

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
KINCO INTERNATIONAL, INC.		01/24/2005	INC. ASSOCIATION: UNITED STATES
RECEIVING PARTY DATA			
Name:	KINCO, LLC		
Street Address:	4286 NE 185th Ave.		
City:	Portland		
State/Country:	OREGON		
Postal Code:	97230-4967		
Entity Type:	LTD LIAB JT ST CO: UNITED STATES		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	2821121		
CORRESPONDENCE DATA			
Fax Number:	(503)674-3513		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	5036749002		
Email:	TKINDLER@KINCO.COM		
Correspondent Name:	Travis Kindler		
Address Line 1:	4286 NE 185th Ave.		
Address Line 4:	Portland, OREGON 97230-4967		
NAME OF SUBMITTER:	SARA JOHNSON		
Signature:	/SARA JOHNSON/		
Date:	01/24/2005		

Total Attachments: 17

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement") is entered into on Dec 30, 2004 and effective December 30, 2004, by and among KINCO, LLC, an Oregon Limited Liability Company ("Buyer"), and TBK ENTERPRISES, INC., a wholly owned subsidiary of KINCO, INC., an Oregon corporation, ("Seller").

RECITALS

A. Seller owns and operates a glove distribution business located in Portland, Oregon under the assumed business name KINCO INTERNATIONAL, INC., which is engaged in the acquisition and resale of a wide variety of gloves (the "Business").

B. Buyer is a newly formed entity. Its Manager in charge of day to day operations is Travis Kindler who has been employed by Seller and/or its parent since June 1, 2000. Travis also is currently responsible for sales, marketing and sourcing product. Buyer's Members are TRAVIS KINDLER and the TBK/CDK Trust.

C. Seller desires to sell to Buyer and Buyer desires to purchase from Seller all of the assets used or held for use in connection with the Business for the consideration set forth and pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, IT IS HEREBY AGREED:

1. **Definitions.** Unless otherwise indicated, the following terms shall have the following meanings for purposes of this Agreement, and all collateral agreements:

- 1.1. "Buyer" shall mean KINCO, LLC.
- 1.2. "Seller" shall mean TBK ENTERPRISES, INC., an Oregon corporation and its parent, KINDLER, INC.
- 1.3. "Business" shall have the meaning set forth in Recital A. above.
- 1.4. "Closing" shall mean the closing of the transactions provided for herein.
- 1.5. "Closing Financial Statements" shall mean the balance sheet and statement of earnings and proprietor's capital of the Business as of December 31, 2004 ("Year End"), attached hereto as Exhibit "1.5".
- 1.6. "Closing Date" shall mean December 30, 2004, or such other date as shall be agreed upon by the parties.
- 1.7. "Assets" shall mean all of the assets of the Business owned by Seller, including, but

not limited to:

- (a) the inventory;
- (b) the equipment and supplies ("Equipment");
- (c) the cash;
- (d) the accounts receivable ("Receivables");
- (e) any right, title and interest of Seller in and to its corporate name, any trade names and goodwill currently or at any time used by Seller in the conduct of the Business (collectively "Goodwill"); and
- (f) other tangible and intangible personal property used in the Business located anywhere.

1.8. "Assumed Liabilities" shall have the meaning set forth in Section 2.2.

1.9. "Excluded Assets" shall mean any assets of the Business not set forth in Section 1.7.

1.10. "Promissory Note" shall mean a note in the aggregate principal amount of one million seven hundred sixty-five thousand dollars (\$1,765,000), bearing interest at four and fifty-nine and one hundredths percent (4.59%) per annum in the form of Exhibit "1.10", attached hereto; provided, however, that the parties agree to adjust the purchase price and the note to reflect the exact terms when the year end books are closed on or before January 31, 2005.

1.11. "Purchase Price" shall mean the Promissory Note of one million seven hundred sixty five thousand dollars (\$1,785,000.00) and the assumption of the Liabilities of five million six hundred ninety five thousand and nine hundred twenty dollars (\$5,695,920); provided, however, that the parties agree to adjust the purchase price and the note to reflect the exact terms when the year end books are closed on or before January 31, 2005.

1.12. "Security Agreement" shall mean both the Security Agreement in the form attached hereto as Exhibit "1.12(a)" and the Pledge Agreement in the form attached hereto as Exhibit 1.12(b) whereby Buyer will grant Seller a security interest in the Assets, to secure payment of the Promissory Note.

1.13. "Warranty Loss" shall mean any loss, damage, liability, deficiency or expense (including fees incurred in the defense of third party claims), resulting from the material breach or inaccuracy of any representation or warranty contained herein made by any of the parties discovered within two years of the effective date.

2. **Sale of Assets and Assumption of Liabilities.**

2.1. **Sale of Assets.** Subject to the terms and conditions hereof, Seller shall sell, assign

and transfer the Assets to Buyer and Buyer shall purchase the Assets from Seller in consideration of the Purchase Price.

2.2. **Assumption of Liabilities.** Buyer will accept the assignment and assume responsibility for the liabilities of \$5,695,920 set forth on Exhibit "2.2" ("Assumed Liabilities"), provided, however, that the parties agree to adjust the amount of liabilities to reflect the exact terms when the year end books are closed on or before January 31, 2005.

2.3. All obligations and liabilities of Seller not set forth on Exhibit "2.2" will remain and be the obligations and liabilities of Seller and will not be assumed by Buyer.

2.4. **Allocations of Purchase Price.** The parties agree that for purposes of all reporting to any taxing agency, state, local or federal, the Purchase Price shall be allocated as set forth on the attached Exhibit "2.3". The parties agree to file IRS Form 8594 and/or such other forms as may be required by applicable law to evidence such allocations.

2.5. **Allocation of Expenses.** Except as otherwise provided herein, and whether or not the transactions contemplated hereby are consummated, each party hereto shall pay its own expenses incident to this Agreement and the transactions contemplated hereby including, without limitation, all legal and accounting fees and disbursements.

2.6. **Employees Engaged in the Business.**

2.6.1. Buyer will not assume any employment related obligations for any of the employees, hourly or salaried, arising from the Business prior to the Closing Date, either active or on layoff, including, but not limited to, any obligations arising from any terminations, any collective bargaining agreements, any employee benefit or compensation plans covering such employees, or the obligation to hire any of such employees.

2.6.2. Health and Benefit Plans. Buyer shall not be required to adopt or maintain any deferred compensation benefit or health insurance plan maintained by Seller in connection with the Business prior to the Closing Date.

3. **Representations and Warranties by Seller.** Subject to and except as disclosed by Seller in the Schedules attached as Schedule 3 (disclosures in any Section of the Schedules is deemed to be disclosed in all relevant Sections of the Schedule), Seller represents as follows:

3.1. **Authority.** This Agreement constitutes a valid and binding agreement of Seller, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, reorganization, insolvency, or similar laws affecting the enforcement of creditors' rights or by the application of general principles of equity.

3.2. **Seller's Financial Records.** Seller keeps and maintains full and complete books of accounts and records for the Business which fully, correctly, truly and accurately account for and reflect the Assets, properties, liabilities, obligations and affairs of the operations and the results of the conduct and operation of the Business.

3.3. **Assets Free and Clear.** Except for the UCC securing the Seller's debt to Union Bank of California, Seller has good title to all of the Assets free and clear of all mortgages, liens, security interests, claims, charges, encumbrances, liabilities, obligations, agreements, limitations, reservations and restrictions whatsoever, and there are no actions, suits, proceedings or other claims pending or threatened with respect to, or in any manner affecting Seller's ownership of or title to the Assets.

3.4. **Leases.** Seller has no personal property leases for the Assets.

3.5. **Compliance with Statute.** To the best of Seller's knowledge, the operations of the Business do not violate any federal, state or local law, ordinance, rules or regulation and is unaware of any pending or threatened claims or complaints with respect to such operations which will materially affect the Assets or the Business.

3.6. **No Knowledge of Claims.** To the best of Seller's knowledge, there are no claims or complaints of a substantial nature (individually or in the aggregate) against the Assets or the Business which have been asserted by any of its customers based upon any alleged defect in the products sold or the services rendered by the operations of the Business or any failure of performance by it with respect to the operations of the Business.

3.7. **Closing Financial Statements.** Seller has delivered to Buyer copies of the Closing Financial Statements.

3.7.1. The Closing Financial Statements have been prepared consistent with the past historical practices of the Business.

3.7.2. The Closing Financial Statements fairly present the financial condition of the Assets, Assumed Liabilities, and the Business as of Year End.

3.7.3. Since Year End, there has not been (a) any material adverse change in the Business' financial condition, Assets, Assumed Liabilities, business or prospects other than changes in the ordinary course of business; (b) any material decrease in the Assets reflected in the Closing Financial Statements; (c) any material increase in the Assumed Liabilities as reflected in the Closing Financial Statements; (d) any damage, destruction, or loss, whether or not covered by insurance, materially and adversely affecting the Assets or the Business;

(e) any pledge, lien or other encumbrance or security interest created on any of the Assets or assumed by the Seller with respect to any of the Assets; or (f) any event or condition of any character materially or adversely affecting the Business, the Assets, or the Assumed Liabilities.

3.8. **Equipment.** All of the Equipment of the Business is in good condition, ordinary wear and tear excepted, fit for use in the ordinary course of the Business.

3.9. **Taxes.** Seller has duly filed all tax reports and returns, federal, state, city or otherwise, required to be filed by it prior to the date hereof and the Closing Date, relating to the Assets and the Business, including federal and state tax returns for Year End, all payroll withholding taxes, installments on income taxes, and other State of Oregon taxes and property taxes. No deficiency or other adjustment is claimed by federal or other taxing authorities with respect to the Business, nor is there any known basis for such a claim of a material nature. Seller has not been granted a waiver of any applicable statute of limitations with respect to any tax returns related to the Business. There are no tax liens upon any of the Assets.

3.10. **No Breach of Statute or Contract.** No consents or approvals by any third party or governmental agency are required to be obtained by Seller in connection with the execution and consummation of this Agreement by Seller. The execution of this Agreement and the consummation of the transaction contemplated hereby will not result in the breach of any term or provision of, or constitute a default under, any provision or restriction of any note, mortgage, indenture, agreement, license or other instrument or of any judgment, order or decree, rule or regulation of any court or administrative agency, to which Seller is a party or by which it is bound.

3.11. **Duration of Seller's Warranties.** Seller's warranties shall survive Closing for a period of one (1) year after the Closing Date, after which time it shall be considered fulfilled and be of no further effect.

3.12. **Disclaimer of other Representations or Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF ANY OF ITS ASSETS OR THE EXCLUDED ASSETS, LIABILITIES OR OPERATIONS, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE EXPRESSLY DISCLAIMED. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT TO THE EXTENT SPECIFICALLY SET FORTH IN THIS AGREEMENT, BUYER IS

PURCHASING THE ASSETS ON AN "AS-IS, WHERE-IS" BASIS.

4. **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller that as of the Closing Date:

4.1. **Organization.** Buyer is a limited liability company duly organized and validly existing under the laws of the State of Oregon. Buyer has all requisite power and authority to own, operate, or lease the Assets, as the case may be, and to carry on the Business as now being conducted.

4.2. **Authority.** Buyer has all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, this Agreement has been duly executed and delivered by Buyer pursuant to all necessary authorization. This Agreement constitutes a valid and binding agreement of Buyer, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, reorganization, insolvency, or similar laws affecting the enforcement of creditors' rights or by the application of general principles of equity.

4.3. **Buyer is solvent.** Buyer is solvent and has paid and intends to pay its creditors in the ordinary course of business, and has sufficient capital and resources to operate the Business.

4.4. **Duration of Buyer's Warranties.** Buyer's warranties shall survive Closing and for a period of one (1) year thereafter, after which time it shall be considered fulfilled and be of no further effect.

5. **Acknowledgements of Buyer.** Buyer represents and acknowledges the following:

5.1. Buyer has entered into this Agreement on the basis of its own examination, personal knowledge, and opinion of the value of the Business.

5.2. Buyer has not relied on any representations made by Seller other than those specified in this Agreement.

5.3. Seller has made no agreement or promise to repair or improve any of the Personal Property, and that Buyer takes the Personal Property in the condition existing on the Closing Date, except as otherwise provided in this Agreement.

5.4. After the Closing Date, Buyer is assuming all risks that the Seller's contacts, vendors and vendees will terminate their relationship with the Business.

6. **Access and Information.** Seller shall give to Buyer and its counsel, accountants, and other representatives, full access, during normal business hours prior to Closing, to all of the Assets and the Business' books, contracts, commitments and records, and have or shall furnish Buyer all such

information concerning the Business' affairs and the Assets as the Buyer has reasonably requested or may request.

7. **Conduct of Business Pending Closing.** Seller covenants that, except as otherwise set forth on Schedule 7 attached hereto, from Year End to the Closing Date:

7.1. The Business has been and will be conducted only in the ordinary course.

7.2. No increase has been or will be made in compensation payable to or to become payable to any employee of the Business, nor has or will any bonus payment or arrangement be made to any employee of the Business without the consent of Buyer.

7.3. No material contract or commitment has been or will be entered into by Seller with respect to the Business or the Assets, except renewals or extensions of existing contracts and normal commitments for the purchase of inventory and supplies to complete contracts now pending and to replenish existing inventories used in the ordinary course of business.

8. **Conditions to Obligations of Buyer.** The obligations of Buyer under this Agreement are subject to the fulfillment to its reasonable satisfaction, on or prior to the Closing Date, of each of the following conditions, any one or more of which may be waived by Buyer:

8.1. **Representations and Warranties True at Closing.** The representations and warranties by Seller in this Agreement, and in any certificate or other instrument delivered pursuant to the provisions hereof, shall be true at and as of the Closing Date.

8.2. **Performance.** Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with prior to or on the Closing Date.

8.3. **Transfer of Assets.** Seller shall have transferred to Buyer a Bill of Sale which shall validly vest in Buyer good title to the Assets, free and clear of all liens, pledges and encumbrances, except as otherwise described in this Agreement.

9. **Conditions to Obligations of Seller.** The obligations of Seller under this Agreement are subject to the fulfillment to the reasonable satisfaction of Seller, prior to or on the Closing Date, of each of the following conditions, any one or more of which may be waived by Seller:

9.1. **Representation and Warranties True at Closing.** The representations and warranties by Buyer in this Agreement, and any certificate or other instrument delivered pursuant to the provisions hereof, shall be true at and as of the Closing Date.

9.2. **Payment of Purchase Price.** Buyer shall have delivered to Seller:

9.2.1. The Promissory Note and Security Agreement.

10. **Closing.** Unless otherwise agreed by the parties, the Closing shall take place at the offices of Seller's counsel on the Closing Date, by release and delivery of Closing documents in satisfaction of the terms of this Agreement.

11. **Risk of Loss.** The risk of loss, damage, or destruction to any of the Assets to be conveyed by Buyer under this Agreement will be borne by Seller up to the close of business on the Closing Date and thereafter by Buyer.

12. **Indemnification and Offset.** In the event any dispute with respect to any claimed Warranty Loss cannot be resolved by the parties within thirty (30) days after written notice thereof ("Warranty Notice"), such disputes shall be submitted to mediation and to final and binding arbitration, the mediator and/or arbitrator to be selected by the parties, and in the event of the failure to select an arbitrator and/or mediator within said thirty (30) day period, any party to the dispute may refer the same to the Arbitration Service of Portland for arbitration or mediation. Any arbitration and mediation fees shall be borne equally by the parties thereto, and the decision of the arbitrator shall be conclusive upon the parties. The parties agree to use their best efforts to complete any arbitration and mediation within one hundred eighty (180) days from the date the Warranty Notice.

Any of Buyer's unpaid Warranty Losses (a) not contested by Seller or (b) awarded in arbitration may be offset against any installments of principal or interest on the Promissory Note payable to the Seller. Unless otherwise agreed to by Seller in writing, any Warranty Loss asserted by Buyer that is disputed by Seller will not excuse Buyer's timely performance under the Promissory Note or the Security Agreement which will remain enforceable in accordance with their respective terms.

13. **Events of Default.** It shall be an event of default under this Agreement if:

13.1. Buyer defaults under the Promissory Note, including without limitation, Buyer's failure to pay any amount due Seller in accordance with the terms of the Promissory Note.

13.2. Either party shall fail to perform any other provision of this Agreement for a period of thirty (30) days after receipt of written notice of default. If the nature of the default is such that more than thirty (30) days are required for its performance, then the breaching party shall not be deemed in default if it commences performance within the thirty (30) days after receipt of written notice of default and thereafter diligently pursues the cure to completion.

13.3. Buyer defaults under the Security Agreement.

14. **Expenses.** Buyer and Seller will pay their respective expenses in connection with the transactions provided for herein for services and will indemnify and hold harmless the other

therefrom. Each of the parties hereto represents and warrants that it has not incurred any brokerage commission in connection with the transaction provided for herein and will indemnify and hold harmless the other parties hereto from any Warranty Loss arising upon a claim of a brokerage commission based upon an engagement by such party.

15. **Further Assurances.** Seller will execute all documents and will take all such other action as Buyer may reasonably request, and Buyer will execute all documents and take all such other action as Seller may reasonably request, whether prior to, at or after the Closing Date hereunder, in order to consummate the transactions provided for herein and to accomplish the purposes of this Agreement.

16. **Post Closing Matters.** Upon payment in full of the Promissory Note, Seller will surrender to Buyer the Promissory Note and the Security Agreement.

17. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same Agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

18. **Parties in Interest.** All the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of and shall be enforceable by the respective heirs, personal representatives, successors and assigns of Buyer and Seller.

19. **Entire Agreement.** This Agreement, including all Exhibits and Schedules, constitutes the entire understanding among the parties hereto with respect to the subject matter hereof.

20. **Waiver.** The waiver of any party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by such party.

21. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed, registered mail, postage prepaid to the addresses indicated herein or to some other address as any party may designate by notice in writing to the other party.

If to Buyer: Kinco, LLC
Attn: Travis Kindler
4286 NE 185th Avenue
Portland, OR 97230

With a copy to: Randall L. Duncan
Dunn Carney Allen Higgins & Tongue LLP
851 SW 6th Avenue, Suite 1500
Portland, OR 97204

If to Seller: TBK Enterprises, Inc. and
Kindler, Inc.
Attn: Bruce R. Kindler and Sherie A. Kindler
6413 Palomino Way
West Linn, Oregon 97068

With a copy to: Nikki C. Hatton
Schwabe Williamson & Wyatt
1211 SW Fifth Avenue, Suite 1800
Portland, Oregon 97204

22. **Amendments.** This Agreement or any term hereof may be changed, waived, discharged or terminated only in writing, signed by all the parties hereto.

23. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

24. **Severability.** Any term or provision of this Agreement that is held invalid or unenforceable will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

25. **Governing Law and Arbitration.** This Agreement shall be governed by the internal laws of the State of Oregon. Any and all disputes arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, performance or termination, shall be referred to and finally resolved by arbitration or mediation under the Commercial Arbitration Rules of the Arbitration Services of Portland, which rules are deemed to be incorporated herein by reference. The place of arbitration shall be Portland, Oregon.

26. **Costs of Collection.** In the event of an action of any type is brought to enforce this Agreement in a court of competent jurisdiction, in arbitration or otherwise, including any action brought in connection with any bankruptcy proceeding, the prevailing party shall be entitled to recover its reasonable attorney fees and costs, including any expert witness fees.

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

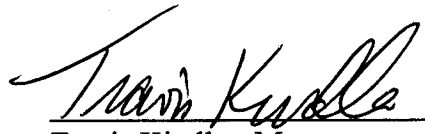
SELLER:

TBK Enterprises, Inc.,
an Oregon corporation

BUYER:

Kinco, LLC

By: 
Bruce R. Kindler

By: 
Travis Kindler, Manager

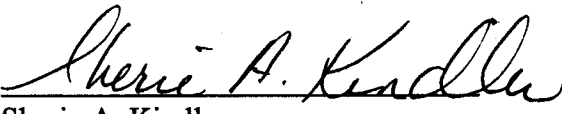
By: 
Sherie A. Kindler

EXHIBIT 1.5

Closing Financial Statements

See attached.

EXHIBIT 1.10

Promissory Note

See attached form of secured promissory note.

EXHIBIT 1.12(a)

Security Agreement

See attached form of Security Agreement.

EXHIBIT 1.12(b)

Pledge Agreement

See attached form of Pledge Agreement

EXHIBIT 2.2

Assumed Liabilities

1. All liabilities arising in connection with the Accounts after the Closing Date.
2. See attached document titled Notes Payable dated _____, 2004.

SCHEDULES

3.3 – Assets Free and Clear.

➤ None.

3.5 – Compliance with Statute.

➤ None

3.6 – Claims.

➤ None.

3.7 – Closing Financial Statements.

➤ None.

3.8 – Conditions of Assets.

➤ None.

3.9 – Litigation.

➤ None.

3.10 – Taxes.

➤ None.

3.11 – Consents.

➤ None.

7 – Conduct of Business.

➤ None.