31, 2019, no customers represented greater than 10% of the outstanding receivable balance [2018 — one customer represented 10%].

The Company does not hold any collateral as security, but mitigates this risk by dealing only with what management believes to be financially sound counterparties and, accordingly, does not anticipate significant loss for non-performance.

The aging of trade receivables is as follows:

	2019 CAD\$	2018 CAD\$
Current	625,969	1,373,663
1 to 30 days	206,074	57,777
30 to 60 days	22,130	9,369
> 60 days	137,487	114,824
<b>Total gross trade receivables</b>	<b>991,660</b>	<b>1,555,633</b>
Less allowance for doubtful accounts	70,953	22,348
<b>Total trade receivables, net</b>	<b>920,707</b>	<b>1,533,285</b>

**Liquidity risk**

Liquidity risk is the risk that the Company will not be able to meet its financial obligations as they become due. The Company's exposure to liquidity risk is dependent on the Company's ability to raise additional financing to meet its commitments and sustain operations. The Company mitigates liquidity risk through management of working capital, cash flows and the issuance of share capital.

The Company is obligated to the following contractual maturities of undiscounted cash flows:

	Carrying amount CAD\$	Contractual cash flows CAD\$	Year 1 CAD\$	Year 2 CAD\$	Year 3 CAD\$	Year 4 CAD\$	Year 5 CAD\$	Thereafter CAD\$
Trade and other payables	1,423,359	1,423,359	1,423,359	—	—	—	—	—
Lease liability	3,657,454	4,701,803	544,237	534,739	533,208	565,695	570,024	1,953,900
Short-term debt	4,746,189	5,048,503	5,048,503	—	—	—	—	—
	<b>9,827,002</b>	<b>11,173,665</b>	<b>7,016,099</b>	<b>534,739</b>	<b>533,208</b>	<b>565,695</b>	<b>570,024</b>	<b>1,953,900</b>

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**20. Financial instruments and risk management (cont.)**

**Market risk**

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk.

*Currency risk*

Currency risk is the risk to the Company's earnings that arise from fluctuations of foreign exchange rates. The Company is not exposed to foreign currency exchange risk as it has minimal financial instruments denominated in foreign currencies. Substantially all of the Company's transactions are in Canadian dollars, which is the Company's functional currency.

*Interest rate risk*

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Given that the Company holds short-term debt at fixed interest rates, it is not exposed to interest rate risk as at December 31, 2019.

*Other price risk*

Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices [other than those arising from interest rate risk or currency risk], whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market. The Company is not exposed to significant other price risks as at December 31, 2019.

**Fair values**

The carrying values of cash, trade and other receivables, other financial assets, trade and other payables, and short-term debt approximate their fair values due to the short-term nature of these items. The risk of material change in fair value is not considered to be significant due to a relatively short-term nature. The Company does not use derivative financial instruments to manage this risk.

Financial instruments recorded at fair value on the consolidated statement of financial position are classified using a fair value hierarchy that reflects the significance of the inputs used in making the measurements. The Company categorizes its fair value measurements according to a three-level hierarchy. The hierarchy prioritizes the inputs used by the Company's valuation techniques. A level is assigned to each fair value measurement based on the lowest level input significant to the fair value measurement in its entirety. The three levels of the fair value hierarchy are defined as follows:

- Level 1 — Unadjusted quoted prices as at the measurement date for identical assets or liabilities in active markets.
- Level 2 — Observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3 — Significant unobservable inputs that are supported by little or no market activity. The fair value hierarchy also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

**Ample Organics Inc.**  
**Notes to the consolidated financial statement**  
[Expressed in Canadian dollars, except share amounts]  
December 31, 2019

**20. Financial instruments and risk management (cont.)**

The fair value hierarchy requires the use of observable market inputs whenever such inputs exist. A financial instrument is classified to the lowest level of the hierarchy for which a significant input has been considered in measuring fair value.

The fair value hierarchy for the Company's financial instruments measured at fair value are as follows:

	<u>Level 1</u> <u>CAD\$</u>	<u>Level 2</u> <u>CAD\$</u>	<u>Level 3</u> <u>CAD\$</u>	<u>Total</u> <u>CAD\$</u>
<b>Preferred share liabilities including associated warrants</b>				
As at December 31, 2018	—	5,234,811	—	5,234,811
<b>As at December 31, 2019</b>	—	<b>13,636,522</b>	—	<b>13,636,522</b>

The fair values of the Company's preferred share liabilities as at December 31, 2019 was determined using the purchase price of the Akerna Transaction.

There were no transfers between fair value measurement hierarchy levels during the year ended December 31, 2019.

**21. Subsequent events**

**COVID-19**

Since December 31, 2019, the outbreak of the recent novel coronavirus (COVID-19) has resulted in governments worldwide enacting emergency measures to combat the spread of the virus. These measures, which include the implementation of travel bans, self-imposed quarantine periods and social distancing, have caused disruption to certain businesses globally; as a result, there could be a possibility of recession in the near future. While the impact of COVID-19 on the Company has been minimal to date, there is uncertainty around its duration and future business conditions. If the outbreak were to cause disruption to the Company's supply chain or its service capabilities in the future, it would have a negative impact on revenue, which could be material. In addition, any material negative impact on revenue would impact profitability, as well as liquidity and capital resources.

## AKERNA CORP.

## UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

The following unaudited pro forma condensed combined balance sheet as of March 31, 2020 and the unaudited pro forma condensed combined statements of operations for the year ended June 30, 2019 and nine months ended March 31, 2020, are based on the historical financial statements of Akerna Corp. (“Akerna”, “we”, “our”), Solo Sciences (“Solo”) and Ample Organics Inc. (“Ample”), after giving effect to the acquisition of Solo, the probable exercise of the Solo Option, the probable acquisition of Ample (collectively “the Acquisitions”) and after applying the assumptions and adjustments described in the accompanying notes to the unaudited pro forma condensed combined financial statements.

The unaudited pro forma condensed combined statements of operations for the year ended June 30, 2019 and nine months ended March 31, 2020 give effect to the Acquisitions as if they had occurred on July 1, 2018, the first day of the first year presented.

The unaudited pro forma condensed combined balance sheet as of March 31, 2020, gives effect to the acquisition of Ample and the exercise of the Solo Option as if they had occurred on March 31, 2020. The acquisition of Ample has not closed and we have not exercised the Solo Option.

The partial acquisition of Solo and the acquisition of Ample has been and will be accounted for pursuant to Financial Accounting Standards Board Accounting Standards Codification (“ASC”) 805, Business Combinations. The exercise of the Solo Option will also be accounted for pursuant to ASC 810, Consolidation. The total estimated consideration to be transferred, calculated as described in Note 1 to these unaudited pro forma condensed combined financial statements, is allocated to the net tangible assets and intangible assets of Ample acquired in connection with the acquisition, based on their estimated fair values as of the date of the acquisition, and the excess is allocated to goodwill. Akerna has made a preliminary allocation of the estimated purchase price to the tangible and intangible assets acquired and liabilities assumed. The acquisition accounting is dependent upon certain valuations and other studies that have yet to progress to a stage where there is sufficient information for a definitive measurement. We have made significant assumptions and estimates in determining the preliminary estimated purchase price and the preliminary allocation of the estimated purchase price in the unaudited pro forma condensed combined financial statements. These preliminary estimates and assumptions are subject to change during the estimated purchase price allocation period (generally one year from the acquisition date) as we finalize the valuations of the net intangible assets. The final valuations of identifiable intangible assets, fixed assets and deferred revenue and associated tax effects may change significantly from our preliminary estimates. Differences between these preliminary estimates and the final acquisition accounting could have a material impact on the accompanying unaudited pro forma condensed combined financial statements and the combined company’s future results of operations and financial position. Accordingly, the pro forma adjustments are preliminary and have been made solely for the purpose of providing unaudited pro forma condensed combined financial statements.

The historical consolidated financial information has been adjusted in the unaudited pro forma condensed combined financial statements to give effect to pro forma events that are (1) directly attributable to the acquisition; (2) factually supportable; and (3) with respect to the unaudited pro forma condensed combined statements of operations, expected to have a continuing impact on the combined results.

The unaudited pro forma condensed consolidated financial statements have been prepared by management for illustrative purposes only and are not necessarily indicative of the consolidated results of operations or financial position of Akerna that would have been reported had the Acquisitions been completed as of the dates presented and should not be taken as representative of the future consolidated results of operations or financial position of Akerna. The unaudited pro forma financial statements do not reflect any operating efficiencies and cost savings that Akerna may achieve, or any additional expenses that it may incur, with respect to the combined companies.

The unaudited pro forma condensed combined financial statements, including the notes thereto should be read in conjunction with:

- The accompanying notes to the unaudited pro forma condensed combined financial statements;
- Our audited consolidated financial statements and accompanying notes as of and for the year ended June 30, 2019 and 2018, included elsewhere in the Proxy;
- Our unaudited condensed consolidated interim financial statements as of and for the three and nine months ended March 31, 2020 and 2019, included elsewhere in this Proxy;
- Ample's unaudited condensed consolidated interim financial statements as of and for the three months ended March 31, 2020 and 2019, included elsewhere in this Proxy;
- Ample's audited consolidated financial statements as of and for the years ended December 31, 2019 and 2018, included elsewhere in this Proxy, and
- Solo's audited financial statements as of and for the years ended December 31, 2019 and 2018, included elsewhere in this Proxy.

On January 15, 2020, we closed on a stock purchase agreement with substantially all of the shareholders of Solo pursuant to which we acquired all right, title and interest in 80.40% of the issued and outstanding capital stock of Solo, calculated on a fully diluted basis. As a result of our investment, Solo became a controlled subsidiary and we commenced consolidation of Solo on January 15, 2020, the results of which are included in our March 31, 2020 unaudited condensed consolidated balance sheet.

We have the option to acquire the remaining 19.6% equity interest in Solo for either cash or Akerna shares in an amount dependent upon the market value of Akerna shares. This transaction would be accounted for as an equity transaction with the difference between the fair value of the consideration exchanged and the carrying value of the non-controlling interest recorded in additional paid in capital.

**UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET**  
As of March 31, 2020

	Historical		Ample (USD)	IFRS to US GAAP		Pro forma adjustments	Note 2	Pro forma combined
	Akerna Corp.	Ample (Note 1) CAD\$		Adjustments Note 2				
<b>ASSETS</b>								
<b>CURRENT ASSETS:</b>								
Cash	\$ 14,309,996	CAD 1,144,834	\$ 814,017	\$ —	\$ (5,332,765)	A	\$ 9,791,248	
Restricted cash	500,000	—	—	—	—		500,000	
Accounts receivable, net	1,324,051	1,553,158	1,104,350	—	—		2,428,401	
Inventory	—	26,810	19,063	—	—		19,063	
Prepaid expenses and other current assets	1,762,371	228,804	162,688	—	—		1,925,059	
Total current assets	17,896,418	2,953,606	2,100,118	—	(5,332,765)		14,663,771	
Property and equipment, net	65,582	1,896,538	1,348,505	—	—		1,414,087	
Goodwill	—	4,542,224	3,229,681	—	21,796,594	B	25,026,275	
Intangible assets, net	23,136,584	1,231,637	875,737	—	5,724,263	C	29,736,584	
Right of use asset	—	2,566,826	1,825,104	(1,825,104)	—	D	—	
Investments	250,000	—	—	—	—		250,000	
<b>TOTAL ASSETS</b>	<b>\$ 41,348,584</b>	<b>CAD 13,190,831</b>	<b>\$ 9,379,145</b>	<b>\$ (1,825,104)</b>	<b>\$ 22,188,092</b>		<b>\$ 71,090,717</b>	
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>								
<b>CURRENT LIABILITIES:</b>								
Accounts payable and accrued liabilities	\$ 4,025,199	CAD 1,498,116	\$ 1,065,213	\$ —	\$ —		\$ 5,090,412	
Short-term debt, current	—	5,779,432	4,109,380	—	—		4,109,380	
Lease liabilities	—	541,368	384,932	(384,932)	—	D	—	
Deferred revenue, current	743,317	501,940	356,897	—	—		1,100,214	
Total current liabilities	4,768,516	8,320,856	5,916,422	(384,932)	—		10,300,006	
Lease liabilities	—	3,035,642	2,158,449	(2,158,449)	—	D	—	
Preferred stock liabilities	—	13,758,104	9,782,497	—	(9,782,497)	E	—	
Deferred tax liabilities	—	326,384	232,071	—	—		232,071	
<b>TOTAL LIABILITIES</b>	<b>4,768,516</b>	<b>25,440,986</b>	<b>18,089,439</b>	<b>(2,543,381)</b>	<b>(9,782,497)</b>		<b>10,532,077</b>	
<b>STOCKHOLDERS' EQUITY:</b>								
Warrants	—	823,778	585,735	—	(585,735)	E	—	
Preferred stock	—	—	—	—	23,978,572	F	23,978,572	
Common stock	1,286	14,345,721	10,934,970	—	(10,934,970)	E	1,286	
Additional paid-in capital	69,916,857	777,274	592,670	—	4,169,588	E,G	74,679,115	
Accumulated other comprehensive loss	—	—	554,457	—	(554,457)	E	—	
Accumulated deficit	(38,100,333)	(28,196,928)	(21,378,126)	718,277	20,659,849	D,E	(38,100,333)	
<b>TOTAL STOCKHOLDERS' EQUITY</b>	<b>31,817,810</b>	<b>(12,250,155)</b>	<b>(8,710,294)</b>	<b>718,277</b>	<b>36,732,847</b>		<b>60,558,640</b>	
Noncontrolling interests in consolidated subsidiary	4,762,258	—	—	—	(4,762,258)	G	—	
<b>TOTAL EQUITY</b>	<b>36,580,068</b>	<b>(12,250,155)</b>	<b>(8,710,294)</b>	<b>718,277</b>	<b>31,970,589</b>		<b>60,558,640</b>	
<b>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>\$ 41,348,584</b>	<b>CAD 13,190,831</b>	<b>\$ 9,379,145</b>	<b>\$ (1,825,104)</b>	<b>\$ 22,188,092</b>		<b>\$ 71,090,717</b>	

See accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Information

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS  
FOR THE YEAR ENDED JUNE 30, 2019**

	<u>Historical</u>		<u>Pro forma adjustments</u>	<u>Note 3</u>	<u>Pro forma Combined</u>
	<u>Akerna Corp.</u>	<u>Solo</u>			
Net revenue:					
Software	\$ 8,256,492	\$ —	\$ —		\$ 8,256,492
Consulting	2,403,797	—	—		2,403,797
Other	259,496	14,770	—		274,266
Total net revenue	<u>10,919,785</u>	<u>14,770</u>	<u>—</u>		<u>10,934,555</u>
Cost of revenue	4,633,844	1,170	—		4,635,014
Gross profit	<u>6,285,941</u>	<u>13,600</u>	<u>—</u>		<u>6,299,541</u>
Operating expenses:					
Product development	5,565,097	7,787	—		5,572,884
Selling, general and administrative	13,136,522	1,038,017	778,597	A,B	14,953,136
Total operating expenses	<u>18,701,619</u>	<u>1,045,805</u>	<u>778,597</u>		<u>20,526,020</u>
Loss from operations	<u>(12,415,678)</u>	<u>(1,032,204)</u>	<u>(778,597)</u>		<u>(14,226,479)</u>
Interest income, net	91,239	1,146	—		92,385
Other income	17,892	—	—		17,892
Loss before provision for income taxes	<u>(12,306,547)</u>	<u>(1,031,058)</u>	<u>(778,597)</u>		<u>(14,116,202)</u>
Provision for income taxes	—	—	—		—
Net loss	<u>\$ (12,306,547)</u>	<u>\$ (1,031,058)</u>	<u>\$ (778,597)</u>		<u>\$ (14,116,202)</u>
Net loss per share					
Basic	<u>\$ (2.04)</u>				<u>\$ (1.60)</u>
Diluted	<u>\$ (2.04)</u>				<u>\$ (1.60)</u>
Shares used in computing loss per share:					
Basic	6,045,382		2,750,000	C	8,795,382
Diluted	6,045,382		2,750,000	C	8,795,382

See accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Information

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS  
FOR THE YEAR ENDED JUNE 30, 2019**

	<u>Historical</u>			<u>IFRS to US GAAP Adjustments</u>	<u>Pro forma adjustments</u>	<u>Note 3</u>	<u>Pro forma Combined</u>
	<u>Akerna Corp. with Solo acquisition</u>	<u>Ample (CAD\$)</u>	<u>Ample (USD)</u>				
Net revenue:							
Software	\$ 8,256,492	CAD 6,839,407	\$ 5,165,876	\$ —	\$ —		\$ 13,422,368
Consulting	2,403,797	—	—	—	—		2,403,797
Other	274,266	—	—	—	—		274,266
Total net revenue	<u>10,934,555</u>	<u>6,839,407</u>	<u>5,165,876</u>	<u>—</u>	<u>—</u>		<u>16,100,431</u>
Cost of revenue	4,635,014	4,249,276	3,209,523	—	—		7,844,537
Gross profit	<u>6,299,541</u>	<u>2,590,131</u>	<u>1,956,353</u>	<u>—</u>	<u>—</u>		<u>8,255,894</u>
Operating expenses:							
Product development	5,572,884	7,212,904	5,447,982	—	—		11,020,866
Sales, general and administrative	14,953,136	7,442,291	5,621,240	—	966,264	A,B	21,540,640
Loss on fair value of preferred share liabilities	—	4,631,453	3,498,185	—	(3,498,185)	C	—
Total operating expenses	<u>20,526,021</u>	<u>19,286,648</u>	<u>14,567,407</u>	<u>—</u>	<u>(2,531,921)</u>		<u>32,561,506</u>
Loss from operations	<u>(14,226,479)</u>	<u>(16,696,517)</u>	<u>(12,611,054)</u>	<u>—</u>	<u>—</u>		<u>(24,305,612)</u>
Interest income, net	92,385	—	—	—	—		92,385
Other income, net	17,892	—	—	—	—		17,892
Loss before provision for income taxes	<u>(14,116,202)</u>	<u>(16,696,517)</u>	<u>(12,611,054)</u>	<u>—</u>	<u>2,531,921</u>		<u>(24,195,335)</u>
Provision for income taxes	—	—	—	—	—		—
Net loss	<u>\$ (14,116,202)</u>	<u>CAD(16,696,517)</u>	<u>\$ (12,611,054)</u>	<u>\$ —</u>	<u>\$ 2,531,921</u>		<u>\$ (24,195,335)</u>
Net loss per share:							
Basic	<u>\$ (1.60)</u>						<u>\$ (2.75)</u>
Diluted	<u>\$ (1.60)</u>						<u>\$ (2.75)</u>
Shares used in computing earnings per share:							
Basic	8,795,382						8,795,382
Diluted	8,795,382						8,795,382

See accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Information

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS  
FOR THE NINE MONTHS ENDED MARCH 31, 2020**

	<u>Historical</u>		<u>Pro forma adjustments</u>	<u>Note 4</u>	<u>Pro forma Combined</u>
	<u>Akerna Corp.</u>	<u>Solo</u>			
Net revenue:					
Software	\$ 7,148,964	\$ —	\$ —		\$ 7,148,964
Consulting	2,248,947	—	—		2,248,947
Other	171,727	90,000	—		261,727
Total net revenue	<u>9,569,638</u>	<u>90,000</u>	<u>—</u>		<u>9,659,638</u>
Cost of revenue	4,457,110	3,064	—		4,460,174
Gross profit	<u>5,112,528</u>	<u>86,936</u>	<u>—</u>		<u>5,199,464</u>
Operating expenses:					
Product development	4,024,743	57,195	—		4,081,938
Sales, general and administrative	13,881,055	2,495,011	(1,115,720)	A,B,C	15,260,346
Total operating expenses	<u>17,905,798</u>	<u>2,552,206</u>	<u>(1,115,720)</u>		<u>19,342,284</u>
Loss from operations	<u>(12,793,270)</u>	<u>(2,465,270)</u>	<u>1,115,720</u>		<u>(14,142,820)</u>
Gain on sale of business	—	—	—		—
Interest income, net	158,762	3,785	—		162,547
Other expense, net	(254)	—	—		(254)
Loss before provision for income taxes	<u>(12,634,762)</u>	<u>(2,461,485)</u>	<u>1,115,720</u>		<u>(13,980,527)</u>
Provision for income taxes	—	—	—		—
Net loss	<u>(12,634,762)</u>	<u>(2,461,485)</u>	<u>1,115,720</u>		<u>(13,980,527)</u>
Net loss attributable to noncontrolling interests in subsidiary	101,175	—	(101,175)	D	—
Net loss attributable to Akerna stockholders	<u>\$ (12,533,587)</u>	<u>\$ (2,461,485)</u>	<u>\$ 1,014,545</u>		<u>\$ (13,980,527)</u>
Net loss per share:					
Basic	<u>\$ (1.11)</u>				<u>\$ (0.99)</u>
Diluted	<u>\$ (1.11)</u>				<u>\$ (0.99)</u>
Shares used in computing earnings per share:					
Basic	11,299,997		2,750,000	E	14,049,997
Diluted	11,299,997		2,750,000	E	14,049,997

**See accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Information**

**UNAUDITED PRO FORMA CONDENSED COMBINED STATEMENT OF OPERATIONS  
FOR THE NINE MONTHS ENDED MARCH 31, 2020**

	<u>Historical</u>			<u>IFRS to US GAAP Adjustments</u>	<u>Pro forma adjustments</u>	<u>Note 3</u>	<u>Pro forma Combined</u>
	<u>Akerna Corp. with Solo Acquisition</u>	<u>Ample (CAD\$)</u>	<u>Ample (USD)</u>				
Net revenue:							
Software	\$ 7,148,964	CAD 5,780,957	\$ 4,353,490	\$ —	\$ —		\$ 11,502,454
Consulting	2,248,947	—	—	—	—		2,248,947
Other	261,727	—	—	—	—		261,727
Total net revenue	<u>9,659,638</u>	<u>5,780,957</u>	<u>4,353,490</u>	<u>—</u>	<u>—</u>		<u>14,013,128</u>
Cost of revenue	4,460,174	2,771,134	2,086,870	—	—		6,547,044
Gross profit	5,199,464	3,009,823	2,266,620	—	—		7,466,084
Operating expenses:							
Product development	4,081,938	1,929,286	1,452,896	—	—		5,534,834
Sales, general and administrative	15,260,346	6,060,879	4,564,292	—	(267,864)	A,B,D	19,556,774
Loss on fair value of preferred share liabilities	—	3,855,453	2,903,442	—	(2,903,442)	C	—
Total operating expenses	<u>19,342,284</u>	<u>11,845,618</u>	<u>8,920,630</u>	<u>—</u>	<u>(3,171,306)</u>		<u>25,091,608</u>
Loss from operations	(14,142,820)	(8,835,795)	(6,654,010)	—	3,171,306		(17,625,524)
Interest income, net	162,547	—	—	—	—		162,547
Other expense, net	(254)	(25,000)	(18,827)	—	—		(19,081)
Loss before provision for income taxes	(13,980,527)	(8,860,795)	(6,672,837)	—	3,171,306		(17,482,058)
Provision for income taxes	—	21,984	16,556	—	—		16,556
Net loss	<u>\$ (13,980,527)</u>	<u>CAD (8,838,811)</u>	<u>\$ (6,656,281)</u>	<u>\$ —</u>	<u>\$ 3,171,306</u>		<u>\$ (17,465,502)</u>
Net loss per share:							
Basic	<u>\$ (0.99)</u>						<u>\$ (1.24)</u>
Diluted	<u>\$ (0.99)</u>						<u>\$ (1.24)</u>
Shares used in computing earnings per share:							
Basic	14,049,997						14,049,997
Diluted	14,049,997						14,049,997

See accompanying Notes to Unaudited Pro Forma Condensed Combined Financial Information

## Note 1: Basis of Pro Forma Presentation

### Accounting Periods Presented — Ample, Solo

The unaudited pro forma condensed combined balance sheet as of March 31, 2020, is presented as if the Ample acquisition had occurred and the Solo Option had been exercised on March 31, 2020. Certain pro forma adjustments to record differences between historical book values and preliminary values as of the date of the pro forma condensed combined financial statements are based on the assumption that the acquisition occurred on March 31, 2020. The actual adjustments to be recorded in Akerna's consolidated financial statements will be as of the acquisition date and the option exercise date, respectively.

The unaudited pro forma condensed combined statements of operations of Akerna, Solo and Ample for the year ended June 30, 2019 and the nine months ended on March 31, 2020, are presented as if the Acquisitions had taken place on July 1, 2018.

### Preliminary Purchase Consideration — Ample

On December 18, 2019, we entered into an arrangement agreement (the "Agreement") to acquire all of the issued and outstanding shares of Ample. Under the terms of the Agreement, the aggregate consideration for the Ample shares consists of (1) CAD\$7,500,000 in cash, (2) 3,294,574 redeemable preferred shares of a wholly-owned subsidiary of Akerna, which are exchangeable for shares of common stock, par value \$0.0001 per share, of Akerna on a 1:1 basis ("Exchangeable Shares") as determined in accordance with the Agreement and (3) contingent value rights to be issued pursuant to a rights indenture entitling the holders thereof to receive, subject to certain adjustments as set forth in the Agreement, an aggregate of up to CAD\$10,000,000 in redeemable preferred shares ("Exchangeable Shares"), in the event that Ample achieves certain revenue targets as specified in the Agreement. These rights are accounted for as contingent consideration that will be recorded at fair value when the acquisition closes.

	<u>(in thousands)</u>
Cash	\$ 5,333
Redeemable preferred shares	16,868
Exchangeable shares contingent value rights	7,110
Total purchase consideration	<u>\$ 29,311</u>

### Preliminary Purchase Consideration Allocation

The following represents the preliminary allocation of the fair value of the purchase consideration to the acquired assets and assumed liabilities based on Ample's balance sheet as of March 31, 2020 and is for illustrative purposes only.

	<u>(in thousands)</u>
Net tangible assets	\$ (2,436)
Intangible assets:	
Developed technology	6,000
Customer relationships	600
Goodwill	25,147
Total purchase consideration	<u>\$ 29,311</u>

Goodwill of approximately \$25.1 million represents the excess of the purchase consideration over the fair value of the net tangible and intangible assets acquired. Goodwill is primarily attributable to expected post-acquisition synergies from integrating Ample's industry-leading seed-to-sale platform into Akerna's supply chain solutions. None of the goodwill recorded as part of the Ample acquisition will be deductible for U.S. federal income tax purposes.

The following table sets forth the components of identifiable intangible assets acquired and their preliminary estimated useful lives as of the date of acquisition (in thousands):

<b>Intangible assets:</b>	<b>Preliminary Fair Value</b>	<b>Estimated Useful Life (in years)</b>
Trade names	\$ 6,000	5
Developed technology	600	5
<b>Total</b>	<b>\$ 6,600</b>	

These preliminary estimates of fair value and their preliminary estimated useful lives will likely be different from the amounts included in the acquisition accounting upon the close of the acquisition and the difference could have a material impact on the accompanying unaudited pro forma combined condensed financial statements. Once Akerna has full access to information about Ample's intangible assets, additional insight will be gained that could impact (i) the estimated total value assigned to identifiable intangible assets (ii) the estimated weighted average useful life of each category of intangible asset (iii) the value of fixed assets (iv) the value of deferred revenue and (v) the value of deferred tax liabilities associated with purchase accounting adjustments. The estimated intangible asset values and their useful lives could be impacted by a variety of factors that may become known to Akerna only upon access to additional information or by changes in such factors that may occur prior to completion of the offer and the merger. These factors include, but are not limited to, historical information obtained from Ample, discussions with management and product roadmap. Increased knowledge about these or other elements could result in a change to the estimated fair value of the identifiable intangible assets or to the estimated weighted average useful lives from what Akerna has assumed in these unaudited pro forma combined condensed financial statements. The combined effect of any such changes could then also result in a significant increase or decrease to Akerna's estimate of associated amortization expense.

Prior to the acquisition, Ample had a net deferred tax liability and expects they will continue to be in a net deferred tax liability position, after adjustments for estimated preliminary deferred tax liability related to estimated purchase accounting adjustments and the net deferred tax asset is subject to a full valuation allowance. Therefore, the combined U.S. and international deferred tax asset position is expected to remain unchanged. As such, the unaudited pro forma condensed combined financial information does not include adjustments for tax-related items.

#### *Accounting Policies — Ample*

We did not adopt new accounting standards for revenue or leases in the year ended June 30, 2019, and as an emerging growth company, we have elected to implement the disclosure requirements of the new revenue standard in our annual financial statements for the fiscal year ending June 30, 2021. We have elected to adopt the new leasing standard in our annual financial statements for the fiscal year ended June 30, 2022. Ample, as a Canadian company, has adopted these standards. We have reflected adjustments to remove the material differences between the new standards and the standards applied in our financial statements in the column "IFRS to US GAAP Adjustments" as described in Note 2.

#### *The Solo Option*

The Solo Option may be paid, at the sole option of Akerna, in either cash or shares of Akerna's common stock the amount of which is dependent upon the market value of Akerna Shares. When the Solo Option is exercised, it will be accounted as an equity transaction with the difference between the fair value of the consideration exchanged and the carrying value of the non-controlling interest recorded in additional paid in capital. Because Akerna Shares were trading at a weighted average 20 day trading value ending March 31, 2020 of \$5.19 per share, we calculated number of shares resulting for the exercise of the Solo Option as difference in the number of shares valued at \$20,000,000 at \$5.19 per share, or 3.9 million shares, and 1,950,000 Akerna Shares, which were issued to Solo shareholders in exchange for the initial 80.4% equity interest.

If the option had been exercised on March 31, 2020, Akerna would have issued an additional 1.9 million shares to the Solo Shareholders. Changes in trading price of the Akerna common shares could have a material effect on the number of shares ultimately issued.

**Note 2: Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheets**

The pro forma adjustments and IFRS to GAAP adjustments included in the unaudited pro forma condensed combined balance sheet for the acquisition of Ample are as follows:

- A. To record the estimated cash portion of the purchase consideration of \$5.3 million funded from cash and cash equivalents, valued using exchange rate in effect on March 31, 2020. Changes in the exchange rate in effect on the closing date could have a material effect on the value of the consideration that we ultimately record.
- B. To record estimated preliminary goodwill from acquisition of \$25.1 million reduced by goodwill from prior acquisitions of \$3.2 million.
- C. To record the estimated preliminary fair value of identifiable intangible assets of \$6.6 million reduced by the book value of intangible assets of \$876,000 prior to the acquisition.
- D. To eliminate the accounting under the new lease accounting standard to conform to Akerna's accounting principles.
- E. To record purchase accounting adjustments by eliminating preferred stock liabilities, historical equity, accumulated deficit, paid in capital and accumulated other comprehensive loss from the impact of foreign exchange.
- F. To record estimated consideration of the preferred shares and the Exchangeable Shares contingent value rights of \$24.0 million valued based on the closing price of an Akerna common share and the exchange rate in effect on March 31, 2020. Changes in either the value of an Akerna common share or exchange rates on the closing date could have a material effect on the value of the aggregate consideration that we ultimately record.
- G. To record the elimination of noncontrolling interest included in the condensed consolidated balance sheet of \$4.8 million for the exercise of the Solo Option.

**Note 3: Adjustments to Unaudited Pro Forma Condensed Combined Statements of Operations for the year ended June 30, 2019**

The pro forma adjustments included in the unaudited pro forma condensed combined statement of operations for the acquisition of Solo are as follows:

- A. To reflect \$996,000 amortization expense of preliminarily estimated purchased intangible assets.
- B. To reduce stock-based compensation of \$217,403, due to accelerated vesting of Solo restricted stock and settlement of options in connection with the Acquisition.
- C. To reflect the issuance of shares for the partial acquisition of Solo and to reflect the estimated number of shares that would have been issued in connection with the exercise of the Solo Option as if it had occurred as if these transactions had occurred on July 1, 2018. Because Akerna shares were not traded on July 1, 2018, the estimated number of shares that would have been issued in connection with the Solo Option was 800,000.

The pro forma adjustments included in the unaudited pro forma condensed combined statement of operations for the acquisition of Ample adjust the condensed combined pro forma financial statement of operations for Akerna and Solo as described above. The adjustments related to the Ample acquisition are as follows:

- A. To record amortization of \$1.3 million due to purchased intangibles as part of acquisition.
- B. To reduce stock-based compensation of \$354,000, due to settlement of options in connection with the acquisition.
- C. To remove the effect of remeasurement of \$3.5 million for preference shares as the preference shares will be settled in connection with the acquisition.

The pro forma basic and diluted net loss per share are based on 8,795,382 shares common stock. Dilutive potential common shares, including the redeemable preference shares and Exchangeable Shares expected to be issued in the Ample acquisition, are included only if they have a dilutive effect on earnings per share. No adjustment has been made for assumed equity awards or the Exchangeable Shares in the computation of pro forma combined diluted net loss per share because their effect would be anti-dilutive.

**Note 4: Adjustments to Unaudited Pro Forma Condensed Combined Statements of Operations for the nine months ended March 31, 2020**

The pro forma adjustments included in the unaudited pro forma condensed combined statement of operations for the acquisition of Solo are as follows:

- A. To reflect \$747,000 of amortization expense of preliminarily estimated purchased intangible assets.
- B. To reduce stock-based compensation of \$1.6 million due to accelerated vesting of Solo's restricted stock and settlement of options in connection with the acquisition.
- C. To remove \$0.3 million of nonrecurring transaction costs.
- D. To remove allocation of net loss to noncontrolling interests in Solo, which would not have been recorded had the Solo Option been exercised on July 1, 2018.
- E. To reflect the issuance of shares for the partial acquisition of Solo and to reflect the estimated number of shares that would have been issued in connection with the exercise of the Solo Option as if it had occurred as if these transactions had occurred on July 1, 2018. Because Akerna shares were not traded on July 1, 2018, the estimated number of shares that would have been issued in connection with the Solo Option was 800,000.

The pro forma adjustments included in the unaudited pro forma condensed combined statement of operations for the acquisition of Ample adjust the condensed combined pro forma financial statement of operations for Akerna and Solo as described above. The adjustments related to the Ample acquisition are as follows:

- A. To reflect \$990,000 of amortization expense of preliminary estimated purchased intangible assets.
- B. To reduce stock-based compensation of \$258,000, due to settlement of options in connection with the acquisition.
- C. To remove the effect of remeasurement of preference shares of \$2.9 million as the preference shares will be settled in connection with the acquisition.
- D. To remove \$1.0 million of nonrecurring transaction costs.

The pro forma combined basic and diluted net loss per share are based on 14,049,997 shares common stock. Dilutive potential common shares, including the redeemable preferred shares and the Exchangeable Shares expected to be issued as consideration for the Ample acquisition, are included only if they have a dilutive effect on earnings per share. No adjustment has been made for assumed equity awards or the Exchangeable Shares in the computation of pro forma combined diluted net loss per share because their effect would be anti-dilutive.

## Akerna Completes Acquisition of Ample Organics

**DENVER, July 8, 2020** -- Akerna Corp. (Nasdaq: KERN), a leading provider of enterprise software solutions for the cannabis industry and developer of the cannabis industry's first seed-to-sale enterprise resource planning (ERP) software technology (MJ Platform®), is pleased to announce it has completed its acquisition of Ample Organics Inc., Canada's industry-leading seed-to-sale platform with a majority market share.

"After working closely with John and the team at Ample over the last six months finalizing our integration and go to market strategies, I could not be more confident in the merits of the transaction and associated synergies," said Jessica Billingsley, chief executive officer, Akerna. "The cannabis economy runs on Akerna. The close of our acquisition of Ample Organics solidifies our position as the scaled global technology provider serving the industry."

This combination provides Akerna with a significant advantage as the company leverages its pre-eminent global technology platform, addressing the entire supply chain and its regulatory bodies through accountability and transparency. With this acquisition, Akerna is further executing on its business strategy of complementing strong organic growth with select acquisitions of highly targeted and synergistic technology companies.

"Today marks a significant milestone for Ample Organics," commented John Prentice, chief executive officer of Ample. "We are thrilled to be joining forces with Akerna to create the only true provider of technology solutions for the cannabis sector across North America."

Under the terms of the transaction, Ample Organics was acquired for CAD\$7.5 million in cash and approximately 3.3 million shares exchangeable into an equivalent number of Akerna common stock.

Cowen acted as exclusive financial advisor to Akerna, and INFOR Financial Inc. acted as exclusive financial advisor to Ample Organics.

All numbers are based on currency exchange rates as of Dec. 17, 2019.

### About Akerna

Akerna is a global regulatory compliance technology company in the cannabis space. Akerna's service offerings include MJ Platform®, Leaf Data Systems®, solo sciences, Trellis and Ample Organics. Since its establishment in 2010, the company has tracked more than \$18 billion in cannabis sales. Akerna is based in Denver.

### Forward-Looking Statements

Certain statements made in this release and in any accompanying statements by management are "forward-looking statements" within the meaning of the "safe harbor" provisions of the United States Private Securities Litigation Reform Act of 1995. When used in this press release, the words "estimates," "projected," "expects," "anticipates," "forecasts," "plans," "intends," "believes," "seeks," "may," "will," "should," "future," "propose" and variations of these words or similar expressions (or the negative versions of such words or expressions) are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance, conditions or results, and involve a number of significant known and unknown risks, uncertainties, assumptions, and other important factors, many of which are outside Akerna's control, that could cause actual results or outcomes (including, without limitation, the results of Akerna's contracts, strategic initiatives, and business plans as described herein) to differ materially from those discussed in the forward-looking statements. Important factors, among others that may affect actual results or outcomes, include (i) Akerna's ability to recognize the anticipated benefits of being a public company, (ii) competition, (iii) Akerna's ability to grow and manage growth profitably, (iv) Akerna's ability to maintain relationships with customers and suppliers and retain its management and key employees, (v) costs related to being a public company, (vi) changes in applicable laws or regulations, (vii) Akerna's ability to identify and integrate acquisitions and achieve expected synergies and operating efficiencies in connection with acquired businesses, (viii) and other risks and uncertainties disclosed from time to time in Akerna's filings with the U.S. Securities and Exchange Commission, including those under "Risk Factors" therein. Actual results, performance, or achievements may differ materially, and potentially adversely, from any projections and forward-looking statements and the assumptions on which those vary from forward-looking statements are based. There can be no assurance that the data contained herein is reflective of future performance to any degree. You are cautioned not to place undue reliance on forward-looking statements as a predictor of future performance as projected financial and other information, are based on estimates and assumptions that are inherently subject to various significant risks, uncertainties and other factors, many of which are beyond Akerna's control. All information herein speaks only as of the date hereof, in the case of information about Akerna, or the date of such information, in the case of information from persons other than Akerna. Akerna undertakes no duty to update or revise the information contained herein. Forecasts and estimates regarding Akerna's industry and end markets are based on sources believed to be reliable; however, there can be no assurance these forecasts and estimates will prove accurate in whole or in part.

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