

## TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

Subordination Agreement

## CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
CFB Venture Fund II, L.P.		02/26/2003	LIMITED PARTNERSHIP: MISSOURI

## RECEIVING PARTY DATA

Name:	Southwest Bank of St. Louis
Street Address:	13205 Manchester Road
City:	St. Louis
State/Country:	MISSOURI
Postal Code:	63131
Entity Type:	CORPORATION: MISSOURI

## PROPERTY NUMBERS Total: 2

Property Type	Number
Registration Number:	2551796
Registration Number:	0916271

## CORRESPONDENCE DATA

Fax Number: (314)621-5065

*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*

Email: ejones@armstrongteasdale.com

Correspondent Name: David B. Jennings

Address Line 1: One Metropolitan Square, Suite 2600

Address Line 4: St. Louis, MISSOURI 63102

ATTORNEY DOCKET NUMBER:

05485

NAME OF SUBMITTER:

David B. Jennings

Total Attachments: 9

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## SUBORDINATION AGREEMENT

**THIS SUBORDINATION AGREEMENT** (this "*Agreement*") is made as of the \_\_\_\_ day of February, 2003, by and between **CFB VENTURE FUND II, L.P.**, a Missouri limited partnership with an office located at Eleven South Meramec, Suite 1430, St. Louis, Missouri 63105 ("*Subordinated Lender*") and **SOUTHWEST BANK OF ST. LOUIS**, a banking institution organized under the laws of the State of Missouri, with an office located at 13205 Manchester Road, St. Louis, Missouri 63131 ("*Senior Lender*").

WHEREAS, Engel Industries, Inc., a Delaware corporation (the "*Company*") is indebted to Senior Lender (the "*Senior Loan*") pursuant to that certain Credit Agreement dated as of December 3, 1996, as amended by that certain First Amendment to Credit Agreement dated as of July 29, 1998, as further amended by that certain Second Amendment to Credit Agreement dated as of August 22, 2000, as further amended by that certain Third Amendment to Credit Agreement dated as of January 29, 2002, as further amended by that certain Fourth Amendment to Credit Agreement dated as of June 1, 2002, and as further amended by that certain Fifth Amendment to Credit Agreement dated as of October 1, 2002 (as amended, the "*Senior Loan Agreement*");

WHEREAS, the Company executed (i) that certain Third Amended and Restated Revolving Credit Note dated October 1, 2002, payable to the order of Senior Lender in the original principal amount of One Million Two Hundred Thousand and No/100 Dollars (\$1,200,000.00) (the "*Senior Revolving Note*"), and (ii) that certain Third Amended and Restated Term Note dated October 1, 2002, payable to the order of Senior Lender in the original principal amount of Seven Hundred Ninety-One Thousand Six Hundred Sixty-Six and 75/100 Dollars (\$791,666.75) (the "*Senior Term Note*");

WHEREAS, Company executed that certain Security Agreement dated December 3, 1996, and that certain Patent and Trademark Security Agreement dated February 26, 2003 (collectively, the "*Senior Security Agreement*"), granting to Senior Lender a first-priority security interest (the "*Senior Security Interest*") in certain assets of Company (the "*Collateral*") (the Senior Loan Agreement, the Senior Revolving Note, the Senior Term Note, the Senior Security Agreement, and all other agreements and documents executed in connection therewith, and all amendments, restatements, replacements or other modifications thereof from time to time are collectively referred to herein as the "*Senior Loan Documents*");

WHEREAS, Company is indebted to Subordinated Lender (the "*Subordinated Loan*") pursuant to that certain Subordinated Secured Note Due February 26, 2005, dated February 26, 2003, payable to the order of Subordinated Lender in the original principal amount of Four Hundred Twenty-Two Thousand Nine Hundred Sixty-Seven and 45/100 Dollars, (\$422,967.45) (the "*Subordinated Note*");

WHEREAS, Company executed that certain Security Agreement dated February 26, 2003, and that certain Patent and Trademark Security Agreement dated February 26, 2003 (collectively, the "*Subordinated Security Agreement*"), granting to Subordinated Lender a security interest (the "*Subordinated Security Interest*") in the Collateral (the Subordinated Note, the Subordinated Security Agreement, and all other agreements and documents executed in connection therewith, and all amendments, restatements, replacements or other modifications thereof from time to time are collectively referred to herein as the "*Subordinated Loan Documents*");

WHEREAS, Subordinated Lender acknowledges that the prior, concurrent and future loans and extensions of credit and other financial accommodations to Company by Senior Lender, if any, is of value

to Subordinated Lender in, among other things, that it provides financing for the continued operation of the businesses of Company and funds for the repayment of the Subordinated Loan; and

WHEREAS, Senior Lender and Subordinated Lender have agreed to execute this Agreement for the purpose of setting forth each party's relative rights with respect to payment and security interests granted by the Company.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Subordinated Lender, and in order to induce Senior Lender, at its option, now or from time to time hereafter, to make loans or extend credit or any other financial accommodation to or for the benefit of Company, or to grant such renewals or extensions thereof as Senior Lender may deem advisable, and to better secure Senior Lender in respect of the foregoing, Subordinated Lender hereby agrees with Senior Lender as follows:

1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings defined in the Senior Loan Documents.

2. Senior Lender Priority in Collateral. Notwithstanding the date, manner, or order of perfection of the Senior and Subordinated Security Interests in and liens against the Senior and Subordinated Collateral, and notwithstanding any provision of the Uniform Commercial Code or any other agreement or any other applicable law or decision or whether any of the parties may hold possession of all or any part of the Collateral, Subordinated Lender hereby subordinates in favor of Senior Lender any and all its Subordinated Security Interests, liens or other security interests that it now has or may have in the future in and to the Collateral. If Subordinated Lender at any time obtains possession or control of any of the Collateral, Subordinated Lender will hold or control such collateral for the benefit of Senior Lender and will immediately deliver such Collateral to Senior Lender.

3. Manner of Payment. So long as the Senior Loan or any other indebtedness of Company to Senior Lender (the "*Senior Obligations*") remains outstanding, no payment of or on account of the Subordinated Loan or any other indebtedness of Company to Subordinated Lender (the "*Subordinated Obligations*") whether by loan, set-off, prepayment, application of proceeds of Collateral, dividend or otherwise, shall be demanded, accepted, offered or given. If Subordinated Lender receives any such payment, distribution or proceeds, or any security or instrument evidencing the same, Subordinated Lender shall, as trustee, hold the same in trust as the property of and for the benefit of Senior Lender, and shall forthwith deliver the same to Senior Lender in precisely the form received (except for the endorsement or assignment of Subordinated Lender where necessary), for application to any of the Senior Obligations, due or not due, in such order as the Senior Lender may determine in its absolute discretion. In the event of the failure of Subordinated Lender to make any such endorsement or assignment to the Senior Lender, Senior Lender, or any of its officers or employees, is hereby irrevocably authorized to make the same as Subordinated Lender's attorney-in-fact. Notwithstanding the preceding terms of this Section 3, Subordinated Lender may accept regularly scheduled payments of interest as provided in the Subordinated Note ("*Permitted Payments*"); provided, however, that such Permitted Payments shall not exceed in the aggregate an amount equal to Fifty Thousand Eight Hundred and No/100 Dollars (\$50,800.00), during any one calendar year. Subordinated Lender's right to accept and receive the Permitted Payments shall terminate immediately upon its receipt of written notice from Senior Lender of the occurrence of a default or event of default (a "*Default*") by Company under the Senior Obligations (a "*Senior Lender Default Notice*") and Subordinated Lender shall not accept or receive any Permitted Payments thereafter. Nothing contained herein shall be construed to prevent Senior Lender from waiving or excusing any Default, and nothing contained herein shall require Senior Lender to send a Senior Lender Default Notice to Subordinated Lender with respect to any particular Default. Moreover, nothing contained herein shall prevent the Subordinated Lender from taking an Enforcement Action (as

hereinafter defined) or obtaining payment of or on account of the Subordinated Obligations pursuant to Section 5 of this Agreement for application to the Subordinated Obligations.

4. Insolvency or Liquidation. In the event the Company is the subject of any insolvency plan or proceeding, whether bankruptcy, receivership, reorganization, assignment for the benefit of creditors or otherwise, or of any plan or proceeding to liquidate the Company or to wind up the Company's affairs, any payment or distribution of assets of the Company of any kind or character, whether in cash, securities, or other property, which would otherwise be payable or deliverable upon or with respect to any Subordinated Obligations (including, but not limited to, any such payment or distribution which would otherwise be made on account of or attributable to interest accruing in respect of any indebtedness of the Company to Subordinated Lender), shall be paid or delivered directly to Senior Lender for application to the Senior Obligations until same is fully paid and satisfied. Senior Lender shall have the right (but not the obligation) to enforce, collect, receive, and give acquittance for every such payment or distribution and is hereby authorized, as attorney-in-fact for Subordinated Lender, to vote and prove the indebtedness of the Company to Subordinated Lender in connection with any such plan or proceeding. Until all Senior Obligations are fully paid and satisfied, Subordinated Lender shall not initiate, or join with any other creditor of the Company in initiating any such plan or proceeding. Subordinated Lender agrees to perform promptly upon request any action which the Senior Lender reasonably believes to be necessary to the enforcement of its rights under this Agreement.

5. Subordinated Lender's Enforcement Rights. Subordinated Lender shall give Senior Lender promptly a copy of any notice of default or of an event of default given to the Company under the Subordinated Loan Documents. Subordinated Lender shall have no right to take any Enforcement Action (as hereinafter defined) until the earlier of (i) Senior Lender's written consent thereto; or (ii) 180 days following the date of Senior Lender's receipt of Subordinated Lender's notice of Default. For purposes of this Agreement, the term "Enforcement Action" means, with respect to Subordinated Lender and the Subordinated Obligations, Subordinated Lender's acceleration of any of the Subordinated Obligations, Subordinated Lender's collection or commencement of proceedings against the Company or any of the Collateral, Subordinated Lender's taking possession of or foreclosing upon (whether by judicial sale or otherwise) any security for, or Subordinated Lender's exercise of any other rights and remedies with respect to, the Subordinated Obligations or any claim with respect thereto, or Subordinated Lender's taking of any other action against the Company, the Subordinated Obligations, or any of the Collateral.

6. Effectiveness of Agreement in Certain Circumstances. The provisions of this Agreement shall remain effective during the terms of this Agreement despite: (i) the initiation of any bankruptcy, moratorium, reorganization, or other insolvency proceeding with respect to the Company; (ii) the priorities which would otherwise result under the terms of the respective collateral documents of each party hereto or under applicable law (including, without limitation, the Uniform Commercial Code); (iii) the taking of possession of any of the Collateral; (iv) the filing of any financing statement or the recording of any mortgage or other instrument in any recording office; (v) the time, method, or order in which any of the Company's obligations to either party is created or perfected; or (vi) any other matter whatsoever; and will continue in full force and effect unless and until this Agreement has been terminated pursuant to the terms hereof.

7. Subordinated Obligations Owed Only to Subordinated Lender. Subordinated Lender warrants and represents that Subordinated Lender has not previously assigned any interest in the Subordinated Obligations or any Security Interest securing any of the Subordinated Obligations, that no person or entity other than Subordinated Lender has an interest in the Subordinated Obligations or any Security Interest securing any of the Subordinated Obligations (whether as joint holders of the Subordinated Obligations, participants or otherwise) and that all of the Subordinated Obligations are owing only to Subordinated Lender. Subordinated Lender covenants that the entire Subordinated

Obligations shall continue to be owing only to Subordinated Lender and that any Security Interest securing the Subordinated Obligations shall continue to be held solely by and for the benefit of Subordinated Lender, unless assigned in accordance with the terms of this Agreement.

8. Termination. This Agreement terminates on the first date upon which (i) all of the Senior Obligations have been indefeasibly paid in full and terminated and Senior Lender has released its interest in the Collateral, or (ii) all of the Subordinated Obligations have been indefeasibly paid in full and terminated and Subordinated Lender has released its interest in the Collateral.

9. Instrument Legend. Any existing instrument evidencing any of the Subordinated Obligations shall be inscribed with a legend conspicuously indicating that payment thereof is subordinated to the Senior Obligations pursuant to the terms of this Agreement, and a copy thereof shall be delivered to Senior Lender on the date hereof. Any instrument evidencing any of the Subordinated Obligations which is hereafter executed, shall be inscribed with the aforesaid legend and a copy thereof will be promptly delivered to Senior Lender after its execution.

10. Application of Payments to Senior Obligations; Senior Lender's Indulgences. All payments received by Senior Lender may be applied to any of the Senior Obligations, as Senior Lender, in Senior Lender's absolute discretion, deems appropriate. Senior Lender may, at any time and from time to time, enter into such agreement or agreements as Bank may deem proper extending the time of payment or renewing or otherwise altering the terms of all or any of the Senior Obligations or affecting any security or guaranty underlying any or all of the same, or may exchange, sell, surrender, or otherwise deal with any security, or may release any balance of funds of Company with Senior Lender, without notice to Subordinated Lender and without in any way impairing or affecting the rights of the Bank under this Agreement.

11. Notices. All notices or other communications to or upon the respective parties hereto shall be in writing, and shall be deemed to have been received when delivered in person to those persons listed on the signature pages attached hereto or three (3) days after deposited in the United States mail, first class certified mail, postage prepaid, return receipt requested, or, in the case of telegraphic notice or an overnight courier service, one business day after delivered to the telegraph or overnight courier service with payment provided for, or in the case of telecopy notice, when sent, verifications received, in each case addressed as set forth on the signature pages hereto, or such other address as either party may designate by notice to the other in accordance with the terms of this Section.

12. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

13. Modification. This Agreement is subject to modification only by a writing signed by the parties.

14. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed and construed in accordance with the internal laws of the State of Missouri.

15. Headings. The headings contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

16. Authority. Subordinated Lender hereby certifies that it has all necessary authority to grant the subordination evidenced hereby and to execute this Agreement on behalf of Subordinated Lender.

17. Binding Effect; Assignment. This Agreement shall be immediately binding upon Subordinated Lender and its successors and assigns, and shall inure to the benefit of the successors and assigns of Senior Lender. This Agreement shall be binding on Subordinated Lender even if the Senior Loan Documents are held unenforceable or invalid in whole or in part for any reason, or that any Security Interest securing the Senior Obligations is not valid or does not have the priority contemplated under the Senior Loan Documents for any reason. Subordinated Lender may not assign or transfer this Agreement or its interests in or under the Subordinated Loan Documents without the prior written consent of Senior Lender.

18. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute but one and the same instrument.

19. Jury Trial. **SUBORDINATED LENDER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY (WHICH SENIOR LENDER ALSO WAIVES) IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATING TO THIS ASSIGNMENT.**

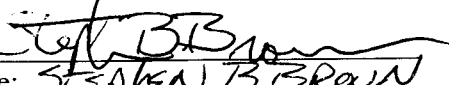
20. Jurisdiction. **SUBORDINATED LENDER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN THE CITY OF ST. LOUIS OR ST. LOUIS COUNTY, MISSOURI OR FEDERAL COURT IN THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO SUBORDINATED LENDER AT ITS ADDRESS SET FORTH HEREIN AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. SUBORDINATED LENDER WAIVES ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED AGAINST IT AS PROVIDED HEREIN AND AGREES NOT TO ASSERT ANY DEFENSE BASED ON LACK OF JURISDICTION OR VENUE.**

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

**CFB VENTURE FUND II, L.P.**

By: CFB Partners, Inc., its general partner

By:   
Name: STEPHEN B. BROWN  
Title: SR. VICE PRESIDENT

Notices:  
CFB Venture Fund II, L.P.  
Eleven South Meramec, Suite 1430  
St. Louis, Missouri 63105  
Attention:

with a copy to:  
Husch & Eppenberger, LLC  
190 Carondelet Plaza, Suite 600  
St. Louis, Missouri 63105  
Attention: James V. Stepleton, Esq.

**SOUTHWEST BANK OF ST. LOUIS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Notices:  
Southwest Bank of St. Louis  
13205 Manchester Road  
St. Louis, Missouri 63131  
Attention: Lincoln VerMeer

with a copy to:  
Armstrong Teasdale LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
Attention: John L. Sullivan, Esq.



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

**CFB VENTURE FUND II, L.P.**

By: CFB Partners, Inc., its general partner  
By:  
Name:  
Title:

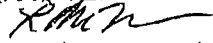
Notices:

CFB Venture Fund II, L.P.  
Eleven South Meramec, Suite 1430  
St. Louis, Missouri 63105  
Attention:

with a copy to:

Husch & Eppenberger, LLC  
190 Carondelet Plaza, Suite 600  
St. Louis, Missouri 63105  
Attention: James V. Stepleton, Esq.

**SOUTHWEST BANK OF ST. LOUIS**

By:   
Name: Lincoln VerMeer  
Title: Vice President

Notices:

Southwest Bank of St. Louis  
13205 Manchester Road  
St. Louis, Missouri 63131  
Attention: Lincoln VerMeer

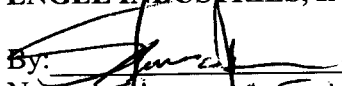
with a copy to:

Armstrong Teasdale LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
Attention: John L. Sullivan, Esq.

## ACKNOWLEDGEMENT

The undersigned, referred to as Company within the attached agreement hereby accepts, and acknowledges receipt of a copy of, the foregoing Subordination Agreement (the "*Agreement*") as of the date therein provided and agrees that it will not pay any of the Subordinated Obligations (as such term is defined in the above Agreement) or grant any Security Interest in any of its property to secure the Subordinated Obligations, except as the above Agreement expressly permits.

ENGEL INDUSTRIES, INC.

By:   
Name: Steven K. Johnson  
Title: V.P. of Finance

Schedule B  
to  
Patent and Trademark Security Agreement  
dated as of February 26, 2003, between  
Engel Industries, Inc. and CFB Venture Fund II, L.P.

TRADEMARKS

<u>Company</u>	<u>Mark</u>	<u>Country</u>	<u>Application (A) Registration (R) or Series (S) No.</u>	<u>Registratio n or Filing Date</u>
Engel Industries, Inc.	"Engel"	USA	"R" 0916271	7/13/71
Engel Industries, Inc.	"Coiline"	USA	"R" 922,351	10/19/71
Engel Industries, Inc.	"Companion Duct System"	USA	"R" 2,551,796	3/26/02