Form PTO-1594 (Rev. 08/08)
OMB Collection 0651-0027 (exp. 9/30/2008)

09-30-2008

U.S. DEPARTMENT OF COMMERCE
ited States Patent and Trademark Office

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OFFICE

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To the Director of the U. S. Patent and Ti ments or the new address(es) below.

9-26-08

1. Name of conveying party(ies):

Evans Analytical Group LLC

☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation- State:
☒ Other Limited Liability Company

Citizenship (see guidelines) Delaware

Additional names of conveying parties attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? ☐ Yes ☒ No

Name: General Electric Capital Corporation
Internal Address:
Street Address: 299 Park Avenue
City: New York
State: New York
Country: United States Zip: 10171

☐ Association Citizenship
☐ General Partnership Citizenship
☐ Limited Partnership Citizenship
☐ Corporation Citizenship
☒ Other Administrative Agent & Collateral Agent Citizenship

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☒ No
(Designations must be a separate document from assignment)

3. Nature of conveyance)/Execution Date(s) :

Execution Date(s) September 25, 2008

☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☒ Other Grant of Security Interest

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

B. Trademark Registration No.(s)
see attached schedule (page 5 of attachment)

Additional sheet(s) attached? ☒ Yes ☐ No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Matthew Bart
Internal Address: White & Case LLP
Street Address: 1155 Avenue of the Americas
City: New York
State: New York Zip: 10036
Phone Number: 212-819-8923
Fax Number: 212-354-8113
Email Address: mbart@whitecase.com

6. Total number of applications and registrations involved: 9

7. Total fee (37 CFR 2.6(b)(6) & 3.41) $240

☒ Authorized to be charged to deposit account
☐ Enclosed

8. Payment Information:

Deposit Account Number 23-1705
Authorized User Name Matthew Bart

9. Signature: Matthew Bart
Signature

September 26, 2008
Date

Matthew Bart
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 102

09/29/2008 DBYRNE 00000031 231705 2135922
01 FC:8521 40.00 DA
02 FC:8522 200.00 DA

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 2

SCHEDULE I
TO
TRADEMARK SECURITY AGREEMENT

Trademark Registrations

A. REGISTERED TRADEMARKS

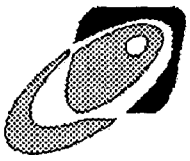
Mark	Registration No.	Issue Date
CEA	2135922	02/10/1998
CEA	2261902	07/20/1999
CHARLES EVANS & ASSOCIATES	1922670	09/26/1995
EVANS ANALYTICAL GROUP	2717578	05/20/2003
EVANS ON-SITE	2836750	04/27/2004
EAGLABS	2833050	04/13/2004
REPLOT-PXT	2639841	10/22/2002
CONTROL-PXT	2621587	09/17/2002
	3384679	02/19/2008

EXHIBIT A

Asset Purchase Agreement

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT, dated as of September 25, 2008, is made by Evans Analytical Group LLC, a Delaware limited liability company, (the "Grantor"), in favor of General Electric Capital Corporation ("GE Capital"), as administrative agent and collateral agent (in such capacity, together with its successors and permitted assigns, the "Administrative Agent") for the Lenders and the L/C Issuers (as defined in the Credit Agreement referred to below).

W I T N E S S E T H:

WHEREAS, pursuant to the Second Amended and Restated Credit Agreement, dated as of July 18, 2008, amended and restated as of August 12, 2008 and amended and restated as of September 25, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, the Lenders and the L/C Issuers from time to time party thereto and GE Capital, as Administrative Agent for the Lenders and the L/C Issuers, the Lenders and the L/C Issuers have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, the Grantor has agreed, pursuant to a Guaranty and Security Agreement dated as of July 18, 2008 in favor of the Administrative Agent (the "Guaranty and Security Agreement"), to guarantee the Obligations (as defined in the Credit Agreement) of the Borrower;

WHEREAS, pursuant to the Asset Purchase Agreement attached as Exhibit A, the Grantor acquired certain Trademarks free and clear of any existing liens, pursuant to the bankruptcy court order attached as Exhibit B; and

WHEREAS, the Grantor is party to the Guaranty and Security Agreement pursuant to which the Grantor is required to execute and deliver this Trademark Security Agreement.

NOW, THEREFORE, in consideration of the premises and to induce the Lenders, the L/C Issuers and the Administrative Agent to enter into the Credit Agreement and to induce the Lenders and the L/C Issuers to make their respective extensions of credit to the Borrower thereunder, the Grantor hereby agrees with the Administrative Agent as follows:

Section 1. Defined Terms. Capitalized terms used herein without definition are used as defined in the Guaranty and Security Agreement.

Section 2. Grant of Security Interest in Trademark Collateral. The Grantor, as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations of the Grantor, hereby mortgages, pledges and hypothecates to the Administrative Agent for the benefit of the Secured Parties, and grants to the Administrative Agent for the benefit of the Secured Parties a Lien on and security interest in, all of its right, title and interest in, to and under the following Collateral of the Grantor (the "Trademark Collateral"):

(a) all of its Trademarks and all IP Licenses providing for the grant by or to the Grantor of any right under any Trademark, including, without limitation, those referred to on Schedule 1 hereto;

(b) all renewals and extensions of the foregoing;

(c) all goodwill of the business connected with the use of, and symbolized by, each such Trademark; and

(d) all income, royalties, proceeds and Liabilities at any time due or payable or asserted under and with respect to any of the foregoing, including, without limitation, all rights to sue and recover at law or in equity for any past, present and future infringement, misappropriation, dilution, violation or other impairment thereof.

Section 3. Guaranty and Security Agreement. The security interest granted pursuant to this Trademark Security Agreement is granted in conjunction with the security interest granted to the Administrative Agent pursuant to the Guaranty and Security Agreement and the Grantor hereby acknowledges and agrees that the rights and remedies of the Administrative Agent with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Guaranty and Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

Section 4. Grantor Remains Liable. The Grantor hereby agrees that, anything herein to the contrary notwithstanding, the Grantor shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with its Trademarks and IP Licenses subject to a security interest hereunder.

Section 5. Counterparts. This Trademark Security Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Grantor has caused this Trademark Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

Very truly yours,

EVANS ANALYTICAL GROUP LLC
as Grantor

By: _____
Name: Rob Aikman
Title: Secretary and Chief Financial Officer

ACCEPTED AND AGREED
as of the date first above written:

GENERAL ELECTRIC CAPITAL CORPORATION
as Administrative Agent

By: _____
Name: Arthur Kim
Title: Its Duly Authorized Signatory

SCHEDULE I
TO
TRADEMARK SECURITY AGREEMENT

Trademark Registrations

A. REGISTERED TRADEMARKS

Mark	Registration No.	Issue Date
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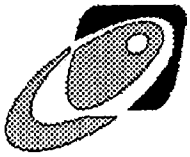
EAGLABS	2833050	04/13/2004
REPLOT-PXT	2639841	10/22/2002
CONTROL-PXT	2621587	09/17/2002
	3384679	02/19/2008

EXHIBIT A

Asset Purchase Agreement

Execution Version

ASSET PURCHASE AGREEMENT

by and between

EAG ACQUISITION, LLC

and

HIGH VOLTAGE ENGINEERING CORPORATION

Dated as of July 8, 2005

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**"), dated as of July 8, 2005, is made by and between High Voltage Engineering Corporation, a Massachusetts corporation ("**Seller**"), and EAG Acquisition, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used in this Agreement are defined or cross-referenced in Article 11.

INTRODUCTION

A. On February 8, 2005 (the "**Petition Date**"), Seller and four (4) subsidiaries of Seller (collectively, the "**HVE Parties**") commenced voluntary cases for reorganization (the "**Bankruptcy Cases**") under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "**Bankruptcy Code**"), in the United States Bankruptcy Court for the District of Massachusetts, Eastern Division (the "**Bankruptcy Court**").

B. On February 17, 2005, the Bankruptcy Court entered an Order for the appointment of a Chapter 11 Trustee of Seller and certain of its affiliates. On February 18, 2005, the United States Trustee filed an Application for and Certificate of Appointment of Stephen S. Gray as Chapter 11 Trustee. The Bankruptcy Court approved Mr. Gray's appointment as Chapter 11 Trustee by an order entered on February 18, 2005.

C. Seller is engaged in the provision of materials characterization and surface analysis-based services and related products (the "**Business**"), including, without limitation, through its operating divisions or subsidiaries known as Evans Analytical Group, Evans Sunnyvale, Evans-PHI, Evans Northeast, Evans Taiwan and Charles Evans & Associates.

D. The Business has operating facilities located in Sunnyvale, California ("**Sunnyvale**"), Chanhassen, Minnesota ("**Chanhassen**"), Peabody, Massachusetts ("**Boston**") and Hsinchu, Taiwan ("**Hsinchu**").

E. Buyer desires to purchase the Acquired Assets and assume the Assumed Liabilities from Seller, and Seller desires to sell, convey, assign and transfer to Buyer the Acquired Assets together with the Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement and in accordance with Sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the foregoing and their respective representations, warranties, covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

ARTICLE 1
PURCHASE AND SALE OF THE ACQUIRED ASSETS

1.1 Transfer of Acquired Assets. At the Closing, and upon the terms and conditions herein set forth, Seller shall sell to Buyer, and Buyer shall acquire from Seller, the Acquired

Assets free and clear of all Liens, other than Permitted Liens. "**Acquired Assets**" shall mean all of Seller's right, title and interest in, to and under the following property, rights and assets to the extent primarily relating to, required for the conduct of, or primarily used in or held for use in connection with the operation of the Business, but shall exclude the Excluded Assets:

(a) the leased real property rights of Seller set forth on Schedule 1.1(a) to the premises listed on Schedule 1.1(a) (the "**EAG Real Property**");

(b) all (i) of Seller's owned equipment, machinery, computer hardware, furniture, fixtures and improvements, tooling and spare parts and other tangible assets whether located on the EAG Real Property or elsewhere (the "**Owned Machinery and Equipment**"), (ii) of Seller's right, title and interest in and to the equipment, machinery, computer hardware, furniture, fixtures and improvements, tooling and spare parts and other tangible assets whether located on the EAG Real Property or elsewhere that are leased pursuant to a Designated Executory Contract (the "**Leased Machinery and Equipment**," and collectively with the Owned Machinery and Equipment, the "**Machinery and Equipment**") and (iii) rights of Seller to the warranties and licenses received from manufacturers, sellers and/or lessors of the Machinery and Equipment;

(c) subject to Section 1.6, all leases (including, without limitation, leases of EAG Real Property and of Machinery and Equipment) and other Contracts entered into by Seller primarily relating to the Business that are unexpired or executory as of the Closing Date (the "**Designated Executory Contracts**") and are listed on Schedule 1.1(c) (it being understood and agreed that (i) Seller shall set forth on Schedule 1.1(c) the Final Cure Cost (or, if the Final Cure Cost is unknown, the Estimated Cure Cost) corresponding to each Designated Executory Contract, and (ii) Buyer shall be entitled to amend such schedule at or prior to the Closing in accordance with Section 1.6);

(d) to the extent assignable under applicable license agreements or applicable Law, any computer software, systems and applications (including, without limitation, process control software);

(e) to the extent transferable under applicable Law, all permits, authorizations and licenses (the "**Permits**") issued by any Government to Seller and all pending applications therefor, including, without limitation, those Permits set forth on Schedule 1.1(e);

(f) subsections (a) through (e) are inclusive of copies and originals of all documents, including plans, data, test results, drawings, diagrams, training manuals, engineering data, safety and environmental reports and documents, maintenance schedules and operating and production records, in each case that relate to, are used in or are held for use in connection with the Acquired Assets, whether in hard copy or electronic format;

(g) all shares of capital stock, or partnership interests, or other equity owned by Seller (the "**Partners Equity**") in Evans Texas, a California partnership ("**ET**"), Evans East, a New Jersey partnership ("**EE**"), Cascade Scientific, Ltd., a United Kingdom corporation ("**CS**"), Masstek, Ltd., a United Kingdom corporation ("**MT**"), and Evans

Taiwan, LLC, a Delaware limited liability company ("**Evans Taiwan**", and together with ET, EE, MT and CS, the "**Partners**"), and such other files, books, records, rights and benefits of Seller as pertain to Seller's ownership of the Partners Equity; provided, however, that CS and MT shall only be included as Partners Equity (and as Acquired Assets) to the extent transferable to Buyer and without altering or reducing Seller's obligations under Section 5.1(b)(1); provided, further, however, that if CS and MT are not included in the Partners Equity pursuant to this sentence, then Seller shall use all commercially reasonable efforts to confer upon Buyer the economic benefits associated with Seller's ownership interest in CS and MT consistent with applicable Law, including receipt of any dividends or other distributions made in respect thereof (including upon any sale, merger, liquidation, dissolution or winding up of CS or MT);

(h) (i) the registered trademarks and common law trademarks, and the goodwill associated therewith, owned by Seller and set forth on Schedule 1.1(h), subject to the rights of the parties hereto as set forth in Section 5.4(d); (ii) the patents and patent applications set forth on Schedule 1.1(h); (iii) the copyrights (registered and unregistered) and copyrightable works of Seller; (iv) any and all other rights in Intellectual Property of Seller, including, without limitation, trade secrets, proprietary information, technology, know-how, inventions (whether patentable or not and whether or not reduced to practice), improvements, software and software applications; (v) any and all rights to sue for claims and remedies against past, present and future infringements of any or all of the foregoing, and rights for priority and protection of interests therein under the laws of any jurisdiction; (vi) tangible embodiments of any of the foregoing (in any medium, including without limitation, electronic media); (vii) licenses or other contractual rights with respect to the Intellectual Property of any third party; and (viii) all goodwill relating to the foregoing and any and all applications, registrations and renewals (if any) for the foregoing;

(i) all finished goods, raw materials, unbilled analysis, work-in-progress and supplies of the Business (the "**Inventory**");

(j) all cars, trucks and other motor vehicles related to, used in or held for use in connection with the Business, whether owned or leased;

(k) all rights of Seller to the warranties received from suppliers to the Business with respect to Inventory and related Claims with respect thereto;

(l) the accounts receivable of the Business and all Claims arising in connection therewith (including, without limitation, all such amounts due and owing to the Business from EE, ET and Evans Taiwan), other than the Cascade Receivables (as hereinafter defined);

(m) all sales and purchase orders or other commitments of Seller relating to the Business to and from purchasers of goods or services or products produced by the Business and all rights of Seller thereunder, including all Customer Prepayments;

(n) each outstanding purchase order or other commitment of Seller relating to the Business to suppliers of goods and services for materials, supplies or other items and all

rights of Seller thereunder (the "**Purchase Orders**"), including those identified by Seller on Schedule 1.1(n);

(o) all copies and originals of the lists, data and information pertaining to customers and suppliers of Seller, trade correspondence, data storage tapes, accounts receivable ledgers, documents relating to invoices and all shipping records, whether in hard copy or electronic format;

(p) all copies and originals of all books, records, accounts, checks, payment records, personnel files, Tax records (including payroll, unemployment, real estate and other Tax records) and other similar books, records and information of Seller, to the extent relating specifically to the Business, whether in hard copy or electronic format (the "**Records**"); provided, however, that Buyer shall provide Seller access to the Records as provided in Section 5.2(g);

(q) all deposits, refund and offset rights, credits, deferred charges, advance payments, security deposits, prepaid expenses, prepaid items and other prepayments of Seller held by utilities or under any Designated Executory Contract that are assumed by and assigned to Buyer, other than the Sunnyvale CAM Amount;

(r) all other intangible property rights, including goodwill, of Seller relating specifically to the Business; and

(s) all other assets primarily relating to, required for the conduct of, or primarily used in or held for use in connection with the Business.

1.2 **Excluded Assets**. The Acquired Assets do not include (i) any right, title or interest of any Person other than Seller in any property or asset, (ii) Seller's right, title and interest in, to and under properties and assets not primarily relating to, required for the conduct of, or primarily used for or held for use in connection with the operation of the Business and (iii) the following properties and assets of Seller (all such assets not being acquired by Buyer being herein referred to as the "**Excluded Assets**"):

(a) all of Seller's cash and cash equivalents, including all petty cash in excess of $10,000;

(b) all of Seller's prepaid insurance premiums and deposits including, without limitation, rights to refunds or adjustments in respect of periods prior to the Closing Date and all rights to insurance proceeds or other insurance Contract recoveries (the "**Prepaid Accounts**");

(c) except as provided in Section 1.1(k) and Section 1.1(l), any and all rights, claims, actions, suits, causes of action, known or unknown, pending or threatened (including, without limitation, all claims arising under Sections 510, 544 through 551 and 553 of the Bankruptcy Code or under similar state Laws including, without limitation, fraudulent conveyance claims, all claims for professional negligence, malpractice or breach of fiduciary duty and all other claims of a trustee and debtor-in-possession under the Bankruptcy Code) or Qualified Rights of Set-Off (collectively, "**Claims**"), of the Trustee or Seller or any Affiliate

of Seller, including but not limited to, Claims arising out of or relating in any way to the Bankruptcy Cases or the Prior Bankruptcy Cases, or any of the transactions contemplated thereby or entered into as a consequence thereof, including, without limitation, the plan of reorganization confirmed in the Prior Bankruptcy Cases;

(d) all shares of capital stock of Seller, all capital stock or equity of any other Person except for the Partners Equity, and all corporate seals, minute books, charter documents, record books, original tax and financial records and such other files, books and records as pertain primarily to any of the Excluded Assets or to the organization, existence or capitalization of Seller or of any other Person (other than the Partners);

(e) all of Seller's rights to recovery of collateral given to obtain letters of credit;

(f) all amounts due to Seller from any Affiliate of Seller, other than amounts due to Seller from the Partners (except as otherwise set forth herein);

(g) all rights to or claims for refunds, overpayments or rebates of any Taxes for all Pre-Closing Tax Periods, and, with respect to real and personal property Taxes, for any Straddle Period, a percentage of any refund, overpayment or rebate of any such Taxes that relates to such period shall be prorated and apportioned between Seller and Buyer consistent with the proration provisions contained in Section 6.3;

(h) any funding vehicle associated with the HVE Benefit Plans (except for the payment of positive flexible spending account balances described in Section 5.3(b));

(i) the Hyperion software;

(j) any Excluded Asset arising under Section 1.6;

(k) all accounts receivable due to Seller from CS and all Claims arising in connection therewith (the "**Cascade Receivables**");

(l) any assets other than the Acquired Assets;

(m) the amount of $190,879.20 owed by Limar Realty to Seller in respect of overpayments of common area maintenance charges for the operating facility of the Business located in Sunnyvale with respect to periods prior to the date hereof (the "**Sunnyvale CAM Amount**"); provided, however, that Seller shall pay all unpaid pre-closing rent from such amount; and

(n) all rights of Seller under this Agreement and the Ancillary Agreement.

1.3 **Assumption of Liabilities**. At the Closing, Buyer shall assume, and Buyer hereby agrees to thereafter pay, perform and discharge when due, and be responsible solely for, only the following liabilities (the "**Assumed Liabilities**"):

(a) subject to Section 1.6, all liabilities and obligations of Seller under the Designated Executory Contracts, including with respect to warranties and related customer claims, and all cure costs ("**Cure Costs**") required to be paid and all defaults required to be cured pursuant to Section 365 of the Bankruptcy Code in connection with the assumption and assignment of the Designated Executory Contracts;

(b) liabilities of Buyer under (and only to the extent under) Section 6.2 for Transfer Taxes payable in connection with the transactions contemplated under this Agreement;

(c) the accounts payable of the Business incurred in the ordinary course of business since the Petition Date and all Claims arising in connection therewith that, to the extent still existing, will be included in the Closing Date Working Capital;

(d) all liabilities and obligations arising out of an event or occurrence exclusively after the Closing Date solely to the extent such liabilities and obligations relate to or arise out of the Acquired Assets;

(e) all obligations, expenses and liabilities of Seller relating to pending applications for permanent residency and employment-sponsored visas of certain employees of the Business with the U.S. Citizenship and Immigration Services, which are listed in reasonable detail on Schedule 1.3(e);

(f) all obligations under the sales and purchase orders and other commitments described in Sections 1.1(m) and (n) that accrue or are to be performed from and after the Closing Date, which are listed in reasonable detail on Schedule 1.3(f);

(g) all amounts owed by, and other obligations of, Seller to the Partners (and to the Partners' other equity holders), which are listed in reasonable detail on Schedule 1.3(g); and

(h) all confidentiality, non-competition or non-disclosure agreements executed by Seller in favor of customers, vendors, employees or suppliers of Seller or other third parties, in each case relating to the Business, the Acquired Assets or the Assumed Liabilities and as previously disclosed to Buyer by Seller, the particulars of which Seller and Buyer agree to hold in confidence; provided, however, such particulars may be disclosed by Seller to counsel to the Equity Committee (as defined in the Bidding Procedures) and counsel to the Creditors' Committee (as defined in the Bidding Procedures) or as otherwise required by Law or designated by the Bankruptcy Court.

1.4 **Retention of Liabilities.** Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of whatever nature, whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by, and remain liabilities and obligations of, Seller (all such liabilities and obligations not being assumed being herein referred to as the "**Excluded Liabilities**"). The Excluded Liabilities include, without limitation, the following liabilities and obligations:

(a) all liabilities and obligations of Seller or its Affiliates relating to any environmental, health or safety matter, including, without limitation, any liability or obligation arising under any Environmental Law (except to the extent otherwise provided in Section 1.3(d));

(b) the accounts payable of the Business incurred prior to the Petition Date and all Claims arising in connection therewith;

(c) any Excluded Liability arising under Section 1.6;

(d) all liabilities and obligations of Seller relating to the HVE Benefit Plan (other than (i) the flexible spending account liabilities to the extent assumed by Buyer pursuant to Section 5.3(b) and (ii) accrued but unused vacation to the extent assumed by Buyer pursuant to Section 5.3(i));

(e) all liabilities and obligations of Seller of whatever nature, whether presently in existence or hereafter arising, other than the Assumed Liabilities;

(f) all amounts owed by Seller to any Affiliate, other than amounts owed by Seller to the Partners;

(g) all Taxes with respect to the Business or the Acquired Assets that are attributable to or allocable to any Pre-Closing Tax Period, and, with respect to real and personal property Taxes for any Straddle Period, a percentage of such Taxes that relates to such period shall be provided and apportioned between Seller and Buyer consistent with the proration provisions contained in Section 6.3; and

(h) all liabilities and obligations that may arise relating to the Cascade Receivable or any right, claim, obligation, assertion, action or suit arising out of, from or related to the events, facts or matters described on Schedule 4.1(f) or the settlement thereof.

1.5 **Non-Assignment of Contracts.** This Agreement shall not constitute an agreement to assign any Designated Executory Contract, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, an attempted assignment thereof, without the Consent of the third party thereto, would be unenforceable. If, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, such Consent is required but not obtained, then Seller shall cooperate with Buyer without further consideration in any reasonable arrangement designed to both (a) provide Buyer with the benefits of or under any such Designated Executory Contract (including, without limitation, enforcement for the benefit of Buyer of any and all rights of Seller against a third party thereto arising out of the breach or cancellation by such third party), and (b) cause Buyer to bear all costs and obligations of or under any such Designated Executory Contract. Any assignment to Buyer of any Designated Executory Contract that shall, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, require the Consent of any third party for such assignment as aforesaid shall be made subject to such Consent being obtained. Nothing in this Section 1.5 shall be deemed to limit anything in Section 7.2(e).

1.6 **Cure Costs.**

(a) **Identification of Additional Excluded Assets and Liabilities.** Seller shall use commercially reasonable efforts to obtain a definitive determination of the Cure Cost for each Designated Executory Contract prior to Closing. If (i) at any time at or prior to the Closing, the Estimated Cure Cost of any Designated Executory Contract is found to be less than 90% of the Final Cure Cost of such Designated Executory Contract or (ii) at Closing, the Final Cure Cost for any Designated Executory Contract remains undetermined (an "**Undetermined Cure Contract**"), then, at Buyer's option and sole discretion (and without any adjustment to the Purchase Price), exercisable at any time at or before the Closing (in the circumstances of clause (i) of this Section 1.6(a)) or at Closing (with respect to any Undetermined Cure Contract), such Designated Executory Contract shall be an Excluded Asset and such Final Cure Cost (and any other obligations or liabilities under such Contracts) shall be an Excluded Liability, subject to Section 1.6(b) below.

(b) **Post-Closing Assignment of Certain Contracts.** Buyer shall advise Seller at Closing which of the Undetermined Cure Contracts that is an Excluded Asset by virtue of Section 1.6(a) Buyer may decide to assume, depending upon the Final Cure Cost for such Undetermined Cure Contract. Seller shall then use commercially reasonable efforts to obtain a prompt determination as to the Cure Cost for each such Undetermined Cure Contract (by negotiation and/or by proceedings in the Bankruptcy Court), and shall permit Buyer to participate in any such proceedings. If the Final Cure Cost for any Undetermined Cure Contract is determined within six (6) months following the Closing Date, Seller shall promptly notify Buyer in writing of such Final Cure Cost and, at the option of Buyer exercisable by written notice to Seller within five (5) Business Days after Buyer's receipt of such notice, Seller shall (as promptly as commercially practicable) assume and assign to Buyer and Buyer shall assume and acquire from Seller, all right, title and interest of Seller, in, to and under such Designated Executory Contract and, in such event, Buyer shall assume, pay, perform and discharge all Cure Costs required to be paid and all defaults required to be cured pursuant to Section 365 of the Bankruptcy Code in connection with Buyer's acquisition of such Designated Executory Contract. The Sale Order shall approve the assumption and assignment of Designated Executory Contracts, including Undetermined Cure Contracts, on the terms set forth in this Section 1.6. If any other filings, deliveries, instruments or documents are necessary or appropriate in order to accomplish and carry out the provisions of this Section 1.6, Buyer and Seller shall cooperate to make such filings or deliveries and execute and deliver such instruments or documents as may be necessary or appropriate.

ARTICLE 2
CONSIDERATION

2.1 Consideration. The aggregate consideration for the sale and transfer of the Acquired Assets is $28,100,000 in cash (the "**Purchase Price**"), which price shall be payable and deliverable in accordance with Section 3.3, and the assumption by Buyer of the Assumed Liabilities, subject to adjustment pursuant to Section 2.3.

2.2 Performance Deposit. On or prior to the date hereof, Buyer has executed and delivered to Seller the Performance Escrow Agreement and deposited with the Escrow Agent $1,500,000 (the "**Performance Deposit**"). The Performance Deposit shall be held and disbursed

pursuant to, and in accordance with, the terms of the Performance Escrow Agreement and this Agreement.

2.3 Adjustment of Purchase Price.

(a) No fewer than three (3) Business Days prior to the Closing Date, Seller shall deliver to Buyer the Estimated Closing Date Working Capital Statement together with a certificate duly executed on behalf of Seller by the Trustee certifying that the Estimated Closing Date Working Capital Statement was prepared in good faith and in accordance with GAAP, consistently applied. An adjustment to the Purchase Price shall be made at the Closing as follows (without duplication):

(i) in the event that the Estimated Closing Date Working Capital is less than the Base Working Capital, the Purchase Price shall be reduced by the amount of such deficit; and

(ii) in the event that the Estimated Closing Date Working Capital exceeds the Base Working Capital, the Purchase Price shall be increased by the amount of such excess.

(b) No later than 60 days after the Closing Date, Buyer shall prepare and deliver to Seller the Initial Working Capital Statement together with a certificate duly executed by a senior financial officer of Buyer certifying that the Initial Working Capital Statement was prepared in good faith and in accordance with GAAP, consistently applied. At all reasonable times during the thirty (30) days immediately following Seller's receipt of the Initial Working Capital Statement, Seller and its representatives shall be permitted to review the records of the Business relating to the Initial Working Capital Statement, and Buyer shall make reasonably available the individuals responsible for the preparation of the Initial Working Capital Statement in order to respond to the inquiries of Seller related thereto. Seller shall notify Buyer in writing (the "**Notice of Disagreement**") within 30 days after receiving the Initial Working Capital Statement if Seller disagrees with any amounts reflected on the Initial Working Capital Statement. The Notice of Disagreement shall set forth in reasonable detail the reasons for such dispute, the dollar amounts involved and Seller's good faith estimate of the Closing Date Working Capital. If Seller does not deliver a Notice of Disagreement to Buyer within such 30-day period, then the Initial Working Capital Statement shall be deemed to have been accepted by Seller, shall become final and binding upon the parties hereto and shall be deemed to be the Final Working Capital Statement. If Seller delivers a Notice of Disagreement to Buyer within such 30-day period, only those matters that are specified in such Notice of Disagreement shall be deemed to be in dispute, and all other matters shall be final and binding upon the parties hereto.

(c) During the 10 days immediately following the delivery of a Notice of Disagreement, Seller and Buyer shall seek to resolve any differences that they may have with respect to any matter specified in the Notice of Disagreement, and any resolution by them as to any such matter shall be final and binding on the parties hereto. If all matters specified in the Notice of Disagreement are so resolved by Buyer and Seller, the Initial Working Capital Statement, as resolved, shall be deemed the Final Working Capital Statement. If at the end of

such 10-day period Seller and Buyer have been unable to agree upon all matters specified in the Notice of Disagreement, then either Seller or Buyer may submit to the Independent Accounting Firm for review and resolution any and all matters specified in the Notice of Disagreement that remain in dispute. Buyer and Seller shall cause the Independent Accounting Firm to make a final determination (which determination shall be binding on the parties hereto) of the Closing Date Working Capital within 10 days after such submission, and such final determination shall be deemed to be the Final Working Capital Statement. In making such determination, the Independent Accounting Firm shall consider only those items or amounts in the Initial Working Capital Statement with which Seller has disagreed as set forth in the Notice of Disagreement, and Seller's calculation of such items or amounts. In addition, such determination by the Independent Accounting Firm shall be limited to choosing, for each item, the calculation of Buyer or Seller it deems more fair. The cost of the Independent Accounting Firm's review and determination shall be borne equally by Buyer and Seller. During the 10-day review by the Independent Accounting Firm, Buyer and Seller shall each make available to the Independent Accounting Firm such individuals and such information, books and records as may be reasonably required by the Independent Accounting Firm to make its final determination. Buyer and Seller shall, and shall cause their respective Related Persons to, promptly and diligently cooperate and assist in the calculation of Closing Working Capital and in the conduct of the reviews referred to in this Section 2.3, including, without limitation, the making available to the extent reasonably necessary of books, records, work papers and personnel.

(d) Within five (5) Business Days after the Final Working Capital Statement becomes or is deemed to be final and binding on the parties hereto, an adjustment to the Purchase Price shall be made as follows (without duplication):

(i) in the event that the Estimated Closing Date Working Capital exceeds the Closing Date Working Capital (as set forth in the Final Working Capital Statement), then (A) the Purchase Price shall be decreased by an amount equal to such excess and (B) Seller shall promptly pay Buyer an amount equal to such excess along with interest as provided in Section 2.3(f), first, from the Holdback Escrow Amount, in accordance with the terms of the Holdback Escrow Agreement, and second, if the funds therein are insufficient, by delivery of a certified or official bank check or wire transfer in immediately available funds;

(ii) in the event that the Closing Date Working Capital (as set forth in the Final Working Capital Statement) exceeds the Estimated Closing Date Working Capital, then (A) the Purchase Price shall be increased by an amount equal to such excess and (B) Buyer shall promptly pay to Seller an additional amount equal to such excess along with interest as provided in Section 2.3(f) by delivery of a certified or official bank check or wire transfer in immediately available funds, and Seller shall promptly be paid the Holdback Escrow Amount; and

(iii) in the event that the Closing Date Working Capital equals the Estimated Closing Date Working Capital, then no adjustment to the Purchase Price shall be made, and Seller shall promptly be paid the Holdback Escrow Amount.

(e) Buyer agrees that following the Closing through the date on which the Final Working Capital Statement becomes effective, it will maintain all accounting books, records, policies or procedures on which the Initial Working Capital Statement and/or the Final Working Capital Statement are based in the manner and utilizing the methods required hereby.

(f) Any payments required to be made pursuant to Section 2.3(d) shall bear interest from the Closing Date through the date of payment at the rate of three percent (3%) per annum. Such interest shall be payable at the same time as the payment to which it relates and shall be calculated daily on the basis of a year of 365 days and the actual number of days elapsed. Without limiting anything in Section 10.11, all amounts payable by Seller to Buyer under Section 2.3(d) shall, without the need for any application to or order of the Bankruptcy Court, be paid in full in cash when due as an allowed administrative priority expense, first from the Holdback Escrow Amount and, to the extent the Holdback Escrow Amount is insufficient, then from other funds of Seller's estate.

ARTICLE 3
CLOSING AND DELIVERIES

3.1 **Closing.** The consummation of the transactions contemplated hereby (the "**Closing**") shall take place at the offices of Choate, Hall & Stewart LLP, 53 State Street, Boston, Massachusetts 02109 at 10:00 a.m. on the second Business Day following the satisfaction or waiver by the appropriate party of all the conditions contained in Article 7 hereof, or on such other date and/or at such other place and time as may be mutually agreed to by the parties hereto (the "**Closing Date**").

3.2 **Seller's Deliveries.**

(a) The sale, transfer, assignment and delivery by Seller of the Acquired Assets to Buyer, as herein provided, shall be effected on the Closing Date by bills of sale, endorsements, stock certificates or stock powers (as appropriate, duly endorsed or executed in blank), assignments and other instruments of transfer and conveyance, as shall be consistent with the terms of this Agreement and reasonably satisfactory in form and substance to counsel for Buyer.

(b) At the Closing, Seller shall deliver two executed counterparts of the Holdback Escrow Agreement, substantially in the form of Exhibit B (the "**Holdback Escrow Agreement**").

3.3 **Buyer's Deliveries.** At the Closing:

(a) the Escrow Agent shall pay the Performance Deposit to Seller in accordance with the terms of the Performance Escrow Agreement by wire transfer of immediately available funds to a bank account designated by Seller in writing to Buyer at least two (2) Business Days prior to the Closing Date (the "**Seller's Account**");

(b) Buyer shall pay to Seller the Purchase Price, reduced by (i) the Performance Deposit and (ii) $250,000 (the "**Holdback Escrow Amount**") to be placed in

escrow pursuant to the terms of the Holdback Escrow Agreement as security for the performance by Seller of its obligations under Section 2.3(d)(i) (it being understood and agreed that the Holdback Escrow Amount shall be held in trust pursuant to, and in accordance with, the terms of the Holdback Escrow Agreement and shall not be subject to any Lien, attachment, setoff, recoupment, or trustee process, or to the claims or rights of any creditor of Seller or its Affiliates, and shall be held and distributed solely for the purpose and in accordance with the terms of the Holdback Escrow Agreement), by wire transfer of immediately available funds to Seller's Account;

(c) Buyer shall execute and deliver to Seller an instrument of assumption of liabilities with respect to the Assumed Liabilities reasonably satisfactory in form and substance to counsel for Seller;

(d) Buyer shall execute and deliver two counterparts of the Holdback Escrow Agreement; and

(e) Buyer shall deliver the Holdback Escrow Amount to the Escrow Agent to be held in escrow pursuant to the terms of the Holdback Escrow Agreement.

3.4 **Risk of Loss.** Until the Closing, any loss of or damage to the Acquired Assets from fire, casualty or any other occurrence shall be the sole responsibility of Seller, it being understood that Buyer's obligations under this Agreement shall not be altered or reduced by this Section 3.4.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

4.1 **Representations and Warranties of Seller.** Seller represents and warrants to Buyer as follows:

(a) **Corporate Organization.** Seller is a corporation duly organized and validly existing under the Laws of the jurisdiction of its incorporation. Seller is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the Business is located or in which the operation of the Business makes such licensing or qualification necessary, except where the failure to be so registered or qualified does not have a Material Adverse Effect. Subject to any necessary authority from the Bankruptcy Court, Seller has all requisite corporate power and authority to own its properties and assets used in the Business, to conduct the Business as presently conducted and to consummate the transactions contemplated hereby and by the Ancillary Agreements to which it is a party.

(b) **Authorization and Validity.** Seller has all requisite corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party and, subject to (i) the Bankruptcy Court's entry of the Sale Order and (ii) the receipt of the Consents set forth on Schedule 4.1(d) to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Ancillary Agreements to which it is a party and its performance of its obligations hereunder and thereunder have been duly authorized by all necessary corporate action by the board of directors and stockholder of Seller, and no other corporate action on the part of Seller is necessary to authorize such

execution, delivery and performance. This Agreement and the Ancillary Agreements have been or will be duly executed by Seller and, subject to the Bankruptcy Court's entry of the Sale Order, constitute, or will when executed constitute, its valid and binding obligations, enforceable against it in accordance with their terms.

(c) **No Conflict or Violation.** Subject to the receipt of the Consents set forth on Schedule 4.1(d), the execution, delivery and performance by Seller of this Agreement and the Ancillary Agreements to which it is a party (i) do not and will not violate or conflict with any provision of the certificate of incorporation or by-laws of Seller, (ii) do not and will not violate any Law, or any order, judgment, writ or decree of any court or Government ("**Order**") applicable to Seller, (iii) do not and will not violate or result in a breach of or constitute (with due notice or lapse of time or both) a default under any contract, lease, loan agreement, mortgage, security agreement, trust indenture or other agreement or instrument ("**Contract**") entered into by Seller after the Petition Date, to which Seller is a party or by which it is bound or to which its properties or assets are subject, which violation, conflict, breach or default would result in a Material Adverse Effect and (iv) do not and will not result in the imposition of a Lien, other than a Permitted Lien, upon or with respect to any of the Acquired Assets.

(d) **Consents.** Schedule 4.1(d) sets forth a true and complete list of each material Consent (other than the Bankruptcy Court's entry of the Sale Order) and each material declaration to or filing or registration with any such Government (other than those required to be made to or filed with the Bankruptcy Court), that is required in connection with the execution and delivery of this Agreement and the Ancillary Agreements to which Seller is a party by Seller or the performance by Seller of its obligations hereunder and thereunder. Notwithstanding the foregoing, Seller does not concede that each of the Consents listed on Schedule 4.1(d) is required in connection with the execution and delivery of this Agreement and the Ancillary Agreements to which Seller is a party by Seller or the performance by Seller of its obligations hereunder and thereunder.

(e) **Compliance with Law.** Except as set forth on Schedule 4.1(e) (and other than any violation of Environmental Law, the only representation as to which is made in Section 4.1(j)), Seller, to Seller's Knowledge, has not violated and is not in violation of any Law applicable to the Acquired Assets, and Seller is not in default with respect to any Order applicable to the Acquired Assets other than violations or defaults the consequences of which would not result in a Material Adverse Effect.

(f) **Litigation.** As of the date of this Agreement, and except as set forth on Schedule 4.1(f) or Schedule 4.1(j), there are no Claims, actions, suits, proceedings or investigations pending or, to Seller's Knowledge, threatened, before any court, arbitrator or Government brought by or against or otherwise involving Seller, its Related Persons or the Acquired Assets that, if adversely determined, would result in a Material Adverse Effect or materially impair the ability of Seller to consummate the transactions contemplated by this Agreement.

(g) **Title and Ownership.** Seller has good and marketable title to, or right by Contract to use, the tangible Acquired Assets and the 40% partnership interest in EE and a

44.792% partnership interest in ET included in the Acquired Assets. Subject to the entry of the Sale Order, at the Closing, Seller will have the right to transfer the Acquired Assets to Buyer free and clear of all Liens, other than Liens included in the Assumed Liabilities and Permitted Liens, as set forth on Schedule 4.1(g). The Acquired Assets constitute all assets and properties that are reasonably necessary for the operation of the Business by Seller prior to the Closing. The tangible Acquired Assets are in good operating condition and repair, normal wear and tear excepted.

(h) **Designated Executory Contracts.** Copies (including all modifications and amendments) of the Designated Executory Contracts have been provided or made available to Buyer. As of the date of this Agreement, other than as set forth on Schedule 4.1(h), neither Seller nor any other party to any of the Designated Executory Contracts has commenced any action against any of the parties to such Designated Executory Contracts or given or received any written notice of any material default or violation under any Designated Executory Contract that was not withdrawn or dismissed (except only for those defaults that need not be cured under the Bankruptcy Code to permit the assumption and assignment of the Designated Executory Contracts). Each of the Designated Executory Contracts is, or will be at the Closing, valid, binding and in full force and effect against Seller and against the other parties to such contracts, except as otherwise set forth on Schedule 4.1(h). Schedule 4.1(h) sets forth all Designated Executory Contracts that are material to the Business (the "**Material Designated Executory Contracts**").

(i) **Permits.** Schedule 4.1(i) sets forth a complete and correct list of all material Permits currently held by Seller in connection with the Business or required under applicable Law. Seller is in material compliance with all of the Permits set forth on Schedule 4.1(i), and all of such Permits are in full force and effect. Seller has not received written, or, to Seller's Knowledge, any other notice of any Claims, proceedings or investigations relating to the revocation or modification of any such Permits.

(j) **Environmental Matters.** To Seller's Knowledge, except as set forth on Schedule 4.1(j):

(i) the ownership and operation of the Acquired Assets by Seller comply in all material respects with all applicable Environmental Laws;

(ii) with respect to the Acquired Assets, Seller has obtained, possesses, and is in material compliance with all Permits required under any Environmental Laws;

(iii) since July 8, 2002, Seller has not received (x) any written claim or notice of violation, Lien, Order, complaint, suit, or other claim or notice to the effect that Seller is or may be liable to any Person as a result of (A) alleged violations of applicable Environmental Laws as they apply to the Acquired Assets, or (B) the Release or threatened Release of any Pollutant that is related to the Acquired Assets, or (y) any letter or written request for information under Section 104 of the CERCLA or comparable state Laws related to the Acquired Assets;

(iv) none of the Acquired Assets is the subject of any current Government investigation evaluating whether any Removal, Remedial or Response action is needed to respond to a Release or threatened Release of any Pollutant;

(v) Seller is not subject to any material Environmental Liabilities related to the Acquired Assets;

(vi) there are no Liens or recorded covenants, deed restrictions, notice or registration requirements applicable to the Acquired Assets based upon any Environmental Laws which would materially interfere with the current occupancy or use of the Acquired Assets; and

(vii) there are no underground storage tanks located in, at, on, or under the EAG Real Property.

(k) **Labor Matters.** Except as disclosed on Schedule 4.1(k), Seller is not a party, or is otherwise subject, to any collective bargaining agreement or other labor union contract applicable to its employees. To Seller's Knowledge, no union organizational campaign is in progress with respect to the employees of the Business. To Seller's Knowledge, Seller has not engaged in any unfair labor practice in connection with the Business.

(l) **Financial Statements.**

(i) Schedule 4.1(l) sets forth true and complete copies of (i) the unaudited consolidated balance sheet of the Business as of April 30, 2005 (the "**Interim Balance Sheet Date**"), and the related unaudited, consolidated statement of income, retained earnings and stockholders' equity of the Business (the "**Interim Financial Statements**") and (ii) the unaudited balance sheet of the Business for the fiscal year ended April 30, 2005 (the "**Balance Sheet**") and related statements of income, retained earnings and stockholders' equity of the Business (collectively with the Interim Financial Statements, the "**Financial Statements**"). The Financial Statements were prepared in accordance with the books and accounts and other financial records of Seller and the Business. The Financial Statements present fairly the consolidated financial condition and results of operations of the Business as of the dates thereof or for the respective periods covered thereby, and the Financial Statements have been prepared in accordance with GAAP applied on a basis consistent with past practices, except that footnotes have been omitted and the Interim Financial Statements are subject to normal year-end adjustments (the effect of which will not, individually or in the aggregate, be significant).

(ii) The Business does not have any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) except for (A) liabilities or obligations shown on the Balance Sheet, (B) liabilities or obligations incurred in the ordinary course of business consistent with past practice since the April 30, 2005 and not in violation of this Agreement, (C) liabilities or obligations which are not required by GAAP to be reflected on a Balance Sheet, (D) liabilities or obligations incurred in connection with this Agreement and the transactions contemplated hereby, (E) the

Excluded Liabilities, (F) liabilities or obligations under the Designated Executory Contracts or (G) liabilities or obligations disclosed hereunder or the schedules hereto.

(m) Absence of Certain Changes. Since the Interim Balance Sheet Date, (i) Seller has conducted the Business in all material respects in the ordinary course, (ii) there has been no Material Adverse Effect and (iii) no Lien has been placed upon any of the Acquired Assets, other than Permitted Liens, and Liens granted in connection with post-petition financing and use of cash collateral (which will be released at the Closing).

(n) Accounts Receivable. The Accounts Receivable of the Business arose out of *bona fide* transactions in the ordinary course of business consistent with past practice. Since the Interim Balance Sheet Date, there have not been any write-offs of any receivables as uncollectable.

(o) Customers and Suppliers. To Seller's Knowledge and except as set forth on Schedule 4.1(o), since the Interim Balance Sheet Date, there has not been any termination or cancellation of, and no substantial change in, the business relationship of the Business with any Major Customer or Major Supplier. To Seller's Knowledge, none of the Major Customers or Major Suppliers intends to cancel or otherwise terminate or materially reduce its business relationship with the Business.

(p) Inventory. The inventory shown on the Financial Statements as of the date of such Financial Statements, net of write-downs and reserves, consisted of analysis materials and work in process billable in the ordinary course of business consistent with past practice.

(q) HVE Benefit Plans.

(i) Schedule 4.1(q) sets forth all material HVE Benefit Plans (including, but not limited to, plans described in Section 3(3) of ERISA), or with respect to which Seller has a material liability (including, but not limited to, liabilities arising from affiliation under Section 414(b), (c), (m) or (o) of the Code, or Section 4001 of ERISA) with respect to employees of the Business.

(ii) With respect to each HVE Benefit Plan, Seller has delivered to Buyer true and complete copies of: (A) any and all plan texts and agreements; (B) any and all summary plan descriptions and material modifications thereto; (C) the most recent annual report, if applicable; (D) the most recent annual and periodic accounting of plan assets, if applicable; and (E) the most recent determination letter received from the IRS, if applicable.

(iii) Except as set forth on Schedule 4.1(q), with respect to each HVE Benefit Plan: (i) such plan has been administered and enforced in accordance with its terms and all applicable Laws in all material respects; (ii) no breach of fiduciary duty has occurred with respect to which Seller or any HVE Benefit Plan may be liable or otherwise damaged in any material respect; (iii) no disputes are pending or threatened; and (iv) no "prohibited transaction" (within the meaning of either Section 4975(c) of the

Code or Section 406 of ERISA) has occurred with respect to which Seller or any HVE Benefit Plan would be liable or otherwise damaged in any material respect.

(iv) Except for the flexible spending account liabilities described in Section 5.3(b) and the accrued but unused vacation described in Section 5.3(i), neither Buyer nor any of its Affiliates will have any liability or obligation of any kind under or in respect of any HVE Benefit Plan.

(v) A true and complete list of all full- and part-time employees of the Business as of the date hereof and their positions, rates of pay and original hire dates has been provided to Buyer by Seller, the particulars of which Seller and Buyer agree to hold in confidence; provided, however, such particulars may be disclosed by Seller to counsel to the Equity Committee and counsel to the Creditors' Committee or as otherwise required by Law or designated by the Bankruptcy Court.

(vi) No person who is a "M&A qualified beneficiary" within the meaning of Treasury Regulation Section 54.4980B-9 Q&A 4 with respect to the transactions contemplated by this Agreement is entitled to receive or elect lifetime COBRA coverage pursuant to Section 4980B(f)(2)(B)(i)(III) of the Code.

(vii) Schedule 4.1(q) sets forth a list of each person (other than any person who is a current employee (or a dependent thereof) of the Business) who, as of the date hereof, would be a "M&A qualified beneficiary" within the meaning of Treasury Regulation Section 54.4980B-9 Q&A 4 with respect to the transactions contemplated by the Agreement assuming that such transactions were consummated on the date hereof.

(r) **Taxes.** Buyer has been provided with true and correct copies of the original and amended Tax Returns of Seller relating solely to the Business for all open years. All Tax Returns relating to the Business and the Acquired Assets have been timely filed in all jurisdictions in which such Tax Returns are required to be filed, and all Taxes shown on such filed Tax Returns have been paid to the extent such Taxes have become due. All such Tax Returns are true and correct in all material respects. All Taxes due and payable with respect to or in connection with the Acquired Assets (whether or not shown on filed Tax Returns) have been timely paid. Seller has never executed any waiver that would have the effect of extending any applicable statute of limitations in respect of any of its Taxes relating solely to the Business. There are no pending assessments against Seller of any additional Taxes, penalties or interest relating to the Business or the Acquired Assets for any fiscal period. Except as set forth on Schedule 4.1(r), there are no ongoing, pending or threatened Tax examinations or audits by any foreign, federal, state or local taxing authority relating to the Business or Acquired Assets. All Taxes and other assessments and levies required by law to be withheld or collected for payment relating to the Business and Acquired Assets have been duly withheld and collected and, to the extent required, paid to the proper governmental entity. No claim has ever been made by an authority in a jurisdiction where Seller or the Partners do not file Tax Returns that the Business, the Acquired Assets or any Partner are or may be subject to taxation by that jurisdiction. There are no Tax Liens or claims pending or, to the knowledge of Seller, threatened against the Business or the Acquired Assets, other than Permitted Liens. There are no outstanding Tax sharing agreements or other such

arrangements between Seller and any other corporation or entity relating solely to the Business.

(s) **Intellectual Property.**

(i) As used herein, "**Intellectual Property**" means all (A) patents, patent applications and patent disclosures, (B) trademarks, service marks, trade dress, trade names, logos and corporate names (in each case, whether registered or unregistered) and registrations and applications for registration thereof together, to the extent applicable, with all of the goodwill associated therewith, (C) copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof, (D) computer software, data, data bases and documentation thereof, (E) standards and protocols developed by the Business, trade secrets and other confidential information (including, without limitation, ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial and marketing plans and customer and supplier lists and information), and (F) domain names. As used herein, "**EAG Intellectual Property**" means Intellectual Property owned or used by Seller in connection with the Business. Schedule 1.1(h), completely and accurately describes all material EAG Intellectual Property. Except with respect to the licenses and other grant of rights listed on Schedule 1.1(h), to Seller's Knowledge, Seller has sufficient rights to use and practice the EAG Intellectual Property consistent with the use and practice in the ordinary course in connection with the Business as it was operated in the past without infringing or misappropriating any third party's Intellectual Property rights.

(ii) Schedule 1.1(h) contains a complete and accurate list of all EAG material Intellectual Property included in clauses (A), (B), (C) (but solely with respect to registered copyrights and registrations therefor), (D) and (F) of the definition of Intellectual Property. Schedule 1.1(h) also contains a complete and accurate list of all licenses and other rights granted by Seller to any third party with respect to any material EAG Intellectual Property and all licenses and other rights granted by any third party to Seller with respect to any EAG Intellectual Property ("**Third Party In-Licenses**"), in each case reasonably identifying the subject Intellectual Property. The use of such EAG Intellectual Property licensed or otherwise granted to Seller in the Business as it is currently operated does not breach any materials terms of any Third Party In-Licenses, and Seller is in compliance with the terms and conditions of all such Third Party In-Licenses. All such Third Party In-Licenses material to the operation of the Business may be assigned as part of the transactions contemplated herein without requirement of additional payment or consent of a third party. Licenses or other rights with respect to Seller-owned EAG Intellectual Property granted to third parties by Seller impose no material restrictions on Seller's use of Seller-owned EAG Intellectual Property in the Business as it is currently operated, other than any licenses that may have been granted using the form license agreement for Seller-owned and Seller-created software that was disclosed to Buyer. There are no pending actions to cause, or to the Knowledge of Seller, threatened or reasonably foreseeable, loss or expiration of any Seller-owned EAG

Intellectual Property. Seller has taken commercially reasonable and appropriate actions to prosecute, maintain and protect the Seller-owned EAG Intellectual Property. Seller has taken commercially reasonable steps to prevent the disclosure of information material to the operation of the Business that is not generally known to the public.

(iii) To Seller's Knowledge, Seller owns or possesses sufficient legal rights to all material EAG Intellectual Property necessary for its business as now conducted. There are no pending, or to the Knowledge of Seller, threatened claims, disputes, issues, conflicts, actions, allegations or challenges: (A) with regard to the ownership of any Seller-owned EAG Intellectual Property; (B) that the conduct of the Business infringes or violates any Intellectual Property of any Person; or (C) that any Person is infringing or misappropriating any Seller-owned EAG Intellectual Property. To Seller's Knowledge, there are no pending, threatened claims, disputes, issues, conflicts, actions, allegations or challenges: (A) with regard to the ownership of any non-Seller-owned EAG Intellectual Property; or (B) that any Person is infringing or misappropriating any non-Seller-owned EAG Intellectual Property.

(iv) Except as provided in Schedule 4.1(s), each employee of Seller has executed an employee invention and assignment agreement substantially in the form of the agreement attached as Schedule 4.1(s). Except as provided in Schedule 4.1(s)), any independent contractor that has performed services on behalf of Seller has executed a written agreement assigning to Seller all Intellectual Property arising out of the services performed on behalf of Seller, and agreeing to not disclose the confidential information of Seller to any third party and to not use such confidential information for any purpose other than the benefit of Seller.

(v) None of the execution and delivery of this Agreement or the consummation of the transactions contemplated by this Agreement will (A) entitle any third party to any royalty or other payment in connection with any EAG Intellectual Property, (B) accelerate the time of any royalty or other payment or trigger any royalty or other payment, increase the amount of any royalty or other payment or trigger any other obligation in connection with any EAG Intellectual Property (other than payments which may be required to record assignments or otherwise change the owner of record on file with various Government agencies of certain Seller-owned Intellectual Property) or (C) terminate, or give rise to the right to terminate, any Third Party In-Licenses.

(t) Real Property. Seller does not own any real property. Schedule 1.1(a) describes all of the EAG Real Property, including the lessor of such leased property, and identifies each lease or any other arrangement under which such property is leased. Seller enjoys peaceful and quiet possession of the EAG Real Property and has not received any written notice asserting the existence of a default under any such leasehold or been informed that the lessor under any such leases has taken action or threatened to terminate the lease before the expiration date specified in the lease, and, except as shown on Schedule 4.1(d), the transactions contemplated by this Agreement will not be the basis for the lessor to terminate the lease prior to that expiration date.

(u) **Brokers.** Except for Houlihan Lokey Howard & Zukin, neither Seller nor, to Seller's Knowledge, any of Seller's Related Persons, has dealt with any broker, finder or similar agent with respect to the transactions contemplated by this Agreement, and neither Seller nor, to Seller's Knowledge, any of Seller's Related Persons, is under any obligation to pay any broker's fee, finder's fee or commission other than to Houlihan Lokey Howard & Zukin in connection with the transactions contemplated by this Agreement.

(v) **WARN Act Compliance.** Seller is in compliance with the requirements of the Worker Adjustment and Retraining Notification Act (the "**WARN Act**") and any similar state or local law, and has no liabilities pursuant to the WARN Act or any similar state or local law (except for any such noncompliance or liabilities that will not result in any liability to Buyer after Closing). Schedule 4.1(v) lists or will list at Closing, by facility and/or site, the name of each employee of the Business who suffered an "employment loss" (as defined by the WARN Act), as well as the date on which it occurred, during the 90-day period preceding the Closing Date.

(w) **Disclosure.** No representation or warranty made by Seller in this Agreement or the certificates delivered pursuant to Section 7.2 contains any untrue statement of material fact or omits to state a material fact necessary to make any of them, in light of the circumstances in which it was made, not misleading.

(x) **Exclusivity of Representations and Warranties.** The representations and warranties made by Seller in this Agreement are in lieu of and are exclusive of all other representations and warranties, including, without limitation, any implied warranties. Seller hereby disclaims any such other or implied representations or warranties, notwithstanding the delivery or disclosure to Buyer or its officers, directors, employees, agents or representatives of any documentation or other information (including any financial projections or other supplemental data not included in this Agreement).

4.2 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization.** Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the state of Delaware, and has all requisite power and authority to own its properties and assets and to conduct its businesses as now conducted.

(b) **Qualification to do Business.** Buyer is duly qualified to do business as a foreign entity and is in good standing in every jurisdiction in which the character of the properties owned or leased by it or the nature of the business conducted by it makes such qualification necessary.

(c) **Authorization and Validity.** Buyer has all requisite power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party and to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Ancillary Agreements to which it is a party and the performance of Buyer's obligations hereunder and thereunder have been duly authorized by all necessary action by

the Buyer, and no other organizational action on the part of Buyer is necessary to authorize such execution, delivery and performance. This Agreement and Ancillary Agreements to which Buyer is a party have been or will be duly executed by Buyer and, subject to the Bankruptcy Court's entry of the Sale Order, constitute, or will when executed constitute, its valid and binding obligations, enforceable against it in accordance with their terms.

(d) **No Conflict or Violation.** The execution, delivery and performance by Buyer of this Agreement and the Ancillary Agreements to which it is a party do not and will not violate or conflict with any provision of the certificate of incorporation or by-laws (or equivalent documents) of Buyer and do not and will not violate any provision of Law, or any Order applicable to Buyer, nor will they result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contract to which Buyer is a party or by which it is bound or to which any of its properties or assets is subject.

(e) **Consents.** The execution, delivery and performance of this Agreement and the Ancillary Agreements to which Buyer is a party do not and will not require any Consent or filing with any Government or any other Person except (i) as may be required to be obtained by Buyer after the Closing in order to own or operate any of the Acquired Assets; (ii) for entry of the Sale Order by the Bankruptcy Court; and (iii) for such Consents and filings, of which the failure to obtain or make would not, individually or in the aggregate, have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby.

(f) **Availability of Funds.** Buyer has binding commitments for, and on the Closing Date Buyer will have, sufficient funds available to finance and consummate the transactions contemplated by this Agreement, including the payment of the Purchase Price in cash at the Closing.

(g) **Adequate Assurances Regarding Designated Executory Contracts.** Buyer believes that it will be capable of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Designated Executory Contracts (it being understood and agreed that if the Bankruptcy Court determines that Buyer has not shown that is capable of satisfying such conditions with respect to any Designated Executory Contract (other than a Material Designated Executory Contract) and the counterparty to such Designated Executory Contract objects to assignment of the Designated Executory Contract to Buyer, then such Designated Executory Contract shall become an Excluded Asset and all liabilities related thereto shall become Excluded Liabilities).

(h) **Investment Representations.** Buyer understands that the Partners Equity has not been registered under the Securities Act of 1933, as amended (the "**Securities Act**") and that the Partners Equity is being offered and sold to Buyer pursuant to an exemption from registration contained in the Securities Act based in part upon Buyer's representations contained in this Agreement.

(i) The Partners Equity to be purchased by Buyer hereunder will be acquired for investment for Buyer's own account, and not as a nominee or agent for any

other person, and not with a view to the public resale or distribution thereof within the meaning of the Securities Act, and Buyer has no present intention of selling, granting any participation in, or otherwise distributing the same (except pursuant to the registration provisions of the Securities Act or applicable foreign securities Laws or pursuant to an applicable exemption therefrom and pursuant to state securities Laws as applicable). Buyer has not been formed for the specific and exclusive purpose of acquiring the Partners Equity.

(ii) At no time was Buyer presented with or solicited by any publicly issued or circulated newspaper, mail, radio, television, or other form of general advertising or solicitation in connection with the offer, sale, and purchase of the Partners Equity.

(iii) Buyer confirms that Seller has made available to Buyer and its representatives and agents the opportunity to ask questions of and receive answers from Seller and its officers, directors, and management regarding the Partners' business, management, and financial affairs and the terms and conditions of the offer and sale of the Partners Equity pursuant to this Agreement and to obtain additional information as Buyer has requested to verify any information furnished to Buyer or to which Buyer had access.

(iv) Buyer (either alone or with its advisors) understands that the purchase of the Partners Equity involves substantial risk. Buyer (either alone or with its advisors) has substantial experience in evaluating and making private acquisitions of securities and companies similar to the Partners Equity and the Partners such that Buyer is capable of evaluating the relative merits and risks of an investment in the Partners Equity, can fend for itself and protect its own interests and can bear the economic risk of its investment in the Partners Equity for an indefinite period of time.

(i) **Litigation**. There is no action, suit, investigation or proceeding pending against, or to the knowledge of Buyer, threatened, before any court or arbitrator or any Government brought by or against or otherwise involving Buyer or its Related Persons that in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated by this Agreement.

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

(k) **Investigation by Buyer**. Buyer is an informed and sophisticated purchaser, and has engaged expert advisors, experienced in the evaluation and purchase of property and assets such as the Acquired Assets as contemplated hereunder. Buyer has conducted its own independent review and analysis of the Acquired Assets and the Assumed Liabilities and the business, operations, technology, assets, liabilities, financial condition and prospects of the Business as formerly carried on by Seller and acknowledges that Seller has provided Buyer with access to the personnel, properties, premises and records of the

Business for this purpose. Buyer has conducted its own independent review of all Orders of, and all motions, pleadings, and other submissions to, the Bankruptcy Court in connection with Bankruptcy Cases. In entering into this Agreement, Buyer has relied solely upon its own investigation and analysis, and Buyer (i) acknowledges that neither Seller nor any of its Affiliates nor any of their respective Related Persons makes or has made any representation or warranty, either express or implied, as to the accuracy or completeness of any of the information provided or made available to Buyer or its Affiliates or any of their respective Related Persons, except for the representations and warranties contained in Section 4.1 (which are subject to the limitations and restrictions contained in this Agreement); and (ii) agrees, to the fullest extent permitted by Law, that none of Seller, its Affiliates or any of their respective Related Persons shall have any liability or responsibility whatsoever to Buyer or its Affiliates or Related Persons on any basis (including, without limitation, in contract or tort, under federal or state securities Laws or otherwise) based upon any information provided or made available, or statements made, to Buyer or its Affiliates or Related Persons (or any omissions therefrom), including, without limitation, in respect of the specific representations and warranties of Seller set forth in this Agreement, except, with regard to Seller, for the representations and warranties contained in Section 4.1 and, with respect to such representations and warranties, subject to the limitations and restrictions contained in this Agreement.

(l) **WARN Act.** Buyer has no intention to, at any time prior to ninety (90) days after the Closing Date, effectuate a "plant closing" or "mass layoff" as those terms are defined in the WARN Act or any similar state or local law.

(m) **Acquisition Agreements.** Each of the parties to each of the Acquisition Agreements have executed and delivered the Acquisition Agreements to the other parties thereto, and Buyer has obtained all necessary consents to the transactions contemplated by the Acquisition Agreements.

(n) **Exclusivity of Representations and Warranties.** The representations and warranties made by Buyer in this Agreement are in lieu of and are exclusive of all other representations and warranties, including, without limitation, any implied warranties. Buyer hereby disclaims any such other or implied representations and warranties.

4.3 **Warranties Exclusive.** The parties acknowledge that the representations and warranties contained in Article 4 are the only representations or warranties given by the parties and that all other express or implied warranties are disclaimed. Without limiting the foregoing, Buyer acknowledges that the Acquired Assets are conveyed "AS IS," "WHERE IS" and "WITH ALL FAULTS" and that all warranties of merchantability or fitness for a particular purpose are disclaimed.

4.4 **Survival of Representations and Warranties.** None of the representations or warranties of the parties hereto set forth in this Agreement or in any certificate delivered pursuant to Section 7.1(a), Section 7.1(b), Section 7.2(a) or Section 7.2(b) shall survive the Closing.

ARTICLE 5
COVENANTS AND OTHER AGREEMENTS.

5.1 Covenants of Seller. Seller covenants as follows:

(a) Conduct of Business. Except as otherwise contemplated by this Agreement, other than those filings and proceedings before the Bankruptcy Court and the incurrence of expenses required thereunder, Seller covenants and agrees that from the date hereof to the Closing Date, Seller shall cause the Business to be conducted in the ordinary course of business as conducted by the Trustee since his appointment, including with respect to management of Working Capital. Except as provided in this Agreement, without the prior written consent of Buyer, which consent shall not be unreasonably withheld Seller shall:

(i) Other than as required pursuant to any HVE Benefit Plan, agreement or other arrangement existing as of the date hereof or as may be required by applicable Law, not (A) adopt any new HVE Benefit Plan or amend any existing HVE Benefit Plan in any material respect, except for changes as may be required by applicable Law or (B) increase any compensation or enter into or amend any employment, severance, termination or similar agreement with any former, present or future employees of the Business; provided that, notwithstanding the foregoing, the Trustee shall implement, subject to the approval of the Bankruptcy Court and after consultation with Buyer, a key employee retention, stay bonus, severance or similar plan (the "**KERP**") with respect to the employees of the Business, which (I) shall provide that the compensation and/or benefits under the KERP shall be payable or provided, as the case may be, by Buyer on the 90th day after the Closing Date (or the first Business Day thereafter, if such day is not a Business Day) (the "**KERP Payout Date**"), (II) does not create any other obligations or liabilities for Buyer at any time, regardless of whether such obligations or liabilities will continue, survive or remain outstanding after the Closing Date and (III) shall provide that the total cost of the KERP, including the maximum employee compensation and/or benefits payable thereunder, shall not exceed $602,947, plus all applicable employment taxes payable by Buyer as employer and required tax withholdings (the "**Maximum KERP Cost**").

(ii) not sell or otherwise dispose of any of the Acquired Assets, or grant or suffer any Lien on any of the Acquired Assets, except for Permitted Liens or Liens approved by the Bankruptcy Court to secure post-petition financing or the use of cash collateral which Liens will be released at or prior to Closing, or make any agreement or commitment to do so, other than the disposition of inventory, in the ordinary course of business;

(iii) not modify, amend, cancel or terminate any Designated Executory Contract;

(iv) maintain the Acquired Assets (including by keeping in force any related maintenance contracts in force as of April 30, 2005) in reasonable operating condition, ordinary wear and tear excepted;

(v) not change in any respect any of its methods or procedures relating to accounting, other than such changes required by GAAP;

(vi) not bring, settle, compromise or waive any claim or legal right included in the Acquired Assets affecting the validity of or value of the Acquired Assets;

(vii) not make any Tax election or change any method of Tax accounting with respect to each Partner that is an Affiliate of Seller; and

(viii) not license any rights under any licenses, sublicenses or any other agreements with respect to any of its intellectual property other than in the ordinary course of business consistent with past practice.

(b) Commercially Reasonable Efforts.

(i) Between the date hereof and the Closing Date, Seller shall use commercially reasonable efforts to (A) obtain all necessary consents, waivers, authorizations and approvals of all Governments, and of all other Persons required to be obtained by Seller in connection with the execution, delivery and performance by Seller of this Agreement and (B) take, or cause to be taken, all reasonable actions, and do, or cause to be done, all things reasonably necessary or proper, consistent with applicable Law and its obligations under this Agreement, to consummate and make effective in an expeditious manner the transactions contemplated hereby, and Seller shall use commercially reasonable efforts, except as may be required by a specific Order of the Bankruptcy Court, to maintain the Acquired Assets substantially in accordance with Seller's current practices and procedures.

(ii) From and after the entry of the Preliminary Order, Seller shall, and shall use commercially reasonable efforts to cause the Seller Parties (A) to observe and comply with the Bidding Procedures as approved by the Bankruptcy Court, and (B) not to directly or indirectly engage in, support, solicit any conduct, act or omission inconsistent with the Bidding Procedures or this Agreement. From the date hereof and until the entry by the Bankruptcy Court of the Bidding Procedures in the Preliminary Order, Seller shall not and shall cause its Related Persons not to initiate, contract with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (other than Buyer and its Related Persons), or negotiate with actual or potential competing bidders in connection with an Alternative Transaction. Notwithstanding the foregoing, from the date hereof and until the entry by the Bankruptcy Court of the Bidding Procedures in the Preliminary Order, the Trustee, Seller and their representatives shall be permitted to furnish to any Person any information and respond to inquiries by any Person interested in effectuating an Alternative Transaction. From the date of the entry by the Bankruptcy Court of the Preliminary Order and until the entry by the Bankruptcy Court of the Sale Order, the Trustee, Seller and their representatives shall be permitted to cause its representatives and Affiliates to solicit and negotiate Alternative Transactions and respond to any inquiries, proposals or offers by, any Person (in addition to Buyer and its Related Persons) in connection with any Alternative Transaction in the manner contemplated by the Preliminary Order.

(iii) From and after the entry of a Sale Order pursuant to which Buyer is the "Winning Bidder" (as defined in the Bidding Procedures), until the earlier of Closing or any Permitted Termination, Seller shall not enter into any agreement to sell all or any part of the Acquired Assets to a Third Party Buyer or propose, encourage, consent to, provide information with respect to, discuss, support or facilitate in any way any plan, sale or transaction that is in any respect inconsistent with this Agreement or the transactions contemplated hereby. Seller agrees that the Preliminary Order shall enjoin any violation of this Section 5.1(b)(iii), that any remedy at law for any breach of the provisions contained in this Section 5.1(b)(iii) would be inadequate, and that Buyer shall be entitled to equitable (including injunctive) relief in addition to any other remedy Buyer might have under this Agreement (including Section 8.2) and applicable Law. Moreover, notwithstanding the fact that any provision of this Section 5.1(b)(iii) is determined not to be specifically enforceable, Buyer shall nevertheless be entitled to recover monetary damages as a result of the breach of such provision by Seller. This Section 5.1(b)(iii) shall survive any termination of this Agreement other than a Permitted Termination.

(iv) Notwithstanding anything herein or in any Ancillary Agreement to the contrary, subject to Section 5.1(b)(ii), Seller may furnish information concerning the Business or the Acquired Assets and the Assumed Liabilities to any Person in connection with a potential Alternative Transaction and negotiate, enter into and consummate an Alternative Transaction, but only in accordance with and subject to the Bidding Procedures as approved by the Bankruptcy Court.

(c) **Buyer's Access to Personnel, Properties and Records; Confidentiality.** Between the date hereof and the Closing Date, Seller shall afford to Buyer, and to the accountants, counsel, financial advisors and other authorized representatives of Buyer, reasonable access during normal business hours to all books, contracts, commitments and records of Seller relating to the Acquired Assets and the Assumed Liabilities, and during such period shall promptly furnish to Buyer such information concerning the Business as Buyer may reasonably request. Upon reasonable prior notice and in addition to the foregoing, Seller shall afford Buyer reasonable access during such period, taking into account Seller's resources and other commitments, during normal business hours, to (i) the Sunnyvale, Chanhassen, Boston and Hsinchu facilities and to all Acquired Assets throughout the period prior to the Closing Date, (ii) the customers and suppliers of the Business, including to make cooperative and investigative sales calls on such customers; and (ii) the employees of the Business in order to permit Buyer and its Related Persons to talk with or otherwise provide information to such employees as Buyer deems appropriate to assure their employment by Buyer after the Closing Date (provided, however, that Buyer shall use reasonable efforts to prevent any such contacts from unreasonably interfering with the operations of Seller's businesses and such employees' duties with Seller). The rights of access contained in this Section 5.1(c) are granted subject to, and on, the following terms and conditions: (A) any such investigation will be conducted in a reasonable manner; (B) Buyer shall not have access to personnel records of Seller relating to individual medical histories, the disclosure of which, in Seller's good faith opinion, could subject Seller or any of its Affiliates to material risk of liability; (C) during the period from the date hereof to the Closing Date, all information provided to Buyer or its agents or representatives by or on behalf of Seller or its agents or representatives (whether pursuant to this Section 5.1(c) or otherwise) will be

governed and protected by the Confidentiality Agreement, dated as of March 28, 2005, between Buyer and Seller (the "**Confidentiality Agreement**") and (D) such rights of access shall not affect or modify the conditions set forth in Article 7 in any way.

(d) **Notice of Certain Events.** Between the date hereof and the Closing Date, Seller shall promptly notify Buyer of:

(i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;

(ii) any notice or other communication from any Government in connection with the transactions contemplated by this Agreement;

(iii) promptly after the same is available, copies of all pleadings, motions, applications, objections, Orders, financial information and other documents filed with the Bankruptcy Court in the Bankruptcy Cases, or received or served on Seller relating to the sale or other disposition of any of the Acquired Assets; and

(iv) any Claims, investigations or proceedings commenced relating to Seller or the Business that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 4.1(f).

(e) **Further Assurances.** At the request and at the sole expense of Buyer, at any time after the Closing Date, Seller shall execute and deliver such documents as Buyer or its counsel may reasonably request to effectuate the purposes of this Agreement. During the 30-day period following the Closing, Seller shall, in cooperation with Buyer and at Seller's sole expense, to record such instruments and documents and take such other actions as may be necessary to evidence the termination and release of any Lien (other than a Permitted Lien) appearing of record immediately after Closing on any Acquired Asset (other than any Lien created by Buyer or its actions).

(f) **Collection of Accounts Receivable.** The parties acknowledge that the Acquired Assets include Accounts Receivable. To the extent that Seller receives any funds from customers of the Business of Seller after the Closing which are paid in satisfaction of such Accounts Receivable, Seller shall hold such funds in trust for the benefit of Buyer and, within five (5) Business Days remit such funds to Buyer.

(g) **Customer and Supplier Information.** No later than 10 days after the date hereof, Seller shall deliver to Buyer (i) the names and addressees of all Major Customers as of the date hereof and the amount for which each such Major Customer was invoiced by the Business during the last 12 months, (ii) the names and addresses of all Major Suppliers as of the date hereof and the amount which each such Major Supplier invoiced the Business during the last 12 months, (iii) all open customer purchase orders and open quotations as of the date hereof and (iv) all Accounts Receivable as of the date hereof, including all related customer information.

(h) **Non-Competition and Non-Solicitation**

(i) For a period of two years following the Closing Date (the "**Non-Competition Period**"), Seller shall not, and shall cause each Affiliate of Seller that is directly or indirectly controlled by Seller (other than High Voltage Engineering Europa BV) not to, engage in any activities that are within the scope of the Business and in competition with the Buyer.

(ii) During the Non-Competition Period, Seller shall not, and shall cause each Affiliate of Seller that is directly or indirectly controlled by Seller not to, directly or indirectly, solicit or attempt to hire any present or future employee of the Business.

(iii) Seller agrees that any remedy at law for any breach of the provisions contained in this Section 5.1(h) may be inadequate and that Buyer shall be entitled to seek equitable (including injunctive) relief in addition to any other remedy Buyer might have under this Agreement and applicable Law.

(i) Seller hereby consents to the purchase by Buyer from certain third parties of all partnership interests in EE and ET not purchased by Buyer from Seller pursuant to this Agreement.

(j) Seller shall take all necessary actions so that as of the Closing, Evans Taiwan (i) is duly registered with all applicable governmental offices and agencies of the Republic of China, (ii) has been granted a certificate of recognition (or similar certificate) by the government of the Republic of China that reflects Seller as the owner of 100% of the interests in Evans Taiwan and (iii) holds in its name a valid company license issued by the government of the Republic of China.

(k) Seller, for itself and its successors and assigns, hereby releases Buyer and its present and future Affiliates from all liabilities and obligations related to or associated with the Cascade Receivable.

5.2 **Covenants of Buyer.** Buyer covenants as follows:

(a) **Commercially Reasonable Efforts.** Between the date hereof and the Closing Date, Buyer shall use commercially reasonable efforts to (i) obtain all consents and approvals of all Governments, and all other Persons, required to be obtained by Buyer to effect the transactions contemplated by this Agreement, and (ii) take, or cause to be taken, all reasonable actions, and do, or cause to be done, all things reasonably necessary or proper, consistent with applicable Law and its obligations under this Agreement, to consummate and make effective in an expeditious manner the transactions contemplated hereby.

(b) **Adequate Assurances Regarding Designated Contracts and Required Orders.** With respect to each Designated Executory Contract, Buyer shall, not fewer than (10) Business Days after the execution of this Agreement, provide adequate assurance of the future performance of such Designated Executory Contract by Buyer; provided that such adequate assurance shall not require the posting of any collateral or security or the payment

or deposit of any sums of money. Between the date hereof and the Closing Date, Buyer agrees that it will promptly take all actions as are reasonably requested by Seller to assist in obtaining the Bankruptcy Court's entry of the Sale Order, including, without limitation, furnishing affidavits, financial information or other documents or information for filing with the Bankruptcy Court (in each case, subject to reasonable confidentiality protections) and making Buyer's employees and representatives available to testify before the Bankruptcy Court.

(c) **Cure of Defaults.** Subject to Section 1.6, Buyer shall, at or prior to the Closing, cure any and all defaults under the Designated Executory Contracts, which defaults are required to be cured under the Bankruptcy Code, so that such Designated Executory Contracts may be assumed by Seller and assigned to Buyer in accordance with the provisions of Section 365 of the Bankruptcy Code.

(d) **Performance under Designated Executory Contracts and Assumed Liabilities.** From and after the Closing Date, Buyer shall, subject to Section 1.6, (i) assume, perform and be solely responsible for all obligations and liabilities of Seller under the Designated Executory Contracts that accrue or are to be performed from and after the Closing Date and all other Assumed Liabilities and (ii) take all actions necessary to satisfy its obligations and liabilities under the terms and conditions of each of the Designated Executory Contracts and all other Assumed Liabilities.

(e) **Cooperation with the PBGC.** To the extent required by applicable Law, Buyer shall cooperate with the Pension Benefit Guaranty Corporation (the "**PBGC**") and its agents and with Seller and its assignees or successors in connection with their activities in respect of the HVE Benefit Plans that are subject to Title IV of ERISA and persons or groups of persons at any time covered by, or beneficiaries of, HVE Benefit Plans.

(f) **Employee Records Retention.** From and after the Closing Date, to the extent required by applicable Law, Buyer shall retain all Employee Records and make such records available to PBGC at its request.

(g) **Seller's Access to Records.** Following the Closing Date, Buyer shall permit Seller and the Chapter 11 Trustee, and their respective counsel, tax, financial and other advisors as may be retained from time to time, Affiliates and successors and assigns (collectively, the "**Seller Parties**"), reasonable access during normal business hours and upon reasonable prior notice to (i) the Records transferred to Buyer pursuant to Section 1.1(p) of this Agreement (including the Records referenced in Section 1.1(g)) and (ii) the continuing employees of the Business, for any purpose related to the administration, sale, operation, wind-down, liquidation or reorganization of the assets, liabilities and bankruptcy estates of Seller and its affiliates. The access referenced in the preceding sentence shall include the right of the Seller Parties to copy and use such Records as they request, provided that the Seller Parties shall reimburse Buyer for its reasonable out-of-pocket expenses related thereto. Buyer shall provide the Seller Parties with reasonable access to management-level employees of the Business during normal business hours to assist the Seller Parties with the foregoing. In the event Buyer wishes to destroy or remove such Records to another location, Buyer shall provide Seller with reasonable notice of such intent and a reasonable opportunity to copy

such Records. The rights of access provided to the Seller Parties in the preceding sentences of this in this Section 5.2(g) shall be exercised by the Seller Parties in a manner that does not unreasonably interfere with the business or operations of Buyer.

5.3 Offer of Employment.

(a) As of the Closing Date, Buyer shall offer employment, conditioned on Closing, to all employees of the Business who are then actively working on matters of the Business (the "**Business Employees**") on terms including, without limitation, (i) base salary as of the date of hire not less than the base salary in effect as of the day preceding the Closing Date and (ii) medical and dental plans and a vacation policy, providing market-competitive (as determined in Buyer's sole discretion) benefits. Each Business Employee who accepts Buyer's employment offer and becomes an employee of Buyer shall be a "**Transferred Employee.**" Following the Closing Date, Buyer shall implement a bonus program for Transferred Employees on such terms and conditions as determined by Buyer in its sole discretion. Within the 60-day period beginning on the Closing Date, Buyer will offer each eligible Transferred Employees participation in a plan intended to be qualified under Section 401(k) of the Code. Notwithstanding anything contained in this Agreement to the contrary, (A) the employment of the Transferred Employees by Buyer shall be subject to Buyer's usual terms, conditions and policies of employment, including, without limitation, Buyer's policies regarding modifications of the terms and conditions of employment, and (B) nothing in this Agreement shall limit the ability of Buyer and its affiliates from revising or terminating any employee benefit plan, program or policy from time to time.

(b) As of the Closing Date, Buyer shall adopt a market-competitive (as determined in Buyer's sole discretion) cafeteria plan (the "**Buyer's Cafeteria Plan**") to replace, for the Transferred Employees, the HVE Benefit Plan that is a cafeteria plan (the "**Seller's Cafeteria Plan**"). As of the Closing Date, Buyer and Buyer's Cafeteria Plan shall assume all liability and obligation in respect of the Transferred Employees for the health and dependent care flexible spending account features of Seller's Cafeteria Plan and will credit the health and dependent care flexible spending account balances of the Transferred Employees under Buyer's Cafeteria Plan with amounts equal to their respective account balances under Seller's Cafeteria Plan (net of outstanding reimbursement checks) as of immediately prior to the Closing Date. On the Closing Date, Seller shall deliver to Buyer a check for the aggregate positive account balances (net of outstanding reimbursement checks) of the Transferred Employees under the health and dependent care flexible spending account features of Seller's Cafeteria Plan as of immediately prior to the Closing Date, along with the following information: (i) the account balance (net of outstanding reimbursement checks) of each Transferred Employee under the health and dependent care flexible spending account features of Seller's Cafeteria Plan as of immediately prior to the Closing Date, and (ii) copies of all records relating to claims, payments and contributions made under the health and dependent care flexible spending account features of Seller's Cafeteria Plan in respect of Transferred Employees for the plan year including the Closing up through the date immediately preceding the Closing Date. Seller shall provide Buyer and its affiliates with such information and assistance as Buyer may reasonably request to fulfill its obligations under this Section 5.3(b) in respect of health and dependent care flexible spending accounts.

(c) Except for the flexible spending account liabilities in respect of Transferred Employees described in Section 5.3(b) and for accrued but unused vacation as described in Section 5.3(i), Seller shall retain all liability, responsibility and obligation with respect to the HVE Benefit Plans on and after the Closing Date and for any workers compensation claims that relate to events occurring on or prior to the Closing Date. Seller agrees that such liability, responsibility and obligation of the HVE Benefit Plans shall include, but not be limited to, satisfying all medical, dental or other welfare benefit claims incurred on or prior to the last day of the 60-day period beginning on the Closing Date (the "**Transition Period**") with respect to the Transferred Employees and their beneficiaries, regardless of whether the payment therefore is due or a claim is filed before or after the last day of the Transition Period. For the purposes of this Section 5.3(c), a claim is deemed incurred when the services, materials or supplies that are the subject of the claim are performed or provided; in the case of life insurance, when death occurs; in the case of disability benefits, when the event causing disability occurs; and in the case of a hospital stay, when the hospital stay begins.

(d) Prior to the Closing Date, Seller shall take all such action as may be necessary, if any, to cause the Transferred Employees to become (i) ineligible to contribute to the HVE Benefit Plan which is intended to be qualified under Section 401(k) of the Code in respect of compensation earned on or after the Closing Date, and (ii) fully vested, as of the Closing Date, in their accrued benefits under each HVE Benefit Plan which is a "pension plan" within the meaning of Section 3(2) of ERISA.

(e) All wages and commissions, all employee payroll deductions, employer matching, profit sharing, retirement or other similar contributions to the HVE Benefit Plans, and all employee withholding taxes relating to services provided by the Transferred Employees through the date immediately preceding the Closing Date shall be paid or contributed prior to the Closing Date. With respect to each Transferred Employee, all bonus and incentive compensation amounts payable or accrued under the HVE Benefit Plans with respect to any period that ended prior to the Closing Date or that included the date immediately preceding the Closing Date shall be paid prior to the Closing Date.

(f) No provision of this Section 5.3 shall create any third party beneficiary rights in any Transferred Employee or any other employee or former employee (including any beneficiary or dependent of any Transferred Employee or other employee or former employee) of Seller or any of its affiliates in respect of continued employment (or resumed employment) or any other matter.

(g) Seller (and "seller's group" within the meaning of Treasury Regulation Section 54.4980B-9 Q&A 3) shall have all responsibility and obligation to make COBRA continuation coverage available to all persons who are "M&A qualified beneficiaries" within the meaning of Treasury Regulation Section 54.4980B-9 Q&A 4 with respect to the transactions contemplated by this Agreement; provided, however, that in the event Seller and seller's group ceases to maintain a group health plan following the Closing Date, Buyer shall have sole responsibility to provide COBRA continuation coverage benefits under Buyer's group health plans to all such M&A qualified beneficiaries.

(h) Seller shall cooperate with Buyer so as to allow Buyer to (i) arrange and conduct for Business Employees prior to the Closing Date an open enrollment period for Buyer's benefit plans and employee orientation sessions (with such sessions to be held at times reasonably agreed to by Buyer and Seller), and (ii) meet with the Business Employees (either individually or in groups) during breaks, outside of scheduled work hours or as otherwise agreed to by Buyer and Seller.

(i) Buyer shall credit, as of the end of the Transition Period, all Transferred Employees with Buyer with all of their time of service with the Business pursuant to Buyer's medical and other welfare benefit plans in computing the benefits available to such employees under such welfare benefit plans, and, as of the Closing Date, shall allow such employees to carry over all of their vacation time accrued and not taken (or cashed out) during their employment with the Business to the extent such unused vacation is accrued on the Financial Statements; provided, however, that Buyer shall not carry over, and shall have no liability for, any accrued but unused vacation of the Transferred Employees which Seller is required to cash out under applicable Law. With respect to each medical plan of Buyer in which Transferred Employees become participants as of the end of the Transition Period, Buyer shall cause there to be waived any pre-existing condition exclusions, except to the extent such pre-existing condition exclusions actually applied as of the last day of the Transition Period to limit, restrict or deny coverage to a Transferred Employee under the HVE Benefit Plans which provided medical coverage to the Transferred Employee on the last day of the Transition Period.

(j) Buyer and Seller acknowledge and agree that each will be responsible for 50% of the actual cost of the KERP, including 50% of all compensation and/or benefits payable thereunder (including all required tax withholding therefrom), and 50% of all taxes payable by Buyer as employer in respect thereof. Buyer shall retain from the payment otherwise due to Seller at the Closing in accordance with Section 3.3 an amount equal to 50% of the Maximum KERP Amount, representing an estimate of Seller's responsibility for the KERP (**"Seller's Estimated KERP Amount"**). Within five (5) Business Days after the KERP Payout Date, Buyer shall prepare and deliver to Seller a reasonably detailed and itemized statement of the actual costs incurred by Buyer in connection with the KERP as of the KERP Payout Date (**"Buyer's KERP Costs"**), along with a certificate executed by a senior financial officer of Buyer certifying that such statement was prepared in good faith and in accordance with GAAP,. In the event that Buyer's KERP Costs are less than the Maximum KERP Amount, then Buyer shall promptly pay to Seller an amount equal to 50% of such deficiency by delivery of certified or official bank check or wire transfer in immediately available funds.

5.4 Covenants of Buyer and Seller. Buyer and Seller agree that:

(a) **Reasonable Efforts; Further Assurances**. Seller and Buyer agree to use their commercially reasonable efforts to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate the Closing. Until Closing, Seller and Buyer shall use

their respective commercially reasonable efforts and diligently cooperate to ensure that the Key Analysts remain employed with the Business.

(b) **Certain Filings**. Seller and Buyer shall cooperate with one another (i) in determining whether any action by or in respect of, or filing with, any Government is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any material contracts, in connection with the consummation of the transactions contemplated by this Agreement and (ii) in taking such actions, causing such actions to be taken, making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.

(c) **Approval of Preliminary Order and Sale Order.** Buyer and Seller agree that they will promptly and diligently take and pursue all actions as are reasonably necessary to assist in obtaining the Bankruptcy Court's entry of the Preliminary Order (including approval of the Bidding Procedures) and the Sale Order, including, without limitation, furnishing affidavits, financial information or other documents or information for filing with the Bankruptcy Court and making such party's employees and representatives available to testify before the Bankruptcy Court. The obligations of Buyer and Seller hereunder are conditioned, at Buyer's election, on the entry of the Preliminary Order by no later than the 30th day after the date of this Agreement and the entry of the Sale Order by no later than the 45th day after the entry of the Preliminary Order; in the event such Orders shall not have been so entered by the Bankruptcy Court by such dates, then Buyer may terminate this Agreement pursuant to and as provided in Section 8.1(f).

(d) **Use of Business Names by Buyer and Seller**. The parties acknowledge that Buyer is purchasing Seller's right, title and interest in those trademarks set forth on Schedule 1.1(h) and the goodwill associated therewith ("**Buyer Marks**"). The parties further acknowledge that Seller shall retain ownership of the names and marks "High Voltage Engineering," "HVE," and any and all derivations thereof and the goodwill associated therewith (collectively, "**Seller Marks**"). Notwithstanding the foregoing, with respect to Buyer's use of Seller Marks and Seller's use of Buyer Marks, each party is licensed to use the marks of the other party in accordance with reasonable trademark guidelines and quality control standards established by the owner of the Buyer Marks and the Seller Marks, as applicable, for a period of 30 days from the Closing Date. All goodwill shall inure to the benefit of the Buyer Marks or Seller Marks, as applicable.

(e) **Absence of Litigation**. Unless waived by Seller and Buyer, the obligations of the parties hereto to consummate the transactions contemplated by this Agreement shall be subject to the absence on or before the Closing Date of any order, injunction, judgment or decree by any Government that enjoins, restrains or prohibits the consummation of the transactions contemplated by this Agreement.

(f) **Notices**. Prior to the Closing, each party hereto shall promptly notify the other party in writing in accordance with Section 10.5 of all facts, events, circumstances and occurrences arising after the date of this Agreement which could be reasonably expected to result in a breach of representation or warranty or covenant of such party in this Agreement

or which could be reasonably expected to have the effect of making any representation or warranty of such party in this Agreement untrue or incorrect.

5.5 Survival of Covenants. Except for the covenants and agreements expressly by their terms to be performed after the Closing Date (including those contained in Sections 1.6(b), 5.1(a)(i)(proviso only), 5.1(e), 5.1(f), 5.1(h), 5.1(i), 5.1(j), 5.1(k), 5.2(e), 5.2(f), 5.2(g), 5.3, 5.4(d) and Articles 2, 6, 8 and 10 and those related to the Assumed Liabilities and the Excluded Liabilities), none of the respective covenants and agreements of Seller and Buyer herein, or in any other document delivered prior to or at the Closing, will survive the Closing.

ARTICLE 6
TAXES.

6.1 Payment of Taxes. Subject to Section 6.2, Seller shall retain liability for and shall pay all Taxes with respect to the Business or Acquired Assets that are attributable to or allocable to any Pre-Closing Tax Period, and Seller shall be entitled to any refund of Taxes that is attributable to any Pre-Closing Tax Period. Buyer shall pay all Taxes with respect to the Business or the Acquired Assets that are attributable to or allocable to any Post-Closing Tax Period and shall be entitled to any refund of Taxes that are attributable or allocable to any Post-Closing Tax Period. Real and personal property Taxes set forth on Schedule 6.3 shall be prorated and apportioned between Buyer and Seller in accordance with Section 6.3 herein.

6.2 Transfer Taxes Related to Purchase of Acquired Assets. All federal, foreign, state and local sales, transfer, stamp, excise, value-added or other similar Taxes, recording and filing fees (collectively, "**Transfer Taxes**"), that may be imposed by reason of the sale, transfer, assignment and delivery of the Acquired Assets, and are not exempt under Section 1146(c) of the Bankruptcy Code, shall be paid 50% by Buyer and 50% by Seller. Buyer and Seller agree to cooperate to determine the amount of Transfer Taxes payable in connection with the transactions contemplated under this Agreement. Seller agrees to assist Buyer reasonably in the preparation and filing of any and all required returns for or with respect to such Transfer Taxes with any and all appropriate taxing authorities.

6.3 Proration and Payment of Real and Personal Property Taxes. The items listed on Schedule 6.3 hereto relating to real and personal property taxes and assessments on the Acquired Assets for any taxable period commencing on or prior to the day immediately preceding the Closing Date (the "**Adjustment Date**") and ending after the Adjustment Date shall be prorated between Buyer and Seller as of the close of business on the Adjustment Date. All such prorations shall be allocated so that items relating to time periods ending prior to the Adjustment Date shall be allocated to Seller based upon the number of days in the period prior to the Closing Date and items related to time periods beginning on or after the Adjustment Date shall be allocated to Buyer based upon the number of days in the period from and after the Closing Date; provided, however, that the parties shall allocate any real property Tax in accordance with Section 164(d) of the Code. The amount of all such prorations of the items listed in Schedule 6.3 shall be settled and paid by the respective parties on the Closing Date; provided, however, that final payments with respect to prorations that are not able to be calculated on the Closing Date shall be calculated and paid by the respective parties as soon as practicable thereafter.

6.4 Cooperation on Tax Matters.

(a) Buyer and Seller agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Acquired Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other proceeding relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.

(b) Buyer agrees to retain possession, at its own expense, of all accounting, business, financial and Tax records and information relating to the Acquired Assets or the Assumed Liabilities that are in existence on the Closing Date and transferred to Buyer hereunder for a period of at least six (6) years from the Closing Date, and will give Seller notice and an opportunity to retain at Seller's cost any such records in the event that Buyer determines to destroy or dispose of them after such period. In addition, from and after the Closing Date, each party agrees that it will provide access to the other party and its attorneys, accountants and other representatives (after reasonable notice and during normal business hours and without charge), to the books, records, documents and other information relating to the Acquired Assets or the Assumed Liabilities as either may reasonably deem necessary to (x) properly prepare for, file, prove, answer, prosecute and/or defend any such Tax Return, claim, filing, tax audit, tax protest, suit, proceeding or answer or (y) administer or complete any cases under Chapter 11 of the Bankruptcy Code of Seller or the other HVE Parties. Such access shall include, without limitation, access to any computerized information retrieval systems relating to the Acquired Assets or the Assumed Liabilities.

6.5 Allocation of Purchase Price and Purchase Price Allocation Forms.

(a) Buyer and Seller shall agree to allocate the Purchase Price and the Assumed Liabilities among the Acquired Assets in accordance with a purchase price allocation schedule (the "**Allocation**"), which shall be prepared in accordance with subsection (b) below; provided, however, that if Buyer and Seller are not able to agree upon the Allocation, then each party shall prepare the Allocation in a manner that meets the requirements of subsection (b) below. Seller and Buyer will cooperate in preparing and filing with the Internal Revenue Service their respective Forms 8594 as provided for in Section 1060 of the Code on a basis consistent with the Allocation, and the Allocation shall be reflected on any Tax Returns required to be filed as a result of the transactions contemplated hereby. Neither Seller nor Buyer shall take any position on any of their respective Tax Returns that is contrary to the Allocation.

(b) The Allocation prepared pursuant to subsection (a), above, shall allocate the Purchase Price and Assumed Liabilities among the Acquired Assets in accordance with U.S. federal income tax law (specifically Section 1060 of the Code and the Treasury Regulations promulgated thereunder) and in the following manner and order:

(i) FIRST, to assets included in working capital, pro rata, based upon and to the extent of their respective values at Closing; and then

(ii) SECOND, to equipment, pro rata, based upon their respective fair market values at Closing; and then

(iii) THIRD, to assets included in tangible and intangible assets, other than assets described in the preceding two clauses or goodwill, pro rata, based upon their respective fair market values as of the Closing, until an amount equal to the aggregate fair market value of those assets has been allocated to them; and then

(iv) FINALLY, any portion of the Purchase Price and Assumed Liabilities in excess of the aggregate of amounts allocated pursuant to the preceding three clauses shall be allocated to goodwill, until the entire Purchase Price and Assumed Liabilities has been allocated.

6.6 FIRPTA Certificate. Seller shall deliver to Buyer at the Closing an affidavit that Seller is not a foreign person in accordance with Section 1445(b)(2) of the Code.

6.7 338 Tax Election. Neither Buyer nor Seller shall make an election under Section 338 of the Code to have the sale and transfer of the Partners Equity treated as an acquisition of the assets of any of the Partners.

ARTICLE 7
CONDITIONS PRECEDENT TO PERFORMANCE BY PARTIES.

7.1 Conditions Precedent to Performance by Seller. The obligation of Seller to consummate the transactions contemplated by this Agreement is subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which (other than the condition contained in Section 7.1(c)(i)) may be waived by Seller in its sole discretion:

(a) Representations and Warranties of Buyer. All representations and warranties made by Buyer in Section 4.2 shall be accurate on and as of the Closing Date as if again made by Buyer on and as of such date (except for those representations and warranties that expressly relate to a particular date, in which case such representations and warranties shall have been accurate as of such date), except for inaccuracies that do not result in a material adverse effect on Buyer's ability to perform its obligations hereunder, and Seller shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, to that effect.

(b) Performance of the Obligations of Buyer. Buyer shall have performed in all material respects all obligations and covenants required under this Agreement to be performed by it on or before the Closing Date in accordance with the terms of this Agreement (except with respect to the obligation to pay the amounts specified in Section 3.3(b), which obligation shall be performed in all respects as required under this Agreement), and Seller shall have received a certificate dated the Closing Date and signed by a duly authorized officer of Buyer, to that effect.

(c) **Consents and Approvals.**

(i) The Bankruptcy Court shall have entered the Sale Order, and no Order staying, reversing, modifying or amending the Sale Order shall be in effect on the Closing Date.

(ii) All other Consents required from any Government entity to permit the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect.

(d) **No Violation of Orders.** No preliminary or permanent injunction or other Order by any Government that declares this Agreement or any Ancillary Agreement invalid or unenforceable in any respect or enjoins, restrains, prohibits, or prevents the consummation of the transactions contemplated hereby or thereby shall be in effect.

(e) **Cure of Defaults.** At or prior to the Closing, Buyer shall have cured, or made arrangements, to cure promptly, any and all defaults under the Designated Executory Contracts that are required to be cured under the Bankruptcy Code, so that such Designated Executory Contracts may be assumed by Seller and assigned to Buyer in accordance with the provisions of Section 365 of the Bankruptcy Code.

(f) **Receipt of Documents.** Seller shall have received all documents it may reasonably request relating to the existence of Buyer and the authority and ability of Buyer to execute this Agreement and perform its obligations hereunder, all in form and substance reasonably satisfactory to Seller.

(g) **List of Designated Executory Contracts.** Without limiting anything under Section 1.6, not more than ten (10) Business Days after Seller's delivery of (and each, if any, subsequent supplement or amendment to) Schedule 1.1(c), Buyer shall deliver to Seller a list (or, as applicable, an amendment thereto) of the Designated Executory Contracts to be acquired by Buyer in connection with the Closing, pending approval of such list by the Bankruptcy Court; provided that at or before the date hereof, Seller shall have provided to Buyer a true and complete copy of Schedule 1.1(c) in conformity with the requirements of Section 1.1(c).

7.2 **Conditions Precedent to the Performance by Buyer.** The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which (other than the condition contained in Section 7.2(c)(i)) may be waived by Buyer in its sole discretion:

(a) **Representations and Warranties of Seller.** All representations and warranties made by Seller in Section 4.1, without giving effect to any "materiality" or "Material Adverse Effect" qualifiers therein, shall be accurate on and as of the Closing Date as if again made by Seller on and as of such date (except for those representations and warranties that expressly relate to a particular date, in which case such representations and warranties shall have been accurate as of such date), except for inaccuracies that do not result, individually or in the aggregate, in a Material Adverse Effect, and Buyer shall have

received a certificate, dated the Closing Date and signed by the Trustee on behalf of Seller, to that effect.

(b) **Performance of the Obligations of Seller.** Seller shall have performed all obligations and covenants required under this Agreement to be performed by it on or before the Closing Date, other than failures of performance that do not result in a Material Adverse Effect, and Buyer shall have received a certificate, dated the Closing Date and signed by the Chief Executive Officer of Seller, to that effect.

(c) **Consents and Approvals.**

(i) The Bankruptcy Court shall have entered the Sale Order, and no Order staying, reversing, modifying or amending the Sale Order shall be in effect on the Closing Date.

(ii) All other Consents required from any Government entity to permit the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect.

(d) **No Violation of Orders.** No preliminary or permanent injunction or other Order by any Government that declares this Agreement or any Ancillary Agreement invalid or unenforceable in any respect or enjoins, restrains, prohibits, or prevents the consummation of the transactions contemplated hereby or thereby shall be in effect.

(e) **Material Designated Executory Contracts.** At or prior to the Closing, Seller shall have obtained the approval of the Bankruptcy Court for the assignment to and assumption by Buyer of the Material Designated Executory Contracts.

(f) **Evans Taiwan.** As of the Closing, Evans Taiwan shall have at least $75,000 in cash on its books.

ARTICLE 8
TERMINATION.

8.1 **Conditions of Termination.** This Agreement may be terminated at any time before the Closing:

(a) By mutual written consent of Seller and Buyer;

(b) By Seller, by written notice to Buyer, or by Buyer, by written notice to Seller, on or after the date that is 150 days after the date hereof (the "**Termination Date**") if the Closing shall not have occurred on or prior to the Termination Date, subject, however, to extension by the mutual written consent of Seller and Buyer; provided, however, that a party shall not have the right to terminate this Agreement under this Section 8.1(b) if the failure of the Closing to occur on or prior to the Termination Date is as a result of such party's conduct or if such party is then in material breach of this Agreement;.

(c) By Seller, by written notice to Buyer, or by Buyer, by written notice to Seller, if any injunction or other Order contemplated by Section 7.1(d) and Section 7.2(d) shall have become effective; provided, however, that a party shall not have the right to terminate this Agreement under this Section 8.1(c) if (i) such party is then in material breach of this Agreement or (ii) such party failed to use its commercially reasonable efforts to oppose the entry of any such injunction or other Order described in Section 7.1(d) and Section 7.2(d);

(d) By Seller, by written notice to Buyer, on or after the date that is sixty (60) days after the date on which the Preliminary Order is entered (the "**Warranty Termination Date**"), if the conditions contained in Section 7.1(a) or Section 7.1(b) would not be satisfied or waived if the Closing Date were the date of such notice; provided that Seller has previously provided Buyer with notice under Section 5.4(f) of any breach of representation or warranty or covenant resulting in such condition not being satisfied, and Buyer has failed, within ten (10) days after such notice, to remedy such inaccuracy or perform such covenant or provide reasonably adequate assurance to Seller of Buyer's ability, to remedy such inaccuracy or perform such covenant; provided, further, that Seller shall not have the right to terminate this Agreement under this Section 8.1(d) if Seller is then in material breach of this Agreement;

(e) By Buyer, by written notice to Seller, on or after the Warranty Termination Date, if the conditions contained in Section 7.2(a) and Section 7.2(b) would not be satisfied or waived if the Closing Date were the date of such notice; provided that Buyer has previously provided Seller with notice under Section 5.4(f) of any breach of representation or warranty or covenant resulting in such condition not being satisfied, and Seller has failed, within ten (10) days after such notice, to remedy such inaccuracy or perform such covenant or provide reasonably adequate assurance to Buyer of Seller's ability, to remedy such inaccuracy or perform such covenant; provided, further, that Buyer shall not have the right to terminate this Agreement under this Section 8.1(e) if Buyer is then in material breach of this Agreement;

(f) By Buyer, by written notice to Seller, if (i) the Preliminary Order is not entered by the Bankruptcy Court within thirty (30) days after the date hereof, or (ii) the Sale Order is not entered by the Bankruptcy Court within forty-five (45) days after the entry of the Preliminary Order; provided, that Buyer shall not have the right to terminate this Agreement under this Section 8.1(f) if Buyer is then in material breach of this Agreement;

(g) By Buyer, by written notice to Seller, if, after the completion of the auction process of the Acquired Assets in accordance with the Bidding Procedures, Buyer is not the "Chosen Bidder" (as defined in the Bidding Procedures);

(h) By Buyer, by written notice to Seller, if, after the completion of the auction process of the Acquired Assets in accordance with the Bidding Procedures, Buyer is the "Chosen Bidder" (as defined in the Bidding Procedures) but not the "Winning Bidder" (as defined in the Bidding Procedures); or

(i) Automatically, if Seller enters into an agreement providing for, or consummates, an Alternative Transaction.

8.2 Effect of Termination; Remedies.

(a) In the event of termination of this Agreement pursuant to Section 8.1, this Agreement shall become null and void and have no effect (other than Section 5.1(b)(iii) and Articles 8 and 10, which shall survive termination), with no liability on the part of Seller or Buyer, or their respective Affiliates or Related Persons, with respect to this Agreement or any Ancillary Agreement, except for (i) the liability of a party for its own expenses pursuant to Section 10.3; (ii) any liability provided for in Section 8.2(b) through Section 8.2(g), inclusive (or by the express terms of any other Section of this Agreement that survives such termination) and (iii) the Confidentiality Agreement.

(b) If this Agreement is terminated pursuant to Section 8.1(a), Section 8.1(b), Section 8.1(c) or Section 8.1(f), then, within 10 Business Days after such termination, the Performance Deposit, together with any interest accrued thereon, shall be returned to Buyer in accordance with the terms of the Performance Escrow Agreement, as Buyer's sole and exclusive remedy.

(c) If this Agreement is terminated pursuant to Section 8.1(d) then, within 10 Business Days after such termination, the Performance Deposit, together with any interest accrued thereon, shall be paid to Seller in accordance with the terms of the Performance Escrow Agreement, as Seller's sole and exclusive remedy.

(d) If this Agreement is terminated pursuant to Section 8.1(e) then, without limiting any further rights to which Buyer might also be entitled under Section 5.1(b)(iii), within 10 Business Days after such termination, the Performance Deposit, together with any interest accrued thereon, shall be returned to Buyer in accordance with the terms of the Performance Escrow Agreement; provided, however, that if this Agreement is terminated pursuant to Section 8.1(e) because of

(i) (A) the failure of a condition contained in Section 7.2(a) caused by a breach of a representation or warranty made as of the date hereof under Section 4.1 or (B) the failure of a condition contained in Section 7.2(b) or Section 7.2(f), then, in addition to the return of the Performance Deposit as set forth above in this Section 8.1(d), Seller shall pay to Buyer the Break-Up Fee in cash, or

(ii) the failure of a condition contained in Section 7.2(a) caused by (A) the failure of a representation or warranty to be accurate as of the Closing Date which was accurate as of the date hereof or (B) the termination of employment of any five (5) or more Key Analysts, then, in addition to the return of the Performance Deposit as set forth above in this Section 8.1(d), Seller shall reimburse Buyer for its reasonably documented expenses actually incurred in connection with the transactions contemplated by this Agreement, not to exceed $450,000 (the "**Expense Reimbursement**"), in addition to the return of the Performance Deposit as set forth above.

(e) If this Agreement is first terminated pursuant to Section 8.1(g) or Section 8.1(h), then, within 10 Business Days after such termination, (i) the Performance Deposit, together with any interest accrued thereon, shall be returned to Buyer in accordance with the terms of the Performance Escrow Agreement and (ii) if Seller consummates an Alternative Transaction, Seller also shall pay to Buyer the Break-Up Fee in cash in accordance with Section 9.1(a).

(f) If this Agreement is first terminated pursuant to Section 8.1(i) then, (i) within two Business Days after Seller enters into an agreement to consummate or consummates an Alternative Transaction, the Performance Deposit, together with any interest accrued thereon, shall be returned to Buyer in accordance with the terms of the Performance Escrow Agreement and (ii) Seller also shall pay to Buyer the Break-Up Fee in cash at the closing of such Alternative Transaction.

(g) Any payments of the Break-Up Fee or the Expense Reimbursement under this Section 8.2 shall be made by Seller by wire transfer of immediately available funds to an account designated in writing by Buyer and (to the extent not inconsistent with anything in the Section 8.2) otherwise in accordance with Section 9.1(a).

8.3 **Exclusive Remedy**. Prior to the Closing Date, the parties' sole and exclusive remedies for any claim arising out of or in connection with this Agreement shall be termination in accordance with this Article 8 (unless expressly provided otherwise elsewhere in this Agreement).

ARTICLE 9
BANKRUPTCY MATTERS.

9.1 Bankruptcy Court Approval of Preliminary Order and Sale Order.

(a) Seller hereby confirms that it is integral to the process of arranging an orderly sale of the Acquired Assets to proceed by selecting Buyer to enter into this Agreement in order to present the Bankruptcy Court with arrangements for obtaining the highest realizable prices for the Acquired Assets and that, without Buyer having committed substantial time and effort to such process, the estate of Seller may have had to employ a less orderly sale process and thereby incur higher costs and risk attracting lower prices. Accordingly, the contributions of Buyer to the process have provided substantial benefit to the estate of Seller. Seller acknowledges that Buyer would not have invested the effort in negotiating and documenting the transaction provided for herein or incurred the related opportunity costs and actual out-of-pocket expenses, including professional fees, if Buyer were not entitled to a break-up fee of one million dollars ($1,000,000) (the "**Break-Up Fee**") or the Expense Reimbursement, as applicable, on the terms set forth herein and in the Preliminary Order. Seller further acknowledges that Buyer would not have invested the effort in negotiating and documenting the transaction provided for herein or incurred the related opportunity costs and actual out-of-pocket expenses, including professional fees, if Seller had not definitively committed that, subject to Bankruptcy Court approval, it will sell the Acquired Assets either to Buyer or to a person who makes a higher and better Qualified Bid in accordance with the bidding procedures set forth in the Preliminary Order. The Break-

Up Fee or the Expense Reimbursement, if applicable, shall be payable to Buyer as required under Section 8.2. The Break-Up Fee or the Expense Reimbursement, if payable in accordance with the foregoing, shall be made from the first proceeds of the sale(s) of any or all of the Acquired Assets (notwithstanding any Liens on such proceeds), or if for any reason there are no such cash proceeds or insufficient cash proceeds, then from other estate cash, within three (3) days after the closing of the sale of such assets or the other event that gives rise to payment of the Break-Up Fee or the Expense Reimbursement. The Break-Up Fee or the Expense Reimbursement shall be entitled to the status of an administrative expense under sections 503(b) and 507(a)(1) of the Bankruptcy Code, without the need for Buyer to file any application or motion or obtain any Order of the Bankruptcy Court. Buyer acknowledges and agrees that in no event shall it be entitled to payment of both the Break-Up Fee and the Expense Reimbursement.

(b) As promptly as practicable after the date hereof, Seller shall file and serve motions with the Bankruptcy Court seeking: (i) an order, in form and substance reasonably satisfactory to Buyer, approving the Break-Up Fee and all other payments to Buyer arising in connection with the transactions contemplated by this Agreement as obligations of Seller having priority as an administrative expense in its case before the Bankruptcy Court under 11 U.S.C. Sections 503(b) and 507(a); approving the bidding procedures attached hereto as Exhibit A (the "**Bidding Procedures**"); approving procedures relating to the sale of the Acquired Assets under Sections 363 and 365 of the Bankruptcy Code; approving the adequacy of notice to creditors and parties in interest for the approval of the transactions contemplated hereby and setting a date for a hearing on the asset sale no later than thirty (30) days after the approval of the Bidding Procedures (the "**Preliminary Order**"); and (ii) an order, in form attached hereto as Exhibit B (with any modifications acceptable to Buyer), authorizing Seller to sell the Acquired Assets to Buyer pursuant to this Agreement and Sections 105, 363 and 365 of the Bankruptcy Code, free and clear of all Liens in or on the Acquired Assets (including any and all "claims and interests" in the Acquired Assets within the meaning of Section 363(f) of the Bankruptcy Code), other than Permitted Liens and otherwise free and clear of claims and liabilities, such that Buyer shall not, among other things, incur any liability as a successor to the Business and authorizing, among other things, Seller, pursuant to Section 365 of the Bankruptcy Code, to assume and to assign to Buyer the Assumed Liabilities and the Designated Executory Contracts and liabilities thereunder under Section 365 of the Bankruptcy Code, all in the manner and subject to the terms and conditions set forth in this Agreement and the Sale Order and in accordance with other applicable provisions of the Bankruptcy Code (the "**Sale Order**").

(c) The Preliminary Order shall be consistent with the Bidding Procedures attached hereto as Exhibit A and otherwise in form and substance reasonably satisfactory to Seller and Buyer. The Sale Order shall be in form and substance satisfactory to Seller and Buyer. The motions relating to the Preliminary Order and the Sale Order and the service of such motions shall be in form and substance reasonably satisfactory to Buyer.

(d) Subject to the Preliminary Order, Seller shall promptly make any filings, take all actions, and use all reasonable efforts to obtain any and all other approvals and orders necessary or appropriate for consummation of the transactions contemplated hereby, subject to Seller's obligations to comply with any order of the Bankruptcy Court and other applicable

Law. Without limiting the foregoing, Seller shall cause the motions filed with the Bankruptcy Court seeking the Sale Order to be served contemporaneously with such filing on all parties entitled to notice under the Bankruptcy Code, including any party who has or who has asserted any interest in any of the Acquired Assets.

9.2 Bidding Procedures. Seller (a) shall conduct the auction process of the Acquired Assets in material accordance with the Bidding Procedures attached hereto as Exhibit A, subject to the approval of the Bankruptcy Court and (b) shall not amend, waive, modify or supplement the Bidding Procedures except as set forth therein.

9.3 Joinder. As a condition of Seller exercising any right under this Agreement or the Ancillary Agreement, Seller agrees that it shall cause any successor entity of its business to become a party to this Agreement and the Ancillary Agreement to which it is a party, in each case agreeing to be bound by all of its predecessor's obligations hereunder and thereunder.

ARTICLE 10
MISCELLANEOUS.

10.1 Successors and Assigns. No party hereto shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party hereto, and any such attempted assignment without such prior written consent shall be void and of no force and effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto.

10.2 Governing Law; Jurisdiction. This Agreement shall be construed, performed and enforced in accordance with, and governed by, the Laws of The Commonwealth of Massachusetts (without giving effect to the principles of conflicts of Laws thereof), except to the extent that the Laws of such Commonwealth are superseded by the Bankruptcy Code. For so long as Seller is subject to the jurisdiction of the Bankruptcy Court, the parties hereto irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court, subject to the right of any party to seek withdrawal of the reference with respect to any matter. After Seller is no longer subject to the jurisdiction of the Bankruptcy Court, the parties hereto irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the jurisdiction of, the United States District Court for the District of Massachusetts or any Massachusetts state court sitting in Boston, Massachusetts.

10.3 Expenses. Except as otherwise expressly provided herein, each of the parties hereto shall pay its own expenses in connection with this Agreement and the Ancillary Agreement and the transactions contemplated hereby and thereby, including, without limitation, any legal and accounting fees, whether or not the transactions contemplated hereby are consummated. Buyer shall pay the cost of all surveys, title insurance policies and title reports requested by Buyer that are not already in the possession of Seller.

10.4 Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void or unenforceable, said provision

shall survive to the extent it is not so declared, and all of the other provisions of this Agreement shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth at the later of the date this Agreement was executed or last amended.

10.5 Notices. (a) All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been given when received and shall be deemed duly given if: (i) served personally on the party to whom notice is to be given at the address specified below for such party; (ii) sent to the party to whom notice is to be given via facsimile transmission to the facsimile number of such party specified below, and telephonic confirmation of receipt is obtained promptly after completion of transmission; (iii) sent to the party to whom notice is to be given at the address specified below for such party by Federal Express or similar overnight courier or the Express Mail service maintained by the United States Postal Service; or (iv) mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to Seller:

Stephen S. Gray, Chapter 11 Trustee
High Voltage Engineering Corporation
c/o TRG, Inc.
270 Congress Street
Boston, MA 02210
Facsimile: (617) 482-9804

Copy to:

Choate, Hall & Stewart LLP
53 State Street
Boston, Massachusetts 02109
Attention: John Ventola, Esq.
Facsimile: (617) 248-4000

If to Buyer:

EAG Acquisition, LLC
2101 Bush Street
San Francisco, California 94115
Attention: Chief Executive Officer
Facsimile: (415) 292-6208

Copy to:

Arnold & Porter LLP
555 Twelfth Street, NW
Washington, DC 20004
Attention: Michael L. Bernstein, Esq.
Facsimile: (202) 942-5999

and to:

American Capital Strategies, Ltd.
2 Bethesda Metro Center
14th Floor
Bethesda, MD 20814
Attention: Myung Yi
Facsimile: (301)-654-6714

(a) Any party may change its address for the purpose of this Section 10.5 by giving the other party written notice of its new address in the manner set forth above.

10.6 Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance. Any waiver by any party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not be deemed to be or construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

10.7 Public Announcements. Promptly after the execution and delivery of this Agreement, the parties shall make a joint press release in form and substance reasonably satisfactory to both of them regarding the transaction contemplated herein. Thereafter, no party shall make any press release or public announcement concerning the transactions contemplated by this Agreement without the prior written approval of the other party, unless a press release or public announcement is required by Law or Order of the Bankruptcy Court. If any such announcement or other disclosure is required by Law or Order of the Bankruptcy Court, the disclosing party agrees to give the nondisclosing party prior notice of, and an opportunity to comment on, the proposed disclosure. The parties acknowledge that Seller shall file this Agreement with the Bankruptcy Court in connection with obtaining the Sale Order.

10.8 Entire Agreement. This Agreement, the Ancillary Agreement and the Confidentiality Agreement contain the entire understanding between the parties hereto with respect to the transactions contemplated hereby and supersede and replace all prior and contemporaneous agreements and understandings, oral or written, with regard to such

transactions. All schedules hereto are expressly made a part of this Agreement as fully as though completely set forth herein.

10.9 Parties in Interest. Nothing in this Agreement is intended to or shall confer any rights or remedies under or by reason of this Agreement on any Persons other than Seller and Buyer and their respective successors and permitted assigns. Nothing in this Agreement is intended to or shall relieve or discharge the obligations or liability of any third Persons to Seller or Buyer. This Agreement is not intended to nor shall give any third Persons any right of subrogation or action over or against Seller or Buyer.

10.10 Bulk Sales Laws. Buyer hereby waives compliance by Seller and Seller hereby waives compliance by Buyer, with the provisions of the "bulk sales," "bulk transfer" or similar laws of any state other than any Laws that would exempt any of the transactions contemplated by this Agreement from any Tax liability.

10.11 Allowed Administrative Expenses. The Sale Order shall specifically authorize and direct that any and all amounts owed to Buyer by Seller hereunder or under any Ancillary Agreement after the date hereof shall constitute allowed administrative expenses of Seller under sections 503(b) and 507(a)(1) of the Bankruptcy Code.

10.12 Headings. The article and section headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

10.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

ARTICLE 11
DEFINITIONS.

11.1 Certain Terms Defined. As used in this Agreement, the following terms have the following meanings:

"Accounts Receivable" means all trade accounts receivable and all other receivables, including, without limitation, all unbilled Government receivables and other rights to payment from customers of the Business, billed and unbilled, that have accrued or should have accrued on the records of the Business as of the Closing Date.

"Acquisition Agreements" means, collectively, the agreements among Buyer and the holders of partnership interests of each of ET and ES, pursuant to which Buyer shall acquire all such partnership interests held by such holders.

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

"Alternative Transaction" means any one or more transactions (regardless of the form thereof) involving in the aggregate a sale of all or any substantial portion of the Acquired Assets by Seller to a purchaser or purchasers other than Buyer, or the proposal of a plan of

reorganization that does not contemplate the sale of the Acquired Assets by Seller to Buyer in accordance with the terms of this Agreement.

"Ancillary Agreement" means the Performance Escrow Agreement and the Holdback Escrow Agreement.

"Base Working Capital" means $3,254,763.

"Business Day" means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in New York, New York are authorized by Law or other governmental action to close.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9604, et seq.), as amended, and rules, regulations and standards issued thereunder.

"Closing Date Working Capital" means the Working Capital of the Business as of 12:01 a.m. on the Closing Date.

"Code" means the Internal Revenue Code of 1986, as amended.

"Consent" means any consent, approval, authorization, qualification, waiver or notification of a Government or any other Person.

"Customer Prepayments" means all deposits from customers of the Business and all progress payments, prepayments, advances, milestone payments and the like received from customers of the Business in connection with any Designated Executory Contracts for services to be rendered to such customers after the Closing Date or the pro rated portion of any such advanced payment or deposit received from customers of the Business in connection with any of the Designated Executory Contracts for services to be rendered after the Closing Date.

"Employee Records" means all employment and benefit records (in whatever form maintained) in the possession of Buyer or its agents and pertaining to any Person employed by the Business before the Closing Date, or any spouse, dependent or other beneficiary of any such Person.

"Environmental Laws" shall mean any Laws that concern environmental, health or safety issues, including any Laws relating to any emissions, Releases or discharges of Pollutants into ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling, clean-up or control of Pollutants.

"Environmental Liabilities" means any obligations or liabilities (including any claims, suits or other assertions of obligations or liabilities) that are: (1) related to environmental, health or safety issues (including on-site or off-site contamination by Pollutants of surface or subsurface soil or water); and (2) based upon or related to (A) any provision of past, present or future United States or foreign Environmental Law (including CERCLA and RCRA), or (B) any Order or Permit imposed by any Government pursuant to Environmental Laws; and the term

"Environmental Liabilities" includes: (i) fines, penalties, judgments, awards, settlements, losses, damages (including foreseeable and unforeseeable consequential damages), costs, fees (including attorneys' and consultants' fees), expenses and disbursements arising under Environmental Laws; (ii) defense and other responses to any Government action (including claims, notice letters, complaints, and other assertions of liability) arising under Environmental Laws; and (iii) financial responsibility for (1) cleanup costs and injunctive relief, including any Removal, Remedial or other Response actions, and natural resource damages, and (2) any other compliance or remedial measures required under applicable Environmental Laws.

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

"ERISA Affiliate" has the meaning set forth in the definition herein of HVE Benefit Plan.

"Escrow Agent" means Deutsche Bank Trust Company Americas, which shall be the escrow agent under the Performance Escrow Agreement and under the Holdback Escrow Agreement.

"Estimated Closing Date Working Capital" means the Working Capital that Seller estimates will exist as of 12:01 a.m. on the Closing Date.

"Estimated Closing Date Working Capital Statement" means the statement prepared by Seller setting forth the amount of Estimated Closing Date Working Capital.

"Estimated Cure Cost" means, with respect to any Designated Executory Contract, Seller's good faith estimate of the Cure Cost for such Designated Executory Contract.

"Final Cure Cost" means, with respect to any Designated Executory Contract, the Cure Cost for such Designated Executory Contract as determined by final order of the Bankruptcy Court, which may be the Sale Order.

"Final Working Capital Statement" means the statement prepared by Buyer (or by Buyer as resolved with Seller) or the Independent Accounting Firm, as the case may be under the provisions of Section 2.3(c), setting forth the amount of Closing Date Working Capital.

"Government" means any federal, state, or municipal court, or other executive, legislative or judicial governmental or quasi-governmental, department, commission, board, bureau, agency or instrumentality, including any division, subdivision, audit group, procuring office or governmental or regulatory authority or any adjudicatory body thereof, of the United States, or any state thereof, or any foreign country.

"HVE Benefit Plan" means any bonus, incentive compensation, stock option, severance pay, medical, life insurance, profit sharing or pension plan, and each other employee benefit plan program or agreement of any kind, including, but not limited to, any employee benefit plan (as defined in Section 3(3) of ERISA) that is sponsored, maintained or contributed to by Seller or by any trade or business, whether or not incorporated, that together with Seller would be deemed a "single employer" under Section 414 of the Code (an "ERISA Affiliate") that is maintained for the benefit of employees of the Business.

"Improvements" mean the buildings, improvements and structures now existing on the EAG Real Property and/or demised under any lease of, or other Contract for the use of, EAG Real Property.

"Independent Accounting Firm" means an independent certified public accounting firm in the United States of America of national recognition (other than a firm which then serves as the independent auditor for Seller or Buyer or any of their respective Affiliates) mutually acceptable to Seller and Buyer.

"Initial Working Capital Statement" means the statement prepared by Buyer setting forth the amount of Closing Date Working Capital.

"IRS" means the Internal Revenue Service.

"Key Analysts" means the twenty-five (25) analysts employed by the Business and previously disclosed to Buyer by Seller, the names and identities of whom Buyer and Seller agree to hold in confidence; provided, however, such names and identities may be disclosed by Seller to counsel to the Equity Committee and counsel to the Creditors' Committee upon their agreement to keep it confidential or as otherwise required by Law or designated by the Bankruptcy Court.

"Knowledge of Seller," "Seller's Knowledge" or any other similar term or knowledge qualification means the actual knowledge, after reasonable inquiry, of Sandy Carlson, Richard Hockett, Pat Lindley, and Joe McHugh.

"Law" means any U.S. and foreign federal, state or local statutes, laws, rules, regulations, ordinances, codes, policies, rules and principles of common law, and the like, now or hereafter in effect, including any judicial or administrative interpretations thereof, and any judicial or administrative orders, consents, decrees or judgments.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement other than (a) a lessor's interest in, and any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement on or affecting a lessor's interest in, property underlying any leases; and (b) such recorded covenants, restrictions, easements, encroachments or encumbrances that are not created pursuant to mortgages or other financing or security documents, or any other state of facts, that do not materially interfere with the current occupancy or use of an asset.

"Major Customer" means all customers of the Business that ordered goods or services from the Business having an aggregate purchase price of $25,000 or more during the fiscal year of the Business ended April 30, 2005.

"Major Supplier" means all suppliers from which Seller, in connection with the Business, ordered raw materials, supplies, merchandise or other goods for the Business having an aggregate purchase price of $25,000 or more during the fiscal year of the Business ended April 30, 2005.

"Material Adverse Effect" means any state of facts, event, change in or effect on the Business or the Acquired Assets that, individually or in the aggregate, results in, or is reasonably likely to result in, a material adverse effect on (a) the value of the Acquired Assets taken as a whole (including, without limitation, the termination of employment of any five (5) or more Key Analysts employed by the Business at the date hereof) or (b) the business, operations, results of operations or the condition (financial or otherwise) of the Business, taken as a whole, but "Material Adverse Effect" excludes any state of facts, event, change or effect caused by events, changes or developments relating to (A) any action of any or all of the HVE Parties required to be taken pursuant to any Order of the Bankruptcy Court entered as reflected on the docket as of two Business Days prior to the date of this Agreement; (B) the implementation of the transactions contemplated by this Agreement or the announcement thereof; (C) changes or conditions affecting the industry in which the Business generally operates that do not disproportionately and materially affect the Business adversely as compared to other similarly situated businesses in the industry; or (D) changes in economic, regulatory or political conditions generally.

"Performance Escrow Agreement" means that Performance Escrow Agreement by and among Buyer, Seller and Escrow Agent, dated as of the date hereof.

"Permitted Liens" means: (a) all Liens set forth on Schedule 4.1(g); (b) Liens for Taxes, assessments and Government or other similar charges that are not yet delinquent, that relate to pre-petition periods or that are being contested in good faith; and (c) restrictions under applicable securities laws, organizational documents or stockholders or similar agreements.

"Permitted Termination" means any termination of this Agreement in accordance with its terms (i) by Seller (as a result of a breach of a representation or warranty or covenant in this Agreement by Buyer) or by Buyer (other than as a result of a breach of a representation or warranty or covenant in this Agreement by Seller) and (ii) other than a termination under Section 8.1(i).

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or Government.

"Pollutant" means any "hazardous substance" and any "pollutant or contaminant," as those terms are defined in CERCLA; any "hazardous waste," as that term is defined in RCRA; and any "hazardous material," as that term is defined in the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), as amended (including as those terms are further defined, construed, or otherwise used in rules, regulations, standards, guidelines and publications issued pursuant to, or otherwise in implementation of, said Environmental Laws); and including without limitation any petroleum product or byproduct, solvent, flammable or explosive material, radioactive material, asbestos, polychlorinated biphenyls (PCBs), dioxins, dibenzofurans, and heavy metals.

"Post-Closing Tax Period" means, with respect to any Tax, any reporting period ending after the Closing Date (in the case of a Straddle Period including only the portion of such taxable period beginning on the day after the Closing).

"Pre-Closing Tax Period" means, with respect to any Tax, any reporting period beginning on or before the Closing Date (in the case of a Straddle Period, including only the portion of such taxable period ending on and including the Closing Date).

"Prior Bankruptcy Cases" means the voluntary cases for reorganization filed under the Bankruptcy Code by the HVE Parties and certain of their Affiliates on or about March 1, 2004 in the Bankruptcy Court.

"Qualified Rights of Set-Off" means any right of set-off against a claim asserted by a creditor in the Bankruptcy Cases (except to the extent that an amount owed by such creditor to Seller constitutes an Acquired Asset).

"RCRA" means the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), as amended, and all rules, regulations and standards issued thereunder.

"Related Person" means, with respect to any Person, all past, present and future directors, officers, members, managers, trustees, stockholders, employees, controlling persons, agents, professionals, attorneys, accountants, investment bankers or representatives of any such Person.

"Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, depositing, or disposing into the environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Pollutant.

"Removal, Remedial and Response" means actions that include the types of investigation and environmental cleanup activities required by CERCLA, RCRA, and other comparable Environmental Laws, whether the activities are undertaken by a Government or any other Person.

"Straddle Period" means any taxable period that begins on or before the Closing Date and ends after the Closing Date.

"Taxes" means all taxes, however denominated, including any interest, penalties or additions to tax that may become payable in respect thereof, imposed by any Government, which taxes shall include all income taxes, payroll and employee withholding, unemployment insurance, social security (or similar), sales and use, excise, franchise, gross receipts, occupation, real and personal property, stamp, transfer, workmen's compensation, customs duties, registration, documentary, value added, alternative or add-on minimum, estimated, environmental (including taxes under Section 59A of the Code) and other obligations of the same or a similar nature, whether arising before, on or after the Closing Date; and "Tax" shall mean any one of them.

"Tax Return" means any report, return, information return, filing or other information, including any schedules, exhibits or attachments thereto, and any amendments to any of the foregoing required to be filed or maintained in connection with the calculation, determination, assessment or collection of any Taxes (including estimated Taxes).

"Third Party Buyer" means any Person, other than Buyer, with which Seller enters into an agreement to sell any Acquired Asset.

"Untied Current Liabilities" means (i) the item designated as "2415-00 Unearned Revenue (Training)" on the Balance Sheet and (ii) all pre-Closing accrued employee-related liabilities of the Business.

"Working Capital" means the sum of (i) (A) the consolidated current assets of the Business (excluding the Excluded Assets) and (B) long-term prepaid expenses and long-term deposits, less (ii) the consolidated current liabilities of the Business (excluding the Untied Current Liabilities and the Retained Liabilities), in each case as presented and determined consistent with the Working Capital Schedule (including with respect to the categories and subcategories of assets and liabilities thereon and the adjustments therein).

"Working Capital Schedule" means the categories of current assets and current liabilities on the example working capital statement attached hereto as Schedule 11.1.

11.2 All Terms Cross-Referenced. Each of the following terms is defined in the Section set forth opposite such term:

Accounts Receivable	Section 11.1
Acquired Assets	Section 1.1
Acquisition Agreements	Section 11.1
Adjustment Date	Section 6.3
Affiliate	Section 11.1
Agreement	Preamble
Allocation	Section 6.5
Alternative Transaction	Section 11.1
Ancillary Agreement	Section 11.1
Assumed Liabilities	Section 1.3
Balance Sheet	Section 4.1
Bankruptcy Cases	Introduction
Bankruptcy Code	Introduction
Bankruptcy Court	Introduction
Base Working Capital	Section 11.1
Bidding Procedures	Section 9.1(b)
Boston	Introduction
Break-Up Fee	Section 9.1(a)
Business	Introduction
Business Day	Section 11.1
Business Employee	Section 5.3(a)
Buyer	Preamble
Buyer Marks	Section 5.4(d)
Buyer's Cafeteria Plan	Section 5.3(b)
Buyer's KERP Costs	Section 5.3(j)
Cascade Receivables	Section 1.2(k)
CERCLA	Section 11.1

[Signatures are on the following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

EAG ACQUISITION, LLC

By: _____
Name: Thomas B. Pfeil
Title: Chief Executive Officer

HIGH VOLTAGE ENGINEERING CORPORATION

By: _____
Name: Stephen S. Gray
Title: Chapter 11 Trustee

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

EAG ACQUISITION, LLC

By: _____
Name:
Title:

HIGH VOLTAGE ENGINEERING CORPORATION

By: _____
Name: Stephen S. Gray
Title: Chapter 11 Trustee

3944119

EXHIBITS

SCHEDULES

Exhibit A

BIDDING PROCEDURES

Set forth below are the bidding procedures (the "**Bidding Procedures**") to be employed with respect to the sale by High Voltage Engineering Corporation ("**HVE**") of substantially all of its assets (collectively, the "**EAG Assets**") used in or relating to the operation of Evans Analytical Group, a division of HVE (the "**Business**") and certain related assets. The Bidding Procedures contemplate: (1) an auction of the EAG Assets and certain related assets (the "**Auction**") to be held at the offices of Choate, Hall & Stewart LLP, 53 State Street, Boston, MA 02109, on **[DATE]** at [__:__ _.m.]; (2) a hearing (the "**Sale Hearing**") before the Bankruptcy Court to approve the sale of the EAG Assets and other assets of the Debtors that are included within the winning bidder's bid to the winning bidder (the "**Sale**") to be held after the Auction; and (3) closing of the Sale to occur immediately upon the approval of the Sale by the Bankruptcy Court, subject to satisfaction (or waiver) of each of the closing conditions in the Winning Agreement (as defined below). Enclosed herewith is an asset purchase agreement (the "**Stalking Horse Agreement**") by and between Stephen S. Gray, Chapter 11 Trustee (the "**Trustee**") of HVE and its affiliated debtors (collectively, the "**Debtors**") and EAG Acquisition, LLC (the "**Stalking Horse Bidder**"), which provides for a sale of the EAG Assets and certain related assets (referred to collectively as the "**Acquired Assets**," as defined in the Stalking Horse Agreement) to the Stalking Horse Bidder.

1. **Identification of Potential Bidders.** These Bidding Procedures are being sent to, among others, persons and entities identified by the Trustee and his advisors as potentially having an interest in acquiring the Acquired Assets and who may have the financial wherewithal to consummate a purchase of such assets. Any other person or entity interested in bidding for the Acquired Assets may obtain a copy of these Bidding Procedures and the Stalking Horse Agreement by requesting such information from John F. Ventola, Esq., Choate, Hall & Stewart LLP, 53 State Street, Boston, Massachusetts, 02109, Telephone (617) 248-5000, Facsimile (617) 248-4000 ("**CH&S**"). Any bids, notices or information required to be given to the Trustee under the Bidding Procedures should be sent to the foregoing address.

2. **Due Diligence.** Information regarding the Debtors and the EAG Assets and other Acquired Assets will be provided and/or made available to potential bidders as follows:

(a) **Publicly Available Information.** Upon written request to the Trustee, the following information will be provided to any potential bidder:

(i) HVE's Schedules of Assets and Liabilities as then on file with the Bankruptcy Court, as it relates to the Business and the EAG Assets;

(ii) HVE's Statement of Financial Affairs as then on file with the Bankruptcy Court, as it relates to the Business and the EAG Assets; and

(iii) Written marketing materials related to the EAG Assets and prepared by HVE or the Trustee's advisors.

(b) **Additional Information**. Upon receipt by the Trustee of (i) information satisfactory to Trustee of a potential bidder's ability to close on a purchase of the Acquired Assets and (ii) a confidentiality agreement in a form approved by the Trustee (and no less restrictive on the potential bidder than the confidentiality agreement signed by the Stalking Horse Bidder) executed by the potential bidder, such potential bidder shall be provided with additional information regarding the Business and the EAG Assets and related assets, including (A) the opportunity to inspect the Acquired Assets, (B) access to the "data room" assembled by the Trustee's advisors, which contains extensive information regarding the Business and the EAG Assets, and (iii) the opportunity, at the Trustee's discretion and to the extent practicable under the circumstances, to meet with members of the Debtors' management. In addition, all reasonable efforts will be made to provide a potential bidder, who has satisfied the conditions of this Section 2(b), with such additional information as such potential bidder may determine is necessary or relevant to the formulation of its bid. All information provided or made available to any potential bidder shall, at the same time, be provided or made available to the Stalking Horse Bidder, unless such information had previously been provided or made available to the Stalking Horse Bidder.

NEITHER THE TRUSTEE NOR ANY OF HIS ADVISORS, INCLUDING, WITHOUT LIMITATION, CH&S, THE RECOVERY GROUP, HOULIHAN LOKEY HOWARD & ZUKIN CAPITAL AND DICICCO GULMAN & COMPANY, NOR ANY OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, ADVISORS, OR LEGAL REPRESENTATIVES HAS PREPARED ANY OF THE INFORMATION REGARDING THE DEBTORS, OR THEIR OPERATIONS OR ASSETS TO BE PROVIDED TO A POTENTIAL BIDDER IN CONNECTION WITH THE BIDDING PROCEDURES SET FORTH HEREIN. THE TRUSTEE AND HIS ADVISORS HAVE NOT UNDERTAKEN ANY INDEPENDENT REVIEW OR AUDIT OF SUCH INFORMATION. CONSEQUENTLY, NO REPRESENTATION IS MADE BY THE TRUSTEE OR HIS ADVISORS REGARDING THE ACCURACY, RELIABILITY, VERACITY, ADEQUACY, OR COMPLETENESS OF ANY INFORMATION PROVIDED IN CONNECTION WITH THE BIDDING PROCEDURES, AND ALL POTENTIAL BIDDERS ARE ENCOURAGED TO CONSULT WITH THEIR OWN ADVISORS REGARDING ANY SUCH INFORMATION.

3. **Qualified Bidders**. Unless otherwise ordered by the Bankruptcy Court for cause shown, no bid for the Acquired Assets other than the Stalking Horse Bidder's bid will be considered unless prior to or in conjunction with making such bid, but in any event no later than **[DATE]**:

(a) The bidder satisfies the requirements of Section 2(b) above; and

(b) The bidder delivers to the Trustee in readily available funds a good faith deposit (the "**Good Faith Deposit**") in an amount equal to $1,500,000 of the total amount of consideration set forth in the Qualified Bid (as defined in Section 6 below).

A potential bidder that satisfies the foregoing requirements shall be considered a "**Qualified Bidder.**" Following each potential bidder's delivery of all of the materials required in subsections (a) through (b) above, the Trustee shall notify such potential bidder in writing as to whether such potential bidder shall be considered a Qualified Bidder on or before **[DATE]**. The Stalking Horse Bidder is deemed a Qualified Bidder.

4. **Time for Submission of Bids**. Any Qualified Bidder that desires to make a bid to purchase all or substantially all of the Acquired Assets and to become an Actual Bidder (as defined below in Section 7) shall deliver its original bid to the Trustee not later than 5:00 p.m. prevailing Eastern Time on **[DATE]** (the "**Bid Deadline**"), with copies delivered to (a) counsel to the official committee of unsecured creditors appointed in the Bankruptcy Cases (as defined in the Stalking Horse Agreement) (the "**Creditors' Committee**"), Lowenstein Sandler PC, 65 Livingston Avenue, Roseland, NJ 07068-1791, Attn: Kenneth A. Rosen, Esq. ((973) 597-2548 (tel.), (973) 597-2549 (fax), krosen@lowenstein.com (e-mail)), (b) counsel to the official committee of equity holders) (the "**Equity Committee**" and together with the Creditors' Committee, the "**Committees**"), Anderson Kill & Olick, PC, 1251 Avenue of the Americas, New York, NY 10020, Attn: Michael J. Venditto. Esq. ((212) 278-1462 (tel.), (212) 278-1733 (fax), mvenditto@andersonkill.com (e-mail)), and (c) counsel to the Stalking Horse Bidder, Arnold & Porter LLP, 555 Twelfth Street, N.W., Washington, D.C. 20004, Attn: Michael L. Bernstein ((202) 942-5000 (tel.), (202) 942-5999 (fax), michael.bernstein@aporter.com (email)). The Trustee reserves the right (but shall not be obligated) to extend the Bid Deadline once or successively but in no event shall the Bid Deadline be extended beyond three business days before the date of the Auction as set forth in Section 8 below. In the event the Trustee elects to extend the Bid Deadline, all Qualified Bidders and other potential bidders shall be promptly notified of any such extension.

5. **Treatment of Deposits.** A bidder shall forfeit its Good Faith Deposit if (i) such bidder is determined to be a Qualified Bidder and withdraws or modifies its bid other than as provided herein before the Bankruptcy Court approves the selection of the Winning Bidder (as defined in Section 9 below), or (ii) such bidder is the Winning Bidder and (A) modifies or withdraws its winning bid without consent before the consummation of the sale contemplated by the Marked Contract (as such term is hereinafter defined), or (B) such bidder breaches the Marked Contract. The Good Faith Deposit shall be promptly returned to a bidder if (i) such bidder is not determined to be a Qualified Bidder or (ii) such bidder is a Qualified Bidder but is not approved as the Winning Bidder or the Next Best Bidder (as defined in Section 9 below) by the Bankruptcy Court at the Sale Hearing and has not otherwise forfeited its Good Faith Deposit. Notwithstanding the foregoing, the Stalking Horse Bidder's deposit shall be dealt with in accordance with the terms of the Stalking Horse Agreement.

6. **Form and Content of Bids.** A Qualified Bidder may submit a bid for all or substantially all of the Acquired Assets. In order to constitute a "**Qualified Bid**," a bid (other than the Stalking Horse Bidder's bid) must be submitted by the Bid Deadline and satisfy the following requirements:

(a) The bid must be made upon terms and conditions (other than economic terms such as purchase price) substantially similar to those contained in the Stalking Horse Agreement, or on terms and conditions more favorable to the Debtors' estates than the Stalking Horse Agreement, and must be accompanied by a form of such Qualified Bidder's proposed asset purchase agreement that specifically sets forth those amendments and modifications to the Stalking Horse Agreement that such Qualified Bidder proposes, including price, contracts and liabilities to be assumed, and liabilities not to be assumed (the "**Marked Contract**"). All modifications or amendments to the Stalking Horse Agreement that are contained in the Marked Contract must be "red lined" in order to be enforceable against the Debtors' estates.

(b) The Marked Contract must provide for total consideration to the Debtors' estates of at least $29,600,000.

(c) The Marked Contract must not be conditioned upon (i) any financing condition, (ii) the outcome of unperformed due diligence by the Qualified Bidder or (iii) any other contingency not included in the Stalking Horse Agreement. No conditions proposed by a bidder shall be materially more burdensome or unfavorable to the Debtors' estates than the conditions set forth in the Stalking Horse Agreement.

(d) The Marked Contract must be accompanied by a letter (i) setting forth the identity of the bidder and the contact information for such Qualified Bidder, (ii) stating that such Qualified Bidder offers to purchase all or substantially all of the Acquired Assets upon the terms and conditions set forth in the Marked Contract, (iii) summarizing the proposed consideration such Qualified Bidder proposes to pay under the Marked Contract (i.e., cash, assumed liabilities, and assets to be contributed by the bidder for the benefit of the Debtor's estates), (iv) stating the form of the Good Faith Deposit (e.g., cashier's check or cash) made by such Qualified Bidder, and (v) further providing that such offer shall be irrevocable until the sale of the assets to the Winning Bidder (as such term is defined below) or the Next Best Bidder (as such term is defined below), if applicable, has been consummated.

(e) The Marked Contract may not provide for any breakup fee, termination fee, topping fee, expense reimbursement or similar fee or expense provision.

(f) Originals of the foregoing materials must be received by the Trustee and copies must be filed with the Bankruptcy Court on or before the Bid Deadline.

7. **Actual Bidders May Participate In Auction.** Only Qualified Bidders who submit a Qualified Bid (an "**Actual Bidder**"), shall be entitled to participate in the Auction. The Stalking Horse Bidder shall be deemed an Actual Bidder. Representatives of the Committees may attend and observe the Auction.

8. **The Auction**. The Auction shall commence at [__:__ _.m.] prevailing Eastern Time on **[DATE]** at CH&S.

No fewer than twenty-four (24) hours prior to the commencement of the Auction, the Trustee shall determine the method by which the Auction shall be conducted (which shall not be inconsistent with these Bidding Procedures) and shall deliver to counsel to each of the Committees and to each of the Qualified Bidders a written summary of the method by which the Auction shall be conducted.

All bids at the Auction shall exceed the previous bid by no less than $100,000; provided, however, that if the Stalking Horse Bidder participates in the Auction, the Stalking Horse Bidder may credit the Break-Up Fee (as defined below) for purposes of calculating the minimum increase over the then-highest bid.

In the event that the Trustee does not receive any Qualified Bids (other than the Stalking Horse Agreement) on or before the Bid Deadline, the Auction will not take place. In such an event, the Trustee will seek the Bankruptcy Court's approval of the Stalking Horse Agreement at the Sale Hearing.

9. **Selection of the Chosen Bid and Next Best Bid.** After the completion of the Auction, the Trustee shall review and consider each of the Qualified Bids (as the same may have been increased at the Auction). The Trustee shall determine which of the Qualified Bids (as the same may have been increased at the Auction) constitutes the best bid. The bid so selected by the Trustee shall be considered the "**Chosen Bid**" and the maker of that bid shall be considered the "**Chosen Bidder.**" Further, the Trustee shall determine which of the Qualified Bids (as the same may have been increased at the Auction) constitutes the next best bid. The bid so selected by the Trustee shall be considered the "**Next Best Bid**" and the maker of that bid shall be considered the "**Next Best Bidder.**" At the conclusion of the Auction and after such review and consultation, the Trustee shall inform the Actual Bidders present at the Auction of the decision regarding the Chosen Bid and Chosen Bidder and the Next Best Bid and Next Best Bidder.

At the Sale Hearing, the Trustee will request that the Bankruptcy Court approve the sale to the Chosen Bidder pursuant to the terms of the Chosen Bid. Any objections to the sale shall be filed with the Bankruptcy Court and served on each of the parties listed in Section 4 above so as to be received not later than two Business Days prior to the Sale Hearing. The bid ultimately approved by the Bankruptcy Court shall be considered the "**Winning Bid**" and the maker thereof shall be considered the "**Winning Bidder.**" The Marked Contract submitted by the Winning Bidder (or the Stalking Horse Agreement if the Stalking Horse Bidder becomes the Winning Bidder), as subsequently modified by agreement of the Winning Bidder and the Trustee, if applicable, shall become the

"**Winning Agreement.**" The Trustee may request further that the Bankruptcy Court approve the sale of all or substantially all of the Acquired Assets to the Next Best Bidder pursuant to the terms of the Next Best Bid in the event that the consummation of the Sale does not take place on the scheduled closing date (pursuant to the Winning Agreement) due to the Winning Bidder's inability or unwillingness to consummate the Sale. The Next Best Bid shall be irrevocable until the sale of the assets to the Winning Bidder (as such term is defined below) has been consummated, provided, however, that the Stalking Horse Bidder shall not be obligated in any respect if it is not selected as the Winning Bidder.

10. **Bankruptcy Court Approval of the Winning Bid; Return of Good Faith Deposits.** The Bankruptcy Court shall hold the Sale Hearing on [**date/at time**], to consider and approve the Winning Bid. Within five (5) business days after the Sale has been consummated, the Good Faith Deposits submitted by all Qualified Bidders, except (i) the Winning Bidder and (ii) any bidders that forfeited their Good Faith Deposits under Section 6 above, shall be returned. The Stalking Horse Bidder's deposit shall be treated in accordance with the Stalking Horse Agreement.

11. **Closing of Sale; Seller's Right to Sell Acquired Assets to Next Best Bidder.** The consummation of the Sale shall take place at the offices of CH&S immediately following the entry of an order of the Bankruptcy Court approving the proposed Sale, subject to satisfaction (or waiver) of the closing conditions in the Winning Agreement. If the consummation of the Sale does not take place immediately following the entry of such an Order of the Bankruptcy Court and satisfaction (or waiver) or such conditions, due to the Winning Bidder's inability or unwillingness to consummate the Sale, then the Debtor shall have the right without further order of the Bankruptcy Court to sell the Acquired Assets to the Next Best Bidder pursuant to the terms and conditions of the Next Best Bid.

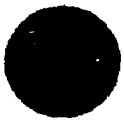
12. **Breakup Fee.** A break-up fee of one million dollars ($1,000,000) (the "**Break-Up Fee**") shall be payable to the Stalking Horse Bidder upon the terms and subject to the conditions set forth in Section 8.2 and Article 9 of the Stalking Horse Agreement. The Break-Up Fee shall be an allowed administrative expense pursuant to Sections 503(b) and 507(a)(1) of the Bankruptcy Code, without the need for Stalking Horse Bidder to file any application or motion or obtain any order of the Bankruptcy Court.

13. **Business Judgment of the Trustee.** Subject to the provisions of these Bidding Procedures, the Trustee reserves the right (a) to determine in the exercise of his business judgment whether the amendments and changes contained in each Marked Contract are acceptable as terms and conditions to sell, (b) to determine, in the exercise of his business judgment, which bid, if any, is the highest or otherwise best offer, and (c) to reject at any time prior to entry of an Order of the Bankruptcy Court approving the proposed Sale, any bid, other than the Stalking Horse Bidder's bid, which the Trustee, in the reasonable exercise of his business judgment, deems to be (i) inadequate or insufficient, or (ii) not in conformity with the requirements of the Bankruptcy Code or the Bidding Procedures.

14. **Consultation with the Committees.** The Trustee will use reasonable efforts to consult with the financial advisors and counsel to each of the Committees concerning all acts, decisions or determinations that the Trustee takes or makes pursuant to or in connection with these Bidding Procedures and the transactions contemplated hereby and will consider the Committees' views in the context of all of the relevant facts and circumstances.

Annex A
to
Bidding Procedures

FORM OF CONFIDENTIALITY AGREEMENT



HOULIHAN LOKEY HOWARD & ZUKIN

INVESTMENT BANKING SERVICES

www.hlhz.com

July 25, 2005

«Slt» «First» «Last»
«Company»
«Street»
«City», «State» «Zip»

Re: CONFIDENTIALITY AGREEMENT

Dear «Slt» «Last»:

In connection with your consideration of a possible transaction ("Transaction") with High Voltage Engineering Corporation (the "Company"), you have requested certain confidential and other information concerning the Company. Houlihan Lokey Howard & Zukin Capital ("Houlihan Lokey") is the investment banker to the Company.

As a condition to your being furnished with such information, including any Confidential Information Memorandum or similar document, you agree to treat any information concerning the Company, which is furnished to you by or on behalf of the Company, whether furnished before or after the date of this letter, together with any and all analyses, compilations, studies or other documents prepared by you or any of your directors, officers, employees, agents, advisors, attorneys, accountants, consultants or representatives (collectively, "Representatives") which contain or otherwise reflect such information (hereinafter collectively referred to as the "Evaluation Material"), in accordance with the provisions of this agreement. The term "Evaluation Material" does not include information which (a) was already in your possession prior to the time of disclosure to you by the Company or Houlihan Lokey, (b) was or becomes generally available to the public other than as a result of a disclosure by you or your Representatives, or (c) becomes available to you on a non-confidential basis from a source other than the Company or Houlihan Lokey, provided that such source is not known by you to be bound by a confidentiality agreement with the Company, or otherwise prohibited from disclosing the information to you by a contractual, legal or fiduciary obligation.

You hereby agree that the Evaluation Material will be used solely for the purpose of evaluating the Transaction between the Company and you, and that such information will be kept confidential by you and your Representatives, except to the extent that disclosure of such information (a) has been consented to in writing by the Company or Houlihan Lokey, (b) is required by law, regulation, supervisory authority or other applicable judicial or governmental order, or (c) is made to your Representatives who need to know such information for the purpose of evaluating the Transaction between the Company and you (it being understood that such Representatives shall be informed by you of the confidential nature of the Evaluation Material, and shall agree to be bound by the terms of this agreement).

In any event, you shall be responsible for any breach of this agreement by any of your Representatives, and you agree, at your sole expense, to take all reasonably necessary measures to prevent your Representatives from prohibited or unauthorized disclosure or use of the Evaluation Material. You hereby further agree that in no event may any of the Evaluation Material be used, directly or indirectly, by you or your Representatives (x) to compete in any manner with the Company, or (y) to challenge or object to any motion, pleading or document filed by the Company.

You agree that you shall acquire no right, title or interest in, or license to use, any Evaluation Material because of its disclosure to you. All Evaluation Material disclosed to you is and shall remain the exclusive property of Company.

In addition, without the prior written consent of the Company, you will not, and will direct your Representatives not to, disclose to any person (a) that the Evaluation Material has been made available to you or your Representatives, (b) that discussions or negotiations are taking place concerning a Transaction between the Company and you, or (c) any terms, conditions or other facts with respect to the Transaction, including the status thereof.

In the event that you or any of your Representatives are requested or required by judicial, legislative or regulatory process to disclose any Evaluation Material, you will provide the Company with prompt written notice of any such request or requirement so that the Company may seek an appropriate protective order or other appropriate remedy and/or waive compliance with the terms of this agreement. In the event that such protective order or other remedy is not obtained, or that the Company in writing waives compliance with the terms hereof, you may disclose only that portion of the Evaluation Material which is legally required, and you will exercise reasonable efforts to obtain assurance that confidential treatment will be accorded to such Evaluation Material.

It is understood and agreed that money damages would not be a sufficient remedy for any breach of this agreement, and that the Company shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach of this agreement, but shall be in addition to all other remedies available at law or equity to the Company. In the event of litigation relating to this agreement, if a court of competent jurisdiction determines you or any of your Representatives has breached this agreement, then you shall be liable and pay to the Company the reasonable legal fees and expenses incurred by the Company in connection with such litigation, including any appeals therefrom.

Additionally, you agree not to solicit for employment any of the current employees of the Company to whom you may be directly or indirectly introduced or otherwise had contact with as a result of your consideration of a Transaction for a period of two years after the date of this agreement, without the prior written consent of the Company, provided that you shall not be restricted in any general solicitation for employees or public advertising of employment opportunities (including through the use of employment agencies) not specifically directed at any such persons, and provided further that you shall not be restricted in hiring any such person who responds to any such general solicitation or public advertising. Moreover, you will not purchase or attempt to purchase claims against or interests in the Company.

All communications regarding a Transaction and all requests for additional information concerning the Company will be submitted or directed solely to Houlihan Lokey. You understand and acknowledge that neither the Company nor Houlihan Lokey shall be deemed to make any representations or warranties, express or implied, as to the accuracy or completeness of the Evaluation Material, and neither the Company nor Houlihan Lokey shall have any liability to you or any of your Representatives resulting from the use thereof. Only those representations or warranties which are made by the Company in a final definitive agreement regarding a Transaction, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

All Evaluation Material disclosed by the Company shall be and shall remain the property of the Company. Within five days after being so requested by the Company, except to the extent you are advised by legal counsel that complying with such request would be prohibited by law, you will return or destroy all Evaluation Material furnished to you by or on behalf of the Company, including all memoranda, notes, excerpts and other writings or recordings whatsoever prepared by you or your Representatives based upon, containing or otherwise reflecting any Evaluation Material. Any destruction of materials shall be confirmed by you in writing. Any Evaluation Material that is not returned or destroyed, including any oral Evaluation Material, shall remain confidential, subject to the terms of this agreement.

This agreement binds the parties only with respect to the matters expressly set forth herein. As such, unless and until a definitive agreement regarding a Transaction between the Company and you has been executed, (a) neither the Company nor you will be under any legal obligation of any kind whatsoever to negotiate or consummate a Transaction by virtue of this agreement or any other written or oral expression with respect thereto made by the Company, Houlihan Lokey or any other party, and (b) you shall not have any claim whatsoever against the Company or Houlihan Lokey or any of their respective directors, officers, stockholders, owners, affiliates, agents or representatives, arising out of or relating to any Transaction.

This agreement shall be governed by the internal laws of the State of New York, without regard to conflict of laws principles. This agreement may not be amended other than by a written instrument signed by the parties hereto. No failure or delay by the Company or Houlihan Lokey in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder. The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provisions of this agreement, which shall remain in full force and effect.

Your obligations under this agreement shall remain in effect for a period of two years from the date of disclosure with respect to any Evaluation Material, unless and until this agreement is terminated by the Company or is superseded by another agreement between you and the Company that concerns your use of the Evaluation Material.

The Company is a third party beneficiary of this agreement.

This agreement may be executed in counterparts. Please confirm that the foregoing is in accordance with your understanding of our agreement by signing and returning to us a copy of this letter.

Very truly yours,

HOULIHAN LOKEY HOWARD & ZUKIN CAPITAL

Saul E. Burian
Managing Director

Accepted and agreed to as of the _____ day of _____, 2005.

«Company»

By: _____
Name: _____
Title: _____

EXHIBIT B

Sales Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(EASTERN DIVISION)

In re:	:	Chapter 11
	:	
HIGH VOLTAGE ENGINEERING CORP., et al.,	:	Case Nos. 05-10787 (JNF)
	:	(Jointly Administered)
Debtors.	:	

ORDER APPROVING CHAPTER 11 TRUSTEE'S MOTION FOR ORDER (A) APPROVING THE SALE OF CERTAIN OF THE DEBTOR HIGH VOLTAGE ENGINEERING CORPORATION'S ASSETS TO EAG ACQUISITION, LLC FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES PURSUANT TO AN ASSET PURCHASE AGREEMENT; (B) APPROVING AND AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF DESIGNATED EXECUTORY CONTRACTS; AND (C) GRANTING RELATED RELIEF

Upon the motion (the "Sale Motion") of Stephen S. Gray, as the Chapter 11 Trustee (the "Trustee") of the debtors in these jointly administered cases (collectively, the "Debtors")[1], requesting entry of an order under sections 105(a), 363, 365 and 1146(c) of the Bankruptcy Code and MLBR 6004-1 (this "Sale Order")[2]: (a) approving the Asset Purchase Agreement, dated as of July 8, 2005 (the "Asset Purchase Agreement") between High Voltage Engineering Corporation, a Massachusetts corporation ("HVEC"), and a Debtor herein and EAG Acquisition, LLC, a Delaware Limited liability company ("EAG"), pursuant to which the Trustee has agreed to sell those assets of HVEC referred to in the Asset Purchase Agreement as the Acquired Assets to EAG for $28,100,000 (subject to certain closing adjustments) plus the assumption of certain specified obligations, free and clear of all Liens in or on the Acquired Assets (including any and all "claims and interests" in the Acquired Assets within the meaning of Section 363(f) of the Bankruptcy

Code), other than Permitted Liens, and otherwise free and clear of claims and liabilities (the "Sale"); (b) approving and authorizing the Trustee's assumption and assignment to EAG of certain unexpired leases and executory contracts that are set forth on Schedule 1.1(c) of the Asset Purchase Agreement (as such schedule may have been or may be amended or modified in accordance with Section 1.6 of the Asset Purchase Agreement) (the "Designated Executory Contracts"); and (c) granting related relief; and upon the order of this Court dated July 25, 2005 approving the relief requested in the Trustee's July 12, 2005 *Motion for Order (A) Approving Sale Procedures for Sale of Assets of HVEC, including Payment of Break Up Fee Pursuant to the Asset Purchase Agreement, (B) Approving Form and Manner of Notice (C) Scheduling a Hearing to Approve the Sale of Acquired Assets, and (D) Granting Related Relief* (the "Sale Procedures Order"); and notice of the Sale Motion and the hearing held thereon on September 1, 2005 to consider the Sale Motion (the "Hearing") was given in accordance with the Sale Procedures Order and the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and no other or further notice need be given; and no additional bids having been received for the Acquired Assets; and the Court having held the Hearing to consider the Sale Motion; and based upon the Sale Motion, any exhibits annexed thereto and the evidence presented and arguments made at the Hearing, it appearing that the relief requested in the Sale Motion is in the best interest of the Debtors, their estates and their creditors; and upon due deliberation, good and sufficient cause appearing therefor, the Court hereby

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[1] The "Debtors" include HVEC and its five debtor subsidiaries.

[2] To the extent not otherwise defined herein or in the Sale Motion, capitalized terms shall have the meanings ascribed to them in the Asset Purchase Agreement or the Bidding Procedures attached thereto. The Asset Purchase Agreement is attached hereto as Exhibit A.

FINDS, DETERMINES, AND CONCLUDES THAT:

A. This Court has jurisdiction to consider the Sale Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157(b) and 1334.

B. Venue of this case in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Determination of the Sale Motion is a core proceeding under 28 U.S.C. § 157(b)(2).

D. The statutory predicates for the relief requested herein include sections 105, 363, 365 and 1146(c) of the Bankruptcy Code, Federal Bankruptcy Rules 2002, 6004, 6006 and 9014, and MLBR 6004-1.

E. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

F. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

G. The bidding procedures established by the Sale Procedures Order (the "Bidding Procedures") have been fully complied with.

H. Proper, timely, adequate and sufficient notice of the Sale Procedures Order, the Auction, the Sale Motion and the Hearing was given in accordance with sections 102, 363, 365 and 1146 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 6006 and MLBR 2002-5 and 6004-1, as modified by the Sale Procedures Order where applicable, and in compliance with the Sale Procedures Order. Actual written notice of the Sale Procedures Order,

the Auction, the Sale Motion and the Hearing and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including but not limited to: (i) the Office of the United States Trustee for this district, (ii) counsel to the official committee of unsecured creditors, (iii) counsel to the official committee of equity security holders, (iv) counsel to the agents for the Debtors' Pre-Petition Lenders and Post-Petition Lenders (as such terms are defined in the Sale Motion), (v) counsel for EAG, (vi) all parties who had delivered to the Trustee or his advisors written expressions of interest in acquiring, or offers to acquire, the Acquired Assets as of the date the Sale Motion was filed, (vii) appropriate federal, state and local taxing authorities, (viii) all known persons holding a Lien on part or all of the Acquired Assets, (ix) all parties requesting notice pursuant to Bankruptcy Rule 2002, (x) the Pension Benefit Guaranty Corporation, (xi) all non-Debtor parties to the Designated Executory Contracts set forth on Schedule 1.1(c) of the Asset Purchase Agreement and (xii) counsel to the Debtors.

I. The Trustee published notice of the time and place of the Auction, the Sale Hearing and the time for filing an objection to the Sale Motion in the national edition of The Wall Street Journal, The San Jose Mercury and The Boston Globe in accordance with of the Sale Procedures Order.

J. Proper, timely, adequate and sufficient written notice of the assumption and assignment of the Designated Executory Contracts and the cure amounts (if any) to be paid for each of the Designated Executory Contracts in connection therewith, which are listed on Exhibit B hereto ("Cure Amounts"), was provided in accordance with sections 105(a) and 365 of the Bankruptcy Code and Bankruptcy Rules 6006(c) and 9014. The foregoing notice constitutes

good, appropriate and sufficient notice, and no other or further notice of the assumption and assignment of the Designated Executory Contracts is or shall be required.

K. A reasonable opportunity has been afforded to any interested party to make a higher or otherwise better offer to purchase the Acquired Assets, and to assert an objection to or be heard regarding: (i) the relief requested in the Sale Motion, including, but not limited to, approval of the Asset Purchase Agreement; and (ii) Cure Amounts and other matters relating to the assumption and assignment of the Designated Executory Contracts.

L. The Trustee has marketed the Acquired Assets and conducted the sale process in compliance with, and has complied with all of his obligations under, the Sale Procedures Order.

M. HVEC has full corporate power and authority to comply with each and every one of its obligations under the Asset Purchase Agreement and under any documents executed in connection therewith.

N. Neither the execution of the Asset Purchase Agreement nor the consummation of the transactions contemplated thereby will constitute a violation of any provision of HVEC's organizational documents, or any other instrument, law, regulation or ordinance by which HVEC is bound.

O. The Trustee has full power and authority to execute and deliver the Asset Purchase Agreement and all other documents contemplated thereby, and the sale of the Acquired Assets and the other transactions contemplated by the Asset Purchase Agreement have been duly and validly authorized by all necessary action. The Trustee has all the power and authority necessary to consummate the sale of the Acquired Assets to EAG and the other transactions contemplated by the Asset Purchase Agreement and no consents or approvals, other than those

expressly provided for in the Asset Purchase Agreement, are required for the Trustee to consummate the sale of the Acquired Assets and such other transactions.

P. Entry into the Asset Purchase Agreement and consummation of the transactions contemplated thereby constitute the exercise by the Trustee of sound business judgment and such acts, and the relief requested in the Sale Motion, are in the best interests of the Debtors, their bankruptcy estates, their creditors, and other parties in interest.

Q. The Purchase Price to be paid to EAG pursuant to the Asset Purchase Agreement constitutes the highest and best offer received for the Acquired Assets, and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Trustee's determination that the Asset Purchase Agreement constitutes the highest and best offer for the Acquired Assets constitutes a valid and sound exercise of the Trustee's business judgment.

R. The Trustee has demonstrated both (i) good, sufficient and sound business purpose and justification and (ii) compelling circumstances for consummating the sale of the Acquired Assets to EAG pursuant to section 363(b) of the Bankruptcy Code, in that, among other things: (a) prompt approval and consummation of the sale of the Acquired Assets will preserve the viability of HVEC's and the other Debtors' businesses as a going concerns, protect against deterioration in the value of the Debtors' assets due to uncertainty about their future and maximize the value of their estates; (b) EAG has made a substantial offer to acquire the Acquired Assets; and (c) the sale process conducted by the Trustee pursuant to the Sale Procedures Order permitted EAG's offer to be tested against other offers and the market generally.

S. The terms and conditions of the Asset Purchase Agreement and the consideration to be realized by HVEC's estate pursuant to the Asset Purchase Agreement are fair and reasonable and the purchase price constitutes reasonably equivalent value.

T. The sale of the Acquired Assets and the other transactions contemplated by the Asset Purchase Agreement must be approved and consummated promptly in order to preserve the value of the Acquired Assets. Absent prompt consummation of the Sale, there is a risk of diminution in the value of the Acquired Assets.

U. EAG is not an "insider" or "affiliate" of the Debtors (as each term is defined in section 101 of the Bankruptcy Code). The transactions contemplated by the Asset Purchase Agreement were proposed and negotiated and entered into by the Trustee and EAG at arm's length, without collusion and in good faith within the meaning of section 363(m) of the Bankruptcy Code. EAG is a purchaser in good faith of the Acquired Assets under section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby. EAG will be acting in good faith within the meaning of section 363(m) of the Bankruptcy Code in consummating such transactions immediately upon and at all times after entry of this Order.

V. EAG and the Trustee have not engaged in any conduct that would cause or permit the Asset Purchase Agreement and the transactions contemplated thereby to be avoided under section 363(n) of the Bankruptcy Code.

W. EAG would not have entered into the Asset Purchase Agreement and would not consummate the transactions contemplated thereby, thus adversely affecting the Debtors, their estates, and their creditors, if the sale of the Acquired Assets to EAG were not free and clear of all Liens, other than Permitted Liens, or if EAG would, or in the future could, be liable for any of such Liens.

X. All amounts, if any, to be paid by the Debtors pursuant to the Asset Purchase Agreement or any of the documents delivered by the Debtors pursuant to or in connection with the Asset Purchase Agreement shall constitute allowed administrative expenses under sections 503(b) and 507(a)(1) of the Bankruptcy Code and shall be payable, in accordance with the Asset Purchase Agreement, if and when any Debtors' obligation arises thereunder without further application to or order of the Court.

Y. Entry into the Asset Purchase Agreement and consummation of the sale and the other transactions contemplated by the Asset Purchase Agreement do not and shall not subject EAG to any debts, liabilities, obligations, commitments, responsibilities or claims of any kind of the Debtors or their property or any affiliate of the Debtors or its property, whether known or unknown, contingent or otherwise, whether existing as of the date hereof or hereafter arising, except that EAG shall be liable for the Assumed Liabilities listed on Schedule 1.3 to the Asset Purchase Agreement.

Z. Each of the Designated Executory Contracts is an executory contract within the meaning of section 365(a) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, all restrictions on assignment in any of the Designated Executory Contracts are unenforceable against the Debtors and all Designated Executory Contracts may be lawfully assumed and assigned to EAG.

AA. The decision to assume and assign the Designated Executory Contracts pursuant to the Asset Purchase Agreement is a reasonable exercise of the Trustee's business judgment and is in the best interests of the Debtors, their bankruptcy estates and their creditors. The Designated Executory Contracts are an integral part of the Acquired Assets and, accordingly,

such assumption and assignment of Designated Executory Contracts is reasonable, enhances the value of the Debtors' estates and does not constitute unfair discrimination.

BB. Upon payment of the Cure Amounts under the Designated Executory Contracts, there will be no default under such Designated Executory Contracts.

CC. EAG has demonstrated adequate assurance of future performance with respect to each of the Designated Executory Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) and (f)(2)(B) of the Bankruptcy Code.

DD. The Trustee may sell the Acquired Assets free and clear of all Liens (other than Permitted Liens) because, in each case, one or more of the standards set forth in subsections (1)-(5) of section 363(f) of the Bankruptcy Code has been satisfied. Those holders of Liens (other than Permitted Liens) who did not object, or who withdrew their objections, to the Sale or the Sale Motion, are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Liens who did object, if any, fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Liens, if any, attach to the proceeds of the Sale as more fully described herein.

EE. Except with respect to the Assumed Liabilities, the transfer of the Acquired Assets to EAG will not subject EAG to any liability whatsoever with respect to the operation of the Debtors' businesses prior to the Closing Date or otherwise under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based, in whole or in part, directly or indirectly, on any theory of law or equity, including, without limitation, any theory of successor or transferee liability.

FF. It is not a principal purpose of any Person entering into the Asset Purchase Agreement or any transactions contemplated thereby to evade any liability to which such Person would be subject under Subtitle D of Title IV of ERISA.

GG. The sale of the Acquired Assets to EAG is integral to the Trustee's ability to confirm and consummate a plan of reorganization or liquidation in respect of HVEC and the other Debtors. The transactions contemplated by the Asset Purchase Agreement, including the transfer of the Acquired Assets are not, and shall not be, subject to taxation under any federal, State, local, municipal or other law imposing or purporting to impose a stamp, transfer, recording, sale or any other similar tax on any of the Debtors' transfers or sales of real estate, personal property or other assets owned by it in accordance with sections 1146(c) and 105(a) of the Bankruptcy Code.

HH. The Asset Purchase Agreement and each of the Ancillary Agreements is a valid and binding contract between HVEC and EAG, which contract is and shall be enforceable in accordance with its terms.

For all of the foregoing and after due deliberation, the Court hereby

ORDERS, ADJUDGES, AND DECREES THAT:

1. The Sale Motion is Granted and the Asset Purchase Agreement, the Ancillary Agreements, the sale of the Acquired Assets and the other transactions contemplated thereby are approved.

2. All objections to the entry of this Sale Order that have not been withdrawn, waived, resolved or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits with prejudice.

Approval of the Asset Purchase Agreement and Ancillary Agreements

3. The terms and conditions of the Asset Purchase Agreement and the Ancillary Agreements are hereby approved in all respects. Pursuant to section 363(b) of the Bankruptcy Code, the Trustee is authorized and directed to sell the Acquired Assets to EAG upon the terms and subject to the conditions set forth in the Asset Purchase Agreement.

4. Pursuant to sections 363(b) and 365 of the Bankruptcy Code, HVEC and the Trustee are hereby authorized and directed on and after the Closing Date to perform under, consummate and implement the Asset Purchase Agreement, together with the Ancillary Agreements and all other additional instruments and documents that may be reasonably necessary or desirable to implement the Asset Purchase Agreement and the transactions contemplated thereby, and, pursuant to the Asset Purchase Agreement, to take all further actions, including the execution and delivery of any documents, as may reasonably be requested by EAG for the purpose of assigning, transferring, granting, conveying and conferring to EAG, or reducing to possession, any or all of the Acquired Assets, or as may otherwise be necessary or appropriate to the performance of the Trustee's or HVEC's obligations as contemplated by the Asset Purchase Agreement.

Transfer of the Acquired Assets

5. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, upon the Closing under the Asset Purchase Agreement, the Acquired Assets shall be transferred to EAG free and clear of all Liens other than Permitted Liens. This Sale Order is and shall be effective as a determination that, on the Closing Date, all Liens existing on the Acquired Assets prior to the Closing Date, other than Permitted Liens, have been unconditionally released from such Acquired Assets. All Liens (other than Permitted Liens) and all debts arising in any way in connection with any acts or omissions of the Debtors, and all claims (as such term is defined in the Bankruptcy

Code), obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests and other matters of any kind and nature, arising prior to the Closing or relating to acts occurring prior to the Closing, and whether imposed by agreement, understanding, law, equity or otherwise (the foregoing collectively referred to as "Claims" herein), shall attach to the proceeds of the Sale, with the same validity, extent and priority as such Liens had immediately prior to the Sale (without prejudice to the rights, claims, defenses, offsets, demands and objections, if any, of the Trustee and all interested parties with respect to, among other things, the validity, extent and priority of such Liens).

6. The transfer of the Acquired Assets and the assignment of the Designated Executory Contracts pursuant to the Asset Purchase Agreement (a) shall constitute legal, valid and effective transfers of property of HVEC's estates to EAG, and (b) shall vest in EAG HVEC's right, title and interest in the Acquired Assets and the Designated Executory Contracts free and clear of all Liens (other than Permitted Liens) including, among other things, those Liens (i) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of HVEC's or EAG's interest in such Acquired Assets, or any similar rights, and (ii) relating to taxes arising under or out of, in connection with, or in any way relating to the operation of HVEC's business prior to the Closing Date.

7. The conveyance, assignment and sale of the Partners Equity to EAG, in accordance with the terms of the Asset Purchase Agreement, is hereby authorized and approved and upon closing of the Sale EAG shall have all of the rights, powers and interests that the Debtors (or any of them) had in and with respect to the Partners immediately prior to the Petition Date.

8. The sale of the Acquired Assets to EAG under the Asset Purchase Agreement will constitute good faith transfers for reasonably equivalent value and fair

consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession or the District of Columbia.

9. The Trustee, the Debtors and EAG shall be entitled to the protections provided under section 363(m) of the Bankruptcy Code.

10. The consideration provided by Purchaser for the Acquired Assets under the Agreement is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

11. Except as expressly set forth in the Asset Purchase Agreement, all persons and entities holding Liens or Claims against the Debtors or the Acquired Assets of any kind and nature whatsoever, hereby are forever barred, estopped and permanently enjoined from asserting, prosecuting or otherwise pursuing such Liens or Claims against EAG, its successors or assigns, their properties, or the Acquired Assets with respect to any Lien or Claims of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtors, their estates, officers, directors, shareholders, or the Acquired Assets, other than Permitted Liens. Following the Closing Date, no holder of a Lien or Claim against the Debtors shall interfere with EAG's title to or use and enjoyment of the Acquired Assets.

12. EAG shall have no liability or obligation for or in connection with any of the Excluded Liabilities. Except as expressly set forth in the Asset Purchase Agreement, EAG is not assuming nor shall it in any way whatsoever be liable or responsible, as a successor or otherwise, for any debts, liabilities, obligations, commitments or responsibilities of the Debtors or any of their predecessors or affiliates, or for any debts, liabilities, obligations, commitments, responsibilities or Liens in any way whatsoever relating to or arising from the Acquired Assets or the Debtors' operations or use or ownership of the Acquired Assets (including, without limitation,

the Designated Executory Contracts), arising prior to consummation of the transactions contemplated by the Asset Purchase Agreement. EAG shall not have any successor, transferee or vicarious liabilities of any kind or character, whether known or unknown, as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' businesses prior to the Closing Date or liabilities arising in connection with the Debtors' post-petition financing. Without limiting the generality of the foregoing, and except as expressly provided in the Asset Purchase Agreement, EAG is not assuming nor shall it in any way whatsoever be liable or responsible, as a successor or otherwise, for any Environmental Liabilities, debts, liabilities, obligations, commitments or responsibilities of the Debtors or any of their predecessors or affiliates in any way whatsoever relating to or arising from the presence or release, prior to the consummation of the transactions contemplated by the Asset Purchase Agreement, of any Pollutant or other hazardous, toxic, polluting or contaminating substances or wastes, and EAG shall not be liable for any Claims or Liens against Debtors or any of their predecessors or affiliates relating to or arising from the presence or release, prior to the consummation of the transactions contemplated by the Asset Purchase Agreement, of any Pollutant or other hazardous, toxic, polluting or contaminating substances or wastes, including any Environmental Liabilities, products liability claims, toxic tort claims, asbestos-related claims or environmental claims, that may be asserted pursuant to any laws of the United States, any state, territory or possession thereof or the District of Columbia, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*, or similar state or territory statute.

13. Except as expressly provided in the Asset Purchase Agreement, EAG is not acquiring or assuming, and the consummation of the Sale shall not subject EAG to, any Liens or Claims of any kind or nature whatsoever, whether known or unknown, contingent or otherwise, existing as of the date hereof or hereafter arising, of or against the Debtors, any affiliate of the Debtors, or any other person under the laws of the United States, any state, territory or possession thereof or the District of Columbia applicable to such transactions including, but not limited to, liability based, in whole or in part, directly or indirectly, on any theory of successor, vicarious or transferee liability.

14. This Sale Order (a) is and shall be effective as a determination that the conveyance of the Acquired Assets has been effected upon the Closing and (b) shall be binding upon and govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Acquired Assets. At or prior to the Closing Date, each person holding a Lien against any or all of the Acquired Assets is authorized and directed to execute such documents and take all other actions as may be necessary or appropriate to release such Liens, other than Permitted Liens, as such Liens may have been recorded or may otherwise exist.

15. If any person or entity having filed financing statements or other documents or agreements evidencing Liens in the Acquired Assets shall not have delivered to the Trustee

prior to Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, re-assignments or releases of all Liens which the person or entity has with respect to the Acquired Assets, then (i) the Trustee is hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Acquired Assets and (ii) EAG is hereby authorized to file, register or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Liens of any kind or nature whatsoever in, against, or with respect to, the Acquired Assets.

16. All entities who are presently, or on the Closing Date may be, in possession of some or all of the Acquired Assets are hereby directed to surrender possession of said Acquired Assets to EAG on the Closing Date.

Assumption and Assignment of the Designated Executory Contracts

17. Pursuant to sections 363(b), 363(f), 365(a), 365(b) and 365(f) of the Bankruptcy Code, the assumption, assignment and sale by the Trustee to EAG of the Designated Executory Contracts, free and clear of all Liens, other than Permitted Liens and Assumed Liabilities, is hereby authorized and approved and shall be effected by this Order; provided, however, that if the Closing shall fail to occur, none of the Designated Executory Contracts shall be deemed to be assumed or assumed and assigned, such contracts shall continue to be administered pursuant to the Bankruptcy Code, and EAG shall, in such event, have no obligations thereunder or in connection therewith. The Trustee and HVEC are hereby authorized and directed to execute and deliver to EAG such documents or other instruments as may be reasonably necessary to give full effect to the assignment and transfer of the Designated Executory Contracts to EAG, all as of the Closing Date.

18. The Trustee is authorized and directed to assign and transfer to EAG all of HVEC's rights, title and interest (including common law rights) in and to all of the intangible property of HVEC to be assigned and transferred to EAG under the Asset Purchase Agreement.

19. Except for as otherwise set forth herein, EAG shall assume and pay the Cure Amounts (as set forth on Exhibit B hereto) for the Designated Executory Contracts that it assumes, in accordance with sections 1.3(a) and 1.6 of the Asset Purchase Agreement. Other than such Cure Amounts, no cure payment or other payment of any kind shall be required in connection with the assumption and assignment to EAG of any Designated Executory Contract.

20. If EAG elects, in accordance with section 1.6 of the Asset Purchase Agreement, to assume any Undetermined Cure Contract, then the Trustee shall be, and hereby is, authorized and directed to assume and assign to EAG such Undetermined Cure Contracts without further order of this Court, conditioned upon payment by EAG of any Final Cure Cost owed with respect to such Undetermined Cure Contract.

21. The Designated Executory Contracts shall, upon and after assignment to EAG, be deemed to be valid and binding and in full force and effect and enforceable in accordance with their terms notwithstanding any provision in any such Designated Executory Contract (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. EAG shall assume obligations of HVEC arising from and after the Closing under the Designated Executory Contracts and shall not assume any obligation under the Designated Executory Contracts accruing or arising thereunder prior to the Closing except as expressly provided in the Asset Purchase Agreement. Pursuant to section 365(k) of the Bankruptcy Code, the Trustee and the Debtors shall be relieved from any liability for any breach of such Designated Executory Contracts occurring after such assignment.

22. No consent from any third party is required under any Designated Executory Contract in order to effectuate assumption and assignment of such Designated Executory Contract.

23. EAG has provided adequate assurance of its future performance under the Designated Executory Contracts and the proposed assumption and assignment of the Designated Executory Contracts satisfies the requirements of the Bankruptcy Code including, inter alia, sections 365(b)(1), 365(b)(3) and 365(f), to the extent applicable.

24. There shall be no accelerations, assignment fees, increases, or any other fees charged to EAG as a result of the assignment of the Designated Executory Contracts, and the validity of the assumption, assignment and sale to EAG shall not be affected by any dispute regarding the payment of Cure Costs.

25. All non-debtor parties to the Designated Executory Contracts are forever barred and enjoined from raising or asserting against EAG or its successors or assigns any violation under an acceleration clause, assignment fee, default or breach under, any Claim or pecuniary loss, or condition to assignment, arising under or related to the Designated Executory Contracts existing as of the Closing or arising by reason of the Closing or any Claim asserted or assertable against the Debtors.

26. Other than the payment of the Cure Amounts as and to the extent required under the Asset Purchase Agreement, EAG shall not be liable for any Claims of contract parties under the Designated Executory Contracts in respect of any claim or breach of an Designated Executory Contract that accrued prior to Closing.

27. The *Objection to Cure Amount by Limar Realty Corp. #20 and Limited Objection to Assumption and Assignment of Lease* (the "Limar Objection") filed by Limar Realty

#20 ("Limar"), the non-debtor party to one of the Designated Executory Contracts, has been resolved by agreement among Limar, the Trustee and EAG, and Limar has withdrawn the Limar Objection. Limar and HVE are parties to a certain real property lease (the "Lease") that is among the Designated Executory Contracts. Pursuant to the Limar Objection, Limar objected to the cure amount that was designated by the Trustee, and asserted that it is owed a cure payment of not less than $49,882.22 (the "Asserted Cure Amount") with respect to certain alleged defaults under the Lease. The Trustee asserts that Limar owes the Debtors a refund of not less than $224,016.67 (the "Refund Amount") with respect to certain payments the Debtors made for common area maintenance charges ("CAM Charges") under the Lease. Limar, the Trustee and EAG have agreed that, within ten (10) days after the entry of this Order, Limar shall pay the Trustee, in full satisfaction of the Refund Amount and the Asserted Cure Amount, the amount of $174,134.25, which amount is equal to the Refund Amount net of the Asserted Cure Amount. Notwithstanding anything to the contrary set forth herein or in the Asset Purchase Agreement, EAG shall not be obligated to pay the Asserted Cure Amount (or any other cure payment except as specifically provided in this paragraph) to Limar. Limar, the Trustee and EAG agree that the Trustee shall pay all amounts due under the Lease on September 1, 2005, and have further agreed that EAG shall assume all obligations and liabilities under the Lease, and that EAG shall pay to Limar, in accordance with the Lease, all amounts that become payable under the Lease after the Closing Date, including, without limitation, any amounts owed with respect to CAM Charges. If the Closing shall fail to occur, the agreement among the Trustee, EAG and Limar as set forth in this Paragraph 27 shall be null and void and shall be of no further effect.

28. The EAG Assets do not include (a) any insurance policies ("Ace Insurance Policies") issued by Pacific Employers Insurance Company, ACE Property & Casualty Insurance

Company (formerly known as CIGNA Property and Casualty Insurance Company), or other insurers within the ACE-USA family of companies (individually and collectively, "ACE"); or (b) any insurance-related program agreements or service agreements between one or more Debtors and either ACE (the "ACE Program Agreements") or ESIS, Inc. ("ESIS") (the "ESIS Service Agreements"). The ACE Insurance Policies, ACE Program Agreements and ESIS Service Agreements are hereinafter collectively referred to as the "ACE Group Policies and Agreements."

29. The transfer of the EAG Assets to the Buyer shall not affect or impair the rights of ACE and ESIS or the obligations of the Debtors under the ACE Group Policies and Agreements with respect to the defense or indemnification of any claim that is asserted against or which relates to the ACE Group Policies and Agreements. The Trustee shall cooperate with ACE and ESIS, and the Buyer shall comply with the access obligations under Section 5.2(g) of the Asset Purchase Agreement, regarding the investigation and handling of any such claims.

30. Upon the closing of the sale of the EAG Assets to the Buyer, the EAG Assets shall not be covered by any applicable insurance that has been purchased by the Debtors from ACE, and the Buyer alone is responsible for insuring the EAG Assets.

Additional Provisions

31. Nothing contained in any subsequent order of this Court, Chapter 11 plan confirmed in these cases or the order confirming any such Chapter 11 plan or any other order entered in these cases shall conflict with or derogate from the Asset Purchase Agreement or this Sale Order. This Sale Order shall survive any conversion or dismissal of the Debtors' Chapter 11 cases.

32. All objections and responses concerning the Sale Motion are resolved in accordance with the terms of this Sale Order and as set forth in the record of the Hearing and to

the extent any such objection or response was not otherwise withdrawn, waived or settled, it (and all reservations and rights therein) is hereby overruled and denied.

33. This Sale Order shall be effective and enforceable immediately upon entry, shall not be subject to any stay of enforcement, including any stay provided by Bankruptcy Rules 6004 and 6006, and its provisions shall be self-executing.

34. The Asset Purchase Agreement, the Ancillary Agreements and any related agreements, documents or instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court.

35. Subject to the provisions of, and except as provided in the Asset Purchase Agreement, this Court shall retain jurisdiction (i) to interpret and enforce the provisions of this Sale Order and the Asset Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects, (ii) to compel delivery of the Acquired Assets to EAG, (iii) to protect EAG against any Liens in the Acquired Assets, (iv) to compel delivery of the Purchase Price and all adjustments to the Purchase Price under the Asset Purchase Agreement, (v) to interpret, implement and enforce the provisions of this Sale Order and (vi) to hear and determine any and all disputes between the Trustee and/or EAG arising out of or relating to the Asset Purchase Agreement or this Sale Order, and any non-Debtor party arising out of or relating to, among other things, any Designated Executory Contracts concerning, inter alia, the Trustee's assumption and assignment thereof to EAG under the Asset Purchase Agreement; provided, however, that in the event the Court abstains from exercising or declines to exercise such jurisdiction or is without jurisdiction with respect to the Asset Purchase Agreement or this Sale Order, such abstention, refusal, or lack of jurisdiction shall have no effect

upon, and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

36. EAG shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Asset Purchase Agreement or any other document related to the sale of the Acquired Assets. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence.

37. Nothing in this Sale Order shall be construed to impose upon EAG any obligation or liability that is not imposed upon EAG under the express terms of the Asset Purchase Agreement.

38. All provisions of the Asset Purchase Agreement and this Sale Order are nonseverable and mutually dependent.

39. The terms and provisions of the Asset Purchase Agreement and this Sale Order shall be binding on the Trustee, the Debtors, their estates and creditors and their affiliates, successors and assigns, including but not limited to any Chapter 7 trustee that may be appointed in the Debtors' bankruptcy cases and shall also be binding upon all non-Debtor third parties to the Designated Executory Contracts, and all persons asserting a Lien or Claim against the Debtors' estates or any of the Acquired Assets, and any fiduciary or other entity that may be appointed in connection with this case or any other or further case involving the Debtors under any chapter of the Bankruptcy Code. The Asset Purchase Agreement, the Sale and the other transactions contemplated thereby shall be specifically performable and enforceable against and binding upon, and not subject to rejection or avoidance by, the Trustee, the Debtors and any Chapter 7 trustee of the Debtors and their estates.

40. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement and this Sale Order.

41. The failure specifically to include any particular provisions of the Asset Purchase Agreement in this Sale Order shall not diminish or impair the efficacy of such provisions, it being the intent of the Court that the Asset Purchase Agreement be approved in its entirety.

42. This Sale Order constitutes an itemized statement of the property sold, the name of each purchaser and the price received for the property as a whole as required pursuant to Rule 6004(f)(1) of the Bankruptcy Rules.

43. The Trustee is hereby authorized, without further Order of this Court, to utilize a portion of the proceeds of the Sale to pay in full the fees and expenses of Houlihan Lokey Howard & Zukin Capital ("HLHZ") payable in respect of the Sale pursuant to the Letter Agreement dated as of February 21, 2005 between HLHZ and the Trustee, free and clear of all Liens, provided that the payment of such fees and expenses shall not modify HLHZ's obligation under a prior Order of this Court approving its retention to file a final fee application at the conclusion of HLHZ's retention by the Trustee.

At Boston, Massachusetts, in said District, this 1st day of September, 2005

The Honorable Joan N. Feeney
Chief United States Bankruptcy Judge