

SAMPLE DOCUMENT B

ACQUISITION AGREEMENT

(Asset Sale – Operating Division)

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**ACQUISITION AGREEMENT
(Asset Sale – Operating Division)**

ACQUISITION AGREEMENT ("Agreement"), dated the 17th day of August, 1999, by and between _____ ("Seller"), and _____ ("Purchaser"),

RECITALS

- A.** Toledo Widget Products ("Toledo Widget") is a division of Seller; and
- B.** Toledo Widget is engaged in the business of designing, manufacturing, assembling and selling Widgets for the transportation industry, including automotive aftermarket and original equipment manufacturers ("Widget Business") and Seller wishes to sell certain assets which Seller currently owns and uses in its Widget Business; and
- C.** Purchaser wishes to buy from Seller various assets as further defined herein associated with Seller's Widget Business;

THEREFORE, in consideration of the mutual provisions herein contained, Seller and Purchaser agree as follows:

1. ACQUISITION OF ASSETS

1.1 Purchase and Sale of Assets. Subject to all provisions hereof, Seller will sell, transfer, assign and deliver to Purchaser, and Purchaser will purchase and acquire from Seller, all of Seller's right, title and interest in and to the Widget Assets (as defined in Section 1.2).

1.2 Definition of Widget Assets. For purposes of this Agreement, the term "Widget Assets" means and includes each and all of the assets, properties and rights of Seller which, as of the Closing Date (as defined in Section 3.1), Seller owns or holds and are exclusively or primarily used in or otherwise associated with the Widget Business, including tangible and intangible assets, contract rights, receivables and other rights and claims (but excluding the assets described in Section 1.3), as follows:

1.2.1 Real Property. The real property in Tennessee owned by Seller and described in Schedule 1.2.1 ("Real Property") and all rights and interests as lessee under the lease agreement described on Schedule 1.2.1 for the distribution facility in Tennessee ("Real Property Lease").

1.2.2 Personal Property.

- 1.2.3 **Tooling.**
- 1.2.4 **Personal Property Leases**
- 1.2.5 **Inventories.**
- 1.2.6 **Accounts Receivable**
- 1.2.7 **Purchase Contracts**
- 1.2.8 **Sales Contracts.**
- 1.2.9 **Intellectual Property.**
- 1.2.10 **Other Contracts**
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- 1.2.12 **Warranty Claims.**
- 1.2.13 **Business Records.**
- 1.2.14 **Name.**
- 1.2.15 **Prepaid Items.**
- 1.2.16 **Assigned Plans.**
- 1.3 **Assets Retained By Seller**
- 1.3.1 **Corporate and Business Records.**
- 1.3.2 **Cash and Cash Equivalents.**
- 1.3.3 **Insurance Policies.**
- 1.3.4 **Benefit Plans.**
- 1.3.5 **Personal Property.**
- 1.3.6 **Computer Hardware and Software.**
- 1.4 **Consents to Assignments.**

2. CONSIDERATION FOR WIDGET ASSETS

- 2.1 Purchase Price.**
- 2.2 Payment of Purchase Price**
- 2.3 Net Working Capital Adjustment.**
- 2.4 Net Working Capital.**
- 2.5 Accounts Receivable.**
- 2.6 Purchase Price Allocation.**
- 2.7 Assumption of Liabilities.**
 - 2.7.1 Assigned Contracts.**
 - 2.7.2 Leases.**
 - 2.7.3 Accounts Payable.**
 - 2.7.4 Accrued Expenses.**
 - 2.7.5**
 - 2.7.6 Assumed Plan.**
- 2.8 Employee Matters**
- 2.9 SWIA Labor Contract**
- 2.10 Limitation.**
- 2.11 Excluded Liabilites**

2.11.1 any liabilities for legal, accounting, audit and investment banking fees, brokerage commissions, and any other expenses incurred by Seller in connection with the negotiation and preparation of this Agreement and the sale of the Purchased Assets to Purchaser;

2.11.2 any liabilities of Seller for Taxes;

2.11.3 any liability for or related to indebtedness of Seller to banks or other Financial Institutions with respect to borrowed money;

2.11.4 any liabilities of Seller under those leases, contracts, insurance Policies commitments, sales orders, purchase orders, Permits and Environmental Permits which are not assigned to Purchaser pursuant to the provisions of this Agreement;

2.11.5 any liabilities or obligations of Seller arising under any Environmental Health and Safety Liabilities resulting from Seller's actions or failure to act on or before the Closing Date;

2.11.6 all liabilities relating to the Assets retained by Seller;

2.11.7 claims (and benefits to the extent they arise therefrom), obligations and litigation against third parties to the extent such claims and litigation are not in any way related to, the Widget Assets or the Assumed Liabilities and claims (and benefits to the extent they arise therefrom) that relate to Assets Retained by Seller and Excluded Liabilities; and

2.11.8 all claims against and liabilities and obligations of Seller or Seller's predecessors in title with respect to or relating to asbestos or any onsite or offsite disposal of Hazardous Materials, whether or not such offsite disposal was at a licensed landfill, and whether or not Seller has received any notices from federal, state, or local governmental agencies that Seller may be or is a Potentially Responsible Party ("PRP"), including but not limited to those claims, liabilities and obligations of Seller listed on Schedule 2.11.8.

3. CLOSING AND CLOSING DATE

3.1 Closing and Closing Date. Subject to the satisfaction of the terms and conditions of this Agreement, the transactions herein contemplated and required by this Agreement will be completed and closed by Seller and Purchaser at a meeting ("Closing") at the offices of Purchaser's counsel located at 505 N. Woodward, Ste. 3000, Bloomfield Hills, MI 48304 on _____, or at such other date, time or place as may be agreed upon by the Purchaser and Seller (the "Closing Date").

3.2 Purchaser's Obligations

3.3 Seller's Obligations. On the Closing Date, in addition to any other documents specifically required to be delivered or acts required to be performed by Seller pursuant to this Agreement, Seller will deliver to Purchaser, at the Seller's expense, and in proper form for recording (if recording thereof is required):

3.3.1 a fully executed non-compete agreement executed by Seller, and _____ (the "Non-Compete Agreements) in the form appended as Exhibit 3.3.1;

3.3.2 fully executed bills of sale (the “Bills of Sale”), for all Widget Assets described in Sections 1.2.2, 1.2.3 and 1.2.5, which bills of sale will provide that the Personal Property is delivered in the condition described in Section 4.1.6 and 4.1.7;

3.3.3 fully executed assignments (the “Assignments”), with copies of the underlying documents that are the subject of the Assignment attached thereto, conveying and assigning to Purchaser all of Seller's right, title and interest in and to the Widget Assets described in Sections 1.2.4, 1.2.11, 1.2.12, 1.2.14 and 1.2.16, the Assigned Contracts described in Sections 1.2.7, 1.2.8 and 1.2.10, the Accounts Receivable described in Section 1.2.6 and the Intellectual Property described in Section 1.2.9;

3.3.4 a certificate of good standing under the laws of the State of Delaware;

3.3.5 a certificate of Seller's Secretary to the effect that all necessary corporate action has been taken to authorize the execution and delivery of this Agreement;

3.3.6 an opinion of Seller’s counsel, _____, pursuant to Section 6.1.6;

3.3.7 an executed certificate of Seller dated as of the Closing Date that all of Seller’s representations and warranties included in this Agreement are true, accurate and complete in all material respects as of the Closing Date;

3.3.8 a fully executed warranty deed (the “Warranty Deed”) conveying title to the Real Property as required by Section 4.1.6 and as may be required by the Title Company to vest in Purchaser good and marketable fee simple title, free of encumbrances except for the Permitted Encumbrances (as defined in Section 8.1 hereof) in and to the Real Property;

3.3.9 a fully executed non-foreign Seller affidavit as required by Section 1445 of the Internal Revenue Code;

3.3.10 satisfactory evidence that the security interest of _____ Bank and _____ Bank with respect to the Widget Assets will be released promptly after Closing;

3.3.11 assignment of all operating licenses, permits and approvals, Environmental Permits if assignable, for operation of the Widget Business and Widget Assets;

3.3.12 a fully executed Affidavit, in form acceptable to Title Company, certifying that the Real Property is free from claims for mechanic, construction, materials

and laborers liens or any other liens or assessments except for Permitted Encumbrances as defined in Section 8.1;

3.3.13 an assignment, acceptance and consent agreement between the parties and the landlord to the Real Property Lease in the form appended as Exhibit 3.3.13.

3.3.14 a limited guaranty (the "Limited Guarantee Agreement") executed by _____ in favor of Purchaser in the form appended as Exhibit 3.3.14.

3.3.15 an executed Operations Agreement in the form appended as Exhibit 3.3.15;

3.3.16 all other documents and papers reasonably required to be delivered by Seller as a condition to Closing;

3.3.17 copies of an unaudited balance sheet of the Seller, etc., etc.

3.4 Delivery. At the Closing, Seller will deliver to Purchaser or otherwise place Purchaser in possession of all Widget Assets and Assumed Liabilities, including Seller's business records, books and other data relating to the Widget Business (except the assets, properties and rights which Seller retains under Section 1.3).

3.5 Access. For a period of five years after the Closing, Purchaser will afford to Seller and its accountants and attorneys reasonable access to the books and records which Seller delivers to Purchaser hereunder, and will permit Seller to make extracts and copies therefrom for any proper purpose. For a period of five years after the Closing, Seller will afford to Purchaser and its accountants and attorneys reasonable access to the books, records and other documents which Seller retains pursuant to Section 1.3 and will permit Purchaser to make extracts and copies therefrom for any proper purpose.

3.6 Further Assurances. After the Closing and upon Purchaser's reasonable request, Seller will take, at its expense, such further action as may be required to perfect Purchaser's right, title and interest in and to any Widget Assets. Subsequent to the Closing, Purchaser will have the right and authority to collect, for its own account, all of the Accounts Receivable transferred to Purchaser hereunder. Additionally, after the Closing, Seller promptly will transfer and deliver to Purchaser any cash, checks, drafts or other payments which Seller may receive in respect of any account receivable or other asset included in the Widget Assets.

4. REPRESENTATIONS AND WARRANTIES OF SELLER

4.1 Representations and Warranties. Seller hereby represents and warrants to the Purchaser as follows, and confirms that the Purchaser is relying upon the accuracy of each of such representations and warranties:

4.1.1 Corporate Organization.

4.1.2 Qualification.

4.1.3. Corporate Authority & Binding Obligations

4.1.4 No Conflict.

4.1.5 Financial Statements.

4.1.6 Title to Real and Personal Property. Except for the mortgage and security interest of _____ Bank and _____ Bank, Seller is the owner and has good and marketable title to the Widget Assets (excluding the Real Property Lease), free and clear of all mortgages, easements, leases, agreements, restrictions, security interests, pledges, liens or encumbrances of any kind, or any conditional sale agreement or other title retention agreement except Permitted Encumbrances (as defined in Section 8.1 hereof). Neither the whole nor any portion thereof is subject, directly or indirectly, to any governmental decree or order to be sold, or is being condemned, expropriated or otherwise taken by any public authority, nor to the best of Seller's Knowledge and belief are there any existing facts or conditions which might give rise to any such condemnation, expropriation or taking.

4.1.7 Condition of Real and Personal Property. Purchaser has examined the Real Property, Personal Property and Tooling and is accepting such property in "AS-IS" condition, without representation or warranty from Seller of any kind, other than the warranties provided in §4.1.6. Provided, however, claims based on Environmental Health and Safety Liabilities (which are addressed elsewhere in this Agreement) are not subject to this subsection.

4.1.8 Ordinances. Except as set forth on Schedule 4.1.15, Seller has received no notice of violation of any applicable building, health, safety or zoning law, ordinance, order, regulation or requirement relating to any Widget Asset. Except as set forth on Schedule 4.1.15, to the best of Seller's Knowledge, the Widget Business does not violate any applicable building code, zoning requirement or classification, or pollution control ordinance or statute relating to such operations.

4.1.9 Leases. The real property described in Schedule 1.2.1 as leased property and the personal property described in Section 1.2.4, are held under valid and enforceable leases and Seller enjoys peaceful and undisturbed possession of such

leaseholds. Neither Seller, in connection with the Widget Business, nor Toledo Widget lease any real or personal property as lessor. Each of the Personal Property Leases and the Real Property Lease are in full force and effect and neither Seller, nor to Seller's Knowledge, any other party is in default under any of said leases. No party to any Personal Property Lease or Real Property Lease is an affiliate of Seller and no Personal Property Lease or Real Property Lease was entered into on other than an arm's length basis. Seller has not assigned any of its rights under any of the Personal Property Leases or Real Property Lease to any person or entity.

4.1.10 Inventories

4.1.11 Accounts Receivable.

4.1.12 Contracts.

4.1.13 Litigation.

4.1.14 Intellectual Property and Trade Secrets.

4.1.15 Environmental Matters. To the best of Seller's knowledge, except as set forth on Schedule 4.1.15:

(i) All of the Widget Assets and the Widget Business are, and at all times have been, in full compliance with, and have not been and are not in violation of or liable under, any Environmental Laws or Environmental Permits. The Seller does not have any basis to expect, nor has Seller or any other person for whose conduct it is or may be held to be responsible received, any actual or threatened order, notice, or other communication from (i) any governmental body or private citizen acting in the public interest, or (ii) the current or prior owner or operator of any Facilities, of any actual or potential violation or failure to comply with any Environmental Laws or Environmental Permits, or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health, and Safety Liabilities with respect to any of the Facilities, or with respect to any property or facility at or to which Hazardous Materials, in the course of the Widget Business, were generated, manufactured, refined, transferred, imported, disposed, used, or processed by Seller or any other Person for whose conduct they are or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled, or received.

(ii) There are no pending or, to the Knowledge of Seller, threatened claims, encumbrances, or other restrictions of any nature, resulting from any Environmental, Health, and Safety Liabilities or arising under or pursuant to any Environmental Law, with respect to or affecting any of the Facilities.

(iii) The Seller has no Knowledge of any basis to expect, nor has Seller or any other Person for whose conduct it is or may be held responsible, received, any citation, directive, inquiry, notice, order, summons, warning, or other communication that relates to Hazardous Activity, Hazardous Materials, or any alleged, actual, or potential violation or failure to comply with any Environmental Law, or of any alleged, actual, or potential obligation to undertake or bear the cost of any Environmental, Health, and Safety Liabilities with respect to any of the Facilities, or with respect to any property or facility to which Hazardous Materials, in the course of the Widget Business, were generated, manufactured, refined, transferred, imported, disposed, used, or processed by Seller or any other Person for whose conduct it is or may be held responsible, have been transported, treated, stored, handled, transferred, disposed, recycled, or received.

(iv) No Seller or any other Person for whose conduct it is or may be held responsible, has any Environmental, Health, and Safety Liabilities with respect to the Facilities or, to the Knowledge of Seller, with respect to any other real properties adjoining the Facilities.

(v) There are no Hazardous Materials present on or in the Environment at the Facilities or to the Knowledge of Seller, as defined at Section 10.18 at any adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Facilities or such adjoining property, or incorporated into any structure therein or thereon. No Seller, any other Person for whose conduct they are or may be held responsible, or to the Knowledge of Seller or any other Person, has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Facilities except in full compliance with all applicable Environmental Laws.

(vi) There has been no Release or, to the Knowledge of Seller, Threat of Release, of any Hazardous Materials at or from the Facilities or at any other locations where any Hazardous Materials were generated, manufactured, refined, transferred, produced, imported, used, or processed from or by the Facilities, or to the Knowledge of Seller any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(vii) Seller has delivered to Purchaser true and complete copies and results of any reports, studies, analyses, tests, or monitoring possessed or initiated by Seller pertaining to Hazardous Materials or Hazardous

Activities in, on, or under the Facilities, or concerning compliance by Seller or any other Person for whose conduct it is or may be held responsible, with Environmental Laws in the conduct of the Widget Business.

(viii) "Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins, and wetlands), groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life, and any other environmental medium or natural resource.

(ix) "Environmental, Health, and Safety Liabilities" means any cost, damages, expense, liability, obligation, or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to:

(a) any environmental, health, or safety matters or conditions (including on-site or off-site contamination, occupational safety and health, and regulation of chemical substances or products);

(b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands and response, investigative, remedial, or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law;

(c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any investigation, cleanup, removal, containment, or other remediation or response actions ("Cleanup") required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Body or any other Person) and for any natural resource damages; or

(d) any other compliance, corrective, investigative, or remedial measures required under Environmental Law or Occupational Safety and Health Law.

(e) the terms "removal," "remedial," and "response action," include the types of activities covered by the United States Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., as amended ("CERCLA") or Tennessee law and the regulations thereunder, and all amendments thereto and reauthorizations thereof.

(x) "Environmental Laws" means all federal, state and local statutes, regulations, ordinances, rules, and regulations, all court orders and decrees and arbitration awards, and the common law, which pertain to environmental

matters or contamination of any type whatsoever; Environmental Laws include, without limitation, those relating to: manufacture, processing, use, distribution, treatment, storage, disposal, generation or transportation of Hazardous Materials; air, surface or ground water; Releases of Hazardous Materials; protection of wetlands or natural resources, containers of Hazardous Materials, health and safety of employees and other persons which pertain to environmental matters; and remediation, reporting and notification requirements relating to the foregoing;

(xi) "Facilities" means any real property, leaseholds, or other interests currently or formerly owned or operated by Seller and any buildings, plants, structures, or equipment (including motor vehicles, tank cars, and rolling stock) currently or formerly owned or operated by the Seller and used now or in the past in the Widget Business.

(xii) "Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or disposal (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about, or from the Facilities or any part thereof into the Environment.

(xiii) "Hazardous Materials" means pollutants, petroleum products, contaminants, pesticides, radioactive substances, solid wastes, asbestos, or hazardous or extremely hazardous, special, dangerous or toxic wastes, substances, chemicals or materials regulated by any Environmental Law, including without limitation any (i) "hazardous substance" as defined or listed in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601. et. seq., as amended and reauthorized ("CERCLA"), (ii) any "hazardous waste" as defined or listed in the Resource Conservation and Recovery Act ("RCR"), 42 U.S.C., Sec. 6902 et. seq., (iii) the federal or Tennessee laws relating to aboveground storage tanks and underground storage tanks, (iv) any substance, chemical, or waste that is or shall be defined or listed as hazardous, special or toxic under Tennessee law and the regulations thereunder, and all now enacted amendments thereto and reauthorizations thereof.

(xiv) "Occupational Safety and Health Law" means any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards.

(xv) "Release" means any onsite or offsite spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping, or other releasing into the Environment, whether intentional or unintentional, whether or not notification or reporting to any governmental agency was or is, required,

including without limitation any Release which is subject to Environmental Law.

(xvi) "Environmental Permits" means licenses, permits, registrations, governmental approvals, remediation plans, financial assurance obligations, agreements, reporting obligations, and consents which are required under or are issued pursuant to Environmental Laws.

(xvii) Any other provision of this Agreement, notwithstanding the foregoing representations and warranties of this Section 4.1.15 and of Section 8.8 shall survive the Closing for an unlimited period of time and shall accrue to the benefit of Purchaser and its Affiliates. The term "Affiliates" shall refer to any entity that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with Purchaser.

4.1.15.2 Purchaser acknowledges that Seller has provided it the opportunity to conduct such investigation of the Widget Assets as it deems desirable and subject only to Seller's representations and indemnification obligations as provided in this Agreement, Purchaser accepts the Widget Assets in their present condition.

4.1.16 Warranty Claims. Seller is not aware of any pending or threatened warranty claims the result of which could have a material adverse effect on the value of the Widget Assets or the ability to operate the Widget Business subsequent to the Closing Date.

4.1.17 Disclosure. No representation or warranty in this Agreement contains any untrue statement of material fact or omits to state any material facts necessary to make any such representation or warranty not misleading to a prospective purchaser of the Widget Assets. Without limiting the scope of the foregoing, the Seller is not aware of any change, event or occurrence that has taken place or is pending that has, or in the future could have, a material adverse effect on the value of the Widget Assets, the Widget Business or the ability to operate the Widget Business subsequent to the Closing Date in the manner in which it has been operated by Seller or which could materially increase the cost incurred in operating the Widget Business subsequent to the Closing Date, including any pending or threatened change in any applicable law or any pending or threatened breach of any contract, agreement or instrument to which Seller is a party.

4.1.18 Tax Matters. "Tax" or "Taxes" means any federal, state, local or foreign income, business, environmental, gross receipts, ad valorem, alternative or add-on minimum tax, profits, franchise, license, transfer, sales, use, value added, payroll, employment, withholding, property (real or personal), excise and similar taxes (including interest, penalties or additions to such taxes and any interest in respect of such penalties or additions) with respect to the Widget Assets and the Widget Business.

4.1.18.1 Except as set forth in Schedule 4.1.18.1, with respect to Taxes, (i) all returns that are required to be filed by Seller with respect to the Widget Assets and Widget Business have been timely and duly filed and are complete and accurate in all material respects, (ii) all Taxes due on or before the Closing Date, and all Taxes due with respect to the returns referred to in clause (i) have been timely paid in full, (iii) the returns referred to in clause (i) have been examined by the Internal Revenue Service or the appropriate state, local or foreign taxing authority (or if they have not been examined no notice of such examination has been given to Seller) or the period for assessment of the Taxes in respect of which such returns were required to be filed has expired, (iv) all deficiencies asserted or assessments made as a result of such examinations have been timely paid in full, (v) no issues that have been raised by the relevant taxing authority in connection with the examination of any of the returns referred to in clause (i) are currently pending, (vi) no waivers of statutes of limitation have been given by or requested with respect to any Taxes.

4.1.18.2 There are no liens or security interests on any of the Widget Assets that arose in connection with any failure (or alleged failure) to pay any Taxes other than liens for current taxes not yet due and payable and assessments not in default.

4.1.18.3 All Taxes related to the Widget Assets which Seller is required by law to withhold or collect have been duly withheld or collected, and have been timely paid over to the proper authorities to the extent due and payable.

4.1.18.4 All real and personal property taxes and assessments paid or payable by Seller in connection with the Widget Assets shall be prorated between Purchaser and Seller so that Seller shall be liable for and pay for taxes and assessments assessed for the period ending on and including the Closing Date, and Purchaser shall be liable for and pay for any such taxes and assessments assessed for the period after the Closing Date. Seller shall pay any such amounts payable for the period ending on and including the Closing Date and Purchaser shall pay any such amounts payable for the period after the Closing Date, and each party shall reimburse the other party promptly upon demand for any amount due the other party pursuant to this section 4.1.18.4.

4.1.18.5 Any other provision of this Agreement notwithstanding, the foregoing representations and warranties of this Section 4.1.18 shall survive the Closing for a period of time equal to the applicable statute of limitation for each Tax.

4.1.19 No Finders or Brokers.

4.1.20 Employees.

4.1.21 Benefit Plans.

4.1.22 Financial Projections.

4.1.23 Undisclosed Liabilities.

4.1.24 Real Estate.

4.1.24.1 The Real Property or Real Property Lease is not in violation of any governmental orders, regulations, statutes or ordinances dealing with the construction, operation, health, safety and/or maintenance of same.

4.1.24.2 Seller has no notice of and there is no pending or, to Seller's Knowledge, threatened litigation, administrative action, condemnation proceedings or examination, claim or demand whatsoever relating to the Real Property or Real Property Lease before any court, or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof.

4.1.24.3 The Real Property has sufficient and adequate vehicular and pedestrian access rights, for its current operation and use to and from public streets and rights-of-way contiguous to the Real Property or Real Property Lease and adequate parking is available and such properties are in compliance with all applicable zoning laws.

4.1.24.4 Seller shall, at Closing, deliver the Real Property and Real Property Lease in its current condition without any material change in condition.

4.1.25 Material Facts or Omissions.

4.1.26 Significant Customers.

5. REPRESENTATIONS AND WARRANTIES OF PURCHASER

5.1 Representations and Warranties.

5.1.1 Partnership Organization

5.1.2 Corporate Authority & Binding Obligations.

5.1.3 No Conflict.

5.1.4 Brokers' Fees.

5.1.6 Purchaser's Capacity.

5.1.7 Accuracy of Statements.

6. CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS

6.1 Conditions to Purchaser's Obligation. The Purchaser shall not be obligated to close unless each of the following conditions shall have been satisfied, it being understood that the conditions are included for the exclusive benefit of the Purchaser and may be waived in writing, in whole or in part, by the Purchaser at any time:

6.1.1 Correct Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true, accurate and complete in all respects as of the Closing.

6.1.2 Performance. All the obligations of the Seller on the Closing Date set forth in Section 3.3 hereof shall have been satisfied and fulfilled.

6.1.3 Governmental Approvals. Purchaser shall have received any necessary approvals from any federal, state or local government or regulatory agencies necessary to consummate all the transactions contemplated by this Agreement. Any application waiting period under the Hart-Scott-Rodino Anti-Trust Improvement Act of 1976, as amended (the "HSR Act"), relating to the sale of the Widget Assets shall have expired. No court, arbitrator or governmental body, agency or official shall have issued any order, that has not been vacated, restraining or prohibiting the effective operation of the Widget business by the Purchaser after the Closing.

6.1.4 Third-Party Consents. Seller shall have obtained the written consent, waiver or approval of each person (i) who is a party to any of the contract or agreement with Seller or a contract or agreement by which Seller is bound, (ii) whose consent, waiver or approval is required under such contract or agreement as a result of consummation of the transactions contemplated by this Agreement and (iii) whose failure to provide such consent, waiver or approval would have or might reasonably be expected to have a material adverse effect on the condition (financial or otherwise), business, net worth, assets, properties or operations of the Widget Business, or would or might reasonably be expected to affect the ability of Purchaser after the Closing to conduct such business in substantially the same manner as it has been conducted.

6.1.5 Due Diligence

6.1.6 Seller's Counsel Opinion

6.1.7 No Adverse Proceeding.

6.1.8 Business Pending Closing.

6.1.9 Release of Liens.

6.1.10 Names Use.

6.1.11 Employment Contract.

7. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

7.1 Conditions of Seller's Obligations.

7.1.1 Correct Representations and Warranties.

7.1.2 Instrument of Assumption.

7.1.3 Performance.

7.1.4 Government Approvals.

7.1.5 Purchaser's Counsel Opinion.

7.1.6 No Adverse Proceeding.

8. REAL PROPERTY AND ENVIRONMENTAL

8.1. Title To Real Property. Seller shall convey by warranty deed (the "Warranty Deed") to Purchaser good, marketable and insurable fee simple title to all of the Real Property, subject only to (a) liens for taxes and other governmental charges and assessments which are not yet due and payable, (b) liens of materialmen and other like liens arising in the ordinary course of business for sums not yet due and payable, and (c) other liens or imperfections which are not material in amount or do not materially detract from the value of or materially impair the existing use of the Real Property affected by such lien or imperfection, it being agreed that exception number 4 to title reflected on the title commitments contained in Schedule 8.1 shall be a "Permitted Encumbrance."

8.2 Evidence of Title. Seller has furnished to Purchaser, at Seller's expense an A.L.T.A. commitment for title insurance ("Title Commitment") a copy of which is attached hereto as Exhibit 8.1, issued by _____ Title Insurance ("Title Company"), in the amount of \$_____, naming Purchaser as the insured, certified to the date of Closing, and undertaking to insure title in the condition required hereunder, with copies of all exceptions to title, and with a policy pursuant thereto to be issued as soon after Closing as possible. The legal description embodied within said Title Commitment shall conform in all respects to the Survey which Seller shall furnish to Purchaser in accordance with this Agreement. Purchaser may require

the Title Company to mark-up the Title Commitment at Closing to make the Title Commitment immediately effective and to delete such requirements of the Title Commitment and such liens, encumbrances, mortgages, restrictions and exceptions as are satisfied at Closing. At Closing, Seller shall deliver to the Title Company a standard form of owner's affidavit and indemnity and such other documents as the Title Company shall reasonably require in order to delete the standard exceptions to the Title Commitment.

8.3 Objections to Title. Purchaser's approval of title to the Real Property shall be a condition precedent to Purchaser's obligations under this Agreement. If objection is made by Purchaser that title is not in the condition set forth in Section 8.1, Purchaser, at its option, may either terminate this Agreement or give Seller thirty (30) days from the date it is notified of the particular defects claimed, to remedy the title and to obtain title insurance as required above. Purchaser shall have the right to notify the Title Company of any matters affecting the title to the Real Property which have not been disclosed by the Title Commitment. Notwithstanding the foregoing, Purchaser, at its sole option, may waive any objections to title, in writing.

8.4 Survey. Within thirty (30) days from the execution of this Agreement, Seller shall deliver to Purchaser, at Seller's sole cost and expense, survey ("Survey") of the Real Property dated not earlier than the date hereof, prepared by a Tennessee registered civil engineer or licensed surveyor, acceptable to Purchaser and otherwise in form sufficient to permit the issuance of a title insurance policy without the standard exception regarding matters of survey. Such Survey shall show the (a) boundary lines and legal description of the Real Property; (b) the area of land in the Real Property expressed in square feet or acres; (c) the location of all physical encroachments, by and upon the Real Property; (d) the locations of all easements, encumbrances, and title exceptions which can be shown and depicted on a survey map, and the recording information of such easements, encumbrances and exceptions; (e) the location of all utility lines, services and facilities serving the Real Property, including an indication of whether such lines are above or below grade; and (f) the location of all structures, avenues of ingress and egress, street lines, set back lines, and abutting streets with respect to the Real Property. Purchaser shall give Seller written notice of Purchaser's objections to any matters disclosed thereon which, in Purchaser's sole opinion, adversely affect the use or value of the Real Property or the Widget Business. If Seller fails to remedy such objections, at its expense, and in a manner satisfactory to Purchaser, within thirty (30) days after receipt of said notice, Purchaser may, at its option, either accept the Survey "as is" or terminate this Agreement.

8.5 Purchaser's Right of Inspection. Purchaser's satisfaction with the physical condition of the Real Property and its evaluation of all other matters relating to the Real Property shall be a condition precedent to Purchaser's obligation to close the transaction contemplated hereby; however, satisfaction of Purchaser or waiver by Purchaser of this condition precedent is not intended as nor shall it be construed as a waiver or release of Seller from any obligations of indemnity as provided in Section 10 hereof. Purchaser shall have the right to conduct a physical inspection of the Real

Property and to evaluate all other matters relating to the Real Property. It is understood that Purchaser's physical inspection of the Real Property includes the right to make soil borings and such other tests on the Real Property as may be deemed reasonable by Purchaser, provided that Purchaser shall be responsible for repairing any damage caused thereby in the event Purchaser fails to close the sale contemplated hereby. Seller shall make available to Purchaser for inspection all of Seller's surveys, environmental reports, building plans, site plans, books, records, agreements and other documents relating to the Real Property. The Purchaser shall have the right to terminate this Agreement by written notice to Seller, if the results of Purchaser's physical inspection or evaluation of the Real Property are not completely satisfactory to Purchaser for any or no reason whatsoever.

8.6 Right To Enter Land For Examination. At all times from and after the Effective Date, Purchaser, or its assignee(s), employees, independent contractors and agents, shall have the right to enter upon the Real Property to make surveys, engineering studies, environmental audits, test borings, soil bearing tests, and to do such other work necessary to determine the Real Property's suitability for the use for which it is being acquired by Purchaser. All entries, tests, inspections, surveys and other examinations with respect to the Real Property shall be carried out in such manner as will least disturb the Real Property. Purchaser shall be responsible for all costs incurred in such entries, tests, inspections, surveys and other examinations with respect to the Real Property. Seller shall be entitled to a copy of all test results. Purchaser shall indemnify, defend and hold Seller harmless from and against any and all losses, costs, damages, injuries and expenses, liabilities and obligations, including reasonable attorney fees, arising out of Purchaser's entry on the Real Property or costs incurred in the conduct of the inspections set forth above and shall not permit any construction liens to be placed on the Real Property as a result of the inspections.

8.7 Governmental Approvals and Assistance Thereof. Seller hereby agrees to assist Purchaser to the extent required in order to facilitate and enable Purchaser to obtain any type of governmental approval(s) necessary to prepare the subject Real Property for the use of the Real Property intended by Purchaser. Seller shall cooperate with Purchaser and shall join in any proceedings in the name of Seller to the extent necessary. Except as provided in paragraph 8.8 below, in connection with the petitioning for such governmental approval(s), Purchaser agrees that it will pay all costs related thereto, including but not limited to, any and all engineering and architectural expenses incurred in obtaining said governmental approvals.

8.8 Environmental.

8.8.1 The parties agree that an Environmental Risk Assessment report written by ABC, Inc. and a Phase II Environmental Site Assessment report prepared by XYZ, Inc. have been completed on the Real Property and the parties each acknowledge receipt of a copy of each report.

8.8.2 Promptly upon execution of this Agreement, Seller at its sole expense, shall prepare a draft submission to the Tennessee Department of Environment and Conservation, Hazardous Waste Division State Remediation Section (“SRS”) containing all information which it has concerning the Real Property, including, without limitation, the reports referenced in Paragraph 8.8.1 hereof and the results of any further investigations which Purchaser may conduct upon the Real Property. Seller shall submit the draft submission, including all supporting documentation, to Purchaser and shall confer with Purchaser concerning the draft submission. When the parties have agreed upon the draft submission, Seller shall submit the information to SRS. Seller shall request a determination from SRS of any further site assessment of the Real Property which may be required and shall promptly undertake any such further required assessment at its sole cost and expense. Upon completion of such further site assessment or a determination that no further site assessment is required, Seller shall request a determination from SRS of any remediation action which is required. Seller shall promptly inform Purchaser of all contacts with SRS, provide Purchaser with copies of correspondence with SRS, and shall promptly notify Purchaser of, and provide Purchaser the opportunity to participate in, all meetings with SRS, whether in person or by telephone. Consistent with any response from SRS of required remediation and action, Seller shall arrange for the preparation of a plan or plans to implement remedial measures (the “Remedial Action Plan” or “Plan”) which plan shall be designed to be consistent with cleanup objectives or goals established pursuant to SRS and the obtaining of a “No Further Action Required” letter from the SRS. Purchaser shall have the right to review and approve such Remedial Action Plan, provided that Purchaser shall not withhold approval if such Remedial Action Plan (i) satisfies the requirements of all applicable Environmental Laws, and (ii) does not interfere with Purchaser’s operations to a greater extent than reasonably necessary. Purchaser shall provide its comments to Seller within ten (10) days after receipt of the Remedial Action Plan (or any revised version thereof). If Purchaser does not respond to Seller within ten (10) days of receipt of such Remedial Action Plan (or revised version thereof, as the case may be), the Plan shall be deemed approved. Seller, at its own expense, shall promptly undertake and execute to completion any such required remediation action pursuant to the Plan. Upon completion of any required remediation pursuant to the Plan or upon a determination by SRS that no remediation is required, as the case may be, Seller shall request and use its best efforts to obtain a “No Further Action Required” letter from SRS. In the event that SRS declines to issue a “No Further Action Required” letter (it being recognized by the parties that the issuance of such a letter is discretionary with SRS), Seller shall provide to Purchaser written evidence that Seller has complied with all remedial requirements of SRS.

8.8.3 Seller shall promptly provide Purchaser with copies of all correspondence, reports, and statements of requirements submitted to, or received from, SRS as soon as the same have been provided to, or received from, SRS.

8.8.4 Any other provision of this Agreement to the contrary notwithstanding, Seller’s obligations with respect to Hazardous Materials on or in the Real Property as of the date on which Purchaser takes title to the Real Property shall

terminate upon the issuance of a “No Further Action Required” letter from SRS pursuant to the procedures provided in Section 8 and the subsections thereof; provided, however, notwithstanding the prior sentence, this Section 8.8.4 will not operate to terminate Seller’s liability with respect to any Hazardous Materials of which: (i) Seller has “Actual Knowledge”, on or before the Closing Date, that such Hazardous Materials are on or in the Real Property; and (ii) Seller has failed to disclose the presence of such Hazardous Materials on or in the Real Property to the SRS during the site assessment provided for in Section 8.8.2 above. The term “Actual Knowledge” means the actual knowledge of _____ or members of the Board of Directors of Seller.

9. CONDUCT OF BUSINESS PENDING CLOSING

9.1 Business Pending Closing. Except as otherwise set forth in this Agreement, the Seller covenants and agrees that from the date of this Agreement until the Closing Date, with respect to the Widget Business:

10. INDEMNIFICATION, REMEDIES

10.1 Indemnification and Payment of Damages By Seller. Seller will indemnify and hold harmless Purchaser for, and will pay to Purchaser the amount of, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees and including diminution in the value of Widget Assets when the use of a Widget Asset in the manner in which it is presently operated is limited, whether or not involving a third-party claim (collectively, "Damages"), arising from or in connection with:

10.1.1 Any Breach of any representation or warranty made by Seller in this Agreement, the Schedules, the supplements to the Schedules, or any other certificate or document delivered by Seller pursuant to this Agreement;

10.1.2 Any Breach of any representation or warranty made by Seller in this Agreement as if such representation or warranty were made on and as of the Closing Date without giving effect to any supplement to the Schedules, other than any such Breach that is disclosed in a supplement to the Schedules and is expressly identified in the certificate delivered pursuant to Section 3.2.5 as having caused the condition specified in Section 6.1 not to be satisfied;

10.1.3 Any Breach by Seller of any covenant or obligation of Seller in this Agreement;

10.1.4 Any product shipped or manufactured by, or any services provided by, the Seller prior to the Closing Date.

10.1.5 Any claim by any Person for brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding alleged to have been made by any such Person with Seller (or any Person acting on their behalf) in connection with this Agreement.

10.2 Indemnification and Payment of Damages By Seller – Environmental Matters. Seller will indemnify and hold harmless Purchaser and its Affiliates (as defined in subsection 4.1.15.1) for, and will pay to the Indemnified Party the amount, without dollar limitation, of, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees and including diminution of value resulting from limitation preventing the operation of a Widget Asset in the manner in which it is current operated, whether or not involving a third-party claim (collectively, "Damages"), arising from or in connection with any violation or alleged violation by Seller of any Environmental Law as a result of activities, events, conditions or occurrences prior to the Closing Date, regardless of when the violation or alleged violation or obligation arises or is asserted, or arising from or in connection with any breach of the representations in Section 4.1.15 or Seller's obligations under Section 8.8. References to Sections 4.1.15 and 8.8 shall refer to and include as to both, all subparts and subsections thereof.

10.3 Indemnification and Payment of Damages By Seller – Excluded Liabilities. Seller will indemnify and hold harmless Purchaser and its Affiliates (as defined in subsection 4.1.15.1) for, and will pay to the Indemnified Party the amount, without dollar limitation, of, any loss, liability, claim, damage , or expense (including costs of investigation and defense and reasonable attorneys' fees) whether or not involving a third-party claim (collectively, "Damages"), arising from or in connection with the failure of Seller to pay, perform or discharge those liabilities, obligations or claims arising from Excluded Liabilities.

10.4 Indemnification and Payment of Damages By Seller – Employee Matters. Seller will indemnify and hold harmless Purchaser and its Affiliates (as defined in subsections 4.1.15.1) for, and will pay to the Indemnified Party the amount, without dollar limitation, of, any loss, liability, claim, damage , or expense (including costs of investigation and defense and reasonable attorneys' fees) whether or not involving a third-party claim (collectively, "Damages"), arising from or in connection with: (a) except for Accrued Expenses described in Section 2.7.4, claims for wages, severance or other work related benefits arising by virtue of union contract or otherwise with respect to current or former employees of Seller who are not Hired Employees of Purchaser; or (b) claims for severance by Hired Employees of Purchaser based on the acquisition of the Widget Business by the Purchaser as contemplated in this Agreement notwithstanding the fact that such Hired Employee's employment was not terminated by Purchaser.

10.5 Indemnification and Payment of Damages By Seller – Asbestos Product Liability Matters. Seller will indemnify and hold harmless Purchaser and its Affiliates (as defined in subsection 4.1.15.1) for, and will pay to the Indemnified Party

the amount, without dollar limitation, of any loss, liability, claim, damage, or expense (including costs of investigation and defense and reasonable attorneys' fees) whether or not involving a third-party claim, arising from or in connection with all liability for personal injury, bodily injury, advertising injury or property damage (whether based on "strict liability" laws or otherwise), arising out of or in connection with any products manufactured and shipped by Toledo Widget or by any predecessor or prior owner or operator of the Widget Business prior to the Closing, including by way of example only (1) any past or pending federal lawsuit (currently of which there are approximately 30,000 lawsuits, alleging injury or damage due to asbestos for which _____ and/or Toledo Widget could be reinstated as a defendant) or state lawsuit (currently of which there are approximately 125 suits in Michigan, and other states, alleging _____ and/or Toledo Widget is liable for personal injury, bodily injury or property damage arising out of asbestos) against _____ and/or Toledo Widget, to which Purchaser is added as a party to such lawsuit, after the Closing, or (2) any future federal lawsuit or state lawsuit in which Purchaser is named a party liable for personal injury, bodily injury, or property damage (whether based on "strict liability" laws or otherwise) arising out of or in connection with any products manufactured, sold or shipped by Toledo Widget or by any predecessor or prior owner or operator of the Widget Business prior to the Closing.

10.6 Indemnification and Payment of Damages By Purchaser. Purchaser will indemnify and hold harmless Seller and its affiliates, and will pay to the Indemnified Party the amount of any Damages arising from or in connection with (a) any Breach of any representation or warranty made by Purchaser in this Agreement or in any certificate delivered by Purchaser pursuant to this Agreement as if such representation or warranty were made on and as of the Closing Date without giving effect to any supplement to the Schedules, and is expressly identified in the certificate delivered pursuant to Section 3.3.7 as having caused the condition specified in Section 7.1 not to be satisfied), (b) any Breach by Purchaser of any covenant or obligation of Purchaser in this Agreement, or (c) any claim by any Person for brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding alleged to have been made by such Person with Purchaser (or any Person acting on its behalf) in connection with this Agreement.

10.7 Indemnification and Payment of Damages by Purchaser—Assumed Liabilities. Purchaser will indemnify and hold harmless Seller and its affiliates for, and will pay to the Indemnified Party the amount, without dollar limitation, of any loss, liability, claim, damage, expense (including cost of investigation and defense and reasonable attorney fees), whether or not involving a third-party claim (collectively, "Damages"), arising, directly from or in connection with the failure of Seller to pay, perform or discharge those liabilities, obligations or claims arising from Assumed Liabilities.

10.8 Indemnification Notice. The party seeking indemnification (the "Indemnified Party") agrees to give prompt notice to the party against whom indemnity

may be sought (the "Indemnifying Party") of the assertion of any claim in respect of which indemnity may be sought; provided, however, that in the event such notice is not given or is delayed and the Indemnifying Party is not prejudiced thereby, the Indemnified Party's rights hereunder shall not be effected. The Indemnified Party shall have the right, at the Indemnifying Party's expense, (limited only to the extent that any and all costs incurred by the Indemnified Party, including attorneys' fees, shall be reasonable) to control the defense of any such claim; and if the Indemnified Party does control such defense, the Indemnified Party shall not settle the matter without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld. The Indemnifying Party shall have the right to participate in such defense by notice to the Indemnified Party. If upon the Indemnified Party's consent, the Indemnifying Party assumes such defense, the Indemnifying Party shall not settle the matter without the consent of the Indemnified Party, which consent shall not be unreasonably withheld.

10.9 Products Liability. Seller shall retain all liability for personal injury and property damage (whether based on "strict liability" laws or otherwise), arising out of or in connection with any products manufactured and shipped to customers by Toledo Widget or by any predecessor or prior owner or operator of the Widget Business prior to the Closing, and Seller shall indemnify and hold harmless Purchaser with respect thereto under the indemnification procedures set forth in this Section 10. Purchaser shall have all liability for personal injury and property damage (whether based on "strict liability" laws or otherwise) arising out of or in connection with any products manufactured or shipped by the Purchaser after the Closing or in connection with the Inventories, whether incorporated into products by Purchaser or any third party, and Purchaser shall indemnify and hold harmless Seller with respect thereto under the indemnification procedures set forth in this Section 10. Purchaser and Seller hereby agree to render assistance to each other as may be needed and as may be practical in the defense of any products liability litigation, including but not limited to access to and the right to make copies of any technical data, manufacturing or warranty records and any other data or information for the defense of any product liability claims.

10.10 Product Returns and Adjustment. Seller shall retain all obligations under written or implied warranties to repair or replace defective products which were manufactured and shipped by Seller prior to the Closing, and Seller shall indemnify and hold harmless Purchaser with respect thereto under the indemnification procedures set forth in this Section 10. Purchaser shall have all obligations under written or implied warranties to repair or replace defective products which were manufactured by Purchaser after the Closing or received as part of the Inventories, and Purchaser shall indemnify and hold harmless Seller with respect thereto under the indemnification procedures set forth in this Section 10.

10.11 Limitations on Amount - Seller. Seller will have no liability (for indemnification or otherwise) with respect to the matters described in Section 10.1 until the total of all Damages with respect to such matters exceeds \$50,000, and then only for the amount by which such Damages exceed \$50,000 up to a maximum aggregate total amount of \$3,000,000. However, this Section 10.11 will not apply to (i) any Breach

of any of Seller's representations and warranties of which Seller had Knowledge at any time prior to the date on which such representation and warranty is made, (ii) any intentional Breach by Seller of any covenant or obligation, (iii) any breach of Seller's representations and warranties pursuant to Section 4.1.15, Section 4.1.18 and Section 8.8 and (iv) payment of Accounts Receivable amounts as required by Section 2.5 and Seller will be liable for all Damages with respect to such Breaches. References to Section 4.1.15, Section 4.1.18, Section 2.5 and Section 8.8 shall refer to and include as to each all subparts and subsections thereof.

10.12 Limitations on Amount - Purchaser. Purchaser will have no liability (for indemnification or otherwise) with respect to the matters described in Sections 10.6 and 10.7 until the total of all Damages with respect to such matters exceeds \$50,000, and then only for the amount by which such Damages exceed \$50,000. However, this Section 10.12 will not apply to (i) any Breach of any of Purchaser's representations and warranties of which Purchaser had Knowledge at any time prior to the date on which such representation and warranty is made, or (ii) any intentional Breach by Purchaser of any covenant or obligation, and Purchaser will be liable for all Damages with respect to such Breaches, and (iii) any breach of Purchaser's representations and obligations pursuant to Section 2.7 and all subparts and subsections thereof.

10.13 Procedure For Indemnification – Third Party Claims.

10.14 Procedure For Indemnification - Other Claims.

10.15 Survival. Seller will have no liability (for indemnification or otherwise) with respect to any representation or warranty, or covenant or obligation to be performed and complied with prior to the Closing Date, other than those in Sections, 4.1.15, 8.8 and 10.2 ("Environmental Matters"), 4.1.18 ("Tax Matters"), 10.3 ("Excluded Liabilities"), 10.4 ("Employee Matters") and 10.5 ("Asbestos Product Liability Matters") unless on or before twenty-six (26) months following the Closing Date, Purchaser notifies Seller of a claim specifying the factual basis of that claim, in reasonable detail, to the extent then known by Purchaser. A claim with respect to Section 8.8, 10.2, 10.3, 10.4, 10.5 or Section 4.1.15 may be made at any time. Seller will have no liability (for indemnification or otherwise) with respect to any representation or warranty, or covenant or obligation in Section 4.1.18 unless Purchaser notifies Seller of a claim specifying the factual basis of that claim in reasonable detail to the extent then known by Purchaser within the period of time following the Closing equal to the applicable statute of limitations for the relevant Tax with respect to which such claim is made. Purchaser will have no liability (for indemnification or otherwise) with respect to any representation or warranty, or covenant or obligation to be performed and complied with prior to the Closing Date, unless on or before twenty-six (26) months after the Closing Date Seller notifies Purchaser of a claim specifying the factual basis of that claim in reasonable detail to the extent then known by Seller, except a claim under Section 10.7

may be made at any time. The references to Sections 8.8, 4.1.15 and 4.1.18 are deemed to include as to each all subparts or subsections thereof.

10.16 UCC Bulk Sales Indemnification.

10.17 Breach.

10.18 Knowledge of Seller. "Knowledge of Seller" means (i) the actual knowledge of _____ or members of the Board of Directors of Seller, and (ii) the knowledge any of the foregoing persons should reasonably be expected to have in the performance of their respective duties with respect to the Seller and/or the Widget Business, including by way of example, information resulting from investigation or analysis of Environmental, Health and Safety Liabilities by consultants acting on behalf of Seller. This section is not intended nor shall it be construed as a waiver of any attorney-client privilege to which the Seller is otherwise entitled.

11. TERMINATION

11.1 Termination

11.2 Notice of Termination.

11.3 Nonsolicitation.

11.4 Effect of Termination.

12. MISCELLANEOUS

12.1 Assignment.

12.2 Jurisdiction; Service of Process.

12.3 Notices.

12.4 Announcement.

12.5 Exclusive Remedy.

12.6 Severability.

12.7 Governing Law.

12.8 Entire Agreement.

12.9 Waiver.

12.10 Headings.

12.11 Execution.

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

SELLER.

PURCHASER

By: _____
Its President

By: _____
Its Executive Vice
President

EXHIBITS

3.2.2	Assumption Agreement
3.3.1	Non-Compete Agreements
3.3.13	Assignment, Acceptance and Consent Agreement
3.3.14	Limited Guaranty
3.3.15	Operations Agreement
4.1.5	Pro-Forma Financial Statements
4.1.5(a)	Financials
6.1.6	Legal Opinion of Seller's Counsel
7.1.5	Legal Opinion of Purchaser's Counsel
8.1	Commitment for Title Insurance

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