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OMB 0651-0027

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Conveyance Type

- [ ] Assignment
- [ ] License
- [ ] Security Agreement
- [ ] Nunc Pro Tunc Assignment
- [ ] Merger — Effective Date Month Day Year
- [ ] Change of Name
- [X] Other termination of security interest

Conveying Party

[ ] Mark if additional names of conveying parties attached

Name: National City Bank

Execution Date Month Day Year: 04 21 93

Formerly:

[ ] Individual [ ] General Partnership [ ] Limited Partnership [ ] Corporation [ ] Association

[X] Other A National Banking Association

[ ] Citizenship/State of Incorporation/Organization

Receiving Party

[ ] Mark if additional names of receiving parties attached

Name: Mr. Gasket Company

DBA/AKA/TA:

Composed of: Mr. Gasket, Inc.

Address (line 1): 10601 Memphis Avenue

Address (line 2): #12

Address (line 3): Cleveland (City) Ohio (State/Country) 44144 (Zip Code)

[ ] Individual [ ] General Partnership [ ] Limited Partnership

[X] Corporation [ ] Association

[ ] Other

[ ] 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.)*

[X] Citizenship/State of Incorporation/Organization: Delaware

05/04/2001 TDIAZ1 00000100 1131664

01 FC:481 40.00 OP
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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 (216) 586-7107

Name: Cassandra G. Mott

Address (line 1): Jones, Day, Reavis & Pogue

Address (line 2): North Point

Address (line 3): 901 Lakeside Avenue

Address (line 4): Cleveland, Ohio 44114

Pages

Enter the total number of pages of the attached conveyance document including any attachments. # 149

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)		
			1131664	1376500	

Number of Properties

Enter the total number of properties involved. # 2

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): $ 65.00

Method of Payment: Enclosed [X] 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.

Kathie J. Kopczyk	Kathie J. Kopczyk	April 25, 2001
Name of Person Signing	Signature	Date Signed

EL647229013US

GARY E. KLAUSNER (State Bar No. 69077)
PHILIP A. GASTEIER (State Bar No. 130043)
BRAD D. KRASNOFF (State Bar No. 125065)
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Attorneys for Debtor

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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re	Bk. No. LA 91-72714-AA
	[Chapter 11]
MR. GASKET COMPANY, an Ohio corporation,	DEBTOR'S MOTION (i) TO SELL SUBSTANTIALLY ALL OF THE ASSETS OF ITS PERFORMANCE DIVISION FREE AND CLEAR OF LIENS AND INTERESTS; (ii) TO ASSUME AND ASSIGN CONTRACTS AND LEASES IN CONNECTION WITH SALE; AND, (iii) FOR APPROVAL OF FINANCING; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION IN SUPPORT
Debtor.	Date: [To Be Set By Court] Time: Place: Courtroom "1375" Roybal Federal Bldg. 255 E. Temple St. Los Angeles, CA 90012

TO THE HONORABLE ALAN M. AHART, UNITED STATES BANKRUPTCY JUDGE:

Mr. Gasket Company, Debtor and Debtor in Possession herein ("Debtor") respectfully moves this Court for an Order authorizing the Debtor to sell substantially all of the assets of its Performance Division (the "Purchased Assets") free and clear of all liens, restrictions, security interests, claims, charges,

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JEM/GASKET/3040835.MTN/14727

encumbrances and interests pursuant to 11 U.S.C.§§ 105, 363(b), and 363(f), to Performance Parts Co., LP, a Delaware limited partnership ("Buyer") for a cash purchase price of approximately $28.5 Million, subject to adjustment, plus the assumption of certain liabilities estimated at approximately $1.5 Million, all subject to the provisions, terms and conditions contained in the Purchase Agreement between Buyer and Debtor (the "Purchase Agreement"), a copy of which is attached hereto and made a part hereof as Exhibit "A", or will be filed with the Court prior to the hearing on this Motion.

In connection with and as a part of the sale, Debtor also respectfully requests that this Court enter an Order or Orders authorizing Debtor to assume and assign to Buyer the agreements listed on Exhibit "B" hereto, to the extent that same constitute executory contracts or unexpired leases, and authorizing Debtor to enter into certain collateral agreements including, but not limited to, the Partnership Agreement, the Transitional Services Agreement, the Lease, and the Escrow Agreement, all as defined in the Purchase Agreement (collectively, the "Collateral Agreements") and attached thereto.

This Motion is based on the attached Memorandum of Points and Authorities, Declarations and exhibits, the pleadings and papers on file in this case, and such and other further evidence, authorities and arguments of counsel as may be presented to the Court prior to or at the hearing on this Motion.

WHEREFORE, Debtor respectfully requests that this Court enter an Order or Orders:

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1. Approving the sale of the Purchased Assets to Seller pursuant to 11 U.S.C. §§105, 363(b) and 363(f) free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests whatsoever;

2. Approving the Purchase Agreement and authorizing the Debtor to execute the Purchase Agreement and to perform all of its obligations under such Agreement at the time specified therein without being obligated to seek the further approval of this Court with respect to such performance, as provided in the Purchase Agreement;

3. Providing that the Debtor, as constituted prior and subsequent to confirmation of the pending Joint Plan of Reorganization, as well as subsequent to the instant Chapter 11 case, shall be and is fully bound by the Order or Orders and by the Purchase Agreement and all of Debtor's obligations thereunder, and that the obligations of Debtor under the Purchase Agreement and under the Collateral Agreements represent the continuing obligations to be entered into by New Gasket (as defined in the Joint Plan) and are not affected by discharge or confirmation of the Joint Plan;

4. Finding that the Buyers purchased the Purchased Assets in "good faith", as defined in 11 U.S.C. §363(m);

5. Approving the assumption by the Debtor and the assignment to Buyer of those Operating Agreements, as defined in the Purchase Agreement, and as set forth in Exhibit "B" hereto, pursuant to 11 U.S.C. §365, to the extent that same constitute executory contracts or unexpired leases;

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6. Authorizing the Debtor to cure on or prior to closing of the sale all defaults, if any, except defaults specified in Section 365(b)(2) of the Bankruptcy Code, under any executory contracts that are to be assumed and assigned to Buyer;

7. Providing that any executory contracts which the Debtor assumes and assigns to Buyer pursuant to the Order shall, upon assignment, be deemed to be valid and binding and in full force and effect and enforceable in accordance with their respective terms by the parties thereto; and, pursuant to Section 365(k) of the Bankruptcy Code, the Debtor and its estate shall be relieved from any further liability with respect to each such executory contract and any guaranty of any of the foregoing or similar undertaking, after the assignment;

8. Providing that no deposit or other security, guaranty, or similar undertaking for the performance of obligations under any executory contracts which are assumed and assigned to Buyer shall be required as a result of such assignment;

9. Providing that, except as may be provided in the Agreement, Buyer shall not be liable for any claims against the Debtor and Buyer shall have no successorship liabilities of any kind or character, except that Buyer shall assume all Assumed Liabilities (as that term is defined in the Agreement) and shall assume all liabilities and obligations of the Debtor arising after the date specified for such assumption under any executory contracts that the Debtor assumes and assigns to Buyer;

10. Providing that all liens, restrictions, security interests, claims, charges, encumbrances and interests shall be

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transferred from and extinguished with respect to the Purchased Assets and the same, if any, shall attach to the proceeds paid by the Buyer to the Seller in accordance with the Purchase Agreement (not including any escrows or holdbacks provided for thereunder), and that the Debtor may and shall pay and discharge, to the extent valid, any such liens, restrictions, security interests, claims, charges, encumbrances and interests from such proceeds (excluding any such escrows or holdbacks), and all persons and entities (other than the Buyer) are thereby enjoined from taking any action against the Purchased Assets with respect to such liens, restrictions, security interests, claims, charges, encumbrances and interests;

11. Authorizing Debtor to enter into the Collateral Agreements including, but not limited to, the Partnership Agreement, the Transactional Services Agreement, the Lease, and the Escrow Agreement, all as defined in the Purchase Agreement, and any other agreements required under the Agreement to consummate the sale.

12. Providing that the officers and authorized employees of the Debtor are authorized and empowered to execute and deliver any and all documents as reasonably may be necessary to implement the terms of the Agreement;

13. Providing that any subsequent order confirming a plan of reorganization for the Debtor shall provide that any claims of Buyer or its permitted assigns for indemnification under the Agreement, or claims for other amounts due under the Agreement or claims arising out of or in connection with a breach by the Debtor of any provision of the Agreement, or any of the

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documents delivered by the Debtor, pursuant to or in connection with the Agreement, shall be excepted from discharge under Section 1141(d)(1) of the Bankruptcy Code;

14. Providing that the provisions of the Order authorizing the sale of the Purchased Assets free and clear of encumbrances shall be self-executing, and neither the Debtor nor Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the foregoing provisions hereof; provided, however, that such provision of the Order shall not excuse such parties from performing any and all of their respective obligations under the Agreement;

15. Providing that each and every appropriate governmental agency is ordered and directed to accept any and all filings and recordings necessary or desirable in the consummation of the sale of the Purchased Assets to the Buyer, and that Debtor is authorized to execute any agreements and other documents, make any payments and take any and all other actions as may be necessary or appropriate in connection with the consummation of the sale;

16. Providing that each and every of the foregoing provisions will be effective subject only to the implementation of the A Option under the Joint Plan;

17. Providing that the notice given by Debtor in connection with the sale and the hearing thereon is adequate, sufficient, proper and complies with all applicable provisions of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure; and

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18. Granting such other and further relief as is just and appropriate.

DATED: April 14, 1993

ROBINSON, DIAMANT, BRILL & KLAUSNER
A Professional Corporation

By: _____
GARY E. KLAUSNER
Attorneys for Debtor

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TABLE OF CONTENTS

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TABLE OF AUTHORITIES

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PREFACE

In anticipation of its hearing on April 21, 1993 on confirmation of its Joint Plan of Reorganization" (dated September 30, 1992) ("Plan of Reorganization"), the Debtor intends to file and serve on or before April 16, 1993, its Second Supplemental Memoranda In Support of Confirmation of Joint Plan (Dated September 30, 1992) (herein, the "Second Supplemental Confirmation Memoranda"). In order to avoid the filing of duplicate copies of Declarations and Exhibits and the needless reiteration of the same facts and explanations, the Debtor asks that pursuant to Federal Rule of Evidence 201, the Court take judicial notice of the Second Supplemental Confirmation Memoranda and the evidence filed in support thereof.

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Mr. Gasket Company, Debtor ("Debtor") seeks authority from this Court to sell substantially all the assets of its Performance Division (the "Purchased Assets") to a newly-formed limited partnership, Performance Parts Co., L.P. ("Buyer") free and clear of liens, security interests, claims, encumbrances and interests for the total approximate cash purchase price of $28,500,000 plus the assumption of liabilities which are estimated to be approximately $1,500,000. The terms and conditions of sale are set forth in the Purchase Agreement dated as of April 13, 1993 between Buyer and the Debtor ("Agreement"), a true and correct copy of which is attached to the Declaration of Joe Hrudka as Exhibit "A" and incorporated herein by reference. The Debtor further seeks this Court's authority to enter into all of the agreements referenced in the Agreement and which are required for its implementation.[1/] As will be demonstrated, infra, the terms of sale as set forth in the Agreement are fair and reasonable, and approval of the sale is in the best interest of the bankruptcy estate.

[1/] The separate agreements referenced in the Agreement are (1) the Partnership Agreement, (2) the Transitional Services Agreement, (3) the Lease, and (4) the Escrow Agreement, all as defined in and attached to the Purchase Agreement. Copies of these agreements are not yet available. The Debtor will file copies of such agreements as soon as they become available and will serve copies of the agreements, as well as any exhibits not available as of this date, on any party who requests them.

The Debtor believes that the proposed sale is for fair and adequate consideration for the Purchased Assets. Furthermore, as set forth in detail in the Second Supplemental Confirmation Memoranda, the proposed sale is an integral element of the Debtor's implementation of its A Option under the Joint Plan, as it will produce cash in an amount sufficient to enable the Debtor, together with other cash available from separate transactions, to satisfy its payment obligations under the A Option. In light of the adequacy of the consideration for the sale, and the absolute need for this sale so as to enable the Debtor to implement its A Option, this Motion should be granted.

The Debtor believes that the Buyer has and continues to act in good faith in all respects in connection with this matter as the term "good faith" is used in Bankruptcy Code §363(m) and that the Buyer is entitled to a finding of the Bankruptcy Court in that regard.

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II.

STATEMENT OF FACTS

A. Description Of The Performance Division.

The Performance Group ("Performance"), headquartered in Cleveland, Ohio, was the Debtor's original operating division. Performance manufactures and markets a wide variety of gaskets, chrome accessories and engine parts (including, for instance, high performance clutch and suspension products, aluminum automotive accessories and manual transmissions) under, among others, the following trade names: (1) Mr. Gasket; (2) Hays; (3) Lakewood; (4) Rodware; and, (6) Hurst.

Performance manufactures many of its products in its Performance facility in Cleveland, Ohio. It sells its products to retail facilities and other outlets via its nationwide distribution network.

During the past three years, Performance has generated a substantial portion of the Debtor's revenues and profits. During that period, Performance generated average annual revenues of approximately $39,100,000.

B. The Stipulation Regarding The Filing Of The Joint Plan And Disclosure Statement.

The Debtor, Creditors Committee, a group of insurance companies holding approximately $42,000,000 in secured and unsecured claims (the "Noteholders") and First Interstate Bank of Arizona, (the "Bank"), in early September, 1992, entered into the "Stipulation Re: (1) Payment of Secured Claims; (2) Agreement

With Regard to Consensual Plan of Reorganization; and, (3) Shortening Time For Notice of Hearing to Approve Amended Disclosure Statement" (the "Stipulation"). As more fully discussed below, the Stipulation provided that if the Debtor could raise enough additional funds (approximately $42,000,000) to pay the Bank, the Noteholders and other creditors certain sums in cash by December 31, 1992, the remainder of these parties' claims would be discharged, thus enabling the Debtor to emerge from Chapter 11.

While the path the Debtor, Creditors Committee and its members took to reach the Stipulation is well-known by this Court, a brief reminder of that history is in order.

Since the commencement of this case in April 1991, the Debtor and Creditors Committee have engaged in extensive, intensive and at times acrimonious negotiations concerning the formulation of a plan of reorganization. Despite these efforts, the Debtor and Creditors Committee were at first unable to reach a consensus. Accordingly, the Debtor and Creditors Committee, from May 1992 to early September 1992, each filed competing plans of reorganization and amended plans of reorganization, with accompanying disclosure statements. Furthermore, the Debtor in early September 1992 intended to file a second amended plan of reorganization which would have (1) left the Noteholders' claims unimpaired, and (2) crammed down the Bank's secured claim.

In early September 1992, the Debtor, Creditors Committee and its individual members, having reached a point in this case whereby a continued, bloody and expensive fight would have had to have been waged to determine which party or parties

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would ultimately control the Debtor, i.e., having reached the "settlement imperative" contemplated under Chapter 11, entered into the Stipulation. The Stipulation and the "Disclosure Statement to Accompany 'Joint Plan of Reorganization (Dated September 30, 1992)'" ("Disclosure Statement") were approved by this Court at a hearing on October 21, 1992.

The Stipulation provided for the filing of a Joint Plan to include an A Option (the "Debtor's Option") and a B Option (the "Creditors Committee's Option"). The A Option provides, in summary, as follows:

(a) The Bank and the Noteholders shall receive $29,000,000 and $30,000,000 cash, respectively, in full and final satisfaction of all their claims against the estate by December 31, 1992;

(b) Creditors with allowed general unsecured claims of less than $5,000 will be paid in full in cash;

(c) All other allowed general unsecured claims will receive total payments equal to 66 2/3% of their allowed claims with the exception of Rally Accessories, Inc. ("Rally"), whose claims are left unimpaired.

(d) The Creditors Committee, Bank, Noteholders and Debtor would support confirmation of both options and would raise no objection to the confirmability of either option.

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The Stipulation operates as a binding contract between the Debtor, the Creditors Committee and its members -- a binding contract approved by this Court.

The Disclosure Statement approved at the same time as the Stipulation discusses the Debtor's efforts to obtain the funds necessary to implement the Debtor's Option, including possible post-petition financing or a sale of assets, including a sale of Performance. In fact, the Disclosure Statement, at pages 32-33, specifically refers to a proposed sale of Performance as to which the Debtor had signed a letter of intent, and which the Debtor anticipated would yield cash at closing of approximately $35 Million. Accordingly, the Joint Plan, including the Debtor's Option, was accepted by impaired creditors following disclosure of a possible sale of Performance.

As this Court is aware, the Debtor did enter into an agreement for the sale of Performance to MRG, Inc., and brought on a motion for approval of such sale to be heard at the same time as the hearing on confirmation of the Joint Plan in December, 1992. The confirmation hearing was continued to January 27, 1993, on motion of the Debtor.

In order to reconcile the provisions of the Joint Plan and the Stipulation with the continuance of the confirmation hearing, the Debtor, the Creditors' Committee, the Noteholders, and the Bank sought a modification of the Stipulation and the Joint Plan so as to permit the Debtor until February 11, 1993 to implement the Debtor's Option, which modification was granted by this Court on December 31, 1992.

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On or about January 25, 1993, the Debtor and the Committee received objections from the Ohio EPA, relating to asserted environmental liabilities at the Debtor's Ohio Real Property. Ultimately, discussions with the proposed purchaser, MRG, Inc. and other financing sources broke down as a result of concern over this asserted environmental liability. The parties again requested approval of a modification to the Stipulation and the Joint Plan, and a further continuance of the confirmation hearing. The confirmation hearing was continued to March 3, 1993 and the deadline for implementation of the Debtor's Option was extended to March 15, 1993, or until such later date as the Debtor and the Creditors' Committee mutually agreed.

Subsequently, the parties requested and were granted a further continuance of the confirmation hearing to April 21, 1993. The parties also agreed that the Stipulation and the Joint Plan would be modified to permit the Debtor until May 3, 1993, or until such later date as the Debtor and the Creditors' Committee mutually agree, to implement the Debtor's Option.

During these periods, Debtor has diligently pursued a possible sale of Performance and/or other elements of a package which will enable Debtor to implement the Debtor's Option. The proposed sale of Performance which is the subject of this Motion is an important element of that package.

C. The Sale Agreement.

With this backdrop, the Debtor now seeks this Court's authority to enter into the Agreement. The Debtor has, prior to and concurrently with its entry into this Agreement, conducted

negotiations with numerous third parties regarding the raising of funds necessary to confirm a plan of reorganization (i.e., the A Option of the Joint Plan) through asset-based financings, mezzanine financings, equity infusions, joint ventures, sales, mergers and other financing alternatives. Although the Debtor has pursued other financing and disposition options, at this time, the proposed sale of Performance is the only source available for the funds needed to implement the A Option.

The terms and conditions of sale of Performance are set forth in the attached Agreement. In summary, the Agreement provides as follows:

1. Interest Of Debtor In Purchaser.

The Buyer will be a newly-formed Delaware limited partnership composed of a general partner and two limited partners -- the Debtor and Nesco Holdings, Inc. ("Nesco"). The general partner will be a newly-formed corporation owned by an affiliate of Nesco. Proportional interests in capital and profits of the partnership will be 60 percent Nesco, 30 percent the Debtor, and 10 percent the general partner.

2. Assets To Be Purchased.

The sale involves substantially all of the assets of Performance, which, as discussed above, is engaged in the business of manufacturing and selling performance and customizing products in the automotive aftermarket (the "Business"). The Buyer will purchase substantially all of the personal property and assets used in the Business, including, but not limited to,

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inventory, machinery, equipment, furniture and fixtures, and patents and trade marks (the "Purchased Assets"). The Purchased Assets shall not include certain items specifically excluded, including but not limited to cash and cash equivalents; accounts receivable; the corporate franchise; the causes of action and claims against third parties; the real estate located at Brookpark Road, Cleveland, Ohio; certain classic automobiles; specifically identified assets of the Wheels or Exhaust Groups of the Debtor; and those items of equipment, machinery, furniture and fixtures not selected by the Buyer. See, Agreement, Section 2.

3. Purchase Price.

Subject to certain adjustments as provided in the Agreement, the aggregate purchase price shall be $28,500,000 cash (the "Purchase Price"), plus the assumption of certain liabilities as discussed below. Machinery, equipment, furniture and fixtures to be included in the sale will be valued at orderly liquidation value. To the extent Buyer selects such items with an orderly liquidation value greater than $1 Million, the Purchase Price shall be increased accordingly. In addition, if the net working capital of the Business as of the closing date is either greater than $12,632,065 or less than $12,232,065, the Purchase Price will be either increased or decreased, as the case may be, on a dollar for dollar basis. It is anticipated that the net working capital will be in excess of $12,632,065.

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The Buyer will assume all current liabilities of the Business expressly reflected on Final Statements, as defined in the Agreement, to be prepared by accountants, liabilities under certain contracts and leases to be assigned to Buyer, and liabilities under written warranties and product liability claims for occurrences after the closing date.

As additional consideration, Buyer will allocate to Debtor, as Debtor's capital account in the partnership, a sum equal to 30 percent of the aggregate initial capital contribution of the Buyer.

4. Payment Of The Purchase Price.

At closing of the sale, the Buyer shall make an Initial Payment equal to the Estimated Purchase Price, as defined in the Agreement. An amount equal to $350,000 (the "Escrow Amount"), will be withheld from the Initial Payment if the estimated working capital at closing is less than $12,232,065. Generally, the Estimated Purchase Price is $28,500,000 less any estimated deficiency in the required working capital and plus any excess payment on account of personal property and equipment selected by Buyer. The Agreement provides that, subsequent to closing, Final Statements regarding net working capital will be prepared and agreed upon by Buyer and Seller, subject to review by an independent accountant in the event of a dispute. Upon final determination of the Purchase Price, any amount owing between the parties will be paid and/or the Escrow Amount will be released. See, Sections 2.2, 2.3, 2.4, and 2.5 of the Agreement.

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5. Consulting And Non-Competition Agreements.

The Agreement provides that Debtor will be subject to non-competition provisions for four years from the date of closing. (Section 10.9) In addition, the Agreement contemplates that the Debtor, Joe Hrudka and Howard Gardner shall enter into various consulting and non-competition agreements, pursuant to which the Debtor may receive $2,000,000, Mr. Hrudka may receive $200,000 and Mr. Gardner may receive $800,000.

6. Real Property Lease.

The Debtor and Buyer will enter into a lease for the property located at 8700 Brookpark Road, Cleveland, Ohio, which will be for a term not to exceed six months and which may be terminated on 30 days notice after the first two months. The lease may extend beyond 6 months on a month to month basis. The rent will be $62,500 per month.

7. Transitional Services Agreement.

Since the Buyer is purchasing the computer system, a transitional agreement for computer services will be entered into so that the Debtor will have use of the computer system for a period of time following the closing. See, Section 4.4 of the Agreement.

8. Representations And Warranties.

The purchase agreement requires that the Debtor make certain representations and warranties regarding matters including, but not limited to, items which are the subject of

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standard representations and warranties, the Purchased Assets and other matters specified in the schedules attached to the Agreement, title, compliance with law, financial statements, interim operations, litigation, tax and environmental matters. See, Article V of the Agreement. The Agreement also requires that the Buyer make certain representations and warranties.

9. Indemnification.

The Agreement provides that the Debtor will protect, defend, hold harmless and indemnify Buyer and specified related persons and entities for specified matters including, but not limited to, breaches of Debtor's representations and warranties and covenants, as well as for environmental matters other than as may be caused by the Buyer. The liability of the Debtor for indemnification is subject to certain specified limitations. Generally, Debtor's liability for breach of representations and warranties other than those with respect to title, and trademarks and patents is limited to $4 Million in the absence of actual knowledge. There is no dollar limitation on indemnification obligations with respect to environmental matters. (Representations and warranties expire 18 months after the closing.) See, Article X of the Agreement.

10. Closing.

Subject to satisfaction of all contingencies, closing of the transactions contemplated by the Agreement will be held on the day following expiration of the appeal period which is

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anticipated to be on or before May 3, 1993, or as otherwise agreed by the Parties. See, Article III of the Agreement.

11. Conditions To Closing.

Buyer's obligations under the Agreement are subject to specified conditions including, but not limited to, those regarding Debtor's representations and warranties and covenants, the absence of material adverse changes, the obtaining of all necessary consents and approvals, maintenance of insurance coverage, the effective assignment of certain operating agreements, satisfactory arrangement regarding the lease, satisfaction of all conditions to Buyer's financing, and all necessary bankruptcy court approvals, including confirmation of the Joint Plan. See, Article VIII of the Agreement. Under the Agreement, approval by the Bankruptcy Court must include approval of the sale free and clear of liens, restrictions, security interests, claims, charges, encumbrances and interests; approval of all instruments collateral to the Agreement including, but not limited to, the Partnership Agreement, the Transactional Services Agreement, the Lease, and the Escrow Agreement, all as defined in the Agreement, and execution by Buyer, Seller and Eaton Corporation of an acceptable environmental indemnity agreement; the approval of the assignment of those Operating Agreements listed as being assigned, to the extent necessary; a finding that Buyer has purchased the Purchased Assets in good faith, as defined in Section 363(m) of the Bankruptcy Code; and, approval and authorization for the Debtor to make any necessary adjustments in the Purchase Price and indemnification payments.

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In addition, the Bankruptcy Court must have entered an order or orders confirming the Joint Plan and approving and authorizing the agreement and related matters as specified in the Agreement, the appeal period(s) as to such order(s) must have expired, no stay of such orders shall have been issued, and the closing must have taken place on or before May 31, 1993.

III.

ARGUMENT

A. The Sale Of Performance To The Buyer Pursuant To The Provisions Of The Agreement Should Be Approved Because The Terms Of Sale Are Fair And Reasonable And The Sale Is Necessary To And Will Facilitate The Implementation Of The A Option.

The sale of Performance for the approximate gross purchase price of $30,000,000 (including assumed liabilities) with the Debtor retaining a 30% interest as a limited partner is fair and reasonable and represents the current fair market value of that division. Indeed, computed on the basis of a sale of 70% of Performance, the Purchase Price is proportionately higher than the value attributed to Performance by the Creditors Committee in September 1992 when the Committee filed its own Plan. Moreover, the sale of Performance is essential to enable the Debtor to comply with the cash obligations of the A Option which require the Debtor to make cash payments as of May 3, 1993 of

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approximately $51,140,545. See Second Supplemental Confirmation Memoranda for a detailed discussion thereof.

1. The Terms And Conditions Of The Agreement Are Fair And Reasonable.

The proposed sale price for Performance accurately reflects its fair market value. Seidman, Friant, Levine, the Debtor's investment advisor ("Seidman") has conducted a review of the Debtor's books and records and physically inspected the Debtor's facilities and operations for the purpose of determining the fair market value of Performance. The results of this analysis are summarized in (a) a fairness opinion letter from Seidman to the Gasket Board of Directors dated November 12, 1992 (the "Seidman Opinion Letter"); (b) the derivation of capitalized value using price multiples based on three year average data ("Three Year Comparable Analysis"); (c) the derivation of capitalized value using price multiples based on latest year data ("One Year Comparable Analysis"); and, (d) the discounted true cash flow analysis for the years 1992 through 1998 ("Cash Flow Analysis") (collectively, the "Seidman Opinion"). A true and correct copy of the Seidman Opinion is attached to the Exhibit List as Exhibit "11."[3/]

The Seidman Opinion consists of evaluations of Performance on a "market comparable" basis and a "discounted cash flow" basis. In its review, Seidman utilized and analyzed, among other things:

[3/] For ease of reference, copies of the Declaration of Samuel N. Seidman dated November 25, 1992 and of the Seidman Opinion are attached to this Motion as Exhibit "C".

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(1) Income statements and cash flow data on Performance encompassing sales, operating costs and other charges against revenue, as well as gross operating, pre-tax and after tax profits/losses for the 1989, 1990, 1991 and (interim) 1992 fiscal years.

(2) Balance sheet data for Performance, encompassing working capital, total assets, long-term obligations and shareholder equity.

(3) Existing ownership of Performance.

(4) Publicly available due diligence information regarding Performance.

(5) Profit/Loss and balance sheets, common stock prices, capitalization, ratios and related financial information for other companies in the same industry -- i.e., "Market Comparables".

(6) The indicated present value of the future stream of cash flow employed by using the Modigliani-Miller Capital Asset Pricing Model.

While the results of Seidman's efforts are set forth in the Seidman Opinion, a summary of the results follows:

Market Comparable Analysis

In ascertaining the "market comparable" value of Performance, Seidman analyzed and compared the prices (i.e., current stock prices times the number of issued and outstanding shares of common stock) and the respective gross revenues,

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operating revenues, net incomes and cash flows of the Debtor's Performance Division and of seven (7) similar companies over a three year period and one year period. Based upon these analyses, Seidman concluded that on a three year market comparable basis, Performance had a capitalized value of approximately $37,150,000, while on a one year market comparable basis, Performance had a capitalized value of approximately $19,600,000.

Discounted Free Cash Flow Analysis

In determining the value of Performance based upon cash flow projections through the year 1998, Seidman made certain assumptions:

(a) Net Income: The Seidman Opinion included net income for all projected years on a fully tax-adjusted basis. The Seidman Opinion assumed net income to grow at a rate of 3% per year from 1994 through 1998.

(b) Depreciation: The Seidman Opinion assumed depreciation growth of 3% per year from 1994 through 1998.

(c) Capital Expenditures: The Seidman Opinion assumed capital expenditures would increase from 1994 through 1998 due to, among other things, the need to update various equipment.

Based upon this analysis, Seidman concluded that on a discounted free cash flow basis, Performance had a value of approximately

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$30,000,000. Accordingly, under either the market comparable or discounted free cash flow valuations, the proposed consideration for the purchase of Performance is fair and reasonable. Based on a gross price of $30,000,000 for a 70% interest, the value of the whole Business in this sale would be in excess of $42,800,000.[4/]

The results of the Seidman Opinion regarding the value of Performance are corroborated by the Creditors Committee's own prior assertions concerning the sale of the Debtor as a whole (i.e., the Performance, Wheels and Exhaust Divisions).

In its "Disclosure Statement to Accompany 'Creditors' Plan of Reorganization (Dated September 30, 1992)'" ("Committee's Disclosure Statement"), the Creditors Committee asserted, based upon the evaluation performed by its accountants Ernst & Young, that the fair value of the Debtor's assets (including cash on hand) was $69,500,000. Committee's Disclosure Statement, page 30. When making this determination, the Creditors Committee and Ernst & Young stated that the $69,500,000 evaluation consisted in part of (1) cash on hand of $13,772,000; and, (2) insurance proceeds/tax refund of $5,660,000, leaving a residual value of $50,168,000. That figure represented the combined aggregate value of the Debtor's Performance, Wheels and Exhaust Divisions. Committee's Disclosure Statement, page 46.

The Creditors Committee did not provide an analysis of the methodology Ernst & Young used in determining the $50,168,000 evaluation in the Committee's Disclosure Statement for the Debtor's three divisions. However, in August 1992, the Debtor

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[4/] This value is also quite comparable to the estimated price (approximately $45,600,000) in the prior agreement with MRG, Inc. As discussed above, that sale was not consummated.

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sought this Court's authority to sell substantially all of the non-cash assets of its Wheels and Exhaust Divisions to Gambol Industries, Inc. ("Gambol") for the approximate amount of $23,500,000. While the Creditors Committee objected to certain elements of the transaction, and while the Debtor ultimately sought (and obtained) authority to sell only the Wheels Division assets to Gambol for approximately $14,500,000, the Creditors Committee did not object to the amount of consideration offered for these divisions. Since the creditors obviously believed in September 1992 that the two non-Performance Divisions (Wheels and Exhaust) were worth approximately $23,500,000, and because the Committee also believed that the three divisions in the aggregate were worth approximately $50,168,000 as of September, 1992, it would follow that the Committee must have evaluated Performance as being worth approximately $26,668,000. Accordingly, the sale to the Buyer for substantially more than that sum, with Debtor retaining a 30% interest, would appear to exceed the expectations of the Creditors Committee as to the value of Performance when the Committee filed its Plan in September, 1992.[5/]

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[5/] The sale to Gambol was not consummated. Debtor ultimately sold the Wheels Division to Cragar Industries, Inc. in December, 1992, for a total consideration of approximately $12,000,000. The purchase price on the proposed sale to Gambol, and the Committee's position thereon, are still probative of the Committee's estimate of value of the Performance Division.

2. The Sale is Necessary to and Will Facilitate The Implementation of the A Option.

The sale of Performance represents the only viable option currently available to the Debtor to raise the additional funds necessary to implement the A Option. The Debtor, prior and subsequent to its entry into the Stipulation, has aggressively approached the banking and investment community and has conducted discussions with more than 60 entities regarding the raising of financing through asset-based loans, mezzanine financings, equity infusions, joint ventures and asset dispositions of non-Performance assets. After this exhaustive effort, the Debtor has come to the inescapable conclusion that the only way to raise the funds needed to pay the Noteholders, Bank and other creditors in the manner set forth in Option A is to sell Performance.

Under the proposed sale, the Debtor will retain a 30% interest as a limited partner. Even at that, the sale of Performance was not the Debtor's first choice. Indeed, from an emotional standpoint, the sale will be a loss for the Debtor's management and shareholders, some of whom have devoted more than 20 years to the creation and nurturing of the Performance Division. However, the sale of Performance is the only mechanism at the present time by which the Debtor can raise the necessary additional funds to implement the A Option.

Debtor believes that consummation of this sale will enable it to complete the funding necessary to implement the A Option. A Schedule of Cash Needs and Uses which provides a detailed explanation as to the Debtor's calculation of the amount

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of cash which it will need as of May 3, 1993 to implement the A Option and the manner in which the Debtor believes it will be able to have those monies available, assuming the sale of Performance, is provided in the Second Supplemental Confirmation Memoranda and discussed therein in detail.

As can be seen from the analysis provided in the Second Supplemental Confirmation Memoranda and as more specifically demonstrated in the Schedule of Cash Needs and Uses provided therein, the Performance Sale is fundamental to the Debtor's attempt to implement the A Option by resulting in approximately $28,500,000 cash needed by the Debtor to implement the A Option.

B. Debtor Should Be Authorized To Assume And Assign Certain Contracts In Connection With the Sale, To The Extent That Same Constitute Executory Contracts, Pursuant To 11 U.S.C. §365.

Subject to exceptions not relevant in this case, Section 365(a) of the Bankruptcy Code (the "Code") provides that "the [debtor in possession], subject to the Court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. §365(a).

In connection with the sale, Debtor also seeks authority to assume and assign to Buyer certain contracts, identified on Exhibit "B" hereto, to the extent that same constitute executory contracts.

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Although the Code does not set forth guidelines for courts to apply in determining whether to approve the Debtor in Possession's decision to assume or reject an executory contract or unexpired lease, the courts have overwhelmingly applied a "business judgment" test when reviewing such a decision. See, e.g., Group of Institutional Investors v. Chicago, Milwaukee, St. Paul and Pacific R.R. Co., 318 U.S. 523, 550, 63 S.Ct. 727, 742-43 (1943); Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1309 (5th Cir. 1985); Lubrizol Enterprises, Inc. v. Richmond Metal Finishers, Inc. (In re Richmond Metal Finishers, Inc.), cert. denied, 475 U.S. 1057 (1986); Control Data Corp. v. Zelman (In re Minges), 602 F.2d 38, 43 (2d Cir. 1979); Carey v. Mobil Oil Corp. (In re Tilco Inc.), 558 F.2d 1369, 1372 (10th Cir. 1977); Robertson v. Pierce (In re Huang), 23 Bankr. 798, 800 (Bankr. 9th Cir. 1982).

As applied to a debtor's decision to assume or reject an executory contract, the business judgment test "requires that the decision be accepted by courts unless it is shown that the [debtor's] decision was one taken in bad faith or in gross abuse of the [debtor's] retained business discretion" and that it "is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice." Lubrizol Enterprises, Inc. v. Richmond Metal Finishers, Inc. (In re Richmond Metal Finishers, Inc.), 756 F.2d 1043, 1047 (4th Cir. 1985).

In the accompanying Motion (i) To Sell Substantially All of the Assets of the Performance Division Free and Clear of Liens and Interests; (ii) To Assume And Assign Contracts And

Leases In Connection With Sale; And, (iii) For Approval Of Financing, and in the Declaration of Joe Hrudka, the Debtor has amply demonstrated sound business judgment in entering into the Agreement, which Agreement requires the Debtor to assume and assign to the Buyer all of the agreements listed in Exhibit "B", to the extent that the same constitute executory contracts and unexpired leases. The closing of this sale, pursuant to the Agreement, or an equivalent sale to another party, is an essential element of the package which the Debtor needs to complete in order to implement the Debtor's Option and pay to creditors the cash which they have agreed to accept in satisfaction of their claims. If the Debtor is unable to close the sale, or an equivalent sale to another party, the Debtor's prospects for implementing the Debtor's Option will be severely jeopardized. The terms of the Agreement are favorable, and the assumption and assignment to the Buyer of the contracts listed in Exhibit "B", which is an essential element of the Agreement, is in the overwhelming best interest of this estate and its creditors. The Debtor has clearly satisfied its burden of demonstrating sound business judgment.

Section 365(b) of the Code provides that before a debtor can assume an executory contract under which there has been a default, the debtor must cure, or provide adequate assurance that it will promptly cure, certain defaults and compensate, or provide adequate assurance of compensation, for any pecuniary loss to the other party resulting from such defaults. 11 U.S.C. §365(b).

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Further, Section 365(f) provides that before a debtor may assign an assumed executory contract, the other party to such contract must receive "adequate assurance of future performance" by the assignee. 11 U.S.C. §365(f). The Debtor will continue to meet all obligations under the contracts listed on Exhibit "B" until their assumption and assignment to the Buyer. As stated in the Declaration of Joe Hrudka, the Debtor is not in default under any of these contracts. As stated supra, and in Mr. Hrudka's declaration, Performance is a profitable business, and based on its past performance, Debtor believes that it will continue to be so. Thus, the profitability "track record" of Performance plainly provides adequate assurance of future performance in accordance with the provisions of Section 365(f). Moreover, since such contracts are being assigned with the sale of the Business, there will be no disruption in the relationship with non-debtor parties, and the adequate assurance of future performance by the assignee should be assured. Accordingly, all of the prerequisites to the assumption and assignment of the contracts listed on Exhibit "B" have been satisfied.

C. The Sale of the Performance Division Assets Free And Clear of Liens is Appropriate.

Bankruptcy Code §363(f) provides that the Debtor, under certain conditions, may sell property free and clear of another entity's interest in the property. Section 363(f) provides in pertinent part:

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"The Trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if --

. . . (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; . . ."

In the instant case, the only known entity with a lien upon any of the assets of Performance is National City Bank, which holds a mortgage against the real estate owned and used by the Debtor in Cleveland, Ohio. The Agreement does not provide for the sale of the real property to Buyer; rather, the property will continue to be owned by the Reorganized Debtor and leased to Buyer for an interim period. Accordingly, the Debtor does not propose, at the time of closing, to sell the real property free and clear of liens. During the period that the Reorganized Debtor leases the subject real property to Buyer, the Reorganized Debtor will continue to make all monthly payments and comply with all other obligations owing to National City Bank in connection with its mortgage on the subject real property.

With the exception of the mortgage of National City Bank, and in light of the prior payments in satisfaction of the secured claims of FIBAZ and the Noteholders, the Debtor is not aware of any liens, encumbrances, security interests, claims to or interests in any of the Purchased Assets. Nevertheless, a notice of this Motion has been served on all creditors in this

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case and all interest holders so that the "universe" of creditors and interest holders can be made aware of the Debtor's intention to sell all of the assets of Performance free and clear of any and all liens, encumbrances, security interests, claims and interests. A copy of the Motion is also being served on National City Bank.

D. The Purchaser Is Entitled To A Finding Of Good Faith Pursuant To 11 U.S.C. §363(m).

Buyer and the sale are entitled to a good faith finding within the meaning of 11 U.S.C. §363(m) on the basis of the uncontradicted evidence that the Buyer has presented the best and highest offer based on arms-length negotiations, and the absence of higher and better bids after significant marketing of the assets and opportunity to present competing offers. Lack of good faith for purposes of Section 363(m) is generally determined by fraudulent conduct occurring during the sale proceedings. In re Exennium, Inc., 715 F.2d 1401 (9th Cir. 1983); In re Suchy, 786 F.2d 900 (9th Cir. 1985). No evidence has been presented to the Court to the effect that Buyer has engaged in any fraudulent conduct in connection with this sale.

E. The Debtor Should Be Authorized To Consummate The Financing Agreements In Order To Implement The Debtor's Option.

In connection with the sale, and in order to ensure that, following the sale, Debtor will have sufficient cash to implement the Debtor's Option, Debtor and Buyer have also entered

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into two financing agreements, copies of which are attached hereto as Exhibit "D," pursuant to which Buyer will lend an aggregate of $3,000,000 to Debtor, contingent on consummation of the sale.

The first loan (the "Receivable Loan"), would be in an amount equal to the Retained Receivables (as defined in the Agreement, relating to a price adjustment mechanism) but not to exceed $1,000,000. The Receivable Loan would be secured by a pledge by Exhaust and a first lien on both the Retained Receivables and on receivables of the Reorganized Debtor's surviving business not included in the sale. The lien on the receivables of the surviving business may be a second lien junior to a lien to an institutional lender to secure a loan all of the proceeds of which are used to pay creditors to implement the Debtor's Option.

The second loan (the "Additional Loan") will be in an amount up to $2,000,000. The Additional Loan will be secured by a lien on the inventory of the Reorganized Debtor, which lien may be enforced if the Additional Loan is not paid at maturity or satisfied by exercise of the offset rights granted. In the event the Additional Loan is not paid as and when due, Debtor and Joe Hrudka ("Hrudka"), Debtor's principal shareholder and a limited guarantor of the Additional Loan, agree that Buyer may offset their respective rights to receive monthly installments under, in the case of Debtor, the Consulting and Noncompetition Agreement between Debtor, Hrudka and Buyer, and in the case of Hrudka, the Noncompetition Agreement between Hrudka and Buyer, against the Loan.

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The Receivable Loan and the Additional Loan (collectively, the "Loans") will only be made if the Joint Plan is confirmed and the Debtor's Option is implemented. Thus, the Loans would be on a post-confirmation basis for the purpose of implementing the Joint Plan. The Loans would be secured not by property of the estate, but by the post-confirmation property of the Reorganized Debtor. Accordingly, the provisions of 11 U.S.C. §364 do not apply to the Loans. Nevertheless, the Buyer has requested that the Debtor obtain approval of the Loans, and Debtor asks that this Court enter an order authorizing Debtor to consummate the Loans and to grant security for same according to the terms of the agreements attached hereto as Exhibit "D."

To the extent applicable, 11 U.S.C. §364(c) and applicable rules authorize the approval of the Loans. The Loans are for an obviously beneficial purpose -- paying creditors under an approved plan of reorganization. They are on otherwise unencumbered property (except to the extent contemporaneously encumbered by other plan financing, if any, as noted above). There is no source of the necessary financing on better terms, and the prospects for implementation of the Debtor's Option will suffer immediate and irreparable harm if the financing is not promptly approved, as will the estate through the loss of the beneficial sale. For additional facts in explanation of how this financing fits into the package for implementation of the Debtor's Option, see the Second Supplemental Memoranda in Support of Confirmation.

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connection with the sale and implementation of the Debtor's Option.

IV.

CONCLUSION

The proposed Agreement represents the cornerstone mechanism in the Debtor's implementation of the A Option. Without this Court's approval of this Agreement, the Debtor's attempt to confirm the A Option may not succeed. The Debtor has demonstrated that the consideration for the sale of these assets is fair and reasonable. The Debtor has demonstrated that the interests of all interested parties -- the Debtor, the Creditors Committee, the Bank, the Insurance Group (i.e., all the parties to the Stipulation), the Debtor's shareholders and other creditors -- are best served by allowing the Debtor to enter into this Agreement, as it will enable the Debtor to implement Option A. The Debtor requests that this Court authorize it to enter into a transaction which will enable it to serve the interests of all creditors to this estate while preserving a substantial portion of the existing ownership interest for current equity holders -- the goal of the A Option. The Debtor requests that the Court grant the Motion.

DATED: April 14, 1993

ROBINSON, DIAMANT, BRILL & KLAUSNER
A Professional Corporation

By: _____
GARY E. KLAUSNER
Attorneys for the Debtor

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PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (including the Schedules and Exhibits which are attached, are referred to as, and constitute the "Agreement") dated as of April 13, 1993, by and between Performance Parts Co., L.P., a Delaware limited partnership (the "Buyer"), and Mr. Gasket Company, an Ohio corporation (the "Seller").

RECITALS

A. The Seller, through its Performance Group, is engaged in the business of manufacturing and selling of performance and customizing products in the automotive aftermarket (the "Business").

B. The Seller desires to sell to the Buyer, and the Buyer desires to purchase from the Seller, the Business and assets of the Seller relating to the Business upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual representations, warranties and covenants which are to be made and performed by the respective parties, it is hereby agreed as follows:

ARTICLE I--SALE AND PURCHASE OF ASSETS
AND ASSUMPTION OF LIABILITIES

Section 1.1 The Purchase and Sale. Upon the terms and subject to all of the conditions set forth herein, on the Closing Date (as

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defined in Section 3.1), the Seller agrees to sell to the Buyer and the Buyer shall purchase from the Seller, free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests whatsoever, all of the right, title and interest of the Seller in and to the assets of the Seller described below (the "Purchased Assets"). Except as provided in the second succeeding sentence, the Purchased Assets shall include all property and assets owned by the Seller and used or usable in the Business, of any kind and description, wherever located, including, but not limited to, all personal property, tangible or intangible, customer and supplier lists, inventory, work in progress, accounts receivable, customer purchase orders, machinery, equipment, computer hardware and software, trade fixtures, tools, dies, patterns, prepaid expenses, deposits, credits, goodwill, telephone and telex numbers, literature, brochures and forms, claims and rights under contracts, leases and other agreements, choses in action, patents, patent applications, patent licenses, shop rights, trade secrets, know how, trademarks, service marks, trade names including, but not limited to, "The Performance People", slogans, labels, logos and other trade rights, whether or not registered, together with all goodwill symbolized and associated with such trade names, trade and service marks and similar assets, the Seller's right to use the name "Mr. Gasket Company" and any variation thereof, all copyrights, copyright registrations and all books and records of the Seller relating to the Business, including, without limitation the original files pertaining to patents and trademarks kept by the Seller and its predecessors,

attorneys and agents, all as have been used and accumulated in the Business and as the same shall exist on the Closing Date, without being reduced by conduct other than in the ordinary course of business. The Purchased Assets specifically include all tooling, of whatever kind, and all inventories, designs, drawings and all other assets relating to Seller's running board products and concepts. The Purchased Assets shall not include (a) cash and cash equivalents of the Seller as of the Closing Date, (b) the Seller's franchise as a corporation, its minute books, stock transfer records and similar records relating to Seller's organization, (c) the real property known as and located at 8700 Brookpark Road, Cleveland, Ohio, (d) any employment agreement with any employee of the Seller unless the same is expressly assumed, in writing, by Buyer prior to the Closing, (e) the five classic automobiles used for special events and promotional events by the Company, including the 1953 Corvette, the 1957 Custom Chevrolet, the "MoJo", the Hearst Oldsmobile and the 1933 Willies (the "Classic Cars"), (f) those items of equipment, machinery, furniture and fixtures that are not selected for purchase by the Buyer in the exercise of its rights under Section 2.1(a) herein, and (g) any other assets specifically identified as belonging to the Wheels or Exhaust Groups of Seller (collectively, the "Excluded Assets") and identified on Schedule 1.1(g).

Section 1.2 Assumption of Liabilities. Subject to the conditions herein set forth, upon the transfer of the Purchased

Assets on the Closing Date, the Buyer shall assume (a) all current liabilities of the Business expressly reflected on the Final Statements (as hereinafter defined in Section 2.4), but only to the extent that such current liabilities do not exceed the dollar amount reflected on the Final Statements, (b) all liabilities and obligations of the Seller under any contract, lease or other agreement assigned to the Buyer pursuant to Section 1.1 which is set forth in any Schedule or Exhibit to this Agreement, or which was assigned to the Buyer and not required to be set forth in any such Schedule or Exhibit, or which was entered into after the date hereof and prior to the Closing Date in accordance with the provisions of this Agreement or to which the Buyer otherwise specifically consents in writing, (c) all liabilities and obligations of the Seller under its standard written warranties to customers (a complete copy of which is attached hereto and incorporated herein by reference as part of Schedule 5.11), to repair or replace any products manufactured or sold by the Business prior to the Closing Date and (d) all liabilities and obligations for product liability (whether for bodily injury or death or property loss or damage or otherwise) arising from any occurrence after the Closing Date (collectively, "Assumed Liabilities"). Schedules 1.2(a) and (b) of this Agreement contains an itemization of all Assumed Liabilities existing as of the date this Agreement is executed. At the Closing, this schedule shall be brought current to identify all Assumed Liabilities at the time of Closing.

Section 1.3 Liabilities Not Assumed. The Buyer shall assume no debts, obligations, contracts, leases, liabilities or contingent liabilities of Seller, except for the Assumed Liabilities, which are expressly assumed by Buyer at the Closing.

Section 1.4 Bankruptcy Court Approval. (a) The Buyer is aware that the Seller is a debtor in possession in that certain bankruptcy case under Chapter 11 of the federal Bankruptcy Code (the "Bankruptcy Code") captioned "In re Mr. Gasket Company (Case No. LA 91-72714AA) (the "Bankruptcy Case") pending in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court"). As a consequence, this Agreement and the sale of the Purchased Assets to the Buyer free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests are subject to the approval of the Bankruptcy Court. The Seller shall apply for the approval of this Agreement and the sale of the Purchased Assets to the Buyer pursuant to this Agreement free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests by the Bankruptcy Court as soon as reasonably possible after the execution of this Agreement, but not later than seven days after execution of this Agreement (unless extended by Buyer), and provide notice of its intention to sell the Purchased Assets to the Buyer pursuant to this Agreement and Sections 363(b), 363(f) and 105 of the Bankruptcy Code free and clear of all liens, restrictions, security

interests, claims, charges, encumbrances and interests. Such notice shall comply in all respects with Sections 102(1) and 363(b) and other applicable sections of the Bankruptcy Code, the Federal Rules of Bankruptcy procedure and any applicable Local Bankruptcy Rules (together the "Bankruptcy Code and Rules") and shall be given to all parties in interest in the Bankruptcy Case including all creditors (the "Notice Parties") and such additional parties as the Bankruptcy Court shall order as necessary to comply with Bankruptcy Code and Rules. Notice of the hearing date on this Agreement, together with a summary of its terms, shall be published in a newspaper of general national circulation immediately upon obtaining the hearing date from the Bankruptcy Court. Upon filing with the Bankruptcy Court of its motion, proposed order, certificate of service, service list and all other pleadings related to its application for approval of this Agreement and the sale of the Purchased Assets to the Buyer, the Seller shall simultaneously deliver the same to the Buyer. The Seller shall include the Buyer in its bankruptcy service list, keep the Buyer promptly informed of all Bankruptcy Court hearings and orders regarding the Bankruptcy Case and shall deliver to the Buyer simultaneously when filed by the Seller all papers in connection with the Bankruptcy Case relating to this Agreement or any environmental matter pertaining to the Brookpark Road facility. The Seller agrees to use its reasonable efforts to obtain the Bankruptcy Court's approval of this Agreement and the sale of the Purchased Assets to the Buyer free and clear of all liens,

restrictions, security interests, claims, charges, encumbrances and interests in an order or orders by the Bankruptcy Court containing the provisions described in Section 1.4(b). Pending Bankruptcy Court approval of the Agreement, the Seller will communicate with all parties who contact the Seller regarding the purchase of the Purchased Assets prior to the hearing in the Bankruptcy Court held to consider and approve this Agreement and the sale of the Purchased Assets to the Buyer (the "Hearing"). Unless the Bankruptcy Court orders otherwise, Seller will communicate that any competing offers must comply with the Overbid Procedures set forth in the Joint Motion to Approve Overbid Procedures and Termination Fee (the "Joint Motion"), including, without limitation, any competing bid must be on terms substantially similar to those contained in this Agreement and be accompanied by a deposit in the amount of Five Hundred Thousand Dollars ($500,000). The Joint Motion shall be submitted, as soon as possible, for approval by the Bankruptcy Court on or prior to April 9, 1993, unless such date is extended by Buyer. In the event the Bankruptcy Court approves Overbid Procedures other than those contained in the Joint Motion, nothing in this Agreement shall limit the terms and conditions contained in any revised offer made by Buyer in response to a competing bid. In the event the Seller receives an alternate written bid for the Purchased Assets containing the material terms and conditions of a proposed transaction prior to the Hearing, the Seller will give notice to the Buyer of such bid, together with a complete copy of any alternate bid, immediately by fax and by

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messenger, but in no event later than twenty-four (24) hours after receipt of such bid. In the Joint Motion, the Seller will ask the Bankruptcy Court for an order that no other bid will be approved unless it exceeds the Purchase Price by at least $750,000 and in the event: (1) a competitive bid is received which results in the Bankruptcy Court not approving the sale of the Purchased Assets to the Buyer; or (2) the hearing on the Joint Plan of Reorganization dated September 30, 1992, as modified (the "Plan of Reorganization") does not occur on or before May 31, 1993, unless such date is extended by Buyer; or (3) this transaction fails to close because any of the conditions provided for in Article VIII have not been met or waived by Buyer on or before May 31, 1993; or (4) this transaction fails to close by May 31, 1993, unless such date is extended by Buyer, the Buyer shall be paid and reimbursed promptly by Seller without any further Order from the Bankruptcy Court, in the amount of $500,000 (the "Break-Up Fee") for its lost opportunity cost and all expenses incurred in connection with the investigation of the Business, the negotiation and execution of the letter of intent relating to the transactions contemplated by this Agreement, the negotiation and execution of this Agreement and the obtaining of financing commitments in connection with the purchase of the Purchased Assets. Such expenses include (i) out of pocket expenditures for legal, accounting and consulting fees and disbursements and governmental filing fees, (ii) travel, communication and clerical expenses and (iii) the portion of the salaries of officers and employees of Nesco, Inc. and its

respective affiliates which is allocable on the basis of time actually spent on such investigation, negotiation, execution and obtaining financing commitments. The Break-Up Fee shall be deposited by Seller into escrow upon Bankruptcy Court approval of the Joint Motion for Approval of Overbid Procedure and Termination Fee. The Break-Up Fee shall be paid to the Buyer without further approval of the Bankruptcy Court within ten (10) days of the earlier to occur of the following: (1) order approving the sale of the Purchased Assets to any party other than the Buyer; or (2) Bankruptcy Court fails to hold its hearing on the Plan of Reorganization on or before May 31, 1993, unless such date is extended by Buyer; or (3) this transaction fails to close because any of the conditions provided for in Article VIII have not been met or waived by Buyer on or before May 31, 1993; or (4) this transaction fails to close by May 31, 1993, unless such date is extended by Buyer. Notwithstanding anything to the contrary contained in this Section 1.4, no Break-up Fee shall be due Buyer if all of the conditions precedent in Article VIII of this Agreement have been satisfied or waived and Buyer has elected not to close the acquisition.

(b) Following the Seller providing notice to the Notice Parties which complies with the Bankruptcy Code and Rules, and after a hearing which complied with the Bankruptcy Code and Rules, it shall be a condition precedent to the Buyer's obligations under this Agreement that the Bankruptcy Court shall have entered an

order or orders satisfactory to Buyer substantially in the form of Exhibit 1 attached hereto. Said order or orders shall provide, among other things and without limitation, that:

(i) The Purchased Assets shall be sold by the Seller to the Buyer pursuant to Sections 363(b), 363(f) and 105 of the Bankruptcy Code free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests whatsoever;

(ii) This Agreement is approved, and the Seller is authorized to execute the Agreement and shall perform all of its obligations under this Agreement at the times specified in this Agreement without being obligated to seek the further approval of the Bankruptcy Court with respect to such performance. Without limiting the generality of the foregoing, the Seller shall make all payments, if any, to the Buyer when due pursuant to the provisions of this Agreement with respect to (A) adjustments to the Purchase Price (as hereinafter defined in Section 2.1) pursuant to Section 2.2 hereof and (B) indemnification for the losses, liabilities, damages and expenses of the Buyer pursuant to Sections 10.1 and 10.2 hereof without the prior approval of any such payment by the Bankruptcy Court and without prior notice of any such payment to any party in interest in the Bankruptcy Proceeding.

(iii) The Seller, as constituted prior and subsequent to confirmation of its Plan of Reorganization, as well as

subsequent to the pending Bankruptcy Case, shall be and is fully bound by this order or orders and by the Purchase Agreement and all of the Seller's obligations thereunder. The obligations of Seller hereunder and under the collateral documents referenced herein represent the continuing obligations to be entered into by New Gasket (as defined in the Plan of Reorganization) and are not affected by discharge or confirmation of the Plan of Reorganization.

(iv) The Buyer has purchased the Purchased Assets in "good faith", as defined in Section 363(m) of the Bankruptcy Code;

(v) The assumption by the Seller and the assignment to the Buyer of all Operating Agreements (as hereinafter defined), pursuant to Section 365 of the Bankruptcy Code, are hereby approved; and

(vi) The notice given by the Seller of the Hearing is proper and complies with all applicable provisions of the Bankruptcy Code and Rules.

(vii) All liens, restrictions, security interests, claims, charges, encumbrances and interests shall be and are hereby transferred from and extinguished with respect to the Purchased Assets and the same, if any, shall attach to the proceeds paid by the Buyer to the Seller in accordance with this Agreement (except

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for any escrows or holdbacks provided for hereunder), and the Seller may and shall pay and discharge, to the extent valid, any such liens, restrictions, security interests, claims, charges, encumbrances, and interests from such proceeds (excluding any such escrows or holdbacks), and all persons and entities (other than the Buyer) are hereby enjoined from taking any action against the Purchased Assets.

(viii) Each and every appropriate governmental agency is hereby ordered and directed to accept any and all filings and recordings necessary or desirable in the consummation of the sale of the Purchased Assets to the Buyer, and the Seller is authorized to execute any agreements and other documents, make any payments and take any and all other actions as may be necessary or appropriate in connection with the consummation of such sale.

(c) After consultation with Buyer, the Seller agrees to exclude from its filing of this Agreement with the Bankruptcy Court, those Schedules and Exhibits hereto which contain any confidential and proprietary information relating to the Business, the disclosure of which would have a material adverse effect upon the Business. If a party in interest in the Bankruptcy Proceeding (other than the Official Creditors Committee) requests disclosure of any Schedule or Exhibit, the Seller shall promptly provide Buyer with notice of such request so that the Buyer may seek any appropriate protective order and/or consent to such disclosure.

Unless otherwise ordered by a court of competent jurisdiction, Seller agrees not to furnish the information for a period of five (5) business days after delivery of the notice to Buyer in order that Buyer has an opportunity to respond to the request.

ARTICLE II--PURCHASE PRICE

Section 2.1 Purchase Price. (a) Subject to adjustment as provided in this Article II, the aggregate purchase price for the Purchased Assets and for the rights and benefits conferred under this Agreement (including, the covenants of the Seller as set forth in Section 10.9 hereof and enumerated in Section 2.6 hereof (the "Noncompetition Covenant")) shall be Twenty-Eight Million Five Hundred Thousand Dollars ($28,500,000) in cash (such amount being hereinafter referred to as the "Purchase Price"), plus the assumption of the Assumed Liabilities existing for the Business as of the date of closing and as disclosed on the Final Statements. The Purchase Price recited above shall include the purchase and transfer of all equipment, machinery, furniture and fixtures (the "PPE") located at the Brookpark Road facility, used in the Business, and which has been selected for purchase by Buyer. The PPE acquired by the Buyer shall have an aggregate dollar value of One Million Dollars ($1,000,000) based upon a value of each item of equipment, machinery, furniture or fixtures as determined by MB Valuation Services of Dallas, Texas, who will be instructed to determine value according to an orderly liquidation valuation

method. The Buyer may select items of PPE with an orderly liquidation value greater than $1,000,000, but if this is done, then the Purchase Price shall be increased by an amount equal to the amount by which the value of PPE selected hereunder exceeds $1,000,000 in aggregate orderly liquidation value. The orderly liquidation appraisal, marked to indicate the specific personal property selected by Buyer, shall be attached hereto and become Schedule 2.1(a).

(b)(1) In the event that the Net Working Capital at the Closing Date, as calculated in accordance with Section 2.4 is between $12,232,065 and $12,632,065, there shall be no change in the Purchase Price. For purposes of this Agreement, "Net Working Capital" shall mean the excess of the current assets (excluding cash or cash equivalents) of the Business over the current liabilities of the Business as defined in the Principles and Procedures (as defined at Section 2.3), as of the Closing Date. Schedule 2.1(b) contains a calculation of Net Working Capital as of September 30, 1992 (the "Base Date"). On the Base Date, Net Working Capital was $12,432,065.

(2) In the event Net Working Capital on the Closing Date shall be less than $12,232,065, the Purchase Price shall be reduced on a dollar-for-dollar basis for each dollar of the deficiency.

(3) In the event Net Working Capital on the Closing Date exceeds $12,632,065, there shall be no adjustment to the Purchase Price, but Seller may be entitled to a portion of the Closing Date's accounts receivable (net of reserves), as specified in this

subsection (3); provided, however, in calculating Net Working Capital for purposes of this subsection (3) if the amount of inventory on the Closing Date exceeds the Base Date inventory amount ($7,825,633), then inventory for purposes of the foregoing calculation shall be deemed the amount of the Base Date's inventory, irrespective of actual amount.

Seller shall be entitled to an amount by which Net Working Capital at the Closing Date (based on the Final Statements and as adjusted as required by the prior paragraph), exceeds $12,632,065 (the "Retained Receivables"). Buyer shall pay to Seller an amount equal to the Retained Receivables within two business days of Deloitte & Touche issuing the Final Statements and its report as required by Section 2.5 of this Agreement.

Seller may pledge or otherwise transfer its rights as of the Closing Date to the Retained Receivable to a third party.

(c) As additional consideration, the Buyer shall make a special allocation on behalf of Seller, and as Seller's capital account in the partnership, the sum of $1,800,000, an amount equal to thirty percent (30%) of the aggregate opening capital of the Buyer.

Section 2.2 Payment of the Purchase Price. (a) At the Closing, the Buyer shall (i) deliver to the Seller a certified check payable to the order of the Seller (or at the request of the Seller, the Buyer shall make a wire transfer to the Seller's account) in an

amount (the "Initial Payment") of the Estimated Purchase Price (as defined in Section 2.3) less, if applicable, the Escrow Amount (as defined below); and, if applicable, (ii) deliver to an escrow agent mutually agreed upon by the parties (the "Escrow Agent") a certified check payable to the Escrow Agent (or at the request of the Escrow Agent, the Buyer shall make a wire transfer) in the amount of $350,000 (the "Escrow Amount") in accordance with the provisions of the escrow agreement substantially in the form of Exhibit 2 hereto (the "Escrow Agreement"). In the event the Initial Statements show estimated Net Working Capital exceeds $12,232,065, there shall be no Escrow Amount and the Escrow Agreement shall not be executed.

(b) Promptly upon the final determination of the Purchase Price, and assuming the Escrow Agreement has been executed, the Buyer and the Seller shall give joint written notice of the amount thereof to the Escrow Agent in the manner specified in the Escrow Agreement. If the Purchase Price is equal or greater than the Initial Payment, the Seller shall be entitled to receive an amount equal to the excess. Payment of the sum due the Seller shall be made from the Escrow Amount and, if there remains a deficiency, directly from the Buyer. Seller shall also be entitled to all accrued interest earned on that portion of the Escrow Amount it is entitled to receive as a result of the prior sentence. Any portion of the Escrow Amount not payable to Seller, together with its proportionate share of accrued interest, shall be paid to the

Buyer. All payments shall be made by certified or cashiers' check or, at the request of the payee, wire transfer.

(c) If the Purchase Price is less than the Initial Payment, there shall be paid to Buyer the entire Escrow Amount (if any), together with all accrued interest. In addition, Buyer shall be entitled to immediately receive directly from Seller an amount equal to the excess of (A) the Initial Payment over (B) the Purchase Price. All payments shall be made by certified or cashiers' check or, at the request of Buyer, wire transfer.

Section 2.3 Initial Statements. Within ten (10) business days prior to the Closing Date, the Seller shall (a) calculate the estimated Net Working Capital of the Business, (b) prepare and deliver to the Buyer a statement setting forth such estimated Net Working Capital (the "Initial Statements") and (c) prepare and deliver to the Buyer a statement setting forth the estimated Purchase Price which shall be an amount equal to (A) Twenty-Eight Million Five Hundred Thousand Dollars ($28,500,000) LESS (B) the amount, if any, by which the estimated Net Working Capital is below Twelve Million Four Hundred Thirty-two Thousand Sixty Five Dollars ($12,432,065) PLUS (C) the value in excess of One Million Dollars ($1,000,000) of the PPE selected by Buyer for purchase pursuant to Section 2.1(a) (the "Estimated Purchase Price"). The Initial Statements shall be prepared in accordance with the accounting

principles and procedures as set forth in Schedule 2.3 hereto ("Principles and Procedures").

Section 2.4 Final Statements. (a) The Seller shall cause to be prepared the Final Statements (as hereinafter defined) in accordance with the Principles and Procedures as set forth in Schedule 2.3 hereto. At the sole cost of the Seller, the Final Statements shall be audited by the Seller's independent accountants, Deloitte & Touche ("Deloitte"), in accordance with the Principles and Procedures and generally accepted auditing standards. As promptly as practical, but in no event later than forty-five (45) days following the Closing Date, Deloitte shall complete their audit and shall issue their Report (as hereinafter defined) thereon in accordance with the Statement of Auditing Standards # 62 (AU 623.23-.30). For purposes of this Agreement, "Report" shall mean Deloitte's draft report and draft Final Statements, and "Final Statements" shall mean the Statement of Net Working Capital at the Closing Date. The Final Statements shall be the basis for determining the Purchase Price.

(b) At the Buyer's expense, Buyer and Buyer's accountants, Price Waterhouse, shall have the opportunity to participate in the physical inventory of the Business, if taken in connection with the preparation of the draft Final Statements, and to review such of the work sheets and other documents created or utilized by the Seller in connection with the preparation of the Report as Price

Waterhouse and/or the Buyer shall from time to time request to the extent and as set forth in the Principles and Procedures.

Section 2.5 Final Review. (a) As soon as possible after receipt of the Report, but in any event within thirty (30) days after such receipt (the "Final Review Period"), the Buyer shall review, at Buyer's sole expense, the Report and convey any objections it may have with respect to the matters set forth thereon in the manner described below. A failure by the Buyer to so object to the Report by the end of the Final Review Period shall cause the Report to be deemed approved in its entirety by all parties, in which event the Buyer and the Seller shall promptly give joint written notice thereof to the Escrow Agent and the balance of the Purchase Price shall be paid in accordance with Section 2.2. If the Buyer does not object to the Report by the end of the Final Review Period, Deloitte will issue the Final Statements and its final report thereon in accordance with the Statements of Accounting Standards # 62 (AU623.23-.30) within five (5) business days thereafter.

(b) If the Buyer objects to the Report, the Buyer shall notify the Seller in writing not later than the end of the Final Review Period of each particular item it believes is not in compliance with the Principles and Procedures and, therefore, requires adjustment, and for not more than fifteen (15) days thereafter, the parties shall attempt in good faith to resolve any

differences. If the parties resolve all of their differences, the parties shall give joint written notice of the final Purchase Price to the Escrow Agent, and the balance of the Purchase Price, together with accrued interest thereon shall be paid in accordance with Section 2.2. Further, Deloitte will issue the Final Statements and its final report thereon in accordance with the Statement of Auditing Standards # 62 (AU623.23-.30) within five (5) business days thereafter.

(c) If the Seller and the Buyer are unable to so resolve such differences within such time period, they shall jointly submit the particular items in dispute to a "Big Six" accounting firm (the "Independent Accountant") for resolution on an expedited basis with a request for a written report thereon. If such "Big Six" accounting firm cannot serve as the Independent Accountant for purposes hereof, the Seller and the Buyer shall mutually agree upon another Independent Accountant. In the absence of agreement between the Seller and the Buyer regarding the appointment of the Independent Accountant, either party shall be entitled to make application to the Cleveland office of the American Arbitration Association to appoint a firm of independent certified public accountants (which does not have to be a "Big Six" accounting firm, if none are available).

(d) The independent Accountant shall be permitted to review this Agreement, the Principles and Procedures and the Report,

together with all working papers, books, accounts and other documents relating to the Business relevant to the preparation of the Report and shall determine with respect to the item or items in dispute whether such item or items as presented in the Report is consistent with the Principles and Procedures. The Independent Accountant shall submit a draft of the results of such review to the Buyer and the Seller as soon as such results are available; then the Buyer and the Seller shall be entitled to make objections to the Independent Accountant within fifteen (15) business days after receiving such draft. Upon completion by the Independent Accountant of its final determination as to the item or items in dispute in the Report, the Independent Accountant shall deliver to the Buyer and the Seller its report setting out its determination as to the item or items in dispute which shall be final and binding on the Buyer and the Seller. If the Independent Accountant concludes in its report that the Report was not prepared in accordance with the Principles and Procedures, appropriate adjustment(s) shall be made to the Report. If the Independent Accountant does not conclude in its report that any such adjustment(s) must be made, the Report as furnished by the Seller shall be deemed approved in its entirety and be binding on all parties. Upon the final determination of the Report, the Buyer and the Seller shall promptly give joint written notice thereof to the Escrow Agent and the balance of the Purchase Price together with accrued interest thereon from the Closing Date shall be paid in accordance with Section 2.2. Upon such final determination of the

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Report, Deloitte will issue the Final Statements and its final report thereon in accordance with the Statement of Auditing Standards # 62 (AU623.23-.30) within five (5) business days thereafter. The fees and expenses incurred in connection with any review by the Independent Accountant pursuant to this Section 2.5 shall be borne one-half by the Seller and one-half by the Buyer.

Section 2.6 Allocation of Purchase Price. Within 120 days of the Closing, the Buyer and the Seller shall determine the fair market value of the various classes of Purchased Assets based on the Initial Statements, the Noncompetition Covenant contained in Section 10.9, the agreements described in Sections 4.2, 4.3 and 4.4 (the "Agreements") and the other rights and benefits conferred hereunder and approve a schedule setting forth such fair market values (the "initial FMV Schedule") in the form of Schedule 2.6 hereto. If the Seller and the Buyer are not able to agree on the fair market value of the Purchased Assets, the Agreements and the other rights and benefits conferred hereunder, the FMV Schedule shall be based upon the appraised values of the Purchased Assets, the Agreements and the other rights and benefits conferred hereunder as established by an appraisal obtained from a nationally recognized independent appraisal firm. Fees and expenses incurred in connection with any such review pursuant to this Section 2.6 shall be borne one-half by the Buyer and one-half by the Seller. The initial FMV Schedule shall be adjusted by the parties subsequent to the Closing based on the Final Statements and as so

adjusted shall be referred to as the "FMV Schedule." The FMV Schedule shall be binding on the parties. The Buyer agrees to allocate, for tax purposes, the total consideration (including all transaction costs incurred in connection with transactions contemplated in this Agreement) paid by the Buyer among the Purchased Assets, the Noncompetition Covenant, the Agreements and the other rights and benefits conferred hereunder in a manner consistent with the FMV Schedule and the provisions of Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Seller agrees to allocate, for tax purposes, the total consideration received among the Purchased Assets, the Noncompetition Covenant, the Agreements and the other rights and benefits conferred hereunder in a manner consistent with the FMV Schedule and the provisions of Section 1060 of the Code. Each party agrees to report the federal, state and local income and other tax consequences of the transactions contemplated herein, and in particular to report the information required by Section 1060(b) of the Code, in a manner consistent with the FMV Schedule and shall not take any position or action inconsistent therewith upon examination of any Tax Return (as hereinafter defined), in any refund claim in any litigation, investigation or otherwise; provided, however, that if, in any audit of any Tax Return of the Seller or the Buyer by a Taxing Authority (as hereinafter defined), the fair market values are finally determined to be different from the FMV Schedule, as adjusted, the Buyer and the Seller may (but

shall not be obligated to) take any position or action consistent with the fair market values as finally determined in such audit.

ARTICLE III--CLOSING

Section 3.1 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall be held at 9:30 a.m. on the day following expiration of the appeal period on the order(s) approving this Agreement, if no stay of such order or orders shall have been issued, or on such other date as may be agreed upon by the parties hereto, and shall be effective as of the close of business on such date (the "Closing Date") at the offices of Hahn Loeser & Parks located at Suite 3300, BP America Building, Cleveland, Ohio or at such other place as may be agreed upon by the parties hereto. Notwithstanding the foregoing, the closing shall not occur prior to the date the Plan of Reorganization is confirmed by the Bankruptcy Court, the confirmation orders or order shall have been entered by the Bankruptcy Court, the appeal period on such order(s) shall have expired and no stay of such order or orders shall have been issued.

Section 3.2 Deliveries by the Seller. At the Closing, the Seller shall deliver the following items to the Buyer:

(a) Certified resolutions of the Board of Directors of the Seller authorizing the execution, delivery and performance of this

Agreement and the consummation of the transactions contemplated herein;

(b) Executed documents of transfer and assignment required to transfer title of the Purchased Assets to the Buyer, including without limitation (i) a Bill of Sale substantially in the form attached hereto as Exhibit 3; (ii) an Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit 4; (iii) the Lease (as hereinafter defined), (iv) the Assignments (as hereinafter defined) and (v) such other deeds, bills of sale, endorsements, assignments and other good and sufficient instruments of conveyance and delivery as the Buyer may reasonably request;

(c) Such tax clearance certificates as may reasonably be required by the Buyer to evidence payment of any outstanding tax obligations of the Seller;

(d) All other previously undelivered items required to be delivered by the Seller to the Buyer at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith unless waived in writing by the Buyer.

Section 3.3 Deliveries by the Buyer. At the Closing, the Buyer shall deliver the following items to the Seller or the Escrow Agent, as the case may be:

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(a) the Initial Payment and Escrow Amount;

(b) Certified resolutions of the General Partner of the Buyer authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein;

(c) An executed Assignment and Assumption Agreement substantially in the form of Exhibit 4; and

(d) A certificate of insurance evidencing product liability and general casualty insurance in amounts and with deductibles and retainages customary for the type of business; and

(e) all other previously undelivered items required to be delivered by the Buyer at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith unless waived in writing by the Seller.

ARTICLE IV--ADDITIONAL AGREEMENTS

Section 4.1 Transfer Taxes and Other Closing Expenses. The parties shall equally share all sums required to be paid to any state or local taxing jurisdiction, as sales, use or other transfer taxes on account of its consummation of the transaction

Permitted Encumbrances (as hereinafter defined), a leasehold estate in the Real Property substantially in the form of Exhibit 6 hereto (the "Lease").

Section 4.4 Transitional Services Agreement. At the Closing, the Buyer and the Seller will enter into a transitional services agreement for computer services substantially in the form of Exhibit 7 hereto (the "Transitional Services Agreement").

Section 4.5 Change of Name. Concurrently with the Closing, the Seller shall take all actions required to change the name of the Seller from "Mr. Gasket Company" and any derivative or combination thereof, and the Seller shall make no further use of such name or any derivative or combination thereof.

ARTICLE V--REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller represents and warrants to the Buyer, and the Buyer in agreeing to consummate the transactions contemplated by this Agreement has relied upon such representations and warranties, that:

Section 5.1 Title to the Purchased Assets. The Seller has good and marketable title to all of the Purchased Assets, except for assets which are currently being leased. Subject to the approval

of the Bankruptcy Court, the Seller has, and on the Closing Date will have, complete and unrestricted power and the unqualified right to sell, assign, transfer, convey and deliver to the Buyer, and will transfer, convey and deliver to the Buyer at the Closing, and the Buyer will acquire at the Closing, good, valid and marketable title to the Purchased Assets free and clear of any lien, restriction, security interest, claim, charge, encumbrance or interest whatsoever.

Section 5.2 Valid and Binding Agreement. The Seller has taken all necessary corporate action to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Seller and constitutes a valid and binding agreement of the Seller, enforceable in accordance with its terms, subject to approval by the Bankruptcy Court.

Section 5.3 Corporate Organization. The Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio and subject to the jurisdiction of the Bankruptcy Court, has the requisite power and authority to carry on the Business as currently conducted and to own the properties and assets it now owns. The Seller is licensed or qualified and is in good standing to do business as a foreign corporation in any other jurisdictions where the nature of its business or character or location of its assets requires such license or qualification,

except where the failure to be so licensed or so qualified would not have a material adverse effect on the Business.

Section 5.4 No Violation, Etc. Subject to the approval by the Bankruptcy Court as provided in Section 1.4(b), neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby nor compliance by the Seller with any of the provisions hereof (a) will violate or conflict with any provisions of the Articles of Incorporation or Code of Regulations of the Seller or, to the best of the Seller's knowledge, any statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to the Seller or (b) to the best of the Seller's knowledge, will violate or conflict with, or result in a breach of any provision of, or constitute a default (or any event that, with or without due notice or lapse of time, or both, would constitute a default) under, or result in the termination of, accelerate the performance required by, or result in the creation of any lien, restriction, security interest, claim, charge, encumbrance or interest upon the Purchased Assets under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation of the Seller.

Section 5.5 Consents and Approvals. No material permit, consent, approval or authorization of, or declaration, filing or registration with, any governmental authority is necessary in

connection with the execution and delivery by the Seller of this Agreement or the consummation by any of it of the transactions contemplated hereby and no consent of any third party is required to consummate any of the transactions contemplated hereby, except for (a) the approval of the Bankruptcy Court as provided in Section 1.4(b) hereof, (b) compliance with the requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), or (c) as otherwise described in Schedule 5.5 hereto.

Section 5.6 Financial Statements. The audited consolidated financial statements of the Seller for the fiscal years ended December 31, 1991, December 31, 1990 and December 31, 1989 previously delivered to the Buyer and set forth in Schedule 5.6 (the "Financial Statements") (a) present fairly the financial position and results of operations of the Seller, as of the statement dates and for the periods indicated, and (b) have been prepared in accordance with generally accepted accounting principles consistently applied throughout and among the periods indicated. Schedule 5.6 shall also include the unaudited financial statements of the Business for the fiscal years ended December 31, 1991 and December 31, 1990 and December 31, 1992 (the "Business Financial Statements"), which Business Financial Statements (i) present fairly the financial position and results of operations of the Business, as of the statement dates and for the periods indicated, and (ii) have been prepared in accordance with generally

accepted accounting principles consistently applied throughout and among the periods indicated and are consistent with the Financial Statements subject to year-end audit and other normal, recurring adjustments (in accordance with generally accepted accounting principles, in the ordinary course of business and consistent with prior year-end adjustments).

Section 5.7 Interim Operations and Absence of Certain Changes. Since January 1, 1993, except as set forth on Schedule 5.7 hereto, the Business has been conducted only in the ordinary course and consistent with past practice and the Seller did not with respect to the Business:

(a) suffer any damage, destruction or loss of tangible assets, whether or not covered by insurance, in excess of $25,000;

(b) suffer any change in its financial condition, assets, liabilities or business or suffer any other event or condition of any character which individually or in the aggregate had or has a material adverse effect on the financial condition or earnings, or materially diminishes the value of its assets;

(c) pay, discharge or satisfy any claims, liabilities or obligations (absolute, accrued, contingent or otherwise) except in each case in the ordinary course of business;

(d) waive any claims or rights of substantial value, except in each case in the ordinary course of business;

(e) pledge or permit the imposition of any lien on or sell, assign, transfer or otherwise dispose of any of its tangible assets, except the sale of inventory in the ordinary course of business;

(f) sell, assign, encumber, license, pledge, abandon or otherwise transfer any patents, applications for patents, trademarks, trade names, copyrights, licenses or other intangible assets;

(g) make any change in any method of accounting or accounting principle or practice;

(h) write up or down the value of the inventory or determine as collectible any notes or accounts receivable that were previously considered to be uncollectible, except for writeups or write-downs and other determinations in accordance with generally accepted accounting principles and in the ordinary course of business and consistent with past practice;

(i) grant any general increase in the compensation payable or to become payable to its officers or employees (including any such increase pursuant to any bonus, pension, profit sharing or other

plan or commitment) or any special increase in the compensation payable or to become payable to any officer or employee, or make any bonus payments to any officer or employee, except for normal merit and cost of living increases in the ordinary course of business and in accordance with past practice;

(j) lose or learn of the prospective loss of any account listed on Schedule 5.24 or Schedule 5.25 hereto;

(k) make capital expenditures or commitments in excess of $25,000 in the aggregate; or

(l) agree, whether in writing or otherwise, to take any action described in this Section 5.7.

Section 5.8 Employee Benefit Plans. Schedule 5.8 hereto is a true and complete list of all written and oral, formal and informal annuity, bonus, cafeteria, stock option, stock purchase, profit sharing, savings, pension, retirement, incentive, group insurance, disability, employee welfare, prepaid legal, nonqualified deferred compensation plans including, without limitation, excess benefit plans, top-hat plans, deferred bonuses, rabbi trusts, secular trusts, nonqualified annuity contracts, insurance arrangements, nonqualified stock options, phantom stock plans, or golden parachute payments, or other similar fringe benefit plans, and all other employee benefit funds or programs (within the meaning of

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Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, "ERISA"), covering employees or former employees of the Business (the "Plans"). Except as set forth on Schedule 5.8 hereto, the Seller is not a party to any employee agreement, understanding, plan, policy, procedure or arrangement, whether written or oral, which provides compensation or fringe benefits to the employees of the Business and the Seller has no direct or indirect, actual or contingent liability for any Plan related to the Business, other than to make payments for contributions, premiums or benefits when due, all of which payments have been timely made. Seller has made available to the Buyer copies of the Plans, including amendments thereto. None of the Purchased Assets are subject to any lien or security interest under Section 302(f), 306(a), 307(a) or 4068 of ERISA or Section 401(a)(29), 412(m) or 6322 of the Code. The Seller has taken no action which would require the Buyer to assume any liabilities with respect to any of the Plans. The Seller has and will continue to comply with the continuation coverage provisions required by Sections 601 through 608 of ERISA and Section 4980B of the Code and will provide notices and continuation coverage required by those provisions to each of the employees of the Business whose employment with the Seller is terminated as a result of the sale of assets contemplated by this Agreement without regard to whether such employee is offered employment by the Buyer. None of the Plans provide for retiree medical coverage or life insurance.

Section 5.9 Compliance with Law, Etc. Except as set forth in Schedule 5.9 hereto, to the best of Seller's knowledge, the Seller has been, is and on the Closing Date will continue to be in compliance in all material respects with all applicable laws (including duties imposed by common law), rules, regulations, orders, ordinances, judgments and decrees of all governmental authorities (federal, state, local and foreign) and all requirements imposed in writing by an insurance carrier, building, zoning, occupational safety and health, pension, environmental control, toxic waste, fair employment, equal opportunity or similar laws, rules, regulations and ordinances applicable to the Business. To the best of the Seller's knowledge, there has not been any statute enacted or any official rule or regulation adopted by any legislative or administrative body, which statute, rule or regulation specifically addresses, affects or relates to the Business or the business prospects or operations of the Business and which would be likely to have a material adverse effect on the Business. Seller represents that none of its products contain friable asbestos, although certain products identified on Schedule 5.9B contain encapsulated asbestos.

Section 5.10 Litigation, Claims. To Seller's best knowledge, information and belief, Schedule 5.10 hereto contains a complete and accurate list of (a) all claims, actions, suits, proceedings or investigations pending or threatened by or against the Seller or any of its employees, relating to the Business, and (b) all

judgments, decrees, arbitration awards, agreements or orders rendered against Seller and relating to the Business since January 1, 1990, and (c) all continuing or unsatisfied judgments, orders, injunctions, decrees or other commands of any court or governmental agency binding upon the Seller. The Seller is not aware and has no reason to be aware of any basis for any action, proceeding or investigation involving the Business, other than as set forth in Schedule 5.10. All claims listed on Schedule 5.10 shall remain liabilities of the remaining operations or holdings of Seller, and Seller is not aware of any claims asserted in such proceedings which would interfere with Buyer's use of the Purchased Assets in the Business.

Section 5.11 Contracts and Commitments. (a) Schedule 5.11 hereto contains a complete and accurate list of all contracts, agreements and commitments (other than the agreements or arrangements set forth in Schedules 5.8, 5.14 and 5.19B), whether written or oral, of the Seller and relating to the Business that involve commitments in excess of $25,000, have a term of six (6) months or more or that are not in the ordinary course of business.

(b) The agreements set forth in Schedules 5.8, 5.11, 5.14 and 5.19B are hereinafter referred to collectively as the "Operating Agreements." Except as otherwise set forth on Schedule 5.11 hereto, none of the Operating Agreements has been assigned or is the subject of any security agreement. Except as otherwise set

forth in Schedule 5.11, (i) each of the Operating Agreements is a valid and binding obligation of the Seller and, to the best of the Seller's knowledge, of the other party or parties thereto, enforceable in accordance with its terms, except as enforcement may be limited by the Bankruptcy Court; (ii) neither the Seller nor, to the best of Seller's knowledge, any other party thereto has terminated, canceled, modified or waived any material term or condition of any Operating Agreement; and (iii) neither the Seller nor, to the best of the Seller's knowledge, any other party to any Operating Agreement is in default or alleged to be in default under any Operating Agreement and to the best of the Seller's knowledge there exists no event, condition or occurrence that, after notice or lapse of time, or both, would constitute such a default either by the Seller or by any party to any such Operating Agreement. Except as set forth on Schedule 5.11 hereto, none of the Operating Agreements contains any covenant or other restriction preventing or limiting the consummation of the transactions contemplated hereby. The Seller has delivered to the Buyer a copy of each of the written Operating Agreements and a written description of the terms and conditions of any oral Operating Agreements.

Section 5.12 Trademarks, Patents, Etc. Schedule 5.12 hereto sets forth an accurate and complete list of all trademarks, service marks, trade names, applications and registrations for any of the foregoing, patents, patent applications, copyrights, copyright registrations, trade secrets and confidential information used in

the operation of the Business; provided that all unregistered copyrights, trade secrets, know how and other information may be too numerous and may not be listed (collectively, the "Proprietary Rights"). The Seller owns or possesses all Proprietary Rights that are required to conduct the Business as now conducted without, to the best of Seller's knowledge, conflict with the rights of others. The Seller has the right to use the Proprietary Rights (including applications for any of the foregoing) used in connection with the Business. The Proprietary Rights are assignable to the Buyer and the consummation of the transactions contemplated hereby will not alter or impair any such rights. No claims have been asserted by any person to the use of any of the Proprietary Rights, or challenging or questioning the Seller's right to such use, and to the best of the Seller's knowledge there is no basis for any such claim. Seller has no knowledge of circumstances which would indicate the infringement by a third party on the patent, trademark, service mark or other protected rights of Seller referred to in this Section.

Section 5.13 Liens. Except as set forth in Schedule 5.13 hereto, and except for the real property located at 8700 Brookpark Road, Cleveland, Ohio, none of the properties or assets, whether real, personal or mixed, or tangible or intangible, owned or leased by the Seller in connection with the Business are subject to any mortgage, lien, restriction of use, security interest, claim,

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charge, encumbrance, defect of title, easement or interest (collectively "Encumbrances").

Section 5.14 Insurance. All of the insurance policies relating to the Business, including summary descriptions and the termination dates thereof, (a) are set forth in Schedule 5.14 hereto and (b) are in full force and effect with no violation of any condition which would relieve the insurance company from its obligations, and all premiums with respect thereto covering all periods up to and including the Closing Date have been paid with no retrospective rating, indemnification agreement or self-insured retention, except as otherwise noted on Schedule 5.14. To the Seller's knowledge, information and belief no condition exists within the Business which, if known by an insurer would be a basis to terminate or rescind existing insurance coverage. If the Seller receives, prior to the Closing, any notice of cancellation or other termination of any such policies presently in effect, the Seller will use its reasonable efforts to replace such policies not later than a date prior to the effective date of any such cancellation or other termination with policies providing substantially the same coverage. The Seller has not been refused any insurance with respect to the Business or any of the Purchased Assets, nor has coverage been limited by any insurance carrier to which it has applied for insurance or with which it has carried insurance, during the last two years.

Section 5.15 Disclosure. No representation or warranty by the Seller to the Buyer contained in this Agreement, and no statement contained in the Schedules herato or any certificate furnished to the Buyer pursuant to the provisions hereof, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein not misleading.

Section 5.16 Accounts Receivable. All accounts receivable of the Seller relating to the Business (the "Accounts Receivable") whether reflected in the Financial Statements, Business Financial Statements or otherwise, represent or will represent sales actually made in the ordinary course of business or valid claims as to which full performance has been rendered. To the best of Seller's knowledge, all Accounts Receivable are collectible in the amounts shown on the books of the Seller, after application of reserves for returns and bad debts and other reserves recorded against Accounts Receivable balances in accordance with generally accepted accounting principles consistently applied. The Seller has good and marketable title to all Accounts Receivable, free and clear of all liens, claims and encumbrances. Schedule 5.16 sets forth a listing of accounts receivable as of the date hereof. This schedule will be brought current at the date of Closing.

Section 5.17 Real Property. Schedule 5.17 sets forth each parcel of real property or interest in real estate currently owned by the

Seller (the "Real Property") in connection with the Business; currently there is no real property which the Seller leases, has agreed to lease or has an obligation to lease in connection with the Business. The Seller owns and has good and marketable title in fee simple to the Real Property, free and clear of all Encumbrances, except for those Encumbrances (the "Permitted Encumbrances") which are set forth on Schedule 5.13. To the best of the Seller's knowledge, the Seller has good and valid rights of ingress and egress to and from all the Real Property from and to the public street systems for all usual street, road and utility purposes. To the best of Seller's knowledge, the Seller's use of the Real Property is substantially in compliance with all applicable zoning laws and regulations and other applicable laws, orders, regulations or requirements relating to or affecting the occupancy and use of the Real Property other than as disclosed to Buyer in Schedules 5.9 and 5.28. The Seller has not received any notice of an appropriation, condemnation or like proceeding, or of any violation of any applicable zoning laws, regulations or other laws, orders, regulations or requirements relating to or affecting the occupancy and use of Real Property, and, to the best of the Seller's knowledge, no such proceeding has been threatened or commenced. To the best of the Seller's knowledge, (a) all water, sewer, gas, electric, telephone, drainage and other facilities on the Real Property are installed and connected pursuant to valid permits and are adequate to service the facilities on the Real Property; (b) no fact or condition exists that would result in the

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termination or material impairment of any such service, and (c) all necessary easements exist and are in full force and effect.

Section 5.18 Inventory. All inventory of the Seller in connection with the Business whether reflected in the Financial Statements, Business Financial Statements, or otherwise, consists of a quality and quantity usable in the ordinary course of business, subject to appropriate reserves. All of the inventory is at Brooklyn, Cuyahoga County, Ohio, except for inventory in transit or materials at or in transit to or from outside processors. The Seller has good and marketable title to all of its inventory, free and clear of all liens, claims and encumbrances. Schedule 5.18 is a listing of all inventory as of the date hereof. Schedule 5.18 shall be brought current at the time of Closing.

Section 5.19 Tangible Personal Property. Schedule 5.19A hereto lists all tangible personal property (other than inventory) with an initial cost in excess of $5,000 owned by the Seller in connection with the Business and the location thereof including all furniture, furnishings, office equipment, supplies, machinery, tools and other equipment. The Seller has good and marketable title to all of the items listed on Schedule 5.19A hereto, free and clear of all Encumbrances except as set forth thereon or on Schedule 5.13 hereto. Schedule 5.19B hereto lists all tangible personal property leased by the Seller in connection with the Business and the location thereof. Except as set forth on Schedule 5.19B hereto,

none of such leases contains any covenant or restriction preventing or limiting the consummation of the transactions contemplated hereunder. All of the personal property listed in Schedules 5.19A hereto and 5.19B hereto is in operating condition and repair, subject to ordinary wear and tear. All of the tangible property is located at Brooklyn, Cuyahoga County, Ohio, except as otherwise identified on Schedule 5.19 A or B.

Section 5.20 Employee Relations. No union organizing efforts known to the Seller have been conducted within the past five (5) years or are now being conducted in respect of the Business; the Seller has not at any time during the past five years had, nor to the knowledge of the Seller, is there now threatened, a strike, picket, work stoppage, work slowdown, or other labor trouble in connection with the Business; and the Seller has never been a party to any collective bargaining or similar labor agreement in connection with the Business.

Section 5.21 Employees. Schedule 5.21A hereto sets forth a complete and accurate list of all employees of the Seller involved with the Business with annual incomes in excess of $25,000 showing for each: name, hire date, current job title or description, current salary level (including any bonus or deferred compensation arrangements) and any bonus, commission or other remuneration paid during the most recently completed fiscal year, and describing any

existing contractual arrangement. Schedule 5.21B sets forth a complete list of the names, social security numbers, and employee reference number of each full time, part time, temporary or temporarily laid-off or on-leave employee for the Business.

Seller has not and will not permit the accrual of salary, wages, bonus, overtime, "comp. time" or any other form of remuneration other than within the immediately current pay period or as expressly set forth, in writing, in the employee manual administered by the human recourse department of the Business, a complete copy of which is attached as Schedule 5.21C.

Section 5.22 Governmental Authorizations. With respect to the Business, except as specified on Schedule 5.28, the Seller has all licenses, permits or other authorizations from governmental, regulatory or administrative agencies or authorities required for the production and sale of its products and the ownership or conduct of the Business (including those required pursuant to laws or regulations relating to the protection of the environment), each of which will be in full force and effect on the Closing Date, except where the failure to obtain any such licenses, permits or other authorizations would not have a material adverse effect on the Business. Except as specified in Schedule 5.5 hereto, to the best of the Seller's knowledge no registrations, filings, applications, notices, transfers, consents, approvals, orders, qualifications, waivers or other actions of any kind are required

by virtue of the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to enable the Buyer to continue the operation of the Business as presently conducted in all material respects.

Section 5.23 Tax Matters. (a) There have been timely filed by or on behalf of the Seller with the appropriate Taxing Authority all Tax Returns required to be filed in connection with the Business on or before the Closing Date, and all such Tax Returns were materially correct and complete in all respects. An extension of time within which to file any Tax Returns which has not been filed has not been requested or granted.

(b) The Seller (or entities affiliated with Seller) has paid in full all Taxes, if any, shown to be due on such Tax Returns, or otherwise has accrued or paid all other Taxes due for all periods up to and including the date hereof, and at the Closing Date shall have paid or reserved all Taxes due and payable through and including the Closing Date. All Taxes for the periods covered by the Tax Returns filed or to be filed by or on behalf of the Seller or, if not covered by a Tax Return but required to be paid, have been or will be paid when due whether to a Taxing Authority or to other persons or entities (as, for example, under tax allocation agreements).

(c) The representations and warranties set forth in subsections (a) and (b) of this Section 5.23 are not applicable to the extent the Purchased Assets and the Business cannot be made subject to tax liens and the Buyer cannot be made liable for Taxes relating to the matters constituting breaches of such representations and warranties.

(d) There are no liens for Taxes upon the Business or any of the Purchased Assets except liens for current Taxes not yet due, or appearing on Schedule 5.13.

(e) None of the Purchased Assets is property which is required to be treated as being owned by any other person pursuant to the so-called "safe harbor lease" provisions of former section 168(f)(8) of the Code.

(f) None of the Purchased Assets directly or indirectly secures any debt the interest on which is tax exempt under section 103(a) of the Code.

(g) None of the Purchased Assets is "tax-exempt use property" within the meaning of Section 168(h) of the Code.

(h) The Seller is not a person other than a United States person within the meaning of Section 7701(a)(30) the Code.

(i) Except as set forth on Schedule 5.23 hereto, the Seller is not and has never been a member of an affiliated group of corporations filing a consolidated Tax Return pursuant to Section 1501 of the Code.

(j) To Seller's knowledge, information and belief, no state of facts exists which would constitute grounds for the assessment of any additional Taxes by any Taxing Authority against the Seller or the Buyer with respect to the Purchased Assets or the Business other than sales, use, transfer, recording or similar fees and taxes which may arise from the transactions contemplated by this Agreement. No state of facts exists to the Seller's knowledge which would constitute grounds for the assessment of any liability for Taxes with respect to the Purchased Assets or the Business for the periods which have not been audited by the Internal Revenue Service or other Taxing Authority.

(k) Neither the Seller nor any entities affiliated with the Seller have granted any waiver of any statute of limitations with respect to, or any extension of a period for the assessment of, any Taxes.

(l) There is no material action, suit, proceeding, investigation, audit or claim now pending against the Seller with respect to the Business or any of the Purchased Assets in respect to any Tax, and no matter under discussion with any Taxing

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Authority relating to any material Tax or assessment or any claim for additional Tax, asserted by any such Authority against the Seller or any of its affiliates with respect to the Business or any of the Purchased assets.

(m) All Taxes with respect to the Purchased Assets and the Business that are required to be withheld or collected have been duly withheld and collected and, to the extent required, have been paid to the proper Taxing Authority, person, or entity or have been properly deposited as required by applicable laws.

(n) As used in this Agreement, "Taxes" is defined to include all taxes, charges, fees, levies or other assessment imposed by any Taxing Authority with respect to the operation of the Business, including, without limitation, income, gross receipts, excise, property, sale, use, ad valorem, license, lease, service, severance, stamp, transfer, payroll, employment, customs, duties, alternative, or add or minimum, estimated and franchise taxes (including any interest, penalties or additions attributable to or imposed on or with respect to any such assessment).

(o) As used in this Agreement, "Tax Return" is defined as any return, report, information return or other document (including any related or supporting information) filed or required to be filed with any federal, state, local or foreign governmental entity or other authority (individually or collectively a "Taxing Authority")

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in connection with the determination, assessment or collection of any Tax (whether or not such Tax is imposed on the Seller) or the administration of any laws, regulations or administrative requirements relating to any Tax.

Section 5.24 Customers. Schedule 5.24 hereto sets forth a complete and accurate list of the forty (40) largest customers (by dollar volume) of products of the Business during the most recently completed fiscal year, indicating the existing contractual arrangements, if any, with each such customer. Except as set forth in Schedule 5.24 hereto, there are no outstanding "material disputes" with any customer listed thereon and no customer listed thereon has refused to continue to do business with the Seller or has stated its intention not to continue to do business with the Seller. For purposes of this Section, a "material dispute" means a matter involving a claim of $5,000 or more per customer and "material disputes" involves claims of $50,000 in the aggregate as to all customers. Reinvoicing or cash discount disputes in the ordinary course shall not be "material disputes."

Section 5.25 Suppliers. Schedule 5.25 hereto sets forth a complete and accurate list of (a) the forty (40) largest suppliers of products and services to the Business during the most recently completed fiscal year of the Seller with a value in excess of $25,000, indicating the existing contractual arrangements with each such firm and (b) the names of any sole source suppliers of

significant material to the Business with respect to which practical alternative sources of supply are not available on comparable terms and conditions, indicating the contractual arrangements for continued supply from each firm.

Section 5.26 Broker's or Finder's Fees. No agent, broker, investment banker, person or firm acting on behalf of the Seller or under the authority of the Seller is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly from any of the parties hereto in connection with any of the transactions contemplated hereby. Seller will hold Buyer harmless from any claim for payment of a fee or commission of a broker, investment banker, agent, person or firm acting on behalf of the Seller or under authority of the Seller either directly or indirectly.

Section 5.27 Adequacy and Sufficiency of Assets. The Purchased Assets, together with those items of PPE not selected by Buyer for purchase under Section 2.1(a), are adequate and sufficient for the conduct of the Business consistent with past practice.

Section 5.28 Environmental Matters. (a) As used in this Agreement "Hazardous Material" shall mean: (i) any "hazardous substance" as now defined pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14), (ii) any "pollutant or contaminant" as defined in 42

U.S.C.A. § 9601(33); (iii) any material now defined as "hazardous waste" pursuant to 40 C.F.R. Part 261; (iv) any petroleum or petroleum product, including crude oil and any fraction thereof; (v) natural synthetic gas usable for fuel; (vi) any "hazardous chemical" as defined pursuant to 29 C.F.R. Part 1910; (vii) any asbestos, polychlorinated biphenyl (PCB), or isomer of dioxin, or any material or thing containing or composed of such substance or substances; and (viii) any other substance, regardless of physical form, that is subject to any past or present federal, state or local governmental statute, requirement, rule of liability or standard of conduct relating to the protection of human health, plant life, animal life, natural resources or property from the presence in the environment of any solid, liquid, gas, odor or any form of energy, from whatever source.

(b) Except as set forth on Schedule 5.28 hereto, to the best of Seller's knowledge, there is no Hazardous Material at, under or on any properties now or at any time ever owned, leased, operated or controlled by the Seller in the Business where such could have a material adverse effect on the condition (financial or otherwise), properties, assets, operations or prospects of the Business. Except as set forth on Schedule 5.28 hereto, neither the Seller nor to the best of the Seller's knowledge any of its predecessors in interest have manufactured, processed, distributed, used, treated, stored, disposed, transported or handled any such Hazardous Substances, where such could have a material adverse

effect on the condition (financial or otherwise), properties, assets, operations or prospects of the Business.

(c) Except as set forth on Schedule 5.28 hereto, to the best of the Seller's knowledge, neither the Seller nor any of its predecessors in interest have any obligation or liability, known or unknown, matured or not matured, absolute or contingent, assessed or unassessed, imposed or based upon any provision under any federal, state or local law, rule, or regulation or common law, and regulations, or under any code, order, decree, judgment or injunction applicable to the Seller or its predecessors in interest or any notice, or request for information issued, promulgated, approved or entered thereunder, or under the common law, or any tort, nuisance or absolute liability theory, relating to public health or safety, worker health or safety, or pollution, damage to or protection of the environment including, without limitation, laws relating to emissions, discharges, releases or threatened releases of Hazardous Materials into the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, generation, disposal, transport or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes (hereinafter collectively referred to as "Environmental Laws") where such obligation or liability could have a material adverse

effect on the condition (financial or otherwise), properties, assets, operations or prospects of the Business.

(d) Except as indicated on Schedule 5.28 hereto, to the best of Seller's knowledge, there are no specific facts or circumstances (i) that would indicate that the Seller is not, or will not be prior to Closing, in compliance in all material respects with the Environmental Laws and with the provisions of the Federal Occupational Safety and Health Act as related to the ownership or operation of the Business, nor (ii) that the Seller's ownership or operation of the Business gives rise to any liability to any person, contingent or otherwise, under the Environmental Laws.

(e) Except as indicated on Schedule 5.28, the Seller possesses and is in compliance in all material respects with all permits, licenses, certificates, franchises and other authorizations relating to Environmental Laws necessary to conduct the Business or required by environmental regulations.

(f) Except as set forth on Schedule 5.28 hereto, no claims have been made against the Seller or its predecessors in interest during the past five years (except minor claims, all of which have been resolved without material fines or penalties) and no presently outstanding citations or notices have been issued against the Seller under the Environmental Laws where such could have a material adverse effect on the condition (financial or otherwise),

properties, assets, operations or prospects of the Business, including, without limitation, any such claims, citations or notices relating to or arising out of or attributable, in whole or in part, to:

(i) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Material in the operation of the Business by the Seller or its predecessors in interest, or any of their respective employees, agents or representatives in connection with or in any way arising from or relating to the ownership or operation of the Business or any of its respective properties by the Seller or its predecessors in interest;

(ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Material in the operation of the Business, by any other person at, on or under any real property or any other location where such could have a material adverse effect on the condition (financial or otherwise), properties, assets, operations or prospects of the Business.

(g) Except as set forth in Schedule 5.28 hereto, the Seller has not been subject to any civil, criminal or administrative action, suit, claim, hearing, notice of violation, investigation, inquiry or proceeding for failure to comply with, or received

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notice of any violation or potential liability under, the Environmental Laws where such could have a material adverse effect on the condition (financial or otherwise), properties, assets, operations or prospects of the Business nor is the Seller aware of any information, whether or not confirmed or reported, which could give rise to any such potential liability.

(h) Except as set forth in Schedule 5.28 hereto, no real property, site or facility (as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601(9) ("CERCLA")) of the Seller and used in the Business is (i) listed or proposed for listing on the National Priority List or, is (ii) listed on the Comprehensive Environmental Response, Compensation, Liability Information System List ("CERCLIS") promulgated pursuant to CERCLA, or any comparable list maintained by any foreign, state or local government authority.

(i) Except as set forth in Schedule 5.28 hereto, any underground storage tanks at any real property, site or facility (as defined in CERCLA) of the Seller and utilized in the Business are used and operated in compliance with the Environmental Laws.

(j) Except as set forth in Schedule 5.28 hereto, the Seller has delivered to the Buyer true, complete and correct copies or results of any reports, studies, analyses, tests or monitoring in the possession of or initiated by the Seller pertaining to the

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existence of Hazardous Materials and any other environmental concerns relating to the Business and any of its facilities, or sites or real property now or at any time ever owned, leased, operated, used or controlled by the Seller or any of its predecessors in interest, and used in the operation of the Business or concerning compliance with or liability under the Environmental Laws.

(k) Except as set forth on Schedule 5.28 hereto and to the best of Seller's knowledge, there are no polychlorinated biphenyls in or at any premises now or at any time ever owned, operated or controlled by the Seller and utilized in the Business.

(l) Except as set forth in Schedule 5.28 hereto, the Seller has removed all asbestos and asbestos containing materials in compliance with all applicable statutes, laws, regulations and rules of all applicable governmental authorities from the properties and assets now or at any time ever owned, leased, operated or controlled by the Seller and utilized in the Business and further warrants and represents that to the best of Seller's knowledge the facilities on such properties materially comply with the Environmental Laws including, but not limited to, Occupational Safety and Health Act regulations with respect to ambient air exposure to asbestos.

Section 5.29 Related Party Transactions. Except as set forth on Schedule 5.29 hereto, none of the Seller or any director or officer of the Seller, nor any member of the "immediate family" of a director or officer, is currently a party to any transaction with the Seller which relates to the operation of the Business (other than for services as employees, officers and directors), including without limitation any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from, any such person, or to or from any corporation, partnership, trust or other entity in which any such person, or group of such persons, owns in excess of 5% of the outstanding equity interest. For purposes of this Section 5.29, "immediate family" shall include an individual's spouse, parents, children, siblings, mothers and fathers-in-law, brothers and sisters-in-law and sons and daughters-in-law.

Section 5.30 Effective Date of Representations and Warranties. Each representation and warranty set forth in this Article V shall be deemed to be made on and as of and speak on and as of the date hereof and on and as of the Closing Date.

Section 5.31 Certain Matters Relating to the Status of the Seller as Debtor in the Bankruptcy Proceeding. None of the Purchased Assets is subject to any "lien" as defined in Section 101(33) of

the Bankruptcy Code, or other interests of any party other than Seller.

Section 5.32 Knowledge Standard. When used in this Article V, the term "to the best of Seller's knowledge" or "to the Seller's knowledge" or words to that effect means (i) to the actual knowledge of one or more of those individuals listed on Schedule 5.32 hereof (collectively, the "Seller Management Team") and (ii) knowledge that a reasonable man would expect one of the Seller Management Team to know or reasonably should have known.

ARTICLE VI--REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Seller, and the Seller in agreeing to consummate the transactions contemplated by this Agreement has relied upon such representations and warranties, that:

Section 6.1 Organization, Standing and Power. The Buyer is a limited partnership duly organized, validly existing and in good standing under the laws of the State of Delaware and has the requisite power and authority to own, lease and operate its properties, to carry on its business as now being conducted and to enter into this Agreement and consummate the transactions contemplated hereby.

Section 6.2 Valid and Binding Agreements. All necessary action on the part of the Buyer has been taken to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Buyer and constitutes a valid and binding agreement of the Buyer, enforceable in accordance with its terms, subject to the approval of the Bankruptcy Court as provided in Section 1.4(b).

Section 6.3 No Violation. Subject to the approval of the Bankruptcy Court as provided in Section 1.4(b), neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby nor compliance with any of the provisions hereof will (a) violate or conflict with the Partnership Agreement of the Buyer or any statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to the Buyer, or (b) violate or conflict with, or result in a breach of any of the provisions of, or constitute a default (or any event which, with or without due notice or lapse of time, or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in the creation of any Encumbrance upon any of the properties or assets of the Buyer under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease,

agreement or other instrument of the Buyer, other than encumbrances intended and permitted by Buyer.

Section 6.4 Consents and Approvals. No permit, consent, approval or authorization of, or declaration, filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement by the Buyer or the consummation by the Buyer of the transactions contemplated hereby and no consent of any third party is required to consummate any of the transactions contemplated hereby, except for the approval of the Bankruptcy Court as provided in Section 1.4(b) and compliance with the requirements of the HSR Act.

Section 6.5 Broker's or Finder's Fees. Buyer will hold Seller harmless from any claim for payment of a fee or commission of a broker, investment banker, agent, person or firm acting on behalf of the Buyer or under authority of the Buyer either directly or indirectly.

ARTICLE VII--COVENANTS

Section 7.1 Compliance with Law. From the date hereof and through the Closing Date, the Seller will promptly comply in all material respects with all laws and regulations (including, without limitation, those relating to occupational safety, the protection of the environment and employee benefits) applicable to the

Business and all laws and regulations with which compliance is required for the valid consummation of the transactions contemplated hereby and will promptly notify the Buyer of any legal, administrative or other proceedings, investigations, inquiries, complaints, notices of violation or other asserted claims, judgments, injunctions or restrictions, pending, outstanding or, to the best of Seller's knowledge, threatened or contemplated, which could affect the Business.

Section 7.2 Operation of Business Prior to Closing. Prior to the Closing Date, and except as otherwise contemplated by this Agreement or with the specific prior written consent of the Buyer and as subject to the jurisdiction of the Bankruptcy Court, the Seller covenants and agrees, with respect to the Business, as follows:

(a) The Seller shall conduct the Business in the ordinary course, consistent with past practices and in accordance with all applicable provisions of the Bankruptcy Code and Rules and all applicable orders of the Bankruptcy Court. Without limiting the foregoing, Seller shall not advance ship sales orders for future months or ship prior to invoicing any inventory to any customer, nor shall Seller furnish any customer credit terms over 30 days, unless such customer has, on a continuous basis over the past twelve months, been granted extended (over 30 days) terms, in which case such customer can be afforded terms comparable to those

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previously granted to him. Seller shall furnish Buyer a list of all customers afforded such extended terms;

(b) The Seller shall not enter into any contract or commitment entailing a commitment, or make any expenditures for, property, or equipment in excess of $25,000 in the aggregate;

(c) The Seller shall not enter into any employment agreement, sales agency agreement or other contract for the performance of personal services which is not terminable without liability upon no more than thirty (30) days' notice or grant any increase in the rate of compensation or in the benefits payable or to become payable to any officer or other employee or to any agent or consultant over the levels in effect on the date hereof other than normal merit increases of officers and employees or increases required by applicable law;

(d) The Seller will use its best efforts to preserve the Business intact and the goodwill of customers and others having business relations with the Seller and to keep available the employees of the Seller;

(e) The Seller will maintain its real and personal properties in as good as state of operating condition and repair as they are on the date of this Agreement, except for ordinary wear and tear; and Seller will immediately notify Buyer of any lien, restriction,

pledge, security interest or encumbrance of any kind, or any threatened such item, to be placed upon such property.

(f) The Seller will not terminate or modify any leases, contracts, governmental licenses, permits, or other authorizations or agreements affecting its real and/or personal properties or the operation thereof or any additional lease or contract of any nature affecting such properties or the operation thereof;

(g) The Seller will keep in force all policies of insurance covering or relating to its real and personal property;

(h) The Seller will not knowingly do or omit to do any act, or permit any act or omission to act, which may cause a breach of any Operating Agreement or a breach of any representation, warranty, covenant or agreement made by Seller herein;

(i) The Seller will not enter into any contract or commitment, and no purchase of raw materials or supplies and no sales of any of its assets will be made, except (i) normal contracts or commitments for the purchase of, and normal purchases of, supplies made in the ordinary course of business and consistent with current practice in the most recent completed fiscal year, and (ii) normal contracts or commitments for the sale of, and normal sales of, product or inventory in the ordinary course of business and consistent with past practice; and Seller shall provide

concurrent notice to Buyer of contracts, commitments, purchases or other operating obligations of the Business from the date hereof until the Closing;

(j) No obligations or liabilities relating to the Business, whether absolute or contingent (including litigation claims), shall be discharged, satisfied or paid, other than liabilities shown on the Financial Statements and the Business Financial Statements and liabilities incurred after the date thereof in the ordinary course of business and in normal amounts, and no such discharge, satisfaction or payment shall be effected other than in accordance with the ordinary payment terms relating to the liability discharged, satisfied or paid; and Seller shall provide concurrent notice to Buyer of the payment, satisfaction or discharge of such obligation from the date hereof until the Closing.

(k) No debts of or claims against others held by the Seller shall be canceled or released and no rights relating to the Business shall be waived;

(l) The Seller will not write up the value of any inventory, determine as collectible any notes or accounts receivable which were previously considered to be uncollectible, or increase the amount of any receivables, except for adjustments and changes in the ordinary course of business and consistent with past practice and generally accepted accounting principles;

(m) The Seller will not make any new elections with respect to Taxes, or any changes in current elections with respect to taxes, affecting the Purchased Assets;

(n) The Seller will not make any change in any method of accounting principles or practices; and

(o) The Seller will not make any change in its policies for extension of credit to customers.

Section 7.3 Access. At all times prior to the Closing Date, the Seller shall provide the Buyer and its representatives with full and reasonable access to, and will make available for inspection and review, all properties, personnel, books, records, reports, schedules and accounts of the Seller relating to the Business in order that the Buyer may have full opportunity to make such investigation as it shall desire to make of the Business. It is understood that the Buyer shall be permitted to maintain personnel on the premises of the Seller during customary business hours to observe all aspects of the operations of the Business and to confer with the Seller's management, attorneys and other third parties reasonably requested for verification of any information obtained pursuant to such observations. The Seller also consents to the examination by (a) Price Waterhouse of the work papers of Deloitte pertaining to the Business, including work papers relating to the work on the audit referenced in Section 7.4 below, and will

cooperate with Buyer to obtain such access and related information from Deloitte and (b) the Buyer, its environmental consultants and counsel of the premises and all environmental records of the Seller pertaining to the Business.

Section 7.4 Audited Financial Statements. Seller shall deliver to Buyer the audited consolidated financial statements of the Seller as of and for the year ended December 31, 1992, as soon as they are available in final form.

Section 7.5 Preparation and Delivery of Schedules and Exhibits. The parties hereto acknowledge that this Agreement will be signed prior to the preparation and delivery of the Schedules and Exhibits required hereunder. The Seller agrees to provide to the Buyer by no later than April 14, 1993, unless such date is extended by Buyer, all of the Schedules required hereunder. Both the Buyer and the Seller also agree to negotiate in good faith to reach an agreement by no later than April 14, 1993, on all of the material terms and conditions to each of the Schedules and Exhibits to this Agreement.

ARTICLE VIII--CONDITIONS PRECEDENT TO OBLIGATIONS OF THE BUYER

All obligations of the Buyer that are to be discharged under this Agreement at the Closing are subject to the Seller's

fulfillment on or before the Closing or effective as of the Closing Date, of each of the following conditions (unless expressly waived, extended, or modified in writing by the Buyer (in its sole and absolute discretion) at any time at or prior to the Closing) and the Seller shall use their reasonable efforts to cause each of such conditions to be satisfied:

Section 8.1 Representations and Warranties. On the Closing Date, the representations and warranties of the Seller set forth in Article V of this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date and the Buyer shall have received at the Closing a certificate, dated at the Closing Date, signed by the President or Vice President of the Seller to such effect.

Section 8.2 Covenants, Agreements and Conditions. The Seller shall have fully and completely performed and complied, in all material respects, with all covenants, agreements and conditions contained in this Agreement required to be performed by it on or prior to the Closing Date, and the Buyer shall have received at the Closing a certificate, dated the Closing Date, signed by the President or the Vice President of the Seller to such effect.

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Section 8.3 No Material Adverse Change. During the period from December 31, 1992, to the Closing Date, there shall not have been any material adverse change in the condition (financial or otherwise) or earnings of the Seller.

Section 8.4 Consents and Approval. All corporate and other proceedings, as applicable, to be taken, and all consents to be obtained in connection with the transaction contemplated by this Agreement by the Seller and all documents incident thereto shall be reasonably satisfactory in form and substance to the Buyer and its legal counsel, each of whom shall have received all such originals or certified or other copies of such documents as either may reasonably request.

Section 8.5 Proceedings. No order or injunction shall have been issued prohibiting the consummation of the transactions contemplated hereby.

Section 8.6 Governmental Approvals. There shall have been received all necessary governmental consents or authorizations required in connection with the transactions contemplated hereby.

Section 8.7 Insurance. The Seller shall have maintained in full force and effect the insurance coverage described in Schedule 5.14 hereto or policies providing substantially equivalent coverage.

Section 8.8 HSR Act, etc. All waiting periods applicable under the HSR Act with respect to the consummation of the transactions contemplated by this Agreement shall have expired or shall have been terminated, and there shall have been received all necessary consents or governmental authorizations of jurisdictions in which the Seller conducts the Business for the transfer of the Purchased Assets by the Seller to the Buyer.

Section 8.9 Deliveries. The Seller shall have delivered to the Buyer the items referred to in Section 3.2.

Section 8.10 Customer Relationships. There shall be no material adverse change in any of the Seller's relationships with its customers listed in Schedule 5.24 hereto.

Section 8.11 No Liens. There shall be no Encumbrances, on the Purchased Assets.

Section 8.12 Overbid and Termination Fee Approval. Bankruptcy Court shall have entered an order or orders approving the Overbid and Termination Fee Motion submitted by the Buyer and Seller and a true copy of such executed order or orders shall have been delivered to Buyer and there shall not be pending any appeal thereof.

Section 8.13 Bill of Sale. The Seller shall have executed and delivered the Bill of Sale to Buyer.

Section 8.14 Assignment and Assumption Agreement. The Seller shall have executed and delivered the Assignment and Assumption Agreement to the Buyer.

Section 8.15 Escrow Agreement. If applicable, the Seller shall have executed and delivered the Escrow Agreement to the Buyer.

Section 8.16 Consulting and Noncompetition Agreements. Messrs. Hrudka and Gardner and Seller shall have executed and delivered their respective Consulting and Noncompetition Agreements to the Buyer.

Section 8.17 Bankruptcy Court Approval. (a) After notice and hearing as described in Section 1.4(b), the Bankruptcy Court shall have entered an order or orders substantially in the form described in Section 1.4(b), the appeal period on such order(s) shall have expired and no stay of such order(s) shall have been issued.

(b) The Buyer shall have received a certified copy of the entered order(s), together with a declaration of Debtor's counsel that no stay of such order has been issued by a court of competent jurisdiction.

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(c) The Bankruptcy Court shall have entered an order authorizing the Seller to enter into all collateral instruments to this Agreement, including, but not limited to, the Partnership Agreement, the Transactional Services Agreement, the Lease, and Escrow Agreement.

Section 8.18 Assignment of Certain Operating Agreements. The Seller shall have obtained and delivered to the Buyer the order or orders of the Bankruptcy Court described in Section 1.4(b) approving the assignment to Buyer of those Operating Agreements listed on Schedule 1.2(b).

Section 8.19 Lease. The Seller shall have executed and delivered the Lease to the Buyer, and Buyer shall have received from National City Bank, the mortgagee of the real property, its consent to the Lease.

Section 8.20 Transitional Services Agreement. The Seller shall have executed and delivered the Transitional Services Agreement to the Buyer.

Section 8.21 Schedules. The final schedules delivered under Section 7.5 of this Agreement are materially different from the schedules which were delivered prior to or at the time of executing the Agreement, which schedules were initialled for identification purposes by both parties, provided, however, that this condition

shall be deemed satisfied unless Buyer notifies Seller to the contrary on or prior to the date that is two business days following the date of execution of this Agreement.

Section 8.22 Indemnity Agreement: Buyer, Seller and Eaton Corporation shall have executed the environmental indemnity agreement (the "Indemnity Agreement"), in a form satisfactory to all parties.

ARTICLE IX--CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

All obligations of the Seller that are to be discharged under this Agreement at the Closing are subject to the Buyer's fulfillment on or before the Closing or effective as of the Closing Date of each of the following conditions (unless expressly waived, extended or modified in writing by the Seller (in its sole and absolute discretion) at any time at or prior to the Closing) and the Buyer shall use its reasonable efforts to cause each of such conditions to be satisfied:

Section 9.1 Representations and Warranties. On the Closing Date, the representations and warranties of the Buyer set forth in Article VI of this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though such representations and warranties had been made on and as of the Closing Date, and the Seller shall have

received at the Closing a certificate, dated the Closing Date, signed by the President or a Vice President of the Buyer to such effect.

Section 9.2 Covenants, Agreements and Conditions. The Buyer shall have performed and complied, in all material respects, with all covenants, agreements and conditions contained in this Agreement required to be performed by it on or prior to the Closing Date, and the Seller shall have received at the Closing a certificate, dated the Closing Date, signed by the President or a Vice President of the Buyer to such effect.

Section 9.3 Proceedings. No order or injunction shall have been issued prohibiting the consummation of the transactions contemplated hereby.

Section 9.4 Consents. All consents to be obtained in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Seller and its counsel, Hahn Loeser & Parks, each of whom shall have received all such originals or certified or other copies of such documents as either may reasonably request.

Section 9.5 HSR Act, etc. All waiting periods applicable under the HSR Act with respect to the consummation of the transactions

contemplated by this Agreement shall have expired or shall have been terminated, and there shall have been received all necessary consents or governmental authorizations of jurisdictions in which the Seller conducts the Business for the transfer of the Purchased Assets by the Seller to the Buyer.

Section 9.6 Governmental Approvals. There shall have been received all necessary governmental consents or authorizations required in connection with the transactions contemplated hereby.

Section 9.7 Deliveries. The Buyer shall have delivered to the Seller the items referred to in Section 3.3.

Section 9.8 Assignment and Assumption Agreement. The Buyer shall have executed and delivered the Assignment and Assumption Agreement to the Seller.

Section 9.9 Escrow Agreement. If applicable, the Buyer shall have executed and delivered the Escrow Agreement to the Seller.

Section 9.10 Bankruptcy Court Approval. After notice and hearing as described in Section 1.4(b), the Bankruptcy Court shall have entered an order or orders approving the Agreement and the sale of the Business as contemplated by this Agreement, the appeal period on such order or orders shall have expired and no stay of such executed order or orders shall have been issued.

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Section 9.11 Lease. The Buyer shall have executed and delivered the Lease to the Seller.

Section 9.12 Plan of Reorganization. The Bankruptcy Court shall have entered an order or orders approving the confirmation of the Plan of Reorganization, the appeal period on such order(s) shall have expired, and no stay of such order or orders shall have been issued.

ARTICLE X--POST CLOSING MATTERS

Section 10.1 Indemnification. (a) The Seller shall protect, defend, hold harmless and indemnify the Buyer, its officers, directors, partners, employees and agents, and their respective successors and assigns from, against and in respect of any and all losses, claims, liabilities, deficiencies, penalties, fines, costs, damages and expenses whatsoever (including, without limitation, reasonable professional fees and costs of investigation, litigation, settlement, and judgment and interest) ("Losses") that may be suffered or incurred by any of them arising from or by reason of any of the following:

(i) Any breach of any representation or warranty made by the Seller in this Agreement or contained in any certificate executed by the Seller and delivered to the Buyer in connection with this Agreement;

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(ii) Any breach of any term, condition, covenant or agreement made by the Seller in this Agreement;

(iii) Any liability which is not an Assumed Liability and/or which is not assumed by Buyer at Closing, including, but not limited to the claims, litigation or other matters disclosed in any Schedule to this Agreement or which should have been disclosed to Buyer during due diligence; and

(iv) Any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs and expenses (including, without limitation, interest, penalties, reasonable legal fees and accounting fees) incident to the foregoing and the enforcement of the provisions of Sections 10.1 and 10.2.

(b) Whenever the Buyer shall learn of a claim of $5,000 or more which, if allowed (whether voluntarily or by judicial or quasi-judicial tribunal or agency), would give rise to an obligation of the Seller to indemnify the Buyer pursuant to Sections 10.1 or 10.2, before paying the same or agreeing thereto, the Buyer shall promptly notify the Seller in writing of all such facts within the Buyer's knowledge with respect to such claim and the amount thereof. If, prior to the expiration of fifteen (15) days from the mailing of such notice, the Seller shall request, in writing, that such claim not be paid, the Buyer shall not pay the same, provided the Seller proceeds promptly, at the expense of the

Seller (including employment of counsel reasonably satisfactory to the Buyer), to settle, compromise or litigate, in good faith, such claim. After notice from the Seller requesting the Buyer not to pay such claim and the Seller's assumption (without reservation or limitation) of the defense of such claim at its expense, the Seller shall not be further liable to the Buyer in connection with the defense thereof. However, the Buyer shall have the right to participate at its expense and with counsel of its choice in such settlement, compromise or litigation. The Buyer shall not be required to refrain from paying any claim which has matured by a court judgment or decree, unless an appeal is duly taken therefrom and execution thereof has been stayed, nor shall it be required to refrain from paying any claim where the delay in paying such claim would result in the foreclosure of a lien upon any of the property or assets then held by the Buyer or where any delay in payment would cause the Buyer an economic loss. The Buyer shall not be required to notify the Seller prior to settling any claim described in this Section 10.1(b) of less than $5,000. The failure to provide notice as provided in this Section 10.1(b) shall not excuse the Seller from its continuing obligations hereunder, however the Buyer's claim shall be reduced by any damage to the Seller resulting from the Buyer's delay or failure to provide notice as described in this Section 10.1(b).

(c) The Buyer shall protect, defend, hold harmless and indemnify the Seller, its officers, directors, employees and agents

and their respective successors and assigns from, against and in respect of any and all Losses that may be suffered or incurred by any of them arising from or by reason of any of the following:

(i) Any breach of any representation, warranty, covenant or agreement made by the Buyer in this Agreement or contained in any certificate executed by the Buyer and delivered to the Seller in connection with this Agreement; and

(ii) Any and all actions, suits, proceedings, claims, demands, assessments, judgements, costs and expenses (including, without limitation, interest, penalties reasonable legal fees and accounting fees) incident to the foregoing Section 10.1(d)(i), and the successful enforcement thereof; and

(iii) Any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs and expenses (including, without limitation, interest, penalties and reasonable attorneys' fees) incident to payment of the Assumed Liabilities, after the Closing.

(d) For purposes of Section 10.1 and 10.2, any assertion of fact and/or law by a third party that, if true, would constitute a breach of a representation or warranty made by a party to this Agreement and/or make operational an indemnification obligation hereunder, shall, on the date that such assertion is made,

immediately invoke that party's obligation to protect, defend, hold harmless and indemnify the other party to this Agreement pursuant to Sections 10.1 and 10.2.

Section 10.2 Compliance with Environmental Regulatory Requirements and Environmental Indemnification. (a) Anything hereinbefore or hereinafter stated to the contrary notwithstanding, the Seller shall be responsible for, and shall indemnify, defend, hold harmless, release and covenant not to sue Buyer, its officers, partners, employees and agents and their respective successors and assigns from, against and in respect of any and all Losses incurred with regard to the matters set forth or referred to in Section 5.28 or Schedule 5.28 based upon the presence of or any release or threatened release of any Hazardous Material in existence or occurring prior to the Closing Date, including the spreading of such hazardous materials before or after the Closing Date, whether caused by any act or omission of a third party or parties or by virtue of any condition or use of all properties now or at any time ever owned, leased, operated or controlled by the Seller or its predecessors in interest.

(b) This indemnification shall include any and all Losses (based on any legal theory, including, without limitation, claims of strict liability or successor corporate liability) relating to or arising out of any claim by any person or regulatory agency arising out of, related to or in connection with (i) any violation

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or alleged violation, attributable to circumstances or events arising or occurring prior to the Closing Date, of any Environmental Law; (ii) the violation or alleged violation attributable to circumstances or events arising or occurring prior to the Closing Date of any federal, state or local license, permit or other government approval, authorization, order, decree, judgment, injunction, notice, or request for information pertaining to any Environmental Law; (iii) the generation, transport, treatment, recycling, storage or disposal of Hazardous Materials, or arrangement therefor, prior to the Closing Date, to, at or from any facility now or at any time ever owned, leased, controlled or operated by the Seller or its predecessors; (iv) any remedial action or corrective action arising out of, related to, or in connection with property now or at any time ever owned, leased, operated, or controlled by the Seller at which Hazardous Materials were generated, treated, stored or disposed of prior to the Closing Date; and (v) any claim of injury to employees of the Business or any other person caused by the Seller's use of asbestos in any manner. Seller shall also indemnify Buyer from: (vi) any Losses arising from any release of Hazardous Materials at or from the property after the Closing Date, if and to the extent to which (A) such releases result from operation on the property by Buyer in substantially the same manner as Seller prior to the Closing Date, (B) such releases are insignificant, (C) such releases are unavoidable, and (D) such releases do not result from intentional disposal or misconduct ("Indemnifiable Post-Closing Releases"); and

(vii) any losses arising from any violation of any permit requirement at the Brookpark Road facility after the Closing Date to the extent Buyer operates the Business substantially in the manner as Seller prior to the Closing Date. Seller acknowledges that various hazardous materials are on the property, including the conditions described in reports prepared by ERM-Midwest for Seller. It shall be presumed that Hazardous Materials discovered on the property after Closing are Seller's liability, unless Seller can prove that such Hazardous Materials do not result from Indemnifiable Post-Closing Releases. Where Seller can bear the burden of proof as outlined above, liability between Buyer and Seller shall be apportioned equitably, it being understood that Buyer shall have no liability for environmental claims arising from conditions in existence at the Closing Date (including the spreading of Hazardous Materials prior to or after the Closing Date).

Section 10.3 Limitation. (a) The Seller shall be required to defend, indemnify and hold harmless the Buyer for all breaches of representations, warranties and covenants under Section 10.1(a) only to the extent that the aggregate amount of Losses exceeds $125,000 except for the covenants set forth in Sections 1.4, 2.2, 2.3, 2.4, 2.5, 2.6, 4.1, 4.5, 7.3, 10.1(a)(iii), 10.4, 10.5, 10.9 and 12.3 herein which shall not be subject to such limitation.

(b) The Buyer shall be required to defend, indemnify and hold harmless the Seller for all breaches of representations, warranties and covenants under Section 10.1(c) only to the extent that the aggregate amount of Losses exceeds $125,000, except that the covenants set forth in Sections 2.5, 2.6, 10.1(c)(iii), 10.4, 10.5, 10.8, and 12.2 herein which shall not be subject to such limitations.

(c) The maximum liability of Seller to Buyer for breaches of representations and warranties (other than those representations identified below) shall be $4,000,000, unless such breach is shown to be due to Seller's (acting through Seller's Management Team identified in Schedule 5.32) actual knowledge prior to the Closing Date. For liabilities that are not Assumed Liabilities, for breaches of Seller's covenants and agreements, and for breaches of the representations in Sections 5.1 and 5.12, there shall be no maximum limitation on Buyer's ability to make claims against Seller. Nothing in this Section 10.3 shall be deemed to limit or cap Seller's indemnification obligations under the Indemnity Agreement or the Lease.

Section 10.4 Confidentiality. (a) Each party hereto and its respective accountants, attorneys, employees and other agents, will keep confidential all information, oral and written, (i) obtained from any other party hereto or its affiliates and refrain from using in any manner all information set forth above not otherwise

publicly available notwithstanding the termination of this Agreement and (ii) relating to or otherwise pertaining to the letter of intent relating to this transaction or the terms and conditions of this Agreement.

(b) The Seller agrees that, at all times from and after the Closing Date, it shall keep secret and retain in strictest confidence, and shall not use for its benefit or for the benefit of others, confidential information with respect to the Business, including, but not limited to, know-how, trade secrets, customer lists, details of client or consultant contracts, pricing policies, operational methods, marketing plans or strategies, product development techniques or plans other than any of the foregoing which are in the public domain (except through conduct of the Seller which violates this Section 10.4) prior to any disclosure by the Seller.

Section 10.5 Further Assurances. Each party hereto shall cooperate with the other, and execute and deliver, or cause to be executed and delivered, all such other instruments, including instruments of conveyance, assignment and transfer, and take all such other actions as may be reasonably requested by the other party from time to time, consistent with the terms of this Agreement, to effectuate the purposes and provisions of this Agreement.

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Section 10.6 Closing Adjustments. (a) All prepaid or accrued items which are transferred to the Buyer as part of the Purchased Assets or are applicable to the Purchased Assets shall be apportioned between the Seller and the Buyer according to the amount of time covered by such items that the Business was owed by the Seller or the Buyer, or as otherwise provided under the terms of this Agreement; provided, however, that neither party shall pay for any item without the prior written consent of the other party, which consent shall not be unreasonably withheld. If one party fails to obtain such written consent, the other party shall be released from any liability with respect to such item.

(b) The Seller shall use its reasonable efforts to arrange for the transfer of existing utility and telephone services and deposits, if any, relating to the Business into the Buyer's name. If any such deposits are returned to the Seller, the Seller shall promptly reimburse the Buyer for said deposits.

(c) The Seller agrees that the Buyer shall have the right and the authority to collect, for the account of the Buyer, all notes and accounts receivable which shall be transferred to the Buyer as provided herein, and to endorse in the name of the Seller any checks received on account of such notes and acccunts receivable. The Seller agrees that it will promptly transfer and deliver to the Buyer any cash or other property that it may receive in respect of such receivables.

Section 10.7 Transitional Assistance. The Seller shall cooperate with and assist the Buyer in the orderly transfer of the Business after the Closing Date. Such cooperation and assistance shall include but not be limited to (a) the physical transfer of any books, records and computer software of the Business, (b) reasonable access to and assistance from any employees remaining with the Seller, and (c) reasonable access to and use of the facilities and equipment of the Seller during such transition period.

Section 10.8 Access to Certain Records and Financial Data. The Buyer shall cooperate with the Seller and provide the Seller and its representatives with reasonable access during normal business hours to the records and other financial data reasonably necessary for the Seller to (a) timely file (i) any tax returns and (ii) any reports, schedules or statements with the Securities and Exchange Commission and (b) defend or prosecute any litigation in which the Seller is a party.

Section 10.9 Noncompetition. The Seller agrees that for the period commencing on the Closing Date and terminating four (4) years from the Closing Date, it will not engage in any of the activities proscribed in Section 4 of the Consulting Services and Noncompetition Agreement, to be executed and dated as of the Closing Date, by and among Buyer, Seller and Joe Hrudka. The provisions of said Section 4 are incorporated herein by reference.

If the Seller shall breach any covenant of this Section 10.9, the period specified in this Section 10.9 shall be extended by the number of days during which the Seller is in breach of such covenant. The Seller acknowledges that the periods of restriction, the geographical areas of restriction and the restraints imposed by the provisions of this Section 10.9 and Section 10.4 are fair and reasonably required for the protection of the Buyer. In the event that any of the provisions of this Section 10.9 relating to the geographic areas of restriction or the periods of restriction shall be deemed to exceed the maximum area or period of time which a court of competent jurisdiction would deem enforceable, the geographic areas and times shall, for the purposes of this Agreement, be deemed to be the maximum areas or time periods which a court of competent jurisdiction would deem valid and enforceable in any state in which such court of competent jurisdiction shall be convened. The Seller agrees that any violation of the covenants contained in this Section 10.9 and Section 10.4 is likely to cause irreparable damage to the Buyer and may, as a matter of course, be restrained by process issued out of a court of competent jurisdiction, in addition to any other remedies provided by law.

Section 10.10 Use of Vehicles. The Seller agrees that for the five-year period commencing on the Closing Date and ending on the fifth anniversary thereof, it shall make any or all of the Classic Cars available to Buyer for advertising and promotional purposes (the "Promo Event"). Buyer shall pay all costs, including

insurance, associated with moving the cars to and from their present locations for purposes of the Promo Event. The foregoing covenant shall not be applicable to any purchaser or other transferee of one or more of the Classic Cars; provided, however, that in the event one or more of the Classic Cars is sold or otherwise transferred to any director or officer of Seller, or any member of his immediate family, as part of such sale, Seller shall get the written agreement of such transferee to be bound by the provisions of this Section 10.10.

Section 10.11 Performance Industries. Seller shall retain all rights to the trademark registration application "Performance Industries." In the event within the five-year period commencing on the Closing Date and ending on the fifth anniversary thereof, Seller desires to sell, transfer or otherwise assign the trademark application, or the resulting registration, Buyer shall have the right of first refusal to acquire the mark on the same terms and conditions as the proposed assignee. Further, at any time within the five-year period, Seller agrees to give Buyer 60 days notice of any decision to abandon the mark or to terminate its application.

ARTICLE XI--TERMINATION

Section 11.1 Methods of Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual consent of the Buyer and the Seller;

(b) by the Buyer within five (5) business days of its receipt from the Seller of all of the Schedules required hereunder pursuant to Section 7.5, if the Buyer objects, in its reasonable discretion, to any of the items contained in any of the Schedules provided, however, that Buyer's rights under this clause (b) shall expire, if not previously exercised, on the date that is two business days following the date of execution of this Agreement;

(c) by the Buyer at any time within sixty (60) days from the date of approval and confirmation of this Agreement by the Bankruptcy Court upon terms deemed acceptable to Buyer, if any of the conditions provided for in Article VIII of this Agreement shall not have been met or waived prior to such date; provided, that if any third party makes an offer for the Purchased Assets which the Seller plans to accept, the Buyer may also terminate this Agreement thirty (30) days after delivery to the Buyer of a notice described in Section 1.4 evidencing the Seller's intent to sell the Purchased Assets to a third party; or

(d) by the Seller if the Bankruptcy Court approves the sale of the Purchased Assets to a person other than Buyer or at any time after May 31, 1993 if (i) the Bankruptcy Court fails to approve this Agreement and the sale contemplated thereby or (ii) any of the

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conditions specified in Sections 9.1 through 9.11 shall not have been met or waived prior to May 31, 1993; or

(e) by the Buyer if the Bankruptcy Court fails to hold the hearing on confirmation of the Plan of Reorganization on or before May 31, 1993; or

(f) by the Buyer if the Seller fails to submit for approval the Joint Motion for Approval of Overbid Procedure and Termination Fee on or before April 9, 1993; or

(g) by the Buyer if this transaction fails to close on or before May 31, 1993; or

(h) by the Buyer if it has not closed, to Buyer's satisfaction, its financing for the transaction with Heller Financial, Inc.

Section 11.2 Procedure Upon Termination. In the event of termination by the Buyer, the Seller, or both, pursuant to this Article XI, written notice thereof shall promptly be given to the other party and the obligations of the Buyer and the Seller under this Agreement shall, except as set forth below, terminate without further action. Upon any such termination:

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(a) each party will redeliver all documents, work papers and other materials of the other party relating to the transactions contemplated hereby, whether obtained before or after the execution hereof, to the party furnishing the same;

(b) all information received by any of the parties shall be held in accordance with Section 10.4; and

(c) no party shall have any liability or further obligation to any other party, except for (i) the Break-Up Fee owed to the Buyer pursuant to Section 1.4(a) and (ii) such legal and equitable rights and remedies as any party may have under this Agreement or otherwise, by reason of any breach or violation of this Agreement by the other party.

ARTICLE XII--EMPLOYMENT MATTERS

Section 12.1 Termination of Employment by Seller. Seller shall terminate the employment of all of the employees of the Business immediately prior to the effective time of the transaction contemplated by this Agreement on the Closing Date, so that at the effective time, Seller shall employ no one in the Business. Seller shall bear all resulting liabilities, if any, caused by or arising from such termination, including, but not limited to:

(i) severance pay;

(ii) accrued wages;

(iii) sick leave;

(iv) unemployment compensation;

(v) claims for back pay and/or reinstatement;

(vi) any and all claims arising out of employment on or prior to the Closing Date.

Notwithstanding the foregoing, Buyer agrees to assume the accrued vacation pay obligation with respect to those employees of Seller hired by Buyer.

Seller hereby agrees that it will not notify, promise, represent, advise or otherwise communicate to any employee that Buyer will be hiring any or all such employees or otherwise make any offer of employment on behalf of Buyer.

Section 12.2 Buyer's Obligation. Buyer represents and covenants that it will hire not less than such number of former employees of Seller engaged in the Business so as to avoid a "mass layoff" or "plant closing" as defined in the Worker Adjustment Retraining Notification Act of 1988 ("WARN") and, consequently, any requirement by Seller to comply with the notice provisions of WARN. Buyer's offers of employment shall include credit for prior years' service with Seller for purposes of determining rights and benefits, including, but not limited to seniority, vacation and sick leave. Buyer represents and covenants it will not at any time within sixty-five (65) days (or such longer period provided by applicable law) after the Closing Date engage in a "mass layoff" or "plant closing" as these terms are defined in WARN or any similar

conduct in violation of applicable state law. In the event, as a result of any action taken by Buyer after the Closing Date, Seller shall be deemed not to have complied with the provisions of WARN, Buyer agrees to defend, hold harmless and indemnify Seller from and against any and all losses, claims, liabilities and expenses associated with such failure to comply. The foregoing is not intended to prevent Buyer from operating the Business consistent with past practice in connection with temporary layoff of employees.

Section 12.3 Notice to Employees. As soon as practicable prior to the Closing Date, Buyer shall advise Seller of the names of those employees to whom it expects to make offers of employment. The parties agree to cooperate so that Seller's notices of termination and Buyer's employment offers to affected employees are delivered in such a manner as to minimize the effect of such announcements on the Business.

Section 12.4 Benefits. The medical benefit plans obtained by Buyer for the employees engaged in the Business shall waive pre-existing illness and injury of the employees formerly employed by Seller, so that employees are not materially adversely affected by the change from Seller's medical benefit plans to Buyer's medical benefit plans. Further, Buyer shall provide such group health benefit coverage as may be required to eliminate any and all ERISA

obligations of Seller to provide "continuation coverage" for the former employees of the Business hired by Buyer.

Buyer shall become the successor employer of the Mr. Gasket Company Retirement Plan for Hourly Employees and shall take all steps to amend the plan and make all filings required by ERISA to effectuate the assumption. Seller agrees to cooperate with Buyer and shall sign all documents necessary to accomplish the foregoing.

ARTICLE XIII--MISCELLANEOUS

Section 13.1 Limitation on Claims for Breaches of Representations, Warranties, Covenants and Agreements. All representations and warranties of the Buyer and the Seller contained in Articles V and VI herein and in any certificate executed and delivered by either of them in connection with this Agreement shall survive the Closing Date and shall terminate and expire eighteen (18) months thereafter; provided, however if that Buyer or Seller shall have asserted a bona fide claim in writing against the other, such representations and warranties shall survive until such claim is resolved. Any claim for indemnification under Article X brought by either party for breach of any covenant or agreement contemplating performance after the Closing Date must be made within one year of the non-breaching party's discovery of the alleged breach of such covenant or agreement.

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No claim for any breach of the representations, warranties, covenants or agreements of this Agreement may be pursued, and the parties expressly waive any claim, against (i) any officer, director or shareholder of Seller or the corporate general partner of Buyer or (ii) against any limited partner of Buyer (except as to claims against Mr. Gasket Company in its capacity as Seller) or its officers, directors or shareholders.

Section 13.2 Notices. All notices, requests, consents and other communications hereunder shall be in writing and may be delivered personally (including by courier) or by first class registered or certified mail, postage prepaid, addressed to the following addresses or to other such addresses as may be furnished in writing by one party to the others:

(a) if to the Seller:

Prior to Closing Date:
Mr. Gasket Company
8700 Brookpark Road
Brooklyn, Ohio 44129-6899
Attention: Al Garceau

After the Closing Date:
Performance Industries, Inc.
2401 West First Street
Tempe, Arizona 85281
Attn: Joe Hrudka

with, in either case, a copy to:
Hahn Loeser & Parks
3300 BP America Building
Cleveland, Ohio 44114-2301
Attention: Wilton S. Sogg, Esq.

and to
Howard B. Gardner, C.P.A.
4807 Rockside Road, Suite 460
Cleveland, Ohio 44131

(b) if to the Buyer:
Performance Parts Co., L.P.
6140 Parkland Boulevard
Mayfield Heights, Ohio 44124

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with a copy to: Kahn, Kleinman, Yanowitz & Arnson
2600 Erieview Tower
Cleveland, Ohio 44114
Attn: Richard S. Rivitz, Esq.

Service of any such notice or other communication so made by mail shall be deemed complete on the day of actual delivery thereof as shown by the addressee's registry or certification receipt.

Section 13.3 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, unless other law is expressly stated as to any section hereof, without regard to such jurisdiction's conflicts of laws principles. The parties agree that venue for any suit, action, proceeding or litigation arising out of or in relation to this Agreement shall be in any federal or state court in the State of Ohio having subject matter jurisdiction.

Section 13.4 Modification; Waiver. This Agreement shall not be altered or otherwise amended except pursuant to an instrument in writing signed by the Buyer and the Seller. Any party may waive any misrepresentation by any other party, or any breach of warranty by, or failure to perform any covenant, obligation or agreement of, any other party, provided that mere inaction or failure to exercise any right, remedy or option under this Agreement, or delaying in exercising the same, will not operate as nor shall be construed as a waiver, and no waiver will be effective unless set forth in writing and only to the extent specifically stated therein.

Section 13.5 Entire Agreement. This Agreement, the Schedules and Exhibits hereto and any other agreements or certificates delivered pursuant hereto constitute the entire agreement of the parties hereto with respect to the matters contemplated hereby and supersede all previous written or oral negotiations, commitments, representations and agreements.

Section 13.6 Assignment; Successors and Assigns. This Agreement may not be assigned by the Seller without the prior written consent of the Buyer. The Buyer may assign this Agreement and any of the covenants, representations and warranties contained herein to an affiliated entity of the Buyer or any lender which provides financing to the Buyer in connection with the transactions contemplated herein without the prior written consent of the Seller. Subject to Section 12.1, all covenants, representations, warranties and agreements of the parties contained herein shall be binding upon and inure to the benefit of their respective successors and assigns.

Section 13.7 Public Announcements. No public announcement of the transactions contemplated hereby prior to the Closing or of the terms hereof at any time shall be made by any party without the prior written consent of the other party, not to be unreasonably withheld or delayed, except to the extent as may be required by law in the opinion of counsel to the Buyer or counsel to the Seller.

Section 13.8 Severability. The provisions of this Agreement are severable, and in the event that any one or more provisions are deemed illegal or unenforceable, the remaining provisions shall remain in full force and effect.

Section 13.9 No Third Party Beneficiary. This Agreement is intended and agreed to be solely for the benefit of the parties hereto, and no third party shall accrue any benefit, claim or right of any kind whatsoever pursuant to, under, by or through this Agreement.

Section 13.10 Execution in Counterpart. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

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

PERFORMANCE PARTS CO. L.P.

By: _____
Name: Joseph L. Moody
Title: Vice President

MR. GASKET COMPANY

By: Albert A Garceau
Name: ALBERT A GARCEAU
Title: C.F.O.

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The undersigned hereby acknowledge the foregoing Agreement and agree to be bound by the provisions of Sections 4.2 and 8.16 hereof, as of this 27th day of April, 1993.

JOE HRUDKA

HOWARD B. GARDNER

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The undersigned hereby acknowledge the foregoing Agreement and agree to be bound by the provisions of Sections 4.2 and 8.16 hereof, as of this 12th day of April, 1993.

JON HEINEN

HOWARD B. GARDNER

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Schedule 5.12 Trademarks, Patents, Etc.

Attached is a list of patents and trademarks for the Performance Division of Mr. Gasket Company.

1.) Licenses Agreements for the use of Mr. Gasket logos by the following toy companies:

Racing Collectibles Club of America
New Bright industries, Inc.
Mattel, Inc.
Legends of Racing, Inc.
Jasman, Inc.
Hasbro, Inc.
Fisher Price, Inc.
The Ertl Company, Inc.
Valvoline, Inc.
SLM, Inc.
Buddy L. Corporation

PERFORMANCE TRADEMARKS

REGISTRATION #	MARK	COUNTRY	EXPIRATION DATE
124,822	Hurst	Norway	04/17/06
461,100	Hurst	Italy	01/19/07
473,454	Mr. Gasket Company	Australia	09/25/94
781,323	H (for gear shift mechanism)	U.S.	12/08/94
821,505	Line Loc	U.S.	01/03/97
863,095	Street and Strip	U.S.	01/07/99
878,157	H. Hurst Design	U.S.	10/07/99
904,683	Lakewood Industries L & Design	U.S.	12/22/00
917,573	Traction Action	U.S.	08/03/01
920,146	Hurst	U.S.	09/17/01
924,091	BFL	U.S.	11/23/01
1,131,664	The Performance People	U.S.	03/11/00
1,162,640	Vertical Gate	U.S.	07/28/01
1,201,950	SSA	U.S.	07/20/02
1,201,952	Dual/Gate	U.S.	07/20/02
1,210,396	LiftLouvre	U.S.	09/28/02
1,215,825	Head Loc	U.S.	11/09/02
1,218,155	Interpart & Design	U.S.	11/30/02
1,218,346	Reverse Loc/Out	U.S.	11/30/02
1,223,322	LiftLouvre	U.S.	01/11/03
1,248,274	ToughShift	U.S.	08/16/93
1,249,778	Lightening Rods	U.S.	08/30/93
1,256,014	Roll/Control	U.S.	11/01/93
1,259,707	The Fuel People	U.S.	12/06/93
1,267,881	Street Stacks	U.S.	02/21/94
1,339,113	V-Matic	U.S.	06/04/95
1,354,807	Mr. Gasket Company	U.S.	08/20/95
1,376,500	The Performance People	U.S.	12/24/95
1,473,053	Quarter Stick	U.S.	01/19/98

ORIGINAL

GARY E. KLAUSNER (State Bar No. 69077)
PHILIP A. GASTEIER (State Bar No. 130043)
BRAD D. KRASNOFF (State Bar No. 125065)
JUDITH E. MILLER (State Bar No. 145111)
ROBINSON, DIAMANT, BRILL & KLAUSNER
A Professional Corporation
1888 Century Park East, Suite 1500
Los Angeles, California 90067
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Telecopier: (310) 277-7584

Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re MR. GASKET COMPANY, an Ohio corporation, Debtor.	Bk. No. LA 91-72714-AA [Chapter 11] ~~[PROPOSED]~~ **ORDER AUTHORIZING DEBTOR (i) TO SELL TO ECHLIN, INC. SUBSTANTIALLY ALL OF THE ASSETS OF ITS PERFORMANCE DIVISION FREE AND CLEAR OF LIENS AND INTERESTS; (ii) TO ASSUME AND ASSIGN CONTRACTS AND LEASES IN CONNECTION WITH SALE** Date: April 21, 1993 Time: 2:30 p.m. Place: Courtroom "1375" Roybal Building 255 E. Temple Street Los Angeles, CA 90012

The Motion of Mr. Gasket Company, Debtor ("Debtor") (i) to Sell Substantially All of the Assets of Its Performance Division Free and Clear of Liens and Interests; (ii) To Assume And Assign Contracts And Leases In Connection With Sale; And, (iii) For Approval Of Financing (the "Sale Motion") came on for hearing on shortened time after adequate, sufficient and proper

notice to all creditors and interest holders, the Office of the United States Trustee and other parties in interest in accordance with 11 U.S.C. §§ 363, 364, 365 and 105, Federal Rules of Bankruptcy Procedure 2004, 4001, 6004, and 6006, and other applicable law on April 21, 1993 at 2:30 p.m., the Honorable Alan M. Ahart, United States Bankruptcy Judge presiding. The Debtor appeared through its counsel of record Robinson, Diamant, Brill & Klausner, A Professional Corporation, by Gary E. Klausner. Other appearances are as noted in the record.

The Court, having reviewed the Sale Motion, the Declaration and Exhibits filed in support thereof and the other papers filed in connection with the Sale Motion, the records and files in this case, having considered arguments and representations of counsel at the hearing, and having considered the competing offer of acquisition of Echlin Acquisition, Inc., a Delaware corporation ("Buyer") good cause appearing, it is

ORDERED that this Court has jurisdiction over this proceeding under 28 U.S.C. §§1334 and 157(a), and that this proceeding is a core proceeding under 28 U.S.C. §157(b), and it is further

ORDERED that due and proper notice for the purpose of the relief requested by the Sale Motion has been given to all parties entitled thereto and such notice is hereby approved, and it is further

ORDERED that the form and manner of notice, the procedures employed to seek the relief, and the manner of service of notice were appropriate under the facts and circumstances of this case and are hereby approved, and it is further

ORDERED that the terms of the letter of intent dated as of April 19, 1993 by Buyer attached hereto as Exhibit "A" (the "Letter of Intent"), are hereby approved as fair and reasonable, and it is further

ORDERED that the bid of Buyer is the highest and best bid for the purchase of the Debtor's Performance Division, and it is further

ORDERED that Buyer has complied fully with the procedures set forth in the Debtor's Motion To (1) Approve Overbid Procedure And (2) Approve Termination Fee and the Order thereon, and it is further

ORDERED that the sale of the Purchased Assets (as defined in the Sale Motion) to Buyer pursuant to 11 U.S.C. §§105, 363(b) and 363(f) free and clear of all liens, restrictions, security interests, claims, charges, encumbrances and interests whatsoever is approved, and it is further

ORDERED that the Debtor is authorized to execute the Purchase Agreement, as referenced on the Letter of Intent (the "Purchase Agreement"), and to perform all of its obligations under the Purchase Agreement at the times specified therein without being obligated to seek the further approval of this Court with respect to such performance, as provided in the Purchase Agreement, and it is further

ORDERED that the Debtor, as constituted prior and subsequent to confirmation of the pending Joint Plan of Reorganization, dated September 30, 1992 ("Joint Plan") as well as subsequent to the instant Chapter 11 case and Buyer, shall be and are fully bound by this Order and by the final Purchase

Agreement executed by all parties thereto and all of Debtor's and Buyer's obligations thereunder, and the obligations of Debtor and Buyer under the Purchase Agreement (as defined in the Purchase Agreement) represent the continuing obligations to be entered into by Buyer and New Gasket (as defined in the Joint Plan) are not affected by the discharge of Debtor or confirmation of the Joint Plan, and it is further

ORDERED that Buyer purchased the Purchased Assets in "good faith", as defined in 11 U.S.C. §363(m), and it is further

ORDERED that the Debtor is authorized to assume and assign to Buyer any executory contracts and unexpired leases of Debtor which Buyer desires to acquire (as shall be defined in the Purchase Agreement) pursuant to 11 U.S.C. §365, and it is further

ORDERED that the Debtor is authorized to cure on or prior to closing of the sale to Buyer all defaults, if any, under any executory contracts or unexpired leases that are to be assumed and assigned to Buyer, except defaults specified in 11 U.S.C. § 365(b)(2), and it is further

ORDERED that any executory contracts or unexpired leases which the Debtor assumes and assigns to Buyer pursuant to this Order shall, upon assignment, be deemed to be valid and binding and in full force and effect and enforceable in accordance with their respective terms by the parties thereto; and, pursuant to 11 U.S.C. § 365(k), the Debtor and its estate shall be relieved from any further liability with respect to each such executory contract or unexpired lease and any guaranty of any of the foregoing or similar undertaking, after the assignment, and it is further

ORDERED that no deposit or other security, guaranty, or similar undertaking for the performance of obligations under any executory contracts or unexpired leases which are assumed and assigned to Buyer shall be required as a result of such assignment, and it is further

ORDERED that, except as may be provided in the Purchase Agreement, Buyer shall not be liable for any claims against the Debtor and Buyer shall have no successorship or other liabilities of any kind or character, except that Buyer shall assume all Assumed Liabilities (as that term shall be defined in the Purchase Agreement) and shall assume all liabilities and obligations of the Debtor arising after the Closing of the final Purchase Agreement, and it is further

ORDERED that all liens, restrictions, security interests, claims, charges, encumbrances and interests shall be transferred from and extinguished with respect to the Purchased Assets (as that term shall be defined in the Purchase Agreement) and the same, if any, shall attach to the proceeds paid by the Buyer to the Debtor in accordance with the Purchase Agreement (not including any escrows or holdbacks provided for thereunder), and that the Debtor may and shall pay and discharge, to the extent valid, any such liens, restrictions, security interests, claims, charges, encumbrances and interests from such proceeds (excluding any such escrows or holdbacks), and all persons and entities (other than Buyer) are thereby enjoined from taking any action against Buyer or the Purchased Assets with respect to such liens, restrictions, security interests, claims, charges, encumbrances and interests, and it is further

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ORDERED that the officers and authorized employees of the Debtor are authorized and empowered to execute and deliver any and all documents as reasonably may be necessary to implement the terms of the Purchase Agreement, and it is further

ORDERED that any subsequent order confirming a plan of reorganization for the Debtor shall not discharge Debtor from any claims of Buyer or its permitted assigns for indemnification under the Purchase Agreement, or claims against Buyer for other amounts due under the Purchase Agreement or claims against Debtor arising out of or in connection with a breach by the Debtor of any provision of the Purchase Agreement, or any of the documents delivered by the Debtor, pursuant to or in connection with the Purchase Agreement, and it is further

ORDERED that the provisions of this Order authorizing the sale of the Purchased Assets free and clear of encumbrances shall be self-executing, and neither the Debtor nor Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the foregoing provisions hereof; provided, however, that this paragraph shall not excuse such parties from performing any and all of their respective obligations under the Purchase Agreement, and it is further

ORDERED that each and every applicable governmental agency is ordered and directed to accept any and all filings and recordings necessary or desirable in the consummation of the sale and transfer of the Purchased Assets to Buyer, and that Debtor is authorized to execute any agreements and other documents, make any payments and take any and all other actions as may be

necessary or appropriate in connection with the consummation of the sale, and it is further

~~ORDERED that in the event that the Debtor and/or Buyer are unable to consummate the proposed Performance Division sale transaction in the manner contemplated under the Letter of Intent and the Purchase Agreement, the Debtor shall be and hereby is authorized to sell the assets of the Performance Division to Performance Parts Co. in accordance with the Purchase Agreement attached to the Sale Motion as Exhibit "A", as well as to enter into any and all transactions contemplated thereunder, and it is further~~

ORDERED that this Order incorporates such other terms and conditions as were placed on the record at the Hearing, and it is further

ORDERED that each and every of the foregoing provisions will be effective subject only to the implementation of the A Option under the Joint Plan.

DATED: 4/21/93

Alan M. Ahart
ALAN M. AHART
United States Bankruptcy Judge

SUBMITTED BY:

ROBINSON, DIAMANT, BRILL & KLAUSNER
A Professional Corporation

By Gary E. Klausner
GARY E. KLAUSNER
Attorneys for Debtor

JEM/GASKET/3042007.ORD

I hereby attest and certify on 4/27/93 that the foregoing document consisting 7 page(s) [number of pages] is a true and correct copy of the original on file in my office, and in my legal custody.

CLERK, U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

By _____ Deputy