

6/22/09

06-23-2009

**RECORDATION FORM COVER SHEET
TRADEMARKS ONLY**



103564674

To the Director of the U. S. Patent and Trademark Office: Please record the attach.

1. Name of conveying party(ies):
 ALLOMATIC INDUSTRIES, INC.
 30-30 60TH STREET
 WOODSIDE, NEW YORK, 11377-1295

Individual(s) Association
 General Partnership Limited Partnership
 Corporation- State: NEW YORK
 Other _____

Citizenship (see guidelines) U.S.A.

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: ALLOMATIC PRODUCTS COMPANY
 Internal
 Address: SUITE 512
 Street Address: ONE CORPORATE DRIVE
 City: SHELTON
 State: CONNECTICUT
 Country: U.S.A. Zip: 06484

Association Citizenship U.S.A.
 General Partnership Citizenship _____
 Limited Partnership Citizenship _____
 Corporation Citizenship DELAWARE
 Other _____ 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) 08/30 1989

Assignment Merger
 Security Agreement Change of Name
 Other PURCHASE AGREEMENT

4. Application number(s) or registration number(s) and identification or description of the Trademark.
 A. Trademark Application No. (s)
73/234,488

B. Trademark Registration No. (s)
1,160,855

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):
 MARK: ALLOMATIC FILED: 10/09/1979 REGISTRATION: 1,160,855 REGISTERED: 7/14/81

5. Name & address of party to whom correspondence concerning document should be mailed:
 Name: MICHAEL PIONTEK
 Internal Address: SUITE 1207
 Street Address: 221 NORTH LA SALLE STREET
 City: CHICAGO
 State: ILLINOIS Zip: 60601
 Phone Number: 312-236-8123
 Fax Number: 312-236-5574
 Email Address: PYLEPIONTEKLLC@AOL.COM

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 40

Authorized to be charged to deposit account
 Enclosed

8. Payment Information:
 06/22/2009 MJAMA1 00000058 101324 73234488
 Deposit Account Number 101324
 Authorized User Name ANGELA PYLE

9. Signature: Michael Piontek
 Signature
MICHAEL PIONTEK
 Name of Person Signing

Date: 6/15/09
 Total number of pages including cover sheet, attachments, and document: 40

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 22313-1450

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT ("Agreement"), entered into as of August 30, 1989, by and between ALLOMATIC INDUSTRIES, INC., a Delaware corporation, having offices at 30-30 60th Street, Woodside, New York 11377-1295 ("Seller"), and ALLOMATIC PRODUCTS COMPANY, a Delaware corporation, having offices at One Corporate Drive, Suite 512, Shelton, Connecticut 06484 ("Buyer");

W I T N E S S E T H:

WHEREAS, Seller has operations located in Woodside and New Hyde Park, New York involving the manufacture, remanufacture, assembly and sale of automatic transmission steel clutch plates, friction plates, bands, filters and filter kits and fuel filters, fuel filter kits and air cleaner breathers (the "Business");

WHEREAS, as of the date hereof Seller continues to lease the real property and manufacturing facilities at Woodside, New York, (the "Woodside Facility") used in the Business from New York City Industrial Development Agency (the "Woodside Lessor") pursuant to certain Lease Agreements dated November 1, 1978 (the "Woodside Lease") and Seller continues to lease the real property and

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facilities at New Hyde Park, New York, (the "New Hyde Park Facility") used in the Business from American Millwork Company (the "New Hyde Park Lessor") pursuant to a certain Lease Agreement dated July 30, 1986 (the "New Hyde Park Lease"); and

WHEREAS, in exchange for the consideration more fully set forth below, Buyer wishes to purchase from Seller and Seller wishes to sell to Buyer certain of the assets, properties and rights which relate to or form the Business and Seller wishes to assign to Buyer and Buyer wishes to assume from Seller certain of the obligations of Seller described herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants, representations, warranties and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

ARTICLE I - DEFINITIONS

The following terms shall have the meanings set forth in the following Sections of this Agreement:

<u>Term</u>	<u>Section</u>
"Assets"	2.1
"Assignment and Assumption of Lease - New Hyde Park"	2.3
"Sublease - Woodside"	2.3
"Assumed Liabilities"	2.3
"Assumption Agreement"	2.3
"Code"	2.3(g)

<u>Term</u>	<u>Section</u>
"Consulting Contracts"	3.1(q)
"Employee Policies and Procedures"	3.1(q)
"Employee Contracts"	3.1(q)
"Closing" or "Closing Date"	7.1
"Encumbrances"	3.1(e)
"Excluded Assets"	2.2
"Fixed Assets"	4.1
"Indemnified Party"	8.2
"Indemnifying Party"	8.2
"Manufacturer's Warranties"	4.2
"Purchase Price"	2.5
"Union Contracts"	3.1(q)

ARTICLE II - PURCHASE AND SALE OF ASSETS

2.1 Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, Seller shall sell, convey, transfer, assign and deliver to Buyer at the Closing the properties, assets and rights of Seller of every kind and nature, tangible or intangible, wherever located and whether or not recorded on the books of Seller as the same shall exist as of the Closing Date as described below (the "Assets"):

(a) All machinery, equipment, tools, tooling, molds, dies, vehicles, furniture, fixtures, office equipment, computers and other tangible personal property of Seller used in the Business including, without limitation, the items of personal property described in Schedule 2.1(a) hereto.

(b) All inventories of Seller used in the Business including, without limitation, finished products, work-in-process, materials, parts, components, supplies and packaging (whether the same be manufactured or remanufactured by Seller or acquired by it for processing or resale).

(c) All of Seller's right, title and interest as tenant in the New Hyde Park Facility and its rights under the New Hyde Park Lease;

(d) All of Seller's right, title and interest as lessee under the operating leases or agreements relating to the Assets or Business and listed on Schedule 2.1(d) hereto;

(e) All contracts, open sales orders, open purchase orders, licenses and agreements used in the Business to which Seller is a party, as more particularly listed on Schedule 2.1(e) hereto;

(f) All patents, patent applications, inventions, discoveries, improvements, shop rights, processes, formulae, proprietary and technical information, know-how and trade secrets, copyrights, copyright applications, trademarks, trademark applications and trade names used in the Business owned by Seller (including for this purpose patents, copyrights and trademarks

heretofore owned by Mr. Benno Bordiga which are used in or relating to the Business) ("Patents, Copyrights and Trademarks") as more particularly described in Schedule 2.1(f) hereto and the right to use the name "Allomatic" or any name derived therefrom or substantially similar thereto for any purpose including a corporate name (except that Seller may use the name "Allomatic" to endorse checks received in payment of trade accounts receivable which are among the Excluded Assets);

(g) All computer software and programs owned by Seller which are described in Schedule 2.1(g) ("Programs");

(h) All claims, causes of action, infringement actions, choses in action and rights against third parties (other than trade accounts payable) of Seller relating to the Business, including, without limitation, claims and rights against manufacturers, suppliers and vendors (including, without limitation, all rights in connection with such manufacturers', suppliers' and vendors' warranties and representations);

(i) All books and records pertaining directly to the Assets and Business except as described in Schedule 2.1(i); and

(j) All accounts receivable of the Seller.

The Assets shall be conveyed by Seller to Buyer pursuant to a Bill of Sale in the form attached hereto as Exhibit 2.1.

2.2 Exclusions. Notwithstanding the provisions of Section 2.1 hereof, the Assets sold and delivered to Buyer hereunder shall not include the assets specifically described in Schedule 2.2 attached hereto (the "Excluded Assets").

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2.3 Assumption of Liabilities. At the Closing, as partial consideration for the transfer of Assets by Seller pursuant to Section 2.1 hereof, Buyer shall assume and be liable for all liabilities and obligations of Seller described below (the "Assumed Liabilities"). At the Closing, Buyer shall execute and deliver to Seller (i) an assignment and assumption of lease, substantially in the form of Exhibit 2.3(a) hereto, pursuant to which Buyer assumes the New Hyde Park Lease, and indemnifies Seller against the liabilities and obligations of Seller thereunder except for estimated building restoration costs as of the Closing Date ("Assignment and Assumption of Lease - New Hyde Park"), (ii) an agreement of sublease, substantially in the form of Exhibit 2.3(b) hereto, pursuant to which Buyer assumes, and indemnifies Seller against, the liabilities described in Section 2.3(b) hereof ("Sublease - Woodside"), and (iii) an agreement of assignment and assumption, substantially in the form of Exhibit 2.3(c) hereto, pursuant to which Buyer assumes, and indemnifies Seller against, the liabilities specified in Sections 2.3(c) through (h) hereof (the "Assumption Agreement"). The term "Assumed Liabilities" shall mean the following liabilities and obligations of Seller:

(a) All of Seller's liabilities and obligations under the New Hyde Park Lease as set forth in the Assignment and Assumption of Lease - New Hyde Park, except for estimated building restoration costs as of the Closing Date, which shall remain Seller's liability to be paid as a reduction in the Purchase Price at Closing (Seller's liability for such building restoration costs as of the Closing Date to be determined on the basis of the agreement of the lessor of the building as to items to be restored and an engineer's

report setting forth the estimated costs of such restoration, to be repaired prior to the Closing at the expense of Seller if such engineer is selected by Seller or at the equal expense of Seller and Buyer if such engineer is mutually selected by Seller and Buyer as required by Buyer);

(b) Certain of Seller's liabilities and obligations under the Woodside Lease as set forth in the terms of the Sublease - Woodside;

(c) All liabilities and obligations of Seller which arise or become due on or after the Closing Date under the operating leases, contracts and other agreements of Seller listed on Schedule 2.1(d) and 2.1(e) hereto;

(d) All liabilities and obligations of Seller related to or resulting from the operation of the Business or the use or operation of the Assets and arising out of facts and circumstances occurring on or after the Closing Date;

(e) All liabilities, indebtedness and obligations of Seller (other than liabilities relating to land, buildings and building improvements, and federal or state income taxes) set forth or included on the balance sheet of Seller dated December 31, 1988 annexed hereto as Exhibit 2.3(e) (the "December 31, 1988 Balance Sheet") or arising in the ordinary course of the Business after such date;

(f) All accounts payable of the Seller.

(g) All liabilities, indebtedness and obligations of Seller related to or arising from any group health benefits payable by Seller to any current and former employees of Seller and their "qualified beneficiaries," as defined in Section 4980B of the Internal Revenue Code of 1986, as amended (the "Code");* which are required to be provided pursuant to the Consolidated Omnibus Budget Reconciliation Act, as amended from time to time, any regulations thereunder and any similar applicable state statute; and

(h) All liabilities, indebtedness and obligations of Seller related to wages, salaries, vacation benefits, severance payments or other similar obligations to employees arising out of the operation in the ordinary course of the Business.

2.4 Excluded Liabilities. Any and all liabilities of Seller other than those liabilities specifically included in the Assumed Liabilities shall remain the obligation of Seller and shall not be assumed by Buyer (the "Excluded Liabilities").

2.5 Purchase Price. Subject to the terms and conditions specified in this Agreement, Buyer shall purchase the Assets at the Closing by paying a purchase price consisting of the following (the "Purchase Price"):

(a) assumption of the Assumed Liabilities and

(b) cash in the amount of \$2,611,816 as adjusted at the

Closing pursuant to Section 2.7 hereof.

2.6 Payment of Cash Portion of Purchase Price. At the Closing, Buyer shall pay Seller by cashier's check or wire transfer to such account at such bank pursuant to such routing and other instructions as shall be specified by Seller, the cash portion of the Purchase Price.

** (or Section 162(k) of the Code, as in effect prior to the enactment of P.L. 100-647)

2.7 Purchase Price Adjustment at Closing. The cash portion

of the Purchase Price shall be adjusted at the Closing by the amount, if any, by which the Net Book Value (as hereinafter defined)

calculated on the basis of the unaudited balance sheet of the Seller as of June 30, 1989 (as adjusted to reflect the sale of the assets used in Seller's vacuum modulator business to a third party) (the "June 30 Balance Sheet") is less than the Net Book Value calculated on the basis of the December 31 Balance Sheet (as also so adjusted).

The June 30 Balance Sheet shall be prepared by the Seller on a basis consistent with the accounting principles applied in the preparation of the December 31 Balance Sheet ~~(except that all items of inventory~~

~~shall be valued on a first in, first out basis)~~ and shall be

delivered to the Buyer not later than five days prior to the Closing.

As used herein, "Net Book Value" means the amount by which the book value of the Assets exceeds the aggregate book value of the Assumed Liabilities, in each case as reflected on the relevant balance sheet

of Seller ~~(except that all items of inventory shall be valued on a first in, first out basis).~~

2.8 Purchase Price Adjustment After Closing. Buyer shall

have the option for a period of 60 days following the Closing to have

the June 30 Balance Sheet audited, at Buyer's sole cost and expense,

by an accounting firm mutually agreed upon by the parties. In the

event that the accounting firm performing such audit concludes that

the Net Book Value calculated on the basis of the June 30 Balance

Sheet exceeds the Net Book Value calculated on the basis of the

audited June 30 balance sheet of the Seller (the "Audited June 30

Balance Sheet") by an amount in excess of 10% of the cash portion of

the Purchase Price paid to Seller at the Closing, Buyer shall so

notify Seller. The Audited June 30 Balance Sheet shall be conclusive and binding on Buyer and Seller for all purposes hereunder. Within 30 days after receiving the Audited June 30 Balance Sheet, Seller shall remit to Buyer, as an adjustment to the cash portion of the Purchase Price, an amount in cash equal to the amount by which the Net Book Value as reflected on the Audited June 30 Balance Sheet is less than the Net Book Value reflected on the June 30 Balance Sheet; provided, however, that Seller shall not be required to pay any such adjustment unless the difference in Net Book Value is in excess of 10% of the cash portion of the Purchase Price paid to Seller at the Closing.** In the event such an adjustment is not received by Buyer as and when due, Buyer shall have the right to withhold up to an equivalent amount from the payments it owes to Seller under this Agreement, the Assignment and Assumption of Lease - New Hyde Park and the Sublease - Woodside.

ARTICLE III - REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Seller. Seller

represents and warrants to Buyer as follows:

(a) Organization; Good Standing. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware and has full corporate power to own, lease or operate its assets, properties and businesses and to enter into this Agreement. Seller has no subsidiaries.

* and provided further that the Seller shall only be required to pay any such adjustment to the extent that it exceeds 10% of the cash portion of the Purchase Price paid to Seller at the Closing.

(b) Authorization. The execution, delivery and performance by Seller of this Agreement and the documents contemplated hereby and the consummation of the transactions contemplated hereby and thereby:

- (i) have been duly authorized and approved by the Board of Directors and shareholder of Seller;
- (ii) do not conflict with any provision of the Certificate of Incorporation or By-laws of Seller;
- (iii) do not violate any law, regulation, order, judgment or decree by which Seller is bound; and
- (iv) will not result in the creation of any Encumbrance (as hereinafter defined) upon the Assets.

(c) Financial Statements. The December 31 Balance Sheet presents fairly, as of the date thereof, the financial position of Seller for the period then ended in accordance with generally accepted accounting principles consistently applied.

(d) Binding Obligation. This Agreement and the documents contemplated hereby to which Seller is a party evidence the legal, valid and binding obligations of Seller, enforceable in accordance with its and their terms.

(e) Title to Properties; Absence of Encumbrances. Seller is the lawful owner of all the Assets, free and clear of any and all liens, mortgages, pledges, conditional sales or other title

retention agreements, leases, charges, restrictions and encumbrances of every kind and nature whatsoever (collectively, "Encumbrances"), except for Encumbrances described in Schedule 3.1(e) hereto. Seller has the rights to (and at the Closing it shall) sell, transfer, and assign the Assets to Buyer, free and clear of any and all Encumbrances other than permitted Encumbrances set forth on Schedule 3.1(e) hereto.

(f) Location of Assets. All of the Assets are located at the Woodside Facility and New Hyde Park Facility, except as indicated on Schedule 3.1(f).

(g) Litigation. Except as set forth on Schedule 3.1(g), there is no material litigation, actions or proceeding pending or, to the knowledge of Seller, threatened at law or in equity, before any court or before or by any governmental agency, or by any private person or entity which would challenge the validity or enforceability of this Agreement, interfere with the performance by Seller of its obligations or liabilities hereunder, result in the imposition of any Encumbrance on the Assets, or which are not included within the coverage and limits of liability of Seller's insurance currently in force and effect.

(h) Facility. The Woodside Lease and New Hyde Park Lease are in full force and effect. Seller has delivered to Buyer true and complete copies of said Leases, as in effect on the date hereof. Seller is in compliance with all material terms of said Leases and has received no written notice that it is not in compliance with all terms of said Leases.

(i) Employment Matters. Seller is not currently subject to any employee pension benefit plan as defined in the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), except the hourly employees pension plan under the union contract, as to which neither the Seller or the Buyer shall have any "Withdrawal Liability" as defined in Subtitle E of Title IV of ERISA, as of the Closing Date. Except for the union contract with Local 259 of the United Auto Workers, there are no other employment agreements to which the Seller is a party other than as agreed in the ordinary course of the Business.

(j) Condemnation Proceedings. Seller has received no written notice of any pending condemnation or similar proceeding which would materially affect the Woodside Facility or the New Hyde Park Facility.

(k) Taxes. Seller has duly and timely filed all tax returns and reports required to be filed with respect to the Seller and has paid in full all taxes shown to be due thereunder.

(l) Environmental Matters. Seller has no knowledge of and has received no written notice that Seller at either the Woodside Facility or the New Hyde Park Facility or at any other location is in violation of any environmental ordinance, regulation, statute or governmental rule applicable thereto.

(m) Broker. Seller has not entered into any agreement with any person, firm or corporation, or become indirectly a party to any such agreement, nor has it taken any action nor is it aware of any facts which would result in the assertion of any liability or

claim for the payment of any commission, brokerage or finder's fee in connection with the transactions contemplated by this Agreement, except an agreement with Robert M. Haas Associates which Seller is obligated to pay in accordance therewith.

(n) Absence of Certain Changes. Except as disclosed to Buyer, since December 31, 1988 there have not been (i) any change in the financial condition of Seller or the assets, liabilities, or operations of Seller other than changes in the ordinary course of business, none of which singly or in the aggregate has or have been materially adverse; (ii) any damage, destruction, or loss, whether or not covered by insurance, materially and adversely affecting the Assets; (iii) any material increase in the compensation payable or to become payable by Seller to any of its officers or key personnel or any material increase in such compensation payable or to become payable to employees or agents, or any material increase in any bonus payment, or an arrangement made to or with any of the foregoing, (iv) any discharge or satisfaction of any material Encumbrance of Seller other than those then required to be discharged or satisfied, or payment of any obligation or liability of Seller, absolute, accrued, contingent or otherwise, whether due or to become due, other than liabilities shown on the December 31, 1988 Balance Sheet or incurred since such date in the ordinary course of business and consistent with prior practice; (v) any Encumbrance or restriction of a material nature imposed on any of the Assets; or (vi) any sale, transfer, lease, or other disposition of any of the Assets, except for

inventory or other assets not material in amount sold in the ordinary course of business.

(o) Patents, Copyrights and Trademarks. Schedule 2.1(f) attached hereto correctly sets forth all of the Patents, Copyrights and Trademarks, and all licenses or other agreements in connection with the foregoing, owned by Seller (including for this purpose, all patents, copyrights and trademarks heretofore owned by Mr. Benno Bordiga used in or relating to the Business), all of which are valid and subsisting. Seller has good and marketable title to all of the Patents, Copyrights and Trademarks listed in Schedule 2.1(f), none of which, to the best of Seller's knowledge, conflict with the rights of others. There are no licenses or commitments outstanding or effective concerning the Patents, Copyrights and Trademarks. To the best of Seller's knowledge, Seller owns or has the right to use all Patents, Copyrights and Trademarks pertaining to the Business, and Seller has not received and does not know of any basis for any claim of infringement of any of the foregoing.

(p) Business Permits. Seller has secured all permits, licenses or other authorizations from any governmental agency or authority necessary to operate the Business as presently conducted and will take all steps reasonably necessary to assign such permits, licenses or authorizations to Buyer and cooperate in the issuance of new permits, licenses or authorizations.

(q) Employee Agreements. Schedule 3.1(q) attached

hereto contains a true and complete list of:

(i) All agreements of Seller with representatives of employees, collective bargaining agreements and contracts or agreements with unions ("Union Contracts");

(ii) All agreements, contracts and understandings with individual employees of Seller ("Employee Contracts");

(iii) All agreements, contracts and understandings with consultants to Seller ("Consulting Contracts");

(iv) All policies and procedures applicable to employment with or employees of Seller, including, without limitation, those relating to holidays, vacations, severance pay, travel, conflicts of interest and equal employment ("Employee Policies and Procedures");

(v) All pension plans and welfare plans ("Pension Plans and Welfare Plans"); and

(vi) All benefits and compensation plans other than Pension Plans and Welfare Plans, including, without limitation, incentive plans, compensation plans, deferred compensation plans, stock purchase plans, employee stock option plans, and life, health and accident insurance ("Other Benefit Plans").

Seller has provided Buyer with a true and correct copy of all Union Contracts, Employee Contracts, Consulting Contracts, Employee Policies and Procedures, Pension Plans and Welfare Plans (the "Employee Agreements"). To the knowledge of Seller, no labor difficulties exist at any of Seller's plants.

(r) Contracts. All material contracts and commitments of Seller listed on Schedule 2.1(e) are as of the date hereof valid and in full force and effect. No party to any such contract or commitment is in default thereunder, and no event has occurred which, with notice and/or lapse of time, would constitute a default, under any such contract or commitment, all of which, subject to receiving any required consents, will continue to be binding in accordance with their terms following the Closing Date and (if the same are to be assigned to Buyer under this Agreement) their assignment to Buyer. Schedule 2.1(e) attached hereto lists:

(i) Each unfilled purchase order or purchasing commitment obligating Seller to pay an amount equal to \$5,000.00 or more, or which provides for performance, regardless of amount, over a period in excess of one year after the date of such order or commitment. None of such purchase orders or purchasing commitments is in excess of normal requirements of Seller, nor are prices provided therein materially in excess of present market prices for the products or services to be provided thereunder.

(ii) Each unfilled customer order or commitment obligating Seller to produce products or perform services for a price equal to \$5,000.00 or more, or which provides for performance,

regardless of amount, over a period in excess of one year after the date of such order or commitment.

(iii) All other contracts and agreements of Seller entered into in the ordinary course of the Business involving a commitment in excess of \$5,000.00 or over one year in duration.

(iv) All other material contracts and agreements of any nature, regardless of amount or subject matter, whether written or oral, to which Seller is a party, entered into other than in the ordinary course of the Business and not set forth elsewhere in the Schedules hereto.

(s) Product Warranties. Schedule 3.1(s) attached hereto contains the standard forms of warranties and all special warranties Seller has granted in connection with sale of products in the course of the Business.

(t) Defective Products: Except as described in Schedule 3.1(t) attached hereto, to the knowledge of Seller there are no defects in the design or manufacture of products contained in Seller's inventories or heretofore sold by Seller, which would result in other than normal warranty claims, require the recall of such products, or provide customers with a basis to reject such products or revoke acceptance of such products.

(u) Workers' Compensation. Seller has received no workers' compensation claims outside of or in excess of its workers' compensation insurance coverage and further knows of no facts or conditions that likely would result in claims outside of or in excess of such coverage.

3.2 Representations and Warranties of Buyer. Buyer

represents and warrants to Seller as follows:

(a) Organization; Good Standing. Buyer is a corporation duly organized, validly existing and in good standing under the laws of Delaware, and has full corporate power to own its properties and to conduct its current and currently contemplated business. Buyer is qualified to do business as a foreign corporation in good standing under the laws of the State of New York.

(b) Authorization. The execution, delivery and performance by Buyer of this Agreement and the documents contemplated hereby and the consummation of the transactions contemplated hereby:

(i) have been duly authorized and approved by the Board of Directors of Buyer;

(ii) do not conflict with any provision of the Certificate of Incorporation or By-laws of Buyer; and

(iii) do not violate any law, regulation, order, judgment or decree by which Buyer is bound.

(c) Consents. No consent or approval of, or other action by, any governmental body or agency is required in connection with the execution, delivery and performance by Buyer of this Agreement or the transactions contemplated hereby, except such as shall have been duly obtained or taken on or before the Closing Date.

(d) Binding Obligation. This Agreement and the other documents contemplated hereby to which Buyer is a party evidence the

legal, valid and binding obligations of Buyer, enforceable in accordance with their terms.

(e) Litigation. There is no material litigation, action or proceeding pending, or, to the knowledge of Buyer, threatened, at law or in equity, before any court or before or by any governmental agency, or by any private person or entity which would challenge the validity or enforceability of this Agreement or interfere with the performance by Buyer of its obligations and liabilities hereunder.

(f) Broker. Buyer has not entered into any agreement with any person, firm or corporation, or become indirectly a party to any such agreement, nor has it taken any action nor is it aware of any facts which would result in the assertion of any liability or claim for the payment of any commission, brokerage or finder's fee in connection with the transactions contemplated by this Agreement.

∴ ARTICLE IV - FIXED ASSETS

4.1 Fixed Assets. The Assets listed on Schedule 2.1(a) hereto and described in Section 2.1(a) hereof (the "Fixed Assets") will be sold in "AS IS" condition and not subject to any warranties, or representations of fitness for a particular purpose.

4.2 Manufacturer's Warranties. Seller hereby assigns to Buyer, to the extent they are assignable, any and all warranties of third party manufacturers, suppliers or other vendors with respect to any of the Assets ("Manufacturer's Warranties").



ARTICLE V - COVENANTS

The parties, as appropriate, hereby covenant and agree as follows:

5.1 Protection of Assets and Business. During the period from the date of this Agreement through the Closing or the termination or expiration of this Agreement, whichever shall first occur, unless specifically agreed by the parties in writing, Seller shall not take any action which would have a material adverse effect on the value of the Assets or the financial condition of the Business. It is further agreed that during the period from the date of this Agreement through the Closing or the termination or expiration of this Agreement, whichever shall first occur, Seller shall obtain the approval of Buyer prior to entering into any transaction that has the potential impact on the Assets or Business in the amount of \$50,000 or more, excepting from such approval, raw material purchases.

5.2 Payment of Taxes. Buyer shall pay the New York sales tax, if any, due with respect to the sale of Assets contemplated hereby. Buyer agrees to indemnify and hold harmless Seller against any and all claims, damages, expenses or liabilities which it is or may become subject to related to such taxes. All other taxes arising out of the transactions contemplated by this Agreement or affecting the Assets and the Business, with interest and penalties thereon, if any, and relating to any period ending on or prior to the Closing

Date have been or will be paid by Seller. Seller agrees to indemnify and hold harmless Buyer against any and all claims, damages, expenses or liabilities which it is or may become subject to related to such taxes.

5.3 Evaluation Review. To assist the Buyer in evaluating the Assets and the Business, the Seller shall:

(a) Cause Benno Bordiga to provide the Buyer with such information in his possession relating to the Seller, the Assets and the Business as the Buyer shall from time to time reasonably request;

(b) After notice to and consent by Benno Bordiga, cause Jeffrey Bordiga to provide the Buyer with such information in his possession relating to the Seller, the Assets and the Business as the Buyer shall from time to time reasonably request;

(c) Cause its outside counsel, auditors and other professional agents and advisors to provide the Buyer with such information in their possession relating to the Seller, the Assets and the Business as the Buyer shall from time to time reasonably request (without, however, being under any obligation thereby to waive any attorney-client or other professional privilege, all of which privileges the Seller expressly reserves); and

(d) Permit the Buyer or its authorized agents to inspect the Assets and the Seller's production facilities used in the Business upon reasonable prior notice to the Seller; provided,

however, that the scheduling of such inspections shall be subject to the absolute discretion of the Seller.

Except as otherwise provided above, the Buyer agrees not to contact any employees of the Seller in connection with the transactions contemplated by this Agreement or to visit the Seller's production facilities used in the Business.

5.4 Cooperation. Seller and Buyer shall each use its best efforts in obtaining any consent to the assignment of any material contract, license, lease (including the New Hyde Park Lease and Woodside Lease), agreement, purchase order, sales order, or other instrument, permit or license which is to be assigned to the Buyer hereunder and which may be required for each assignment to be effective; provided, however, that neither the Seller nor the Buyer shall be obligated to expend any money or incur any obligations in so doing.

ARTICLE VI - CONDITIONS PRECEDENT TO CLOSING

6.1 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the transactions provided for herein are subject to the satisfaction of or written waiver by Buyer of the following conditions on or prior to the Closing Date:

(a) All of the representations and warranties of Seller in this Agreement shall be true and correct on and as of the Closing Date;

Handwritten initials/signature

(b) All the terms, covenants and conditions of this agreement to be complied with or performed by Seller on or before the Closing Date shall have been duly complied with and performed;

(c) Seller shall have delivered to the Buyer at the Closing appropriate bills of sale and other instruments of transfer, conveyance, sale and assignment of the Assets as referenced herein and a non-compete instrument in the form of Exhibit 6.1(c) duly executed by Seller and Benno Bordiga;

(d) Seller shall have delivered to Buyer a certificate of one of its executive officers, dated as of the Closing Date, confirming the matters set forth in Sections 6.1(a) and 6.1(b) hereof;

(e) Seller shall have delivered to the Buyer a certificate of Seller's Secretary or Assistant Secretary as to:

(i) resolutions adopted by the Board of Directors and shareholder of Seller authorizing the execution and delivery of this Agreement and the consummation by Seller of the transactions contemplated hereby; and

(ii) the incumbency of the officers of Seller authorized to execute and deliver this Agreement and the other documents contemplated hereby;

(f) There shall have been delivered to Buyer the opinion of Patterson, Belknap, Webb & Tyler, counsel to Seller, dated as of the Closing Date, in substantially the form of Exhibit 6.1(f) hereto;

(g) There shall not be pending or threatened any governmental action or any proceeding by or before any court or governmental body or agency which seeks to restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(h) Buyer shall have received all consents required with respect to the Assignment and Assumption of Lease - New Hyde Park, the Sublease - Woodside and any other material contract, lease, license, agreement, purchase order, sales order or other instrument, permit or license which is to be assigned to Buyer hereunder and which may be required for such assignment to be effective and any consent not received shall have been waived by Buyer.

6.2 Conditions to the Obligations of Seller. The obligations of Seller to consummate the transactions provided for herein are subject to the satisfaction or written waiver by Seller of the following conditions on or prior to the Closing Date:

(a) All of the representations and warranties of Buyer in this Agreement shall be true and correct as of the Closing Date;

(b) All the terms, covenants and conditions of this Agreement to be complied with or performed by Buyer on or before the Closing Date shall have been duly complied with and performed;

(c) Buyer shall have delivered to the Seller a certificate of one of its executive officers, dated as of the Closing Date, confirming the matters set forth in Sections 6.2(a) and 6.2(b) hereof;

(d) Buyer shall have delivered to the Seller a certificate of Buyer's Secretary as to:

- (i) resolutions adopted by the Board of Directors of Buyer authorizing the execution and delivery of this Agreement and the consummation by Buyer of the transactions contemplated hereby; and
- (ii) the incumbency of the officers of Buyer authorized to execute and deliver this Agreement and the other documents contemplated hereby.

(e) Buyer shall have executed and delivered to the Seller the Assignment and Assumption of Lease - New Hyde Park, Sublease - Woodside and the Assumption Agreement referred to in Section 2.3 hereof;

(f) The Seller shall have confirmed receipt of funds in the amount of the cash portion of the Purchase Price pursuant to Section 2.6 hereof.

(g) The Seller shall have received an opinion of Buyer's legal counsel, dated as of the date of Closing, in substantially the form of Exhibit 6.2(g) hereto;

(h) There shall not be pending or threatened any governmental action or any proceeding by or before any court or governmental body or agency which seeks to restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(i) Buyer shall have obtained and delivered to Seller such instruments as Seller shall reasonably request to reflect the consent to the assignment to Buyer by the lessors under, and the release of Seller and Benno Bordiga from all liabilities, indebtedness and obligations relating to or arising out of (x) all leases of equipment and other personal property which are to be assigned to Buyer hereunder and (y) the New Hyde Park Lease, including, but not limited to, the release of all personal guarantees made by Benno Bordiga.

(j) Seller shall have received all consents required with respect to the Assignment and Assumption of Lease - New Hyde Park, the Sublease - Woodside and any other material contract, lease, license, agreement, purchase order, sales order or other instrument, permit or license which is to be assigned to Buyer hereunder and which may be required for such assignment to be effective and any consent not received shall have been waived by Seller.

(k) Buyer shall have obtained and delivered to Seller such instruments as Seller shall reasonably request to reflect the release of Seller and Benno Bordiga from all liabilities, indebtedness and obligations relating to or arising out of Seller's indebtedness to Fidelcor Business Credit Corporation, including, but not limited to, the release of all personal guarantees made by Benno Bordiga.

(l) Buyer shall have delivered to Seller a surety bond or other third party guaranty in form and content acceptable to

Seller and issued by a surety company or other third party acceptable to Seller in an amount of \$1,000,000 pursuant to which the surety company or other third party irrevocably and unconditionally agrees to pay and discharge such accounts payable to the extent they remain unpaid after the expiration of 120 days following the Closing.

(m) Seller shall have no "withdrawal liability" as defined under Subtitle E of Title IV of ERISA as of the Closing Date with respect to any employee pension benefit plan as defined in ERISA.

ARTICLE VII - ACTIONS AT CLOSING

7.1 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated hereby shall take place at the offices of Patterson, Belknap, Webb & Tyler, 30 Rockefeller Plaza, New York, New York 10112 at 10:00 a.m. on September 22, 1989, or at such other time, date and/or place as Buyer and Seller may agree upon in writing. The date and time at which said Closing is required to take place under this Agreement is herein referred to as the "Closing" or the "Closing Date." At the Closing, Buyer shall deliver to Seller the instruments described in Section 6.2 and the cash portion of the Purchase Price, and Seller shall deliver to Buyer the instruments described in Section 6.1. If the Closing shall not have occurred by September 29, 1989, Buyer or Seller shall have the right to elect to terminate this Agreement and be relieved of all of its obligations hereunder on notice to the other party.

7.2 Possession of the Assets. Simultaneously with the consummation of the transfer of the Assets to Buyer, Seller, through its officers, agents and employees, shall put Buyer into full possession and enjoyment of all the Assets.

8.1 Covenants of Further Assurances. Seller shall, from time to time upon the request of Buyer, execute, acknowledge, seal and deliver all such instruments and documents, and do all such further things, as Buyer may reasonably request to perfect the transfer and delivery to Buyer of any and all of the Assets that are to be sold, transferred and assigned to Buyer under this Agreement. Buyer shall, from time to time upon the request of Seller, execute, acknowledge, seal and deliver all such instruments and documents and do all such further things, as Seller may reasonably request to perfect the transfer and assumption by Buyer of any and all of the Assumed Liabilities that are to be assumed by Buyer under this Agreement.

8.2 Indemnity.

(a) In General. Buyer agrees to indemnify, defend and hold Seller, as the case may be, harmless from and against any and all actual out-of-pocket damages, costs or expenses (including, without limitation, reasonable attorney's fees) resulting from (i) any material inaccuracy of any representation or warranty of Buyer contained in this Agreement or (ii) any failure by Buyer to carry out its covenants or agreements set forth in either this Agreement, the Assignment and Assumption of Lease - New Hyde Park, the Sublease - Woodside, or the Assumption Agreement, including, without limitation, Buyer's agreement to assume the Assumed Liabilities. Seller agrees to indemnify, defend and hold Buyer harmless from and against any and

all actual out-of-pocket damages (excluding consequential damages), costs or expenses (including, without limitation, reasonable attorney's fees) resulting from (i) any material inaccuracy of any representation or warranty of Seller contained in this Agreement or (ii) any failure by Seller to carry out its covenants and agreements set forth in this Agreement, including, without limitation Seller's agreement to retain the Excluded Liabilities.

(b) Defense of Third Party Claim. If, subsequent to the Closing, any claim is asserted by any person not a party to this Agreement against one of the parties hereto ("Indemnified Party"), and the Indemnified Party is entitled to be indemnified with respect to such claim, such Indemnified Party, within thirty (30) days after receiving written notice thereof, shall give written notice to the party required to indemnify it (the "Indemnifying Party"). In the event the Indemnified Party fails to give notice as aforesaid, the Indemnifying Party shall have no obligation with respect to such claim under the indemnity provisions of this Agreement. The Indemnifying Party shall have the right, upon written notice to the Indemnified Party within thirty (30) days after receipt of notice of such claim to conduct, at its expense, the defense (including compromise or settlement of such claim) in its name, or, if necessary, in the name of the Indemnified Party. The Indemnified Party will cooperate and make available such assistance and materials as may be reasonably required of it. The Indemnified Party shall

have the right, at its expense, to participate in the defense and (with prior written consent of the Indemnifying Party) to compromise and settle the claim. In the event that the Indemnifying Party shall fail to give notice to the Indemnified Party that it will conduct the defense of the claim, it shall be deemed to have elected not to conduct the defense of the subject claim, and in such event the Indemnified Party shall have the right to conduct such defense. Any final judgment entered or settlement agreed upon in the manner provided herein shall be binding upon the Indemnifying Party and shall be deemed conclusively to be an obligation with respect to such party.

(c) Neither party shall have any claim for indemnity hereunder until an aggregate of \$25,000 in claims by either party has been reached and in that event the entire amount of claims shall be paid. Any claim for indemnity hereunder shall be made on or before four years from the Closing.

8.3 Employees. Seller agrees that it shall not in any way dissuade, or attempt to dissuade, any individuals employed by it at the Woodside Facility and the New Hyde Park Facility prior to the Closing from becoming employees of the Buyer.

8.4 Nondisclosure. Each of the parties hereto acknowledge that this Agreement and the negotiations therefor are subject to a

Confidentiality Agreement between the Seller and the Buyer dated July 21, 1987, a copy of which is attached hereto and marked Exhibit 8.4.

8.5 Books and Records.

(a) Obligations of Buyer. From and after the Closing, Buyer shall afford the officers and authorized representatives of Seller full reasonable access during normal business hours to its books and records as they may relate to the manufacture and/or sale of the products or the operation of the Business or the Woodside Facility and the New Hyde Park Facility prior to the Closing Date. Buyer shall maintain all of the records of the Business obtained from Seller for a period of three years from the Closing, or such longer period as may be required by law. If Buyer desires to discard any such records prior to the expiration of three years, notification of such intent shall be given to Seller at which time Seller shall be given ninety days to take possession or seek other means for retention of such records. At the end of such ninety-day period, Buyer may discard all such records.

(b) Obligations of Seller. From and after the Closing, Seller shall afford the officers and authorized representatives of Buyer full reasonable access during normal business hours to its books and records as they may relate to the Assets for periods prior to the Closing Date.

8.6 Post-Closing Operation of the Business. The Buyer agrees that it shall take no action after the Closing which might result in the imposition of any obligation or liability upon the Seller under

any applicable law, including, but not limited to, the Worker Adjustment and Retraining Notification Act of 1988.

ARTICLE IX - MISCELLANEOUS

9.1 Survival of Representations and Warranties. All representations and warranties contained in this Agreement shall survive the Closing and shall continue in full force and effect for a period of four years following the Closing Date.

9.2 Agreement; Waiver by Written Instrument. This Agreement may be amended, modified or supplemented, and any obligation hereunder may be waived, only by a written instrument executed by the parties hereto. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate as a waiver of any subsequent breach.

9.3 Effect of Failure to Exercise Rights. No failure on the part of any party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy by such party preclude any other or further exercise thereof or the exercise of any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights and remedies provided by law.

9.4 Assignment of Rights Under Agreement. Neither Buyer nor Seller may assign or transfer any rights or obligations under this Agreement.



9.5 Notice. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or by telecopy or telex with confirmed answer back as follows:

If to Seller:

Allomatic Industries, Inc.
30-30 60th Street
Woodside, NY 11377-1295

Attention: Benno Bordiga

With a copy to:

Patterson, Belknap, Webb & Tyler
30 Rockefeller Plaza
New York, New York 10112

Attention: David W. Dykhouse, Esq.

If to Buyer:

Allomatic Products Company
Suite 512
One Corporate Drive
Shelton, CT 06484

Attention: Raytech General Counsel

or to such other address as either party shall have specified by notice in writing to the other party.

9.6 Expenses. Each party hereto shall pay its own expenses in connection with the transactions contemplated hereby.

9.7 Public Disclosure. The parties will consult with respect to the appropriate public disclosure to be made with respect to the transactions contemplated hereby, and will make no such disclosure prior to such consultation, except as may be required by law.

9.8 Miscellaneous. This Agreement (including all Exhibits and Schedules hereto) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, between the parties in connection with said subject matter. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective legal representatives, successors and permitted assigns. No third party is a beneficiary of this Agreement, and no rights or causes of action shall accrue to any third party from the terms of this Agreement. This Agreement is entered into in, and shall be governed by and construed and enforced in accordance with the substantive laws of, the State of New York. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All Exhibits and Schedules mentioned in this Agreement shall be attached to this Agreement, and shall form an integral part hereof. All capitalized terms defined in this Agreement which are used in any Exhibit or Schedule shall, unless the context otherwise

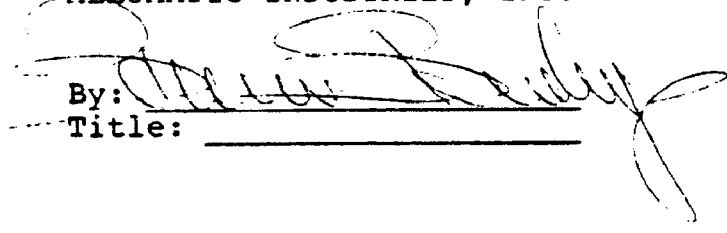
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requires, have the same meaning therein as given herein. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Agreement as an Agreement under seal as of the date first above written.


ALLOMATIC INDUSTRIES, INC.

(seal)

By: 
Title: _____

ALLOMATIC PRODUCTS COMPANY

(seal)

By: 
Title: _____

ALLOMATIC INDUSTRIES, INC.
ASSET SALE

List of Schedules

- 2.1(a) Machinery, Equipment, Tools, Tooling, Molds, Dies, Vehicles, Furniture, Fixtures, Computers, etc.
- 2.1(d) Operating Leases, Contracts and Agreements
- 2.1(e) Contracts, Licenses and Agreements
- 2.1(f) Patents, Copyrights and Trademarks
- 2.1(g) Software and Programs
- 2.1(i) Excepted Books and Records
- 2.2 Excluded Assets
- 2.3(e) Assumed Liabilities on Balance Sheet or in Ordinary Course
- 3.1(e) Liens and Encumbrances
- 3.1(f) Assets Located Other Than at the Facilities
- 3.1(g) Litigation
- 3.1(q) Employee Agreements
- 3.1(s) Product Warranties
- 3.1(t) Defective Products

List of Exhibits

- 2.1 Bill of Sale
- 2.3(a) Assignment and Assumption of Lease - New Hyde Park
- 2.3(b) Sublease - Woodside
- 2.3(c) Assumption Agreement
- 2.3(e) December 31, 1988 Balance Sheet
- 6.1(c) Non-Compete Agreement
- 6.1(f) Legal Opinion - Seller's Counsel
- 6.2(g) Legal Opinion - Buyer's Counsel
- 8.4 Confidentiality Agreement

