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#101271031

Form PTO - 1684

RECORDATION FORM COVER SHEET

U.S. Department of Commerce
Patent and Trademark Office

1-31-__

05-25-2000

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Tab Settings



To the Honorable Commissioner (

hed original documents or copy thereof

101367727

1. Name of conveying party(ies).

Egg Harbor Yacht Company, Inc.

MLO
1-20-00

2. Name and address of receiving Party

Name: Egg Harbor Acquisition, Inc.

Internal Address: 6938 S. Evanson Avenue

Street Address: _____

City: Tulsa State: OK ZIP: 74136

Individual(s)

General Partnership

Corporate - State

Association

Limited Partnership

Individual(s) citizenship _____

Association _____

General Partnership _____

Corporation - State Delaware

Other _____

Other _____

Additional Name(s) of conveying party(ies) attached Yes No

3. Nature of Conveyance::

Assignment

Security Agreement

Association

Limited Partnership

Other _____

Execution Date: 7-1-96

If assignee is not domiciled in the United States, attornment representative designation is attached. N/A

(Designation must be a separate document from Assignment)

Additional Name(s) and Address(es) attached? Yes No

4. Application number(s) or registration numbers:

A. Trademark Application No.(s)

B. Trademark registration No.(s)

1,835,359

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Don P. Foster, Esquire

Internal Address: Mesirov Gelman Jaffe

Cramer & Jamieson, LLP

Street Address: 1735 Market Street

City: Phila State: PA ZIP: 19103-7598

6. Total number of applications and registrations involved: One

7. Total fee (37 CFR 3.41): \$100

Enclosed PAID

Authorized to be charged to deposit account

8. Deposit account number: _____

(Attach duplicate copy of this page if paying by deposit account)

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9. 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.

40E

Don P. Foster

Name of person signing

Signature

May 9, 2000

Date

Total number of pages comprising cover sheet 1

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Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
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Washington, D.C. 20211

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~~02-18-2000~~

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U.S. Department of Commerce
 Patent and Trademark Office

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 OFFICE OF FINANCE

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents, and copies, hereof.

1. Name of conveying party(ies): Egg Harbor Yacht Company, Inc. Egg Harbor Acquisition, Inc. Marine Acquisition, Inc.	2. Name and address of receiving Party Name: <u>EH YACHTS, LLC</u> Internal Address: _____ Street Address: _____ City: _____ State: _____
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<input type="checkbox"/> Individual(s) <input type="checkbox"/> General Partnership <input checked="" type="checkbox"/> Corporate - State <u>New Jersey</u>	<input type="checkbox"/> Association <input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Individual(s) citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Corporation - State _____ <input checked="" type="checkbox"/> Other <u>Limited liability company</u>
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Other _____
 Additional Name(s) of conveying party(ies) attached Yes No

3. Nature of Conveyance::
 Assignment
 Security Agreement
 Association
 Limited Partnership

If assignee is not domiciled in the United States, attornment representative designation is attached. N/A
 (Designation must be a separate document from Assignment)

Other _____
 Execution Date: _____
 Additional Name(s) and Address(es) attached? Yes No

4. Application number(s) or registration numbers: A. Trademark Application No.(s)	B. Trademark registration No.(s) <u>1,835,359</u>
--------------------------------------------------------------------------------------	------------------------------------------------------

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Edward J. DeMarco, Jr., Esq.</u> Internal Address: <u>Mesirov Gelman Jaffe</u> <u>Cramer & Jamieson, LLP</u> Street Address: <u>1735 Market Street</u> City: <u>Phila</u> State: <u>PA</u> ZIP: <u>19103</u>	6. Total number of applications and registrations involved: <u>One</u> 7. Total fee (37 CFR 3.41): <u>\$100</u> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account 8. Deposit account number: _____ (Attach duplicate copy of this page if paying by deposit account)
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9. 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.

<u>Edward J. DeMarco, Jr.</u> Name of person signing	_____ Signature	<u>January 20, 2000</u> Date
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Total number of pages comprising cover sheet 1

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Mail documents to be recorded with required cover sheet information to:
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Refund Ref: 02/17/2000
 DNGUYEN 0000090075

CHECK Refund Total: \$60.00

ASSET PURCHASE AGREEMENT

BY AND BETWEEN

EGG HARBOR YACHT COMPANY, INC.

AS SELLER

AND

EGG HARBOR ACQUISITION, INC.

AS BUYER

DATED NOVEMBER 6, 1995 .

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- A-2 Deposits and prepaid items
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- A-6 Inventories of work-in-process
- A-7 Inventories of finished goods and all products in transit
- A-8 Demonstration models and displays wherever located
- A-9 Product plans, specifications, designs and molds
- A-10 Real property and fixtures associated therewith
- A-11 Furniture and office equipment
- A-12 Machinery, tools, dies, patterns and molds
- A-13 Vehicles and rolling stock including trailers
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- A-17 Outstanding customer bids
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- A-20 List of owners of boats manufactured by the Company
- A-21 Subscribers to the Company's newsletter
- A-22 General intangibles, permits, qualifications, licenses, franchises
- A-23 Patents, patents pending and proprietary rights
- A-24 The names Egg Harbor Yachts and Golden Egg Yachts, all trademarks, tradenames, servicemarks, logos and all registration and applications therefrom
- A-25 All books and records
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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is executed and entered into as of November 6, 1995, by and between Egg Harbor Yacht Company, Inc., a New Jersey corporation (the "Company"), and Egg Harbor Acquisition, Inc., a Delaware corporation ("Buyer").

WITNESSETH:

WHEREAS, the Company desires to sell to Buyer, and Buyer desires to purchase, the business and all the Assets (as defined hereafter) and to assume the Liabilities (as defined hereafter) of the Company.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below unless the context otherwise requires:

"Agreement" means this Asset Purchase Agreement together with all Exhibits and Schedules hereto, as modified to reflect changes in the Exhibits and Schedules to reflect the facts as of the Closing.

"Assets" means all of the rights, titles and interests of the Company (excluding the Excluded Assets), which are on hand or under the control of the Company as of the Closing, including all of the following:

<u>Exhibit</u>	<u>Description</u>
A-1	Cash and cash equivalents and funds on deposit
A-2	Deposits and prepaid items
A-3	Trade accounts receivable
A-4	Other receivables
A-5	Inventories of raw materials
A-6	Inventories of work-in-process
A-7	Inventories of finished goods and all products in transit
A-8	Demonstration models and displays wherever located
A-9	Product plans, specifications, designs and molds
A-10	Real property and fixtures associated therewith
A-11	Furniture and office equipment (including computers, printers, peripherals, fax machines, telephone systems and copiers)
A-12	Machinery, tools, dies, patterns and molds
A-13	Vehicles and rolling stock including trailers
A-14	Leased equipment and leasehold rights
A-15	Customer contracts and contract rights
A-16	Supplier contracts and contract rights
A-17	Outstanding customer bids
A-18	Outstanding supplier bids
A-19	Customer lists
A-20	List of owners of boats manufactured by the Company
A-21	Subscribers to the Company's newsletter
A-22	General intangibles, permits, qualifications, licenses, franchises
A-23	Patents, patents pending and proprietary rights

- A-24 The names Egg Harbor Yachts, and Golden Egg Yachts all trademarks, trade names, service marks, logos and all registration, whether registered or not
- A-25 All books and records
- A-26 All other miscellaneous assets wherever located, whether or not listed or described herein or any exhibits hereto

"Assumption Agreement" means the agreement in the form attached hereto as Exhibit B which is executed and delivered by Buyer to the Company at the Closing.

"Basic Documents" means this Agreement, the Assumption Agreement, the Employment Agreements and the Non-Competition Agreements.

"Bill of Sale" means the Bill of Sale in the form of Exhibit C evidencing the sale and conveyance of the Assets to Buyer.

"Closing" means the consummation of the sale, purchase, transfer and conveyance of the Assets by Buyer and the assumption of the Liabilities by Buyer as contemplated by this Agreement.

"Deed" means the Bargain and Sale Deed with Covenants Against Grantor's Act attached hereto as Exhibit M by which the Company conveys to Buyer the land, real estate building and fixtures included within the Assets.

"Deposit" has the meaning set forth in paragraph 3(a) below.

"Employment Agreements" means the agreements between Buyer as employer and in the form attached as Exhibit D.

"Employee Benefit Plan" has the meaning set forth in paragraph 7(s) below.

"Environmental Regulations" has the meaning set forth in paragraph 7(q) below.

"ERISA" has the meaning set forth in paragraph 7(s) below.

"Excluded Assets" means (i) all items of Assets which are either disposed of by the Company in the ordinary course of its business prior to Closing or not on hand as of the Closing through no fault of the Company; (ii) the "Deposit" (as hereinafter defined), the balance of the Purchase Price to be paid hereunder, and the stock and other securities of Buyer; (iii) the specified assets of the Company listed in Exhibit E hereto including a cash reserve for federal and state income taxes; and (iv) proceeds from the sale or other disposition of any Excluded Assets. The reserve for federal and state income taxes shall be determined by applying the highest federal and state income tax marginal rates to the Company's taxable income, if any (without regard to the Company's net operating loss carryovers) for the period commencing October 1, 1995 and ending on the date of Closing. No reserve for taxes shall be made for any federal or state taxes payable as a result of the sale of the Assets pursuant to this Agreement or for taxes arising in any period prior to execution of this Agreement.

"Excluded Liabilities" means the liabilities of the Company arising prior to Closing relating to:

- (1) Foreign, federal and local state income taxes;

- (2) Liabilities for environmental liabilities, damages or claims and all related investigation compliance and enforcement costs with respect thereto (except that the cost of obtaining environmental consents, including the costs of any required soil testing, etc., shall be borne by Buyer under paragraph 14(c) hereafter);
- (3) Non-operating liabilities to shareholders and affiliates listed in Exhibit F; and
- (4) Other identified contingent liabilities listed in Exhibit F.

"Financial Statements" means the unaudited interim financial statements of the Company as of July 31, 1995 and interim unaudited financial statements as of the end of the month prior to Closing, which are attached hereto as Exhibit G and made a part hereof for all purposes.

"Hazardous Substance" has the meaning set forth in paragraph 7(q) below.

"Liabilities" means all liabilities of the Company at the date of Closing, a list of which are identified as of the stated date in Exhibit H hereto, as modified to reflect Liabilities of the Company at the date of Closing, but excluding the Excluded Liabilities.

"Non-Competition Agreements" means agreements with Peter Johnson, Walter Johnson, Donald Leek and Rudolf Lehnert in the form attached as Exhibit I.

"Products" means all custom designed sport fishing boats and all components thereof manufactured, assembled, installed, sold or serviced by the Company.

"Warranty Claims" means all claims by customers, users or third parties arising by reasons of alleged malfunction or use of Products or alleged defects in the design, manufacture, materials or workmanship of any Product, however characterized, whether in contract, tort or otherwise and whether for property damages, damage to business or injuries to persons, including without limitation, claims for breach of Product warranties, breach of contract or product liability or otherwise.

2. Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, the Company agrees to sell, assign, convey, transfer and deliver to Buyer at the Closing, and Buyer agrees to purchase, pay for, acquire and accept delivery at the Closing from the Company of, all the Assets, excluding the Excluded Assets. THE ASSETS ARE BEING SOLD PURSUANT TO THIS AGREEMENT "AS IS, WHERE IS" WITHOUT ANY REPRESENTATION, WARRANTY, LIABILITY OR OTHER OBLIGATION ON THE PART OF THE COMPANY WHATSOEVER, WHETHER EXPRESSED OR IMPLIED, EXCEPT AS EXPRESSLY STATED HEREIN. THIS EXPRESSED WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OR REPRESENTATION AS TO THE CONDITION OF THE ASSETS OR AS TO THE MERCHANTABILITY OF THE ASSETS OR ANY WARRANTY OF FITNESS OF THE ASSETS FOR ANY PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY WAIVED BY BUYER.

3. Purchase Price.

(a) Purchase Price for the Assets. The purchase price for the Assets shall be (i) \$1,000,000 in cash upon execution of this agreement (the "Deposit"); (ii) \$1,000,000 plus \$8,333 for each month or part thereof after October, 1995 until the Closing, payable at Closing, and (iii) the delivery by Buyer to the Company at the Closing of the executed Assumption Agreement. The Company shall have the immediate unrestricted use of the Deposit.

(b) Inventory Procedure. Immediately after the Closing, representatives of the Company and Buyer shall conduct a complete physical inventory of the Assets. A report of this physical inventory shall be prepared and signed by authorized representatives of both the Company and Buyer within 30 days after Closing, certifying the accuracy of the inventory. The report shall be as specific as possible in identifying each asset by serial number, stock number or other identifying mark. All items or categories of items of Assets shall be valued by the parties. Items of the Excluded Assets shall be identified on this report.

(c) Allocation of Purchase Price. Within 60 days after the Closing and promptly after the final purchase price is determined, the parties shall mutually agree upon the allocation of the purchase price among the various categories of the Assets. In the event the parties are unable to agree to the allocation, after good faith diligent efforts, each party shall be entitled to use its own allocation.

(d) No Adjustments. Except as otherwise expressly stated herein, there shall be no adjustments to the Purchase Price in connection with the inventory procedure or otherwise.

4. Assumption of Liabilities. Buyer agrees to assume, pay, perform and discharge all the Liabilities of the Company at the Closing, except for the Excluded Liabilities. The Liabilities assumed include, but are not limited to:

- (i) The performance of outstanding contractual obligations of the Company;
- (ii) Outstanding accounts payable of the Company at the Closing;
- (iii) Leases of office and manufacturing equipment and vehicle leases at the Closing;
- (iv) Liabilities of the Company to employees (including accrued employee vacation pay and sick leave), excluding Excluded Liabilities; and
- (v) Other liabilities of the Company identified in Exhibit H, except for the Excluded Liabilities.

In addition, Buyer agrees to administer, process and settle all Warranty Claims, whether arising before or after Closing, and pay to the extent not insured all losses, injuries, damages and claims for Liabilities where the event of loss occurs after the Closing. Buyer also agrees to pay the costs incurred by the Company in the administration of benefits under COBRA.

5. Buyer's Negotiation with the Company Employees. Buyer agrees to negotiate in good faith with the employees of the Company and to offer employment to such employees on terms that are mutually acceptable between Buyer and each such employee. It is not a condition of Closing that Buyer successfully negotiate the employment of any employee, except for the employees covered by the Employment Agreements. The Company shall have no obligation to retain any existing employee not hired by Buyer.

6. Closing.

(a) Closing. Subject to the terms and conditions of this Agreement, the Closing shall take place at the offices of Levine, Staller, Sklar, Chan & Brodsky at Atlantic City, New Jersey at a mutually agreed time, no later than 15 days after Closing of the IPO (as defined in paragraph 14(m) hereafter), but in no event later than December 31, 1996 (with respect to which time is of the essence). If the Closing has not occurred on or before December 31, 1996, this Agreement shall terminate unless the parties mutually agree in writing to extend the time for Closing, and neither party shall have any rights or obligations hereunder. Upon execution of this agreement, Buyer and the Company shall pay the expenses required by each other in Paragraph 14(c).

(b) Title, Possession and Risk of Loss. Title to, possession of, and risk of loss with respect to the Assets shall pass to Buyer at the Closing.

(c) Deliveries by the Company at Closing. At the Closing, the Company shall deliver to Buyer:

- (i) Possession of the Assets to Buyer;
- (ii) The executed Bill of Sale, the Deed and title certificates covering the owned vehicles which are part of the Assets and such other instruments of conveyance as Buyer may reasonably request in form and substance acceptable to each party for the purpose of conveying the Assets to Buyer;
- (iii) An executed officers' certificate;
- (iv) The Employment Agreements executed by the employees;
- (v) The Non-Competition Agreements executed by the shareholders of the Company;
- (vi) Certified copies of corporate resolutions authorizing the consummation of the transactions contemplated by this Agreement;
- (vii) Certificates of valid corporate existence and good standing in New Jersey;
- (viii) Evidence of the change in the corporate name of the Company to a name that does not contain the words "Egg Harbor Yachts" and is not deceptively similar to the corporate name of Buyer;
- (ix) Any required certificates of successful compliance or other appropriate documentation with applicable New Jersey environmental laws approving the transfer;
- (x) Any required consents to the transfer by contracting parties with the Company whose material agreements require consent; and

- (xi) An opinion of its counsel reasonably satisfactory to Buyer and its counsel;
- (xii) Such other documents as shall be reasonably required or necessary to consummate the transactions contemplated by this Agreement and the Exhibits as the parties shall agree.

Company:

- (d) Deliveries by Buyer at Closing. At the Closing, Buyer shall deliver to the
 - (i) The balance of the cash portion of the Purchase Price and the expenses payable by Buyer;
 - (ii) The Assumption Agreement executed by Buyer;
 - (iii) The Employment Agreements executed by Buyer;
 - (iv) The Non-Competition Agreements executed by Buyer;
 - (v) An executed officers' certificate;
 - (vi) Certified copies of corporate resolutions authorizing the consummation of the transactions contemplated by this Agreement;
 - (vi) Certificates of valid corporate existence and good standing in Delaware and New Jersey;
 - (vii) An opinion of its counsel reasonably satisfactory to the Company and its counsel;
 - (viii) Releases, discharges of mortgages, satisfactions of guarantees, and other documents evidencing discharge of the indebtedness of the Company and its shareholders with respect to the City of Egg Harbor/New Jersey Economic Development Authority loan and Midlantic Bank loans, in form and substance satisfactory to the Company and its shareholders.
 - (ix) Such other documents as shall be reasonably required or necessary to consummate the transactions contemplated by this Agreement and the Exhibits and as the parties shall agree (including, without limitation, the Exhibits in the form to be mutually agreed by the parties).

(e) Update of Exhibits and Schedules. To the extent reasonably possible, all Exhibits and Schedules attached hereto shall be updated to a date as near the time of Closing as reasonably possible. Within 15 days following Closing, the Exhibits will be revised by the Company as of the Closing.

7. Representations and Warranties of the Company. The Company represents and warrants to Buyer that:

- (a) Organization, Good Standing and Corporate Power. The Company is a

corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey duly qualified to engage in business in New Jersey and each other state where ownership of its assets or conduct of its business requires such qualification, with all requisite corporate power and authority to carry on the business of the Company as now conducted and to consummate the transactions contemplated hereby.

(b) Authorization. The execution, delivery and performance of the Basic Documents to which it is a party and the consummation by the Company of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Company; and the Basic Documents to which it is a party will be when executed and delivered at the Closing, valid and legally binding obligations of the Company enforceable in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium or similar laws affecting the enforcement of creditors' rights and by the availability of injunctive relief or specific performance.

(c) No Conflicting Agreements. Upon obtaining the required consents reflected in Schedule 7(d) prior to Closing (or thereafter if accepted by Buyer), neither the execution and delivery of the Basic Documents to which it is a party nor the fulfillment of or compliance by the Company with the terms or provisions thereof will result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in a violation of, the corporate charter or bylaws of the Company, or any agreement, contract, instrument, order, judgment or decree to which the Company is a party or by which it or the Assets are bound, or violate any provision of any applicable law, statute, rule or regulation or any order, decree, writ or injunction of any court or governmental entity which materially affects the Assets or business of the Company.

(d) Consents. Except as set forth in Schedule 7(d), no consent from or approval of any court, governmental entity or any other person is necessary in connection with the execution and performance by the Company of the Basic Documents to which it is a party, or the transactions contemplated thereby (and the Exhibits thereto); and the consummation of the transactions contemplated by the Basic Agreements and to which it is a party will not require the approval of any entity or person in order to prevent the termination of any material right, privilege, license or agreement of the Company relating to the Company.

(e) Title to the Assets. At the Closing, the Company will convey to Buyer good and marketable title to all of the Assets (tangible and intangible), free and clear of all charges, claims, liens, mortgages, options, restrictions, security agreements and other encumbrances of every kind or nature whatsoever, except as set forth in Schedule 7(e). Notwithstanding the preceding sentence, title to the Company's land, buildings, and fixtures shall be in accordance with the marked-up title commitment of Stewart Title Insurance Company attached hereto as part of Schedule 7(e).

(f) Condition of the Tangible Assets. The tangible Assets have been operated in a businesslike manner, have been maintained and repaired in the ordinary course of business (subject to ordinary wear and tear), except as will not materially and adversely affect the Assets as a whole or the business, operations or financial condition of the Company.

(g) Financial Statements. The Financial Statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis, except that such Financial Statements do not include complete footnotes or customary year-end adjustments. The Financial Statements present fairly the financial position and the results of operations of the Company on the dates and for the periods shown therein; provided, however, that the Financial Statements are subject to customary year-end adjustments and accruals that, in the aggregate, will

not have a material adverse effect on the overall financial condition or results of operations of the Company reflected in the Financial Statements. The Company has not engaged in business not reflected in the Financial Statements. There have been no material adverse changes in the nature of the business, the prospects of the Company, the value of the Assets or the financial condition of the Company since July 31, 1995, except as set forth in Schedule 7(g).

(h) Taxes. All returns, reports, statements and other similar filings required to be filed by the Company with respect to any federal, state, local or foreign taxes, assessments, interests, penalties, deficiencies, fees and other governmental charge or impositions (including without limitation all income, unemployment compensation, social security, payroll, sales and use, excise, privilege, property, ad valorem, franchise, license, school and other tax or similar governmental charge or imposition under laws of the United States or any state or municipal or political subdivision thereof or any foreign country or political subdivision thereof) have been filed with the appropriate governmental agencies in all jurisdictions in which such tax returns are required to be filed; and all such tax returns properly reflect in all material respects the liabilities of the Company for taxes for the periods, property or events covered thereby. All taxes, whether or not reflected on those tax returns, and all taxes heretofore claimed to be due from the Company by any taxing authority, have been properly accrued or paid. The Company has not received any notice of assessment or proposed assessment in connection with any tax returns, and there are no pending tax examinations of or tax claims asserted against the Company or any of its assets or properties. Except as set forth in Schedule 7(h), the Company has not extended or waived the application of, any statute of limitations of any jurisdiction regarding the assessment or collection of any taxes. There are no tax liens (other than any lien for current taxes not yet due and payable) on any of the Assets. The Company has no knowledge of any basis for any additional assessment of taxes. The Company has made all deposits required by law to be made with respect to employees' withholding and other employment taxes, including without limitation the portion of such deposits relating to taxes imposed upon the Company.

(i) Accounts Receivable. The accounts receivables of the Company are valid and genuine, have arisen from bona fide transactions and are collectible, net of reasonable reserves for sales returns and doubtful amounts, determined in accordance with generally acceptable accounting principles applied on a consistent basis as shown in the Financial Statements, updated to the time of Closing. To the Company's knowledge, there are no defenses, set offs, counterclaims or rights to reduce any of the accounts receivable.

(j) Inventories. The Company's inventory of raw materials and supplies is usable in the ordinary course of its business and carried on the Financial Statements at the lower of the Company's FIFO cost or market. The Company's inventory of finished goods and work-in-process is merchantable and marketable in the ordinary course of its business and consistent with the Company's past business practice. The obsolescence reserve in the Financial Statements is adequate.

(k) Absence of Certain Changes or Events. Except as may be disclosed on Schedule 7(k) from July 31, 1995 to Closing, without the prior consent of Buyer (which consent or lack of consent shall not be unreasonably withheld or delayed, and in any event a response given by Buyer within 10 days or else consent shall be deemed to have been given) the Company will not have:

(i) Sold, encumbered, assigned or transferred any assets or properties which would have been included in the Assets, except for the sale of inventory in the ordinary course of business consistent with past practice;

(ii) Materially amended or terminated any material agreement, contract, commitment, lease or plan involving \$25,000 or more to which it is a party or by which

it is bound;

(iii) Suffered any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting its business, operations, Assets or prospects of the Company with regard to any item or items carried on its books of account individually or in the aggregate at more than \$5,000, or suffered any recurring or prolonged shortage, cessation or interruption of material supplies or utilities or other material services required to conduct its business and operations;

(iv) Received notice or had knowledge of any actual or threatened labor trouble, strike or other occurrence, event or condition of any similar character which has had or might have a material adverse effect on its business, operations, Assets or prospects of the Company;

(v) Made any material change in its customary operating methods which materially and adversely affects the Company's business (including its purchasing, marketing, selling and pricing practices and policies);

(vi) Made any commitments or agreements for capital expenditures or capital additions or betterment involving a commitment of \$25,000 or more, except as may be involved in ordinary repair, maintenance or replacement of its Assets;

(vii) Except in the ordinary course of business, increased the salaries or other compensation of, or made any advance (excluding advances for ordinary and necessary business expenses) or loan to, any of its employees or made any increase in, or any addition to, other benefits to which any of its employees may be entitled;

(viii) Changed any of the accounting principles followed by it or the methods of applying such principles;

(ix) Entered into any transaction relating to the Company or the Assets other than in the ordinary course of business consistent with past practice; or

(x) Agreed, whether in writing or otherwise, to take any of the actions set forth in this paragraph.

(1) Material Contracts. Schedule 7(1) contains a complete and correct copy of all material agreements, contracts and commitments (collectively, the "Material Contracts") of the following types, whether written or oral, by which any of the Assets are bound, or to which the Company is a party or is bound and which relate to the business of the Company or to the Assets:

(i) Mortgages, indentures, deeds of trust, security agreements and other agreements and instruments relating to the borrowing of money by, any extension of credit to, the Company;

(ii) Sales agency, manufacturer's representative, distributorship, employment and marketing agreements;

(iii) Licenses to or from others of any intellectual property and trade names;

(iv) Contracts or commitments to sell, lease or otherwise dispose of any of the Assets other than at market rates or other than in the ordinary course of business;

(v) Contracts or commitments limiting the freedom of the Company to compete in any line of business or in any geographic area or with any person; and

(vi) Employment, non-disclosure, confidentiality or intellectual property ownership or transfer agreements with any employees of the Company.

Schedule 7(l) contains also a summary of all oral material agreements.

(m) Leases. Schedule 7(m) contains a complete and correct list of all leases and other agreements pursuant to which the Company leases (or has purchased subject to a conditional sales or title retention agreement) from others any property used or useful in connection with the business of the Company, together with a description of the property to which each such lease, conditional sales or other title retention agreement relates.

(n) Insurance. The Company carries adequate insurance with respect to the Assets and its business. Such policies are in full force and effect on the date hereof, and the Company has not received notice of cancellation with respect to any such policy.

(o) Compliance with Laws. The Company is in compliance with all applicable laws, ordinances, statutes, rules, regulations and orders promulgated by any federal, state or local governmental body or agency relating to the business of the Company and the operation of the Assets. The Company owns, holds, possesses or lawfully uses in the operation of its business, all franchises, licenses, permits, easements, rights, applications, filings, registration and other authorizations which are necessary for it to conduct business, all of which are listed in Schedule 7(o), and all of which are valid and in full force and effect, and the Company is in full compliance therewith.

(p) Litigation. Except as set forth in Schedule 7(p) hereto, there is no suit, action or any arbitration, administrative, legal or other proceeding of any kind or character, or any governmental investigation pending or threatened against the Company affecting the Assets, the business of the Company or the employees of the Company. The Company is not in default with respect to any order, decree, writ or injunction of any court or governmental body or agency which affects the Assets or the business of the Company. There are no pending or threatened actions or proceedings before any court, arbitrator or administrative agency which would, if adversely determined, individually or in the aggregate, materially and adversely affect the Assets or the business of the Company.

(q) Environmental Matters. Except as set forth in Schedule 7(q) hereto:

(i) The Company has obtained all permits, licenses and other authorizations which are required in connection with the conduct of the business of the Company relating to pollution or protection of the environment, including regulations relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or wastes ("Hazardous Substances") into the environment (including without limitation ambient air, surface water, groundwater, or land), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Substances ("Environmental Regulations").

(ii) To its knowledge, the Company is in full compliance in all material respects with all terms and conditions of the required permits, licenses and authorizations

and is also in full compliance in all material respects with all other material limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the Environmental Regulations or contained in any regulation, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder.

(iii) The Company is not aware of, nor has it received notice of, any past, present or future events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent in any material respect compliance or continued compliance with the Environmental Regulations or any regulations, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder, or which may give rise to any material common law or legal liability, or otherwise form the basis of any material claim, action, demand, suit, proceeding, hearing, study or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment of any Hazardous Substance.

(iv) There is no civil, criminal or administrative action, suit, demand, claim, hearing, notice or demand letter, notice of violation or any investigation, or proceeding pending or threatened against the Company in connection with the conduct of its business relating in any way to the Environmental Regulations or any regulation, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder.

(v) The Company agrees to cooperate with Buyer in connection with Buyer's application for the transfer, renewal or issuance of any permits, licenses, approvals or other authorizations or to satisfy any regulatory requirements involving the business of the Company.

(vi) None of the Assets are or have been used for the generation, use, storage, manufacture, handling transportation, treatment or disposal of Hazardous Substances, except as permitted by, and in compliance with, all applicable Environmental Regulations.

(vii) Except as reflected in Schedule 7(g), there is not and there has not been any underground storage tanks located on the real property owned or leased by the Company or used in connection with the business of the Company.

(r) Employees. Schedule 7(r) sets forth a true and complete list of the name, title, current location and base salary or hourly rate of every employee of the Company, together with a statement of the basis, amount and nature of any other remuneration, whether in cash or kind, paid to each such employee during the current fiscal year or accrued for or payable to each such employee in the future, and the basis for accrual and amount of all vacation and severance benefits to which each such employee was entitled as of the signing of this Agreement and as of the Closing. Except as set forth in Schedule 7(r):

(i) The Company is not a party to or bound by any employment agreement or any collective bargaining agreement with respect to any of the employees;

(ii) There is not pending or threatened any strike, walkout or other work stoppage or any union organizing effort relating to the Company or the employees;

(iii) The Company is in full compliance with all federal and state laws in all material respects with respect to employment and employment practices, terms and conditions of employment, and wages and hours and employment health and safety and is not engaged in any unfair labor practices, and there is no unfair labor practice complaint against the company pending before the National Labor Relations Board;

(iv) The Company is not violation of any law, regulation or order relating to employment discrimination or occupational safety nor has the Company received any unresolved complaint from any federal or state agency or regulatory body alleging violations of any such laws or regulations, nor is the Company implementing any orders or consent decrees remedying any such prior violation. The Company has not entered into any written contract with any employees or made any oral or written representation, direct or implied, which would require Buyer to provide post-retirement medical benefits or post-retirement life insurance benefits. The amounts of employee-related liabilities reflect on the Financial Statements are not understated.

(s) Employee Benefit Plans and Arrangements. Schedule 7(s) contains a complete list of all Employee Benefit Plans, whether formal or informal, whether or not set forth in writing, and whether covering one person or more than one person, sponsored or maintained by the Company. For the purposes hereof, the term "Employee Benefit Plan" includes all plans, funds, programs, policies, arrangements, practices, customs and understandings providing benefits of economic value to any employee, former employee, or present or former beneficiary, dependent or assignee of any such employee or former employee other than regular salary, wages or commissions paid substantially concurrently with the performance of the services for which paid, and includes without limitation all employee welfare benefit plans within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Each Employee Benefit Plan is fully funded, and there are no non-funded liabilities to employees. The Company does not maintain, contribute to or have any liability under any Employee Benefit Plan.

(t) Books and Records. The books and records of the Company are complete and accurate, fairly present the business of the Company, have been maintained in accordance with good business practices, and accurately reflect in all material respects the business and financial condition of the Company.

(u) No Brokers' Fees. The Company has incurred no brokers' fees, sales commissions, finders' fees, financial advisory fees or other fees or expenses for which Buyer shall be liable.

(v) No Undisclosed Liabilities. Except as set forth in Schedule 7(v) and except as shown in the Financial Statements, the Company has no debt, liability or obligation that would have a material adverse effect on the business or financial condition of the Company or the Assets.

(w) Full Disclosure. All representations or warranties are true, correct and complete in all material respects on the date hereof (or on the date made, as to updated Schedules) and shall be true, correct and complete in all material respects as of the Closing.

8. Representations and Warranties of Buyer. Buyer hereby represents and warrants to the Company that:

(a) Organization, Good Standing and Corporate Power. Buyer is a Delaware corporation duly organized, validly existing and in good standing under the laws of Delaware and is qualified to do business in the State of New Jersey, with all requisite corporate power and

authority to consummate the transactions contemplated by this Agreement and the Exhibits hereto.

(b) Authorization. The execution, delivery and performance of the Basic Agreements to which it is a party and the consummation by Buyer of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action on the part of Buyer; and each of the Basic Agreements to which it is a party will be when executed and delivered at Closing a valid and legally binding obligation of Buyer enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium or similar laws affecting the enforcement of creditors' rights and by the availability of injunctive relief or specific performance.

(c) No Conflicting Agreements. Neither the execution and delivery of the Basic Agreements to which it is a party, nor the fulfillment of or compliance by Buyer with the terms or provisions thereof, will result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in a violation of, the corporate charter or bylaws of Buyer or any agreement, contract, instrument, order, judgment or decree to which Buyer is a party or by which it is bound, or violate any provision of any applicable law, statute, rule or regulation or any order, decree, writ or injunction of any court or governmental entity.

(d) Consents. No consent from or approval of any court, governmental entity or any other person is necessary in connection with the execution, delivery or performance of the Basic Agreements by Buyer other than consents and approvals which have already been obtained.

(e) No Brokers' Fees. Buyer has incurred no brokers' fees, sales commissions, finders' fees, financial advisory fees or other fees or expenses for which the Company shall be liable.

(f) No Undisclosed Liabilities. Buyer has no material debt, liability or obligation not disclosed to Egg Harbor that would have a material adverse effect on the business or financial condition of Buyer.

(g) IPO. Buyer will use its best efforts to conclude a successful IPO as contemplated by Paragraph 14(m). The Company will cooperate with and promptly supply all information reasonably requested in connection therewith. Buyer will, promptly upon receipt or delivery, provide the Company with copies of all agreements and all material correspondence in connection with, or leading up to, the IPO, including agreements with underwriters, financial advisors, and other professionals and participants, and provide the Company with copies of all documents relating to any Regulation D offering or SEC filings of securities of Buyer.

(h) Full Disclosure. All representations and warranties are true, correct and complete in all material respects on the date hereof and shall be true, correct and complete in all material respects as of the Closing as if they were made on such date.

9. Conduct of Business Prior to Closing.

(a) Affirmative Covenants. The Company covenants and agrees that, so long as this Agreement remains in full force and effect and the Closing has not occurred, the Company will use its good faith diligent efforts to:

- (i) Carry on the business of the Company in accordance with applicable law, sound business practices and in substantially the same manner as heretofore conducted;

- (ii) Maintain and preserve the business organization of the Company and its relationship with employees, customers, suppliers and others having business relationships with the Company;
- (iii) Perform all of the obligations of the Company;
- (iv) Permit, subject to the confidential nature of the transactions contemplated by the Agreement, representatives of Buyer and its lenders to have reasonable access to inspect the Assets and the books and records of the Company to enable such representatives to conduct an investigation and evaluation of the Company's business;
- (v) Maintain in full force and effect insurance in effect covering the Assets in amounts equal to or greater than now in effect;
- (vi) Promptly notify Buyer of any notice or claim, written or oral, of default or breach by the Company, or the termination or cancellation, or threat of termination or cancellation, of any material contract, lease or other instrument relating to the Assets;
- (vii) Promptly notify Buyer of any material loss of, damage to, or disposition (not in the ordinary course of business) of, any Assets;
- (viii) Promptly notify Buyer of any material claim or litigation, threatened or instituted, or any other material adverse event or occurrence involving or affecting any of the Assets;
- (ix) Make all material filings that are reasonably necessary to transfer the Assets customarily made or obtained subsequent to transfer of title and obtain all applicable waivers of preferential rights to purchase and consents to assign and transfer the Assets;
- (x) Comply with or cause to be complied with in all material respects all applicable laws, rules, regulations and orders of all federal, state and local governments or governmental agencies materially affecting or relating to the Assets;
- (xi) Provide to Buyer all schedules and exhibits which are not attached to this Agreement as of its execution within 10 business days after the date of execution, where previously supplied information may be incorporated by reference, and in any event at such specific times as are provided herein, give Buyer prompt written notice of any material change in the business of the Company or the Assets which occurs prior to the Closing; and at least 5 days before the Closing, the Company will supplement or amend the Schedules to this Agreement in order to disclose any matter hereafter arising which, if existing or occurring at or prior to the date of this Agreement, would have been required to be set forth or described in the Schedules, or which is necessary to correct or update any information in the Schedules or in any representation and warranty of the Company;

- (xii) Comply in all material respects with all the Company's obligations under all loan agreements, security instruments and related documents and agreements entered into in connection with funding the debt incurred to acquire the Assets;
- (xiii) Give prompt notice to Buyer of all events, occurrences, omissions, investigations, claims, or other facts which the Company becomes aware of and which violate any covenant of the Company, or with the passage of time, could create an event of default under the Basic Agreements to which the Company is bound, the violation of which would result in a violation of any of the foregoing covenants; and
- (xiv) Copy Buyer with all material correspondence, information, and reports given to its lenders and its shareholders generally, including periodic financial information, covenant compliance reports, requests for waivers or amendments and related matters.

(b) Negative Covenants. The Company covenants and agrees that, so long as the Agreement remains in full force and effect, the Company will not without Buyer's prior written consent:

- (i) Take or permit any action that would materially and adversely affect the business of the Company or the Assets as a whole;
- (ii) Sell or transfer any of the Assets other than in the ordinary course of business or permit or allow any of the Assets to become subject to any lien (except by operation of law where the amount is not due), mortgage, option, pledge, right of refusal, security interest or other claim or encumbrance of any kind or character, except as contemplated hereby (which includes the Company's right to finance the manufacture of its Products and the acquisition of its inventory by borrowing and granting security interests consistent with past practices and sound business judgment);
- (iii) Modify any existing material lease, contract, commitment or other agreement relating to the business of the Company or the Assets, or enter into any new material lease, contract, commitment or other agreement, except in the ordinary course of business consistent with past practices;
- (iv) Do or omit to do any act or permit any act or omission to act which would cause a material breach of any representation, warranty, agreement or covenant made by the Company herein or materially adversely affect the business of the Company or title to or condition of the Assets; and
- (v) Directly or indirectly, solicit or encourage (including by way of furnishing any non-public information) any proposal for any acquisition of any portion of the business or assets of the Company not in the ordinary course of business. If during such the Company receives any proposal for any such acquisition, the Company shall promptly notify Buyer of such proposal and the terms thereof.

10. Conditions Precedent to Closing.

(a) Conditions to Buyer's Obligations. The obligation of Buyer to complete the Closing is subject to the fulfillment (or waiver by Buyer) of each of the following conditions at or prior to the Closing, and parties shall exert good faith diligent reasonable commercial efforts to cause each such condition to be so fulfilled:

- (i) All representations and warranties of the Company contained herein shall be true and correct in all material respects when made and at the Closing as though made as of the time of Closing;
- (ii) All covenants, agreements and obligations required by the terms of this Agreement to be performed by the Company at or before the Closing shall have been duly and properly performed in all material respects;
- (iii) Since the date of this Agreement, there shall not have occurred any material adverse change in the condition of the Assets, the business of the Company, or the amount of Liabilities except as disclosed or permitted under this Agreement;
- (iv) Buyer shall have received a certificate executed by the President of the Company, dated as of the Closing Date, certifying that the conditions set forth in clauses (i), (ii) and (iii) have been fulfilled;
- (v) Buyer shall be satisfied, in its sole reasonable discretion, with the results of reasonable due diligence procedures and with any Schedules (including updates, supplements and corrections) or other information of documentation delivered by the Company after execution of this Agreement. Buyer shall notify the Company of any unsatisfactory due diligence results as soon as those results become known to the Company or within 10 days after execution of this Agreement, and shall notify the Company of any objection to any other information or documentation within 5 days after Buyer's receipt of such other information or documentation; and unless objection is made within such period of time the results, schedules, information or documentation shall be deemed satisfactory to Buyer. If Buyer is dissatisfied with such due diligence, the Company shall have a reasonable period of time to correct any facts or matters creating such dissatisfaction;
- (vi) All necessary governmental approvals and any other required approvals and consents required of any person other than Buyer shall have been duly obtained, to the extent such approvals and consents shall be necessary Buyer's material realization of the benefits of this Agreement and its future conduct of the business of the Company;
- (vii) Except for obligations assumed by Buyer, all mortgages, deeds of trust and other security interests in the Assets shall have been released, and duly executed deeds of release, terminations of any financing statements, and other necessary documents shall have been delivered to Buyer for filing;
- (viii) No action or proceeding at law or in equity (other than by Buyer) shall be pending which (a) seeks to enjoin the transactions herein contemplated, or (b) materially interferes with the right of Buyer to

conduct its operations and operate the business using the Assets subsequent to the Closing;

- (ix) The Company shall have delivered to Buyer at the Closing the Deed and bills of sale, deeds, documents, certificates and agreement necessary to transfer to Buyer title to the Assets required hereunder and to assign to Buyer the Liabilities and shall have taken such other steps as may be required to put Buyer in actual possession and operating control of the Assets;
- (x) The real property owned or leased by the Company shall, prior to Closing, have passed environmental and structural inspections to Buyer's satisfaction, such inspections and the costs of obtaining any required approvals shall be at Buyer's cost. In the event any of the inspection reports contains any findings which are unacceptable to Buyer in the exercise of its reasonable business judgment, Buyer shall within three (3) business days of receipt thereof notify the Company and have the right: (a) to terminate this Agreement and declare it void; (b) to waive its objections; or (c) to request the Company to take reasonable efforts to cure such objections, in which case if acceptable to the Company, the Closing shall be extended for a reasonable time;
- (xi) Buyer shall have received at its own cost at least ten (10) days prior to Closing, commitments from a title insurance company acceptable to Buyer, to insure title to each parcel of real property in fee simple title, subject only to such exceptions as are set forth in Schedule 7(e), and subject to the Liabilities;
- (xii) Buyer and the Company shall have resolved in a mutually satisfactory manner any questions concerning any material disputed claim or potential claim by any creditors of the Company;
- (xiii) Buyer and the Company shall have resolved in a mutually satisfactory manner any questions concerning the parties' respective liability for any sales tax payable as a result of the transfer of the Assets; and
- (xiv) All the deliveries required of the Company at the Closing shall have been made to Buyer.

(b) Conditions to the Company's Obligations. The obligations of the Company to complete the Closing are subject to the fulfillment (or waiver by the Company) of each of the following conditions at or prior to the Closing, and the parties shall exert good faith diligent reasonable commercial efforts to cause each such condition to be so fulfilled:

- (i) All representations and warranties of Buyer contained herein shall be true and correct in all material respects when made and at the Closing as through made as of the time of Closing;
- (ii) All covenants, agreements and obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been duly and properly performed in all material

spects;

- (iii) Buyer's successful consummation of the IPO as contemplated by Paragraph 14(m) hereof;
- (iv) Buyer shall have delivered to the Company a certificate executed by the President to Buyer, dated as of the Closing Date, certifying that the conditions set forth in clauses (i), (ii) and (iii) have been fulfilled.
- (v) All governmental approvals and any other required approvals and consents required of any person other than the Company shall have been duly obtained in form and substance satisfactory to the parties, including the consent by the lenders to release to the shareholders of the Company \$650,000 of the cash portion of the purchase price and the shares of Common Stock and other securities of Buyer;
- (vi) No action or proceeding at law or in equity (other than by the Company) shall be pending which seeks to enjoin the transactions herein contemplated; and
- (vii) Buyer shall have delivered to the Company at the Closing all agreements of assumption and other agreements necessary for Buyer to assume the Liabilities;
- (viii) All deliveries required of Buyer to the Company shall have been made;
- (ix) The liabilities of the Company to the City of Egg Harbor, the New Jersey Economic Development Authority (the "Authority"), Midlantic Bank (or their successors or assigns) shall have been fully satisfied, discharged and/or released along with the personal guarantees of the existing shareholders of the Company for such loans. Buyer shall use its good faith best efforts to release the liabilities of the Company, and the personal guarantees of the existing shareholders with respect to the Company's loans from Deere Credit, Inc., Detroit Diesel Corporation, Caterpillar Financial Services Corporation, and DDC-MTU Financial Services.
- (x) The Company and Buyer agree for the benefit of the Authority and Egg Harbor City, jointly and severally, that they shall apply the Purchase Price proceeds to be used in connection with the satisfaction of the Company's liabilities to Egg Harbor City and the Authority in accordance with the terms of any indenture applicable to the funding of the Company's promissory notes, so as to defease the indenture (or applicable portion thereof). The foregoing shall not be a condition to closing that may be waived by either party.

11. Indemnification.

(a) By the Company. The Company agrees to indemnify, defend and hold harmless Buyer (and its successors or assigns) and its shareholders, directors, officers, employees, agents and representatives against and in respect of any cost, damage, expense (including reasonable legal fees and actual expenses), liability or loss incurred or suffered by any of them during the period that the Company's representations, warranties, or covenants survive the Closing, resulting from or arising out of the (i) breach, inaccuracy, misrepresentation or untruth of any of its representations or warranties which survive the Closing, or the nonfulfillment of any agreement or covenant of the Company contained in this Agreement or in any document delivered

by the Company to Buyer pursuant hereto; (ii) any Excluded Liability; (iii) any action, assessment, claim, demand, proceeding or suit incident to any of the foregoing, and (iv) any damages or losses suffered by Buyer or its officers, directors, or shareholders by reason of any violation of state or federal securities laws in connection with the IPO resulting from information supplied to Buyer in writing by the Company, which information is contrary to the representations made by the Company herein. Notwithstanding the foregoing and notwithstanding anything elsewhere to the contrary, the Company shall not be liable for any misrepresentation or warranty resulting from a change to any representation or warranty made as of the date of the signing of this Agreement unless such initial representation or warranty was false; provided further, however, that in such event Buyer shall not be required to close hereunder and Buyer's receipt of 15.66% of the stock of the Company in exchange for the Deposit pursuant to the Egg Harbor Yacht Company, Inc. Stock Purchase Agreement shall be its sole remedy.

(b) By Buyer. Buyer agrees to indemnify, defend and hold harmless the Company (including its successors or assigns) and its shareholders, directors, officers, employees, agents and representatives against and in respect of any cost, damage, expense (including reasonable legal fees and actual expenses), liability or loss incurred or suffered by any of them resulting from or arising out of: (i) the breach, inaccuracy, misrepresentation or untruth of any of its representations or warranties which survive the Closing, or the nonfulfillment of any agreement or covenant of Buyer contained in this Agreement or in any document delivered by Buyer to the Company pursuant hereto; (ii) any Liability of the Company assumed by Buyer; (iii) any action, assessment, claim, demand, proceeding or suit incident to any of the foregoing and (iv) any damages or losses resulting from Buyer's or its shareholders, directors, officers, or agents, for violations of any state or federal securities laws or regulations in connection with the IPO other than damages or losses resulting from information which the Company has supplied to Buyer in writing, which information is contrary to the representations made by the Company herein.

(c) Costs. The indemnification rights and obligations of a party hereto shall include the right to receive and the duty to pay and reimburse the indemnified party all its reasonable costs and expenses incurred in the enforcement of its rights hereunder.

(d) Survival of Representations, Warranties and Covenants.

The representations, warranties and covenants made by the Company and Buyer shall survive until July 1, 1998, and thereafter all such representations, warranties and covenants shall be extinguished, except with respect to claims then pending prior to July 1, 1998.

(e) Limitations on Liability. Notwithstanding any other provision herein to the contrary, neither party hereto shall be liable to the other party for any cost, damage, expense, liability or loss under this indemnification provision until the sum of all amounts individually when added to all other such amounts in the aggregate exceeds \$5,000.

(f) Rights of Indemnitors. The indemnified party shall notify the indemnifying party of the assertion of commencement of such action, claim or proceeding within a reasonable period of time or, if citation or service of process has been made, within 45 days thereafter. The indemnified party may, at its option and at its sole expense, participate in the defense of and contest any such action, claim or proceeding; provided, however, the indemnified party shall at all times also have the right to participate fully therein. If the indemnifying party, within a reasonable time after receiving such notice, fails to participate, the indemnified party shall have the right, but shall not be obligated, to undertake the defense of the action, claim or proceeding for the account of and at the risk of the indemnifying party. No settlement shall be effective

without the consent of both the indemnifying and indemnified parties, which consent shall not be reasonably withheld. The parties agree that any indemnified party may join any indemnifying party in any action, claim or proceeding brought by a third party, as to which any right of indemnity created by this Agreement would or might apply, for the purpose of enforcing any right of the indemnity granted to such indemnified party pursuant to this Agreement.

(g) Additional Rights. Any right of indemnity of any party pursuant to this Agreement shall be in addition to and shall not operate as a limitation on any other right to indemnity of such party pursuant to this Agreement, any document or instrument executed in connection with the consummation of the transaction contemplated hereby, or otherwise.

12. Post-Closing Events. Following Closing, the parties will continue to comply with the terms of this Agreement and all Exhibits hereto and will cause the following events, among others, to occur:

(a) Allocation of Purchase Price. The parties will mutually determine the allocation of the purchase price in accordance with the Agreement.

(b) Inventory Reports. The parties will complete the physical inventory reports in accordance with the Agreement.

(c) Sales Taxes and Reports. Buyer will file all reports and pay all sales, use and transfer taxes, if any, payable in connection with the transactions hereby contemplated.

(d) Buyer's Obligations. Buyer will discharge all assumed Liabilities excluding the Excluded Liabilities and record all real and personal property conveyances.

(e) The Company's Obligations. The Company will discharge all Excluded Liabilities.

(f) Collection of Accounts Receivable. The Company assures Buyer of collectability of the Accounts Receivable included in the Assets, less reserves for uncollectability of those accounts set forth in the Financial Statements. Buyer covenants and agrees to use its good faith diligent efforts to collect the Accounts Receivable of the Company which are included in the Assets. The Company agrees not to attempt to collect or otherwise interfere with Buyer's efforts in the collection of the Accounts Receivable included within the Assets. The Company agrees to cooperate with Buyer to the extent requested by Buyer in the collection of all accounts receivable and in the response to all inquiries or complaints with respect thereto. The Company also agrees to refund to Buyer all amounts the Company receives against Accounts Receivable included in the Assets, and the Company agrees that all such amounts are held in trust for the benefit of Buyer and remitted to Buyer promptly after the receipt thereof.

(g) Change of Corporate Name. The Company will cause its corporate name to change to a name not confusingly similar to "Egg Harbor Yacht Company, Inc.", and Buyer will consent and cooperate therein.

13. Notices. Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given on the date of receipt, if served personally on the party to whom notice is to be given by actual in person delivery, telephone, facsimile (confirmed in writing), telegraph or similar means of communication, or on the 4th day after mailing, if mailed to the party to whom notice is to be given, by first class mail, return receipt requested, postage prepaid and properly addressed as follows:

To the Company: Peter Johnson or Rudolf Lehnert
Egg Harbor Yacht Company, Inc.
101 Adams Drive
Princeton, NJ 08540

Telephone: (609) 965-2300, Ext. 18
FAX: (609) 965-2870

With a copy to: Paul Chan, Esq.
Levine, Staller, Sklar, Chan & Brodsky, P.A.
3030 Atlantic Avenue
Atlantic City, New Jersey 08401-6380
Telephone: (609) 348-1300
FAX: (609) 345-2473

To Buyer: William C. Robinson
6938 S. Evanston Avenue
Tulsa, Oklahoma 74136
Telephone: (918) 746-1076
FAX: (918) 493-6234

With a copy to: Frederick K. Slicker, Esq.
Sneed, Lang, Adams & Barnett, P.C.
2300 Williams Center Tower II
Tulsa, Oklahoma 74103
Telephone: (918) 583-3145
FAX: (918) 582-0410

Each party shall be entitled to specify a different person or address by giving notice as aforesaid to the other.

14. Miscellaneous.

(a) Entire Agreement; Amendments; Waivers. This Agreement, together with other Basic Agreements and the Exhibits and Schedules attached hereto, constitute the entire agreement between the parties with respect to the subject matters hereof and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

(b) Headings. Paragraph headings are not to be considered part of this Agreement, are included solely for convenience and are not intended to be a full or accurate description of the contents thereof.

(c) Expenses. Upon execution of this Agreement (or thereafter if bills have not been presented) Buyer agrees to pay all reasonable fees and expenses incurred in connection with the negotiation and consummation of the transactions contemplated hereby, including all investment banking, financial advisory, legal (including, with the consent of both parties, \$23,753.09 of the Company's legal fees; and except that expenses of Coopers & Lybrand after September 1, 1995 relating to work performed on the Company's behalf shall be the responsibility of the Company), accounting, finders', brokers', consultants', transfer taxes, sales taxes, if any, appraisal and other fees and expenses incurred. Such expenses shall not be paid from the Assets but shall be paid out of invested funds raised by Buyer. Each party will hold the other harmless from and against any and all claims or liabilities arising in connection therewith.

(d) Exhibits and Schedules. The Exhibits and Schedules referred to in this

Agreement are incorporated by reference herein and constitute a part of this Agreement for all purposes.

(e) Binding Effect: Assignment. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns; provided, however, that neither party hereto may assign its rights or obligations hereunder without the prior written consent of the other.

(f) Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New Jersey. The venue for any disputes shall be in the state courts of New Jersey, Atlantic County.

(g) Parties in Interest. Notwithstanding any other provision of this Agreement, this Agreement shall not create any rights or benefits on behalf of any employee, organization, third party or other person, and this Agreement shall be effective only as to the parties hereto, their successors and permitted assigns.

(h) Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same instrument.

(i) Waiver of Bulk Sales Compliance. Buyer waives compliance by the Company with all bulk sales laws in connection with the transactions contemplated hereby.

(j) Further Assurances. At any time and from time to time after the Closing, at the request of Buyer and without payment of any further consideration, the Company agrees to execute, acknowledge and deliver all such further assignments, conveyances, transfer documents, in form and substance reasonably acceptable to the Company, and other assurances as reasonably may be requested by Buyer for the purpose of better assigning, conveying and transferring to Buyer, or reducing to Buyer's possession, any or all of the Assets or to enable Buyer to exercise and enjoy the rights and benefits with respect thereof. Following the Closing, Buyer shall make available to the Company for examination and copying at Buyer's cost, upon the reasonable request and during regular business hours and without interfering with the business of the Company, all books and records of the Company arising prior to Closing reasonably requested by the Company for any valid corporate purpose.

(k) Allocation of Liabilities between the Parties. All costs, expenses and obligations attributable or chargeable to the Assets or the business of the Company or Buyer which accrue after the Closing shall be paid and discharged by Buyer.

(l) Modification and Severability. If a court of competent jurisdiction declares that any provision of this Agreement or any Exhibit hereto is illegal, invalid or unenforceable, then such provision shall be modified automatically to the extent necessary to make such provision fully enforceable. If such court does not modify any such provision as contemplated herein, but instead declares it to be wholly illegal, invalid or unenforceable, then such provision shall be severed from this Agreement and such declaration shall in no way affect the legality, validity and enforceability of the other provisions of this Agreement to which such declaration does not relate. In this event, this Agreement shall be construed as if it did not contain the particular provision held to be illegal, invalid or unenforceable, the rights and obligations of the parties hereto shall be construed and enforced accordingly, and this Agreement shall remain in full force and effect.

(m) Strategic Plans. Promptly after the execution of this Agreement, Buyer shall use its best efforts to commence and successfully complete a private offering of securities to raise

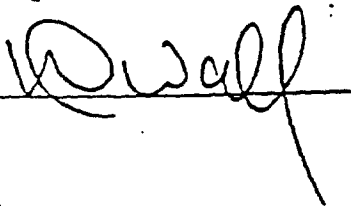
approximately \$1,000,000 in new capital and to commence and successfully complete the filing of an initial public offering of the common stock of Buyer in a registration statement under the Securities Act of 1993, as amended, to raise \$7,000,000 net to Buyer (the "IPO"), to use the proceeds to retire existing Egg Harbor indebtedness, to pay related expenses and for additional working capital.

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

EGG HARBOR ACQUISITION, INC.

By:

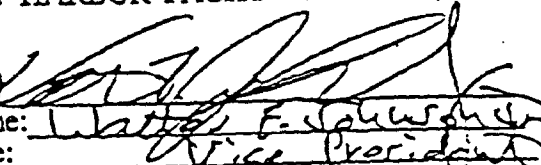
H. D. Wall
President



EGG HARBOR YACHT COMPANY, INC.

By:

Name: Walter F. Spawson
Title: Vice President



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TRADEMARK ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, that Egg Harbor Yacht Company, Inc. ("Egg Harbor"), for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, hereby sells, assigns, conveys, transfers and delivers to Egg Harbor Acquisition, Inc. ("Buyer"), and its successors and assigns, the entire right, title and interest in, to and under all of Egg Harbor's trademarks, service marks product names and fictitious names and related logos and commercial symbols (including the name "Egg Harbor Yachts" and "Golden Egg Yachts"), whether registered or not, together with all foreign, federal and state registrations and all applications for such registrations, as more particularly described in Exhibit A hereto (collectively, the "Trademarks"), together with the goodwill associated with the Trademarks and the right to sue and recover damages for past infringements of the Trademarks.

Egg Harbor agrees to execute and provide such further instruments, documents or assignments as may reasonably be necessary to effect this assignment and to consolidate, vest and record in Buyer full ownership of the Trademarks and all rights related thereto.

IN WITNESS WHEREOF, Egg Harbor has executed this Trademark Assignment as of July 1, 1996

EGG HARBOR YACHT COMPANY, INC.

By [Signature]
President

STATE OF NEW JERSEY)
) ss.
COUNTY OF ATLANTIC)

The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that before me personally came Walter Johnson, known to me to be the same individual whose name is subscribed to the foregoing instrument, and acknowledged and swore that he signed, sealed, and delivered the said instrument for and on behalf of Egg Harbor Yacht Company, Inc. as its President and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal as of the 15th day of November 1996.

[Signature]
Notary Public

My Commission Expires:

[Signature]
attorney-at-law
of New Jersey