

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

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SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
RESUBMIT DOCUMENT ID:	900720160		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Tranter, Inc.		05/16/2022	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	Delta T Thermal Solutions, LLC		
Street Address:	1900 Old Burk Highway		
City:	Wichita Falls		
State/Country:	TEXAS		
Postal Code:	76306		
Entity Type:	Limited Liability Company: TEXAS		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	1747009	MAXCHANGER	
Registration Number:	0984508	ECONOCOIL	
Registration Number:	0829089	PLATECOIL	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	2149536500		
Email:	daltmdept@bakerbotts.com		
Correspondent Name:	Kathryn Hoo, Baker Botts L.L.P.		
Address Line 1:	2001 Ross Ave		
Address Line 2:	Suite 900		
Address Line 4:	Dallas, TEXAS 75201-2900		
ATTORNEY DOCKET NUMBER:	092101.0101		
NAME OF SUBMITTER:	Kathryn Hoo		
SIGNATURE:	/Kathryn Hoo/		
DATE SIGNED:	01/19/2023		
Total Attachments: 46			

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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”) is made as of May 16, 2022 by and between DELTA T THERMAL SOLUTIONS, LLC, a Texas limited liability company (“Buyer”) and TRANTER, INC., a Delaware corporation (“Seller”). Buyer and Seller each may be referred to herein as a “Party” and collectively as the “Parties”.

Recitals

WHEREAS, as of the date hereof, Seller owns certain Assets and Liabilities relating to the Business and Buyer desires to purchase certain of such Assets and assume certain Liabilities, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 **Definitions.** For purposes of this Agreement, the following terms have the respective meanings set forth below:

“Affiliate” means any Person in control or under control of, or under common control with, another Person. For purposes of the foregoing, “control,” with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or by contract or otherwise.

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“Agreement” has the meaning set forth in the Preamble.

“Assets” means, with respect to any Person, all of such Person’s assets, rights and properties of any kind, nature, character and description (whether real, personal or mixed, tangible or intangible, and wherever situated), including the goodwill related thereto, all land, properties, buildings, improvements, fixtures, foundations, contracts, equipment, systems, books and records, proprietary rights, intellectual property, approvals of Governmental Bodies, rights under or pursuant to all warranties, representations and guarantees, accounts receivable, deposits and prepaid expenses.

“Assumed Liabilities” has the meaning set forth in Section 2.1(c).

“Bill of Sale and Assignment Agreement” means that certain Bill of Sale and Assignment Agreement by and between Seller and Buyer, dated as of Closing Date, in the form attached hereto as Exhibit A.

“Business” means Seller’s business of selling and servicing inflated and single and double embossed or pressed prime surface welded heat transfer products and fully welded plate heat exchangers constructed from embossed corrugated plates under the “Platecoil”, “Econocoil”, and “Maxchanger” product lines of Seller. Such products include, but are not limited to, welded tank shell, flanged and dished head, immersion heaters, clamp-on heaters, heat recovery banks, bayonet heaters, radiators and fryer banks.

“Business Day” means any day other than a Saturday, a Sunday or a day on which commercial banking institutions in New York, New York are authorized or required by Law or executive order to be closed.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Conditions Precedent” has the meaning set forth in Section 3.5.

“Buyer Indemnified Parties” has the meaning set forth in Section 8.1(a).

“Buyer Marks” has the meaning set forth in Section 10.6.

“Buyer Taxes” has the meaning set forth in Section 7.2(b).

“Cap” has the meaning set forth in Section 8.5(c).

“Closing” has the meaning set forth in Section 3.1.

“Closing Date” has the meaning set forth in Section 3.1.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collective Bargaining Agreement” means that certain Agreement between Seller and Union, effective July 15, 2019 to July 16, 2022.

“Contemplated Transactions” means the transactions contemplated by this Agreement and the Related Agreements.

“Contract” means any legally binding contract, agreement, license, sublicense, assignment, purchase agreement, indenture, lease, sublease, instrument of indebtedness, security agreement, guarantee, purchase order, sales order, distribution agreement or other legally binding agreement of any kind, in each case whether oral or written, including any amendments and other modifications thereto.

“Effective Time” has the meaning set forth in Section 3.1.

“Employee Plans” means all employment, incentive, vacation and other similar plans, whether or not subject to ERISA and whether covering one person or more than one person, that are maintained by Seller, or are maintained by any ERISA Affiliate with respect to the Seller’s employees, or to which Seller contributes, or to which any ERISA Affiliate contributes on behalf of the Seller’s employees.

“Encumbrance” means liens, mortgages, charges, security interests and other defects in title generally considered to be encumbrances.

“Environmental and Safety Requirements” means, whenever in effect, all Laws, Orders and contractual obligations concerning public health or safety, worker health or safety, or pollution or protection of the environment.

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

“ERISA Affiliate” means any other Person that, together with Seller is required to be treated as a single employer under Section 414 of the Code or Section 4001(a)(14) of ERISA.

“Excluded Assets” has the meaning set forth in Section 2.1(b).

“Excluded Liabilities” has the meaning set forth in Section 2.1(d).

“Governmental Body” means any domestic or foreign federal, state or local government or any agency, bureau, commission, court, department, political subdivision, tribunal, board or other instrumentality of any administrative, judicial, legislative, executive, regulatory, police or taxing authority.

“IFRS” means the International Financial Reporting Standards as developed by the International Accounting Standards Board.

“Income Tax” means any Tax imposed on or measured by net income, including any interest, penalty or addition thereto.

“Indemnified Party” has the meaning set forth in Section 8.2(a).

“Indemnifying Party” has the meaning set forth in Section 8.2(a).

“Intellectual Property Assets” means all intellectual property owned or licensed by Seller in which Seller has a proprietary interest, including (i) all registered and unregistered trade names, trademarks, logos, service marks and trade mark and service mark applications, together with all goodwill associated with any of the foregoing and all registrations and applications therefor, (ii) all patents, patent applications and inventions and discoveries that may be patentable, (iii) all registered and unregistered copyrights in both published and unpublished works and applications for registration thereof, (iv) all know-how, trade secrets, or confidential or proprietary information, customer and supplier lists and information, software (other than commercially available, off-the-shelf software), process technology, technical information, drawings and plans, financial, marketing and business data, pricing and cost information, and business and marketing plans, and (v) all rights in internet web sites or protocol addresses,

internet domain names and registration rights, uniform resource locators, and related security passwords or codes.

“IRS” means the United States Internal Revenue Service.

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“Law” means each applicable treaty, statute, law, rule or regulation of any Governmental Body or arbitrator.

“Liabilities” means, with respect to any Person, any and all debts, obligations, duties or liabilities of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability), regardless of whether such debts, obligations, duties or liabilities would be required to be disclosed on a balance sheet prepared in accordance with IFRS and regardless of whether such debts, obligations, duties or liabilities are immediately due and payable.

“License Agreement” shall mean that certain License Agreement by and between Buyer and Seller dated as of the Closing Date.

“Losses” means all losses, Liabilities, obligations, Taxes, fees, expenses and other amounts paid or incurred by a Person (including damages, dues, penalties, fines, costs (including court costs and investigative and remedial costs and reasonable attorneys’ and accountants’ fees)), including those arising from Proceedings, complaints, claims, demands, injunctions, Orders, and settlements.

“Material Adverse Effect” shall mean any event, result, occurrence, development, fact, change or effect of whatever nature, including a force majeure event, that, individually or in the aggregate, (i) with respect to Seller, is or would reasonably be expected to be materially adverse to the ability of Seller to consummate the Contemplated Transactions, (ii) with respect to the Purchased Assets or the Business, has or would reasonably be expected to have a material and adverse effect on the Purchased Assets or the Business, taken as a whole, or (iii) with respect to Buyer, is or would reasonably be expected to be materially adverse to the ability of Buyer to consummate the Contemplated Transactions. Notwithstanding the foregoing, a determination of Material Adverse Effect shall not be based on (a) any change affecting political, market, economic or business conditions generally, (b) any change affecting the Business generally, including any change in Law, (c) any change caused by the announcement of all or any part of the Contemplated Transactions, (d) acts of war (whether or not declared), armed hostilities (whether or not pursuant to the declaration of a national emergency or war), or military action or acts of terrorism, pandemics, epidemics or disease outbreaks, or the escalation or worsening of any of the foregoing, or (e) any action or omission expressly required by this Agreement.

“Neutrality Agreement” means that certain Neutrality and Card Check Agreement dated as of May 4, 2022, by and between Buyer and Union.

“Order” means any writ, judgment, injunction, ruling, decision, order, verdict, decree, writ, mandate, command or similar direction of any Governmental Body or arbitrator that is binding on the applicable Person, whether preliminary or final.

“Parties” means Buyer and Seller and “Party” means Buyer or Seller, as applicable.

“Permitted Encumbrances” means (a) statutory Encumbrances for current Taxes or assessments not yet due and payable; (b) mechanics’ or materialmen’s Encumbrance arising in the ordinary course of business for sums that are immaterial in amount and not yet due and payable and do not materially detract from the value of or materially impair the existing use or, with respect to any Asset, the proposed use of the property affected by such Encumbrance; (c) zoning and subdivision Laws; (d) obligations imposed under this Agreement; (e) restrictions under securities Laws; and (f) such other Encumbrances as are set forth on Schedule 1.1(b).

“Person” means and includes an individual, a partnership, a joint venture, a corporation, a union, a limited liability company, a trust, an unincorporated organization or a Governmental Body or any other separate legal entity recognized pursuant to Law.

“Pre-Closing Straddle Period” means the portion of a Straddle Period that ends as of the Effective Time.

“Pre-Closing Tax Period” means any taxable period ending on or before the Effective Time.

“Press” has the meaning set forth in Section 2.1(b)(xii).

“Press Removal” has the meaning set forth in Section 6.4.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, formal or informal, public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

“PTO Assignments and Applications” has the meaning set forth in Section 6.9.

“Purchase Price” means an amount equal to **Redacted**

“Purchase Price Allocation” has the meaning set forth in Section 2.3(a).

“Purchased Assets” has the meaning set forth in Section 2.1(a).

“Real Property” means that certain land and building owned by Seller located at 1900 Old Burk Hwy, Wichita Falls, Texas 76305.

“Real Property Contract” has the meaning set forth in Section 6.6.

“Related Agreements” means all agreements, instruments and documents being or to be executed and delivered by either Party under this Agreement or in connection herewith,

including but not limited to the Bill of Sale and Assignment Agreement, the Neutrality Agreement, License Agreement, the Real Property Contract and the deed, bill of sale and other documents of conveyance contemplated under the Real Property Contract.

“Representatives” means, as to any Person, its officers, managers, directors, trustees, employees, partners, members, stockholders, counsel, agents, accountants, advisers, engineers and consultants.

“Restricted Employees” has the meaning set forth in Section 6.2.

“Seller” has the meaning set forth in the Preamble.

“Seller Business” means the Seller’s business of selling and servicing gasketed and welded corrugated plate type heat exchangers under the “SuperChanger”, “SuperMax”, and “NovusBloc” product lines of Seller. Such products include, but are not limited to: bolted gasketed plate and frame heat exchanger, shell and plate type heat exchanger, and two sided bolted Bloc style welded plate heat exchanger.

“Seller Conditions Precedent” has the meaning set forth in Section 3.6.

“Seller Indemnified Parties” has the meaning set forth in Section 8.1(b).

“Seller Taxes” has the meaning set forth in Section 7.2(a).

“Straddle Period” means a taxable period which begins on or before the Effective Time and ends after the Effective Time.

“Tax” or “Taxes” means any federal, state, local or non-United States income, excise, personal property, real property, withholding, sales, use, gross receipts, value added, franchise, profits, capital, premium, occupational, production, severance, ad valorem, occupancy, stamp, transfer, employment, payroll, unemployment insurance, documentation, registration, value added or other tax of any kind whatsoever imposed by and payable to any Governmental Body, including any interest, penalty or addition thereto.

“Tax Returns” means any report, form, claim for refund, return, statement or other information (including any amendments) required to be supplied to any Governmental Body with respect to Taxes, including information returns, any amendments thereof or schedule or attachment thereto.

“Third-Party Claims” has the meaning set forth in Section 8.2(a).

“Transaction Expenses” has the meaning set forth in Section 11.3.

“Transfer Taxes” has the meaning set forth in Section 7.1.

“Treasury Regulations” means the federal income Tax regulations promulgated under the Code, including temporary regulations. All references to temporary regulations shall be deemed also to refer to any corresponding provisions of final Treasury Regulations.

Section 1.2 **Construction.** The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against either Party. For the purposes of this Agreement, (i) words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other gender as the context requires, (ii) the terms “hereof”, “herein”, and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, (iii) the word “including” and words of similar import when used in this Agreement shall mean “including, without limitation”, (iv) the word “or” shall not be exclusive and (v) any reference to any contract or Law shall be to such contract or law as amended. The Exhibits to this Agreement shall be treated as if fully incorporated into the body of this Agreement. In the event of any conflict between the provisions of this Agreement and any Exhibit, the provisions of this Agreement shall control.

ARTICLE 2 PURCHASE AND SALE OF ASSETS

Section 2.1 **Purchase and Sale of Assets and Assumption of Liabilities.**

(a) **Purchased Assets.** Subject to the terms and conditions of this Agreement, at the Effective Time, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase and accept from Seller, the following Assets of Seller (the “Purchased Assets”), free and clear of all Encumbrances, except for Permitted Encumbrances:

- (i) The assets set forth on Schedule 2.1(a);
- (ii) any tooling, fixtures, drawings, backlog or inventory to the extent relating to or used in connection with the assets set forth on Schedule 2.1(a);
- (iii) all office furniture and office equipment located at the Real Property;
- (iv) any and all inventory of finished product or raw material related to the Business listed on Schedule 2.1(a);
- (v) all records and proprietary information to the extent related to the Business and the Purchased Assets;
- (vi) all goodwill and other Intellectual Property to the extent related to any of the Purchased Assets;
- (vii) the full benefit of all product warranties, warranty rights, guarantees, indemnities, undertakings and similar covenants (to the extent assignable) (implied, express or otherwise) against manufacturers related to the Purchased Assets; and

(viii) all other Assets of Seller used in the operation of the Business, but excluding (i) the Excluded Assets set forth on Schedule 2.1(b)(vi) and (ii) all of Seller's Contracts related to the Business.

(b) **Excluded Assets.** Except for the Purchased Assets, all Assets of Seller shall be excluded from the Purchased Assets (collectively, the "Excluded Assets") and shall remain the property of Seller after the Effective Time. For the avoidance of doubt, the following shall be Excluded Assets:

(i) all of Seller's (i) cash in any bank account or on hand, and (ii) cash equivalents, including, without limitation, marketable securities;

(ii) all accounts receivable of Seller or the Business, including all customer payments received by Seller on or after the Closing Date;

(iii) any rights that accrue or will accrue to Seller under this Agreement;

(iv) all of Seller's Contracts including the Contracts (and any proceeds related thereto) set forth on Schedule 2.1(b)(iv) (the "Excluded Contracts");

(v) any tooling, fixtures, drawings, backlog or inventory relating to or used in connection with the Excluded Contracts;

(vi) the Assets and any rights owned or held by Seller or any of its Affiliates set forth on Schedule 2.1(b)(vi) including any Assets or rights used outside of the Business;

(vii) the Real Property and any fixtures;

(viii) consumables (including, but not limited to, paint, personal protective equipment or packaging material), office furniture and office equipment not located at the Real Property, supplies, computer hardware and software, telephone systems, any and all information technology equipment, and any and all inventory of finished product or raw material unrelated to the Business;

(ix) the original Tax Returns and other original Tax records, reports, data files and documents of Seller and its Affiliates;

(x) all refunds, overpayments or credits received or receivable in respect of Taxes relating to the Purchased Assets or the Business to the extent attributable to a Pre-Closing Tax Period or Pre-Closing Straddle Period;

(xi) all Assets associated with the [REDACTED] Business or the Seller Business;

(xii) all office furniture, fixtures and office equipment located at that certain R&D lab;

(xiii) each of the 1,000T press and the 20,000T press located at the Real Property (collectively, the “Press”); and

(xiv) the full benefit of all product warranties, warranty rights, guarantees, indemnities, undertakings and similar covenants (implied, express or otherwise) against manufacturers related to the Excluded Assets.

(c) **Assumed Liabilities.** Subject to the terms and conditions of this Agreement, at the Effective Time, Buyer shall assume and agree to pay, perform, satisfy and discharge when due, all Liabilities arising from or relating to the Purchased Assets that arise or relate to periods on or after the Effective Time, including, without limitation, all Liabilities relating to or arising out of the ownership, operation, maintenance or use of the Purchased Assets which arise or relate to periods on or after the Effective Time (the “Assumed Liabilities”).

(d) **Excluded Liabilities.** All Liabilities of Seller not included in the Assumed Liabilities shall be excluded from the Assumed Liabilities (collectively, the “Excluded Liabilities”) and shall remain the Liabilities of Seller. For the avoidance of doubt, the following shall be Excluded Liabilities:

(i) any Liability related to or arising out of product warranties, warranty rights, guarantees, indemnities, undertakings and similar covenants with respect to work performed, products sold or services provided by Seller to customers prior to the Effective Time;

(ii) any Liability related to or arising out of any Excluded Asset;

(iii) any pension Liability, retiree medical Liability or Liability under any Employee Plans which arise or have arisen as a result of employment by Seller prior to the Effective Time, irrespective of whether such employees become employees of the Buyer, including, without limitation, any liability relating to the Collective Bargaining Agreement for periods of employment by the employees with Seller prior to the Effective Time; and

(iv) any Liability under any Employee Plans which arise or have arisen as a result of employment by Seller prior to the Effective Time, including, without limitation, any liability relating to the Collective Bargaining Agreement for periods of employment by the employees with Seller prior to the Effective Time.

Section 2.2 **Purchase Price.** In consideration for the Purchased Assets, at the Closing, Buyer shall pay to Seller the Purchase Price by wire transfer of immediately available funds to the account designated by Seller.

Section 2.3 **Purchase Price Allocation; Arms’ Length Transaction.**

(a) Buyer and Seller agree to allocate the Purchase Price (as adjusted to reflect Liabilities and other amounts deemed paid by Buyer for federal Income Tax purposes) amongst the Purchased Assets in a manner consistent with Schedule 2.3 (the “Purchase Price Allocation”), which the Parties intend to comply with Section 1060 of the Code and the Treasury Regulations thereunder. The Purchase Price Allocation is the result of arms’ length negotiations

and shall be binding on the Parties. Each Party agrees to adhere to the Purchase Price Allocation in all Tax Returns filed with any Governmental Body; provided, however, nothing contained herein shall require any Party to contest or to litigate in any forum any proposed deficiency or adjustment by any Governmental Body or agency which challenges such allocation. Notwithstanding the foregoing, if the amount of the Purchase Price or other consideration paid or deemed paid for the Purchased Assets is hereafter adjusted pursuant to this Agreement, or pursuant to a determination by a Governmental Body or otherwise, the Purchase Price Allocation shall be adjusted in a manner consistent with Section 1060 of the Code, the Treasury Regulations thereunder and the Purchase Price Allocation as previously determined pursuant to this Section 2.3. All Parties shall file IRS Form 8594 and any required attachments thereto, together with all federal, state and local Tax Returns, in a manner consistent with the Purchase Price Allocation, as finally determined.

(b) The Parties agree that the Purchase Price reflects the fair value of the Purchased Assets, agreed to by the Parties hereto as a result of arms' length negotiations.

ARTICLE 3 CLOSING

Section 3.1 **Closing.** The purchase and sale of the Purchased Assets and assumption of the Assumed Liabilities (the "Closing") shall take place at Redacted

[REDACTED] The "Effective Time" of the Closing shall be deemed to be 12:00:01 a.m. Eastern time on the Closing Date. At the option of the Parties, documents to be delivered at the Closing may be delivered to the place of Closing by electronic transmission on the Closing Date.

Section 3.2 **Seller Deliveries.** At the Closing, Seller shall have delivered to Buyer:

- (a) a counterpart signature to the Bill of Sale and Assignment Agreement;
- (b) an officer's certificate for Seller certifying as to (i) the resolutions adopted authorizing the Contemplated Transactions, attaching copies of such resolutions and (ii) the authorization of the officers executing documents in connection with the Contemplated Transactions;
- (c) an IRS Form W-9 properly completed by Seller;
- (d) a counterpart signature to the License Agreement; and
- (e) a counterpart signature to the Real Property Contract.

Section 3.3 **Buyer Deliveries.** At the Closing, Buyer shall have delivered to Seller:

- (a) the Purchase Price;
- (b) a counterpart signature to the Bill of Sale and Assignment Agreement;

- Union;
- (c) the fully executed Neutrality Agreement executed by each of Buyer and
 - (d) a counterpart signature to the License Agreement;
 - (e) a counterpart signature to the Real Property Contract; and
 - (f) an officer's certificate for Buyer certifying as to (i) the resolutions adopted authorizing the Contemplated Transactions, attaching copies of such resolutions and (ii) the authorization of the officers executing documents in connection with the Contemplated Transactions.

Section 3.4 Conditions Precedent. For purposes of this Agreement, there shall be conditions which must be satisfied or waived on or prior to the Closing. Buyer's obligation to cause the Closing to occur is subject to the satisfaction, or waiver in writing by Buyer, of each of the Buyer Conditions Precedent, and Seller's obligation to cause the Closing to occur is subject to the satisfaction, or waiver in writing by Seller, of each of the Seller Conditions Precedent. Seller and Buyer expressly acknowledge and agree that each of the conditions in the Buyer Conditions Precedent are for the sole benefit of and may only be waived by Buyer in writing and each of the conditions in Seller Conditions Precedent are for the sole benefit of and may only be waived by Seller in writing.

Section 3.5 Buyer Conditions Precedent to the Closing. Unless and until the following conditions precedent (the "Buyer Conditions Precedent") are satisfied, or waived in writing by Buyer, Buyer shall not be obligated to effect the Closing hereunder:

(a) Representations and Warranties. The representations and warranties made by Seller in this Agreement that are qualified with respect to materiality shall be true and accurate in all respects, and the representations and warranties made by Seller in this Agreement that are not so qualified shall be true and accurate in all material respects, on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date) as though made on and as of the Closing Date, and there shall have been delivered to Buyer a certificate to such effect, dated as of the Closing Date, signed by Seller.

(b) Performance. Seller shall have performed and complied with, in all material respects, the agreements, covenants and obligations required by this Agreement to be so performed or complied with by Seller at or before the Closing, and there shall have been delivered to Buyer a certificate to such effect, dated as of the Closing Date, signed by Seller.

(c) Closing Deliveries. Seller shall have delivered, or caused to be delivered, to Buyer all items required to be delivered pursuant to Section 3.2.

(d) No Proceedings. No Order shall be in effect which prohibits or restricts the consummation of the Contemplated Transactions.

(e) Consents and Approvals. All consents, authorizations and approvals from, and all declarations, filings and registrations with or notices to, Governmental Bodies or third

parties necessary for Seller to make or obtain prior to the Closing in connection with consummation of the Contemplated Transactions, which are set forth on Schedule 4.4, shall have been made or obtained.

(f) Legislation. No statute, rule or regulation shall have been enacted which prohibits or restricts the consummation of the Contemplated Transactions.

(g) No Material Adverse Effect. There shall have been no Material Adverse Effect.

Section 3.6 Seller Conditions Precedent to the Closing. Unless and until the following conditions precedent (the “Seller Conditions Precedent”) are satisfied, or waived in writing by Seller, Seller shall not be obligated to effect the Closing hereunder:

(a) Representations and Warranties. The representations and warranties made by Buyer in this Agreement that are qualified with respect to materiality shall be true and accurate in all respects, and the representations and warranties made by Buyer in this Agreement that are not so qualified shall be true and accurate in all material respects, on and as of the Closing Date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date) as though made on and as of the Closing Date, and there shall have been delivered to Seller a certificate to such effect, dated as of the Closing Date, signed by Buyer.

(b) Performance. Buyer shall have performed and complied with, in all material respects, the agreements, covenants and obligations required by this Agreement to be so performed or complied with by Buyer at or before the Closing, and there shall have been delivered to Seller a certificate to such effect, dated as of the Closing Date, signed by Buyer.

(c) Closing Deliveries. Buyer shall have delivered, or caused to be delivered, to Seller all items required to be delivered pursuant to Section 3.3.

(d) No Proceedings. No Order shall be in effect which prohibits or restricts the consummation of the Contemplated Transactions.

(e) Consents and Approvals. All consents, authorizations and approvals from, and all declarations, filings and registrations with or notices to, Governmental Bodies or third parties necessary for Buyer to make or obtain prior to the Closing in connection with consummation of the Contemplated Transactions, which are set forth on Schedule 5.4, shall have been made or obtained.

(f) Legislation. No statute, rule or regulation shall have been enacted which prohibits or restricts the consummation of the Contemplated Transactions.

(g) No Material Adverse Effect. There shall have been no Material Adverse Effect.

Section 3.7 Satisfaction of Conditions. Subject to the terms and conditions of this Agreement, each of the Parties shall, and shall cause its Affiliates as appropriate, to use

commercially reasonable efforts to take, or to cause to be taken, all actions and to do, or to cause to be done, all things necessary, proper or advisable to consummate, as promptly as practicable, the Contemplated Transactions, including, but not limited to, the satisfaction of the conditions listed in Section 3.5 or 3.6 that are within the control of such Party and the obtaining of all consents, waivers, authorizations, Orders and approvals of third parties, including Governmental Bodies, required of it by this Agreement. Each Party shall, and shall cause its Affiliates as appropriate, to cooperate fully with the other Parties hereto in assisting such Parties to comply with this Section 3.7.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as of the Closing Date as follows:

Section 4.1 Organization of Seller. Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware.

Section 4.2 Authority Relative to this Agreement. Seller has the corporate power and authority to execute and deliver this Agreement and to consummate the Contemplated Transactions. The execution and delivery by Seller of this Agreement, and the consummation by it of the Contemplated Transactions, have been duly authorized by the Sole Shareholder and/or the Board of Directors of Seller (as required for the Contemplated Transactions) and no other corporate proceedings on the part of Seller are necessary with respect thereto. This Agreement has been duly executed and delivered by Seller. This Agreement constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms except as its terms may be limited by (i) bankruptcy, insolvency or similar Laws affecting creditors' rights generally or (ii) general principles of equity, whether considered in a proceeding in equity or at law.

Section 4.3 Non-Contravention. Neither the execution and delivery by Seller of this Agreement or any Related Agreement to which Seller is a party, nor the consummation by Seller of the Contemplated Transactions, will: (a) violate any provision of the certificate of incorporation, bylaws or other organizational documents of Seller; (b) result in the imposition of any Encumbrance (other than Permitted Encumbrances) on any of the Purchased Assets; or (c) to violate in any material respect any Law applicable to Seller.

Section 4.4 Consents and Approvals. Except as set forth in Schedule 4.4, there is no requirement applicable to Seller to make any filing with, or obtain the consent or approval of, any other Person as a condition to the consummation of the Contemplated Transactions.

Section 4.5 Title to the Purchased Assets. Seller has good and marketable title to the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances.

Section 4.6 Tax Matters. Seller (i) has duly filed when due all material Tax reports and Tax Returns in connection with and in respect of the Purchased Assets, each of which was true and complete in all material respects at the time filed and accurately reflected in all material respects the facts regarding the income, business, assets, operations, activities, status, or other information of Seller in respect of the Purchased Assets to the extent such information was required to be

shown thereon, and (ii) has timely paid all amounts shown as due thereon or adequately reserved therefor.

Section 4.7 Intellectual Property. Schedule 4.7 contains an accurate and complete list of registered and/or applied-for Intellectual Property Assets for the Purchased Assets; and Seller is the owner of all right, title and interest in and to each of the foregoing, free and clear of all liens, claims or other encumbrances, and has the right to use without payment to any third party all of the same, except, in each case as set forth in Schedule 4.7. To the Knowledge of Seller, (i) the use of the Intellectual Property Assets by Seller in connection with the Business does not infringe on the rights of any other Person, and (ii) no other Person has asserted any such claim. To the Knowledge of Seller, no other Person has infringed or is infringing the Intellectual Property Assets of Seller and Seller has not asserted any such claim.

Section 4.8 Litigation. There are no Proceedings pending or, to the Knowledge of Seller, threatened against Seller or its Affiliates relating to the Purchased Assets or the Business. There are no Orders applicable to Seller or its Affiliates which prevent, restrict or delay, or would reasonably be expected to prevent, restrict or delay, the consummation of the Contemplated Transactions.

Section 4.9 RESERVED

Section 4.10 Environmental and Safety Matters. Except as set forth in Schedule 4.10:

(a) Seller has not received any written notice, report, order, claim, directive or other information regarding any actual or alleged violation of, or any Liabilities or potential Liabilities (including any investigatory, corrective or remedial obligations) under, Environmental and Safety Requirements related to the Purchased Assets.

(b) Seller has provided to Buyer true, correct and complete copies of all material environmental audits, reports and assessments and all other documents materially bearing on environmental, health or safety Liabilities relating to any of the Purchased Assets and/or the past or current properties, facilities or operations of Seller (or any of its predecessors or Affiliates) which are in their possession or under their reasonable control.

Section 4.11 Brokers. Seller has no Contract with any investment banking firm, broker or finder with respect to the Contemplated Transactions.

Section 4.12 Solvency. No petition for bankruptcy, insolvency Proceeding, or other similar Proceeding of Seller is pending, nor has been threatened against Seller.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the Closing Date as follows:

Section 5.1 Organization of Buyer. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Texas.

Section 5.2 **Authority Relative to this Agreement.** Buyer has the requisite limited liability company power and authority to execute and deliver this Agreement and to consummate the Contemplated Transactions. The execution and delivery by Buyer of this Agreement, and the consummation by it of the Contemplated Transactions, have been duly authorized by the members and managers of Buyer and no other limited liability company proceedings on the part of Buyer are necessary with respect thereto. This Agreement has been duly executed and delivered by Buyer. This Agreement constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as its terms may be limited by (i) bankruptcy, insolvency or similar Laws affecting creditors' rights generally or (ii) general principles of equity, whether considered in a proceeding in equity or at law.

Section 5.3 **Non-Contravention.** Neither the execution and delivery by Buyer of this Agreement or any Related Agreement to which Buyer is a party, nor the consummation by Buyer of the Contemplated Transactions, will: (a) violate any provision of the limited liability company agreement or other organizational documents of Buyer or (b) violate any Law in any material respect applicable to Buyer.

Section 5.4 **Consents and Approvals.** Except as set forth in Schedule 5.4, there is no requirement applicable to Buyer to make any filing with, or obtain the consent or approval of, any other Person as a condition to the consummation of the Contemplated Transactions.

Section 5.5 **Litigation.** There are no Proceedings pending or, to the Knowledge of Buyer, threatened against Buyer, which seeks to prevent, restrict or delay the consummation of the Contemplated Transactions. There are no Orders applicable to Buyer or its Affiliates which prevent, restrict or delay, or would reasonably be expected to prevent, restrict or delay, the consummation of the Contemplated Transactions.

Section 5.6 **Brokers.** Buyer has no contract, arrangement or understanding with any investment banking firm, broker or finder with respect to the Contemplated Transactions.

Section 5.7 **Solvency.** No petition for bankruptcy, insolvency Proceeding, or other similar Proceeding of Buyer is pending, nor has been threatened against Buyer.

Section 5.8 **Sufficiency of Funds.** Buyer has and will have cash on hand or through financing sources at Closing funds sufficient to pay the Purchase Price and to timely consummate Buyer's obligations to be performed at Closing and the Contemplated Transactions.

ARTICLE 6 COVENANTS OF THE PARTIES

Section 6.1 **Further Assurances.** Seller and Buyer shall use commercially reasonable efforts to implement the provisions of this Agreement, and, for such purpose, at the request of the other Party, shall, at or after the Closing, promptly execute and deliver, or cause to be so executed and delivered, such documents to the other Party and take such further action as the other Party may deem reasonably necessary or desirable to facilitate or better evidence the consummation of the Contemplated Transactions.

Section 6.2 Employee Matters. Buyer shall not, and shall cause its Affiliates not to, directly or indirectly, (i) solicit, recruit, retain or employ any of those certain employees listed on Schedule 6.2 (the “Restricted Employees”) or (ii) induce or otherwise counsel, advise or encourage any Restricted Employee to leave the employment of Seller or any of its Affiliates for the period beginning on the Closing Date and ending on the fifth (5th) anniversary of the Closing Date. Except for the Restricted Employees, Buyer may solicit, recruit and retain for employment any current or former employees of Seller or any of its Affiliates.

Section 6.3 Non-Competition.

(a) For the period beginning on the Closing Date and ending on the fifth (5th) anniversary of the Closing Date, Seller shall not, directly or indirectly, anywhere in the world: (i) engage or assist others to engage in any business activity which is competitive with the Business as it is presently operated or (ii) allow any entity controlled, directly or indirectly, by Seller to engage in any business activity which is competitive with the Business as it is presently operated. Notwithstanding the foregoing, nothing contained in this Section 6.3(a) shall prevent: (i) Seller’s, [REDACTED], and any of Seller’s or Redacted passive ownership of less than three percent (3%) of a publicly traded company that engages in business activity which is in competition with the Business, (ii) Seller’s, [REDACTED] or any of Seller’s or Redacted operation of their respective businesses (other than the Business) as each is presently operated or (iii) Seller’s continued operation of the Seller Business as it is presently operated.

(b) For the period beginning on the Closing Date and ending on the fifth (5th) anniversary of the Closing Date, Buyer shall not, directly or indirectly, anywhere in the world: (i) engage or assist others to engage in any business activity which is competitive with the [REDACTED] Business or the Seller Business as it is presently operated or (ii) allow any entity controlled, directly or indirectly, by Buyer to engage in any business activity which is competitive with the Seller Business or the [REDACTED] Business as it is presently operated. Notwithstanding the foregoing, nothing contained in this Section 6.3(b) shall prevent: (i) Buyer’s and any of Buyer’s Affiliates’ passive ownership of less than three percent (3%) of a publicly traded company that engages in business activity which is in competition with the [REDACTED] Business or the Seller Business, (ii) Buyer’s operation of the Business as it is presently operated or (iii) Buyer’s and its Affiliates’ continued operation of each of their respective businesses as each is presently operated.

(c) Each of the Parties acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Section 6.3 are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Parties agrees that the other Party will be entitled to an injunction (without posting any bond or giving any other undertaking) to prevent breaches of the provisions of this Section 6.3 and to enforce specifically this Section 6.3 in any action instituted in any court having jurisdiction over the parties and the matter (notwithstanding Section 11.9), in addition to any other remedy to which they may be entitled, at Law or in equity.

Section 6.4 Removal of Excluded Assets. Following the Closing, Seller may remove the Excluded Assets from the Real Property at any time during the period beginning on the Closing Date and ending on September 30, 2022. During such period, Seller shall also dismantle and remove or coordinate the dismantling and removal of the Press from the Real Property (the

“Press Removal”). Upon the consummation of the Press Removal, Seller shall, at its sole expense, repair and restore or cause the repair and restoration of the concrete on the floor where the Press was previously located and repair and restore any other damage caused by Seller in removing the Excluded Assets, all in a quality and manner consistent with the rest of the building. Any Excluded Assets or other Assets of Seller not removed by Seller on or before September 30, 2022 will automatically become part of the Purchased Assets without further consideration or further act or deed.

Redacted

Section 6.6 Real Property Acquisition. The Parties are executing a purchase and sale agreement related to the sale by Seller and purchase by Buyer of the Real Property (the “Real Property Contract”) simultaneously with the execution of this Agreement.

Section 6.7 Notice of Changes. From the date hereof to the earlier of the termination of this Agreement or the Closing, each Party shall promptly advise the other in writing with respect to any fact, event or circumstance that arises after the date hereof of which such Party obtains knowledge and which, if existing or occurring at the date hereof and not set forth in this Agreement or any of the Schedules, would have constituted a breach of a representation or warranty of such Party contained in Article 4 or Article 5, as the case may be, such that the closing condition in Section 3.5(a) or Section 3.6(a), as the case may be, cannot be satisfied. Seller may update the Schedules to reflect any fact, event or circumstance arising after the date hereof that Seller has no knowledge of prior to the date hereof and such update to the Schedules shall be deemed to have: (i) amended this Agreement, including any appropriate Schedule; (ii) qualified the representations and warranties contained in Article 4; and (iii) cured any misrepresentation or breach of the representations or warranties that otherwise might have existed hereunder by reason of such fact, event or circumstance; provided, that, if such misrepresentation or breach prior to such update would constitute a breach of a representation or warranty of Seller contained in Article 4 such that the closing condition in Section 3.5(a) could not be satisfied, then Buyer may terminate this Agreement in accordance with Article 9. If the Closing shall occur despite any update to the Schedules, then, notwithstanding anything herein to the contrary, no matters disclosed in such update to the Schedules prior to the Closing that constituted breaches of one or more representations or warranties of Seller in Article 4 as of the date hereof or as of the Closing Date shall be the basis for any indemnification by Seller pursuant to Section 8.1(a).

Section 6.8 Remittance of Certain Payments. On or after the Closing, Buyer shall promptly remit to Seller any payments received by Buyer for invoices sent by Seller prior to the Effective Time.

Section 6.9 PTO Assignments and Applications. After Closing, Seller will reasonably cooperate with Buyer in good faith and use its commercially reasonable efforts to assist Buyer in completing and executing any such documents, instrument and applications as requested by

Buyer as may be necessary or required to transfer of record to Buyer (and to designate Buyer as the owner of record) all trademarks and other Intellectual Property included in the Purchased Assets that are registered with the United States Patent and Trademark Office or any foreign equivalent for any non-US registrations (the “PTO Assignments and Applications”).

ARTICLE 7 TAX MATTERS

Section 7.1 Transfer and Similar Taxes. All transfer, documentary, sales, use, stamp, registration or other similar Taxes or fees (including any penalties and interest) incurred in connection with the consummation of the Contemplated Transactions shall be borne by Buyer (collectively, the “Transfer Taxes”) and shall be paid when due. Buyer will, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Taxes, and, if required by any Law or Order, Seller will, and will cause their Affiliates to, join in the execution of any such Tax Returns and other documentation. The Parties shall cooperate in providing information for, and in the timely preparation of, any Tax Return, exemption certificate or other documentation relating to Taxes described in this Article 7, or any real property or other personal property Tax Returns.

Section 7.2 Liability for Taxes.

(a) Except as otherwise provided in Section 7.1, Seller shall be liable for and pay, and pursuant to Article 8, shall indemnify and hold harmless Buyer and its Affiliates from and against any and all Taxes imposed on or payable by Buyer or its Affiliates in respect of the ownership or operation of the Purchased Assets or the Business to the extent such Taxes are payable in respect of Pre-Closing Tax Period or any Pre-Closing Straddle Period as determined in accordance with Section 7.2(c) (collectively, the “Seller Taxes”).

(b) Buyer shall be liable for and pay, and pursuant to Article 8, shall indemnify and hold harmless Seller and its Affiliates from and against any and all Taxes imposed on or payable by Seller or its Affiliates in respect of the ownership or operation of the Purchased Assets or the Business to the extent such Taxes are payable in respect of a taxable period or portion thereof beginning on or after the Effective Time, as determined in accordance with Section 7.2(c) (collectively, the “Buyer Taxes”).

(c) For purposes of this Section 7.2, Taxes imposed or payable with respect to the ownership or operation of Purchased Assets or the Business for a Straddle Period shall be allocated between the Pre-Closing Straddle Period and the portion of such Straddle Period beginning on and after the Effective Time as follows: (i) the amount of any sales or use Tax, value-added Tax, employment Tax, withholding Tax, or Income Tax or any other Tax based on or measured by profits or receipts, in each instance imposed upon or payable with respect to the ownership or operation of Purchased Assets or the Business for the Pre-Closing Straddle Period shall be determined based on an interim closing of the books of Seller as of the end of the day immediately preceding the Closing Date, and (ii) the amount of any Taxes other than a sales or use Tax, value-added Tax, employment Tax, withholding Tax, or Tax based on or measured by income, profits or receipts Taxes of Seller for the Pre-Closing Straddle Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of

which is the number of days in the taxable period ending immediately prior to the Closing Date and the denominator of which is the total number of days in such Straddle Period; provided, however, that exemptions, allowances or deductions that are calculated on an annual basis, such as the deduction for depreciation, shall be apportioned on a pro rata per diem basis.

Section 7.3 Access and Assistance. Each of Seller, Buyer, and their respective Affiliates will provide the other Parties with such assistance as may reasonably be requested by any of them in connection with any Proceeding or the preparation of any Tax Return, so long as the foregoing is related to liability for Taxes, and each will retain and provide the others with any records or information that may be relevant to any such Tax Return of Proceeding. Such assistance shall include making employees available on a reasonable basis to provide additional information and explanation of any material provided hereunder, and shall include providing copies of any relevant Tax Returns, which assistance shall be provided without charge except for reimbursement of reasonable out-of-pocket expenses. Buyer will retain, and Seller will retain, until all appropriate statutes of limitation (including any extensions) expire, copies of all Tax Returns of or relating to the Business and other records or information which may be relevant to such Tax Returns, and will not destroy or otherwise dispose of such materials without first providing the other Party with a reasonable opportunity to review and copy such materials.

ARTICLE 8 INDEMNIFICATION

Section 8.1 Indemnification.

(a) **Indemnification by Seller.** Seller shall indemnify, defend and hold harmless Buyer from any and all Losses incurred by Buyer and its respective Affiliates and Representatives (the “Buyer Indemnified Parties”), as a result of, or with respect to (i) any breach of any representation, warranty, covenant or agreement of Seller contained in this Agreement or any of the Related Agreements, (ii) any Excluded Liability, and (iii) any Seller Taxes.

(b) **Indemnification by Buyer.** Buyer shall indemnify, defend and hold harmless Seller from any and all Losses incurred by Seller and its respective Affiliates and Representatives (the “Seller Indemnified Parties”), as a result of, or with respect to (i) any breach of any representation, warranty, covenant or agreement of Buyer contained in this Agreement or any of the Related Agreements, (ii) any Assumed Liability, (iii) any Transfer Taxes, (iv) Buyer Taxes, and (v) any claim made by the Union in connection with the Contemplated Transactions or any employee of Buyer represented by the Union in connection with the Contemplated Transactions.

Section 8.2 Procedure for Indemnification.

(a) Each claim for indemnification, including those claims resulting from the assertion of Liability by persons or entities not parties to this Agreement (“Third-Party Claims”), including claims by any Governmental Body for penalties, fines and assessments, must be made by delivery by the Party to be indemnified (the “Indemnified Party”) to the Party responsible for the indemnification obligation (the “Indemnifying Party”) of written notice containing details

reasonably sufficient to disclose to the Indemnifying Party the nature and scope of the claim within thirty (30) days after the Indemnified Party's knowledge of such claim. Any failure in the delivery of such notice shall not affect the obligations of the Indemnifying Party, except if, and only to the extent that, the rights and remedies of the Indemnifying Party are adversely affected or prejudiced as a result of the failure to give, or delay in giving, such notice.

(b) The Indemnifying Party shall have the right to participate in or, by giving written notice to the Indemnified Party, to elect to assume the defense of any claim brought against an Indemnified Party for which the Indemnifying Party is required to indemnify the Indemnified Party, at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel, so long as (i) the claim involves only money damages and does not primarily seek an injunction or other equitable relief against the Indemnified Party, and (ii) the Indemnified Party has not been advised in writing by counsel that a reasonable likelihood exists of a conflict of interest between the Indemnified Party and the Indemnifying Party. The Indemnified Party shall cooperate in good faith in such defense at such Indemnified Party's own expense.

(c) In the event that the Indemnifying Party has elected to assume the defense of a claim as provided in Section 8.2(b) hereof, the Indemnifying Party shall not be liable for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof.

Section 8.3 Survival. The representations and warranties of the Parties contained in Sections 4.1 (Organization of Seller), 4.2 (Authority Relative to this Agreement), 4.3 (Non-Contravention), 4.5 (Title to the Purchased Assets), 4.11 (Brokers), 5.1 (Organization of Buyer), 5.2 (Authority Relative to this Agreement), 5.3 (Non-Contravention) and 5.6 (Brokers) of this Agreement (the "Fundamental Representations") shall survive the Closing until the expiration of the statute of limitations applicable thereto. The representations and warranties contained in Section 4.10 (Environmental and Safety Matters) (the "Environmental Representations") will survive Closing until earlier of (a) the third (3rd) anniversary of the Closing Date and (b) the expiration of the statute of limitations applicable thereto. The other representations and warranties of the Parties contained in this Agreement that are not Fundamental Representations or Environmental Representations (the "Other Representations") shall survive the Closing until the first (1st) anniversary of the Closing Date. No Indemnifying Party shall have any liability for any claim for indemnification made pursuant to Sections 8.1(a)(i) or 8.1(b)(i) by an Indemnified Party hereunder unless the Indemnified Party notifies such Indemnifying Party of such claim in writing, setting forth in reasonable detail the nature of the claim on or before the expiration of the time periods mentioned above in this Section 8.3.

Section 8.4 Exclusivity. EXCEPT FOR (A) ACTUAL FRAUD OR WILLFUL MISCONDUCT AND (B) A PARTY'S RIGHT TO OBTAIN INJUNCTIVE OR OTHER EQUITABLE RELIEF AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE RIGHTS AND REMEDIES OF SELLER AND SELLER INDEMNIFIED PARTIES, ON THE ONE HAND, AND BUYER AND THE BUYER INDEMNIFIED PARTIES, ON THE OTHER HAND, FOR MONETARY DAMAGES UNDER THIS ARTICLE 8 ARE, SOLELY AS BETWEEN SELLER AND SELLER INDEMNIFIED PARTIES ON THE ONE HAND, AND BUYER AND THE BUYER INDEMNIFIED PARTIES ON THE OTHER HAND, EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER RIGHTS AND REMEDIES FOR

MONETARY DAMAGES WHICH EACH OF SELLER AND SELLER INDEMNIFIED PARTIES ON THE ONE HAND, AND BUYER AND THE BUYER INDEMNIFIED PARTIES ON THE OTHER HAND, MAY HAVE UNDER THIS AGREEMENT OR UNDER LAWS WITH RESPECT TO ANY INDEMNIFIABLE CLAIM, WHETHER AT COMMON LAW OR IN EQUITY AND EACH PARTY AGREES TO WAIVE ANY AND ALL SUCH CLAIMS UNLESS SPECIFICALLY PROVIDED FOR IN THIS SECTION 8.4. NOTWITHSTANDING THE FOREGOING, A PARTY MAY BRING AN ACTION TO ENFORCE THIS AGREEMENT, INCLUDING THIS ARTICLE 8.

Section 8.5 Mitigation and Limitation of Claims. Notwithstanding anything to the contrary contained herein:

(a) An Indemnified Party shall take all reasonable steps to mitigate all Losses relating to an indemnifiable claim, including availing itself of any defenses, limitations, rights of contribution, and other rights at law or equity, and shall provide such evidence and documentation of the nature and extent of such claim as may be reasonably requested by the Indemnifying Party.

(b) An Indemnifying Party's indemnification obligations under this Article 8 shall be reduced to the extent that the subject matter of the claim is covered by and paid to the Indemnified Party pursuant to (i) a warranty or indemnification from a third party, or (ii) insurance;

(c) Except for actual fraud or willful misconduct, the maximum aggregate liability of Seller under this Agreement, including Article 8 for indemnification for breaches of any Other Representation, shall not exceed the Purchase Price (the "Cap"). Seller have no Liability to Buyer or any Indemnified Party in respect of any indemnification obligations (other than as a result of a breach of a Fundamental Representation) unless and until such Liabilities exceed, in the aggregate, [REDACTED] at which point Buyer may seek indemnification for the entire amount of such Liabilities, subject to the Cap; and

(d) Notwithstanding any other provision of this Agreement, no Party shall be responsible for the payment of Losses with respect to any claim which is contingent unless and until such contingent claim becomes an actual liability of the Indemnified Party and is due and payable, so long as such claim was timely submitted pursuant to this Article 8.

Section 8.6 Tax Treatment of Indemnity Payments. The Parties agree to treat any indemnity payment made pursuant to this Article 8 as an adjustment to the Purchase Price for all Tax purposes.

Section 8.7 DISCLAIMERS.

(a) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER SELLER NOR BUYER IS MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE 4 AND ARTICLE 5, RESPECTIVELY. BOTH BUYER AND SELLER HEREBY EXPRESSLY DISCLAIM ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND,

INCLUDING ANY IMPLIED REPRESENTATION OR WARRANTY AS TO CONDITION, POTENTIAL USE, MERCHANTABILITY OR SUITABILITY FOR ANY PARTICULAR PURPOSE AS TO ANY OF THE PURCHASED ASSETS OR ASSUMED LIABILITIES, AND NEITHER BUYER NOR SELLER MAKES ANY REPRESENTATION OR WARRANTY TO THE OTHER PARTY WITH RESPECT TO ANY FINANCIAL PROJECTION OR FORECAST RELATING TO SELLER.

(b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THE PURCHASED ASSETS ARE BEING TRANSFERRED "AS IS, WHERE IS, WITH ALL FAULTS," AND SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS AND ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. BUYER HAS AGREED NOT TO RELY ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER WITH RESPECT TO THE CONDITION, QUALITY, OR STATE OF THE PURCHASED ASSETS, BUT RATHER, AS A SIGNIFICANT PORTION OF THE CONSIDERATION GIVEN TO SELLER FOR THIS PURCHASE AND SALE, HAS AGREED TO RELY SOLELY AND EXCLUSIVELY UPON ITS OWN EVALUATION OF THE PURCHASED ASSETS. THE PROVISIONS CONTAINED IN THIS AGREEMENT ARE THE RESULT OF EXTENSIVE NEGOTIATIONS BETWEEN BUYER AND SELLER AND NO OTHER ASSURANCES, REPRESENTATIONS OR WARRANTIES ABOUT THE QUALITY, CONDITION, OR STATE OF THE PURCHASED ASSETS WERE MADE BY SELLER IN THE INDUCEMENT THEREOF, EXCEPT AS EXPRESSLY PROVIDED HEREIN. SELLER SHALL NOT HAVE OR BE SUBJECT TO ANY LIABILITY TO BUYER OR ANY OTHER PERSON RESULTING FROM THE DISTRIBUTION TO BUYER, OR BUYER'S USE OF OR RELIANCE ON, ANY INFORMATION, DOCUMENTS OR MATERIAL MADE AVAILABLE TO BUYER IN EXPECTATION OF, OR IN CONNECTION WITH, THE CONTEMPLATED TRANSACTIONS, ABSENT ACTUAL FRAUD OR WILLFUL MISCONDUCT.

**ARTICLE 9
RESERVED**

**ARTICLE 10
CONFIDENTIALITY; OTHER ACKNOWLEDGMENTS AND AGREEMENTS**

Section 10.1 **Generally.** Subject to Sections 10.2, 10.3 and 10.4, each Party agrees: (i) to maintain the confidentiality of; (ii) not to disclose to others without prior written approval from the providing Party; (iii) not to use for any purpose, other than such purpose as may be authorized in writing by the providing Party; and (iv) to prevent duplication of and disclosure to any other Person, any information received from or otherwise made available by the providing Party or developed, presently held or continued to be held, or otherwise obtained by the receiving Party under this Agreement. Such information includes information disclosed by either Party orally, visually, in writing or in other tangible form, and includes all nonpublic or proprietary information of any nature (including prices, trade secrets, technological know-how, data and all other nonpublic or proprietary concepts, methods of doing business, ideas, materials or information), and all information derived from any nonpublic or proprietary information.

Each of the Parties acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Section 10.1 are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Parties agrees that the other Party will be entitled to an injunction to prevent breaches of the provisions of this Section 10.1 and to enforce specifically this Section 10.1 in any action instituted in any court having jurisdiction over the parties and the matter (notwithstanding Section 11.9), in addition to any other remedy to which they may be entitled, at Law or in equity.

Section 10.2 Exceptions. Subject to the obligations of the Parties set forth in Section 6.3, the obligations of confidence, nondisclosure and nonuse set forth in Section 10.1 shall not apply to any information that: (i) was in the public domain at the time of disclosure by one Party to the other; (ii) enters the public domain through no fault of the disclosing Party or its Affiliates or Representatives; (iii) was communicated to one Party by a third Person free of any obligation of confidence known to the recipient; or (iv) was developed by one Party's Representatives independently of and without reference to the proprietary information of another Party, and, in the case of the disclosing Party, was not developed while performing under this Agreement. Specific information shall not be deemed to come under the above exceptions merely because it is embraced by more general information that is or becomes public knowledge. Upon Closing, the obligations of confidence, nondisclosure and nonuse will not apply to Buyer with respect to any information that is a Purchased Asset hereunder.

Section 10.3 Required Disclosure. The receiving Party may disclose the providing Party's information to the extent necessary or convenient and appropriate to attorneys of litigants or to Governmental Bodies to comply with any obligation imposed on the receiving Party in connection with a Proceeding in a court or other Governmental Body of competent jurisdiction, provided, that, the receiving Party gives reasonably prompt notice to the providing Party of the need for such disclosure, together with such other information about the Proceeding as will enable the providing Party to evaluate the obligation and the need and to elect either to intervene or otherwise appear or act in the Proceeding to protect directly the providing Party's information at the expense of the providing Party. Alternatively, the providing Party may request the receiving Party to, and if so requested, the receiving Party shall, make a reasonable and diligent effort at the expense of the providing Party to obtain a protective Order or otherwise to protect the confidentiality of information sought to be obtained in said Proceeding.

Section 10.4 Public Announcements.

(a) Neither Party shall issue, or cause to be issued, any public announcement or other statement with respect to this Agreement or the Contemplated Transactions without the prior written consent of the other Party hereto, which consent shall not be unreasonably withheld or delayed, unless, in each case, such statements are required by Law, by Order of a court of competent jurisdiction or by any applicable rule or regulation of any stock exchange that is applicable to the Party or any Affiliate thereof issuing such announcement or statement.

(b) In the event of a breach of this Section 10.4, in addition to and not in lieu of any legal or equitable remedies that may otherwise be available, the non-breaching Party may issue public announcements that such Party shall deem to be appropriate in its reasonable discretion to supplement or correct the announcement or statement made by the breaching Party.

Section 10.5 **Engagement of Manufacturer Representatives.** Subject to Buyer's obligations set forth in Section 6.3, Seller acknowledges and agrees that Buyer and its Affiliates are free to enter into new engagements with any of Seller's existing manufacturer representatives regarding the promotion, marketing, advertising, quoting and selling of all products and services related to the Business on behalf of Buyer.

Section 10.6 **Buyer Marks.** Seller approves Buyer's proposed "DELTA T" tradenames, trademarks, service marks and logo formats as set forth on Schedule 10.6 (the "Buyer Marks"). Buyer agrees that after Closing it will not make any changes or modifications to the color schemes, shapes, and design elements associated with the Buyer Marks that cause the Buyer Marks (in part or in whole) to be confused with any trademarks, service marks, logos, trade names or corporate names of Seller or ██████████ or any of their respective Affiliates as currently existing as of the Effective Time.

Section 10.7 **New Contracts.** Subject to Buyer's obligations set forth in Section 6.3, Seller acknowledges and agrees that Buyer and its Affiliates are free to enter into new Contracts with any Person, including any Governmental Bodies and including Northrop Grumman related to the Business on such terms and conditions as agreed to between any such Person and Buyer or any of its Affiliates.

ARTICLE 11 MISCELLANEOUS PROVISIONS

Section 11.1 **Amendment of Agreement.** This Agreement may not be amended, modified, supplemented or waived except by an instrument in writing signed by Buyer and Seller.

Section 11.2 **Successors and Assigns; Assignability.** This Agreement shall be binding upon and inure to the benefit of and is enforceable by the respective successors and permitted assigns of the Parties. This Agreement may not be assigned by any Party without the prior written consent of the other Party. Any assignment or attempted assignment in contravention of this Section 11.2 shall be void ab initio and shall not relieve the assigning party of any obligation under this Agreement.

Section 11.3 **Expenses.** Except as set forth in this Agreement, all costs and expenses (including legal fees and expenses) arising from or incident to this Agreement, any Related Agreements and the Contemplated Transactions (the "Transaction Expenses") incurred by Buyer (including the commissions, fees or other compensation of Buyer's broker, if any) shall be borne by Buyer. Except as set forth in this Agreement, all Transaction Expenses incurred by Seller (including the commissions, fees or other compensation of Seller's broker, if any), shall be borne by Seller.

Section 11.4 **Notices.** All notices, requests, demands, waiver and other communications required or permitted to be given under this Agreement shall be in writing and may be given by any of the following methods: (a) personal delivery, (b) facsimile transmission, (c) registered or certified mail, postage prepaid, return receipt requested, (d) next day air courier service or (e) electronic mail. Notices shall be sent to the appropriate Party at its address or facsimile number

given below (or at such other address or facsimile number for such Party as shall be specified by notice given hereunder).

If to Seller, to:

Redacted
[Redacted]
[Redacted]

with a copy, which shall not constitute notice, to:

Redacted
[Redacted]
[Redacted]

or to such other Person or address as Seller shall designate in writing.

If to Buyer, to:

Redacted
[Redacted]
[Redacted]

with a copy, which shall not constitute notice, to:

Redacted
[Redacted]
[Redacted]

or to such other Person or address as Buyer shall designate in writing.

All such notices, requests, demands, waivers and communications shall be deemed effective upon (i) actual receipt thereof by the addressee, (ii) actual delivery thereof to the appropriate address or (iii) in the case of an email transmission, transmission thereof by the sender to the correct email address. If any notice, request, demand, waiver or communication is received outside of normal business hours, the date of such reception shall be deemed to be the following Business Day.

Section 11.5 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without reference to conflicts of laws provisions.

Section 11.6 **Integration.** This Agreement and the Related Agreements contain and constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior negotiations, agreements and understandings, whether written or oral, of the Parties hereto.

Section 11.7 **Severability.** If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the Contemplated Transactions are fulfilled to the extent possible.

Section 11.8 **No Third Party Rights.** This Agreement is not intended, and shall not be construed, to create any rights in any Parties other than Seller and Buyer, except as specifically provided herein (including any Buyer Indemnified Party or Seller Indemnified Party, to the extent set forth in Article 8), and no other person may assert any rights as a third party beneficiary hereunder.

Section 11.9 **Submission to Jurisdiction.** The Parties hereby (a) agree that any action with respect to this Agreement may be brought in the any state or federal court in the Borough of Manhattan, New York, New York, (b) accept for itself and in respect of its property, generally and unconditionally, the jurisdiction of such court, and (c) irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action in such jurisdiction.

Section 11.10 **Waiver of Jury Trial.** SELLER AND BUYER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS AGREEMENT OR ANY RELATED AGREEMENT, OR ANY AMENDMENT, INSTRUMENT OR DOCUMENT DELIVERED OR TO BE DELIVERED IN CONNECTION WITH THIS AGREEMENT OR ANY RELATED AGREEMENT AND AGREE THAT ANY ACTION SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

Section 11.11 **No Waiver; Remedies.** No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver of the right, power or privilege. A single or partial exercise of any right, power or privilege shall not preclude any other or further exercise of the right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies of the parties are subject to the limitations set forth in this Agreement.

Section 11.12 **Acknowledgment; Disclaimer.** THE PARTIES ACKNOWLEDGE THAT, EXCEPT IN CONNECTION WITH A THIRD-PARTY CLAIM, UNDER NO CIRCUMSTANCES SHALL ANY PARTY, OR THEIR REPRESENTATIVES OR AFFILIATES, BE RESPONSIBLE TO THE OTHER PARTY FOR ANY INDIRECT,

INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES RELATED TO DIMINUTION IN VALUE, LOST BUSINESS, LOST PROFITS, LOSS OF USE, AND LOSS OF DATA, OR FAILURE TO REALIZE SAVINGS OR BENEFITS) ARISING UNDER THIS AGREEMENT OR ANY RELATED AGREEMENTS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS.

Section 11.13 **Enforcement of Agreement.** Each Party acknowledges and agrees that the other would be irreparably harmed if any of the provisions of this Agreement and the terms of the Contemplated Transactions are not performed in accordance with their specific terms and that any breach of this Agreement by a Party could not be adequately compensated in all cases by monetary damages alone. Accordingly, each Party agrees that, in addition to any other right or remedy to which other Party may be entitled at law or in equity, each Party shall be entitled to enforce any provision of this Agreement by a decree of specific performance and to obtain temporary, preliminary, and permanent injunctive relief to prevent breaches or threatened breaches, without posting any bond or giving any other undertaking.

Section 11.14 **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, and by different parties hereto in separate counterparts, each of which when executed shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Copies (facsimile, PDF or original) of signatures to this Agreement shall be deemed to be originals and shall be binding to the same extent as original signatures.

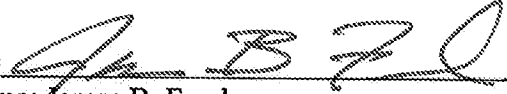
[SIGNATURE PAGES FOLLOW]

157375554

IN WITNESS WHEREOF, the undersigned has executed this Asset Purchase Agreement as of the date first written above.

BUYER:

DELTA T THERMAL SOLUTIONS, LLC


By: 
Name: James B. Frank
Title: CEO

[Signature Pages Continue]

IN WITNESS WHEREOF, the undersigned has executed this Asset Purchase Agreement as of the date first written above.

SELLER:

TRANTER, INC.

By: 
Name: Kevin Flanagan
Title: President

DISCLOSURE SCHEDULES

These Disclosure Schedules (the “*Schedules*”) are made and given pursuant to the Asset Purchase Agreement (the “*Agreement*”), dated as of May 16, 2022, by and between DELTA THERMAL SOLUTIONS, LLC, a Texas limited liability company (“*Buyer*”) and TRANTER, INC., a Delaware corporation (“*Seller*”).

The specific disclosures set forth in these Schedules are organized to correspond to specific section references in the Agreement to which the qualifying and correspondingly numbered disclosure relates. Capitalized terms used but not otherwise defined in the Schedules have the meanings set forth in the Agreement.

The Schedules are subject to the following terms and conditions:

1. Except as otherwise limited herein or as expressly stated in the Agreement, all information and disclosures contained in the Schedules are made as of the date of the Agreement.
2. Disclosure of information included on any one Schedule (or portion of any such Schedule) shall be considered disclosures for any other section of the Schedules as though fully set forth therein to the extent the applicability of such information and disclosure is reasonably apparent on the face of such disclosure.
3. Certain agreements and other matters may be listed in the Schedules, notwithstanding the fact that, because they do not rise above applicable materiality thresholds or otherwise, they may not be required to be listed herein by the terms of the Agreement. In addition, any disclosure of a particular matter on any Schedule shall not, in and of itself, be construed to mean that such matter is material or could reasonably be expected to have a Material Adverse Effect.
4. Headings have been inserted for each Schedule for convenience of reference only, and shall not have, to any extent, the effect of amending or changing the express description of any Schedule as set forth in the Agreement, and shall not be considered in construing or interpreting any Schedule.
5. Except as otherwise expressly set forth herein, no disclosure in the Schedules relating to any possible breach or violation of any Contract or Law shall be construed, in and of itself, as an admission or indication that any such breach or violation exists or has actually occurred, and nothing in the Schedules shall constitute an admission of any liability or obligation of a Party to any third party or shall confer or give to any third party any remedy, claim, liability, reimbursement, cause of action or other right.

Schedule 1.1(b)

Permitted Encumbrances

None.

Schedule 2.1(a)

Purchased Assets

I. Fixed Assets

Description	Capacity
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
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[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

		Redacted

Description	Additional Comments	

[Redacted]	

[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]

- Schedule 4.7 is incorporated by reference.

Schedule 2.1(b)(iv)

Excluded Contracts

- Agreement by and between [Redacted] dated August 15, 2008 (as amended, modified, or supplemented from time to time).
- All agreements, Contracts, purchase orders, or other arrangements (as may be amended, modified or supplemented from time to time) with the following customers of Seller:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Schedule 2.1(b)(vi)

Excluded Assets

- Schedule 2.1(b)(iv) is incorporated by reference.
- The Press
- Large GPHE frame assembly fixture and attached ladder/deck
- H&H spot welder with cooling supply for GPHE spot welding
- UX-800 spot welder with cooling supply for GPHE spot welding
- All skids, crates and pallets
- All electric, hydraulic or manual scissor lift tables
- Supermax Shell & Plate Perimeter and Port welding machines with elevated deck and associated tooling/fixturing
- Two Lightbox crack detectors
- Gluing robot conveyor and associated controllers and power supplies
- All forklifts other than the following: (1) Hyster 19,000# diesel; (1) Clark 4,000# Propane; (1) Toyota 3,000# electric; (2) Genie scissor man-lifts
- IT Servers

Schedule 2.3

Purchase Price Allocation

<u>Asset Category</u>	<u>Allocation</u>
Redacted	

Schedule 4.4

Seller Consents and Approvals

None.

Schedule 4.7

Intellectual Property

Trademark	Country	Reg No
Maxchanger (device)	United States	1747009
Platecoil	Taiwan	245905
Econocoil	United States	984508
Platecoil	Mexico	853984
Maxchanger (device)	Mexico	855280
Econocoil	Mexico	878738
Platecoil	Brazil	824451880
Platecoil	United States	829089
Econocoil	United Kingdom	1011301
Platecoil	Germany	867196
Platecoil	France	1443991
Econocoil	Canada	TMA203800
Platecoil	Japan	855478
Econocoil	Japan	1418218
Platecoil (device)	Canada	TMA113252

Schedule 4.10

Environmental and Safety Matters

None.

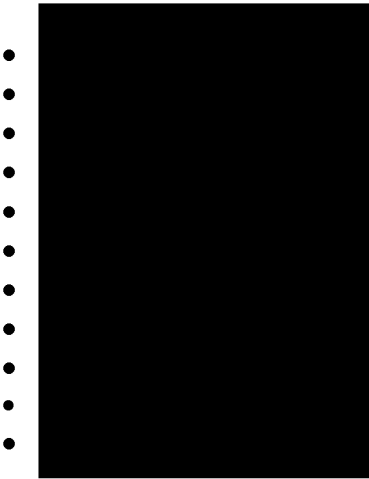
Schedule 5.4

Buyer Consents and Approvals

None.

Schedule 6.2

Restricted Employees



Schedule 10.6

Buyer Marks



A Sharp Iron Group Company



A Sharp Iron Group Company

Schedule 10.6

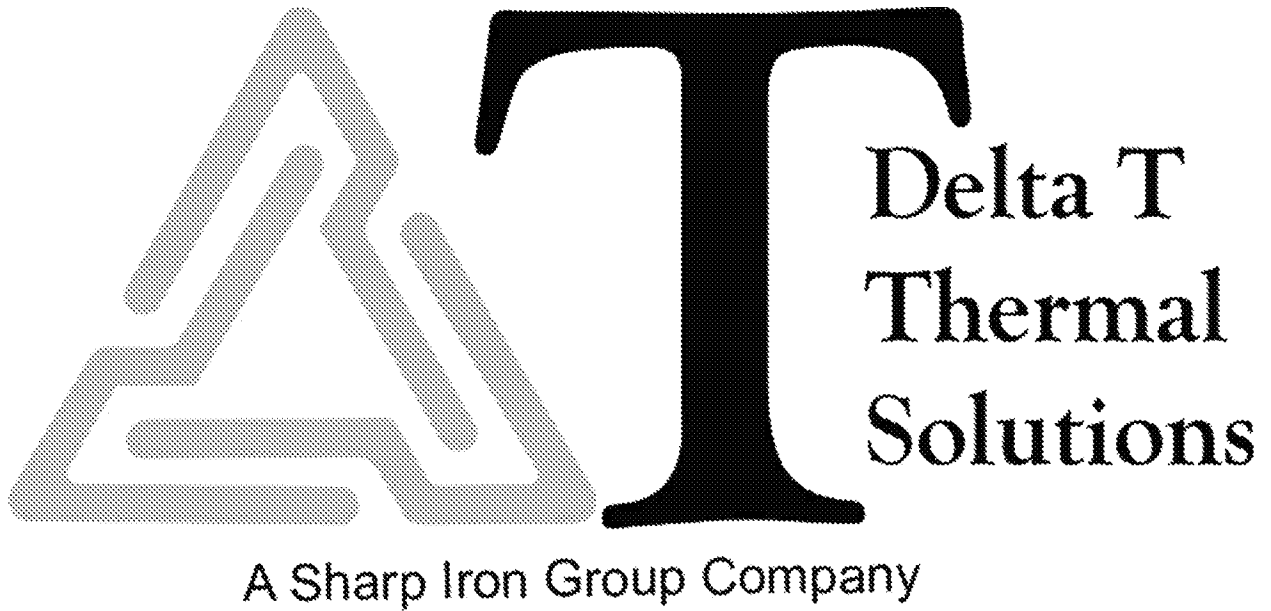
TRADEMARK
REEL: 007917 FRAME: 0342



A Sharp Iron Group Company



A Sharp Iron Group Company



Schedule 10.6

RECORDED: 01/19/2023

TRADEMARK
REEL: 007917 FRAME: 0344