

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Asset Purchase Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Effikal International, Inc.		09/05/2006	CORPORATION:
Flue Sentinel, Inc.		09/05/2006	CORPORATION:
RECEIVING PARTY DATA			
Name:	Heico Holding, Inc.		
Street Address:	2626 Warrenville Road		
Internal Address:	Suite 300		
City:	Downers Grove		
State/Country:	ILLINOIS		
Postal Code:	60515		
Entity Type:	CORPORATION:		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	3112378	ENER-G-LECTUAL	
Registration Number:	2873935	FLUE SENTINEL	
Registration Number:	3112323	MILLI-DAMPER	
Serial Number:	76562439	LIFESTYLESENCE	
Serial Number:	76562446	PRACTI-FRUGAL	
Registration Number:	3130279	SAFETY-MATIC	
Registration Number:	1148236	EFFIKAL	
CORRESPONDENCE DATA			
Fax Number:	(312)876-2020		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	312-876-1800		
Email:	lbowen@woodphillips.com		
Correspondent Name:	Wood, Phillips, Katz, Clark & Mortimer		

CH \$190.00 3112378

Address Line 1: 500 W. Madison Street
Address Line 2: Suite 3800
Address Line 4: Chicago, ILLINOIS 60661-2562

ATTORNEY DOCKET NUMBER:	FIE10029T00300US
NAME OF SUBMITTER:	John S. Mortimer
Signature:	/John S. Mortimer/
Date:	05/11/2010

Total Attachments: 70

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ASSET PURCHASE AGREEMENT
DATED AS OF SEPTEMBER 5, 2006
BY AND AMONG
EFFIKAL INTERNATIONAL, INC.,
FLUE SENTINEL, INC.
ELIZABETH S. HUBBARD,
AND
HEICO HOLDING, INC.

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of September 5, 2006, is made by and among Effikal International, Inc., a Michigan corporation ("Effikal"), Flue Sentinel, Inc., a Michigan corporation ("Flue Sentinel" and collectively with Effikal, the "Seller"), Elizabeth S. Hubbard ("Shareholder") and Heico Holding, Inc., a Delaware corporation (or its designated Affiliate, "Buyer").

Seller is engaged in the manufacture of dampers, draft controls and specialized electronic controllers for the residential and commercial HVACR and hearth markets (the "Business").

Shareholder owns or controls all of the issued and outstanding capital stock of Seller.

Seller desires to sell and Buyer desires to purchase substantially all of the assets used by Seller in the operation of the Business and assume certain liabilities of the Business, upon the terms and subject to the conditions set forth herein.

The parties, intending to be legally bound, agree as follows:

ARTICLE I CERTAIN DEFINITIONS

As used in this Agreement the following terms shall have the following respective meanings:

"Accounts Payable" shall mean all of Seller's trade accounts payable (including all trade accounts payable with respect to goods and services received by Seller but for which invoices have not yet been received by Seller) that arise from the conduct of the Business and relate to the period prior to the Closing.

"Accounts Receivable" shall mean all of Seller's trade and other accounts receivable at the Closing that arise from the conduct of the Business and relate to the period prior to the Closing.

"Action" shall mean any action, suit, complaint, charge, hearing, arbitration, inquiry, proceeding or investigation by or before any court of competent jurisdiction, governmental or other regulatory or administrative agency or commission or arbitral panel.

"Adjustment Escrow" shall have the meaning set forth in Section 2.4(b).

"Affiliate" (and, with a correlative meaning, "Affiliated") shall mean, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. As used in this definition, "control" (including, with correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

“Agreement” shall have the meaning set forth in the preamble hereto.

“Ancillary Agreements” shall mean, collectively, any agreements, certificates or other documents delivered at or prior to the Closing in connection with the transactions contemplated by this Agreement and shall include, without limitation, the Escrow Agreement, the Consulting Agreement, and the Seller/Shareholder Non-Competition Agreement.

“Asset Purchase” shall mean the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities as provided for in this Agreement.

“Assumed Liabilities” shall have the meaning set forth in Section 2.10.

“Assumption Agreement” shall have the meaning set forth in Section 2.10.

“Bill of Sale and Assignment” shall have the meaning set forth in Section 2.5(a).

“Books and Records” shall mean all of Seller’s books and records (or copies of relevant portions thereof) relating to the Purchased Assets, the Assumed Liabilities, or the operations of the Business as of the Closing Date, other than Returns and related work papers for taxable periods ending on or prior to the Closing Date and books and records relating solely to any Excluded Assets.

“Business” shall have the meaning set forth in the first recital hereof.

“Buyer” shall have the meaning set forth in the preamble hereto.

“Buyer Indemnified Parties” shall have the meaning set forth in Section 9.3.

“Cash” shall mean all cash, time deposits, certificates of deposit, marketable securities, short-term investments and other cash equivalents of Seller.

“Claim” means (i) any right to payment, whether or not such right is reduced to judgment, liquidated, fixed, contingent, unmatured, disputed, legal, equitable, or secured and (ii) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

“Closing” shall have the meaning set forth in Section 2.7.

“Closing Balance Sheet” shall have the meaning set forth in Section 2.8(a).

“Closing Cash Payment” shall have the meaning set forth in Section 2.4(a).

“Closing Date” shall mean September 29, 2006, or if Seller and Buyer mutually agree in writing on a different date, the date upon which they have mutually agreed.

“Closing Financial Data” shall have the meaning set forth in Section 2.8(b).

“Closing Working Capital” shall have the meaning set forth in Section 2.8(a).

“Code” shall mean the Internal Revenue Code of 1986, as amended, and any successor thereto.

“Competing Transaction” shall have the meaning set forth in Section 5.9.

“Consulting Agreement” shall mean the Consulting Agreement between Shareholder and Buyer in the form attached as **Exhibit E** to be executed and delivered at the Closing, pursuant to which Shareholder shall provide certain consulting services to Buyer for a transitional period after the Closing.

“Contracts” shall mean all existing instruments, contracts, agreements, arrangements, understandings and commitments, whether written or oral, of Seller or its Affiliates related to or arising from the conduct of the Business (including, without limitation, the contracts set forth on **Schedule 3.14**) and all instruments, contracts, agreements, arrangements, understandings and commitments, whether written or oral, of Seller or its Affiliates related to or arising from the conduct of the Business that are entered into in the Ordinary Course and not in contravention of this Agreement between the date of this Agreement and the Closing Date.

“Copyright Assignment” shall have the meaning set forth in Section 2.5(h).

“Customer Information” shall have the meaning set forth in Section 5.1(b).

“Debt” shall have the meaning set forth in Section 3.3.

“Dispute” shall have the meaning set forth in Section 11.15(a).

“Disputed Amounts” shall have the meaning set forth in Section 9.7.

“Earnout” shall have the meaning set forth in Section 2.14 (a).

“Earnout Payment” shall have the meaning set forth in Section 2.14 (a).

“Earnout Period” shall have the meaning set forth in Section 2.14 (a).

“EBITDA” shall mean for any period, for the Business, an amount equal to (a) the net income for such period determined in accordance with GAAP plus (b) the following to the extent deducted in calculating such net income: (i) interest charges for such period, (ii) the provision for federal, state, local, and foreign income taxes payable by the Business for such period, and (iii) the amount of depreciation and amortization expenses deducted in determining such net income.

“Effikal” shall have the meaning set forth in the preamble hereto.

“Employee Benefit Plans” shall have the meaning set forth in Section 3.12(a).

“Employment Agreements” shall have the meaning set forth in Section 3.11(a).

“Environmental Law” shall mean any currently applicable local, state or federal statute or any rule, regulation, code, or ordinance issued or promulgated thereunder, that relates to the

operations of the Business and/or the use of the Leased Real Property, concerning protection of human health, safety, or the environment.

“Environmental Permit” shall mean any permit, consent, license, or approval, registration, certification or authorization required to have been obtained by Seller in connection with the operation of the Business under any Environmental Law.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“Escrow Agent” shall have the meaning set forth in Section 2.4(b).

“Escrow Agreement” shall have the meaning set forth in Section 2.4(b).

“Escrow Amount” shall have the meaning set forth in Section 2.4(b).

“Excluded Assets” shall have the meaning set forth in Section 2.2.

“Excluded Liabilities” shall have the meaning set forth in Section 2.10.

“Final Closing Working Capital” shall have the meaning set forth in Section 2.8(c).

“Final Purchase Price” shall have the meaning set forth in Section 2.8(d).

“Financial Statements” shall have the meaning set forth in Section 3.3.

“Flue Sentinel” shall have the meaning set forth in the preamble hereto.

“GAAP” shall mean United States generally accepted accounting principles, as consistently applied by Seller.

“Governmental Authority” means any United States federal, state or local or any foreign government, governmental regulatory or administrative authority, agency, commission, department, board, bureau, or instrumentality or any court, tribunal or judicial or arbitral body.

“Hazardous Materials” shall mean any substance that is designated as a “hazardous substance”, “hazardous waste”, “hazardous material”, “toxic substance”, “toxic pollutant”, “contaminant”, “pollutant”, or words of similar import under any Environmental Law.

“HVACR” shall mean heating, ventilating, air conditioning and refrigeration.

“Indemnification Escrow” shall have the meaning set forth in Section 2.4(b).

“Indemnified Party” shall have the meaning set forth in Section 9.4.

“Indemnifying Party” shall have the meaning set forth in Section 9.4.

“Initial Purchase Price” shall mean (U.S.) \$15,000,000.

“Insurance” shall have the meaning set forth in Section 3.20.

“Intellectual Property” shall mean (a) all patents, patent rights, trade names, trade marks, trade mark registrations, service marks, service mark registrations, copyrights, inventions, trade secrets, databases, data collections, know-how, logos, marks (including brand names, product names, logos and slogans), methods, network configurations and architectures, processes, software, software code (in any form, including source code and executable or object code), web sites, works of authorship, and other similar rights (including other unpatented and/or unpatentable proprietary or confidential information systems or procedures), applications for any of the foregoing, and licenses therefor, in each case presently used or held for use by Seller in the Business and (b) all such items that are acquired or developed for use in the Business between the date of this Agreement and the Closing Date.

“Interim Period” shall have the meaning set forth in Section 5.15.

“Inventories” shall mean all inventory, including raw materials, work-in-progress, finished products, stores, stock, supplies, packaging, spare parts and similar items of the Business existing as of the Closing Date, whether on hand or in transit or wherever located.

“IRS” shall mean the United States Internal Revenue Service.

“Laws” shall have the meaning set forth in Section 3.13.

“Leased Real Property” shall mean the real property described on **Schedule 1(a)** and all buildings, structures and improvements thereon and appurtenances thereto.

“Liability” means any liability (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due and regardless of when asserted), including, without limitation, any liability for Taxes.

“Licenses” shall have the meaning set forth in Section 3.15.

“Lien” shall mean any security interest, pledge, mortgage, lien (statutory or otherwise), charge, encumbrance, Claim, Liability, hypothecation, license, preference, priority, easement, covenant, encroachment, option, right of recovery, restriction, tax, Order of any kind or nature, whether secured or unsecured, choate or inchoate, fixed or unfixed, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown or any similar interest.

“Losses” shall mean any loss, cost, Liability, lost profits, diminution of value, damage (including consequential damages), penalty, fine, judgment, Claim or expense (including reasonable attorneys’ fees).

“Material Adverse Effect” means any (a) effect, change, development, state of facts, or circumstance that individually or taken as a whole with all other such effects, changes, developments, states of fact, or circumstances (i) has or is reasonably likely to be expected to have a material adverse effect on (A) the Business, the Purchased Assets, or the Liabilities,

prospects, earnings, customer or supplier relations, value, financial condition or results of operations of the Business or Purchased Assets or (B) the ability of the Buyer to operate the Purchased Assets or conduct the Business immediately after the Closing in substantially the same manner as such operations were being conducted by Seller prior to the Closing, and/or (ii) materially impairs or delays the ability of any party to consummate timely the transactions contemplated hereby, which with respect to items (i) and (ii) shall be limited to any effect, change, development, state of facts, or circumstance that has or would reasonably be expected to have or result in a negative impact to the consolidated annualized EBITDA of the Business of \$250,000 or more or result in liabilities or obligations of \$250,000 or more, or (b) any other event rising to or which is reasonably likely to be expected to rise to the magnitude described in clause (a) above, whether or not Losses therefrom are capable of being calculated; provided that any such effect, change, development, state of facts or circumstances described in clause (a) or (b) above resulting from any change resulting from general economic, financial or market conditions shall not be considered for purposes of determining whether a Material Adverse Effect exists.

“Most Recent Financial Statements” shall have the meaning set forth in Section 3.3.

“Neutral Auditors” shall have the meaning set forth in Section 2.8(c).

“Order” means any decree, order, injunction, rule, judgment, consent of or by any court or Governmental Authority.

“Ordinary Course” shall mean the ordinary course of Seller’s conduct of the Business consistent with past practice.

“Patent Assignment” shall have the meaning set forth in Section 2.5(g).

“Permitted Liens” shall mean all Liens (a) that are set forth on **Schedule 1(b)**, (b) that arise out of Taxes or general or special assessments not yet due and payable without penalty or interest or the validity of which is being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, (c) of carriers, warehousemen, mechanics, materialmen and other similar persons or otherwise imposed by law which are incurred in the Ordinary Course for sums not yet due and payable and which would not individually or in the aggregate have a Material Adverse Effect, (d) that relate to deposits made in the Ordinary Course in connection with workers’ compensation, unemployment insurance and other types of social security, or (e) that arise out of zoning and other governmental ordinances and building and use restrictions which are not violated by the current use or occupancy or the operation of the Business.

“Person” shall mean any individual, firm, corporation, partnership, limited liability company, joint venture, association, estate, trust, governmental agency or body or other entity, and shall include any successor (by merger or otherwise) of such Person.

“Personal Property” shall mean all of the tangible personal property of Seller whether owned or leased and whether or not reflected in the Financial Statements, including, without limitation, all machinery, furniture, trade fixtures, equipment, computer hardware, vehicles,

tools, dies, construction in progress, and repair and replacement parts, telephone and telecopy numbers.

“Pre-Closing Taxes” shall mean any Taxes accruing on or prior to the Closing Date with respect to the Purchased Assets or relating to the Business.

“Prepaid Items” shall mean all of the prepaid expenses, refunds, rebates, deferred charges, advances and deposits and similar amounts of Seller at the Closing.

“Purchased Assets” shall have the meaning set forth in Section 2.1.

“Real Property Leases” shall have the meaning set forth in Section 3.21 (a).

“Resolution Period” shall have the meaning set forth in Section 2.8(b).

“Returns” shall mean returns, reports, statements, notices, forms or other documents or information required to be filed with any U.S. Taxing Authority or foreign taxing authority in connection with the determination, assessment, collection or payment of any Taxes or in connection with the administration, implementation or enforcement of or compliance with any legal requirement relating to any Tax.

“Scheduled Contracts” shall have the meaning set forth in Section 3.14.

“Seller” shall have the meaning set forth in the preamble hereto.

“Seller Indemnified Parties” shall have the meaning set forth in Section 9.2.

“Seller/Shareholder Non-Competition Agreement” shall mean the Non-Competition Agreement of Seller and Shareholder in the form attached as **Exhibit F** to be executed and delivered at the Closing.

“Shareholder” shall have the meaning set forth in the preamble hereto.

“Tax Benefit” shall mean the Tax effect of any change resulting from an adjustment in an item of loss, deduction or credit or any other item which decreases Taxes paid or payable or increases tax basis including any interest with respect thereto or interest that would have been payable but for such change.

“Taxes” shall mean all taxes, charges, fees, levies or like other assessments (whether U.S. federal, state, local or foreign) based upon or measured by income and any other tax whatsoever, including, without limitation, single business, gross receipts, profits, premium, sales, use, occupation, value added, ad valorem, transfer, franchise, withholding, payroll, employment, unemployment, excise, windfall profits, transfer, license, occupation or real or personal property taxes, together with any interest, penalties or additions to tax resulting from, attributable to, or incurred in connection with any such taxes or any contest or dispute thereof.

“Technical Information” shall have the meaning set forth in Section 3.22.

“Third Party Claim” shall have the meaning set forth in Section 9.4.

“to Seller’s knowledge” and words of similar import shall mean the actual knowledge of those Persons listed on **Schedule 1(c)**, including facts of which any such Person in the reasonable prudent exercise of such Person’s duties as an employee or executive officer of Seller should be aware.

“Trademark Assignment” shall have the meaning set forth in Section 2.5(f).

“Unassigned Arrangements” shall have the meaning set forth in Section 2.3.

“Update Disclosures” shall have the meaning set forth in Section 5.15.

“U.S. Taxing Authority” shall mean any taxing authority of the United States of America, any state thereof or the District of Columbia and any local governmental subdivision thereof.

“WARN Act” shall have the meaning set forth in Section 2.11(e).

“Working Capital” shall mean the book value of the current assets of Seller that comprise a part of the Purchased Assets less the book value of the current liabilities of Seller that comprise a part of the Assumed Liabilities, all as determined in accordance with GAAP.

ARTICLE II SALE OF ASSETS; CLOSING

2.1 **Purchase and Sale.** On the basis of the representations, warranties, covenants and agreements and subject to the satisfaction or waiver of the conditions set forth herein, at the Closing, Seller shall sell, convey, assign, deliver, and transfer to Buyer and Buyer shall purchase from Seller as of and with effect from the opening of business on the Closing Date, all of Seller’s right, title and interest in, relating to or arising from the properties, rights, interests and assets associated with, related to, or owned by or leased or licensed to Seller, or used or held for use by Seller in the conduct of the Business, wherever located and whether real, personal or mixed, tangible or intangible, with such changes to such assets as may occur from the date hereof to the day immediately preceding the Closing Date consistent with the terms and conditions of this Agreement, excepting only the Excluded Assets (collectively, the “Purchased Assets”) free and clear of all Liens other than Permitted Liens. Without limiting the generality of the foregoing, the Purchased Assets shall include all of Seller’s right, title and interest in, relating to or arising from:

- (a) the Personal Property including, without limitation, those items listed on **Schedule 2.1(a)**;
- (b) the Inventories;
- (c) the Intellectual Property including, without limitation, the use of the “Effikal” and “Flue Sentinel” names and those items listed on **Schedule 2.1(c)**;
- (d) subject to Section 2.3, the Contracts;

- (e) the Accounts Receivable;
- (f) the Books and Records (subject to the provisions of Section 5.1(c));
- (g) the Prepaid Items;
- (h) the Licenses, to the extent assignable;
- (i) all technical, processing, manufacturing or marketing information (including related papers, blueprints, drawings, chemical compositions, formulae, diaries, notebooks, specifications, designs, methods of manufacture and data processing software) and all claims and rights related thereto;
- (j) subject to Section 2.2(k), all claims of Seller against third parties related to the Business or the Purchased Assets, whether choate or inchoate, known or unknown, contingent or noncontingent, including all such claims listed in **Schedule 2.1(j)**;
- (k) the Employee Benefit Plans and assets held by or on behalf of Seller in trust, reserve or otherwise, in respect of such Employee Benefit Plans listed on **Schedule 2.1(k)**; and
- (l) all other properties, assets and rights owned or leased by Seller as of the Closing, or in which Seller or any of its Affiliates has an interest which are used in the Business and which are not otherwise Excluded Assets.

2.2 **Excluded Assets.** Notwithstanding anything herein to the contrary, the Purchased Assets shall not include the following assets (collectively, the "Excluded Assets"):

- (a) all minute books, company seals, stock record books and transfer records of Seller;
- (b) all books and records not relating to a Purchased Asset and relating exclusively to any Excluded Assets and/or Excluded Liabilities;
- (c) all Cash;
- (d) all prepaid insurance, including all related rights to the refund of unearned premiums as of the Closing Date;
- (e) all rights, claims and benefits under all performance bonds, surety bonds and insurance policies, as set forth on **Schedule 2.2(e)(i)**, with respect to the Business conducted prior to the Closing Date, except for such bonds relating to partially completed services as set forth on **Schedule 2.2(e)(ii)**;
- (f) all notes receivable and accounts receivable owed by Seller to Seller's Affiliates set forth on **Schedule 2.2(f)**;

(g) all Returns and related work papers for taxable periods ending on or prior to the Closing Date and all rights to the refund or credit of any Pre-Closing Taxes;

(h) any amounts accrued on the books and records of Seller on the Closing Date which relate primarily to or offset liabilities that are not Assumed Liabilities set forth on **Schedule 2.2(h)**;

(i) all Employee Benefit Plans other than those listed on **Schedule 2.1(k)** and assets held by or on behalf of Seller in trust, reserve or otherwise, in respect of any Employee Benefit Plans other than those listed on **Schedule 2.1(k)** or any other obligations to employees of Seller other than those listed on **Schedule 2.1(k)**;

(j) all claims and rights of Seller solely relating to or solely arising from any of the Excluded Assets or liabilities that are not Assumed Liabilities including, without limitation, rights of indemnification or contribution from third parties and insurance claims related thereto;

(k) all claims of Seller against Shareholder or Shareholder's Affiliates, whether related to the Business or the Purchased Assets or otherwise, whether choate or inchoate, known or unknown, contingent or noncontingent;

(l) all leasehold improvements permanently attached to the Leased Real Property set forth on **Schedule 2.2(l)**; and

(m) the specific items, whether or not used in the conduct of the Business, identified on **Schedule 2.2(m)**.

2.3 **Non-Transferability of Certain Contracts or Licenses.** Subject to Section 2.5(1), nothing in this Agreement shall be construed as an attempt to assign any Contract or License otherwise intended to be included in the Purchased Assets that is by its terms or law nonassignable without the consent of the other party or parties thereto, unless such consent shall have been given. Seller shall, both before and for a reasonable period after the Closing, upon the specific request of Buyer, use its commercially reasonable efforts to obtain the consent of any third party to the assignment to Buyer of any Contract (other than Contracts with customers of Seller) or License for which such consent is required; provided, however, under no circumstance shall Seller be required to incur more than commercially reasonable costs or expenses or commit to any other unreasonable obligation to such third party in fulfilling this "commercially reasonable efforts" obligation, and Seller does not guarantee that any such consent to assignment will be obtained. In the case of (a) Contracts with customers of Seller and (b) any other Contract or License for which Seller has not obtained the necessary consents to assignment from all parties prior to the Closing Date (the "Unassigned Arrangements"), Buyer shall, so long as Seller provides the benefits thereunder, fulfill such Unassigned Arrangements and shall assume the obligations and liabilities of such Unassigned Arrangements (including, without limitation, as to Contracts with customers of Seller, all obligations and liabilities for product warranty and product liability for all products of the Business manufactured and sold after the Closing) for and on behalf of Seller but for the account of Buyer, and Seller shall, for a period not to exceed the longer of the (a) term of such Unassigned Arrangement and (b) one (1) year following the

Closing Date, provide for Buyer the benefits under such Unassigned Arrangements accruing after the Closing as if such consent had been obtained, including the enforcement for the benefit of Buyer of any rights comparable to the rights previously enjoyed by Seller in connection with such Unassigned Arrangement. In the case of an Unassigned Arrangement where the applicable customer objects to the assignment of such Unassigned Arrangement to Buyer or such Unassigned Arrangement is not assigned to Buyer, the parties agree that such reasonable arrangements shall include a subcontract arrangement where Seller continues to sell to the applicable customer under the Unassigned Arrangement, but subcontracts the work to Buyer at the pricing pursuant to such Unassigned Arrangement; provided, that Seller shall pay and Buyer shall be entitled to payment under such subcontract arrangement within five business days after Seller receives payment from the applicable customer; and provided further, that Seller shall not be obligated to incur more than Seller's own reasonable administrative related expenses to process such Unassigned Arrangement. Seller shall be named an additional insured on Buyer's policy of product liability insurance covering products manufactured by Buyer, but sold or distributed by Seller after the Closing and Buyer shall deliver a certificate of insurance to Seller evidencing such coverage. Buyer, at no additional cost to Seller or Shareholder, shall be named as an additional insured on any of Seller's existing policies of product liability insurance and any new policy of product liability insurance that Seller or Shareholder may obtain, covering products manufactured by Seller or Buyer; provided, however, that if the addition of Buyer under any such policy would result in additional cost to Seller or Shareholder to purchase such policy, Seller or Shareholder shall deliver written notice to Buyer of such additional cost and Buyer shall have the option to pay such additional cost to Seller within thirty (30) days of such written notice and be named as an additional insured under such policy. Seller or Shareholder, as the case may be, shall deliver a certificate or certificates of insurance to Buyer evidencing such coverage.

2.4 **Consideration.** Subject to adjustment as provided in Section 2.8, the aggregate consideration for the Purchased Assets shall consist of the Initial Purchase Price plus assumption of the Assumed Liabilities. Subject to adjustment as provided in Section 2.8, the Initial Purchase Price shall be paid as follows:

(a) (U.S.) \$10,500,000 of the Initial Purchase Price shall be paid by Buyer to Seller in cash at the Closing (the "Closing Cash Payment"); and

(b) (U.S.) \$4,500,000 of the Initial Purchase Price shall be paid by Buyer to Seller at the Closing (the "Escrow Amount") by deposit with U.S. Bank National Association, as escrow agent (the "Escrow Agent"), pursuant to an escrow agreement in substantially the form attached as **Exhibit D** (the "Escrow Agreement"). The fees and expenses of the Escrow Agent shall be shared fifty percent (50%) by Buyer and fifty percent (50%) by Seller. (U.S.) \$500,000 of the Escrow Amount (the "Adjustment Escrow") shall be available to Buyer solely with respect to any amount payable by Seller on account of any adjustment to the Initial Purchase Price under Section 2.8 and (U.S.) \$4,000,000 of the Escrow Amount (the "Indemnification Escrow") shall be available to Buyer solely with respect to any amount payable by Seller or Shareholder on account of any indemnification obligations of Seller or Shareholder to Buyer under this Agreement. The Escrow Amount shall be released in accordance with the terms of the Escrow Agreement.

2.5 **Deliveries by Seller and/or Shareholder.** At the Closing, Seller and/or Shareholder, as applicable, shall deliver, or cause to be delivered, the following to Buyer:

(a) an executed bill of sale and assignment in the form attached as **Exhibit B** (the "Bill of Sale and Assignment") and such other appropriate instruments of transfer as shall be necessary to vest in Buyer as of the Closing Date, all right, title and interest of Seller in and to the Purchased Assets free and clear of any Liens, except for Permitted Liens;

(b) the certificate contemplated by Section 7.1;

(c) the Escrow Agreement executed by Seller and the Escrow Agent;

(d) the Consulting Agreement executed by Shareholder;

(e) the Seller/Shareholder Non-Competition Agreement executed by Seller and Shareholder;

(f) an executed Trademark Assignment in substantially the form attached hereto as **Attachment I** (the "Trademark Assignment");

(g) an executed Patent Assignment in substantially the form attached hereto as **Attachment II** (the "Patent Assignment");

(h) Certificate of Amendment to Effikal's Articles of Incorporation changing its name to one dissimilar to "Effikal International, Inc.";

(i) Certificate of Amendment to Flue Sentinel's Articles of Incorporation changing its name to one dissimilar to "Flue Sentinel, Inc.";

(j) payoff and release letters from creditors of Seller with respect to financing statements filed against any of the Purchased Assets;

(k) certified charter of Seller as of a date not earlier than thirty (30) days prior to the Closing Date;

(l) any third party consents required under the items listed in **Schedule 2.5(l)** or required to consummate the transactions contemplated hereby other than consents required under customer contracts of Seller;

(m) an executed Lease Agreement substantially in the form of **Exhibit H** attached hereto; and

(n) such other instruments, agreements or documents as may be reasonably requested by Buyer to carry out the transactions contemplated hereby.

At Closing, Seller, shall take all steps necessary to place Buyer in actual possession and operating control of the Business and the Purchased Assets.

2.6 **Deliveries by Buyer.** At the Closing, Buyer shall deliver the following to Seller and/or Shareholder, as applicable:

- (a) the Closing Cash Payment, by wire transfer of immediately available funds to a bank account designated in writing by Seller prior to the Closing;
- (b) an executed Assumption Agreement regarding payment and performance of the Assumed Liabilities;
- (c) the certificate contemplated by Section 8.1;
- (d) the Escrow Agreement executed by Buyer and the Escrow Agent;
- (e) the Consulting Agreement executed by Buyer; and
- (f) such other instruments, agreements or documents as may be reasonably requested by Seller or Shareholder to carry out the transactions contemplated hereby.

2.7 **Time and Place of Closing.** Subject to the conditions set forth in this Agreement, the consummation of the Asset Purchase pursuant to this Agreement (the "Closing") shall take place on the Closing Date at 9:00 A.M., local time, at the offices of Bodman LLP, 201 West Big Beaver Road, Suite 500, Troy, Michigan 48084. The Closing shall be deemed effective as of 12:01 a.m. on the Closing Date.

2.8 **Purchase Price Adjustment.**

(a) As soon as practicable, but in no event later than 60 days following the Closing Date, Buyer shall prepare a balance sheet of the Business as of the Closing Date (the "Closing Balance Sheet") and calculation of the Working Capital of the Business as of the Closing Date (the "Closing Working Capital"). The Closing Balance Sheet shall be prepared in accordance with GAAP.

(b) Buyer shall deliver a copy of the Closing Balance Sheet, a calculation of the Closing Working Capital and all supporting documentation (the "Closing Financial Data") to Seller promptly after it has been prepared. After receipt of the Closing Financial Data, Seller shall have 30 days to review the Closing Financial Data. Seller and its authorized representatives shall have reasonable access during normal business hours to all relevant books and records of Buyer to the extent required to complete their review of the Closing Financial Data and Buyer will reasonably respond to Seller's questions regarding the Financial Data. Unless Seller delivers written notice to Buyer on or prior to the thirtieth (30th) day after Seller's receipt of the Closing Financial Data specifying in reasonable detail the amount, nature and basis of all disputed items, Seller shall be deemed to have accepted and agreed to the calculation of the Closing Working Capital. If Seller timely notifies Buyer of its objection to the calculation of the Closing Working Capital, Buyer and Seller shall, within thirty (30) days (or such longer period as the parties may agree in writing) following such notice (the "Resolution Period"), attempt to resolve their differences and any resolution by them as to any disputed amounts shall be final, binding and conclusive.

(c) If, at the conclusion of the Resolution Period, there are any amounts remaining in dispute, then such amounts remaining in dispute shall be submitted to a firm of nationally recognized independent public accountants (the "Neutral Auditors") selected by Seller and Buyer within ten (10) days after the expiration of the Resolution Period. If Seller and Buyer are unable to agree on the Neutral Auditors, then each of Seller and Buyer shall have the right to request the office of the American Arbitration Association to appoint the Neutral Auditors, which Neutral Auditors shall not have had a material relationship with Seller, Buyer or any of their respective Affiliates within the past two (2) years. Each party agrees to execute, if requested by the Neutral Auditors, a reasonable engagement letter, including customary indemnities. All fees and expenses relating to the work, if any, to be performed by the Neutral Auditors shall be borne pro rata as between Seller and Buyer in proportion to the allocation of the dollar amount of the amounts remaining in dispute between Seller and Buyer made by the Neutral Auditors such that the prevailing party pays the lesser proportion of the fees and expenses. The Neutral Auditors shall act as an arbitrator to determine, based solely on the provisions of this Section 2.8 and the presentations by Seller and Buyer, and not by independent review, only those issues still in dispute. The Neutral Auditors' determination shall be made within thirty (30) days of their selection, shall be set forth in a written statement delivered to Seller and Buyer and shall be deemed a final, binding and conclusive arbitration award. A judgment of a court of competent jurisdiction may be entered upon the Neutral Auditors' determination. The term "Final Closing Working Capital" shall mean the definitive Closing Working Capital agreed to (or deemed to be agreed to) by Buyer and Seller in accordance with Section 2.8(b) or resulting from the determinations made by the Neutral Auditors in accordance with this Section 2.8(c) (in addition to those items theretofore agreed to by Seller and Buyer).

(d) The Initial Purchase Price shall be (i) increased dollar for dollar to the extent the Final Closing Working Capital exceeds (U.S.) \$2,600,000, or (ii) decreased dollar for dollar to the extent the Final Closing Working Capital is less than (U.S.) \$2,400,000. Any adjustments to the Initial Purchase Price made pursuant to this Section 2.8(d) shall bear interest from the Closing Date through the date of payment at the rate of interest publicly announced by Citibank, N.A., in New York, New York, from time to time as its prime rate, for the period from the Closing Date to the date of such payment. Any adjustments to the Initial Purchase Price made pursuant to this Section 2.8(d) shall be paid by wire transfer of immediately available funds to the account specified by Seller, if Seller is owed payment, or by Buyer, if Buyer is owed payment, within five (5) business days after the Final Closing Working Capital is agreed to by Buyer and Seller or any remaining disputed items are ultimately determined by the Neutral Auditors. Notwithstanding the foregoing, (i) if Seller is owed payment, the entire Adjustment Escrow shall be paid to Seller at the time of payment of, and in addition to the amount of, the applicable adjustment, and (ii) if Buyer is owed payment, (A) the amount of the applicable adjustment shall first be satisfied by immediate release to Buyer of such amount from the Adjustment Escrow with the balance of the Adjustment Escrow, if any, returned to Seller at the time of payment of the applicable adjustment, and (B) if the Adjustment Escrow is insufficient to pay the applicable adjustment, then Seller shall pay such excess to Buyer in immediately available funds to the account specified by Buyer. The Initial Purchase Price as adjusted pursuant to this Section 2.8 is referred to herein as the "Final Purchase Price". Any matter taken into account in the calculation of an adjustment to the Initial Purchase Price pursuant to this Section 2.8 shall not also be the basis for any claim of breach by a party of its representations and warranties contained in this Agreement.

2.9 **Purchase Price Allocation.** Buyer and Seller agree to allocate the Initial Purchase Price among the Purchased Assets in accordance with **Exhibit A** attached. In the event that the Initial Purchase Price is adjusted in accordance with Section 2.8, the Final Purchase Price shall be allocated among the Purchased Assets in accordance with **Exhibit A**, but revised to reflect such changes to the classes of Purchased Assets as were the subject of the adjustments to the Initial Purchase Price. To the extent any difference between the Initial Purchase Price and the Final Purchase Price does not relate to any specific asset classification, the adjustment to the Final Purchase Price shall be allocated to goodwill. For purposes of all Taxes, the parties agree to report the transactions contemplated in this Agreement in a manner consistent with the allocation set forth in **Exhibit A**, as revised as herein provided (if applicable), and none of them will take any position inconsistent therewith in any Returns, in any refund claim, in any litigation, or otherwise. Each of the parties agrees to notify the others if any taxing authority proposes to reallocate the Initial Purchase Price or Final Purchase Price, as applicable. Seller and Buyer shall cooperate in good faith in the joint preparation of IRS Form 8594 on a basis consistent with the allocation of the Final Purchase Price set forth in **Exhibit A**.

2.10 **Assumed Liabilities.** At the Closing, Buyer shall execute an assumption agreement in the form attached as **Exhibit C** (the "Assumption Agreement") whereby Buyer shall, as of the Closing Date, assume and agree to pay, perform and discharge the following liabilities and obligations, whether known or unknown, absolute or contingent, of Seller related to the Business (collectively, the "Assumed Liabilities"):

(a) the Accounts Payable, all accrued expenses of Seller and all other current liabilities of Seller, in each case, to the extent included in the calculation of the Final Closing Working Capital as of the Closing Date;

(b) all liabilities and obligations (other than liabilities or obligations arising out of any breach or default by Seller prior to the Closing Date) of Seller under the Contracts that are assigned to Buyer pursuant to Section 2.1 or under which the full benefits are provided to Buyer by Seller pursuant to Section 2.3, and which were incurred or otherwise first arise from and after the Closing Date;

(c) all liabilities and obligations of Seller under the Employee Benefit Plans (other than liabilities or obligations arising out of Seller's administration of such Employee Benefit Plans) that are assigned to Buyer pursuant to Section 2.1(k); and

(d) all liabilities and obligations of Seller in respect of returns, recalls, and warranty claims for products of the Business manufactured or sold by Seller or any of Seller's predecessors prior to the Closing Date, in each case, to the extent such liabilities and obligations are accrued on the Closing Balance Sheet as of the Closing Date.

Buyer further agrees to pay and discharge all such liabilities and obligations as they come due.

2.11 **Excluded Liabilities and Obligations.** Buyer shall not be the successor to Seller, and except as expressly set forth in Section 2.10 above, Buyer shall not assume and shall not be liable or responsible for any debt, obligation or liability of the Business, Seller or any Affiliate (including the officers and directors of such Person) of Seller or related to the

Purchased Assets, the Business, the facilities from which the Business is or was conducted, or any claim against any of the foregoing, of any kind, whether known or unknown, contingent, absolute, or otherwise, each to the extent arising out of or relating to matters or events occurring prior to the Closing Date, all of which are retained by Seller (the "Excluded Liabilities"). Without limiting the foregoing, the term "Excluded Liabilities" shall include:

- (a) liabilities and obligations related to or arising from transactions with any Affiliate (including the officers and directors of any such Person) of Seller;
- (b) liabilities and obligations for Pre-Closing Taxes of any kind;
- (c) liabilities and obligations for damage or injury (real or alleged) to person or property arising from the ownership, possession or use of any product manufactured, assembled, processed, treated, distributed, sold or serviced, directly or indirectly, or any service rendered by Seller prior to the Closing Date, including any product liability and product warranty claims;
- (d) liabilities and obligations to employees, including those for accident, disability, health (including unfunded medical liabilities) and worker's compensation insurance or benefits, and all other liabilities and obligations to employees arising from events or occurrences prior to the Closing Date;
- (e) liabilities and obligations arising from or relating to claims or liabilities for benefits or pay under any employee benefit plan, including Seller's profit sharing plan, compensation policy, individual employment contract or collective bargaining agreement, or any severance payment, including those related to any alleged termination of employment solely as a result of the transactions contemplated hereby including Workers Adjustment Retraining and Notification Act (the "WARN Act") liabilities;
- (f) liabilities and obligations for expenses, Taxes or fees incurred by Seller, incidental to the preparation of this Agreement, preparation or delivery of materials or information requested by Buyer, and the consummation of the transactions contemplated hereby, including all broker, counsel and accounting fees and sales, stamp, or transfer Taxes;
- (g) liabilities and obligations relating to or arising from litigation with third parties, if any, pending at the Closing or, to the knowledge of Seller, threatened, on or prior to the Closing Date, including those matters set forth on **Schedule 3.9**;
- (h) liabilities and obligations related to Excluded Assets;
- (i) liabilities and obligations due to products sold or services rendered by Seller or any of its predecessors or Affiliates on or prior to the Closing Date with respect to patent, trademark or copyright litigation or disputes, including actions for infringement;
- (j) liabilities and obligations arising from or in connection with any administrative ruling or other order, stipulation or decree of any federal, state or local agency, or the violation of any federal, state or local Law;

(k) liabilities and obligations relating to the operation prior to Closing of the facilities of Seller or the Business or any other real property, buildings, improvements or other premises utilized by Seller or its Affiliates, including liabilities arising from any Environmental Laws;

(l) liabilities and obligations to Seller's directors, officers or stockholders;

(m) liabilities, fees, fines, penalties, expenses, and/or obligations relating to the Debt (as hereinafter defined) of Seller or any of its Affiliates or other Persons; and

(n) all other liabilities and obligations of Seller or related to the operation of the Business prior to Closing.

Seller and its Shareholder, further agree to pay and discharge all such liabilities and obligations as they become due.

2.12 **Reimbursement for Certain Payments.** In the event that on or after the Closing Date Buyer receives any payments with respect to the Excluded Assets belonging to Seller, Buyer shall hold such payments in trust for Seller and remit such payments to Seller in the form received within five (5) business days of Buyer's receipt of such payments. In the event that on or after the Closing Date Seller receives any payments with respect to the Purchased Assets belonging to Buyer, Seller shall hold such payments in trust for Buyer and remit such payments to Buyer in the form received within five (5) business days of Seller's receipt of such payments.

2.13 **Title; Risk of Loss.** Legal title and risk of loss with respect to the Purchased Assets shall not pass to Buyer until title to the Purchased Assets is transferred at Closing. If prior to the Closing any of the Purchased Assets are destroyed or damaged by fire or other casualty, Buyer may, at its option, (a) include an amount equal to a mutually agreed upon cost of completing the replacement or repair of such property as a deduction in the calculation of the Purchase Price or (b) if the estimated cost of such replacement or repair exceeds \$250,000, terminate this Agreement.

2.14 **Earnout.**

(a) If earned, Buyer shall be obligated to pay to Seller as additional consideration for the Purchased Assets, the earnout calculated in accordance with the following (the "Earnout"):

(i) With respect to (A) the period beginning on the Closing Date and ending on December 31, 2006, and (B) the twelve-month periods ending on each of December 31, 2007, December 31, 2008, December 31, 2009, December 31, 2010 and December 31, 2011 (each period being referred to as an "Earnout Period"), Buyer shall deliver to Seller on or before the 90th day immediately following the end of each Earnout Period as additional consideration for the Purchased Assets the Earnout Payment for such applicable Earnout Period by wire transfer of immediately available funds.

(ii) For any Earnout Period, the "Earnout Payment" shall be equal to the product of (x) 0.5 and (y) "Adjusted Flue Sentinel Profits" for such Earnout Period, as calculated in accordance with the principles and provisions of **Exhibit G**.

(b) Notwithstanding anything in this Agreement to the contrary, in no event shall the aggregate payments made under clause (a) above exceed \$3,000,000.

(c) Buyer shall have the right to terminate the Earnout upon Shareholders' or Seller's material breach of the non-compete, nonsolicit and confidentiality covenants contained in the Consulting Agreement or in the Seller/Shareholder Non-Competition Agreement. From and after the Closing, Buyer covenants and agrees to (i) use its commercially reasonable efforts to pursue the Flue Sentinel Business (such "commercially reasonable efforts" shall not include investing more than \$500,000 in the Flue Sentinel Business) and (ii) make an aggregate investment of not less than \$500,000 in the Flue Sentinel Business during the twenty-four (24) month period following the Closing Date, as and when the cash flow requirements of the Flue Sentinel Business require such investment to be made; provided, however, Buyer shall not be obligated to invest more than \$500,000 in the Flue Sentinel Business. During each Earnout Period, Buyer shall cause the Flue Sentinel Business to be operated as a stand-alone operation and not combine or commingle any of the assets, liabilities or operations of the Flue Sentinel Business with those of any third party including, without limitation, any affiliate of Buyer. Buyer may reasonably allocate expenses shared by the Flue Sentinel Business and the Business.

(d) Subject to Section 2.14(c), Seller and Hubbard acknowledge and agree that during the periods in which the Earnout, or any portion thereof is calculated, that the sales and marketing activities, costs attributable thereto, and other business decisions related to the Flue Sentinel Business shall be determined in accordance with Buyer's reasonable business discretion. Notwithstanding anything to the contrary, except for Section 2.14(c), subsequent to the Closing, Buyer shall have the unconditional right to sell or shut down the Flue Sentinel Business.

(e) During each Earnout Period, Buyer shall keep true and complete books and records regarding the Flue Sentinel Business. Seller and its representatives shall have reasonable access during normal business hours to and shall have the right to copy, at Seller's expense, all relevant books and records of Buyer related to the Flue Sentinel Business and the Earnout calculations above and Buyer will reasonably respond to Seller's questions regarding the Flue Sentinel Business and Earnout calculations. In the event Seller disagrees with Buyer's calculations, Seller may, on or before thirty (30) calendar days immediately following the delivery of any such calculation, notify Buyer of such disagreement. If Buyer and Seller are unable to resolve this dispute within ten (10) business days after receipt of written notice from Seller, the dispute shall be definitely and finally resolved by the Neutral Auditors in accordance with the procedures set forth in Section 2.8(c).

(f) In the event of the occurrence of a Change in Control prior to December 31, 2011, then Buyer shall immediately pay to Seller by wire transfer of immediately available funds the amount of \$3,000,000, less the aggregate amount of all Earnout Payments paid by Buyer to Seller prior to such date. For purposes hereof, "Change in Control" shall mean the occurrence of any of the following: (i) any "person" or "group" (as such terms are used in

Sections 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), other than Buyer or its Affiliates, is or becomes the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the entity that holds the assets of the Flue Sentinel Business representing more than fifty percent (50%) of the combined voting power of such entity; or (ii) other than transactions between Buyer and any of its Affiliates, upon consummation of a transaction resulting in (A) a merger or consolidation of the entity that holds the assets of the Flue Sentinel Business with or into another person; or (B) a sale, exchange, lease or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Flue Sentinel Business; or (iii) other than transactions between Buyer and any of its Affiliates, any reorganization, reverse stock split, or recapitalization of the entity that holds the assets of the Flue Sentinel Business which would result in a Change in Control under either of clause (i) or (ii) above.

(g) In the event of a transaction between Buyer and any of its Affiliates that would not constitute a Change in Control, but results in an Affiliate of Buyer holding the assets of the Flue Sentinel Business, then such Affiliate of Buyer shall expressly assume and be jointly and severally liable with Buyer for the obligations under this Section 2.14.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER AND SHAREHOLDER

Seller and Shareholder, jointly and severally, hereby represent and warrant to Buyer as of the date hereof and as of the Closing Date, as set forth below:

3.1 **Organization and Authorization.** Each of Effikal and Flue Sentinel is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan. Seller has the full corporate power and authority and all requisite rights, licenses, permits and franchises to own, lease and operate the Purchased Assets and to carry on the Business as it is now being conducted. Except as set forth in **Schedule 3.1**, Seller is duly licensed, registered and qualified to do business as a foreign corporation and is in good standing in all jurisdictions in which the ownership, leasing or operation of the Purchased Assets or the conduct of the Business requires such qualification. **Schedule 3.1** sets forth each state or other jurisdiction in which Seller is licensed or qualified to do business. Each of Effikal and Flue Sentinel has delivered to Buyer an accurate, correct and complete copy of its Articles of Incorporation and By-laws. Seller does not own stock or have any equity investment or other interest in, does not have the right to acquire any such interest, and does not control, directly or indirectly, any corporation, association, partnership, joint venture or other entity and has not had an ownership or control relationship with any such entity. Seller has full corporate power and Shareholder has full power to execute and deliver this Agreement and the Ancillary Agreements to which they are a party, to perform their respective obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and such Ancillary Agreements, the performance of Seller's and Shareholder's obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action on the part of Seller and all necessary action on the part of Shareholder. This Agreement and the Ancillary Agreements to which they are a party have been duly executed and delivered by Seller and Shareholder, and, assuming the due execution hereof by Buyer, constitute the legal, valid

and binding obligation of Seller and Shareholder, enforceable against Seller and Shareholder in accordance with their terms.

3.2 **No Conflict.** The execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby will not (a) violate or conflict with any provision of Effikal's or Flue Sentinel's Articles of Incorporation or Bylaws, (b) violate or conflict with any provision of, or be an event that is (or with the passage of time will result in) a violation of, or result in the acceleration of or entitle any party to accelerate (whether after the giving of notice or lapse of time or both) any obligation under, or result in the imposition of any Lien upon any of the Purchased Assets pursuant to, any Lien, lease, agreement, instrument, Order, law, rule, regulation, requirement, obligation, commitment, arbitration award, judgment or decree to which Seller or Shareholder is a party or by which Seller or Shareholder or any Purchased Asset is bound, or (c) violate or conflict with any other restriction, obligation, or commitment of any kind or character to which Seller or Shareholder is subject. No approval, authorization, registration, consent, order or other action of or filing with any Person, including any court, administrative agency or other Governmental Authority, is required for the execution and delivery by Seller or Shareholder of this Agreement or any of the Ancillary Agreements, the documents to be delivered at Closing or the consummation by Seller or Shareholder of the transactions contemplated hereby and thereby, except as set forth on **Schedule 3.2**.

3.3 **Financial Statements.** Seller has delivered to Buyer the unaudited balance sheets of each of Effikal and Flue Sentinel and related income statements and statements of cash flows of Effikal and Flue Sentinel for the three twelve-month periods ended December 31, 2003, December 31, 2004, December 31, 2005, and the unaudited balance sheets of Effikal and Flue Sentinel and related income statements and statements of cash flows of Effikal and Flue Sentinel for the six-month period ended June 30, 2006 and, as of the Closing Date, for the seven-month period ended July 31, 2006 (the "Most Recent Financial Statements"), copies of which are attached as **Schedule 3.3** (collectively the "Financial Statements"). The Financial Statements present fairly, in all material respects, the financial position and results of operations of the Business for the periods or as of the date set forth therein, and were prepared in conformity with GAAP, except that (i) Seller does not reserve for obsolete or slow moving inventory in the Financial Statements and (ii) the Most Recent Financial Statements are subject to normal year end adjustments (none of which will be material individually or in the aggregate other than the labor allocation for inventory) and are presented without footnotes. The Financial Statements are in accordance with the books of account and other financial records of Seller and the Business, which books of account and other financial records are complete and correct in all material respects. **Schedule 3.3** sets forth all outstanding Debt of Seller as of the Closing Date. For the purposes of this Agreement "Debt" shall mean any (1) indebtedness for borrowed money, (2) any unpaid interest, premiums, penalties accrued, bank overdrafts and bank fees owing on any such indebtedness, (3) obligations in respect of capitalized leases (calculated in accordance with GAAP) or for the deferred purchase price of goods or services (other than current trade payables incurred in the ordinary course of business on ordinary terms), (4) obligations in respect of banker's acceptances or letters of credit, (5) all indebtedness or obligations of the types referred to in the preceding clauses (1) through (4) of any other Person secured by any Lien on any assets of Seller, even though Seller has not assumed or otherwise become liable for the payment thereof, but excluding customer deposits and interest payable thereon in the Ordinary Course, (6)

obligation in the nature of guarantees of obligations of the type described in clauses (1) through (5) above of any other Person, (7) any obligation in respect of interest under any existing interest rate swap or hedge agreement entered into by Seller prior to Closing, (8) obligations for the deferred purchase price owed in connection with any acquisitions of stock or assets incurred by Seller, and (9) any off-balance sheet financing of Seller in existence immediately prior to the Closing.

3.4 **Undisclosed Liabilities.** Except as disclosed in **Schedule 3.4**, and except to the extent reflected, reserved against or otherwise disclosed in the Financial Statements, Seller does not have any Liabilities or obligations of any nature relating to or arising from the operation of the Business or the ownership, possession or use of the Purchased Assets through the Closing Date which under GAAP would be required to be disclosed in Seller's Financial Statements, except for Liabilities or obligations arising in the Ordinary Course since June 30, 2006 on terms and conditions and in amounts consistent with past practice.

3.5 **Absence of Certain Changes.** Except as set forth in **Schedule 3.5**, since December 31, 2005 Seller has operated the Business only in the Ordinary Course, consistent with past practices, there has not been any Material Adverse Effect. In addition, except as set forth on **Schedule 3.5** since December 31, 2005, Seller has not:

(a) incurred any material obligations or liabilities or entered into any transaction, contract, distributorship arrangements, lease, agreement, or commitment in excess of \$25,000, other than in the Ordinary Course on ordinary terms and conditions;

(b) mortgaged, pledged, or subjected any of the Purchased Assets to any Lien other than a Permitted Lien;

(c) sold, leased, licensed, assigned, abandoned, transferred or disposed of any portion of its assets or Intellectual Property (other than sales of inventories in the Ordinary Course on ordinary terms and conditions);

(d) except with respect to intercompany and intracompany obligations and liabilities, forgiven or canceled any indebtedness or claims or waived any rights of value in excess of \$25,000;

(e) amended or terminated any Contract other than in the Ordinary Course;

(f) suffered any damage to, or destruction, or loss, whether or not covered by insurance, adversely affecting the Business or assets of Seller;

(g) except for cash distributions to Shareholder as set forth on Schedule 3.5(g), declared, set aside or paid dividends or made any other distributions with respect to any of its equity or purchased or redeemed any of its equity securities (including, without limitation, any warrants, options, or other rights to acquire its capital stock or other equity securities);

(h) made any loans or advances to, or guarantees for the benefit of, any Person;

(i) disclosed any trade secrets or confidential data or materials of Seller other than pursuant to agreements preserving all rights of Seller in such confidential information or received any confidential information of any third party in violation of any obligation of confidentiality;

(j) except in the Ordinary Course and as reflected in the compensation amounts on the employee list provided to Buyer under Section 3.11(b), made or granted any bonus or any wage, salary or compensation increase to any director, officer, employee or sales representative, group of employees or consultant, or made or granted any increase in any employee benefit plan or arrangement, or amended or terminated any existing employee benefit plan or arrangement or adopted any new employee benefit plan or arrangement;

(k) made any capital expenditures or commitments for material capital expenditures that aggregate in excess of \$25,000 or entered into any lease of material capital equipment or real estate;

(l) made any charitable contributions, pledges, association fees or dues which individually or in the aggregate exceeded \$25,000;

(m) issued any notes, bonds or other debt securities, or any capital stock or other equity securities, or any securities convertible, exchangeable, or exercisable into any capital stock or other equity securities;

(n) changed or authorized any change in its cash management customs and practices, its inventory management, purchasing, or delivery, practices or policies, its regulatory compliance activities and record retention policies, or its accounting practices or method of accounting for any items in the preparation of the financial statements or tax returns of Seller;

(o) made any payment to any Affiliate of Seller or any other payment not in the Ordinary Course;

(p) engaged in any promotional sales or discount or other activity with customers of Seller that has or could reasonably be expected to have the effect of accelerating sales prior to the Closing that would otherwise be expected to occur subsequent to the Closing;
or

(q) agreed or committed to do any of the foregoing.

3.6 **Title to, Condition and Sufficiency of Purchased Assets.** Except as set forth on **Schedule 3.6**, Seller is the sole and exclusive legal and equitable owner of all right, title and interest in and has good and marketable title to all of the Purchased Assets or holds such Purchased Assets by valid and existing lease or license, in each case free and clear of all Liens except Permitted Liens. None of the Personal Property set forth on **Schedule 2.1(a)** is subject to (a) any contract of lease, license or sale or (b) any royalty or commission arrangement. All of the Personal Property included in the Purchased Assets and in active use in the Business is in good working order and repair, ordinary wear and tear excepted. The Purchased Assets will provide Buyer with all of the assets and contractual rights, except for the Excluded Assets, used in and/or necessary to the operation of the Business as currently conducted.

3.7 **Inventories**. All of the Inventories reflected in the Financial Statements are properly valued at the lower of cost or market value on a first-in-first-out basis in accordance with GAAP. Except as disclosed on **Schedule 3.7**, all items included in the Inventories (a) consist of a quality and quantity usable and, with respect to finished goods, saleable, in the Ordinary Course, (b) are not obsolete, (c) meet the current standards and specifications of the Business, and (d) are at levels commercially reasonable based on the historical sales of Seller. All of the Inventories reflected in the Most Recent Financial Statements that have been purchased or acquired by Seller for the Business were purchased or acquired in the Ordinary Course and in a manner consistent with Seller's regular inventory practices. All Inventories disposed of subsequent to date of the Most Recent Financial Statements, have been disposed of only in the Ordinary Course and at prices and under terms that are normal and consistent with past practice.

3.8 **Accounts Receivable**. (a) **Schedule 3.8** sets forth an accurate, correct and complete aging of all outstanding Accounts Receivable in the Purchased Assets as of the date hereof. All Accounts Receivable reflected in the Financial Statements and which will be reflected in the Closing Balance Sheet represent or will represent valid obligations arising from bona fide sales actually made or services actually performed by Seller in the Ordinary Course. (b) All Accounts Receivable of the Company as of the Closing Date will be reflected in the Closing Balance Sheet and will be collected in full (subject to the allowance for doubtful account reserves reflected in the Closing Balance Sheet) within 90 days after the Closing Date. (c) Subject to any reserves reflected in the Financial Statements or to be reflected in the Closing Balance Sheet, Seller has not received written notice of any contest, claim, defense or right of setoff, other than returns in the Ordinary Course, with respect to the amount or validity of any Account Receivable. The reserves in the Financial Statements and in the Closing Balance Sheet against the Accounts Receivable for returns, allowances, chargebacks, and bad debts are commercially reasonable and have been determined in accordance with GAAP. The Accounts Payable that are Assumed Liabilities arose from bona fide transactions in the Ordinary Course, and all such Accounts Payable are not yet due and payable in the Ordinary Course or are being contested by Seller in good faith.

3.9 **Litigation; Orders**. Except as disclosed on **Schedule 3.9**, Seller is not a party to or engaged in any Action, and there is no Action pending or, to Seller's knowledge, threatened against Seller with respect to the Business or any of the Purchased Assets, and, to Seller's knowledge, there is no reasonable basis for determining that any such Action is imminent. Except as disclosed on **Schedule 3.9**, there are no judgments or outstanding Orders, injunctions, decrees, stipulations or awards (whether rendered by a court or administrative agency, or by arbitration) against Seller with respect to the Business or any of the Purchased Assets. Seller has not received written notice of any investigation threatened or contemplated against Seller by any foreign, federal, state or local governmental or regulatory authority, including those involving the safety of products, the working conditions of employees, the employment practices or policies of the Business, or compliance with Environmental Law.

3.10 **Intellectual Property**. **Schedule 3.10** sets forth all of the patents, trade marks, trade mark registrations, service marks, service mark registrations and invention disclosures that comprise a part of the Intellectual Property presently owned, used or licensed by Seller in connection with the Business. Except as set forth on **Schedule 3.10**, (a) with respect to each

item of Intellectual Property that is owned by Seller, Seller possesses the sole and exclusive right, title and interest in and to the item free and clear of any Lien; (b) with respect to each item of Intellectual Property that Seller is licensed or authorized to use, to Seller's knowledge, the license, sublicense, agreement or permission covering such item is legal, valid, binding, enforceable and in full force and effect; (c) no Action is pending or, to the knowledge of Seller, threatened with respect to the Intellectual Property; (d) none of the Intellectual Property interferes with, infringes upon, conflicts with or otherwise violates the rights of others or, to the knowledge Seller, is being interfered with or infringed upon by others, and none is subject to any outstanding Order; (e) there are no royalty, commission or similar arrangements, and no licenses, sublicenses or agreements, pertaining to any of the Intellectual Property; (f) Seller has not agreed to indemnify any Person for or against any infringement of or by the Intellectual Property; (g) Seller has no knowledge of any patent, invention or application therefor or similar property which would infringe upon any of the Intellectual Property or render obsolete or adversely affect the manufacture, processing, distribution or sale of products or services relating to the Business; (h) Seller has taken commercially reasonable steps to enforce its rights in the Intellectual Property and all registered items of Intellectual Property are properly registered under applicable law, and (i) the Intellectual Property constitutes all such assets, properties and rights which are used in or necessary for the conduct of the Business as it is being conducted as of the date hereof. Except as set forth on **Schedule 3.10**, all rights of Seller in and to the Intellectual Property are transferable to Buyer as contemplated herein without any consent or other approval which has not been obtained.

3.11 Employment and Labor Matters.

(a) **Schedule 3.11(a)** sets forth all agreements, arrangements or understandings, written or oral, with the officers, directors and employees of Seller regarding services to be rendered, terms and conditions of employment, compensation, bonus, commission, profit sharing, stock options, severance, termination, golden parachute or other similar agreements, whether written or oral ("Employment Agreements"). Except as set forth on **Schedule 3.11(a)**, Seller is not a party to or subject to any liability under any Employment Agreement. True and complete copies of all documents creating or evidencing any such Employment Agreement listed on **Schedule 3.11(a)** have been delivered to Buyer.

(b) Seller has provided to Buyer an accurate, correct and complete list of all employees of Seller, including name, title or position, the present annual compensation (including bonuses, commissions and deferred compensation), date of hire and years of service. **Schedule 3.11(b)** sets forth an accurate, correct and complete list of each employee who may become entitled to receive supplementary retirement benefits or allowances, whether pursuant to a contractual obligation or otherwise, and the estimated amounts of such payments. No employee of Seller is eligible for payments that would constitute "parachute payments" under Section 280G of the Code. Since December 31, 2005, no present or former employee of Seller has given written notice to Seller of any claim against Seller or any of the Purchased Assets (whether under law, any employment agreement or otherwise) on account of or for: (i) overtime pay, other than overtime pay for the current payroll period; (ii) wages or salary (excluding current bonus, accruals and amounts accruing under "employee benefit plans," as defined in Section 3(3) of ERISA) for any period other than the current payroll period; (iii) vacation, time

off or pay in lieu of vacation or time off, other than that earned in respect of the current fiscal year; or (iv) any violation of any law relating to minimum wages or maximum hours of work.

(c) Except as set forth on **Schedule 3.11(c)**, (i) Seller is currently in compliance in all material respects with all applicable laws relating to the employment of all employees, including those laws related to wages, hours, working conditions, safety, collective bargaining and the payment and withholding of Taxes and other sums as required by any appropriate Governmental Authority; (ii) Seller is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices; (iii) there is no Action with respect to a violation of any occupational safety or health standard, pending or, to Seller's knowledge, threatened against Seller; (iv) there is no Action with respect to discrimination in employment or employment practices, for any reason, including, without limitation, age, gender, race, religion, national origin, disability or other legally protected category, pending or, to Seller's knowledge, threatened against Seller before the United States Equal Employment Opportunity Commission, or any other Governmental Authority in any jurisdiction in which Seller has employed or currently employs any person; and (v) there are no controversies pending or, to the knowledge of Seller, threatened, between Seller and any of Seller's employees, which controversies are reasonably likely to be expected to result in an Action before any Governmental Authority.

(d) Seller is not a party to any agreements with labor unions or associations representing any employees of Seller. No work stoppage against Seller is pending or, to Seller's knowledge, threatened. Seller is not involved in nor, to Seller's knowledge, threatened with any labor dispute, arbitration, lawsuit or administrative proceeding relating to labor matters involving any employees of Seller (excluding routine workers' compensation claims). Seller has not committed any material unfair labor practice. To the knowledge of Seller, there is no organizational effort presently being made or threatened by or on behalf of any labor union with respect to employees of Seller.

3.12 **Employee Benefits.**

(a) **Schedule 3.12** lists all compensation and benefit plans, contracts and arrangements maintained by, sponsored or participated in by Seller (other than routine administrative procedures or government-required programs) in effect as of the date hereof including, without limitation, all pension (including all such pension plans as defined in Section 3(2) of ERISA), profit-sharing, savings and thrift, fringe benefit, bonus, incentive or deferred compensation, severance pay and medical and life insurance plans and welfare plans as defined in Section 3(1) of ERISA that are sponsored by Seller and in which any employees of Seller participate (collectively, "Employee Benefit Plans").

(b) As to Employee Benefit Plans sponsored by Seller that are "employee pension benefit plans" as defined in Section 3(2) of ERISA, such plans sponsored by Seller are and have been in compliance in all material respects with and have been administered in accordance with their terms and in compliance in all material respects with all applicable requirements of law, including, but not limited to, the Code and ERISA.

(c) Seller has not incurred any liability under Title IV of ERISA which has or could, after the Closing Date, become a Lien upon any of the Purchased Assets pursuant to ERISA Section 4068.

(d) Seller is not required to contribute to any "multiemployer plan," as such term is defined in Section 4001(a)(3) of ERISA, in which any employees of Seller participate.

(e) No Employee Benefit Plan provides medical, surgical, hospitalization, death or similar benefits (whether or not insured) for employees of Seller for periods extending beyond their retirement or other termination of service, other than (i) coverage mandated by applicable law, or (ii) death benefits under any pension plan.

3.13 Compliance with Laws. Except as set forth on **Schedule 3.13** or **Schedule 3.16**, Seller's ownership of the Purchased Assets and the conduct of the Business comply in all material respects with all statutes, laws, regulations, industry standards, ratings and requirements, ordinances, rules and Orders ("Laws") applicable thereto. Except as set forth on Schedule 3.13, to the knowledge of Seller, there is no proposed or pending change in any Law which would adversely affect the Business.

3.14 Scheduled Contracts.

(a) **Schedule 3.14** sets forth an accurate, correct and complete list of the following types of Contracts relating to the Business or the Purchased Assets to which Seller is a party or bound, or by which any of the Purchased Assets are subject or bound, or pursuant to which Seller is a beneficiary (each a "Scheduled Contract"):

(i) purchase arrangements with the ten (10) largest suppliers to the Business (by dollar volume purchased by Seller during calendar year 2005);

(ii) contracts or agreements with any Affiliates (including officers and directors of such Person) of Seller;

(iii) any joint venture, partnership, cooperative arrangement or any other agreement involving a sharing of profits, or similar contracts or agreements;

(iv) leases for Personal Property for which Seller is required to make total payments in excess of \$25,000 per lease during the current or any succeeding calendar year;

(v) other Contracts entered into by Seller with respect to the Business other than in the Ordinary Course;

(vi) any contract for capital expenditures or for the purchase of goods or services in excess of \$25,000;

(vii) any purchase order, agreement or commitment obligating Seller to sell or deliver any product or service at a price which does not cover the cost (including labor, materials and production overhead) associated with such product or service;

(viii) any financing agreement or other agreement for borrowing money, any instrument evidencing indebtedness, any liability for borrowed money, any obligation for the deferred purchase price of property in excess of \$25,000 (excluding normal trade payables), or any instrument guaranteeing any indebtedness, obligation or liability;

(ix) any contract with any Governmental Authority or instrumentality thereof;

(x) any contract with respect to the discharge, storage or removal of effluent, waste or pollutants;

(xi) any distribution, license or royalty agreement;

(xii) any power of attorney, proxy or similar instrument;

(xiii) any contract for the purchase or sale of any assets of Seller (whether or not completed) other than in the Ordinary Course or granting an option or preferential rights to purchase or sell any assets;

(xiv) any contract to indemnify any party or to share in or contribute to the liability of any party;

(xv) any contract containing covenants not to compete in any line of business or with any Person in any geographical area;

(xvi) any contract relating to the acquisition of a business or the equity of any other person (whether or not completed);

(xvii) any contract relating to the purchase or sale of a portion of Seller's requirements or output;

(xviii) any other contract, commitment, agreement, arrangement or understanding related to the Business (other than those excluded by an express exception from the descriptions set forth in the subsections above) which provides for payment or performance by either party thereto having an aggregate value of \$25,000 or more (unless terminable without payment or penalty on sixty (60) days (or less) notice).

(b) Accurate, correct and complete copies of each Scheduled Contract have been delivered to Buyer. Each Scheduled Contract is in full force and effect and is valid, binding and enforceable against Seller and to Seller's knowledge, the other parties to the Scheduled Contract in accordance with its terms. To Seller's knowledge, the other parties to each Scheduled Contract has complied with all commitments and obligations on its part to be performed or observed under each Scheduled Contract. With respect to all such Scheduled Contracts, neither Seller nor, to Seller's knowledge, any other party to any such Scheduled Contract is, as of the date hereof, in material breach thereof or material default thereunder and, to Seller's knowledge, there does not exist under any provision thereof any event that, with the giving of notice or the lapse of time or both, would constitute such a breach or default, except for such breaches, defaults and events as to which requisite waivers or consents have been or are

obtained. Seller has not received or given notice of an intention to cancel or terminate a Scheduled Contract or to exercise or not exercise options or rights under a Scheduled Contract. Seller has not received any notice of a default, noncompliance, offset or counterclaim under any Scheduled Contract. With respect to each Scheduled Contract which is to be assigned to Buyer pursuant to Section 2.5(I) Buyer will succeed to all the rights and benefits of Seller at and after the Closing.

3.15 **Licenses, Approvals, Other Authorizations.** Schedule 3.15 sets forth an accurate, correct and complete list and summary description of all governmental licenses, permits, franchises and other authorizations of any federal, state or local governmental authority that Seller possesses or has been granted in connection with the operation of the Business (the "Licenses"). Except as noted on Schedule 3.15, all such Licenses are valid and in full force and effect and there are not pending, or, to Seller's knowledge, threatened against Seller, any proceedings which could result in the termination, revocation, modification, limitation or impairment of any Licenses. Seller has not received any written notices relating to the withdrawal of any such Licenses or requiring any modification of a product in order to preserve any such approval. Seller has all licenses, permits, certificates, approvals, franchises, registrations, accreditations and other authorizations as are necessary or appropriate to own and conduct the Business as it is presently conducted and to own, occupy and lease its real property. To Seller's knowledge, no third party has asserted that any other licenses, permits, certificates, approvals, franchises, registrations, accreditations and other authorizations are required by Seller in connection with the Business.

3.16 **Environmental Matters.** Except as set forth on Schedule 3.16:

(a) All activities involving Seller's conduct and operation of the Business and any condition of any Purchased Asset owned, leased or operated by Seller relating to the Business (including, without limitation, transportation and disposal of Hazardous Materials by or for Seller) currently comply and, to Seller's knowledge, at all times in the past have complied, in all material respects with all applicable Environmental Permits and Environmental Laws.

(b) Seller has obtained and is in compliance in all material respects with all Environmental Permits. Seller's Environmental Permits are valid and in full force and effect, and there are not pending, or, to the knowledge of Seller, any proceedings threatened against Seller which could result in the termination, revocation, limitation, or impairment of any Environmental Permit.

(c) Neither Seller nor, to Seller's knowledge, any current or prior owner or occupant of the Leased Real Property has received any written notice alleging or stating that the operation or condition of the Leased Real Property is or has been in violation of any Environmental Permit or Environmental Laws (including, without limitation, written notice advising Seller that it is responsible for clean up of any Hazardous Materials).

(d) To Seller's knowledge, no Hazardous Materials are present upon the Leased Real Property in violation of any Environmental Law and, to Seller's knowledge, no Hazardous Materials have migrated from other properties upon, about or beneath the Leased Real Property in violation of any Environmental Law. Seller has not applied, disposed, spilled,

dumped, deposited, or released Hazardous Materials in a manner that may form the basis for any present or future Action at the Leased Real Property. There has not been any contamination of the Leased Real Property or its vicinity as a result of the manufacture, storage, processing, loss, leak, escape, spillage, disposal, or other handling or disposition by or on behalf of Seller of Hazardous Materials.

(e) To Seller's knowledge, underground storage tanks have not formerly and are not presently located on the Leased Real Property.

(f) As of the date hereof, Seller has no knowledge of any pending or threatened Action against Seller with respect to the Business under or pursuant to any Environmental Law.

(g) Seller has no liability or unfulfilled obligation, whether fixed, unliquidated, absolute, contingent, or otherwise, under any Environmental Law or with respect to any Hazardous Material resulting from Seller's conduct and operation of the Business, including any liability, responsibility, or obligation for fines or penalties, or for investigation, expense, removal, or remedial action to effect compliance with or discharge any duty, obligation, or claim under any such laws or regulations.

(h) Seller has never sent, arranged for disposal, or treatment, arranged with a transporter for transport for disposal or treatment, transported, or accepted for transport, any Hazardous Material, to a facility, site, or location, which, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act or any similar foreign, state, or local law in effect as of or prior to the date hereof, (i) has been placed, or has been publicly proposed by authorities having jurisdiction to be placed, on the National Priorities List or its state equivalent, or (ii) to Seller's knowledge, which is subject to a claim, administrative order, or other request to take removal or remedial action by any person having jurisdiction and authority in the matter and as to which Seller could have liability.

3.17 Customers and Suppliers. All contracts or agreements with customers and suppliers of the Business were entered into by or on behalf of Sellers in the Ordinary Course. **Schedule 3.17** sets forth an accurate, correct and complete list of the 20 largest customers and 20 largest suppliers of the Business, determined on the basis of revenues from items sold (with respect to customers) or costs of items purchased (with respect to suppliers) for each of the two (2) fiscal years ended December 31, 2004 and December 31, 2005 and for the seven-month period ended July 31, 2006. Except as set forth on **Schedule 3.17**, to Seller's knowledge, no current customer or supplier of the Business will cease to do business or materially decrease its business with the Business after, or as a result of, the consummation of any transactions contemplated hereby. Except as set forth on **Schedule 3.17**, to Seller's knowledge, there is no fact, condition or event specifically relating to the Business which would materially adversely affect Seller's relationship with any customer or supplier, other than facts, conditions or events that are the direct result of conditions affecting the industry (other than as a result of any change in Law) in which the Business participates, the U.S. economy as a whole, or the capital markets in general or the markets in which the Business operates.

3.18 **Brokers, Finders, Etc.** Except for Stout Risius Ross Advisors, LLC, the fees of which will be paid by Seller, Seller has not employed and is not subject to any valid claim of, any broker, finder, consultant or other intermediary in connection with the transactions contemplated by this Agreement who might be entitled to a fee or commission in connection with such transactions.

3.19 **Transactions with Affiliates.** Except as set forth in **Schedule 3.19**, no Affiliate (including the officers and directors of such Person) of Seller or Shareholder:

(a) owns, directly or indirectly, any debt, equity or other interest or investment in any corporation, association or other entity which is a competitor, lessor, lessee, customer, supplier or advertiser of Seller (other than ownership, for investment purposes only, of 5% or less of the securities of any corporation the shares of which are traded on a securities exchange or in the over-the-counter market);

(b) except for the Excluded Assets, has any interest in or owns any property or right used in the conduct of the Business; or

(c) is a party to any contract, lease, agreement, arrangement or commitment used in the Business.

3.20 **Insurance.** **Schedule 3.20** sets forth an accurate and complete list and summary description (including name of the insurer, type of coverage, limits of insurance, deductibles, premium and expiration date) of all binders, policies of insurance, self insurance programs or fidelity bonds related to the Business and the Purchased Assets ("Insurance"). To Seller's knowledge, all Insurance has been issued by financially sound insurance companies under valid and enforceable policies or binders for the benefit of Seller and all such policies or binders are in such types and in full force and effect and are in amounts and for risks, casualties and contingencies customarily insured against by enterprises in operations similar to the Business. Except as set forth on **Schedule 3.20**, there are no pending or asserted claims against any Insurance as to which any insurer has denied liability or reserved rights, and there are no claims under any Insurance that have been disallowed or improperly filed within the last five (5) fiscal years. **Schedule 3.20** sets forth the claims experience for the last three (3) full fiscal years and the interim period through the date hereof with respect to the Business (both insured and self insured). No notice of cancellation or nonrenewal with respect to, or material increase of premium for, any insurance has been received by Sellers within the last three (3) fiscal years.

3.21 **Real Property.**

(a) The Leased Real Property is the only real property used by Seller in the operation of the Business. **Schedule 3.21** sets forth a list of all contracts, agreements, leases, subleases, options and commitments, oral or written, affecting the Leased Real Property or any interest therein to which Seller is a party (the "Real Property Leases"). Seller has been in peaceable possession of the Leased Real Property since the commencement of the original term of such Real Property Leases. Seller has delivered to Buyer accurate, correct and complete copies of each Real Property Lease. Seller does not own and has not owned any real property used in connection with the Business.

(b) With respect to the Leased Real Property: (i) there are no pending or, to Seller's knowledge, threatened condemnation or other proceedings, suits or administrative actions; (ii) all improvements, buildings and systems are in good working order and repair, normal wear and tear excepted; (iii) Seller has not received any written notice of any special tax, levy or assessment for benefits or betterments and, to Seller's knowledge, no such special taxes, levies or assessments are pending or contemplated; (iv) there are no contracts granting to any party other than Seller the right of use or occupancy and there are no parties other than Seller in possession; (v) all facilities are supplied with utilities necessary and adequate for their operation or use in accordance with all applicable laws, ordinances, rules and regulations; and (vi) each such parcel abuts on and has adequate direct vehicular access to a public road and there is no pending or, to Seller's knowledge, threatened termination of such access.

3.22 Trade Secrets.

(a) Except for any breach of, or inaccuracy in, the representations and warranties in Section 3.22(a)(i) or 3.22(a)(ii), which does not, individually or in the aggregate, have a Material Adverse Effect, and except as set forth on **Schedule 3.22**, since January 1, 1999 information in the nature of know how, trade secrets or proprietary information which provides Sellers with an advantage over competitors who do not know or use it, including formulae, patterns, molds, tooling, inventions, industrial models, processes, designs, devices, engineering data, cost data, compilations of information, copyrightable material and technical information, if any, relating to the Business (the "Technical Information"):

- (i) has not been revealed to vendors or customers of Seller; and
- (ii) has been subject to Seller's reasonable precautions to protect the secrecy of all Technical Information and prevent disclosure to unauthorized parties.

(b) Schedule 3.22(b) sets forth the list of Persons that have made for Seller molds and/or tooling that are currently used in the Business.

3.23 Product Warranty. **Schedule 3.23** sets forth an accurate, correct and complete statement of all written warranties, warranty policies, service and maintenance agreements of the Business. Except as set forth in **Schedule 3.23**, to Seller's knowledge all products manufactured, processed, distributed, shipped or sold by Seller and any services rendered by it have been in conformity with all applicable contractual commitments, all expressed or implied warranties and all Laws. The product warranty and return experience for the two (2) years ended December 31, 2005 and the interim period through July 18, 2006 is set forth in **Schedule 3.23**.

3.24 Product Liability. **Schedule 3.24** sets forth an accurate, correct and complete list and summary description of all existing claims, duties, responsibilities, liabilities or obligations and all such claims that have closed or been otherwise settled within the last three (3) years arising from or alleged to arise from any injury to person or property or economic damage as a result of the ownership, possession or use of any product manufactured, processed, distributed, shipped or sold by Seller prior to the Closing Date. There have been no recalls with respect to any products of the Business under the Consumer Product Safety Act, as amended, or under any other Law.

3.25 **Schedules and Exhibits.** Disclosure of any fact or item in any Schedule or Exhibit hereto referenced by a particular paragraph or Section in this Agreement shall, should it be readily apparent on the face of such fact or item that it applies to any other paragraph or Section, be deemed to be disclosed with respect to that other paragraph or Section whether or not an explicit cross-reference appears.

3.26 **No Implied Representations.** It is the explicit intent of each party that except as otherwise specifically provided in this Article III, SELLER IS MAKING NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY AS TO THE VALUE, CONDITION, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF THE PURCHASED ASSETS OR THE BUSINESS.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

4.1 **Organization and Authorization.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Buyer has full corporate power to execute and deliver this Agreement and the Ancillary Agreements, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and the Ancillary Agreements, the performance of Buyer's obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action on the part of Buyer. This Agreement and the Ancillary Agreements have been duly executed and delivered by Buyer, and, assuming the due execution hereof by Seller and Shareholder, constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

4.2 **No Conflict.** The execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby will not (a) violate or conflict with any provision of the Certificate of Incorporation or Bylaws of Buyer, (b) violate any provision of, or be an event that is (or with the passage of time will result in) a violation of, or result in the acceleration of or entitle any party to accelerate (whether after the giving of notice or lapse of time or both) any obligation under, or result in the imposition of any Lien upon any of Buyer's or any of its Affiliates' assets or properties pursuant to, any Lien, lease, agreement, instrument, Order, law, rule, regulation, requirement, obligation, commitment, arbitration award, judgment or decree to which Buyer or any of its Affiliates is a party or by which Buyer or any of its Affiliates is bound, or (c) violate or conflict with any other restriction, obligation or commitment of any kind or character to which Buyer or any of its Affiliates is subject.

4.3 **Brokers, Finders, Etc.** Buyer has not employed, and is not subject to any valid claim of, any broker, finder, consultant or other intermediary in connection with the transactions contemplated by this Agreement who might be entitled to a fee or commission in connection with such transactions.

**ARTICLE V
COVENANTS OF SELLER AND BUYER**

5.1 Due Diligence; Access to Records and the Leased Real Property.

(a) Between the date hereof and the Closing Date, Seller shall provide, and cause its officers, directors, management employees, attorneys, accountants and other agents to provide to Buyer and its accounting, legal and other representatives (including potential lenders), reasonable access at all reasonable times to Seller's facilities and to Seller's officers and management employees and to business, financial, legal, tax, compensation and other data and information concerning Seller and the Business as shall be reasonably requested by Buyer.

(b) Notwithstanding Section 5.1(a), (i) Buyer and Seller acknowledge that, concurrent with the execution and delivery of this Agreement, Seller shall have provided to Buyer (A) a list of customers of the Business for Seller's most recent fiscal year, (B) a list of sales of the Business by customer and by product, for Seller's most recent fiscal year, (C) all of the other information requested in **Schedule 5.1(b)**, and (D) a list of Seller's costs, segregated by product, for Seller's most recent fiscal year (collectively, the "Customer Information"), which Customer Information will be used by Buyer solely for due diligence purposes in connection with the transactions contemplated hereby, and (ii) neither Buyer nor its representatives shall contact any of the employees, customers or suppliers of Seller in connection with the transactions contemplated hereby, whether in person or by telephone, mail, email or other means of communication, without the specific prior authorization of the President of Seller, which authorization, except as it pertains to any customers of the Business, shall not be unreasonably withheld. After its receipt of the Customer Information, Buyer shall be entitled to reasonably request additional documents or information related to the Customer Information, and Seller shall promptly and in good faith provide such additional documents and/or information, which additional documents and/or information will be used by Buyer solely for purposes of due diligence in connection with the transactions contemplated hereby. Notwithstanding anything to the contrary in this Agreement, Buyer acknowledges and agrees that neither Buyer nor its representatives shall have the right to contact any customer of the Business for purposes in connection with the transactions contemplated hereby prior to the Closing as a condition to Buyer's obligation to consummate the transactions contemplated by this Agreement.

(c) Buyer agrees to hold all of the Books and Records included in the Purchased Assets and transferred to Buyer at the Closing and not to destroy or dispose of any of them for a period of seven (7) years from the Closing Date. If during such period Buyer desires to destroy or dispose of such Books and Records, Buyer shall offer first in writing at least sixty (60) days prior to such destruction or disposition to surrender them to Seller. Following the Closing Date, Buyer agrees to afford Seller and its employees, accountants, legal counsel and other agents, during normal business hours, upon reasonable request, reasonable access to inspect and copy such Books and Records and other data and Buyer will reasonably respond to Seller's reasonable questions with respect thereto. Seller will bear all reasonable out-of-pocket costs and expenses incurred by Buyer (excluding salaries or wages of its employees) in connection with Seller's requests for access. For seven (7) years following the Closing Date, Seller shall grant to Buyer and its representatives, at Buyer's request, access to and the right to make copies of those records and documents related to the Business, possession of which is

retained by Seller as may be necessary or useful in connection with Buyer's conduct of the Business after the Closing. If during such period Seller desires to dispose of such records, Seller shall first give Buyer sixty (60) days' written notice, during which period Buyer shall have the right to take such records without further consideration. Buyer shall reimburse Seller and Shareholder for any reasonable out-of-pocket costs and expenses incurred by either or both of them in connection with the obligations under this Section.

(d) Any information provided to Buyer or its representatives pursuant to this Agreement or in connection with the transactions contemplated hereby shall be held by Buyer and its representatives in accordance with, and shall be subject to the terms of, (i) the Confidentiality Agreement dated as of January 12, 2006 by and between Effikal and Buyer and (ii) the Confidentiality Agreement dated as of July 17, 2006 by and between Flue Sentinel and Buyer, the terms of which are hereby incorporated in this Agreement as though fully set forth herein. At the time of the Closing, such Confidentiality Agreements shall terminate and be of no further force or effect.

5.2 **Commercially Reasonable Efforts; Obtaining Consents.** Subject to the terms and conditions herein provided, Seller, Shareholder and Buyer each agree to use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective on or prior to the Closing Date the Asset Purchase and the transactions contemplated hereby and to cooperate with the other in connection with the foregoing, including using their commercially reasonable efforts (i) to obtain all necessary waivers, consents and approvals from other parties to material agreements, leases and other Contracts, (ii) to obtain all consents, approvals and authorizations that are required to be obtained under any federal, state, local or foreign law or regulation, (iii) to cause to be lifted or rescinded any injunction or restraining order or other order adversely affecting the ability of the parties to consummate the transactions contemplated hereby, (iv) to effect all necessary governmental registrations and filings, and (v) to fulfill all conditions to this Agreement. In no event, however, shall Buyer or Seller be obligated to pay more than a token or nominal amount of money to any third party or to offer or grant other financial or other accommodations to any third party in connection with its obligations under this Section 5.2, other than usual and customary filing fees. Notwithstanding anything to the contrary in this Section 5.2 or elsewhere in this Agreement, Buyer acknowledges and agrees that neither Seller nor Shareholder shall have any obligation to seek or obtain the consent of any customer of the Business (whether under a Contract or otherwise) in connection with the transactions contemplated by this Agreement and that the receipt of any such consent shall not be a condition to Buyer's obligation to consummate the transactions contemplated by this Agreement.

5.3 **Further Assurances.** Seller, Shareholder and Buyer agree that, from time to time for a reasonable period after the Closing Date, each of them will execute and deliver such further instruments of conveyance and transfer and take such other action as may be reasonably requested by the other party to carry out the purposes and intents of this Agreement and the transactions contemplated hereby.

5.4 **Conduct of Business.** From the date hereof through the Closing, except as disclosed on **Schedule 5.4** or otherwise expressly provided for in this Agreement, and except as consented to or approved by Buyer in writing,

- (a) Seller covenants and agrees that it shall:
- (i) operate the Business in the Ordinary Course;
 - (ii) use commercially reasonable efforts to preserve intact the Business and its goodwill, to keep available the services of the Business' officers and employees and to maintain satisfactory relationships with suppliers, customers and others having business relationships with the Business;
 - (iii) continue to make capital expenditures with respect to the Business in the Ordinary Course;
 - (iv) maintain the Purchased Assets in good operating condition and repair (ordinary wear and tear excepted), maintain insurance reasonably comparable to that in effect on the date hereof, maintain the Inventory, supplies and spare parts at customary operating levels consistent with past practices, replace in accordance with past practices any inoperable, worn out or obsolete Purchased Assets that are currently in active use in the Business with assets of comparable quality and, in the event of a casualty, loss or damage to any such Purchased Assets occurring between the date of this Agreement and the Closing Date either fully repair or replace such Purchased Assets with assets of comparable quality or, if Buyer agrees, transfer any insurance proceeds with respect thereto to Buyer upon Closing;
 - (v) maintain the Books and Records of Seller in accordance with past custom and practice and GAAP;
 - (vi) maintain in full force and effect the existence of all of the Intellectual Property;
 - (vii) comply with all material requirements of law and all material contractual obligations applicable to the Business and pay all material Taxes as and when such become due and payable;
 - (viii) permit Buyer and its representatives to perform any and all environmental assessments and investigations with respect to the Leased Real Property deemed necessary in Buyer's or Buyer's lender's reasonable judgment;
 - (ix) promptly inform Buyer in writing of any material variances from the representations and warranties contained in Article IV hereof or any material breach of any covenant hereunder by Seller which become known to Seller; and

(b) Seller covenants and agrees that it shall not:

- (i) except in the Ordinary Course, sell, transfer or otherwise dispose of any interest in any of the Purchased Assets (other than the sale of Inventories in the Ordinary Course),

(ii) permit, allow or suffer any of the Purchased Assets to be subject to any new Lien (other than Permitted Liens) all of which shall be released, satisfied or otherwise discharged as of the Closing Date,

(iii) enter into any joint venture, partnership or other similar arrangement relating to the Business;

(iv) enter into, terminate, amend or modify any collective bargaining, employment or severance agreement or other agreement or arrangement with any employee of the Business, or grant any increase in salary or bonus or otherwise increase the compensation payable to any director, officer, employee, consultant, advisor or agent employed in connection with or rendering services to the Business, except wage or salary increases required by existing contracts disclosed to Buyer under this Agreement;

(v) enter into, establish, amend, terminate or (except as required by the express terms thereof) make any contribution to any Employee Benefit Plan which covers employees of the Business;

(vi) engage in any promotional sales or discount or other activity with customers of the Business that has or could reasonably be expected to have the effect of accelerating sales prior to the Closing that would otherwise be expected to occur subsequent to the Closing;

(vii) enter into, terminate, modify or amend any agreements, commitments or permits relating to the Business, other than in the Ordinary Course; provided that for any such agreement, commitment or permit that involves amounts in excess of \$20,000, Seller shall provide Buyer with prior written notice of any such termination, modification or amendment, which notice shall include a copy of such termination, modification or amendment;

(viii) incur any Debt with respect to the Business other than Accounts Payable;

(ix) make any commitments with respect to the Business outside of the Ordinary Course or in excess of \$25,000 in the aggregate for capital expenditures to be paid after the Closing;

(x) institute any material change in the conduct of the Business or any material change in its method of purchase, sale, lease, management, marketing, operation or accounting;

(xi) take or omit to take any action which has or is reasonably likely to have a Material Adverse Effect;

(xii) enter into any transaction with or distribute any of the Purchased Assets to any of its officers, directors, employees, stockholders, subsidiaries or Affiliates; or

(xiii) take any action that would require disclosure pursuant to Section 5.4(a)(ix) hereof.

5.5 **Public Announcements.**

(a) Except as may be required by law, as expressly contemplated herein or as expressly consented to by each party, no party or its respective Affiliates, employees, agents and representatives shall disclose to any third party this Agreement or the subject matter or terms hereof. No press release or other public announcement related to this Agreement or the transactions contemplated hereby shall be issued by any of Buyer, Seller or Shareholder without the prior written approval of the other parties hereto (which approval shall not be unreasonably withheld or delayed).

(b) After the Closing, Seller and Shareholder shall be bound to the covenants and obligations as set forth in Section 2 of the NonCompetition Agreement which is incorporated by reference herein.

5.6 **Additional Agreements.** At the Closing, Seller, Shareholder and Buyer shall execute and deliver, or cause to be executed and delivered, the applicable documents referenced in Sections 2.5 and 2.6.

5.7 **Insurance Obligations.** As of the Closing Date, Seller's insurance coverage on the Purchased Assets and otherwise with respect to the Business will lapse and Seller will not have any liability or obligation for letting such policy lapse. On and after the Closing Date, Buyer will arrange for its own insurance coverage.

5.8 **Employee Matters.** Buyer shall have no obligation to hire or offer employment to any of the employees of Seller; provided, however, Buyer shall be free to negotiate with and hire any employees of Seller and Seller shall cooperate in encouraging any such employees to accept employment with Buyer. In the event that any such employees accept employment with Buyer, Seller agrees to cooperate in the transition of such employees to Buyer, including, without limitation, by providing Buyer with access to all personnel records and other information with respect to such employees, subject to any requirements of applicable law. All offers of employment by Buyer to employees of Seller shall be on terms and conditions and shall provide for compensation and benefits and other terms and conditions no less favorable in the aggregate than the corresponding compensation and benefits and other terms and conditions provided to each such employee by Seller immediately prior to the date hereof. Buyer agrees to give all employees of Seller who become employees of Buyer or its Affiliates service credit for all periods of employment with Seller prior to the Closing Date for purposes of vesting and eligibility under any employee pension and retirement savings benefit plan maintained by Buyer or any of its Affiliates in which such employees participate after the Closing. Buyer also agrees to give full credit for any copayments made and deductibles fully or partially satisfied prior to the Closing Date with respect to Employee Benefit Plans, under any welfare or other employee benefit plans maintained by Buyer or any of its Affiliates in which employees of Seller participate after the Closing.

5.9 **No Shopping.** Unless and until this Agreement is terminated pursuant to its terms, Seller and Shareholder agree that Buyer shall have the exclusive right to consummate the transactions contemplated by this Agreement or any other similar transaction with Seller and/or Shareholder. From the date of this Agreement through the Closing or the earlier termination of

this Agreement as provided in Section 8.1, neither Seller nor Shareholder shall, directly or indirectly through any officer, shareholder, director, employee, agent, Affiliate, representative or otherwise, (i) enter into any agreement, agreement in principle or other commitment (whether or not legally binding) relating to any business combination with, recapitalization of, or acquisition or purchase of all or a significant portion of the Business or the Purchased Assets (other than sales of Inventories in the Ordinary Course), or any equity interest in Seller, or relating to any other similar transaction (a "Competing Transaction"), (ii) solicit, initiate or encourage the submission of any proposal or offer from any Person relating to any Competing Transaction, or (iii) furnish to any other Person any information with respect to or assist or participate in or facilitate in any other manner any effort to do or seek to do, any of the foregoing. Seller and Shareholder shall immediately cease and cause to be terminated any and all contacts, discussions and negotiations with third parties regarding any of the foregoing.

5.10 **Collection of Receivables.** After the Closing, Seller shall permit Buyer to collect, in the name of Seller or otherwise, and Buyer shall use its commercially reasonable efforts consistent with past practices of the Business to collect all Accounts Receivable and other items included in the Purchased Assets, and to endorse with the name of Seller any such Accounts Receivable or other items. To effectuate the terms and provisions of this Agreement, Seller hereby designates and appoints Buyer and its designees or agents as attorney-in-fact effective as of the Closing Date, irrevocably and with power of substitution, to do all other acts and things any of them may deem necessary and advisable to realize upon the Accounts Receivable. With respect to any amount paid to any Buyer Indemnified Party by Seller or Shareholder under Article IX relating to the uncollectability of any Accounts Receivable or in the event that any Accounts Receivable are not included in the calculation of the Final Closing Working Capital (each an "Uncollected Accounts Receivable"), Buyer shall use its commercially reasonable efforts to collect on such Uncollected Accounts Receivable and shall deliver to Seller any amounts actually collected by it on account of such Uncollected Accounts Receivable within five (5) business days of receipt by Buyer (the "Collected Amounts"); provided that the Collected Amounts for any Uncollected Accounts Receivable shall not exceed the amounts paid to any Buyer Indemnified Party by Seller or included in the reserve for doubtful accounts as included in the calculation of Final Closing Working Capital on account of such Uncollected Accounts Receivable. For the twelve (12) month period following the Closing, Buyer will provide Seller with monthly reports regarding the status of the Accounts Receivable and Uncollected Accounts Receivable. Seller and its representatives shall have reasonable access during normal business hours, at Seller's expense, to all relevant books and records of Buyer related to the Accounts Receivable and Uncollected Accounts Receivable, and Buyer will reasonably respond to Seller's questions regarding the Accounts Receivable and Uncollected Accounts Receivable.

5.11 **Bulk Sales Act Compliance.** Buyer and Seller hereby waive compliance with the provisions of any applicable bulk transfer laws.

5.12 **WARN Act Compliance.** Seller shall comply with the WARN Act and be solely responsible for furnishing the required notice of any "plant closing" or "mass layoff", as applicable in connection with the transactions contemplated by this Agreement

5.13 **Non-Solicitation.** If this Agreement is terminated by Buyer or Seller for any reason, neither Buyer nor any Affiliate of Buyer will, for a period of three (3) years thereafter, without the prior written approval of Seller, directly or indirectly solicit, encourage, entice or induce, except pursuant to a general solicitation of employment not directed specifically to persons to which this Section 5.13 applies, any person who is an employee of Seller at the date hereof or at any time hereafter that precedes such termination, to terminate his or her employment with Seller.

5.14 **Product Warranty Work; Product Liability Assistance.** From and after the Closing Date, in the event of any product warranty, recall or similar claim with respect to products of the Business manufactured, sold or distributed prior to the Closing, Buyer agrees that it will provide Seller with replacement products as required in connection therewith at Buyer's material cost, plus direct labor, and plus the reasonable allocable share of manufacturing overhead and Seller and its representatives shall have reasonable access during normal business hours to, at Seller's expense, to the relevant books and records of Buyer solely for the purposes of confirming Buyer's material, direct labor and the reasonable allocable share of manufacturing overhead cost hereunder. In the event any such claim is brought against Buyer on account of products of the Business manufactured, sold or distributed prior to the Closing, Buyer agrees to process such claims in its commercially reasonable judgment, including a commercially reasonable determination of the validity of the claim and possible rejection of invalid claims and to reasonably respond to Seller's questions regarding the processing of such claims. Seller shall be named an additional insured on Buyer's policy of product liability insurance covering products manufactured by Buyer, but sold or distributed by Seller to fulfill Seller's warranty obligations after the Closing and Buyer shall deliver a certificate of insurance to Seller evidencing such coverage. From and after the Closing Date, in the event of any product liability or similar claim by a third party against Seller with respect to products of the Business manufactured, sold or distributed prior to the Closing, Buyer agrees that it will provide Seller with commercially reasonable cooperation to assist Seller and its representatives in the evaluation, defense and/or settlement of any such claim and Seller agrees to reimburse Buyer for all reasonable out-of-pocket costs and expenses incurred by Buyer in connection with Seller's requests.

5.15 **Notification.**

(a) From the date hereof until the Closing Date, Seller shall disclose to the Buyer in writing (in the form of updated schedules, the "Update Disclosures"): (i) immediately following the execution of this Agreement, any customer information that was required to be disclosed in the Schedules, but was agreed to be provided after the execution and delivery of this Agreement and (ii) promptly upon discovery thereof, any occurrences that cause a material breach or inaccuracy in the representations and warranties contained in Article III. Such Update Disclosures shall update or supplement the appropriate Schedules delivered on the date hereof or otherwise update or modify the representations and warranties contained in Article III as provided below.

(b) To the extent any such Update Disclosure relates to customer information that was required to be disclosed in the Schedules, but was agreed to be provided after the execution and delivery of this Agreement, such Update Disclosures will be deemed to have cured

any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of the omission of such customer information from the Schedules.

(c) To the extent any such Update Disclosure relates to new actions, occurrences, facts, developments or events first arising after the date of this Agreement and prior to the Closing (the "Interim Period"), such Update Disclosures will be deemed to have cured any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of such breach or inaccuracy for the portion of any such breach or inaccuracy related to or arising from the disclosure in the Interim Period.

(d) Except as provided under Section 5.15(b), to the extent any such Update Disclosure relates in any way to actions, occurrences, facts, developments or events arising prior to the date of this Agreement, unless Buyer consummates the transactions contemplated hereby, such Update Disclosure will not be deemed to have cured any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of such breach or inaccuracy and Buyer shall retain its rights with respect to such breach or inaccuracy; provided that in any claim related to such Update Disclosure under this clause (d), Buyer shall only be entitled to recover Buyer's actual out-of-pocket costs incurred in connection with the investigation and negotiation of this Agreement and the transactions contemplated hereby.

ARTICLE VI TAX MATTERS

6.1 **Tax Returns of the Business.** Seller represents and warrants that, except as Set forth in **Schedule 6.1**:

(a) All Returns required to be filed by Seller for taxable periods ending prior to the Closing Date relating to any Taxes with respect to the Purchased Assets or any activities of the Business have been or will be filed on a timely basis. All such Returns were or will be complete and correct in all material respects, and all amounts shown as Taxes on such Returns have been or will be paid in full when due.

(b) Any Pre-Closing Taxes that at the Closing Date are not yet due and owing will be paid in full by Seller when due.

(c) None of the Purchased Assets is or at the Closing Date will be encumbered by any Liens arising out of any unpaid Taxes (except for Taxes that are not yet due and payable) and, to Seller's knowledge, there are no grounds for the assertion or assessment of any Liens against any of the Purchased Assets in respect of any Taxes relating to taxable periods ending prior to the Closing Date (other than Liens for Taxes, if payment thereof is not yet due).

(d) There is no Action or proceeding or unresolved claim for assessment or collection, pending or, to Seller's knowledge, threatened, by, or present dispute with, the United States or any other taxing authority for assessment or collection from Seller of any Taxes of any nature affecting any of the Purchased Assets or the Business.

(e) Seller is not a "foreign person" within the meaning of Code Section 1445(f)(3).

6.2 **Cooperation and Exchange of Information.**

(a) From and after the Closing Date, as soon as practicable, but in any event within thirty (30) days after Seller's written request, Buyer shall provide Seller with such reasonable cooperation and shall deliver to Seller such information and data concerning the Purchased Assets and the pre-Closing operations of the Business, in order to enable Seller to complete and file all Returns that Seller may be required to file with respect to the operations of the Business through the Closing Date or to respond to audits by any taxing authorities with respect to such operations, and to otherwise enable Seller to satisfy its internal accounting, Taxes and other legitimate requirements.

(b) Buyer and Seller shall cooperate, and shall cause their respective Affiliates to reasonably cooperate, in the preparation of all Returns relating in whole or in part to taxable periods ending on or before the Closing Date that are required to be filed after such date and all Returns for taxable periods beginning before the Closing Date and ending after the Closing Date; provided that Seller shall have the sole authority to determine the manner in which such Returns are prepared to the extent such determinations may affect the amount of Taxes for which Seller is liable.

(c) Whenever any taxing authority asserts a claim, makes an assessment, or otherwise disputes the amount of Taxes for which Seller or any of its Affiliates is liable, Buyer shall notify Seller within a reasonable period of time, but in any event within thirty (30) days of receipt of notice thereof by Buyer, and Seller and/or any of its Affiliates, as the case may be, shall have the right to control any resulting meetings, conferences or proceedings and to determine whether and when to settle any such claim, assessment or dispute to the extent such proceedings or determinations may affect the amount of Taxes for which Seller or any of its Affiliates is liable. Buyer shall not be entitled to participate in any Tax audit, defense, litigation, contest or other proceeding with respect to any Return that includes Seller or any of its Affiliates, except with respect to that portion of such audit, defense, litigation, contest or other proceeding that involves Taxes relating to the ownership or operation of the Business or the Purchased Assets for the period on or after the Closing Date.

6.3 **Other Tax Agreements.**

(a) All transfer, sales, stamp, registration, excise and similar Taxes on or with respect to the sale of the Purchased Assets shall be borne by Seller.

(b) Buyer agrees that if as the result of any audit adjustment made with respect to any Pre-Closing Tax by any taxing authority with respect to a taxable period ending on or prior to the Closing Date, Buyer or any of its Affiliates receives a Tax Benefit, then Buyer shall pay to Seller the amount of such Tax Benefit within fifteen (15) days of filing the Return in which such Tax Benefit is realized or utilized.

(c) From and after the Closing Date, Buyer shall promptly forward to Seller or reimburse Seller for any refunds or credits of Taxes due Seller after receipt thereof.

**ARTICLE VII
CONDITIONS TO BUYER'S OBLIGATION TO CLOSE**

Buyer's obligation to consummate the Asset Purchase shall be subject to the satisfaction on or prior to the Closing Date of all of the following conditions:

7.1 **Representations, Warranties and Covenants of Seller and Shareholder.** The representations and warranties of Seller and Shareholder contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties qualified by materiality which shall be true and correct in all respects) with the same effect as though such representations and warranties had been made on and as of such date except for representations and warranties that speak as of a specific date or time other than the Closing Date (which need only be true and correct in all material respects as of such date or time), the covenants and agreements of Seller and Shareholder to be performed on or before the Closing Date in accordance with this Agreement shall have been duly performed in all material respects, and Buyer shall have received at the Closing a certificate to that effect dated the Closing Date and validly executed on behalf of Seller and Shareholder.

7.2 **Filings; Consents.** All material registrations, filings, applications, notices, consents, approvals, orders, qualifications and waivers required to be made, filed, given or obtained with, to or from any governmental authorities in connection with the consummation of the Asset Purchase shall have been made, filed, given or obtained.

7.3 **No Injunction.** At the Closing Date, there shall be no injunction, restraining order or decree of any nature of any court or governmental agency or body of competent jurisdiction that is in effect that restrains or prohibits the consummation of the Asset Purchase or otherwise seeks to modify the terms of the Asset Purchase or questions the validity or legality of this Agreement or the Asset Purchase.

7.4 **Due Diligence.** Buyer shall have completed its due diligence and the results thereof shall be satisfactory to it in all respects.

7.5 **Closing Documents.** All of the certificates, opinions, assignments and other documents required to be delivered pursuant to Section 2.5 shall have been executed and delivered pursuant thereto.

ARTICLE VIII

CONDITIONS TO SELLER'S AND SHAREHOLDER'S OBLIGATION TO CLOSE

Seller's and Shareholder's obligation to consummate the Asset Purchase is subject to the satisfaction on or prior to the Closing Date of all of the following conditions:

8.1 **Representations, Warranties and Covenants of Buyer.** The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties qualified by materiality which shall be true and correct in all respects) with the same effect as though such representations and warranties had been made on and as of such date except for representations and warranties that speak as of a specific date or time other than the Closing Date (which need only be true and correct in all material respects as of such date or time), the covenants and agreements of Buyer to be performed on or before the Closing Date in accordance with this Agreement shall have been duly performed in all material respects, and Seller shall have

received at the Closing a certificate to that effect dated the Closing Date and validly executed on behalf of Buyer.

8.2 **Filings; Consents.** All material registrations, filings, applications, notices, consents, approvals, orders, qualifications and waivers required to be made, filed, given or obtained with, to or from any governmental authorities in connection with the consummation of the Asset Purchase shall have been made, filed, given or obtained.

8.3 **No Injunction.** At the Closing Date, there shall be no injunction, restraining order or decree of any nature of any court or governmental agency or body of competent jurisdiction that is in effect that restrains or prohibits the consummation of the Asset Purchase or otherwise seeks to modify the terms of the Asset Purchase or questions the validity or legality of this Agreement or the Asset Purchase.

8.4 **Closing Documents.** All of the certificates, opinions, assignments and other documents required to be delivered pursuant to Section 2.6 shall have been executed and delivered pursuant thereto.

ARTICLE IX SURVIVAL; INDEMNIFICATION

9.1 **Survival Period.** All representations and warranties contained in this Agreement or in any document delivered pursuant hereto or thereto shall be deemed to be material and to have been relied upon by the parties hereto, and shall survive the Closing for a period of twelve (12) months; provided that, the representations and warranties of Seller and Shareholder in Section 6.1 (Tax Returns of the Business) and Section 3.16 (Environmental Matters) shall survive the Closing for a period equal to the applicable statute of limitations; provided, further, that the representations and warranties of Seller and Shareholder in Section 3.1 (Organization and Authorization) and the first sentence of Section 3.6 (Title) and the representations and warranties of Buyer in Section 4.1 (Organization and Authorization) shall survive the Closing without contractual limitation. All covenants and agreements contained in this Agreement or in any document delivered pursuant hereto shall be deemed to be material and to have been relied upon by the parties hereto and shall survive the Closing until fully performed in accordance with their terms. Notwithstanding the foregoing, any claim for indemnification that is asserted by written notice as provided in Section 11.5 within the applicable survival period shall survive until resolved by the parties or pursuant to a final non-appealable judicial determination. The representations and warranties contained in this Agreement or in any Ancillary Agreement shall not be affected by any investigation, verification or examination by any party hereto or by anyone on behalf of any such party.

9.2 **Indemnification by Buyer.** Buyer shall indemnify, defend and hold harmless Seller and Shareholder and their respective Affiliates, each of their respective shareholders, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Seller Indemnified Parties") from and against any and all Losses incurred by or asserted against any of the Seller Indemnified Parties in connection with or arising from (a) the Assumed Liabilities; (b) any breach by Buyer of its covenants and agreements contained herein or in any of the Ancillary Agreements; (c) any breach by Buyer of

its representations and warranties contained herein or in any of the Ancillary Agreements, with the exception of Section 4.1, or (d) any breach by Buyer of its representations and warranties contained Section 4.1. Notwithstanding the foregoing, (i) Buyer shall be required to indemnify the Seller Indemnified Parties pursuant to Section 9.2(c) only to the extent that the aggregate Losses indemnifiable pursuant to Section 9.2(c) exceed (U.S.) \$150,000 in the aggregate, (ii) Buyer shall not be required to indemnify the Seller Indemnified Parties pursuant to Section 9.2(c) in an aggregate amount in excess of (U.S.) \$7,500,000, and (iii) any claim for indemnification under Section 9.2(c) must be made, if at all, during the applicable survival period set forth in Section 9.1. Any payment made pursuant to this Section 9.2 shall be treated by Seller and Buyer as an adjustment to the Initial Purchase Price (or Final Purchase Price, if applicable), and Seller and Buyer agree not to take any position inconsistent therewith for any purpose. All rights herein are cumulative and are in addition to all other rights and remedies which are otherwise available.

9.3 **Indemnification by Seller and Shareholder**. Seller and Shareholder, jointly and severally, shall indemnify, defend and hold harmless Buyer and its Affiliates, each of their respective shareholders, directors, officers, employees and agents, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Buyer Indemnified Parties") from and against any and all Losses incurred by or asserted against any of the Buyer Indemnified Parties in connection with or arising from (a) the Excluded Liabilities; (b) any breach by Seller or Shareholder of any of their respective covenants and agreements contained herein or in any of the Ancillary Agreements; or (c) any breach by Seller or Shareholder of their representations and warranties (in each case, determined without regard to any qualifications therein referring to "material", "materiality", "Material Adverse Effect", or any other qualifications of similar import or effect) contained herein or in any of the Ancillary Agreements, with the exception of Section 3.1 and the first sentence of Section 3.6, or (d) any breach by Seller or Shareholder of their representations and warranties contained Section 3.1 and the first sentence of Section 3.6 (in each case, determined without regard to any qualifications therein referring to "material", "materiality", "Material Adverse Effect", or any other qualifications of similar import or effect). Notwithstanding the foregoing, (i) Seller and Shareholder shall be required to indemnify the Buyer Indemnified Parties pursuant to Section 9.3(c) only to the extent that the aggregate Losses indemnifiable pursuant to Section 9.3(c) exceed (U.S.) \$150,000 in the aggregate (the "Basket"), (ii) Seller and Shareholder shall not be required to indemnify the Buyer Indemnified Parties pursuant to Section 9.3(c) in an aggregate amount in excess of (U.S.) \$7,500,000, and (iii) any claim for indemnification under Section 9.3(c) must be made, if at all, during the applicable survival period set forth in Section 9.1; provided, however, that claims made under Section 9.3(c) for breaches of Section 3.8(b) shall not be subject to the Basket. Any payment made pursuant to this Section 9.3 shall be treated by Seller and Buyer as an adjustment to the Initial Purchase Price (or Final Purchase Price, if applicable), and Seller and Buyer agree not to take any position inconsistent therewith for any purpose. All rights herein are cumulative and are in addition to all other rights and remedies which are otherwise available.

9.4 **Third-Party Claims**.

(a) If a claim by a third party (a "Third Party Claim") is made against a Seller Indemnified Party or a Buyer Indemnified Party (an "Indemnified Party"), and if such

Indemnified Party intends to seek indemnity with respect thereto under this Article IX, such Indemnified Party shall promptly notify the applicable indemnifying party under this Article IX (the "Indemnifying Party") in writing of such claims. The failure to provide such notice shall not result in a waiver of any right to indemnification hereunder except to the extent the indemnifying party is actually prejudiced by such failure.

(b) The Indemnifying Party shall have the right to undertake, conduct and control, through counsel of its own choosing reasonably acceptable to the Indemnified Party, and at the Indemnifying Party's expense, the settlement or defense thereof, so long as (i) the Indemnifying Party notifies the Indemnified Party in writing within ten (10) business days after the Indemnified Party has given notice of the Third Party Claim that the Indemnifying Party will indemnify the Indemnified Party from and against any Losses the Indemnified Party may suffer resulting from, arising out of, relating to, or caused by the Third Party Claim and for which the Indemnifying Party has an obligation to indemnify under this Article IX, (ii) the Indemnifying Party provides the Indemnified Party with evidence reasonably acceptable to the Indemnified Party that the Indemnifying Party will have the financial resources to defend against the Third Party Claim and fulfill the Indemnifying Party's indemnification obligations hereunder, (iii) the Third Party Claim involves only money damages and does not seek an injunction or other equitable relief, and (iv) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently.

(c) So long as the Indemnifying Party is conducting the defense of the Third Party Claim in accordance with Section 9.4(b) above, (i) the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith; provided that the Indemnifying Party shall permit the Indemnified Party to participate in such settlement or defense through counsel chosen by such Indemnified Party, provided that the fees and expenses of such counsel shall be borne by such Indemnified Party, (ii) the Indemnified Party shall not pay or settle any such claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld), and (iii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim without the prior written consent of the Indemnified Party (which shall not be unreasonably withheld).

(d) In the event any of the conditions in Section 9.4(b) above is or becomes unsatisfied, however, (i) the Indemnified Party may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, the Third Party Claim in any manner it reasonably may deem appropriate (and the Indemnified Party need not consult with, or obtain any consent from, the Indemnifying Party in connection therewith), (ii) the Indemnifying Party will reimburse the Indemnified Party promptly and periodically for the costs of defending against the Third Party Claim (including reasonable attorneys' fees and expenses), and (iii) the Indemnifying Party will remain responsible for any Losses the Indemnified Party may suffer resulting from, arising out of, relating to, or caused by the Third Party Claim to the fullest extent provided in this Article IX.

9.5 **Exclusive Remedy.** Except in the case of fraud by any party, Buyer, Seller and Shareholder agree that the indemnification provisions of this Agreement shall be their sole and exclusive remedy for any claims or causes of action for money damages arising out of, based upon or resulting from the provisions of this Agreement and the transactions contemplated

hereby and waive to the fullest extent permitted by applicable law any and all such other claims or causes of action for money damages, whether sounding in contract, tort or otherwise, and whether asserted at law or in equity.

9.6 **Indemnification Offset.** All indemnification payments required pursuant to this Agreement shall be made net of all insurance benefits (less any amounts in respect of increased premiums directly attributable to payment of such insurance benefits) actually received by the Indemnified Party and after accounting for any Tax Benefit actually received by the Indemnified Party, in the calendar year in which such claim was paid or the calendar year following the year in which such claim was paid. In the event that any claim for indemnification hereunder is, or may be, the subject of any insurance coverage or other right of indemnification or contribution from any third person (other than an Affiliate of the Indemnified Party), the Indemnified Party expressly agrees that it shall promptly notify the applicable insurance carrier, and shall also promptly notify any potential third party indemnitor or contributor that may be liable for any portion of such Losses or claims. The Indemnified Party agrees to make commercially reasonable efforts to pursue such claims diligently and to reasonably cooperate with each applicable insurance carrier to mitigate its Losses; provided, however, in no event shall an Indemnified Party be obligated to make any claim under any insurance coverage or otherwise exercise any other right of indemnification or contribution from any third party prior to making a claim for indemnification under this Agreement. In the event insurance benefits or Tax Benefits are actually received by the Indemnified Party with respect to Losses sustained or incurred by the Indemnified Party, such Losses shall not be considered Losses for purposes of this Agreement, and, to the extent the Indemnifying Party has made a payment indemnifying the Indemnified Party for such Losses, the Indemnified Party shall promptly pay to the Indemnifying Party the amount of the insurance benefits or Tax Benefits received by it not to exceed the amount of the indemnifying payment.

9.7 **Indemnification Escrow.** The parties agree that the Indemnification Escrow shall serve as security for the indemnification obligations of Seller and Shareholder under this Article IX. Any claim by any Buyer Indemnified Party under this Article IX must first be satisfied by Buyer making a claim against the Indemnification Escrow under the terms of the Escrow Agreement; provided, however, that Buyer shall not be entitled to payment of any portion of the Indemnification Escrow until such claim by Buyer under this Article IX has been resolved by a final non-appealable court order, arbitration award or joint written agreement among Buyer, Seller and Shareholder. To the extent that the amounts which become due and payable to any Buyer Indemnified Party under this Article IX exceed the amount of the Indemnification Escrow then available, then Seller and/or Shareholder shall pay such excess amounts to Buyer upon resolution of Buyer's claim by a final non-appealable court order, arbitration award or joint written agreement among Buyer, Seller and Shareholder. Under the terms of the Escrow Agreement, the Indemnification Escrow, less any amounts previously paid to Buyer and less any amounts that are the subject of a pending claim by Buyer under this Article IX ("Disputed Amounts"), shall be released to Seller on the first (1st) anniversary of the Closing Date. The Escrow Agent shall continue to hold any Disputed Amounts until such time as the claim is resolved by a final non-appealable court order, arbitration award or joint written agreement among Buyer, Seller and Shareholder and, in the event of any such resolution, the Disputed Amounts shall be paid to Buyer in accordance with any written agreement or final

order so described, and the balance, if any, of the Indemnification Escrow shall be released to Seller.

9.8 **Setoff against Earnout.** In the event that any Buyer Indemnified Party has a claim for which it is entitled to indemnification under Section 9.3 and such Buyer Indemnified Party has commenced a judicial or arbitration action to enforce such claim, Buyer shall be entitled to pay into escrow to a commercial bank, title insurance company or other escrow agent mutually acceptable to Buyer, Seller and Shareholder the amount of such claim in lieu of paying such amount to Seller or Shareholder on account of the Earnout. The amount so deposited with the escrow agent shall be held in escrow until the resolution of such claim by final non-appealable court order, arbitration award or joint written agreement among Buyer, Seller and Shareholder. Buyer, Seller and Shareholder agree to cooperate with each other in the execution of a mutually acceptable escrow agreement and such other documentation as may at any time be necessary to effectuate the escrow arrangements under this Section 9.8 on substantially the same terms as the Escrow Agreement. Except as expressly provided in this Section 9.8, Buyer shall not set off against, recoup or otherwise withhold payment of amounts due under the Earnout due to any claim, matter or thing whatsoever.

ARTICLE X TERMINATION

10.1 **Termination.** This Agreement may be terminated at any time prior to the Closing by:

- (a) the mutual consent of Seller, Shareholder and Buyer;
- (b) either Seller and Shareholder, on the one hand, or Buyer, on the other hand, if the Closing has not occurred by the close of business on September 29, 2006, and the failure to consummate the Asset Purchase on or before such date did not result from the failure by the party seeking termination of this Agreement to fulfill any undertaking or commitment provided for herein that is required to be fulfilled prior to the Closing;
- (c) by either Seller or Shareholder (without any liability to Buyer) if Buyer does not notify either of them within twenty-one (21) days after the date of this Agreement that the Customer Information delivered by Seller pursuant to Section 5.1(b) is acceptable to Buyer for purposes of Article VII; or
- (d) either Seller and Shareholder, on the one hand, or Buyer, on the other hand, if a United States federal or state court of competent jurisdiction or United States federal or state governmental, regulatory or administrative agency or commission shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated hereby and such order, decree, ruling or other action shall have become final and non-appealable; provided, however, that the party seeking to terminate this Agreement pursuant to this Section 10.1(c) shall have complied with Section 5.2, and with respect to other matters not covered by Section 5.2, shall have used commercially reasonable best efforts to remove such injunction order or decree.

10.2 **Procedure and Effect of Termination.** In the event of termination of this Agreement by either or both of Seller and Shareholder, on the one hand, or Buyer, on the other hand, pursuant to Section 10.1, written notice thereof shall forthwith be given by the terminating party to the other party specifying the basis for such termination, and this Agreement shall thereupon terminate and become void and have no effect, and the transactions contemplated hereby shall be abandoned without further action by the parties, except that the provisions of Sections 5.1(c) (first sentence only), 5.7 and 11.4 shall survive the termination of this Agreement; provided, however, that termination of this Agreement shall not relieve any party of any liability for any breach occurring prior to the date of termination.

ARTICLE XI MISCELLANEOUS

11.1 **Entire Agreement.** This Agreement (including all Exhibits, Schedules or other attachments hereto) and the Ancillary Agreements constitute the complete and exclusive statement of the terms of the agreement between the parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings, promises, and arrangements, oral or written, between the parties with respect to the subject matter hereof and thereof, including, without limitation that certain Term Sheet dated April 13, 2006 between Seller and Buyer.

11.2 **Amendment.** This Agreement may be amended or modified only by an instrument in writing signed by all of the parties.

11.3 **Third Parties.** Except as otherwise expressly provided under this Agreement, nothing in this Agreement, express or implied, is intended to or shall be construed to confer upon or give any Person other than the parties and their respective successors and permitted assigns, any legal or equitable right, remedy or claim under or with respect to this Agreement.

11.4 **Expenses.** Except as otherwise expressly provided in this Agreement, each party shall pay its own fees and expenses (including, without limitation, the fees of any attorneys, accountants, investment bankers or others engaged by such party) incurred in connection with the preparation, negotiation, execution and performance of this Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated.

11.5 **Notices.** All notices, consents, waivers and other communications required or permitted under this Agreement shall be sufficiently given for all purposes hereunder if in writing and (a) hand delivered, (b) sent by certified or registered mail, return receipt requested and proper postage prepaid, (c) sent by a nationally recognized overnight courier service, or (d) sent by facsimile, in each case to the address or facsimile number and to the attention of the person (by name or title) set forth below (or to such other address and to the attention of such other Person as a party may designate by written notice to the other parties):

If to Seller or Shareholder:

Effikal International, Inc.
143 Northpointe Drive
Orion, MI 48359

Attn: Elizabeth S. Hubbard
Facsimile No.: (248) 370-9394

with a mandatory copy to:

Bodman LLP
201 West Big Beaver Road
Suite 500
Troy, Michigan 48084
Attn: Terrence B. Larkin, Esq.
Facsimile No.: (248) 743-6002

If to Buyer:

Heico Holding, Inc.
70 West Madison, Suite 5600
Chicago, IL 60602
Attn: Emily Heisley Stoeckel
Facsimile No.: (312) 419-9417

with a mandatory copy to:

McDermott Will & Emery LLP
227 West Monroe Street
Chicago, IL 60606-5096
Attn: Stanley H. Meadows, Esq.
Facsimile No.: (312) 984-7700

The date of giving of any such notice, consent, waiver or other communication shall be (i) the date of delivery if hand delivered, (ii) the date of receipt for certified or registered mail, (iii) the day after delivery to the overnight courier service if sent thereby, and (iv) the date of facsimile transmission on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.

11.6 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Buyer shall be entitled to assign its rights and duties under this Agreement to any Affiliate of Buyer or for collateral security purposes to any lenders providing financing to Buyer without the consent of Seller or Shareholder; provided, however, that Heico Holding, Inc. shall remain liable hereunder solely to effect the Closing in accordance with the terms and conditions of this Agreement. Each of Effikal and Flue Sentinel shall be entitled to assign its rights and duties under this Agreement to Shareholder in the event of a dissolution of Effikal or Flue Sentinel, as applicable, without the consent of Buyer. Except as provided in the foregoing sentences, no party shall assign any of its rights or delegate any of its obligations under this Agreement without the express prior written consent of the other parties. Any material change in the direct or indirect ownership or control of a party, any merger or consolidation directly or indirectly involving a party, any acquisition by or

of a party or any other substantial change in a party's organization shall constitute an assignment of rights and/or a delegation of obligations, as applicable, under this Agreement as to such party. Any purported assignment of rights or delegation of obligations in violation of this Section, whether voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or otherwise, is void.

11.7 **Construction.** Captions, titles and headings to articles, sections or paragraphs of this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement. All references in this Agreement to "Article", "Section" or "Paragraph" refer to the corresponding articles, sections or paragraphs of this Agreement unless otherwise stated and, unless the context otherwise specifically requires, refer to all subsections or subparagraphs thereof. All references in this Agreement to "Schedule" or "Exhibit" refer to the corresponding Schedules or Exhibits to this Agreement unless otherwise stated. All references in this Agreement to a "party" or "parties" refer to the parties signing this Agreement. All defined terms and phrases used in this Agreement are equally applicable to both the singular and plural forms of such terms. Nouns and pronouns will be deemed to refer to the masculine, feminine or neuter, singular and plural, as the identity of the Person or Persons may in the context require. It is understood and agreed that the specification of any dollar amount in the representations and warranties contained in this Agreement or the inclusion of any specific item in the Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and neither party shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Schedules in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in a Schedule is or is not material for purposes of this Agreement.

11.8 **Waiver.** Neither any failure nor any delay by any party in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by each party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of that party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement.

11.9 **Severability.** In the event that a court or arbitral body of competent jurisdiction holds any provision of this Agreement invalid, illegal or unenforceable, such decision shall not affect the validity or enforceability of any of the other provisions of this Agreement, which other provisions shall remain in full force and effect, and the application of such invalid, illegal or unenforceable provision to Persons or circumstances other than those as to which it is held invalid, illegal or unenforceable shall be valid and be enforced to the fullest extent permitted by law. To the extent permitted by applicable law, each party waives any provision of law that renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

11.10 **Representation of Parties.** The parties acknowledge that they have been represented by competent counsel of their own choice and that this Agreement has been the product of negotiation among them. Accordingly, the parties agree that in the event of any ambiguity in any provision of this Agreement, this Agreement shall not be construed against any party regardless of which party was responsible for the drafting thereof.

11.11 **Time of the Essence.** With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

11.12 **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. This Agreement shall become effective when one or more counterparts have been executed by each of the parties and delivered to the other parties. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

11.13 **Governing Law.** This Agreement and the Ancillary Agreements shall be governed by and construed in accordance with the laws of the State of Delaware without regard to conflicts-of-law principles that would require the application of any other law.

11.14 **Jurisdiction; Venue.**

(a) Subject to the provisions of Section 11.15, each party irrevocably submits to the exclusive jurisdiction of the courts of the State of Ohio and the United States District Court located in Cleveland, Ohio in any Action arising out of or relating to a Dispute, and hereby irrevocably agrees that all claims in respect of such Action may be heard and determined in such state or federal court. Each party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such Action. The parties further agree, to the fullest extent permitted by law, that a final and unappealable judgment against any of them in any Action contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.

(b) To the extent that any party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, each party hereby irrevocably waives such immunity in respect of its obligations under this Agreement.

11.15 **Dispute Resolution.** The parties agree that, if a dispute or disagreement between or among any of the parties as to the interpretation of any provision of this Agreement or any Ancillary Agreement, the performance of obligations hereunder or thereunder, or any other disputed matter relating hereto or thereto (a "Dispute") arises between or among any of them, then such Dispute, upon written notice from one party to any other party, shall be submitted to

and settled exclusively by final and binding arbitration in lieu of any judicial proceeding; provided, however, that nothing contained in this Section 11.15 shall preclude any party from seeking or obtaining from a court of competent jurisdiction (a) injunctive relief, (b) equitable or other judicial relief to specifically enforce the provisions hereof or thereof or to preserve the status quo ante pending resolution of Disputes hereunder, or (c) judicial relief for fraud, perjury, evident partiality, manifest error, or misconduct by an arbitrator prejudicing the rights of any party. Subject only to the foregoing, no such Dispute shall be made the subject of an action in a court of law or equity by any party but shall be submitted to arbitration and finally determined in accordance with the provisions of this Section 11.15. Such arbitration shall be conducted by the American Arbitration Association in Cleveland, Ohio before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association existing as of the date such Dispute is submitted to arbitration; provided, however, the parties shall be entitled to discovery as provided in the Federal Rules of Civil Procedure. If an arbitrator so selected becomes unable to serve, his or her successor shall be similarly selected or appointed. All arbitration hearings shall be conducted on an expedited schedule commencing not later than one-hundred twenty (120) days following selection of the arbitrator, and all proceedings shall be confidential. Any party may at its expense make a stenographic record thereof. Each party shall pay its own expenses and each party shall pay one-half of the costs and expenses of the arbitrator and the American Arbitration Association. Any arbitration award shall be binding and enforceable against the parties and judgment may be entered thereon in any court of competent jurisdiction.

11.16 **Specific Performance.** Each of the parties acknowledges and agrees that the other parties would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the parties agrees that the other parties shall be entitled to an injunction or injunctions to prevent breach of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter (subject to the provisions set forth in Section 11.14 above), in addition to any other remedy to which they may be entitled, at law or in equity.

[SIGNATURE PAGE FOLLOWS]

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

SELLER

EFFIKAL INTERNATIONAL, INC.

By: _____
Name: Elizabeth S. Hubbard
Title: President

FLUE SENTINEL, INC.

By: _____
Name: Elizabeth S. Hubbard
Title: Vice President

SHAREHOLDER

Elizabeth S. Hubbard

BUYER

HEICO HOLDING, INC.

By: _____
Name: _____
Title: _____

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EXHIBITS

- Exhibit A** – Purchase Price Allocation
- Exhibit B** – Bill of Sale and Assignment
- Exhibit C** – Assumption Agreement
- Exhibit D** – Escrow Agreement
- Exhibit E** – Consulting Agreement
- Exhibit F** – Seller/Shareholder Non-Competition Agreement
- Exhibit G** – Calculation of Adjusted Flue Sentinel Profit for Earnout Payment
- Exhibit H** – Lease Agreement

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

SELLER

EFFIKAL INTERNATIONAL, INC

By: 

Name: Elizabeth S. Hubbard

Title: President

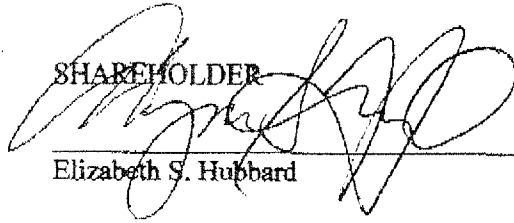
FLUE SENTINEL, INC.

By: 

Name: Elizabeth S. Hubbard

Title: Vice President

SHAREHOLDER


Elizabeth S. Hubbard

BUYER

HEICO HOLDING, INC.

By: _____

Name: _____

Title: _____

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

SELLER

EFFIKAL INTERNATIONAL, INC.

By: _____
Name: Elizabeth S. Hubbard
Title: President

FLUE SENTINEL, INC.

By: _____
Name: Elizabeth S. Hubbard
Title: Vice President

SHAREHOLDER

Elizabeth S. Hubbard

BUYER

HEICO HOLDING, INC.

By: Stanley Meadows
Name: STANLEY MEADOWS
Title: Asst Sec'y

Schedule I(a)

Leased Real Property

The land situated in the Township of Orion, County of Oakland, State of Michigan and described as follows:

Lot 10, NORTHPOINTE INDUSTRIAL PARK NO. 1, according to the plat thereof as recorded, in liber 234, pages 7, 8, 9 and 10, of Plats, Oakland County Records.

Tax Parcel Identification No. 09-35-401-004.

Commonly known as:

143 Northpointe Drive, Orion, Michigan 48359.

Schedule 1(b)

Permitted Liens

None.

Schedule I(c)

Seller's Knowledge

Elizabeth Hubbard	-	President and Chief Executive Officer (Effikal) Vice President (Flue Sentinel)
Kenneth McHenry	-	Executive Vice President (Effikal) President (Flue Sentinel)
Revina Schulz	-	Director of Customer Relations (Effikal) Director of Customer Relations (Flue Sentinel)
Kerry Roger	-	Controller (Effikal) Controller (Flue Sentinel)
Cory Weiss Cory Weiss	- -	Director of Engineering (Effikal) Director of Engineering (Flue Sentinel)

Schedule 2.1(a)

Personal Property

Effikal International, Inc.

Book Asset Detail

as of 7/31/2006

Asset * Property Description

Group:

1	Air Compressor
2	Built in Counter
3	Signs
4	Office Equipment
5	Office Furniture
6	Office Furniture
7	Office Furniture
8	Telephone System
9	Furniture
10	Furniture
11	Furniture
12	Appliances & Fixtures
13	Furniture
14	Furniture
15	Furniture
16	Tooling
17	Tooling
18	Tooling
19	Tooling
20	Tooling
21	Tooling
22	Racking
23	Equipment
24	Equipment
25	Blinds
26	Electrical
27	Planterra
28	Security System
29	RE Fraley
30	Fencing
31	Electrical, Water, Security
32	Exhibit Display
33	Printer
34	Office Equipment
35	Office Furniture

36	Office Furniture
37	Furniture
38	Equipment
39	Equipment
40	Rivet Machine
41	Yokogawa Test Equipment
42	Davis Instrument
43	Racking
44	Drewor Electric
45	RC Lomasney
46	RE Falely
47	Furniture
48	Software
49	Furniture
50	Furniture
51	Equipment
52	Tooling
53	Tooling
54	Tooling
55	Equipment - Viking Fab.
56	Equipment - Pneumatic Tech.
57	Equipment - Pneumatic Tech.
58	Equipment
59	Equipment - Pneumatic Tech.
60	Equipment - R&D Automation
61	Equipment
62	Equipment
63	Equipment - Weber Marking
64	Equipment - Cobane
65	Plant Wiring
66	Test Lab Wiring
67	HVAC Upgrade
68	Phone Wiring
69	Equipment
70	Furniture
71	Software
72	Furniture
73	Office Equipment
74	Office Equipment
75	Office Partitions
76	Software
77	Software
78	Software
79	Software
80	Tooling
81	Tooling
82	Tooling
83	Tooling
84	Tooling
85	Tooling

86 Shrink Wrap Machine
 87 Racking
 88 Rivet Machine
 89 Press Brake
 90 Roll Machine
 91 Racking
 92 Racking
 93 Circuit Board Trays
 94 Racking
 95 Racking
 96 Racking
 97 Roll Machines (2)
 98 Cardboard Baler
 99 New Offices
 100 Test Lab Wiring
 101 Phone Equipment
 102 Phone Equipment
 103 Software
 104 Office Equipment
 105 Phone Equipment
 106 Phone Equipment
 107 Software
 108 Tooling
 109 Tooling
 110 Tooling
 111 Tooling
 112 Used Lathe
 113 Brush Press
 114 Used Roll Machine
 115 Used Roll Machine
 116 Used Roll Machine
 117 State Pipe Rings
 118 Torque Analyzer
 119 Mail Handling - AO Smith
 120 Used Roll Machine
 121 RB & Sons
 122 RB & Sons
 123 Computer Equipment
 124 Office Equipment
 125 Office Equipment
 126 Office Equipment
 127 Tooling
 128 Tooling
 129 Tooling
 130 Tooling
 131 Tooling
 132 Tooling
 133 Tooling
 134 Tooling
 135 Tooling

136 Tooling
 137 Tooling
 138 Tooling
 139 Tooling
 140 Tooling
 141 Variable Speed Conveyor
 142 Used Rivet Machine
 143 Variable Speed Conveyor
 144 Laser Machine Pad
 145 Laser Transformer
 146 Used Rivet Machine
 147 Laser Wiring
 148 Trumpf 3000 Watt Laser Cutter
 149 Electric Hoist with Flat Lifter
 150 Racking
 151 Pushback Racking
 152 Smoking Enclosure
 153 Inline Screwdrivers
 154 Racking
 155 Millivolt Test Stand
 156 Racking
 157 Electric Chain Hoist for Laser
 158 Shop Office Alterations
 159 Wiring in Test Lab
 160 Gateway Computer-ESH
 164 Software
 167 Trade Show Booth
 168 Die Inserts for Family Die
 169 New Controller Cap
 170 Family Die Inserts
 171 Bracket Tool Change
 172 Knockout Die
 173 Punches & Bultons
 174 Box Cutting Dies
 175 Die Change - Add 3 Holes
 176 New Cap Mold
 177 Chicago Rivet Machine
 178 Six Station Millivolt Tester
 179 Crimp Machine - Manual Damper Cell
 180 Press Brake with Back Gauge
 181 Roll Machine for Manual Damper Cell
 182 Wiring-Manual Damper Cell
 183 Rivet Machine - Manual Damper Cell
 184 Rivet Machine - Manual Damper Cell
 185 Racking - Manual Damper Cell
 186 Frequency Converter - Erg. Test Lab
 187 MIG Welder - Manual Damper Cell
 188 14" Band Saw
 189 Inline Screwdriver - Manual Damper Cell
 190 Data Cabling - New Engineering Area

191 Voice & Data Cabling - New Engineering Area
 192 Voice Wiring - New Engineering Area
 193 Construction - New Engineering Area
 194 New Engineering Offices
 195 Doors - Engineering Area
 196 Tooling Change - Add 3 holes to vent blank
 197 Millvot Board Tooling
 198 Box Die
 199 Box Die - 8" & 10" Flue
 200 Addition - Extension Bracket Die
 201 Engineering Workstation - Gateway
 202 Docking Station - K. McHenry
 203 ACT Software
 204 Computer - Label Maker
 205 Engineering Work Stations
 206 Computer - Label Machine
 207 Laptop Computer
 208 Office Equipment
 209 Computer Equipment
 210 Best Software
 211 Dust Collector - Manual Damper Cell
 212 Label Maker Software
 214 Dies & Krump Hydraulic Box & Pan Break
 215 Morgan Denver 30KVA Spot Welder
 216 Huston Precision Torque Watch
 217 Gateway-E4000PC
 218 Gateway E-6000 Computer
 219 Windows 2000 Server Software
 220 Gateway E6000 Computer
 221 HP Digital Projector
 222 Checking Fixture-Flue Brackets 32762-16;17;20
 223 Box Die for Insert
 224 Box Printing Die-Effikal Band
 225 Stamping Dies - 32762-16, 17,20
 226 Adobe Acrobat Writer Software
 227 Gateway Computer - C. Weiss
 228 Virus Scan Software
 229 Inventor Series Software
 230 8" Shear Die for Brushes
 231 5" Brush Die - Top & Bottom
 232 Tooling - Rheem Hoods
 234 Poly Strapping Machine
 235 Veritas Backup Software & McAfee Licenses
 236 Dell Server
 237 Server Install
 238 Dell Laptop (Spare)
 239 ESH Laptop
 240 Electrical Upgrade in Shop
 241 Brother Fax Machine
 242 Dell Optiplex GX280 Minitower Computer

- 243 Tooling - Rheem Vent Hood
- 244 Engineering Changes-Tooling Rheem Vent Hoods
- 245 Concrete Replacement
- 246 Accupress 7606 Press Brake
- 247 ACTI 6 2004 Licensing
- 249 Tooling-Cutting Dies for Rheem Packaging
- 250 Cutting Dies
- 251 Windows Small Business for Server
- 252 Autodesk DWG Composer 2.0
- 253 MAS 200 Licensing
- 254 Shelving
- 255 Westbrook Invoice
- 256 Shelving
- 257 Protodesign
- 258 Laptop Computer - Sales T.P.
- 259 Computer for customer svc
- 260 Computer for purchasing

Flue Sentinel, Inc. as of 7/31/2006

Group: Machinery and Equipment

- 1 Tester for FS Status Module
- 2 Solder Screens - FS Status Module

Group: Office Equipment

- 2 Engineering Computer
- 3 Ron Pucacz Laptop
- 4 Bill Mabec Laptop
- 5 Printers -- FS
- 6 Sandra Jones Desktop
- 7 BJC-85 Color Printer
- 11 Resource Data Systems
- 12 Server
- 13 HP TC 4200 Tablet PC
- Gregory Barthel's Laptop computer

Group: Tooling, Dies & Fixtures

- 4 Fireplace Millivolt Tooling
- 8 Box Die- Flue Sentinel
- 9 Printing Plates at Universal Container
- 10 PCB Tooling for Status Module
- 16 Tooling for damper

Schedule 2.1(c)

Intellectual Property included in Purchased Assets

1. Patents: Seller holds the following U.S. Patents:

- No. 4,143,811 (Eftikal) (not active – patent has expired)
- No. 6,257,871 (Eftikal)
- No. 6,439,877 (Eftikal)
- No. 6,644,957 (Eftikal)
- No. 6,749,124 (Eftikal)
- No. 6,915,799 (Flue Sentinel)

In addition, Flue Sentinel has the following U.S. Patent Applications pending:

- Wireless fireplace damper control device
U.S. Application No. 11/120,334
PCT Application No. 05/015,243
- Millivolt damper control device
U.S. Application No. 11/120,785
PCT Application No. 05/015,233

2. Trademarks: Seller holds the following U.S. Trademarks:

- ENER-G-LECTUAL (Flue Sentinel) Registration No. 3112378
- FLUE SENTINEL (Eftikal) Registration No. 2873935
- MILLI-DAMPER (Eftikal) Registration No. 3112323
- LIFESTYLESENSE (Flue Sentinel) Serial No. 76/562439
- PRACTI-FRUGAL (Flue Sentinel) Serial No. 76/562446
- SAFETY-MATIC (Flue Sentinel) Registration No. 3130279
- EFTIKAL (Eftikal) Registration No. 1148236

3. Domain Names: Seller owns the following domain names:

<u>Service</u>	<u>Type</u>	<u>Expiration</u>
vent-damper.com	Domain	September 6, 2007
vent-dampers.com	Domain	September 6, 2007
barometricdamper.com	Domain	September 6, 2007
barometric-damper.com	Domain	September 6, 2007
barometric-dampers.com	Domain	September 6, 2007
barometricdampers.com	Domain	September 6, 2007
fluedamper.com	Domain	September 6, 2007
flue-damper.com	Domain	September 6, 2007
flue-dampers.com	Domain	September 6, 2007
fluedampers.com	Domain	September 6, 2007
(vent-damper.com) Web Forwarding	Web Forwarding	September 6, 2007
(vent-dampers.com) Web Forwarding	Web Forwarding	September 6, 2007
(barometricdamper.com) Web Forwarding	Web Forwarding	September 6, 2007