

THIS AGREEMENT made the day of 2024

BETWEEN:

BRONZE TRAIL LIMITED having its registered office at Summerhill House, Summerhill, Mallow, Co Cork (hereinafter called "the Vendor")

of the First Part

AND

WESTLANCE HOLDING LTD having its registered office at Fitzgerald Power, Greyfriars, Waterford (hereinafter called "the Purchaser")

of the Second Part

AND

GARVAN LYNCH of 4 Beaumont Place, Ballintemple Village, Blackrock Road, Cork, T12 WY9R (hereinafter called "Garvan Lynch")

of the Third Part

WHEREAS:-

- A. The Vendor has been carrying on the business as a pharmacy.
- B. It has been agreed between the Vendor and the Purchaser that the Vendor shall sell and the Purchaser shall purchase certain of the business assets of the Vendor hereinafter specified for the consideration hereafter appearing.

NOW IT IS HEREBY AGREED as follows:-

SECTION 1.00 – INTERPRETATION

1.01 Definitions

In this Agreement and in the Schedules hereto the following expressions shall have the meanings following:-

"the Assets"

the interest of the Vendor in the Goodwill, the Intellectual Property, the Records, the Stock, the Equipment and the Consumables, together with all rights of the Vendor in relation thereto and the benefit of all or any of its claims or rights of action against

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| | third parties in relation thereto whether past, present or future or whether contractual or otherwise (so far as the same can lawfully be assigned or transferred or held in trust for the Purchaser); |
| "the Business" | pharmacy; |
| "Completion" | completion of the purchase/sale provided for herein; |
| "the Consumables" | all purchased items of the Vendor other than the Stock |
| "the Effective Date" | |
| "the Employees" | All of the persons who are at the Effective Date employed by the Vendor for the purpose of carrying on the Business. |
| "the Equipment" | all equipment used in carrying on the business of the Vendor which shall be in the possession or control of the Vendor as at the Effective Date including but not limited to the equipment and machinery specified in the First Schedule; |
| "the Goodwill" | the goodwill of the Business as carried on by the Vendor. |
| "the Intellectual Property" | the trade marks, patents, business names, designs, know how and licences of any kind in which the Vendor has an interest and any other intellectual property of the Vendor relating to the Business; |
| "the Name" | Lynch's Pharmacy |

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| "the Records" | all books, documents, files, tapes, correspondence and other records related or referring to the Assets or any of them or to the Business; |
| "the Stock" | all the stocks of raw materials, work in progress and finished goods owned on the Effective Date by the Vendor for the purpose of the Business, together with the benefit of all contracts entered into by the Vendor in the course of the Business; |

1.02 Further Definitions

- (a) any reference to a document being "in the approved forms" shall mean that such document shall be in a form approved by each of the parties hereto and for the purpose of identification signed or initialled by or on behalf of the parties hereto on or prior to the date hereof.
- (b) any reference to any provision of any legislation shall include any modification, re-enactment or extension thereof.
- (c) Words such as "hereunder", "hereto", "hereof", and "herein" and other words commencing with "here" shall unless the context clearly indicates to the contrary refer to the whole of this Agreement and not to any particular Section or Clause thereof.
- (d) Save as otherwise provided herein, any reference to a Section, Clause, paragraph or sub-paragraph shall be a reference to a Section, Clause, paragraph or sub-paragraph (as the case may be) of this Agreement and any reference in a Clause to a paragraph or sub-paragraph shall be a reference to a paragraph or sub-paragraph of the Clause or paragraph in which the reference is contained unless it appears from the context that a reference to some other provision is intended.
- (e) The masculine gender shall include the feminine and neuter and the singular number shall include the plural and vice versa and words importing persons shall include firms or companies.

1.03 Headings and Captions

The Section headings and captions to the Clauses in this Agreement are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of this Agreement.

SECTION 2.00 - CONDITIONS PRECEDENT TO COMPLETION

2.01 Conditions Precedent to Completion

Notwithstanding any other provision hereof but subject to Clause 2.02 the obligations of the Purchaser to complete shall be conditional on the following:-

- (a) no material part of the Assets shall have been destroyed or substantially damaged by fire or other hazard;
- (b) there shall not have been instituted or threatened any material legal proceedings seeking to prohibit the consummation of the transaction contemplated by this Agreement (or any agreement relating thereto) in accordance with its terms or to other damages with respect thereto.
- (c) the Purchaser shall have been afforded before Completion such access as it may reasonably require to the books of account, management accounts and records of the Vendor in relation to the Business;-
- (d) it shall have been established to the reasonable satisfaction of the Purchaser that the Vendor has a good and marketable title to all of the assets,
- (e) there shall not have been any sale of the Stock or any part thereof except at full price or in the ordinary course of business of the Vendor;
- (f) the Vendor shall not have employed any person other than the Employees;
- (g) the Vendor shall have complied with the requirements set out in the provisions of the European Communities (Safeguarding of Employees Rights on Transfer of Undertakings) Regulations, Statutory Instrument No. 306 of 1980 (and any amendments thereof) as to provision of information to and consultations with the Employees/representatives of the Employees in relation to the sale and purchase herein and the transfer to the Purchaser of the Contracts of Employment of the Employees.
- (h) there has been no breach of any of the representations and warranties contained in this Agreement or in the Schedules hereto;
- (i) carry on the business as normal;

2.02 Consequences of Non Compliance

If any of the conditions set out in Clause 2.01 hereof have not been fulfilled or waived by the Purchaser on or prior to the date of Completion, then this Agreement and all the provisions thereof shall forthwith lapse and be of no further effect.

SECTION 3.00 - TERMS OF THE PURCHASE AND SALE

3.01 Purchase and Sale

The Vendor shall sell and the Purchaser shall purchase the Assets free from all liens, charges and encumbrances with effect from the close of business on the Effective Date for the consideration stated in Section 4.00 hereof and otherwise upon the terms set out in this Agreement.

3.02 The Employees

The Purchaser shall employ each of the Employees in the Business as and from the Effective Date on terms and conditions which will not differ substantially from the corresponding provisions of the Contracts of the Employees in force immediately prior to the Effective Date in relation to their employment with the Vendor.

3.03 Expenses and Liabilities

- (a) The Vendor shall remain liable for all claims by third parties in respect of any services supplied by or any act or omission of the Vendor prior to the Effective Date arising out of or relating to the Business, even though the defect, damage or other circumstances giving rise to such claims may not become apparent until after the Effective Date.
- (b) The Vendor hereby indemnifies and agrees to keep indemnified the Purchaser from and against all actions, claims, costs, damages and proceedings by third parties in respect of the services, acts or omissions of the Vendor prior to the Effective Date arising out of or relating to the Business.
- (c) The Purchaser hereby indemnifies and agrees to keep indemnified the Vendor from and against all actions, claims, costs, damages and proceedings by third parties in respect of the services, acts or omissions of the Purchaser after the Effective Date arising out of or relating to the Business.
- (d) To the extent that the Purchaser undertakes the completion of a task or service which was commenced by the Vendor prior to the Effective Date, the Purchaser

shall be deemed to have satisfied itself that the task was undertaken and/or service was provided by the Vendor in an acceptable manner and/or the Purchaser shall be responsible for addressing/remedying any shortcomings or defects in the work undertaken by the Vendor in respect of this task/service prior to the Effective Date. The Purchaser hereby indemnifies and agrees to keep indemnified the Vendor from and against all actions, claims, costs, damages and proceedings by third parties in respect of the undertaking of any such task or provision of any such services by the Vendor arising out of or relating to the Business.

- (e) In case of any third party claims subject to indemnification as referred to above, each party shall promptly and fully notify the other of such actions, claims, costs, damages and proceedings threatened or taken by third parties and the indemnified party shall at the request and expense of the indemnifying party do all such things as may be reasonably required by the indemnifying party to take or resist any proceedings or assist or cooperate in any matter whatsoever in relation to any such action or claim.

3.04 Apportionment of Outgoings

- (a) All outgoings or charges relating to or payable in respect of the Assets or the Business (including but not limited to rates, gas, water, electricity and telephone charges, lease payments, insurance charges) up to the Effective Date shall be borne by the Vendor and as and from the Effective Date shall be borne by the Purchaser.
- (b) All rent, royalties and other periodical payments receivable in respect of the Assets or the Business (if any) up to the Effective Date shall belong to and be payable to the Vendor and as and from the Effective Date shall belong to and be payable to the Purchaser.
- (c) All such outgoings and payments receivable shall, where necessary, be apportioned accordingly on the Effective Date and the purchase consideration adjusted accordingly.

3.05 Contracts

The Purchaser shall assume responsibility for and/or accept an assignment of all contracts entered into by the Vendor in relation to the Business including (but not exclusively) any software licences (subject to the licensors consent to assignment, if applicable) and supply contracts. Relevant accounts will be transferred into the name of the Purchaser on or as soon as possible after the Effective Date.

3.06 Business Name

The Purchaser shall have the right to use the Name together with any variation thereof or any mark or device associated therewith as and from the Effective Date.

SECTION 4.00 - CONSIDERATION

4.01 Consideration

The consideration payable for the purchase of the Assets shall consist of:-

- (a) A payment of €350,000 payable on the Effective Date less any payments made by the Purchaser on behalf of the Vendor prior to Completion in relation to the Business (which payments have been agreed at €188,364 giving rise to a net amount payable at completion of €161,636).
- (b) A further payment of €200,000 within 8 months of the Effective Date subject to the Business achieving a minimum EBITDA of €60,000 within the first six months after the Effective Date
- (c) Subject to the deduction provided for in sub paragraph (e) below, a further payment of €200,000 within 14 months subject to the Business achieving a minimum EBITDA of €155,000 within the first twelve months after the Effective Date
- (d) A payment in respect of the Stock shall be made to the Vendor at Completion totalling €92,911 by reference to the stocktake dated 7th September 2024. The Stock shall be valued at cost by ABC Stocktaking Services Ltd (as an independent stock taker). Generic dispensary stocks shall be valued at the IPU List Price less a discount of 65%. Parallel Imported dispensary stock shall be valued at the IPU List Price less a discount of 22% and all other dispensary stock shall be valued at cost less a discount of 11%. Over the counter medicine stock will be valued at cost less 25%. Out of date, unsaleable (damaged) stock shall be excluded from the stock take. Dispensary stocks within four months of expiry shall be excluded from the stock take. The cost of the stock take shall be paid 50% by the Vendor and 50% by the Purchaser. The Vendor and / or the Purchaser can attend the stock take should they so wish.
- (e) The Purchaser shall deduct from the payment made pursuant to Clause 4.01 (c) above an amount of €1,900 in respect of costs incurred by the Purchaser post completion in replacing / upgrading pharmacy equipment (relating to replacement of refrigerator and construction of wheelchair ramp) to bring to an acceptable standard.

4.02 Warranties

The Vendor hereby warrants to the Purchaser that in respect of the Employees and each item of the Assets:-

- (a) Each Asset is and at the Effective Date and at Completion shall be the property of the Vendor;
- (b) save as aforesaid the same is not and neither at Completion nor at the Effective Date shall be subject to any charge, lien, bill of sale, hire purchase agreement, leasing agreement or any other encumbrance whatsoever;
- (c) the same is and will at Completion be held in possession by the Vendor and having regard to its age and normal usage is or will be at completion in good working order and condition and in a condition no worse than that which would reasonably be expected in a trade or business such as that of the Business and the condition in which it was when inspected and accepted by the Purchaser prior to the date hereof (fair wear and tear excepted);
- (d) there exists no material fact or circumstance relevant to the Assets of the Employees which should have been and has not been disclosed to the Purchaser or which would render any of the information given by or on behalf of the Vendor to the Purchaser during the negotiations leading to this Agreement untrue or misleading in any material respect or which might, if disclosed, affect the decision of a person offering to acquire the Assets.
- (e) The Vendor warrants that the terms and conditions of the Employees are as set out in the contracts of employment for the Employees as furnished by the Vendor to the Purchaser and that the Employees have no entitlements other than as set out in the said contracts of pursuant to relevant employment legislation. The Vendor further warrants that none of the Employees have made, threatened or intimated any claim attributable to their employment and that the Vendor is not aware of any circumstances which might give rise to any such claim.

4.03 **Limitation of Liability**

- (a) In respect of all obligations undertaken by the Vendor hereunder, the Vendor's liability to the Purchaser is limited to the amount of the consideration arising hereunder.
- (b) Any claim against the Vendor hereunder must be notified by the Purchaser to the Vendor within two years from the Effective Date, failing which the Vendor shall not be liable for such claim.

4.04 **Restrictive Covenant**

Neither the Vendor nor Garvan Lynch (who is a party to this agreement for the purpose of confirming his approval and acceptance of this restrictive covenant) shall, for a period of three years from the Effective Date, directly or indirectly compete with the Purchaser in relation to the Business within a radius of 10km from the trading premises from which the Business operates. The Vendor and the said Garvan Lynch acknowledge and confirm that this restrictive covenant is fair and reasonable in all the circumstances and that the Consideration payable hereunder has been calculated on the basis that this restrictive covenant shall be enforceable against and adhered to by the relevant parties. Garvan Lynch agrees to be bound by this restrictive covenant in consideration of the purchase of the Business by the Purchaser from the Vendor and on the basis that Garvan Lynch is the owner of the issued share capital of the Vendor.

SECTION 5.00 - COMPLETION

5.01 Completion Date

Completion of the purchase and sale provided herein shall take place at the place of business of the Vendor on the Effective Date or at such later date and place as may be agreed in writing between the parties.

5.02 Completion

- (a) Upon Completion the Vendor shall deliver or make available to the Purchaser the following:-
 - (i) all appropriate duly executed transfers, assignments, conveyances and the like and all other relevant documentation in relation to the Assets required in order to vest the legal and beneficial ownership thereof in the Purchaser free from encumbrances;
 - (ii) physical possession of the Stock, the Records, the Consumables and the Equipment;
 - (iii) all other deeds and documents necessary or expedient for the purpose of vesting in the Purchaser the legal and beneficial ownership of each of the Assets or for the purpose of enabling the Purchaser thereafter to have and enjoy the full benefit of this Agreement and quiet and peaceable occupation, use and enjoyment of each of the Assets;
- (b) if and to the extent that the Vendor is unable upon Completion to perform any of the provisions of paragraph (a) hereof for reasons outside its control, the Vendor shall hold all interests, title and estate remaining vested in it in trust for the Purchaser but the Purchaser shall not be entitled to postpone Completion by reason of such inability and shall have no remedy against the Vendor on such account save that the Vendor shall endeavour to perform any such provisions aforesaid as soon as practicable after Completion; and

- (c) Upon Completion (or at such time as the Vendor may call upon the Purchaser to make the necessary payment), the Purchaser shall pay to the Vendor the consideration more particularly provided for herein.
- (d) It is hereby agreed that all amounts received by the Vendor in relation to trading activities at Lynch's Pharmacy from 1st October 2024 onwards will accrue to and will be transferred by the Vendor to the Purchaser within two days from receipt by the Vendor. Without prejudice to the generality of the foregoing, the October 2024 HSE claims should be deducted from the net amount payable at completion noted at Clause 4.01 a) of €254,546.

5.03 Employees

- (a) All of the Employees shall upon Completion become Employees of the Purchaser on such terms and conditions as shall not differ in any material respect from the terms upon which the Employees were employed by the Vendor immediately prior to Completion. Prior to Completion, the Vendor shall not vary the terms upon which any of the Employees is employed in a particular, but without prejudice to the generality of the foregoing, shall not increase the remuneration of any of the Employees.
- (b) The Vendor shall, not later than seven days from Completion, pay to each of the Employees all emoluments (including bonuses and other benefits) due to him/her for the period ending at the date of Completion.

5.04 Stamping of Agreement

The Purchaser shall attend to the stamping of this agreement and shall be liable for any stamp duty payable thereon.

SECTION 6.00 - GENERAL PROVISIONS

6.01 Passing of Risk

The entire risk in all of the Assets shall pass to the Purchaser forthwith upon Completion.

6.02 Survival of Obligations

The representations, undertakings and warranties contained in this Agreement together with any of the provisions of this Agreement which shall not have been performed at Completion shall remain in full force and effect notwithstanding Completion.

6.03 Binding on Successors

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

6.04 **Waiver**

Any liability to either party hereto under the provisions of this Agreement may in whole or in part be released, varied, compounded or compromised by such party in its absolute discretion as regards the party under such liability without in any way prejudicing or affecting its rights pursuant to the remainder of this Agreement. A waiver by either party hereto of any breach by the other party hereto of any of the terms, provisions or conditions of this agreement or the acquiescence of either party hereto in any act (whether of commission or omission) which but for such acquiescence would be a breach as aforesaid shall not constitute a general waiver of such term, provision or condition or of any subsequent act contrary thereto.

6.06 **Counterparts**

This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts each of which then executed and delivered shall constitute an original all such counterparts together constituting but one and the same instrument.

6.07 **Records**

Notwithstanding the delivery of the Records by the Vendor to the Purchaser upon Completion the Vendor shall be entitled at any time for seven years subsequent thereto to inspect and copy any document, file or tape contained therein and to have the same inspected by its advisers or auditors or any of them

6.08 **Further Assurance**

At the request and at the expense of the Purchaser, the Vendor shall (and shall procure that any other necessary parties shall) execute and do all such documents, acts and things as may be reasonably be required by the Purchaser or vesting in the Purchaser (including its nominee or nominees) the legal and beneficial ownership of the goodwill of the Business and the Assets in the most tax efficient way.

6.09 **Arbitration**

- (a) In the event of a dispute arising between the parties hereto, other than a dispute for which provision has already been made under this agreement, the parties shall in the first instance endeavour to resolve this dispute by mediation with the assistance of a trained mediator to be appointed by mutual agreement between the parties. In the event that the dispute cannot be resolved by mediation, the dispute shall be referred to Arbitration by an Arbitrator who shall, in default of agreement between the parties, be

appointed on the application of any one of the parties by the President of the Law Society of Ireland and, in the event of such person being unable or unwilling to act then by the next senior officer of the said Society, **Provided However** that if the Arbitrator shall relinquish the appointment or die, if it shall become apparent that for any reason the Arbitrator shall be unable or shall have to become unfit or unsuited (whether because of bias or otherwise) to complete the duties or if the Arbitrator shall be removed from office by court order, a substitute may be appointed in his place and in relation to any such appointment the procedures here and before set forth shall be deemed to apply as though the substitution were an appointment de novo which said procedures may be repeated as many times as may be necessary.

(b) The decision of any Arbitrator so appointed shall be final and binding upon the parties.

6.10 **Governing Law**

The validity, construction and performance of this agreement shall be governed by the laws of the Republic of Ireland.

IN WITNESS whereof these presents have been entered into the day and year first herein written.

FIRST SCHEDULE

Details of Equipment

PRESENT when the common seal
of **BRONZE TRAIL LIMITED**
was affixed hereto:-

Seal

Director

Director / secretary

PRESENT when the common seal of
WESTLANCE HOLDING LIMITED was
affixed hereto:-

Seal

Director

Director / secretary

SIGNED AND DELIVERED as a Deed
by the said **Garvan Lynch**
in the presence:-

Garvan Lynch

Witness: _____

Address: _____

Occupation: _____

Dated the day of 2024

BRONZE TRAIL LIMITED

of the First Part

AND

WESTLANCE HOLDING LTD

of the Second Part

AND

GARVAN LYNCH

Of the Third Part

ASSET PURCHASE AGREEMENT

Kearns Heffernan Foskin LLP
Solicitors
Otteran House,
South Parade,
Waterford

REF: PNF/DW/BRN102-0018