

08-16-1999



101119270
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type 8-11-99		Conveyance Type	
<input checked="" type="checkbox"/> New	<input type="checkbox"/> Resubmission (Non-Recordation) Document ID # <input type="text"/>	<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> License
<input type="checkbox"/> Correction of PTO Error Reel # <input type="text"/> Frame # <input type="text"/>	<input type="checkbox"/> Corrective Document Reel # <input type="text"/> Frame # <input type="text"/>	<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Nunc Pro Tunc Assignment
		<input type="checkbox"/> Merger	Effective Date Month Day Year <input type="text" value="07161999"/>
		<input type="checkbox"/> Change of Name	
		<input type="checkbox"/> Other <input type="text"/>	

Conveying Party Mark if additional names of conveying parties attached

Name Execution Date
Month Day Year

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

Receiving Party Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation Association

Other

Citizenship/State of Incorporation/Organization

08/18/1999 DCOATES 00000033 736885

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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments. #

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="736,885"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved. #

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed Deposit Account

Deposit Account (Enter for payment by deposit account or if additional fees can be charged to the account.)
Deposit Account Number: #

Authorization to charge additional fees: Yes No

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Peter Maki

Peter Maki

7/26/99

Name of Person Signing

Signature

Date Signed

ASSET PURCHASE AGREEMENT

dated as of

July 16, 1999

among

SPIR-IT, INC.

and

NOBLE PRODUCTS, INC.

and

ALPHA HOLDINGS, INC.

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ASSET PURCHASE AGREEMENT

AGREEMENT dated as of July 16, 1999 among Spir-it, Inc., a Massachusetts corporation ("Buyer") and Noble Products, Inc., a Texas corporation d/b/a "Zoo Piks International" and "Alpha Marketing Associates" ("Seller") and Alpha Holdings, Inc. ("Alpha" or the Seller Entity").

WITNESSETH:

WHEREAS, Seller conducts a business, including all of the business activities conducted under the names of Zoo Piks International and Alpha Marketing Associates, (the "Business") including, without limitation, the business of manufacturing, marketing and selling drinking straws, swizzle sticks, tip trays, napkins, cups, coasters, menu clips, sports bottles and novelty items referred to in the Alpha Marketing Associates catalog;

WHEREAS, Buyer desires to purchase substantially all of the assets of Seller used in the Business, and Seller desires to sell substantially all of the assets it uses in the Business to Buyer, upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. (a) The following terms, as used herein, have the following meanings:

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling, controlled by, or under common control with such other Person.

"Ancillary Agreements" means the Employment Agreements, the Noncompetition Agreements and the Escrow Agreement.

"Balance Sheet" means the unaudited balance sheet of the Seller as of January 31, 1999 as modified and attached as Schedule 3.06.

"Balance Sheet Date" means January 31, 1999.

"Closing Date" means the date of the Closing.

“Employment Agreements” means employment agreements entered into by the Buyer and each of the Principal Employees in a form reasonably satisfactory to Buyer.

“Escrow Agent” means American Escrow Company, Inc.

“Escrow Agreement” means an escrow agreement entered into by Buyer, Seller, Seller Entity and the Escrow Agent in a form reasonably satisfactory to Buyer.

“Interim Adjustment Amount” means the difference between the Pre-Closing Net Worth and the Interim Net Worth. If the Interim Net Worth is greater than the Pre-Closing Net Worth, the Interim Adjustment Amount shall be zero.

“Interim Reports” means the Seller’s accounts receivable aging report, accounts payable aging report and inventory list dated within 2 days of the Closing. These Interim Reports shall list only accounts receivable, accounts payable to be included in the Purchase Assets or Assumed Liabilities.

“Intracompany Receivables” means any receivables or notes due from any Affiliate of Seller or Alpha.

“January 31, 1999 Net Worth” means the difference between the Seller’s assets and liabilities as reflected on the Balance Sheet.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

“Material Adverse Change” means a material adverse change in the business, assets, condition (financial or otherwise), results of operations or prospects of the Business taken as a whole.

“Material Adverse Effect” means a material adverse effect on the business, assets, condition (financial or otherwise), results of operations or prospects of the Business taken as a whole.

“1934 Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Nonsolicitation Agreement” means a nonsolicitation agreement entered into by the Buyer and Alpha in a form reasonably satisfactory to Buyer.

“Obsolete Inventory” means any inventory not saleable in the ordinary course within a 12-month period except for inventory listed on Schedule 3.22 which extend beyond 12 months.

“Person” means an individual, corporation, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“Pre-Closing Balance Sheet” means a balance sheet for the Business as of May 28, 1999 attached as Schedule 3.06(a) which was prepared in accordance with GAAP (except for the absence of footnotes) on a basis consistent with the presentation in the unaudited balance sheet of January 31, 1999 and modified in the same manner as the balance sheet of January 31, 1999 was modified into the Balance Sheet.

“Pre-Closing Net Worth” means \$2,250,000, the difference between the Seller’s assets and liabilities as reflected on the Pre-Closing Balance Sheet.

“Principal Employees” means Nathan Long and Sue Lee.

“Proprietary Rights” means all (A) patents, patent applications, patent disclosures and all related continuation, continuation-in-part, divisional, reissue, re-examination, utility, model, certificate of invention and design patents, patent applications, registrations and applications for registrations, (B) trademarks, service marks, trade dress, logos, tradenames, service names and corporate names and registrations and applications for registration thereof, (C) copyrights and registrations and applications for registration thereof, (D) mask works and registrations and applications for registration thereof, (E) computer software, data and documentation, (F) trade secrets and confidential business information, whether patentable or nonpatentable and whether or not reduced to practice, know-how, manufacturing and product processes and techniques, research and development information, copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information, (G) other proprietary rights relating to any of the foregoing (including without limitation associated goodwill and remedies against infringements thereof and rights of protection of an interest therein under the laws of all jurisdictions) and (H) copies and tangible embodiments thereof.

“Seller’s knowledge” means the actual knowledge of Seller and each Seller Entity and each of their officers and directors and any knowledge Seller and each Seller Entity would have had upon reasonable inquiry.

“Seller’s Proprietary Rights” means all Proprietary Rights that are owned by Seller, or that are used in the operation of the Business or necessary for the operation of the Business.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Accounting Referee	2.06
Allocation Statement	2.06

Apportioned Obligations	8.03
Arbiter	2.08
Assumed Liabilities	2.03
Buyer Contested Claim	11.05
Buyer Settlement Documentation	11.05
Cash Adjustment Amount	2.07
Cash Price	2.06
Claim	11.03
Closing	2.07
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Required Consent	3.05

Tax	8.01
Tax Return	8.01
Transferred Employee	9.03

ARTICLE II

PURCHASE AND SALE

2.01. Purchase and Sale. Upon the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell, transfer, assign and deliver, or cause to be sold, transferred, assigned and delivered, to Buyer at Closing, free and clear of all Liens other than Permitted Liens, all of the assets, properties and business, other than the Excluded Assets, of every kind and description, wherever located, real, personal or mixed, tangible or intangible, owned, held or used by Seller, or owned, held or used by the Seller Entity in the conduct of the Business, as the same shall exist on the Closing Date including all assets shown on the Balance Sheet and not disposed of in the ordinary course of business, and all assets of the Business thereafter acquired by Seller (the "Purchased Assets"), and including, without limitation, all right, title and interest of Seller and the Seller Entity in, to and under such of the foregoing used in the Business as are more specifically described below:

- (i) all real property leases together with all buildings, fixtures, and improvements erected thereon to the extent owned by Seller or any Seller Entity, including without limitation the items listed on Schedule 3.08(a);
- (ii) all personal property and interests therein, including equipment, computer equipment, software, molds, dies, furniture, office equipment, communications equipment, and other tangible property, including without limitation the items listed on Schedule 3.08(b);
- (iii) all raw materials, work-in-process, finished goods, supplies and other inventories, wherever situated, a listing of which as of a recent date is set forth on Schedule 3.22;
- (iv) all rights under all contracts, agreements, leases, licenses, commitments, sales and purchase orders and other instruments, including without limitation the items listed on Schedule 3.13 (collectively, the "Contracts");
- (v) all accounts, notes and other receivables other than Intracompany Receivables;
- (vi) all Proprietary Rights owned or licensed, or used in the Business, by Seller or the Seller Entity, including without limitation the items listed on Schedule 3.16;

(vii) all transferable licenses, permits or other governmental authorizations affecting, or relating in any way to, the Business, including without limitation the items listed on Schedule 3.14;

(viii) all books, records, files and papers, whether in hard copy or computer format, including, without limitation, engineering information, sales and promotional literature, manuals and data, sales and purchase correspondence, lists of present and former suppliers, lists of present and former customers, copies of personnel and employment records (excluding medical records), and any information relating to Tax imposed on the Purchased Assets;

(ix) all goodwill associated with the Business or the Purchased Assets, together with the right to represent to third parties that Buyer is the successor to the Business; and

(x) all names, marks, trade names, service marks, trademarks, corporate symbols and logos owned, licensed or used in or by the Business, including without limitation, those incorporating "Zoo Piks" or "Alpha Marketing" alone or in connection with any other word, symbol, mark or phrase.

2.02. Excluded Assets. Buyer expressly understands and agrees that the following assets and properties of Seller (the "Excluded Assets") shall be excluded from the Purchased Assets:

(i) all of Seller's cash, cash equivalents and marketable securities as set forth on the Closing Balance Sheet;

(ii) any Purchased Assets sold or otherwise disposed of in the ordinary course of the operation of the Business and not in violation of any provisions of this Agreement during the period from the date hereof until the Closing Date;

(iii) any Intracompany Receivables;

(iv) any names, marks, trade names, service marks, trademarks, corporate symbols or logos incorporating "Alpha Holdings" or "Alpha Operating"; and

(v) all prepaid expenses, deposits, prepayments, refunds and rebates and tax refunds for any period ending prior to the Closing Date.

2.03. Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of Closing, to assume the following liabilities (the "Assumed Liabilities"):

(i) all liabilities arising out of or relating primarily to the Business, and incurred in the ordinary course of Business and included in the Closing Balance Sheet, but only to the extent listed on Schedule 2.03, except that up to \$25,000 of any liabilities incurred in the ordinary course of business in an amount of \$2,500 or less per liability shall be included in Assumed Liabilities, even though such liabilities are not required to be listed on Schedule 2.03 or included as payables; provided that all liabilities to a vendor or supplier shall be aggregated for purposes of the \$2,500 per liability limit;

(ii) all liabilities and obligations of Seller arising under the Contracts (other than liabilities or obligations attributable to any failure by Seller or any Seller Entity to comply with the terms thereof); and

(iii) up to \$10,000 of product liability or warranty claims or expenses of Seller arising during the 180 day period following the Closing Date in respect of products sold or services rendered by the Business through the Closing Date, provided that only two such claims of up to \$5,000 each shall be assumed and all product liability or warranty claims or expenses of the Business arising after the 180 day period following the Closing Date; and

(iv) the accrued vacation benefits of the Transferred Employees on the Closing Balance Sheet (other than any liabilities or obligations relating to accrued bonuses).

2.04. Excluded Liabilities. Notwithstanding any provision in this Agreement or any other writing to the contrary, Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of Seller or any Affiliate of Seller (or any predecessor owner of all or part of its business and assets) of whatever nature whether presently in existence or arising or asserted hereafter. All such other liabilities and obligations shall be retained by and remain obligations and liabilities of Seller or its Affiliate (all such liabilities and obligations not being assumed being herein referred to as the "Excluded Liabilities"). Without limiting the foregoing, none of the following shall be Assumed Liabilities for the purposes of this Agreement:

(i) any and all liabilities and obligations for Taxes arising from or with respect to the Purchased Assets or the Business which is incurred in or attributable to the operation of the Business on or before the Closing Date (including any Taxes that arise as a result of the transactions contemplated by this Agreement);

(ii) any liabilities or obligations relating to Seller's workers' compensation obligations or liabilities or to Seller's employee benefits or compensation arrangements, including, without limitation, any liabilities or obligations under any of Seller's Employee Plans or Benefit Arrangements listed on Schedule 9.02 and any liabilities or obligations for accrued benefits or bonuses other than the accrued vacation benefits described in Section 2.03(iv);

(iii) all liabilities and obligations relating to any contract, commitment, lease, purchase order, contract to purchase raw materials, contract for services and supplies, contract to sell products or any other agreement (whether written or oral) of Seller which are not described in Section 2.03(i), (ii) or (iii);

(iv) any Environmental Liability;

(v) any liability or obligation relating to any note or interest thereon, including, without limitation, any notes due to an Affiliate of Seller or a Seller Entity;

(vi) any liability or obligation relating to any products sold or services rendered through the Closing Date not assumed by Buyer pursuant to Section 2.03(iii); or

(vii) any liability or obligation relating to any Excluded Asset.

2.05. Assignment of Contracts and Rights. Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any Purchased Asset or any claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without consent of a third party thereto, would constitute a breach or other contravention thereof or in any way adversely affect the rights of Buyer or Seller thereunder. Seller and Buyer will use their best efforts (but without any payment of money by Seller or Buyer) to obtain the consent of the other parties to any such Purchased Asset or claim or right or any benefit arising thereunder for the assignment thereof to Buyer as Buyer may request. If such consent is not obtained, or if an attempted assignment thereof would be ineffective or would adversely affect the rights of Seller thereunder so that Buyer would not in fact receive all such rights, Seller and Buyer will cooperate in a mutually agreeable arrangement under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including subcontracting, sub-licensing, or subleasing to Buyer, or under which Seller would enforce for the benefit of Buyer, with Buyer assuming Seller's obligations, any and all rights of Seller against a third party thereto. Seller will promptly pay to Buyer when received all monies received by Seller under any Purchased Asset or any claim or right or any benefit arising thereunder, except to the extent the same represents an Excluded Asset.

2.06. Purchase Price; Allocation of Purchase Price. (a) The purchase price for the Purchased Assets (the "Purchase Price") is (a) \$8,000,000.00 in cash (the "Cash Price"), subject

to adjustment as provided in Sections 2.07 and 2.09 and (b) the assumption of the Assumed Liabilities. The cash portion of the Purchase Price shall be paid as provided in Section 2.07.

(b) Prior to the Closing, Buyer and Seller shall mutually approve a statement (the "Allocation Statement"), setting forth the value of the Purchased Assets and of the covenant not to compete described in Section 5.07, which shall be used for the allocation of the Purchase Price (together with the Assumed Liabilities) among the Purchased Assets and the covenant not to compete and the Allocation Statement shall be binding on the parties without further adjustment.

(c) Any adjustment made with respect to the Purchase Price pursuant to Section 2.07 or 2.09 of this Agreement shall be allocated in accordance with the determination mutually agreed by Seller and Buyer.

(d) The Seller and Buyer agree to report an allocation of such Purchase Price among the Purchased Assets in a manner entirely consistent with the Allocation Statement, and agree to act in accordance with such Allocation Statement in the preparation of financial statements and filing of all Tax Returns (including, without limitation, filing Form 8594 with its Federal income Tax Return for the taxable year that includes the date of the Closing) and in the course of any Tax audit, for any financial or regulatory purpose, in any Tax review, litigation or investigation or otherwise. Each party shall notify the other parties if it receives notice that the IRS or any other governmental agency proposes any allocation different than that set forth in the Allocation Statement.

(e) No later than 10 days prior to the filing of their respective Forms 8594 relating to this transaction, each party shall deliver to the other party a copy of its Form 8594. In the event that the Seller's Form 8594 differs from the Buyer's Form 8594, the Buyer's Form 8594 shall control and Seller shall file a Form 8594 in all respects consistent with the Buyer's Form 8594.

2.07. Closing. The closing (the "Closing") of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place at the offices of Kroney Mincey, Inc. in Dallas, Texas as soon as possible, but in no event later than 2 days after satisfaction of the conditions set forth in Article X, or at such other time or place as Buyer and Seller may agree. Prior to or at the Closing, Seller shall deliver a statement calculating the "Interim Closing Net Worth," which shall be the difference between the Seller's assets and liabilities based on the Interim Reports calculated on a basis consistent with the Pre-Closing Balance Sheet. Seller shall also deliver copies of the Interim Reports, which shall be attached here to as Schedule 2.07. At the Closing,

(a) Buyer shall make a wire transfer to an account designated by Seller, in the amount equal to the Cash Price less the sum of (i) the Escrow Amount and (ii) the portion of the Interim Adjustment Amount in excess of \$200,000, if any ("Cash Adjustment Amount").

(b) Buyer shall deposit an amount (the "Escrow Amount") equal to \$800,000 less up to \$200,000 of the Interim Adjustment Amount (the "Escrow Adjustment Amount") with the

Escrow Agent. Such Escrow Amount will be held and applied in accordance with Article XI hereof and the Escrow Agreement.

(c) Seller and Buyer shall enter into an Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit B, and Seller shall deliver to Buyer such deeds, bills of sale, endorsements, consents, assignments and other good and sufficient instruments of conveyance and assignment (the "Conveyance Documents") as the parties and their respective counsel shall deem reasonably necessary or appropriate to vest in Buyer all right, title and interest in, to and under the Purchased Assets.

(d) Seller shall deliver to Buyer revised schedules to this Agreement updating the information shown thereon to the Closing Date.

(e) Seller and Buyer shall also execute and deliver all such instruments, documents and certificates as may be reasonably requested by the other party that are necessary, appropriate or desirable for the consummation at the Closing of the transactions contemplated by this Agreement.

(f) Seller and the Seller Entity and Buyer shall enter into the Nonsolicitation Agreement.

(g) Seller and Buyer shall also execute and deliver all such instruments, documents and certificates as may be reasonably requested by the other party that are necessary, appropriate or desirable for the consummation at the Closing of the transactions contemplated by this Agreement.

2.08. Inventory Audit.

(a) Buyer and Seller shall conduct a physical inventory and audit prior to, but within 3 days of, the Closing Date and shall cause Ernst & Young to observe such physical inventory and as soon as reasonably practicable following the Closing Date, and in any event no later than 15 days thereafter, Seller shall cause to be prepared and delivered to Buyer a balance sheet of the Company as of the Closing Date, prepared in accordance with GAAP (except for the absence of footnotes) on a basis consistent with the Financial Statements (except for adjustments made for Obsolete Inventory identified in the physical inventory and audit and the modifications to modify the balance sheet in the same manner as the balance sheet as of January 31, 1999 was modified into the Balance Sheet) and the Pre-Closing Balance Sheet (the "Closing Balance Sheet"). Such Closing Balance Sheet shall be accompanied by a statement calculating the "Closing Net Worth," which shall be the difference between the Company's assets and liabilities as reflected on the Closing Balance Sheet. The Seller shall permit Buyer and its accountants to review promptly upon request of all accounting records, work papers and computations used by Seller and its accountants in the preparation of such Closing Balance Sheet and the computation of Closing Net Worth.

(b) If Buyer disputes the Closing Net Worth as calculated by Seller, not more than 30 days after the date Buyer receives Seller's calculation thereof, Buyer shall deliver to Seller a written notice of dispute (a "Notice of Dispute"). Upon receipt of the Notice of Dispute, Seller shall promptly consult with Buyer with respect to the specified points of disagreement in an effort to resolve the dispute. If any such dispute cannot be resolved by Purchaser and Seller within 30 days after Seller receives the Notice of Dispute, they shall refer the dispute to a national accounting firm (other than PriceWaterhouseCoopers LLP and Ernst & Young LLP), as agreed by the parties (the "Arbiter"), as an arbitrator to finally determine, as soon as practicable, and in any event within 30 days after such reference, all points of disagreement with respect to the Closing Net Worth. For purposes of such arbitration each party shall submit a proposed calculation of the Closing Net Worth. The Arbiter shall apply the terms of this Agreement and the Escrow Agreement, and shall otherwise conduct the arbitration under such procedures as the parties may agree or, failing such agreement, under the then prevailing Commercial Rules of the American Arbitration Association. The fees and expenses of the arbitration and the Arbiter incurred in connection with the arbitration of the Closing Net Worth, shall be allocated between the parties by the Arbiter in proportion to the extent either party did not prevail on items in dispute; provided, that such fees and expenses shall not include, so long as a party complies with the procedures of this Section 2.08, the other party's outside counsel or accounting fees. All determinations by the Arbiter shall be final, conclusive and binding with respect to the Closing Net Worth and the allocation of arbitration fees and expenses.

2.09. Purchase Price Adjustment. Within ten (10) days after the final resolution of the Closing Balance Sheet and the Closing Net Worth as provided in Section 2.08, if the Closing Net Worth as shown on the Closing Balance Sheet is less than the Pre-Closing Net Worth and the Interim Net Worth, Seller shall pay to Buyer, as an adjustment to the Cash Price, the amount of the difference between the Pre-Closing Net Worth and the Closing Net Worth by wire transfer to the account or accounts designated in writing by Buyer; provided that the first \$200,000 of such difference shall be paid out of the Escrow Amount and Seller and Seller Entity each hereby agree that it will not contest Buyer's claim for such amount pursuant to the Escrow Agreement. No adjustment to the Purchase Price shall be made if (i) the Closing Net Worth as shown on the Closing Balance Sheet is less than the Interim Net Worth, but is greater than or equal to the Pre-Closing Net Worth, or (ii) the Closing Net Worth is greater than the Interim Net Worth and the Pre-Closing Net Worth.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller and each Seller Entity, jointly and severally represent and warrant to Buyer that:

3.01. Corporate Existence and Power. Seller is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation, and has all corporate powers and all governmental licenses, authorizations, consents and approvals required

to carry on its business as now conducted. Seller is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where the character of the property owned or leased by it or the nature of its activities make such qualification necessary, except for those jurisdictions where failure to be so qualified would not, individually or in the aggregate, have a Material Adverse Effect. Seller has heretofore delivered to Buyer true and complete copies of the corporate charter and bylaws of Seller as currently in effect.

3.02. Authorization. (a) The execution, delivery and performance by Seller of this Agreement, and the consummation by Seller of the transactions contemplated hereby are within Seller's corporate powers and have been duly authorized by all necessary corporate action on the part of Seller. This Agreement and each of the Ancillary Agreements to which the Seller is a party constitute valid and binding agreements of Seller.

(b) The execution, delivery and performance by each Seller Entity of this Agreement, and the consummation by such Seller Entity of the transactions contemplated hereby are within its powers and have been duly authorized by all necessary action on the part of such Seller Entity. This Agreement constitutes a valid and binding agreement of each Seller Entity.

3.03. Governmental Authorization. The execution delivery and performance by Seller and each Seller Entity of this Agreement and each of the Ancillary Agreements to which the Seller or a Seller Entity is a party do not require any action by or in respect of, or filing with, any governmental body, agency, official or authority.

3.04. Non-Contravention. (a) The execution, delivery and performance by Seller of this Agreement and each of the Ancillary Agreements to which the Seller is a party do not and will not (i) contravene or conflict with the corporate charter or bylaws of Seller, (ii) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to Seller; (iii) assuming the receipt of all Required and Other Consents, constitute a default under or give rise to any right of termination, cancellation or acceleration of any right or obligation of Seller or to a loss of any benefit to which Seller is entitled under any provision of any agreement, contract or other instrument binding upon Seller or by which any of the Purchased Assets is or may be bound, or (iv) result in the creation or imposition of any Lien on any Purchased Asset, other than Permitted Liens.

(b) The execution, delivery and performance by each Seller Entity of this Agreement do not and will not (i) contravene or conflict with the organizational documents of such Seller Entity, if any, or (ii) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to such Seller Entity.

3.05. Required and Other Consents. (a) Schedule 3.05(a) sets forth each Permit, agreement, license, lease, contract or other instrument binding upon Seller or any Permit requiring a consent as a result of the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby, except such consents as would not,

individually or in the aggregate, have a Material Adverse Effect if not received by the Closing Date (each such consent, a "Required Consent").

(b) Schedule 3.05(b) sets forth every other consent (each such consent, an "Other Consent") under such agreements, contracts or other instruments or such Permits that is necessary with respect to the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Buyer shall not have any obligation to withhold any portion of the Purchase Price.

3.06. Financial Statements. The Balance Sheet, the unaudited balance sheet of Seller as of January 31, 1999, the unaudited balance sheet of the Seller as of June 30, 1998 and the related unaudited statements of operations and cash flows for the Seller for the years ended June 30, 1996, 1997 and 1998 (collectively, the "Financial Statements") of the Seller fairly present the financial position of the Seller as of the dates thereof and its results of operations and changes in financial position for the periods then ended in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods then ended, except as otherwise stated therein (or in any related notes). The Financial Statements are attached hereto as Schedule 3.06.

3.07. Absence of Certain Changes. Since the Balance Sheet Date, except as set forth on Schedule 3.07, Seller has conducted the Business in the ordinary course consistent with past practices, and there has not been:

(a) Any Material Adverse Change or, to Seller's knowledge, any event, occurrence, development or state of circumstances or facts which could reasonably be expected to result in a Material Adverse Change;

(b) any incurrence, assumption or guarantee by Seller of any indebtedness for borrowed money with respect to the Business other than trade debt or accounts payable incurred in the ordinary course with no single transaction exceeding \$5,000;

(c) any creation or other incurrence of any Lien on any Purchased Asset other than in the ordinary course of business consistent with past practices;

(d) any damage, destruction or other casualty loss (whether or not covered by insurance) affecting the Business or any Purchased Asset which, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect;

(e) any change in any method of accounting or accounting practice by Seller with respect to the Business;

(f) any (i) grant of any severance or termination pay to any employee of the Business, (ii) entering into of any employment, deferred compensation or other similar

agreement (or any amendment to any such existing agreement) with any employee of the Business, (iii) increase in benefits payable under an existing severance or termination pay policies or employment agreements or (iv) increase in compensation, bonus or other benefits payable to employees of the Business;

(g) any labor dispute or grievance, or, to the Seller's knowledge, any activity or proceeding by a labor union or representative thereof to organize any employees of the Business, or any lockouts, strikes, slowdowns, work stoppages or threats thereof by or with respect to such employees; or

(h) any open commitment for an expenditure in excess of \$5,000 other than commitments described in Schedule 3.13 or on Schedule 2.03.

3.08. Properties. (a) Seller leases or subleases all real property used in the Business. Schedule 3.08(a) describes all real property used in the Business included in the Purchased Assets (the "Real Property"), any title insurance policies, non-disturbance agreements and surveys with respect thereto, and any Liens thereon, specifying in the case of leases or subleases, the name of the lessor or sublessor, the lease term and basic monthly or annual rent. The copies of the leases of Real Property delivered by the Seller to the Buyer and the information with respect to each of the leases set forth on Schedule 3.08 is complete, accurate, true and correct in all material respects. Neither Seller nor the Seller Entity owns any real property ever used in the Business.

(b) Schedule 3.08(b) describes all personal property used in the Business included in the Purchased Assets, including but not limited to machinery, equipment, molds, dies, furniture, vehicles, and other trade fixtures and fixed assets, and any Liens thereon, specifying in the case of leases or subleases, the name of the lessor or sublessor, the lease term and basic annual rent.

(c)(i) The Seller has valid leasehold interests in all Real Property described in Schedule 3.08(c).

(ii) All leases of Real Property or personal property are in good standing and are valid, binding and enforceable in accordance with their respective terms, and there does not exist under any such lease of real property or personal property any default or any event that, with notice or lapse of time or both, would constitute a default. All rent, additional rent and any other sums due under the leases of Real Property will be paid by Seller through the Closing Date.

(iii) The Real Property includes all real property, and only such real property, as is used or held for use in connection with the conduct of the business and operations of the Business as heretofore conducted by Buyer.

(iv) All obligations of the tenant or lessee under the leases for Real Property which have accrued have been performed. To Seller's knowledge, all

obligations of the landlord under the leases for Real Property which have accrued have been performed (including without limitation, the construction of improvements and delivery of the premises) and tenant or lessee has paid any sums due in connection with the same.

(v) To Seller's knowledge, the plants, buildings, structures and equipment included in the Purchased Assets, are in good operating condition and repair and have been reasonably maintained consistent with standards generally followed in the industry (giving due account to the age and length of use of same, ordinary wear and tear excepted), are suitable for Seller's and Seller Entity's present uses.

(vi) The plants, buildings and structures included in the Purchased Assets currently have access to (A) water supply, storm and sanitary sewer facilities, telephone, gas and electrical connections, fire protection, drainage and other public utilities, as is necessary for the conduct of the Business as presently conducted and (B) to Seller's knowledge, to public roads or valid easements over private streets or private property for such ingress to an egress from all such plants, buildings and structures.

(vii) To Seller's knowledge, none of the structures on the Real Property encroaches upon real property of another person, and no structure of any other Person substantially encroaches upon any Real Property.

(viii) Seller enjoys peaceful and undisturbed possession under all leases under which the Business is operating.

(ix) Seller has obtained the consent of each landlord or lessor under any Leases whose consent is required to the transfer of the leased Real Property to Buyer, and such transfer will not give any landlord or lessor under any lease of Real Property any remedy, including, without limitation, any right to declare a default under any lease of Real Property.

(x) To Seller's knowledge, there are no actual or anticipated future expenses (including any capital expenditures) with respect to the leased Real Property other than those listed on Schedule 3.08(a).

(xi) The leased Real Property, including any and all improvements thereon, and all systems, equipment and fixtures thereof or therein (including, without limitation, glass, the HVAC, electrical, plumbing, mechanical or electrical systems, or components thereof, but excluding the exterior, foundation, elevators, roof, surfaced roadways, walls and parking and loading areas) (collectively, "Improvements and Systems") are in good condition and repair with normal wear and tear excepted.

(xii) To Seller's knowledge, the leased Real Property, including all Improvements and Systems and the Seller's operations therein, do not violate any building, zoning, safety, land use, fire, plumbing, electrical, environmental or similar law, rule, regulation, code, or requirement, including the Americans with Disabilities Act and related regulations, guidelines and the like. Seller has obtained all permits, approvals and consents necessary to conduct its operations on the leased Real Property.

(d) No Purchased Asset is subject to any Lien, except for personal property taxes not yet due or being contested in good faith (and for which adequate accruals or reserves have been established on the Balance Sheet) ("Permitted Liens").

(e) No violation of any law, regulation or ordinance (including, without limitation, laws, regulations or ordinances relating to zoning, environmental, city planning or similar matters) relating to the Business or any Purchased Asset currently exists or has existed at any time since March 31, 1996, except for violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(f) Seller represents and warrants to Buyer that:

(i) the copy of the Lease for the premises located at 3809 Pipestone Road, Dallas, Texas 75212, as amended on March 1, 1998 (the "Lease") delivered by Seller to Buyer is a complete and accurate copy of the Lease, which is in effect and has not been amended;

(ii) Seller has not received any notice of a default by Seller under the Lease that has not been waived or cured, and, to the best of Seller's knowledge, no sublessor, if any, is in default under the Lease, nor has any event occurred which, after any applicable notice and/or the expiration of any grace period, would constitute a default by Seller under the Lease;

(iii) All rent, additional rent and other charges due under the Lease have been paid through the Closing Date; and

(iv) Seller shall not amend, modify or terminate the Lease without the prior written consent of Buyer, which consent Buyer may withhold in its sole discretion.

(g) Seller agrees to indemnify, defend and hold harmless Buyer with respect to any claims, liabilities, cases of action, suits, losses or damages which arise out of any obligations, covenants, or conditions contained in the Lease or anything relating thereto accruing prior to the Closing Date or out of any default under the Lease subsequent to the Closing Date arising out of an action or inaction of Seller.

3.09. Sufficiency of Purchased Assets. The Purchased Assets and the Excluded Assets together constitute, and on the Closing Date will constitute, all of the assets or property used or held for use in the Business. All of the Purchased Assets are owned or held by Seller or the Seller Entity; and no Purchased Assets are owned or held by Minerva Plastics, Inc., Minerva Properties, Inc., Austin Products, Inc. or Alpha Operating, Inc.

3.10. Title to Purchased Assets. Upon consummation of the transactions contemplated hereby, Buyer will have acquired good and marketable title in and to, or a valid leasehold interest in, each of the Purchased Assets, free and clear of all Liens, except for Permitted Liens.

3.11. Insurance Coverage. Seller has furnished to Buyer a list of, and true and complete copies of, all insurance policies and fidelity bonds covering the Purchased Assets, the business and operations of the Seller and its employees. There is no claim by Seller pending under any of such policies or bonds as to which coverage has been questioned, denied or disputed by the underwriters of such policies or bonds. All premiums payable under all such policies and bonds have been paid and Seller is otherwise in full compliance with the terms and conditions of all such policies and bonds.

3.12. Litigation. Except as set forth in Schedule 3.12 there is no litigation, action, suit, investigation or proceeding (or any basis therefor) pending against or, to Seller's knowledge, threatened against or affecting, the Seller or any Purchased Asset (or against Seller Entity involving the Business or any Purchased Asset) before any court or arbitrator or any governmental body, agency or official nor, to Seller's knowledge, has there occurred any event on the basis of which any litigation, proceeding or investigation might properly be instituted. Neither the Seller nor any Seller Entity, is in default with respect to any order, writ, injunction, decree, ruling or decision of any court, commission, board or other government agency affecting the Business.

3.13. Material Contracts. (a) Except for the Contracts disclosed in Schedule 3.13 or any other Schedule to this Agreement, with respect to the Business, Seller is not a party to or subject to:

- (i) any lease providing for annual rental of \$5,000 or more;
- (ii) any contract for the purchase of materials, supplies, goods, services, equipment or other assets providing for annual payments by Seller of \$10,000 or more;
- (iii) any sales, distribution or other similar agreement providing for the sale by Seller of materials, supplies, goods, services, equipment or other assets that provides for annual payments to Seller of \$10,000 or more;

(iv) any partnership, joint venture or other similar contract arrangement or agreement;

(v) any contract relating to indebtedness for borrowed money or the deferred purchase price of property (whether incurred, assumed, guaranteed or secured by an asset), except contracts relating to indebtedness incurred in the ordinary course of business in an amount not exceeding \$10,000;

(vi) any license agreement, franchise agreement or agreement in respect of similar rights granted to or held by Seller;

(vii) any agency, dealer, sales representative or other similar agreement;

(viii) any agreement, contract or commitment that substantially limits the freedom of Seller to compete in any line of business or with any Person or in any area or to own, operate, sell, transfer, pledge or otherwise dispose of or encumber any Purchased Asset or that would so limit the freedom of the Buyer after the Closing Date;

(ix) any agreement, contract or commitment which is or relates to an agreement with or for the benefit of any Affiliate of Seller; or

(x) any other agreement, contract or commitment not made in the ordinary course of business which is material to the Business taken as a whole.

(b) Each Contract disclosed in any Schedule to this Agreement or required to be disclosed pursuant to Section 3.13(a) is valid and binding agreement of Seller and is in full force and effect, and neither Seller nor, to Seller's knowledge, any other party thereto is in default under the terms of any such Contract, nor, has any event or circumstance occurred that, with notice or lapse of time or both, would constitute any event of default thereunder.

3.14. Licenses and Permits. Schedule 3.14 correctly describes each license, franchise, permit or other similar authorization affecting, or relating in any way to, the Business, together with the name of the government agency or entity issuing such license or permit (the "Permits"). Except as set forth on the Schedule 3.14, such Permits are valid and in full force and effect and, assuming the related Required Consents and Other Consents have been obtained prior to the Closing Date, are transferable by Seller and will not be terminated or impaired or become terminable as a result of the transactions contemplated hereby. Upon consummation of such transactions, Buyer will, assuming the related Required Consents and Other Consents have been obtained prior to the Closing Date, have all of the right, title and interest in all the Permits.

3.15. Compliance with Laws. Seller is not in violation of, has not since March 31, 1996 violated, and is not under investigation with respect to and has not been threatened to be charged with or given notice of any violation of, any law, rule, ordinance or regulation, or judgment,

order or decree entered by any court, arbitrator or governmental authority, domestic or foreign, applicable to the Purchased Assets, the Seller, or the conduct of the Business, except for violations that have not had and could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.16. Proprietary Rights. (a) Schedule 3.16 sets forth a list of all patents and patent applications, trademarks, tradenames and service marks and registrations thereof and applications therefor, registered copyrights and applications for copyright registration included in Seller's Proprietary Rights, specifying as to each, as applicable: (i) the nature of such Proprietary Right; (ii) the owner of such Proprietary Right; (iii) the jurisdictions by or in which such Proprietary Right has been issued or registered or in which an application for such issuance or registration has been filed, including the respective registration or application numbers; and (iv) licenses, sublicenses and other agreements as to which Seller or any of its Affiliates is a party and pursuant to which any Person is authorized to use such Proprietary Right, including the identity of all parties thereto, a description of the nature and subject matter thereof, the applicable royalty and the term thereof.

(b) (i) Seller has not during the three years preceding the date of this Agreement been sued or charged in writing with or been a defendant in any claim, suit, action or proceeding relating to the Business that has not been finally terminated prior to the date hereof and that involves a claim of infringement of any Proprietary Rights and (ii) Seller has no knowledge of any other claim or infringement by Seller, or knowledge of any continuing infringement by any other Person of any of Seller's Proprietary Rights. No Proprietary Right of Seller is subject to any outstanding order, judgment, decree, stipulation or agreement restricting the use thereof by Seller with respect to the Business or restricting the licensing thereof by Seller to any Person. Seller has not entered into any agreement to indemnify any other Person against any charge of infringement of any Proprietary Right.

3.17. Employees. Schedule 3.17 sets forth a true and complete list of (a) the names, titles, annual salaries and other compensation of all employees of the Business and (b) the wage rates for non-salaried employees of the Business (by classification). No employee of the Business with an aggregate base salary and bonus in excess of \$30,000 has indicated to Seller that he intends to resign or retire as a result of the transactions contemplated by this Agreement or otherwise.

3.18. Finders' Fees. There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Seller who might be entitled to any fee or commission from Buyer or any of its Affiliates upon consummation of the transactions contemplated by this Agreement.

3.19. Products. To Seller's knowledge, each of the products produced or sold by Seller or its Affiliates in connection with the Business is, and at all times has been, in compliance in all material respects with all applicable federal, state, local and foreign laws and regulations.

3.20. Environmental Compliance.

(a) Environmental Definitions. The following terms, as used herein, have the following meanings:

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“Environment” means any and all environmental media, including without limitation ambient air, surface water, ground water, drinking water supply, land surface or subsurface strata, and also means any indoor location.

“Environmental Laws” means any and all currently applicable federal, state, local and foreign statutes, laws (including common or case law), regulations, ordinances, rules, judgments, judicial decisions, orders, decrees, codes, plans, injunctions, Environmental Permits, or governmental restrictions relating to the protection of human health or safety or the Environment or to emissions, discharges or Releases of any Hazardous Substance into the Environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Substance or the containment, removal or remediation thereof, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Solid Waste Disposal Act, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Emergency Planning and Community-Right-to-Know Act, the Safe Drinking Water Act, all as amended, and similar state laws.

“Environmental Liabilities” means any and all liabilities arising in connection with or in any way relating to the Business, whether vested or unvested, contingent or fixed, actual or potential, known or unknown, which (i) arise under or relate to matters governed by Environmental Laws or arise in connection with or relate to any matter disclosed or required to be disclosed in Schedule 3.20 and (ii) arise from or relate in any way to actions occurring or conditions existing before the Closing Date.

“Environmental Permits” means any and all governmental permits, licenses, concessions, grants, franchises, agreements, authorizations, registrations or other governmental approvals issued or required under any Environmental Laws.

“Hazardous Substance” means any and all pollutants and contaminants, and all and all toxic, caustic, radioactive or otherwise hazardous materials, substances or wastes that are regulated under any Environmental Laws, and includes, without limitation, petroleum and its derivatives and by-products, and any other hydrocarbons.

“Release” means any spilling leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the Environment

(including, without limitation, the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance).

(b) Environmental Representations and Warranties. Except as disclosed in Schedule 3.20:

(i) Each of the Seller and the Seller Entity has complied with all Environmental Laws.

(ii) No notice, notification, demand, request for information, citation, summons or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, threatened by any governmental or other entity with respect to any (A) alleged violation by the Seller or the Seller Entity of any Environmental Law, or any liability thereunder, (B) alleged failure by the Seller or the Seller Entity to have any Environmental Permit, or (C) the use, generation, treatment, storage, recycling, transportation or disposal of any Hazardous Substance.

(iii) No Hazardous Substance has been Released at, on or under any property now leased by the Seller or the Seller Entity during the period it occupied such property and no Hazardous Substance has been Released or was or is present, in a reportable or threshold planning quantity, where such a quantity has been established by any Environmental Law, at, on or under any property now leased by the Seller or the Seller Entity during the period it has occupied such property. To Seller's knowledge no Hazardous Substance has been Released at, on or under any property previously leased by the Seller or the Seller Entity and to Seller's knowledge, no Hazardous Substance was Released or was present, in a reportable or threshold planning quantity, where such a quantity has been established by any Environmental Law, at, on or under any property previously leased by the Seller or the Seller Entity.

(iv) To Seller's knowledge no one has handled any Hazardous Substance, other than as a generator, on any property now or previously leased by the Seller or the Seller Entity; to Seller's knowledge no urea formaldehyde or polychlorinated biphenyls are or have been present at any property now or previously leased by the Seller or the Seller Entity; to Seller's knowledge no asbestos or asbestos-containing materials are or have been present at any property now or previously leased by the Seller or the Seller Entity; to Seller's knowledge there are and have been no underground storage tanks or related piping for Hazardous Substances, active or abandoned, at any property now or previously leased by the Seller or the Seller Entity.

(v) Neither Seller nor the Seller Entity has transported or arranged for the transportation (directly or indirectly) of any Hazardous Substance to any location which is (A) listed or proposed for listing on the National Priorities List promulgated pursuant to CERCLA or on any similar state list of sites requiring investigation or clean-up or (B) the subject of federal, state or local enforcement actions or other investigations which may lead to claims against the Buyer for any Environmental Liabilities including, without limitation, clean-up costs,

remedial work, damages to natural resources or for personal injury claims, and claims under CERCLA.

(vi) No oral or written notification of a Release of a Hazardous Substance has been filed by or on behalf of the Seller or the Seller Entity. No property now leased by the Seller or the Seller Entity is listed or, to Seller's knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA or on any similar state list of sites requiring investigation or clean-up. To Seller's knowledge, no property previously leased by the Seller or the Seller Entity is listed or proposed for listing, on the National Priorities List promulgated pursuant to CERCLA or on any similar state list of sites requiring investigation or clean-up.

(vii) No notice, lien or other restriction relating to the presence of Hazardous Substances or otherwise arising under and Environmental Law has been placed on any property or facility now or previously leased by the Seller or the Seller Entity, and no governmental actions have been taken or are in process that could subject any such property or facility to such a notice, lien or other restriction. Neither Seller nor the Seller Entity would be required to place any such notice, lien or other restriction relating to the presence of Hazardous Substances or otherwise arising under any Environmental Law at any property used in connection with the operation of the Business.

(viii) There have been no environmental investigations, studies, audits, tests, reviews or other analyses conducted by or for the Seller or the Seller Entity, or which are in the Seller's or the Seller Entity's possession, in relation to any property or facility now or previously owned or leased by the Seller or the Seller Entity.

(ix) The Seller or the Seller Entity has applied for and received all Environmental Permits required in connection with the Business. Schedule 3.20 sets forth a list of all such Environmental Permits, each of which is in full force and effect. No suspension or cancellation is threatened and there is no basis for believing that any such Environmental Permit will not be renewable upon expiration. Except as set forth in Schedule 3.20, each such Environmental Permit will continue to be in full force and effect immediately following the Closing in accordance with the terms thereof as in effect immediately prior to the Closing, and the consummation of the transactions contemplated herein will no conflict with, result in a violation or breach of or constitute a default under (or would result in a violation, breach or default with the giving of notice or the passage of time or both) any such Environmental Permit.

3.21. No Undisclosed Material Liabilities. To Seller's knowledge, there are no liabilities of the Business of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition, situation or set of circumstances which could reasonably be expected to result in such a liability, other than:

(i) liabilities disclosed or provided for in the unaudited balance sheet dated as of January 31, 1999; and

(ii) liabilities incurred in the ordinary course of business consistent with past practices since the Balance Sheet Date, which in the aggregate will not have a Material Adverse Effect on the Business, taken as a whole.

3.22. Inventories. The inventories set forth in the Balance Sheet were properly stated therein at the lesser of cost or fair market value determined in accordance with generally accepted accounting principles consistently maintained and applied by Seller. Since the Balance Sheet Date, the inventories related to the Business have been maintained in the ordinary course of business. All such inventory shall be delivered to Buyer free and clear of all Liens. All of the inventory recorded on the Balance Sheet consists of, and all inventory related to the Business on the Closing Date will consist of, items usable or salable in the normal course of business within 12 months (except as set forth on Schedule 3.22) and are and will be in a quantity sufficient for the normal operation of the Business in accordance with past practice. Schedule 3.22 sets forth each inventory item not saleable in the ordinary course within a 12-month period which will not be included in Obsolete Inventory, the amount of such item included in the Pre-Closing Balance Sheet, the sales history for the last 3 years for such item and the top 5 customers for such item and the purchases of such customers during the last 3 years.

3.23. Customers, Vendors and Suppliers. Schedule 3.23 sets forth a list of the twenty (20) largest customers of the Business (based on total sales volume for the latest full fiscal year) and the ten (10) largest vendors or suppliers of merchandise or supplies (based on total purchase volume for the latest full fiscal year). Except as disclosed on Schedule 3.23, none of the twenty (20) largest customers of the Business (based on total sales volume for the latest full fiscal year) or ten (10) largest vendors or suppliers of merchandise or supplies (based on total purchase volume for the latest full fiscal year) to the Business has canceled or otherwise terminated or made any threat to Seller or any Seller Entity to cancel or otherwise terminate its relationship with the Seller, nor has any such customer, vendor or supplier indicated to Seller or any Seller Entity, an intent or desire to decrease its sales volume or purchase volume, as the case may be, with the Seller which individually or in the aggregate, has had or would have, a Material Adverse Effect.

3.24. Accounts, Notes and Receivables. All of the accounts, notes and other receivables which are reflected in the Balance Sheet, other than the Intracompany Receivables, were acquired in the ordinary and regular course of business; and, except to the extent reserved against in the Financial Statements, all of the accounts, notes and other receivables which are reflected in the Balance Sheet have been collected in full, or are good and collectible, in the ordinary and regular course of business; and all of the accounts, notes and other receivables which have been acquired by Seller since the Financial Statements, other than the Intracompany Receivables, were acquired in the ordinary and regular course of business and have been collected in full, or are good and collectible, subject to an appropriate reserve determined in accordance with GAAP and in a manner consistent with past practices of Seller, in the ordinary and regular course of business. No accounts, notes or other receivables of the Business, other than the Intracompany Receivables, are contingent upon the performance by Seller or its Affiliates of any obligation or contract. No person has any lien, charge, pledge, security interest or other encumbrance on any

of such receivables and no agreement for deduction or discount has been made with respect thereto.

3.25. Transactions with Affiliates. Except as set forth on Schedule 3.25 attached hereto, there are no loans, leases, royalty agreements or other continuing transactions between Seller, on the one hand, and any Person owning, or related to or affiliated with a Person owning, five percent (5%) or more of any class of capital stock of Seller or its Affiliates or other entity controlled by such stockholder or a member of such stockholder's family, on the other hand.

3.26. Equal Employment Opportunity and Immigration. The Seller has reviewed its employment practices and policies and is in material compliance with all applicable laws of the United States, of the States of California and Texas, and of each other applicable jurisdiction, relating to equal employment opportunity and to immigration.

3.27. Year 2000. Except as set forth in Schedule 3.27, none of the products and services sold, licensed, rendered, or provided by or to the Business will malfunction, will cease to function, will generate incorrect data or will produce incorrect results and will not cause any of the above with respect to the property or business of third parties using such products or services when processing, providing or receiving (i) date-related data from, into and between the Twentieth (20th) and Twenty-First (21st) centuries, or (ii) date-related data in connection with any valid date in the Twentieth (20th) and Twenty-First (21st) centuries.

3.28. Other Information. Except as set forth on Schedule 3.28, none of the documents or written information delivered to Buyer by Seller, a Seller Entity or any officer or director of Seller or a Seller Entity in connection with the transactions contemplated by this Agreement at the time it was delivered contained any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading. There is no fact relating to the Business which has not been disclosed herein or in writing by it to the Buyer which has had a Material Adverse Effect, or in the future would reasonably be expected to have a Material Adverse Effect.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warranties to Seller that:

4.01. Organization and Existence. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and has all corporate powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

4.02. Corporate Authorization. The execution, delivery and performance by Buyer of this Agreement and each the Ancillary Agreements to which the Buyer is a party and the consummation by Buyer of the transactions contemplated hereby and thereby are within the corporate powers of Buyer and have been duly authorized by all necessary corporate action on the part of Buyer. This Agreement and each of the Ancillary Agreements to which the Buyer is a party constitute valid and binding agreements of Buyer.

4.03. Governmental Authorization. The execution, delivery and performance by Buyer of this Agreement and each the Ancillary Agreements to which the Buyer is a party require no action by or in respect of, or filing with, any governmental body, agency, official or authority.

4.04. Non-Contravention. The execution, delivery and performance by Buyer of this Agreement and each the Ancillary Agreements to which the Buyer is a party do not and will not (i) contravene or conflict with the corporate charter or bylaws of Buyer or (ii) contravene or conflict with any provision of any law, regulation, judgment, injunction, order or decree binding upon Buyer.

4.05. Finders' Fees. There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Buyer who might be entitled to any fee or commission from Seller or any of its Affiliates upon consummation of the transactions contemplated by this Agreement.

4.06. Litigation. There is no action, suit, investigation or proceeding pending against, or to the knowledge of Buyer threatened against or affecting, Buyer before any court or arbitrator or any governmental body, agency or official which in any matter challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated hereby.

4.07. Financing. Buyer has sufficient funds available to purchase the Purchased Assets and such funds may be utilized by Buyer to consummate the transactions hereunder without the consent of any other Person.

ARTICLE V

COVENANTS OF SELLER

Each of Seller and each Seller Entity agrees that:

5.01. Conduct of the Business. From the date hereof until the Closing Date, Seller shall conduct the Business in the ordinary course consistent with past practice, use its reasonable efforts to preserve intact the business organization and relationships with third parties, and to keep available the services of its present employees. Without limiting the generality of the foregoing, from the date hereof until the Closing Date, Seller will not:

- (a) purchase or redeem or otherwise acquire, or propose to purchase or redeem or otherwise acquire, any outstanding shares of capital stock of any class, or securities convertible into any such shares, or any rights, warrants or options to acquire any such shares or convertible securities;
- (b) declare or pay any dividend or distribution on any shares of its capital stock;
- (c) acquire assets from any other Person;
- (d) sell, lease, license or otherwise dispose of any Purchased Assets except (i) pursuant to existing contracts or commitments and (ii) in the ordinary course consistent with past practice; or
- (e) agree or commit to do any of the foregoing.

In addition, no new elections with respect to Taxes, or any changes in current elections with respect to Taxes, affecting the Purchased Assets shall be made after the date of this Agreement without the prior written consent of Buyer.

Seller will not (i) take or agree or commit to take any action that would make any representation and warranty of Seller hereunder inaccurate in any respect at, or as of any time prior to, the Closing Date or (ii) omit or agree or commit to omit to take any action necessary to prevent any such representation or warranty from being inaccurate in any respect at any such time.

5.02. Access to Information. From the date hereof until the Closing Date, Seller (a) will give Buyer, its counsel, financial advisors, financing sources, auditors and other authorized representatives reasonable access to the offices, properties, books and records of Seller, (b) will furnish to Buyer, its counsel, financial advisors, financing sources, auditors and other authorized representatives such financial and operating data and other information as such Persons may reasonably request and (c) will instruct the employees, counsel and financial advisors of Seller to cooperate with Buyer in its investigation of the Business; provided that no investigation pursuant to this Section shall affect any representation or warranty given by Seller hereunder; and provided further that any investigation pursuant to this Section shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of Seller.

5.03. Notices of Certain Events. Seller shall promptly notify Buyer of:

- (a) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;
- (b) any notice or other communication from any governmental or regulatory agency or authority in connection with the transactions contemplated by this Agreement; and

(c) any actions, suits, claims, investigations or proceedings commenced or threatened against, relating to or involving or otherwise affecting Seller or the Business that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 3.12 or that relate to the consummation of the transactions contemplated by this Agreement.

5.04. Confidentiality. Each of Seller and each Seller Entity and each of their Affiliates will hold, and will use its best efforts to cause its officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all confidential documents and information concerning Buyer or the Business provided in connection with the transactions contemplated by this Agreement or pursuant to Section 6.02, except to the extent that such information can be shown to have been (i) previously known on a nonconfidential basis by Seller or Seller Entity, as the case may be, (ii) in the public domain through no fault of Seller or any Seller Entity or (iii) later lawfully acquired by Seller or Seller Entity, as the case may be, from sources other than Buyer; provided that Seller and Seller Entity may disclose such information to its officers, directors, employees, accountants, counsel, consultants, advisors and agents in connection with the transactions contemplated by this Agreement so long as such persons are informed by Seller or Seller Entity, as the case may be, of the confidential nature of such information and are directed by Seller or Seller Entity, as the case may be, to treat such information confidentially. The obligation of Seller or Seller Entity, as the case may be, or their Affiliates, to hold any such information in confidence shall be satisfied if they exercise the same care with respect to such information as they would take to preserve the confidentiality of their own similar information. If this Agreement is terminated, Seller, each Seller Entity and their Affiliates will, and will use their best efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to, destroy or deliver to Buyer, upon request, all documents and other materials, and all copies thereof, obtained by Seller or Seller Entity, as the case may be, or its Affiliates or on their behalf from Buyer in connection with this Agreement that are subject to such confidence.

5.05. Trademarks; Tradenames. As soon as practicable after the Closing Date, Seller shall eliminate the use of all of the trademarks, tradenames, service marks and service names used in the Business, in any of their forms or spellings, on all advertising, stationery, business cards, checks, purchase orders and acknowledgments, customer agreements and other contracts and business documents.

5.06. No Negotiation with Third Parties. From the date hereof until the earlier of the Closing Date, or the date on which this Agreement is terminated, Seller agrees not to, directly or indirectly, through any agent, representative, stockholder or otherwise, (a) solicit or entertain offers from, negotiate with or in any manner encourage, discuss, accept or consider any proposal of any other person relating to an investment in Seller or the acquisition of Seller, its capital stock, its assets (or rights thereto) or the Business, in whole or in part, whether through direct purchase, merger, consolidation or other business combination or licensing transaction; (b) disclose to any third party any non-published information concerning Seller, the Business or

its financial condition in connection with an acquisition or investment in Seller; or (c) withdraw its intention to engage in a transaction with Buyer. If Seller or any of its employees, stockholders, agents or representatives receives any unsolicited inquiry (however preliminary), offer or proposal, Seller shall promptly notify Buyer and promptly provide, or cause its employees, stockholders, agents or representatives to promptly provide, a copy of any written letter or other material constituting or accompanying such inquiry, offer or proposal to Buyer.

5.07. NonCompetition. (a) Seller agrees that for a period of five full years from the Closing Date, neither it nor any of its Affiliates shall:

(i) engage, either directly or indirectly, as a principal or for its own account, solely or jointly with others, or through any form of ownership in another Person, or otherwise, in any business that competes with the Business as it exists on the Closing Date; provided that, the foregoing restriction shall not apply to ownership of less than 5% of the equity securities of any publicly-traded company; or

(ii) employ or solicit, or receive or accept the performance of services by, any Principal Employee; or

(iii) solicit the performance of services by any Transferred Employee; or

(iv) advise any customer or supplier of the Business with respect to its business relationship with the Business; or

(v) perform any services for any person or entity, other than the Buyer or a person or entity designated by the Buyer, which service assists such person or entity to be competitive with the Business; or

(vi) solicit for himself or any person or entity, other than the Buyer, any business that competes with the Business as it exists on the Closing Date from any person or entity that is or has been a customer of the Business; or

(vii) solicit, or persuade or attempt to persuade, any employee or former employee of the Business (except in the furtherance of the best interests of the Buyer), to engage in the Business for or with any person or entity, other than the Buyer.

(b) If any provision contained in this Section shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Section, but this Section shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. It is the intention of the parties that if any of the restrictions or covenants contained herein is held to cover a geographic area or to be for a length of time which is not permitted by applicable law, or in any way construed to be too broad or to any extent invalid, such provision shall not be construed to be null, void and of no effect, but to the extent such provision would be valid or enforceable

under applicable law, a court of competent jurisdiction shall construe and interpret or reform this Section to provide for a covenant having the maximum enforceable geographic area, time period and other provisions (not greater than those contained herein) as shall be valid and enforceable under such applicable law. Seller acknowledges that buyer would be irreparably harmed by any breach of this Section and that there would be no adequate remedy at law or in damages to compensate Buyer for any such breach. Seller agrees that Buyer shall be entitled to injunctive relief requiring specific performance by Seller of this Section, and Seller consents to the entry thereof.

5.08. Employment. Seller shall use its reasonable efforts to assist Buyer in securing an employment agreement from each of the Principal Employees.

ARTICLE VI

COVENANTS OF BUYER

Buyer agrees that:

6.01. Confidentiality. Prior to the Closing Date and after any termination of this Agreement, Buyer and its Affiliates will hold, and will use their best efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all confidential documents and information concerning the Business or Seller furnished to Buyer or its Affiliates in connection with the transactions contemplated by this Agreement, except to the extent that such information can be shown to have been (i) previously known on a nonconfidential basis by Buyer, (ii) in the public domain through no fault of Buyer or (iii) later lawfully acquired by Buyer from sources other than Seller; provided that Buyer may disclose such information to its officers, directors, employees, accountants, counsel, consultants, advisors and agents in connection with the transactions contemplated by this Agreement so long as such persons are informed by Buyer of the confidential nature of such information and are directed by Buyer to treat such information confidentially. The obligation of Buyer and its Affiliates to hold any such information in confidence shall be satisfied if they exercise the same care with respect to such information as they would take to preserve the confidentiality of their own similar information. If this Agreement is terminated, Buyer and its Affiliates will, and will use their best efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to, destroy or deliver to Seller, upon request, all documents and other materials, and all copies thereof, obtained by Buyer or its Affiliates or on their behalf from Seller in connection with this Agreement that are subject to such confidence.

6.02. Access. On and after the Closing Date, Buyer will afford promptly to Seller and its agents reasonable access to its properties, books, records, employees and auditors to the extent necessary to permit Seller to determine any matter relating to its rights and obligations hereunder

or to any period ending on or before the Closing Date; provided that any such access by Seller shall not unreasonably interfere with the conduct of the business of Buyer.

ARTICLE VII

COVENANTS OF BOTH PARTIES

The parties hereto agree that:

7.01. Best Efforts; Further Assurances. (a) Subject to the terms and conditions of this Agreement, each party will use its best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. Seller and Buyer each agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement and to vest in Buyer good and marketable title to the Purchased Assets.

(b) Seller hereby constitutes and appoints, effective as of the Closing Date, Buyer and its successors and assigns as the true and lawful attorney of Seller with full power of substitution in the name of Buyer, but for the benefit of Buyer (i) to collect for the account of Buyer any items of Purchased Assets and (ii) to institute and prosecute all proceedings which Buyer may in its sole discretion deem proper in order to assert or enforce any right, title or interest in, to or under the Purchased Assets, and to defend or compromise any and all actions, suits or proceedings in respect of the Purchased Assets. Buyer shall be entitled to retain for its account any amounts collected pursuant to the foregoing powers, including any amounts payable as interest in respect thereof.

7.02. Certain Filings. Seller and Buyer shall cooperate with one another (a) in determining whether any action by or in respect of, or filing with, any governmental body, agency, official or authority is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any contracts, in connection with the consummation of the transactions contemplated by this Agreement and (b) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.

7.03. Public Announcements. No party to this Agreement will issue any press release or make any public statement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of all the other parties, except as may be required by applicable law.

ARTICLE VIII

TAX MATTERS

8.01. Tax Definitions. The following terms, as used herein, have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended.

“Post-Closing Tax Period” means any Tax period (or portion thereof) ending after the Closing Date.

“Pre-Closing Tax Period” means any Tax period (or portion thereof) ending on or before the close of business on the Closing Date.

“Tax” means any federal, state, local, or foreign net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, franchise, capital, paid-up capital, profits, greenmail, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, Social Security, transfer, workers’ compensation, environmental or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount imposed by any governmental authority (domestic or foreign) responsible for the imposition of any such tax.

“Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendments thereof.

8.02. Tax Matters. Seller and each Seller Entity hereby, jointly and severally, represents and warrants to Buyer that:

(a) Seller has timely filed all Tax Returns required to be filed and all Taxes owed (whether or not shown as due on such Tax Returns) have been paid or remitted, in each case, to the extent such Taxes and Tax Returns related to the Purchased Assets or the operation of the Business. All such Tax Returns were complete and correct in all respects. Except as set forth on Schedule 8.02 (a), no portion of any Tax Return that relates to the Purchased Assets or the operation of the Business has been the subject of any audit, action, suit, proceeding, claim or examination by any governmental authority, and no such audit, action, suit, proceeding, claim, deficiency or assessment is pending or threatened. Seller is not currently the beneficiary of any extension of time within which to file any Tax Return, and Seller has not waived any statute of limitation with respect to any Tax or agreed to any extension of time with respect to a Tax assessment or deficiency. Except as set forth in Schedule 8.02(a), no claim has ever been made by a Tax authority in a jurisdiction where Seller does not file Tax Returns that it is or may be subject to taxation by that jurisdiction. There are no Liens for Taxes upon the Purchased Assets.

Seller does not have, and has not had, a permanent establishment in any foreign country, as defined in any applicable Tax treaty or convention between the United States and such foreign country. Except as set forth in Schedule 8.02(a), Seller does not have any liability for the Taxes of any Person (other than the Seller) under Treasury Regulation Section 1.1502-6 (or any corresponding provision of state, local or foreign Tax law), as a transferee or successor, by contract, or otherwise. No portion of the Purchase Price is subject to any Tax withholding provision of federal, state, local or foreign law.

(b) Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, or other third party. None of the Assumed Liabilities is an obligation to make a payment that will not be deductible under Section 280G of the Code.

(c) Seller has timely paid all Taxes, and all interest and penalties due thereon and payable by it, for the Pre-Closing Tax Period which will have been required to be paid on or prior to the Closing Date, the non-payment of which would result in a Lien on any Purchased Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable or responsible therefor.

(d) In connection with the foregoing representations, except for Seller's ad valorem taxes not yet due, no facts exist that would constitute grounds for the assessment against Buyer, whether by reason of transferee liability or otherwise, of any liability for Tax relating to the income, assets or operations of Seller, any Affiliates of Seller, or arising out of the transactions set forth in this Agreement.

(e) Seller or Seller's Affiliates have established, in accordance with generally accepted accounting principles applied on a basis consistent with that of preceding periods, adequate reserves for the payment of, and will timely pay all Tax liabilities, assessments, interest and penalties which arise from or with respect to the Purchased Assets or the operation of the Business and are incurred in or attributable to the Pre-Closing Tax Period, the non-payment of which would result in a Lien on any Purchased Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable therefor.

(f) Buyer is not, and shall not be, required by any governmental authority to withhold any portion of the Purchase Price.

8.03. Tax Cooperation; Allocation of Taxes. (a) Buyer and Seller agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Business as is reasonably necessary for the filing of all Tax Returns, and making of any election related to Taxes, the preparation for any audit by any governmental authority, and the prosecution or defense of any claim, suit or proceeding relating to any Tax Return. Seller and Buyer shall cooperate with each other in the conduct of any audit or other proceeding related to Taxes involving the Business or the Purchased Assets.

(b) All real property taxes, personal property taxes and similar ad valorem obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date (collectively, the “Apportioned Obligations”) shall be apportioned between Seller and Buyer as of the Closing Date based on the number of days of such taxable period included in the Pre-Closing Tax Period and the number of days of such taxable period included in the Post-Closing Tax Period. Seller shall be liable for the proportionate amount of such taxes that is attributable to the Pre-Closing Tax Period. Within 90 days after the Closing, Seller and Buyer shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this Section 8.03(b) together with such supporting evidence as is reasonably necessary to calculate the proration amount. The proration amount shall be paid by the party owing it to the other within 10 days after delivery of such statement. Thereafter, Seller shall notify Buyer upon receipt of any bill for real or personal property taxes relating to the Purchased Assets, part or all of which are attributable to the Post-Closing Tax Period, and shall promptly deliver such bill to Buyer who shall pay the same to the appropriate governmental authority, provided that if such bill covers the Pre-Closing Tax Period, Seller shall also remit prior to the due date of assessment to Buyer payment for the proportionate amount of such bill that is attributable to the Pre-Closing Tax Period. If either Seller or Buyer shall thereafter make a payment for which it is entitled to reimbursement under this Section 8.03(b), the other party shall make such reimbursement promptly but in no event later than 30 days after the presentation of a statement setting forth the amount of reimbursement to which the presenting party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement. Any payment required under this Section and not made within 10 days of delivery of the statement shall bear interest at the rate per annum determined, from time to time, under the provisions of Section 6621(a)(2) of the Code for each day until paid.

(c) Any transfer, documentary, sales, use or other Taxes assessed upon or with respect to the transfer of the Purchased Assets to Buyer and any recording or filing fees with respect thereto shall be the responsibility of Seller.

ARTICLE IX

EMPLOYEE BENEFITS

9.01. Employee Benefits Definitions. The following terms, as used herein, having the following meanings:

“Benefit Arrangement” means an employment, severance or similar contract, arrangement or policy and each plan or arrangement providing for severance, insurance coverage (including any self-insured arrangements), workers’ compensation, disability benefits, supplemental unemployment benefits, vacation benefits, pension or retirement benefits or for deferred compensation, profit-sharing, bonuses, stock options, stock appreciation rights or other forms of incentive compensation or post-retirement insurance, compensation or benefits that

(i) is not an Employee Plan and (ii) is maintained or contributed to by Seller or any of its ERISA Affiliates.

“Employee Plan” means each “employee benefit plan”, as such term is defined in Section 3(3) of ERISA, that (i) is subject to any provision of ERISA and (ii) is maintained or contributed to by Seller or any of its ERISA Affiliates, as the case may be.

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

“ERISA Affiliate” of any entity means any other entity that, together with such entity, would be treated as a single employer under Section 414 of the Code.

“Multiemployer Plan” means each Employee Plan that is a multiemployer plan, as defined in Section 3(37) of ERISA.

9.02. ERISA Representations. Seller and each Seller Entity each hereby represent and warrant to Buyer that:

(a) Schedule 9.02 lists each Employee Plan and each Benefit Arrangement that covers any employee or former employee of the Business, copies or descriptions of all of which have previously been made available or furnished to Buyer. With respect to each Employee Plan, Seller has provided the most recently filed Form 5500 and an accurate summary description of such plan.

(b) Each Employee Plan which is intended to be qualified under Section 401(a) of the Code is so qualified and has been so qualified during the period from its adoption to date, and all salary deferral contributions and employer contributions have been timely made to such Plan. Seller has furnished to Buyer copies of the most recent Internal Revenue Service determination letters with respect to each plan. Neither Seller nor any ERISA Affiliate maintains an Employee Plan intended to qualify under Section 408 of the Code. Each Employee Plan and each Benefit Arrangement has been maintained in compliance in all material respects with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations, including but not limited to ERISA and the Code, which are applicable to such plan.

(c) Neither the Seller nor any ERISA Affiliate maintains or has ever maintained or contributed to any Multiemployer Plan or Employee Plan subject to Title IV of ERISA within the last six years.

(d) None of the Employee Plans or other Benefit Arrangements listed on Schedule 9.02 covers any non-United States employee or any non-United States former employee of the Business.

(e) No non-exempt “prohibited transaction”, as defined in Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Employee Plan;

(f) All contributions and payments accrued under each Employee Plan and Benefit Arrangement, determined in accordance with prior funding and accrual practices, as adjusted to include proportional accruals for the period ending on the Closing Date, will be discharged and paid by Seller. Except as disclosed in writing to Buyer prior to the date hereof, there has been no amendment to, written interpretation of or announcement (whether or not written) by Seller or any of its ERISA Affiliates relating to, or change in employee participation or coverage under, any Employee Plan or Benefit Arrangement (except through normal eligibility and terminations of participants) that would materially increase the expense of maintaining such Employee Plan or Benefit Arrangement above the level of the expense incurred in respect thereof for the fiscal year ended prior to the date hereof.

(g) There is no contract, agreement, plan or arrangement covering any employee or former employee that, individually or collectively, could give rise to the payment of any amount that would not be deductible pursuant to the terms of Section 280G of the Code.

(h) No tax under Section 4980B or 4980D of the Code has been incurred in respect of any Employee Plan that is a group health plan, as defined in Section 5000(b)(1) of the Code.

(i) With respect to the employees and former employees of the Business, there are no employee post-retirement medical or health plans in effect, except as required by Section 4980B of the Code.

(j) Except as specifically provided for herein, no employee of the Business will become entitled to any bonus, retirement, severance or similar benefit or enhanced benefit solely as a result of the transactions contemplated hereby.

9.03. Employees and Offers of Employment. On or prior to the Closing Date, Buyer shall offer employment to the employees of the Seller listed on Schedule 9.03; provided, that Buyer may terminate at any time after the Closing Date the employment of any employee who accepts such offer. Any such offers shall be at such salary or wage and benefit levels and on such other terms and conditions as Buyer shall in its sole discretion deem appropriate. The employees who accept and commence employment with Buyer are hereinafter collectively referred to as the “Transferred Employees”. Seller will not take, any action that would impede, hinder, interfere or otherwise compete with Buyer’s effort to hire any Transferred Employees. Buyer shall not assume responsibility for any Transferred Employee until such employee commences employment with Buyer.

9.04. Seller’s Employee Benefit Plans. (a) Except as described in Section 2.03(iv), Seller shall retain all obligations, assets and liabilities under the Employee Plans and Benefit Arrangements, including the obligation to provide COBRA continuation coverage pursuant to Code Section 4980B, to each employee or former employee (including any beneficiary thereof) who is not a Transferred Employee. No assets of any Employee Plan or Benefit Arrangement shall be transferred to Buyer or any of its Affiliates or to any plan of Buyer or any of its

Affiliates and neither Buyer nor any of its Affiliates shall have any liability with respect to any Employee Plan or Benefit Arrangement. To the extent required by law, accrued benefits or account balances of Transferred Employees under the Employee Plans and Benefit Arrangements (excluding the non-qualified Stock Option Plan of Seller and Seller Entity) shall be fully vested as of the Closing Date.

(b) With respect to the Transferred Employees (including any beneficiary or dependent thereof), Seller shall retain (i) all liabilities and obligations arising under any group life, accident, medical, dental or disability plan or similar arrangement (whether or not insured) to the extent that such liability or obligation relates to contributions or premiums accrued (whether or not payable), or to claims incurred (whether or not reported), on or prior to the Closing Date, (ii) all liabilities and obligations arising under any worker's compensation arrangement to the extent such liability or obligation relates to the period prior to the Closing Date, including liability for any retroactive workman's compensation premiums attributable to such period and (iii) all other liabilities and obligations arising under the Employee Plans and the Benefit Arrangements. To the extent permitted by law, Seller shall take such action as necessary with respect to its Employee Plans and Benefit Arrangements to terminate the accrual of any additional benefits by Transferred Employees after the Closing Date, including termination of health insurance coverage and the issuance of COBRA notices and HIPAA certificates to the Transferred Employees.

(c) With respect to any Transferred Employee (including any beneficiary or dependent thereof) who enters a hospital or is on short-term disability under any Benefit Arrangement on or prior to the Closing Date and continues in a hospital or on short-term disability after the Closing Date, Seller shall be responsible for claims and expenses incurred both before and after the Closing Date in connection with such Person, to the extent that such claims and expenses are covered by a Benefit Arrangement, until such time, (if any) that, in the case of a Transferred Employee, such Person resumes full-time employment with Buyer or one of its Affiliates and, in the case of any beneficiary or dependent of a Transferred Employee, such Person's hospitalization has terminated. With respect to any Benefit Arrangements covering medical expenses and other costs relating to pregnancies and maternity leave, Seller shall be responsible for all claims (whether or not reported) and expenses incurred during the period prior to and ending on the Closing Date, and Buyer or one of its Affiliates shall be responsible for such Benefit Arrangements covering such pregnancies and maternity leave for the period subsequent to the Closing Date.

(d) For purposes of Seller's defined contribution plans (including any 401(k) Plan), Seller shall treat the Transferred Employees as having been terminated to the extent permitted by law. As soon as practicable after the next valuation date under such plan or, if so elected by the Seller, after receipt of a favorable determination letter from the IRS as to the terminated status of the Transferred Employees, Seller shall permit each Transferred Employees to the extent permitted by law to elect a direct rollover of his account balance to Buyer's defined contribution plan. Buyer or one of its Affiliates may require evidence satisfactory to the Buyer that the Seller's plan(s) is/are qualified under Code Section 401(a) and that the Transferred Employee's

rollover qualifies for a direct rollover treatment. Each of the parties shall pay its own expenses in connection with such rollovers. Neither Buyer nor any of its Affiliates shall assume any obligations or liabilities under or attributable to the 401(k) Plan, the same to be retained by Seller.

9.05. Buyer Benefit Plans. Buyer or one of its Affiliates will recognize, to the extent permitted by the plans and/or appropriate third parties, all service of the Transferred Employees with Seller or any of its Affiliates, only for purposes of eligibility to participate in those employee benefit plans, within the meaning of Section 3(3) of ERISA, in which the Transferred Employees are enrolled by Buyer or one of its Affiliates immediately after the Closing Date.

9.06. No Third Party Beneficiaries. No provision of this Article shall create any third party beneficiary or other rights in any employee or former employee (including any beneficiary or dependent thereof) of Seller or of any of its subsidiaries in respect of continued employment (or resumed employment) with either Buyer or the Business or any of their Affiliates and no provision of this Article IX shall create any such rights in any such Persons in respect of any benefits that may be provided, directly or indirectly, under any Employee Plan or Benefit Arrangement or any plan or arrangement that may be established by Buyer or any of its Affiliates. No provision of this Agreement shall constitute a limitation on rights to amend, modify or terminate after the Closing Date any such plans or arrangements of Buyer or any of its Affiliates.

ARTICLE X

CONDITIONS TO CLOSING

10.01. Conditions to the Obligations of Each Party. The obligations of Buyer and Seller to consummate the Closing are subject to the satisfaction of the following conditions:

- (a) No provision of any applicable law or regulation and no judgment, injunction, order or decree shall prohibit the consummation of the Closing.
- (b) No proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or delay the Closing shall have been instituted by any Person before any court, arbitrator or governmental body, agency or official and be pending.
- (c) Each of Buyer and Seller shall have executed and delivered to the other each of the list Ancillary Agreements to be entered into at Closing, in each case substantially in the form attached as an Exhibit to this Agreement.
- (d) All actions by or in respect of, or filings with, any governmental body, agency, official or authority required to permit the consummation of the Closing shall have been obtained.

10.02. Conditions to Obligation of Buyer. The obligation of Buyer to consummate the Closing is subject to the satisfaction of the following further conditions:

(a)(i) Seller shall have performed all of its obligations hereunder required to be performed by it at or prior to the Closing Date, (ii) the representations and warranties of Seller and each Seller Entity contained in this Agreement as of the date hereof shall be true and correct in all respects at and as of the Closing Date as if made at and as of such date and (iii) Buyer shall have received a certificate signed by the President of Seller and the Chairman of Alpha to the foregoing effect.

(b) No provision of any applicable law or regulation and no judgment, injunction, order or decree shall restrain, prohibit or otherwise interfere with the effective operation or enjoyment by Buyer of all or any portion of the Purchased Assets.

(c) Buyer shall have received an opinion of Kroney•Mincey, Inc., counsel to Seller and each Seller Entity, dated the Closing Date to the effect specified in Sections 3.01 through 3.04. In rendering such opinion, such counsel may rely upon certificates of public officers and as to matters of fact, upon certificates of officers of Seller and each Seller Entity.

(d) Buyer shall have received an executed Employment Agreement from each of the Principal Employees.

(e) Seller shall have received all Required Consents, in each case in form and substance reasonably satisfactory to Buyer, and no such consent, authorization or approval shall have been withdrawn.

(f) No Material Adverse Change, or any event, occurrence, development or slate of circumstances or facts which could reasonably be expected to result in a Material Adverse Change, shall have occurred.

(g) Seller shall have delivered to Buyer the certificate or certificates required by Section 8.03(d).

(h) Seller shall have delivered a Pre-Closing Balance Sheet reasonably satisfactory to Buyer.

(i) Buyer shall have received an executed Noncompetition Agreement from Jack R. Rigby and each of the Principal Employees.

(j) Buyer shall have received an executed Nonsolicitation Agreement from Alpha.

(k) Intentionally omitted.

(l) Buyer shall have received such closing documents as it may reasonably request, all in form and substance reasonably satisfactory to Buyer.

10.03. Conditions to Obligations of Seller. The obligation of Seller to consummate the Closing is subject to the satisfaction of the following further conditions:

(a) (i) Buyer shall have performed all of its obligations hereunder required to be performed by it at or prior to the Closing Date including, without limitation, its obligations to make the payments described in Section 2.07, (ii) the representations and warranties of Buyer contained in this Agreement as of the date hereof, shall be true and correct in all respects at and as of the Closing Date, as if made at and as of such date and (iii) Seller shall have received a certificate signed by the Chief Executive Officer of Buyer to the foregoing effect.

(b) Seller shall have received an opinion of Testa, Hurwitz & Thibault, LLP, counsel to Buyer, dated the Closing Date to the effect specified in Sections 4.01 through 4.03. In rendering such opinion, such counsel may rely on certificates of public officers and as to matters of fact, upon certificates of Buyer.

(c) Seller shall have received all other closing documents it may reasonably request, all in form and substance reasonably satisfactory to Seller.

ARTICLE XI

SURVIVAL; INDEMNIFICATION

11.01. Survival. The covenants, agreements, representations and warranties of the parties hereto contained in this Agreement or in any certificate or other writing delivered pursuant hereto or in connection herewith shall survive the Closing until the second anniversary of the Closing Date or (i) in the case of Section 5.07, for the period set forth therein, (ii) in the case of Section 6.01, indefinitely; (iii) in the case of Section 3.20, until the third anniversary of the Closing Date and (iv) in the case of the covenants, agreements, representations and warranties contained in Articles VIII or IX, until expiration of the applicable statutory period of limitations (giving effect to any waiver, mitigation or extension thereof), if later. Notwithstanding the preceding sentence, any covenant, agreement, representation or warranty in respect of which indemnity may be sought under Section 11.02 shall survive the time at which it would otherwise terminate pursuant to the preceding sentence, if notice of the inaccuracy or breach thereof giving rise to such right to indemnity shall have been given to the party against whom such indemnity may be sought prior to such time.

11.02. Indemnification. (a) Seller and each Seller Entity, jointly and severally, hereby indemnifies Buyer and its Affiliates against and agrees to hold each of them harmless from any and all damage, loss, liability and expense (including, without limitation, reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, suit or proceeding) (collectively, "Loss") incurred or suffered by Buyer or any of its Affiliates arising out of:

(i) any misrepresentation or breach of warranty, covenant or agreement made or to be performed by Seller or any Seller Entity pursuant to this Agreement other than in Article VIII (determined without regard to any materiality qualification contained in any representation, warranty or covenant giving rise to the claim for indemnity hereunder and whether or not discovered by Buyer prior to Closing); or

(ii) the failure of Seller or a Seller Entity to assume full responsibility for any Excluded Liability or any obligation or liability of the Business relating to the Excluded Assets; or

(iii) any Environmental Liabilities; or

(iv) any misrepresentation or breach of warranty, covenant or agreement made or to be performed by Seller or any Seller Entity pursuant to Article VIII hereof to this Agreement (determined without regard to any materiality qualification contained in any representation, warranty or covenant giving rise to the claim for indemnity hereunder and whether or not discovered by Buyer prior to Closing).

provided that (i) neither Seller nor any Seller Entity shall be liable under Section 11.02(a)(i) unless the aggregate amount of Loss with respect to all matters referred to in this Section 11.02(a)(i) exceeds \$50,000 and then only to the extent of such excess and (ii) the maximum aggregate liability of Seller and each Seller Entity under Section 11.02(a)(i) shall not exceed \$4,000,000.00.

(b) Buyer hereby indemnifies Seller, each Seller Entity and their Affiliates against and agrees to hold each of them harmless from any and all Loss incurred or suffered by Seller or such Seller Entity or any of its Affiliates arising out of:

(i) any misrepresentation or breach of warranty, covenant or agreement made or to be performed by the Buyer pursuant to this Agreement (determined without regard to any materiality qualification contained in any representation, warranty or covenant giving rise to the claim for indemnity hereunder and whether or not discovered by Seller prior to Closing); or

(ii) the failure of Buyer to assume full responsibility for any Assumed Liability;

provided that (i) Buyer shall not be liable under this Section 11.02(b)(i) unless the aggregate amount of Loss with respect to all matters referred to in this Section 11.02(b)(i) exceeds \$50,000 and then only to the extent of such excess and (ii) the maximum aggregate liability of Buyer under Section 11.02(b)(i) shall not exceed \$4,000,000.

11.03. Claims. If Seller or Seller Entity seeks indemnification under Section 11.02 (the "Indemnified Party"), it agrees to give prompt written notice pursuant to Section 11.04 to the Buyer (the "Indemnifying Party") of the assertion of any claim (a "Claim"), or the commencement of any suit, action or proceeding in respect of which indemnity may be sought under such Section. The Indemnifying Party may, and at the request of the Indemnified Party shall, participate in and control the defense of any such third party suit, action or proceeding at its own expense; provided, however, that Indemnified Party shall control the defense of any claim or proceeding that in Indemnified Party's reasonable judgment could have a material and adverse effect on the Indemnified Party's business.

11.04. Notices. Each notice of a Claim (the "Notice of Claim") shall be delivered in writing and shall contain the following information:

- (a) a good faith estimate of the reasonably foreseeable amount of the claimed Loss;
- and
- (b) a brief description of the facts, circumstances or events giving rise to the claimed Loss.

11.05. Claims by Buyer and Resolution of Notice of Claim received by Buyer. (a) If Buyer seeks indemnification under Section 11.02, such claims shall be resolved pursuant to the Escrow Agreement and this Article XI.

(b) Any Notice of Claim received by Buyer will be resolved as follows:

(i) Uncontested Claims. In the event that the Buyer does not contest a Notice of Claim (or contests only a portion of the claim) in writing to the Seller or a Seller Entity, as the case may be, within fourteen (14) days after such Notice of Claim is received by the Buyer, the Buyer will pay to Seller or a Seller Entity, as the case may be, the amount specified in the Notice of Claim (that is not contested within ten (10) days of the date such notice is received by the Buyer) by wire transfer to an account designated by Seller or a Seller Entity, as the case may be, in writing.

(ii) Contested Claims. In the event that the Buyer gives written notice contesting all, or a portion of, a Notice of Claim to Seller or a Seller Entity, as the case

may be, (a “Buyer Contested Claim”) within the fourteen (14) day period provided above, a representative of the Seller or Seller Entity and an officer of Buyer shall attempt to resolve the matter. All disputes regarding a Buyer Contested Claim under this Agreement shall be settled either by (i) mutual agreement of the Buyer and the Seller or a Seller Entity, as the case may be, or (ii) by arbitration in accordance with Section 11.08, a copy of which decision (“Buyer Settlement Documentation”), in either case delivered to Buyer and the Seller or Seller Entity. Such instructions, in the case of mutual agreement between the parties, or Buyer Settlement Documentation, in the case of arbitration, shall constitute written instructions for Buyer to pay the amount of such settled Buyer Contested Claim in accordance with such agreement or decision.

11.06. Release. The Escrow Agent shall release the Escrow Amount as set forth in the Escrow Agreement.

11.07. General. (a) The Indemnifying Party shall not be liable under Section 11.02 for any settlement effected without its consent of any claim, litigation or proceeding in respect of which indemnity may be sought hereunder.

(b) No waiver of a closing condition by either Buyer or Seller shall limit its rights under Section 11.02.

11.08. Arbitration. Any dispute, controversy or claim arising out of, in connection with, or in relation to the Escrow Agreement or this Agreement or any claims made hereunder or thereunder shall be finally settled by arbitration in Chicago, Illinois, pursuant to the rules of the American Arbitration Association then in effect. Any award or decision shall be final, binding and conclusive upon the parties and a judgment upon the award rendered thereon may be entered in any court having jurisdiction thereof. The cost of such arbitration shall be borne equally by Buyer and Seller or Seller Entity, as the case may be, and each party shall pay for and bear the cost of its own experts, evidence and counsel. The arbitrator shall choose the form of final decision that, in its judgment, is most consistent with the terms of this Agreement and the intent of the parties, including by awarding specific performance of either party’s obligations hereunder.

ARTICLES XII

TERMINATION

12.01. Grounds for Termination. This Agreement may be terminated at any time prior to the Closing:

- (i) by mutual written agreement of Seller and Buyer;

(ii) by either Seller or Buyer if the Closing shall not have been consummated on or before July 31, 1999; or

(iii) by either Seller or Buyer if there shall be any law or regulation that makes the consummation of the transactions contemplated hereby illegal or otherwise prohibited or if consummation of the transactions contemplated hereby would violate any nonappealable final order, decree or judgment of any court or governmental body having competent jurisdiction.

The party desiring to terminate this Agreement pursuant to clauses (ii) or (iii) shall give notice of such termination to the other party.

12.02. Effect of Termination. If this Agreement is terminated as permitted by Section 12.01, such termination shall be without liability of either party (or any shareholder, director, officer, employee, agent, consultant or representative of such party) to the other party to this Agreement; provided that if such termination shall result from the willful failure of either party to fulfill a condition to the performance of the obligations of the other party or to perform a covenant of this Agreement or from a willful breach by either party to this Agreement, such party shall be fully liable for any and all Losses incurred or suffered by the other party as a result of such failure or breach. The provisions of Sections 5.04, 6.01 and 13.03 shall survive any termination hereof pursuant to Section 12.01.

ARTICLE XIII

MISCELLANEOUS

13.01. Notices. All notices, requests and other communications to either party hereunder shall be in writing (including telex, telecopy or similar writing) and shall be given,

if to Buyer, to:

John Rachwalski
Spir-it, Inc.
11 Lake Street
Wakefield, MA 01880
Telecopy: 781-245-7976

with a copy to:

Andrew E. Taylor, Esq.
Testa, Hurwitz & Thibault, LLP
125 High Street, High Street Tower
Boston, MA 02110
Telecopy: (617) 248-7100

if to Seller or a Seller Entity, to:

Gary Wood
Alpha Holdings, Inc.
1500 Three Lincoln Centre
5430 LBJ Freeway
Dallas, TX 75240
Telecopy: (972) 634-0242

with a copy to:

James Mincey, Jr.
Krone•Mincey, Inc.
12221 Merit Drive
Suite 1210
Three Forest Plaza
Dallas, TX 75251
Telecopy: (972) 701-0307

13.02. Amendments; No Waivers. (a) Any provisions of this Agreement may be amended or waived prior to the Closing Date if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by the Buyer and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

13.03. Expenses. Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such cost or expense.

13.04. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

13.05. Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of Texas, without regard to the conflicts of law rules of such state.

13.06. Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by the other party hereto.

13.07. Entire Agreement. This Agreement, including the schedules and exhibits hereto and the Ancillary Agreements, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral, between the parties with respect to the subject matter of this Agreement. Except for the representations and warranties in the Representation Agreement, no representation, inducement, promise, understanding, condition or warranty not set forth herein has been made or relied upon by either party hereto. This Agreement, nor any provision hereof, is intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

13.08. Captions. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

13.09. Jury Waiver. If a lawsuit is commenced as to any matter relating to this Agreement, all of the parties to this Agreement shall waive any right to trial by jury.

IN WITNESS WHEREOF, the parties hereto here caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

SPIR-IT, INC.

By: John W. Sachwall
Name:
Title:

NOBLE PRODUCTS, INC.

By: _____
Name:
Title:

ALPHA HOLDINGS, INC.

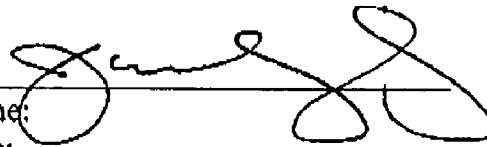
By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto here caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

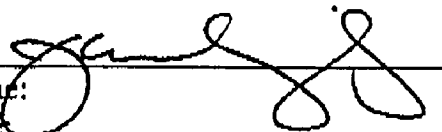
SPIR-IT, INC.

By: _____
Name:
Title:

NOBLE PRODUCTS, INC.

By: 
Name:
Title:

ALPHA HOLDINGS, INC.

By: 
Name:
Title: