

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Midland Chicago Corporation		09/01/1998	CORPORATION: ILLINOIS
RECEIVING PARTY DATA			
Name:	The Butcher Company, Inc.		
Street Address:	67 Forest Street		
City:	Marlborough		
State/Country:	MASSACHUSETTS		
Postal Code:	01752		
Entity Type:	CORPORATION: MASSACHUSETTS		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Registration Number:	2147454	MAGEE	
Registration Number:	1321670	WATERTHANE	
Registration Number:	0643079	LEEK-PROOF	
CORRESPONDENCE DATA			
Fax Number:	(262)631-4256		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	262 631 2479		
Email:	amy.dropik@johnsondiversey.com		
Correspondent Name:	Amy J. Dropik, Paralegal		
Address Line 1:	8310 16th Street		
Address Line 2:	Mail Station 509		
Address Line 4:	Sturtevant, WISCONSIN 53177		
NAME OF SUBMITTER:	Amy J. Dropik		
Signature:	//Amy J Dropik//		

CH \$90.00 2147454

source=Butcher - Midland Asset Purchase Agreement#page53.tif
source=Butcher - Midland Asset Purchase Agreement#page54.tif
source=Butcher - Midland Asset Purchase Agreement#page55.tif
source=Butcher - Midland Asset Purchase Agreement#page56.tif
source=Butcher - Midland Asset Purchase Agreement#page57.tif
source=Butcher - Midland Asset Purchase Agreement#page58.tif
source=Butcher - Midland Asset Purchase Agreement#page59.tif
source=Butcher - Midland Asset Purchase Agreement#page60.tif
source=Butcher - Midland Asset Purchase Agreement#page61.tif

Execution Copy

ASSET PURCHASE AGREEMENT

THE BUTCHER COMPANY, INC.,

and

MIDLAND CHICAGO CORPORATION

September 1, 1998

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS	1
ARTICLE 2 PURCHASE AND SALE OF ASSETS	8
Section 2.1. Acquired Assets.....	8
Section 2.1.1 Real Property.....	8
Section 2.1.2 Contracts	9
Section 2.1.3 Leased Property	9
Section 2.1.4 Inventories	9
Section 2.1.5 Fixed Assets	9
Section 2.1.6 Accounts Receivable	9
Section 2.1.7 Intellectual Property	9
Section 2.1.8 Technical Documentation	9
Section 2.1.9 Miscellaneous Records	9
Section 2.1.10 Goodwill.....	10
Section 2.1.11 Other Assets	10
Section 2.2 Excluded Assets.....	10
Section 2.2.1 Seller's Records	10
Section 2.2.2 Rights Under Agreement	10
Section 2.2.3 Other Excluded Assets	10
ARTICLE 3 ASSUMPTION OF LIABILITIES BY BUYER.....	10
Section 3.1 Assumed Liabilities	10
Section 3.1.1 Contract Obligations	10
Section 3.1.2 Personal Property Lease Obligations	10
Section 3.1.3 Balance Sheets	11
Section 3.2 Excluded Liabilities	11
ARTICLE 4 CONSENTS TO ASSIGNMENT	12
Section 4.1 No Assignment Without Consent	12
Section 4.2 Performance, Enjoyment by Buyer	12
ARTICLE 5 PURCHASE PRICE	13
Section 5.1 Purchase Price.....	13
Section 5.2 Estimated Closing Date Balance Sheet	13
Section 5.3 Specific Adjustments.....	13
Section 5.4 Closing Date Balance Sheet.....	13
Section 5.5 Payments of Adjusted Purchase Price	14
Section 5.6 Specific Offsets.....	15
ARTICLE 6 CONDITIONS TO CLOSING	15
Section 6.1 Conditions Precedent to Obligations of Buyer	15
Section 6.1.1 Buyer's Investigation	15
Section 6.1.2 Representations and Warranties.....	15
Section 6.1.3 Performance by Seller	15
Section 6.1.4 Consents	15

Section 6.1.5	Absence of Litigation	15
Section 6.1.6	Certificates	16
Section 6.1.7	Termination Notices.....	16
Section 6.1.8	Seller's Counsel Opinion	16
Section 6.1.9	Escrow Agreement.....	16
Section 6.1.10	Instruments of Conveyance	16
Section 6.1.11	Profit Sharing Plan.....	16
Section 6.1.12	Real Estate Documents	16
Section 6.1.13	No Material Adverse Change.....	17
Section 6.1.14	All Necessary Actions.....	17
Section 6.1.15	Due Diligence Review.....	17
Section 6.2	Conditions Precedent to Obligations of Seller	17
Section 6.2.1	Representations and Warranties.....	17
Section 6.2.2	Performance by Buyer	17
Section 6.2.3	Absence of Litigation	17
Section 6.2.4	Certificates	18
Section 6.2.5	Buyer's Counsel Opinion.....	18
Section 6.2.6	All Necessary Actions.....	18
ARTICLE 7	CLOSING	18
Section 7.1	The Closing	18
Section 7.2	Deliveries at Closing	18
ARTICLE 8	REPRESENTATIONS AND WARRANTIES	18
Section 8.1	Representations and Warranties of Seller	18
Section 8.1.1	Organization of Seller	19
Section 8.1.2	Authorization of Transaction	19
Section 8.1.3	Noncontravention	19
Section 8.1.4	Brokers' Fees.....	19
Section 8.1.5	Title to Assets	19
Section 8.1.6	Subsidiaries.....	19
Section 8.1.7	Financial Statements	19
Section 8.1.8	Events Subsequent to Most Recent Fiscal Year End	20
Section 8.1.9	Undisclosed Liabilities	21
Section 8.1.10	Legal Compliance	21
Section 8.1.11	No Material Adverse Change.....	22
Section 8.1.12	Tax Matters.....	22
Section 8.1.13	Real Property.....	23
Section 8.1.14	Intellectual Property	25
Section 8.1.15	Tangible Assets	27
Section 8.1.16	Inventory	27
Section 8.1.17	Contracts	27
Section 8.1.18	Notes and Accounts Receivable.....	29
Section 8.1.19	Largest Suppliers and Customers	29
Section 8.1.20	Powers of Attorney	29
Section 8.1.21	Insurance and Risk Management	29
Section 8.1.22	Litigation	29
Section 8.1.23	Product Warranties; Defects; Liability.....	30
Section 8.1.24	Employees.....	30

Section 8.1.25	Employee Benefit Plans	30
Section 8.1.26	Environment, Health and Safety	31
Section 8.1.27	Affiliated Transactions	33
Section 8.1.28	Government Contracts	33
Section 8.1.29	Books and Records.....	33
Section 8.1.30	Consents	33
Section 8.1.31	Bankruptcy	33
Section 8.1.32	Absence of Undisclosed Liabilities.....	34
Section 8.1.33	Guaranties.....	34
Section 8.1.34	Disclosure	34
Section 8.2	Representations and Warranties of Buyer	34
Section 8.2.1	Organization of Buyer	34
Section 8.2.2	Authority for Agreement.....	34
Section 8.2.3	Noncontravention	34
Section 8.2.4	Brokers' Fees.....	35
Section 8.2.5	Litigation	35
Section 8.2.6	Disclosure	35
Section 8.2.7	Financial Condition	35
Section 8.2.8	Regulatory Approvals and Consents.....	35
Section 8.2.9	Employment Matters	35
Section 8.2.10	Product Liability Claims.....	35
ARTICLE 9 PARTICULAR COVENANTS OF SELLER AND BUYER		36
Section 9.1	General	36
Section 9.2	Notices and Consents	36
Section 9.3	Operation of Business	36
Section 9.4	Preservation of Business.....	36
Section 9.5	Full Access	36
Section 9.6	Notice of Developments	36
Section 9.7	Exclusivity	36
Section 9.8	Access to Records After Closing.....	37
Section 9.9	Bulk Sales Compliance.....	37
Section 9.10	Further Assurances	37
Section 9.11	Noncompetition	37
Section 9.12	Confidentiality.....	38
Section 9.13	Injunctions.....	39
Section 9.14	Communications	39
Section 9.15	Satisfaction of Conditions.....	39
Section 9.16	Tax Matters; Purchase Price Allocation	39
Section 9.17	Reassignable Accounts Receivable	40
Section 9.18	Construction of Addition to Premises	41
Section 9.19	Obligations of Buyer Regarding Products.....	41
ARTICLE 10 EMPLOYEES AND EMPLOYEE MATTERS		42
Section 10.1	Employment	42
Section 10.2	Benefit Plans	42
Section 10.3	Allocation of Accrued Vacation, Sick Pay	42
Section 10.4	No Third Party Rights.....	42
Section 10.5	Contract Labor	42

ARTICLE 11	TRANSFER OF REAL PROPERTY	43
Section 11.1	Feasibility Study and Inspection	43
Section 11.2	Possession	43
Section 11.3	Title and Survey.....	43
Section 11.3.1	Survey.....	44
Section 11.3.2	Owner Policy of Title Insurance	44
Section 11.3.3	Title Commitment.....	44
Section 11.3.4	Title and Survey Objections	44
Section 11.4	Inability to Transfer Property; Cure Period	45
Section 11.5	Insurance.....	45
Section 11.6	Time of Essence	45
Section 11.7	Risk of Loss	45
ARTICLE 12	INDEMNIFICATION	46
Section 12.1	Survival of Representations and Warranties.....	46
Section 12.2	Indemnification Provisions for Benefit of Buyer	46
Section 12.3	Environmental Indemnification.....	47
Section 12.4	Indemnification Provisions for Benefit of Seller	47
Section 12.5	Matters Involving Third Parties	47
Section 12.6	Non-Exclusive Remedy	48
ARTICLE 13	MISCELLANEOUS	48
Section 13.1	Termination of Agreement	48
Section 13.2	Effect of Termination	49
Section 13.3	No Third Party Beneficiaries	49
Section 13.4	Entire Agreement.....	49
Section 13.5	Succession and Assignment	49
Section 13.6	Counterparts.....	49
Section 13.7	Headings	49
Section 13.8	Notices.....	50
Section 13.9	Governing Law	51
Section 13.10	Amendments and Waivers	51
Section 13.11	Severability	51
Section 13.12	Expenses.....	51
Section 13.13	Construction.....	51
Section 13.14	Incorporation of Exhibits and Schedules	51
Section 13.15	Specific Performance.....	51
Section 13.16	Dispute Resolution	52
Section 13.16.1	Mediation.....	52
Section 13.16.2	Arbitration.....	52
Section 13.16.3	Injunctive Relief.....	52
Section 13.16.4	Dispute Resolution/Legal Fees	53

Exhibits:

- 5.1 - Escrow Agreement
- 5.3 - Calculation Methodology
- 6.1.8 - Opinion of Seller's Counsel

- 7.2(d)-1 - Bill of Sale
- 7.2(d)-2 - Assignment and Assumption Agreement
- 8.1.7 - Financial Statements

Schedules:

- 1(a) - Premises
- 1(b) - Products
- 2.1.2 - Contracts
- 2.1.3 - Personal Property Leases
- 2.1.5 - Fixed Assets
- 2.1.7 - Intellectual property
- 2.2.3 - Scheduled Excluded Assets
- 3.1.4 - Accrued Liabilities
- 9.16 - Allocation of Purchase Price
- 10.5(b) - Employees With Employment Agreements

Sections of Disclosure Schedule

- 8.1.8 - Events Subsequent to Fiscal Year End
- 8.1.10 - Permits
- 8.1.12 - Tax Matters
- 8.1.13 - Real Property
- 8.1.13(G) - Leases; Parties in Possession
- 8.1.14 - Intellectual Property
- 8.1.15 - Tangible Assets Owned by Others
- 8.1.17 - Contracts
- 8.1.19 - Largest Suppliers And Customers
- 8.1.21 - Insurance
- 8.1.22 - Litigation
- 8.1.23 - Product Warranties
- 8.1.24 - Employee Matters
- 8.1.25 - Benefit Plans
- 8.1.26 - Environment, Health and Safety
- 8.1.28 - Government Contracts
- 8.1.30 - Consents
- 8.1.32 - Undisclosed Liabilities

ASSET PURCHASE AGREEMENT



THIS ASSET PURCHASE AGREEMENT ("Agreement") is made and entered into as of the 1st day of September, 1998, by and between **Midland Chicago Corp.**, an Illinois corporation ("Seller"), and **The Butcher Company, Inc.**, a Massachusetts corporation ("Buyer"). Buyer and Seller are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, Seller has conducted and presently conducts on a going concern basis a business which develops, manufactures, markets and sells chemical cleaning and maintenance products (the "Business"); and

WHEREAS, Seller desires to sell and Buyer desires to purchase certain rights, properties and assets of Seller pertaining to the Business as a going concern as described in this Agreement in consideration of the payment of the purchase price, the assumption of certain liabilities, as specifically provided herein and not otherwise, of or related to the Business, and the performance of certain other obligations, all on the terms and subject to the conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

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

Accounting Methods	The usual and customary methods and principles of accounting used by Seller in connection with the Business, consistently applied for the periods indicated.
Accounts Receivable	As defined in Section 2.1.6.
Acquired Assets	As defined in Section 2.1.
Adjustment Payments	As defined in Section 5.5(a).
Affiliate	As to any person, a person or entity who or which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.
Agreement	This Asset Purchase Agreement made and entered into as of September 1, 1998, by and between Seller and Buyer.
Assumed Liabilities	As defined in Section 3.1.
Basis	Any past or present fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction that forms or could reasonably form the basis for any specified consequence.

Business As defined in the Preamble to this Agreement.

business day A day which is not a federal, state or local holiday and on which banks generally are open in both Boston, Massachusetts and Chicago, Illinois for the conduct of their business.

Buyer As defined in the Preamble to this Agreement.

Chemical Substance Any chemical substance, including but not limited to any (i) pollutant, contaminant, irritant, chemical, raw material, intermediate, product, by-product, slag, construction debris; (ii) industrial, solid, liquid or gaseous toxic or hazardous substance, material or waste, (iii) petroleum or any fraction thereof; (iv) asbestos or asbestos-containing material; (v) polychlorinated biphenyl; (vi) chlorofluorocarbons; and (vii) other substance, material or waste, which is identified or regulated under any Environmental Law or Safety Law.

Closing As defined in Section 7.1.

Closing Date As defined in Section 7.1.

Closing Date
Balance Sheet As defined in Section 5.4.1.

Code The Internal Revenue Code of 1986 as amended, and regulations promulgated thereunder.

Collective Bargaining
Agreement The Collective Bargaining Agreement dated November 16, 1995, between Seller and General Services Employees Union, Local No. 73 of the Service Employees International Union.

Confidential Information Any and all information concerning the businesses and affairs of the Business other than that information that is already generally or readily obtainable by the public or is publicly known or becomes publicly known through no fault of Seller.

Construction As defined in Section 9.18.

Contracts As defined in Section 2.1.2.

Employee Plan As defined in Section 8.1.25(1).

Employees Those employees of Seller employed in the Business who commence employment with Buyer on the Closing Date.

Enforceable An agreement, a document or other obligation is Enforceable if it can be enforced in accordance with its terms (subject to (a) applicable

bankruptcy, reorganization insolvency and moratorium laws and other laws applicable generally to creditors rights from time to time in effect and (b) judicial limitations on the remedy of specific performance, injunctive relief or other equitable remedies).

Environment Soil, land surface or subsurface strata, real property, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, water body sediments, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

Environmental Laws The Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Clean Air Act, and the Clean Water Act, each as amended and any other federal, state, local or foreign law, regulation or legal requirement, relating to: (a) the Release, containment, removal, remediation, response, cleanup or abatement of any sort of any Chemical Substance; (b) the manufacture, generation, formulation, processing, labeling, distribution, introduction into commerce, use, treatment, handling, storage, recycling, disposal or transportation of any Chemical Substance; (c) exposure of persons, including employees, to any Chemical Substance; (d) the management, use, storage, disposal, cleanup or removal of asbestos, asbestos-containing materials, polychlorinated biphenyls or any other Chemical Substance; (e) the pollution, protection or clean up of the Environment; or (f) noise.

Environmental Liabilities and Costs All Losses incurred: (i) to comply with any Environmental Law; (ii) as a result of a Release of any Chemical Substance; or (iii) as a result of any environmental conditions, in each case present at, created by or arising out of the past or present operations of Seller through the Closing Date.

Environmental Permit Any Permit or authorization from any governmental authority required under, issued pursuant to, or authorized by any Environmental Law.

Environmental Transfer Laws As defined in Section 8.1.26(9).

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

Escrow Agent NationsBank.

Escrowed Amount As defined in Section 5.1(b).

Estimated Closing Date Balance Sheet As defined in Section 5.1.1.

Excluded Assets	As defined in Section 2.2.
Excluded Liabilities	As defined in Section 3.2.
Exempt Employees	Those Employees who are not subject to or bound by, nor beneficiaries of, any collective bargaining agreement, including the Collective Bargaining Agreement, to which Seller is a party.
Extremely Hazardous Substance	As set forth in §302 of the Emergency Planning and Community Right-to-Know Act of 1986, as amended.
Fixed Assets	As defined in Section 2.1.5.
Government	The government of the United States of America any political subdivision of the United States of America where the Business is located or in which Seller does business, including the State of Illinois, and any department, agency or instrumentality thereof.
Governmental	Of, by, or pertaining to any Government.
Indemnified Party	As defined in Section 12.5(a) below.
Indemnifying Party	As defined in Section 12.5(a) below.
Intellectual Property	The entire right, title and interest in and to all proprietary rights of every kind and nature, including Patents, copyrights, Trademarks, mask works, trade secrets and proprietary information, all applications for any of the foregoing, and any license or agreements granting rights related to the foregoing (i) subsisting in, covering, reading on, directly applicable to or existing in the Products or the Technology, including, without limitation, all Intellectual Property identified in <u>Schedule 2.1.7</u> ; (ii) that are owned, licensed or controlled in whole or in part by Seller; or (iii) that are used in or necessary to the development, manufacture, sales, marketing or testing of the Products.
Inventories	As defined in Section 2.1.4.
Knowledge	As to any organization, means actual knowledge of the Persons within such organization having principal responsibility for the relevant matters after reasonable investigation.
Laws	All applicable laws, rules, regulations, codes, injunctions, judgments, orders, decrees, rulings, interpretations, constitutions, ordinances, common law, or treaties, of any federal, state, local municipal and foreign, international, or multinational government or administration and related agencies.

Liability	Any liability or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether incurred or consequential and whether due or to become due), including any liability for Taxes.
Lien	Any mortgage, pledge, lien, security interest, charge, claim, equitable interest, encumbrance, restriction on transfer, conditional sale or other title retention device or arrangement (including, without limitation, a capital lease), transfer for the purpose of subjection to the payment of any Indebtedness, or restriction on the creation of any of the foregoing, whether relating to any property or right or the income or profits therefrom; provided, however, that the term "Lien" shall not include (i) statutory liens for Taxes to the extent that provision is made therefor on the Closing Date Balance Sheet and the payment thereof is not in arrears or otherwise due, (ii) encumbrances in the nature of zoning restrictions, easements, rights or restrictions of record on the uses of real property if the same do not materially impair the use of such property in the Business as currently conducted, (iii) statutory or common law liens to secure landlords, lessors or renters under leases or rental agreements confined to the premises rented to the extent that no payment or performance under any such lease or rental agreement is in arrears or is otherwise due, (iv) deposits or pledges made in connection with, or to secure payment of, worker's compensation, unemployment insurance, old age pension programs mandated under applicable laws or other social security regulations and (v) statutory or common law liens in favor of carriers, warehousemen, mechanics and materialmen, statutory or common law liens to secure claims for labor, materials or supplies and other like liens, which secure obligations to the extent that provision is made therefor on the Closing Date Balance Sheet and payment thereof is not in arrears or otherwise due and in the case of (i) - (v), which have been incurred in the Ordinary Course of Business.
Losses	As defined in Section 12.2.
Material Adverse Effect	Any adverse effect which has a determinable cost in excess of One Hundred Thousand Dollars (\$100,000)). The terms, "material", "materially" or "materiality" shall mean the existence of a fact or condition which results in a Material Adverse Effect.
Material Contract	Any contract or obligation of Seller's related to the Business if the Seller's liability thereunder for any calendar year is \$100,000 or more.
Multiemployer Plan	As defined in Section 8.1.25(3).
Ordinary Course of Business	The ordinary course of business consistent with past custom and practice (including with respect to quantity and frequency).
Party and Parties	As defined in the preamble above.

Patent	Any: (i) United States or foreign patent, patent application, patent disclosure or other patent right; (ii) any division, continuation, continuation-in-part or similar extension of an application that is a Patent; and (iii) any patent or other patent right that issues or is based upon an application that is a Patent.
Permitted Exceptions	As defined in Section 11.3.2.
Person	An individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).
Personal Property Leases	As defined in Section 2.1.3.
Post-Closing Consents	As defined in Section 6.1.9.
Premises	The real property known as and located at 5300 W. 127 th Street, Alsip, Illinois, which property is more particularly described in Schedule 1(a) hereto.
Products	All current products of Seller used or useful in the Business including those identified in Schedule 1(b), any subsequent or new versions of existing or prior products currently being developed, any products currently being developed by Seller that are designed to supersede, replace or function as a component of such products, and any upgrades, enhancements, improvements and modifications to the foregoing prior to the Closing Date.
Purchase Price	As defined in Section 5.1.
Real Property	As defined in Section 8.1.13.
Real Property Leases	All rights of Seller in and to the leaseholds and subleaseholds for the Real Property, and all improvements to and buildings thereon.
Reassignable Accounts Receivable	As defined in Section 9.17.
Related Entity	As defined in Section 8.25(1).
Release	Any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, dispersing, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any Chemical Substance into the Environment that may cause an Environmental Liability and Cost (including the disposal or abandonment of barrels, containers, tanks or other receptacles containing or previously containing any Chemical Substance).

Resolution Period	As defined in Section 5.4(a).
Safety Laws	Any federal, state, local and foreign law, regulation or legal requirement relating to health or safety, including the Occupational Safety and Health Act, as amended, as now or hereinafter in effect relating to (a) exposure of employees to any Chemical Substance or (b) the physical structure, use or condition of a building, facility, fixture or other structure, including, without limitation, those relating to equipment or manufacturing processes, or the management, use, storage, disposal, cleanup or removal of any Chemical Substance.
Safety Liabilities and Costs	All Losses incurred to comply with any Safety Law or as a result of any health or safety conditions present at, created by or arising out of the past or present operations of Seller through and until the Closing Date.
Scheduled Excluded Assets	The Excluded Assets listed on Schedule 2.2.3. hereto.
Stockholders	Collectively, John P. Roth Revocable Trust I, John P. Roth Revocable Trust II, Jeffrey Roth Revocable Trust and John P. Roth III.
Subsidiary	With respect to any Person (i) any corporation at least a majority of whose outstanding voting stock is owned, directly or indirectly, by such Person or by one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; (ii) any general partnership, joint venture or similar entity, at least a majority of whose outstanding partnership or similar interests shall at the time be owned by such Person, or by one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; and (iii) any limited partnership of which such Person or any of its Subsidiaries is a general partner. For the purposes of this definition, "voting stock" means shares, interests, participations or other equivalents in the equity interest (however designated) in such Person having ordinary voting power for the election of a majority of the directors (or the equivalent) of such Person other than shares, interests, participations or other equivalents having such power only by reason of the occurrence of a contingency.
Tax or Taxes	Any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code § 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar, including FICA), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

Tax Return	Any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.
Technology	All inventions, copyrightable works, discoveries, innovations, know-how, information (including ideas, research and development, know-how, formulas, compositions, processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, business and marketing plans and proposals, documentation, and manuals), computer software, computer hardware, integrated circuits and integrated circuit masks, electronic, electrical and mechanical equipment and all other forms of technology, including improvements, modifications, derivatives or changes, whether tangible or intangible, embodied in any form, whether or not protectible or protected by patent, copyright, mask work right, trade secret law or otherwise that (i) were conceived, developed, or reduced to practice by or for the Business, or (ii) are incorporated, embodied or used in or are used to develop, manufacture, test, market, distribute or maintain and support the Products.
Third Party Claim	As defined in Section 12.5(a) below.
Title Company	Chicago Title Insurance Company.
Title Policy	As defined in Section 11.3.2.
Trademarks	Any trademarks, service marks, trade dress and logos together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith.
Welfare Plan	As defined in Section 8.25(1) below.

ARTICLE 2. PURCHASE AND SALE OF ASSETS

2.1. Acquired Assets. Subject to and upon the terms and conditions hereof, and in reliance by each upon the agreements, representations and warranties made by the other and contained herein, Seller agrees to sell, convey, transfer, assign and deliver to Buyer, or cause to be sold, conveyed, transferred, assigned and delivered to Buyer, and Buyer agrees to purchase and acquire from Seller at the Closing, the certain assets stated on the Closing Date Balance Sheet which are described in Sections 2.1.1 through 2.1.11 hereof including, without limitation, all rights, properties, interests, title and claims of Seller in and to such assets (collectively, the "Acquired Assets"), but excluding the Excluded Assets. The Acquired Assets shall include, without limitation:

2.1.1 Real Property. All real property, improvements, fixtures and fittings thereon, easements, rights-of way, and other appurtenant rights thereto (such as appurtenant rights in and to public streets), including, without limitation, the Premises.


2.1.2. Contracts. Subject to the provisions of Article 4 hereof, all contracts, agreements, commitments, indentures, mortgages, instruments, Liens, guaranties, sales representative agreements, sales and purchase orders of Seller (expressly excluding, however, any employment or consulting agreements (whether oral or written)) with respect to the Business (including with respect to the Construction) to which Seller is a party, and licenses of Seller with respect to the Business in which Seller is a licensee, in each case which relate to the Business (other than the Personal Property Leases) (including without limitation, all non-competition and confidentiality agreements, relating to the proposed sale of the Business, to which Seller is a party or of which Seller is a beneficiary) which are listed or identified in Schedule 2.1.2 hereof or which are incurred by Seller in the ordinary course of the Business after the date of Schedule 2.1.2 and prior to the Closing Date (the "Contracts").

2.1.3. Leased Property. The personal property leased by Seller from third parties and used by Seller in the Business which are listed or identified in Schedule 2.1.3 hereof (the "Personal Property Leases").

2.1.4. Inventories. All inventory (including without limitation, raw materials, work in process, purchased components and finished Products), operating supplies and packaging and shipping materials owned by Seller for use in the Business and located at, or in transit to, the facilities of Seller or in the possession of any third party by consignment, bailment or otherwise as of the Closing Date (all of which are hereinafter collectively referred to as "Inventories").

2.1.5. Fixed Assets. All tangible personal property (such as machinery, equipment, test equipment, raw materials, supplies, manufactured and purchased parts, works in progress, finished goods, furniture, vehicles, tools, jigs and dies, workstations, furniture, office equipment, computer software stored on a tangible medium, electronic, electrical and mechanical equipment, other computer hardware and personal computers (together with all spare and maintenance parts)) whether in Seller's possession or in the possession of another party by consignment, bailment or otherwise, which are used in the Business, whether on or off the books of Seller (all of which are hereinafter collectively referred to as "Fixed Assets"), including the Fixed Assets listed on Exhibit 2.1.5 hereof, excluding, however, any Fixed Assets not owned by Seller.

2.1.6. Accounts Receivable. The accounts receivable, trade and otherwise, including without limitation, trade sales non-billed, and unbilled intra-company (between Seller's business segments) accounts receivable of Seller (the "Accounts Receivable").

 2.1.7. Intellectual Property. Subject to the provisions of Article 4 hereof, all Intellectual Property, goodwill associated therewith, licenses and sublicenses granted in respect thereto and rights thereunder, remedies against infringements thereof and rights to protection of interest therein, including, without limitation the Intellectual Property described in Schedule 2.1.7 hereto.

2.1.8. Technical Documentation. All rights and incidents of interest of Seller in and to all Technology.

2.1.9. Miscellaneous Records. All business records and financial management reports (excluding, however, tax returns and related records, stock ledgers and minute books), books, files, plans, appraisals, environmental audits and reports, documents, correspondence, lists, plats, architectural plans, drawings, notebooks, specifications, creative materials, advertising and promotional materials, marketing materials, studies, reports, equipment repair, maintenance or service records, warranty records, export and licensing records, sales records, customer lists, records relating to

memberships in trade associations and written instructions, manuals, data, procedures and other records relating to the Acquired Assets, and copies of presently existing employment history and other records applicable to Employees, in each case whether written or electronically stored or otherwise recorded and in each case which are owned by Seller and used in the Business.

2.1.10 Goodwill. The value of the Business conducted as a going concern.

2.1.11 Other Assets. All other rights, properties and assets (including without limitation, all rights to receive mail and other communications directed to Seller and related to the Business, except communications related solely to the Excluded Assets or the Excluded Liabilities); all post office boxes and telephone listings related to the Business; and claims, deposits, prepayments, refunds, causes of action, choses in action, rights of recovery, rights of set off and rights of recoupment owned by Seller as of the Closing Date and which relate to Seller's conduct of the Business as the same shall exist on the Closing Date.

2.2. Excluded Assets. Anything contained in this Agreement to the contrary notwithstanding, the following rights, properties and assets without limitation (the "Excluded Assets") shall not be included in the Acquired Assets:

2.2.1 Seller's Records. Records located at the facilities where it conducts the Business that pertain solely to the internal corporate or intra-company affairs of Seller or to other divisions or operations of Seller.

2.2.2 Rights Under Agreement. Seller's rights under or pursuant to this Agreement and the other Agreements with Buyer contemplated hereby.

2.2.3 Other Excluded Assets. All assets of Seller's businesses other than the Business including, without limitation, technical documentation relating exclusively to the Excluded Assets and all of the assets described on Schedule 2.2.3 attached hereto (the "Scheduled Excluded Assets").

ARTICLE 3. ASSUMPTION OF LIABILITIES BY BUYER

3.1. Assumed Liabilities. Subject to the terms and conditions set forth herein, effective as of the Closing, Buyer hereby fully assumes and agrees to pay, perform and discharge when due only those debts, obligations, responsibilities, contracts and liabilities of Seller which are described in this Section 3.1 (collectively, the "Assumed Liabilities"). The Assumed Liabilities shall include only the following liabilities, responsibilities and obligations, and the undertakings of Buyer under this Section 3.1 shall in no way limit Buyer's right to be indemnified by Seller for any breach by Seller of any representation or warranty given by Seller concerning the subject matter of this Section 3.1, subject, however, to the limitations set forth in Article 12:

3.1.1 Contract Obligations. All Liabilities under the Contracts listed in Schedule 2.1.2 arising after the Closing Date other than Liabilities arising from any breach or default occurring prior to the Closing Date.

3.1.2 Personal Property Lease Obligations. All Liabilities under the Personal Property Leases listed in Schedule 2.1.3 arising after the Closing Date other than Liabilities arising from any breach or default occurring prior to the Closing Date.

3.1.3 Balance Sheets. All trade accounts payable, accrued vacation liabilities of Employees up to the maximum amount of \$40,000, and the certain identified accrued liabilities listed in Schedule 3.1.4 hereof, to the extent that they relate solely to the Business and are disclosed in a Schedule hereto or to which provision for each is made on the Estimated Closing Date Balance Sheet and the Closing Date Balance Sheet, as the case may be.

Seller hereby acknowledges and agrees that in no event will Buyer be responsible for, or suffer any liability or obligation not specifically assumed by Buyer pursuant to this Section 3.1.

3.2. Excluded Liabilities. With the exception of those Liabilities and obligations specifically assumed by Buyer pursuant to Section 3.1 and Article 10, Buyer shall not assume or be obligated for any, and Seller shall solely retain, pay, perform, defend and discharge all, of the Liabilities and obligations of Seller of any and every kind whatsoever, direct or indirect, known or unknown, absolute or contingent, mature or unmatured, whether or not incurred in connection with the Business or related to the Business or otherwise (the "Excluded Liabilities") including but not limited to, any of the following Liabilities (whether or not contemplated by Section 3.1 or Article 10).

(a) any Liability of Seller for income, franchise, transfer, sales, use and other Taxes (whether or not relating to the Business and whether or not incurred prior to the Closing);

(b) any Liability of Seller for the unpaid Taxes of any Person other than Buyer (including Taxes imposed on the Business) as a transferee or successor, by contract, or otherwise;

(c) any Liability of Seller to indemnify any Person by reason of the fact that such Person was a director, officer, employee, or agent of Seller or was serving at the request of such entity as a partner, trustee, director, officer, employee, or agent of another entity;

(d) any Liability of Seller arising as a result of any legal or equitable action or judicial or administrative proceeding initiated at any time in respect of anything done, suffered to be done or omitted to be done by Seller (other than the Business) or any of its respective directors, officers, employees or agents, or by the Business or any of its respective directors, officers, employees or agents prior to the Closing;

(e) any Liability of Seller for costs and expenses incurred in connection with this Agreement, the making or performance of this Agreement and the transactions contemplated hereby;

(f) any Liability of Seller under this Agreement or under any agreement between Seller on the one hand and Buyer on the other hand entered into in connection with this Agreement;

(g) any Liability relating to or arising out of products manufactured or sold or services rendered by Seller (including the Business) prior to the Closing Date, other than additional warranties or guaranties agreed upon after the Closing between Buyer and any of its customers;

(h) any Liability of Seller arising out of any Employee Plan established or maintained by Seller for the benefit of past or present employees of the Business or to which the Business contributes or any liability or the termination of any such plan;

(i) any Liability of Seller for making payments or providing benefits of any kind to its employees or former employees including, without limitation, (1) as a result of the sale of the Acquired Assets or as a result of the termination by Buyer of any employees, (2) arising out of, or relating to, the Worker Adjustment and Retaining Act of 1988, (3) to provide former employees so-called COBRA continuation coverage to the extent such COBRA continuation coverage is not available under the health care plans of Seller, (4) in respect of medical and other benefits for existing and future retirees, (5) any liability or obligation of Seller in respect of work-related employee injuries or worker's compensation claims and (6) any Liability of Seller pursuant to Article 10 hereof;

(j) any Liability of Seller arising out of or resulting from noncompliance prior to the Closing Date with any national, regional or local laws, statutes, ordinances, rules, regulations, orders, determinations, judgments, or directives, whether legislatively, judicially or administratively promulgated (including, without limitation, any Environmental Liabilities and Costs and Safety Liabilities and Costs whether or not arising out of or resulting from Seller's noncompliance with Environmental Laws, Environmental Transfer Laws or Safety Laws) or any other Laws;

(k) any Liability of Seller under any leases, contracts, or agreements not listed on Schedules 2.1.2 and 2.1.3;

(l) any Liability of Seller in respect of Environmental Liabilities and Costs arising out of any condition existing at or prior to Closing that constitutes a violation of or gives rise to a duty to remediate under any Environmental Law that is occurring or occurred on any real property (regardless of whether Seller has any ownership or leasehold interest in such property on the Closing Date) and without limit as to point of time, knowledge or amount (including, without limitation, any Liability or obligation to remediate any Chemical Substance, (1) generated, used, stored, disposed of or Released at any property or facility owned or leased by Seller or its Affiliates at any time prior to the Closing Date, (2) Released from or in connection with any property or facility owned or leased by Seller or its Affiliates at any time prior to the Closing Date or (3) generated, used, stored, disposed of or Released in connection with Seller's past or present operations); and

(m) except as set forth in Section 8.2.10 with respect to certain product liability claims, any Liability of Seller for any credits, or credit notes, sales returns or other similar liabilities in connection with any sales of Products prior to the Closing.

ARTICLE 4. CONSENTS TO ASSIGNMENT

4.1 No Assignment Without Consent. To the extent that the conveyance, assignment or sublease by Seller to Buyer of any of the Acquired Assets or the assumption of any Assumed Liability by Buyer shall require the consent or approval of any third party, this Agreement shall not constitute a conveyance, assignment, sublease or assumption thereof if such attempted conveyance, assignment, sublease or assumption would constitute a breach thereof.

4.2 Performance, Enjoyment by Buyer. Until the required consents or approvals of third parties with respect to the conveyance, assignment or sublease by Seller to Buyer of any of the Acquired Assets or to the assumption of any Assumed Liability by Buyer shall have been obtained, Buyer, as Seller's agent, shall perform or discharge all of Seller's liabilities, responsibilities, obligations and commitments which arise after the Closing Date, and shall enjoy all of Seller's rights, benefits and entitlements, under same. Following the Closing, Seller shall continue to use its best efforts at its cost and expense to obtain any of the following necessary consents or approvals of:

- (a) any governmental body or agency or instrumentality thereof; and
- (b) any other person whose consent or approval is required as a condition to the consummation by Seller of the transactions contemplated hereby;

all without the requirement of any payment or other accommodation by Buyer as a condition to any such consent or approval and any of which may be waived by Buyer at Closing, *provided, however*, that Buyer will cooperate with Seller in obtaining such consents and approvals, where appropriate.

ARTICLE 5. PURCHASE PRICE

5.1. Purchase Price. The aggregate purchase price for the Business shall be an amount equal to TEN MILLION FORTY THOUSAND DOLLARS (\$10,040,000) (the "Estimated Purchase Price"), subject to adjustment as provided in Sections 5.3 and 5.4, as follows:

(a) There shall be paid to Seller on the Closing Date, an amount equal to the Estimated Purchase Price (as adjusted pursuant to Sections 5.3 and 5.4, respectively) by wire transfer or other immediately available funds, *less* the amount of One Million Dollars (\$1,000,000) (the "Escrowed Amount"), and

(b) On the Closing Date there shall be paid to the Escrow Agent to be held and administered by the Escrow Agent pursuant to and in accordance with the terms of the Escrow Agreement (to be entered into among the parties hereto and the Escrow Agent on the Closing Date) in the form attached hereto as Exhibit 5.1(b), the Escrowed Amount.

5.2 Estimated Closing Date Balance Sheet. Seller shall cause to be prepared and shall provide to Buyer on or before a date which is at least three (3) business days prior to the Closing Date a pro forma balance sheet of the Business (the "Estimated Closing Date Balance Sheet") prepared as of the Closing Date, with the items contained therein necessary to state the net book value (the "Net Book Value"), determined in accordance with the Accounting Methods and revaluation of inventories from LIFO to FIFO, as of the Closing Date. Such Estimated Closing Date Balance Sheet shall be prepared in accordance with the Accounting Methods and revaluation of inventories from LIFO to FIFO and shall fairly present the reasonable estimate by Seller of the financial condition of the Business on the date thereof.

5.3 Specific Adjustments. On the Closing Date, the Estimated Purchase Price shall be increased by the amount by which the Net Book Value shown on the Estimated Closing Date Balance Sheet exceeds Two Million Four Hundred Six Thousand Dollars (\$2,406,000) or decreased by the amount by which Two Million Four Hundred Six Thousand Dollars (\$2,406,000) exceeds the Net Book Value shown on the Estimated Closing Date Balance Sheet. Such determination shall be made in accordance with the methodology set forth on Exhibit 5.3 hereto.

5.4. Closing Date Balance Sheet. Within thirty (30) days after the Closing, Seller shall prepare and deliver to Buyer a balance sheet for the Business dated as of the Closing Date (the "Closing Date Balance Sheet"). The Estimated Purchase Price shall then be adjusted upward or downward by the amount of any positive or negative change (if any) in the Net Book Value between the Estimated Closing Date Balance Sheet and the Closing Date Balance Sheet (the Estimated Purchase

Price, as so adjusted, is referred to herein as the "Final Purchase Price"). For purposes of determining the Final Purchase Price as of the Closing Date, the following shall apply:

(a) Buyer and its representatives shall have thirty (30) days to review the Closing Date Balance Sheet. If Buyer shall dispute any item included in the Closing Date Balance Sheet, it shall within such thirty (30) day period, provide Seller with a written notice of such item(s) of dispute. Buyer and Seller shall attempt to resolve by mutual agreement the items in dispute in good faith within thirty (30) days subsequent to Seller's receipt of Buyer's written notice of disagreement (the "Resolution Period"). Failing agreement with respect thereto within the Resolution Period, the parties shall submit the dispute for resolution to Price Waterhouse Coopers (the "Accountants"), whose decision shall be final and binding on the parties hereto, and when made, shall be deemed to be an agreement, on the issues so determined, between the parties. In executing their duties hereunder, the Accountants shall follow the same procedures used in determining Net Book Value as utilized otherwise in this Article 5. The costs associated with any such dispute resolution shall be borne by the party losing the dispute.

(b) The Closing Date Balance Sheet shall be revised in accordance with any agreement between Seller and Buyer with respect to a dispute, and the Closing Date Balance Sheet, as so revised, shall be the basis for any Adjustment Payments (as defined herein).

(c) Each of the amounts stated on the Closing Date Balance Sheet will be determined in accordance with the Accounting Methods, except for revaluation of inventories from LIFO to FIFO.

5.5 Payments of Adjusted Purchase Price.

(a) In the event Buyer has not expressed disagreement with the Closing Date Balance Sheet prepared and delivered pursuant to Section 5.4 in accordance with the procedure set forth in Section 5.4 or Buyer has expressed disagreement with the Closing Date Balance Sheet and such disagreement has been resolved by the Accountants or otherwise, then:

(1) if the Net Book Value shown on the Estimated Closing Date Balance Sheet exceeds the Net Book Value shown on the Closing Date Balance Sheet, then Seller will forthwith pay to Buyer an amount equal to the difference, together with interest thereon at the rate of 8% per annum calculated for the period from the Closing Date through the date of payment; or

(2) if the Net Book Value shown on the Estimated Closing Date Balance Sheet is less than the Net Book Value shown on the Closing Date Balance Sheet, Buyer will pay: (1) to Seller an amount equal to ninety percent (90%) of the difference, and (2) to the Escrow Agent an amount equal to ten percent (10%) of the difference (which amount shall become part of the Escrowed Amount); in each case together with interest thereon at the rate of 8% per annum calculated for the period from the Closing Date through the date of payment.

Payments in the amount of such differences together with interest thereon as herein provided are hereinafter referred to as "Adjustment Payments."

(b) Any Adjustment Payment shall be paid in federal funds by bank wire transfer or as otherwise specified by the party to receive such payment within ten (10) days of the determination of such Adjustment Payment.

(c) For purposes of determining the Net Book Value, each of the Scheduled Excluded Assets characterized as "on Balance Sheet" on Exhibit 2.2.3, except for the executive automobiles listed thereon, shall be subtracted from the total assets shown on the Estimated Closing Date Balance Sheet and the Closing Date Balance Sheet, as the case may be.

5.6 Specific Offsets. Upon a good faith assertion by Buyer of a reasonable basis for an offset, then in accordance with the Escrow Agreement and subject to Section 12.2(a) hereof, there shall be offset against the Escrowed Amount held by the Escrow Agent any or all of Buyer's loss, costs, damage or expense arising out of any breach or violation of any of the representations, warranties, covenants or other provisions of this Agreement, including the amount of any of the Reassignable Accounts Receivable that Buyer has elected to assign to Seller in accordance with Article 9 hereof and costs associated with adjustments to the Purchase Price for obsolete inventory and the removal of obsolete inventory in accordance with Section 8.1.16 hereof, in which event the amount thereof shall be paid by the Escrow Agent to Buyer (as provided in the Escrow Agreement).

ARTICLE 6. CONDITIONS TO CLOSING

6.1. Conditions Precedent to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing of each of the following conditions:

6.1.1 Buyer's Investigation. Nothing shall have come to Buyer's attention during its investigation conducted prior to the Closing Date which could constitute, or with the passage of time could in the future constitute, a material adverse change to the Business, its financial condition or prospects, from that disclosed in this Agreement and the Exhibits and Schedules hereto.

6.1.2 Representations and Warranties. The representations and warranties set forth in Section 8.1 hereof shall be true and correct (in all material respects, in the case of those representations and warranties that are not by their express terms qualified by reference to materiality) when made and shall be deemed to have been made again at and as of the Closing Date and shall then be true and correct (in all material respects, in the case of those representations and warranties that are not by their express terms qualified by reference to materiality).

6.1.3 Performance by Seller. Seller shall have performed and complied with all of its covenants, agreements and obligations hereunder through the Closing.

6.1.4 Consents. Seller shall have procured all the governmental approvals, consents or authorizations and third party consents specified in Sections 8.1.30 and 9.2 hereof, and Buyer shall have received copies of all such required government approvals, consents or authorizations and third party consents in form and substance reasonably satisfactory to Buyer.

6.1.5 Absence of Litigation. No action, suit, or proceeding shall be pending or threatened before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, (iii) have a Material Adverse Effect on the right of Buyer to own the Acquired Assets and to operate the Business (and no such injunction, judgment, order, decree, ruling, or charge shall be in effect).

6.1.6 Certificates. Seller shall have delivered to Buyer a certificate signed by the President or Chief Executive Officer of Seller to the effect that each of the conditions specified above in Sections 6.1.2 through 6.1.5 are satisfied in all respects.

6.1.7. Termination Notices. Seller shall have sent termination notices to Employees as contemplated by Section 10.1.

6.1.8 Seller's Counsel Opinion. Buyer shall have received from counsel to Seller an opinion in substantially form and substance as set forth in Exhibit 6.1.8 attached hereto, addressed to Buyer, and dated as of the Closing Date.

6.1.9 Escrow Agreement. Seller shall have executed and delivered the Escrow Agreement.

6.1.10 Instruments of Conveyance. Seller shall have executed and delivered all necessary instruments of assignment and transfer of all of the Acquired Assets.

6.1.11 Profit Sharing Plan. Seller's profit sharing plan shall, as of the Closing Date, be fully funded through December 31, 1997.

6.1.12 Real Estate Documents. In addition to any other documents or items required to be delivered by Seller under this Agreement, Seller shall have delivered to Buyer the following:

(1) A duly executed and acknowledged Trustee's (or similar type) Deed, with warranties customarily contained in a warranty deed (the "Deed") conveying good, marketable, clear record and indefeasible title in fee simple to each of the parcels of the Real Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except as permitted herein and/or approved by Buyer in writing;

(2) Evidence satisfactory to Buyer and to the Title Company that the Real Property has been fully released and discharged from all liens, encumbrances and security interests, other than Permitted Exceptions, against the Real Property;

(3) Certification, pursuant to the requirements of Section 1445(a) of the Internal Revenue Code, which certification shall be in form and substance reasonably acceptable to Buyer and the Title Company;

(4) If the Deed refers to a plan necessary to be recorded therewith the Seller shall deliver such plan with the Deed in form adequate for recording or registration;

(5) An Owner's Affidavit from Seller in customary form and substance addressed to the Title Company and satisfactory to Buyer and the Title Company, regarding such matters as the existence of unpaid debts, time payment contracts, loans, liens, security interests, unpaid labor or material claims and parties in possession with respect to the Real Property and the type of entity that owns the Real Property;

(6) instruments of assignment assigning to the extent assignable all construction warranties and guarantees relating to the Real Property;

(7) Instruments of assignment in form acceptable to Seller and Buyer of all leases, rents and security deposits;

(8) Letters to be delivered at the Closing to all tenants indicating the change in ownership and that all rents due and owing from and after the Closing Date shall be forwarded to the Buyer.

(9) Such other documents, instruments, agreements, certificates, affidavits and other papers as are customarily executed and delivered in connection with commercial real estate transactions in the Greater Chicago area.

6.1.13 No Material Adverse Change. There shall not have been any change that has resulted in a Material Adverse Effect and no event has occurred or circumstance exists that may result in such a Material Adverse Effect.

6.1.14 All Necessary Actions. All actions to be taken by Seller in connection with the consummation of the transactions contemplated hereby and all certificates, opinions, instruments and other documents required to effect the transactions contemplated hereby will be reasonably satisfactory in form and substance to Buyer.

6.1.15 Due Diligence Review. Buyer shall have completed to its sole satisfaction a due diligence review of the business and operations of Seller, including a satisfactory review of Seller's relations with its customers and a satisfactory review of the composition of materials used in its Products, and Buyer shall be satisfied in its sole discretion with the results of its due diligence review.

Buyer may waive any condition specified in this Section 6.1 if it executes a writing so stating at or prior to the Closing and such waiver shall not be considered a waiver of any other provision in this Agreement unless the writing specifically so states.

6.2. Conditions Precedent to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing of the following conditions, any one or more of which may be waived in whole or in part by Seller:

6.2.1 Representations and Warranties. The representations and warranties set forth in Section 8.2 hereof shall be true and correct (in all material respects, in the case of those representations and warranties which are not by their express terms qualified by reference to materiality) when made and shall be deemed to have been made again at and as of the Closing Date and shall then be true and correct (in all material respects, in the case of those representations and warranties which are not by their express terms qualified by reference to materiality).

6.2.2 Performance by Buyer. Buyer shall have performed and complied with all of its covenants hereunder through the Closing.

6.2.3 Absence of Litigation. No action, suit, or proceeding shall be pending or threatened before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement or (ii)

cause any of the transactions contemplated by this Agreement to be rescinded following consummation (and no such injunction, judgment, order, decree, ruling, or charge shall be in effect).

6.2.4 Certificates. Buyer shall have delivered to Seller a certificate of Buyer's President to the effect that each of the conditions specified above in Sections 6.2.1 through 6.2.3 are satisfied in all respects.

6.2.5 Buyer's Counsel Opinion. Seller shall have received from counsel to Buyer an opinion in substantially form and substance as set forth in Exhibit 6.2.5 attached hereto, addressed to Seller, and dated as of the Closing Date.

6.2.6 All Necessary Actions. All actions to be taken by Buyer in connection with the consummation of the transactions contemplated hereby and all certificates, opinions, instruments and other documents required to be delivered by Buyer to Seller to effect the transactions contemplated hereby will be reasonably satisfactory in form and substance to Seller.

Seller may waive any condition specified in this Section 6.2 if it executes a writing so stating at or prior to the Closing and such waiver shall not be considered a waiver of any other provision in this Agreement unless the writing specifically so states.

ARTICLE 7. CLOSING

7.1. The Closing. The closing hereunder ("Closing") shall take place at the offices of Seller's Counsel, or at such other place as may be agreed upon by the parties, at 10:00 a.m. local time, on September 14, 1998 unless a different date or time for the Closing is provided for herein or is agreed upon by the parties. The date set forth in this paragraph or, if a different date for the Closing is provided for herein or is agreed upon, such different date, is referred to herein as the "Closing Date." The effective time of the Closing on the Closing Date shall be 12:01 a.m. on the Closing Date.

7.2. Deliveries at Closing. At the Closing, Seller will deliver to Buyer properly executed and acknowledged, if appropriate (a) the various certificates, instruments, and documents referred to in Section 6.1 above; (b) the assignments and the third party consents to assignment of the Leases, Permits, Intellectual Property and Contracts listed in Sections 8.1.30 and 9.2, (c) such other instruments of sale, transfer, conveyance, and assignment as Buyer and its counsel may request, and (d) the Bill of Sale in the form attached hereto as Exhibit 7.2(d)-1. Buyer will execute, acknowledge (if appropriate), and deliver the Assignment and Assumption Agreement in the form attached hereto as Exhibit 7.2(d)-2 and will deliver the consideration specified in Section 5.1 above.

ARTICLE 8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Seller. Seller represents and warrants to Buyer that the statements contained in this 8.1 are true and complete as of the date of this Agreement and will be true and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this Section 8.1), except as set forth in the disclosure schedule accompanying this Agreement (the "Disclosure Schedule"). The Disclosure Schedule will be arranged in paragraphs corresponding to the lettered and numbered paragraphs contained in this Section 8.1. Seller represents and warrants as follows:

8.1.1 Organization of Seller. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation.

8.1.2 Authorization of Transaction. Seller has full power and authority (including full corporate power and authority) to execute and deliver this Agreement and to perform its obligations hereunder. Without limiting the generality of the foregoing, the board of directors of Seller and Seller's stockholders have duly authorized the execution, delivery, and performance of this Agreement by Seller. This Agreement constitutes the valid and legally binding obligation of Seller, enforceable in accordance with its terms and conditions.

8.1.3 Noncontravention. Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Sections 2 and 3 above), will (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which Seller is subject or any provision of the charter or bylaws of Seller or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Seller is a party or by which it is bound or to which any of its assets is subject (or result in the imposition of any Lien upon any of the Acquired Assets). Subject to Article 4 hereof, Seller does not need to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Government or Governmental agency in order for the Parties to consummate the transactions contemplated by this Agreement (including the assignments and assumptions referred to in Sections 2 and 3 above).

8.1.4 Brokers' Fees. Seller has no Liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which Buyer could become liable or obligated.

8.1.5 Title to Assets. Seller has good and marketable title to, or a valid leasehold interest in, the Acquired Assets free and clear of all Liens and restrictions on transfer, except for properties and assets disposed of in the Ordinary Course of Business since the date of the Most Recent Balance Sheet and except for Permitted Exceptions.

8.1.6 Subsidiaries. Seller has no subsidiaries.

8.1.7 Financial Statements. Attached hereto as Exhibit 8.1.7 are the following financial statements of Seller (collectively the "Financial Statements"): (i) reviewed balance sheets and statements of income, changes in stockholders' equity, and cash flow as of and for the fiscal years ended December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, and December 31, 1997, (the "Most Recent Fiscal Year End"); and (ii) balance sheets (the "Most Recent Balance Sheet") and statements of income, changes in stockholders' equity, and cash flow (the "Most Recent Financial Statements") as of and for the seven (7) months ended July 31, 1998 (the "Most Recent Fiscal Month End"). The Financial Statements (including the Notes thereto) have been prepared in accordance with the Accounting Methods applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of Seller as of such dates and the results of operations of Seller for such periods, are correct and complete, and are consistent with the books and records of Seller (which books and records are correct and complete); provided, however, that the

Most Recent Financial Statements are subject to normal year-end adjustments (which will not be material individually or in the aggregate) and lack footnotes and other presentation items.

8.1.8 Events Subsequent to Most Recent Fiscal Year End. Except as set forth in Section 8.1.8 of the Disclosure Schedule, since the Most Recent Fiscal Year End, there has not been any Material Adverse Effect in the business, financial condition, operations, results of operations, or future prospects of Seller. Without limiting the generality of the foregoing, since that date, there has not been:

- (1) any sale, lease, transfer, or assignment of assets, tangible or intangible, other than sales of assets in the Ordinary Course of Business;
- (2) any agreement, contract, lease, or license (or series of related agreements, contracts, leases, and licenses);
- (3) any acceleration, termination, modification, or cancellation of any agreement, contract, lease, or license (or series of related agreements, contracts, leases, and licenses);
- (4) the creation or imposition of any Lien upon the Acquired Assets, tangible or intangible, without regard to materiality;
- (5) capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions);
- (6) issuance of any note, bond, or other debt security or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation;
- (7) any delay or postponement of payment of accounts payable and other Liabilities outside the Ordinary Course of Business, without regard to materiality;
- (8) any cancellation, compromise, waiver, or release of any right or claim or Indebtedness (or series of related rights and claims);
- (9) grant of any license or sublicense of any rights or modification of any rights under or with respect to, or entered into any settlement regarding any infringement of its rights to, any Intellectual Property, without regard to materiality;
- (10) any supplier, major vendor, licensor, distributor and customer that has terminated a material business relationship with Seller, and Seller has no Knowledge that any supplier, major vendor, licensor, distributor and customer (i) intends to terminate or is considering terminating its respective business relationship, (ii) has modified or intends to modify such relationship with Seller in a manner which is less favorable to Seller or (iii) has agreed not to or will not agree to do business on such terms and subject to conditions at least as favorable as the terms and conditions as provided to Seller on the date of the Most Recent Balance Sheet and Seller is not aware of any facts that would form the Basis for such termination or modification or any threat or notification, orally or in writing of the foregoing;
- (11) any loan to, or any other transaction with, any directors, officers and employees of Seller outside the Ordinary Course of Business;

(12) any employment contract or collective bargaining agreement entered into, written or oral, or modification of the terms of any existing such contract or agreement, including the Collective Bargaining Agreement;

(13) any increase, modification or change in the compensation of any of the officers and employees of Seller outside the Ordinary Course of Business;

(14) any adoption, amendment, modification or termination of any Employee Plan or other plan, contract, or commitment for the benefit of any officer or employee of Seller (or taken any such action with respect to any other Employee Plan);

(15) any modification or change in the employment terms for any of the officers and employees of Seller or any offer of employment outside the Ordinary Course of Business;

(16) any charitable or other capital contribution outside the Ordinary Course of Business or any pledge to make such a contribution;

(17) any modification or change in the application of the Accounting Methods from the manner in which it was applied in the Financial Statement;

(18) any other material occurrence, event, incident, action, failure to act, or transaction outside the Ordinary Course of Business;

(19) any damage, destruction, or loss (whether or not covered by insurance) to the Acquired Assets;

(20) any amount paid to any third party with respect to any Liability or obligation (including any costs and expenses Seller has incurred or may incur in connection with this Agreement and the transactions contemplated hereby) which would not constitute an Assumed Liability if in existence as of the Closing;

(21) any commitment to any of the foregoing.

8.1.9 Undisclosed Liabilities. To Seller's Knowledge, Seller has no Liability (and there is no Basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any Liability), except for (1) Liabilities set forth on the face of the Most Recent Balance Sheet (rather than in any notes thereto) and (2) Liabilities which have arisen after the Most Recent Fiscal Month End in the Ordinary Course of Business (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of law).

8.1.10 Legal Compliance.

(1) To Seller's Knowledge, Seller is in material compliance with all applicable Laws the violation of which, either singularly or in the aggregate, could have a Material Adverse Effect on the Business and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against it alleging any failure so to comply. To Seller's Knowledge, neither the ownership nor use of the Acquired Assets

(excluding Intellectual Property, which is addressed in Section 8.1.14) nor the conduct of the Business conflicts with the rights of any other Person or violates, or with the giving of notice or the passage of time or both will violate, conflict with or result in a default, right to accelerate or loss of rights under, any terms or provisions of any of its certificate of incorporation or by-laws or any Lien, lease, license, agreement, understanding, law, ordinance, rule or regulation, or any order, judgment or decree to which Seller is a party or by which Seller may be bound or affected. Seller has no Knowledge of any proposed Laws, rules, regulations, ordinances, orders, judgments, decrees, governmental takings, condemnations or other proceedings that would be applicable to the business, operations or properties of Seller and that might materially adversely affect such properties, assets, liabilities, operations or prospects.

(2) To Seller's Knowledge, Seller has all rights, permits, certificates, licenses, approvals and other authorizations as are necessary to conduct the Business and to own, lease, use and operate the Acquired Assets at the places and in the manner now conducted and operated (the "Permits") each of which is in full force and effect. Section 8.1.10 of the Disclosure Schedule contains a complete and accurate list of all Permits. To Seller's Knowledge, Seller has complied with the terms and conditions of all the Permits. Seller has not received any notice pertaining to any violation of or failure to obtain any Permit required by any federal, state or local agency or other regulatory body incident to the current operation of the Business, and, except for consents to assignments of any Permits, Seller has no Knowledge of any Basis for a claim of such violation or failure or of any reason why any Permit will not be renewed. Seller has no Knowledge of any action by Seller which will be required to be taken as of and immediately after the Closing, in order that all the Permits will remain in effect with respect to the continued conduct of the Business.

8.1.11 No Material Adverse Change Since the date of the Most Recent Balance Sheet, there has not been any change which has resulted in a Material Adverse Effect and no event has occurred or circumstance exists that could reasonably be likely to result in such a Material Adverse Effect.

8.1.12 Tax Matters. Except as set forth in Section 8.1.12 of the Disclosure Schedule; (1) all Tax Returns that were required to be filed by Seller have been filed, (2) all such Tax Returns were correct and complete; (3) all Taxes which are due and payable prior to Closing have been paid except for Taxes being contested in good faith and for which adequate reserves have been established; (4) all Taxes required to have been withheld and paid by Seller in connection with the amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party have been withheld and paid; (5) no notice has been received from an authority in a jurisdiction where Tax Returns are not filed by Seller that such jurisdiction may impose Taxes on Seller; (6) no statute of limitations has been waived in respect to Taxes relating to Seller, and no extension of time has ever been agreed to with respect to a Tax assessment or deficiency relating to Seller; (7) no federal, state, local, and foreign income Tax Returns with respect to Seller have been audited by the applicable taxing authority and Section 8.1.12 of the Disclosure Schedule sets forth those Tax Returns that remain open and currently are the subject of audit; (8) there is no pending dispute, audit, investigation, proceeding or claim concerning any liability for Taxes with respect to which Seller has received written notice; and (9) there are no Liens on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

8.1.13 Real Property.

(1) Section 8.1.13 of the Disclosure Schedule lists and describes briefly all real property that Seller owns, including the Premises, ("Real Property"). With respect to each such parcel of Real Property:

(A) the identified owner has good and marketable title to the parcel of Real Property, free and clear of any Lien, except for installments of special assessments not yet delinquent and recorded easements, covenants, and other restrictions which do not impair the current use, occupancy, or value, or the marketability of title, of the property subject thereto;

(B) there are no pending or, to the Knowledge of Seller, threatened condemnation proceedings, lawsuits, or administrative actions relating to the Real Property or other matters affecting materially and adversely the current use, occupancy, or value thereof;

(C) the legal description for the parcel contained in the deed thereof describes such parcel fully and adequately, the buildings and improvements are located within the boundary lines of the described parcels of Real Property, are not in violation of applicable setback requirements, zoning laws, and ordinances (and none of the properties or buildings or improvements thereon are subject to "permitted non-conforming use" or "permitted non-conforming structure" classifications), and do not encroach on any easement which may burden the Real Property, and the Real Property does not serve any adjoining property for any purpose inconsistent with the use of the land, and the Real Property is not located within any flood plain or subject to any similar type restriction for which any permits or licenses necessary to the use thereof have not been obtained;

(D) all facilities and buildings located on the Real Property have received all approvals of governmental authorities (including certificates of occupancy and other licenses and permits) required in connection with the ownership or operation thereof and have been operated and maintained in accordance with applicable Laws;

(E) except as listed in Section 8.1.13(G) of the Disclosure Schedule, there are no leases, subleases, licenses, concessions, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Real Property;

(F) there are no outstanding options or rights of first refusal to purchase the Real Property, or any portion thereof or interest therein;

(G) except as listed in Section 8.1.13(G) of the Disclosure Schedule, there are no parties (other than Seller) in possession of the Real Property;

(H) all facilities located on the Real Property are supplied with utilities and other services necessary for the operation of such facilities, including gas, electricity, water, telephone, sanitary sewer, and storm sewer, all of which services are adequate in

accordance with all applicable Laws and are provided via public roads or via permanent, irrevocable, appurtenant easements benefiting the Real Property; and

(I) the Real Property abuts on and has direct vehicular access to a public road, or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the parcel of Real Property, and access to the Real Property is provided by paved public right-of-way with adequate curb cuts available.

(2) Section 8.1.13 of the Disclosure Schedule lists and describes briefly all real property leased or subleased to Seller. Seller has delivered to Buyer correct and complete copies of the leases and subleases listed in Section 8.1.13 of the Disclosure Schedule (as amended to date), which leases and, if any, subleases have not been amended or modified since the date thereof. With respect to each lease and sublease listed in Section 8.1.13 of the Disclosure Schedule:

(A) the lease or sublease is legal, valid, binding, enforceable, and in full force and effect;

(B) the lease or sublease will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Sections 2 and 3 above);

(C) no party to the lease or sublease is in breach or default, and no event has occurred which, with notice or lapse of time, would constitute a breach or default or permit termination, modification, or acceleration thereunder;

(D) no party to the lease or sublease has repudiated any provision thereof;

(E) there are no oral or written agreements, or forbearance programs in effect as to, and Seller has not disputed, the lease or sublease and the, Seller has not received notice that any third party has disputed the lease or sublease;

(F) with respect to each sublease, the representations and warranties set forth in subsections (A) through (E) above are true and correct with respect to the underlying lease;

(G) Seller has not assigned, transferred, conveyed, mortgaged, deeded in trust, or encumbered any interest in the leasehold or subleasehold;

(H) with respect to each real property that is leased or subleased there is either no mortgage on the fee interest in such property that predates such lease or a non-disturbance agreement protecting the tenant's leasehold interest has been obtained and a current and complete copy provided to Buyer;

(I) Seller has not received any written notice of any threatened condemnation proceedings, lawsuits, or administrative actions relating to the premises leased by Seller;

(J) except as set forth in Section 8.1.13(G) of the Disclosure Schedule, there are no leases, subleases, licenses concessions, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of the premises leased by Seller or any portion thereof;

(K) to Seller's Knowledge, all facilities leased or subleased thereunder have received all approvals of Governmental authorities (including licenses and permits) required in connection with the operation thereof and have been operated and maintained in accordance with applicable Laws; and

(L) all facilities leased or subleased thereunder are supplied with utilities and other services necessary for the operation of said facilities.

8.1.14 Intellectual Property.

(1) Seller owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property. Subject to obtaining all necessary consents and effecting assignments as disclosed in Section 8.1.30 of the Disclosure Schedule, each item of Intellectual Property owned or used by Seller in connection with the Business immediately prior to the Closing hereunder will be owned or available for use by Buyer on identical terms and conditions immediately subsequent to the Closing hereunder. Seller has taken all necessary action to maintain and protect each item of Intellectual Property that it owns or uses.

(2) Except as disclosed in Section 8.1.14 of the Disclosure Schedule, Seller has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any intellectual property rights of third parties, and Seller has never received or been made aware of any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that Seller must license or refrain from using any Intellectual Property rights of any third party). To the Knowledge of Seller, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of Seller, which interference, infringement, misappropriation or other conflict has not been cured or waived as of the date hereof.

(3) All of Seller's employees that have participated in the development of the Products have entered into employee agreements with Seller assigning all right, title and interest in the Intellectual Property therein to Seller. Pursuant to such employee agreements or applicable Law, Seller owns all of the right, title and interest of their employees to any Intellectual Property in the Products.

(4) Section 8.1.14 of the Disclosure Schedule identifies each patent or registration which has been issued to Seller with respect to its Intellectual Property, identifies each pending patent application or application for registration which has been made with respect to Seller's Intellectual Property, and identifies each license, agreement, or other permission which Seller has granted to any third party with respect to any of the Intellectual Property. Seller has delivered to Buyer correct and complete copies of all such patents, registrations, applications, licenses, agreements, and permissions (as amended to date) and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such item. Section 8.1.14 of the Disclosure Schedule also identifies each trade name or unregistered trademark or service mark used by Seller in

connection with the Business. With respect to each item of Intellectual Property required to be identified in Section 8.1.14 of the Disclosure Schedule:

(A) except as disclosed in Section 8.1.14 of the Disclosure Schedule, Seller possesses all right, title, and interest in and to the item, free and clear of any Lien, license, or other restriction;

(B) the item is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;

(C) no action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending, and Seller has not received notice that any such action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and

(D) except as disclosed in Section 8.1.14 of the Disclosure Schedule, Seller has never agreed to indemnify any Person for or against any interference, infringement, misappropriation, or other conflict with respect to the item.

(5) Section 8.1.14 of the Disclosure Schedule identifies each item of Intellectual Property that any third party owns and that Seller uses in connection with the Business pursuant to license, sublicense, agreement, or permission. Seller has delivered to Buyer correct and complete copies of all such licenses, sublicenses, agreements, and permissions (as amended to date). With respect to each item of Intellectual Property required to be identified in Section 8.1.14 of the Disclosure Schedule:

(A) the license, sublicense, agreement, or permission covering the item is legal, valid, binding, enforceable, and in full force and effect;

(B) subject to obtaining necessary consents as disclosed in Section 8.1.30 of the Disclosure Schedule, the license, sublicense, agreement, or permission will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Sections 2 and 3 above);

(C) Seller has not and, to Seller's Knowledge, no party to the license, sublicense, agreement, or permission, is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder;

(D) Seller has not repudiated any provision of the license, sublicense, agreement, or permission, and Seller has not received notice that any other party to the license, sublicense, agreement, or permission has repudiated any provision thereof;

(E) to Seller's Knowledge, with respect to each sublicense, the representations and warranties set forth in subsections (A) through (D) above are true and correct with respect to the underlying license;

(F) the underlying item of Intellectual Property is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;

(G) no action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending or to the Knowledge of Seller, is threatened, which challenges the legality, validity, or enforceability of the underlying item of Intellectual Property; and

(H) Seller has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(6) To Seller's Knowledge, Seller will not interfere with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties as a result of the continued operation of the Business as presently conducted.

(7) Seller has no Knowledge of any new products, inventions, procedures, or methods of manufacturing or processing that any competitors or other third parties have developed which reasonably could be expected to supersede or make obsolete any product or process of Seller.

8.1.15 Tangible Assets. Except as set forth on Schedule 8.1.15, Seller owns or leases all buildings, real property, improvements, machinery, equipment, and other tangible assets necessary for the conduct of the Business as presently conducted by Seller as of the date of this Agreement. Each such tangible asset is free from material defects (patent and latent), has been maintained in accordance with normal industry practice, is in satisfactory operating condition and repair (subject to normal wear and tear), and is suitable, adequate and sufficient for the purposes for which it presently is used.

8.1.16 Inventory. The inventory of Seller and its Subsidiaries consists of raw materials and supplies, manufactured and purchased parts, goods in process, and finished goods, all of which is merchantable and fit for the purpose for which it was procured or manufactured, and none of which is obsolete, damaged, or defective, subject only to the reserve for inventory writedown set forth on the face of the Most Recent Balance Sheet (rather than in any Notes thereto) as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of Seller. Upon Buyer's reasonable request, for a period of ninety (90) days from the Closing Date, Seller shall cooperate with Buyer and assist Buyer in categorizing inventory to determine such inventory's status as obsolete or not. Buyer and Seller shall use their best efforts to mutually agree upon the status of any inventory. Seller shall adjust the Purchase Price for the cost of the obsolete inventory, which cost may be applied against the Escrowed Amount in accordance with Section 5.6 hereof and the Escrow Agreement. In addition, Seller shall assume full responsibility for the removal and all costs associated with the removal of obsolete inventory, which costs may also be applied against the Escrowed Amount in accordance with Section 5.6 hereof and the Escrow Agreement.

8.1.17 Contracts. Section 8.1.17 of the Disclosure Schedule lists the following Material Contracts and other agreements (including the Contracts and Personal Property Leases listed on Schedules 2.1.2 and 2.1.3 and contracts and agreements listed on Sections 8.1.8, 8.1.13 and 8.1.14 of the Disclosure Schedule) to which Seller is a party in connection with the Business:

(1) any agreement (or group of related agreements) for the lease of personal property to or from any Person providing for lease payments;

(2) any agreement (or group of related agreements) for the purchase or sale of raw materials, commodities, supplies, products, or other personal property, or for the furnishing or receipt of services, the performance of which will extend over a period of more than one year, or result in a material loss;

(3) any agreement concerning a partnership or joint venture, without regard to materiality;

(4) any agreement (or group of related agreements) under which it has created, incurred, assumed, or guaranteed any Indebtedness or under which it has imposed a Lien on any of the Acquired Assets;

(5) any agreement concerning confidentiality or noncompetition, without regard to materiality;

(6) any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance, or other material plan or arrangement for the benefit of the officers and employees of Seller;

(7) any collective bargaining agreement, including the Collective Bargaining Agreement;

(8) any agreement providing for the employment or consultancy with any individual on a full-time, part-time, consulting or other basis providing annual compensation or providing severance or retirement benefits;

(9) any agreement under which it has advanced or loaned any amount to any of Seller officers and employees other than in the Ordinary Course of Business, without regard to materiality;

(10) any agreement under which the consequences of a default or termination could have a Material Adverse Effect;

(11) any contract or arrangement with any federal, state or local government agency;

(12) any support contract with customers relating exclusively to the Acquired Assets;

(13) any contract or agreement relating to the Construction; or

(14) any other Material Contract (or group of related Material Contracts).

Seller has delivered to Buyer a correct and complete copy of each written agreement listed in Section 8.1.17 of the Disclosure Schedule (as amended to date) and a written summary setting forth the terms and conditions of each oral agreement referred to in Section 8.1.17 of the Disclosure Schedule. Except as disclosed in Section 8.1.17 of the Disclosure Schedule, with respect to each such agreement: (1) the agreement is legal, valid, binding, enforceable, and in full force and effect; (2) subject to Buyer

obtaining the necessary consents disclosed in Section 8.1.30 of the Disclosure Schedule, the agreement will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Sections 2 and 3 above); (3) Seller is not in breach or default under the agreement and Seller has no Knowledge that any third party is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the agreement; and (4) Seller has not repudiated any provision of the agreement and Seller has no Knowledge that any other party has repudiated any provision of the agreement.

8.1.18 Notes and Accounts Receivable. All notes and accounts receivable of Seller, if any, are reflected properly on its books and records in accordance with the Accounting Methods, are valid receivables, arose from bona fide transactions in the Ordinary Course of Business subject to no setoffs or counterclaims, are current and, to Seller's knowledge collectible, and will be collected in accordance with their terms at their recorded amounts without having to or threaten to resort to any collection efforts or legal proceedings outside the Ordinary Course of Business, subject only to the reserve for bad debts set forth on the face of the Most Recent Balance Sheet (rather than in any notes thereto) as adjusted for the passage of time through the Closing Date in accordance with Accounting Methods and past practice and custom of Seller.

8.1.19 Largest Suppliers and Customers. Except as set forth in Section 8.1.19 of the Disclosure Schedule, there is no supplier of Seller which accounts for five percent (5%) or more of its purchases during the twelve (12) months immediately preceding the date hereof relating to the Business and no customer of Seller which accounts for five percent (5%) or more of its gross sales during the twelve (12) months immediately preceding date hereof relating to the Business. Seller has no Knowledge of any expression of any intention by any such supplier, customer or creditor to terminate or modify its relationship with Seller, and during the six (6) months immediately prior to the date hereof, except as described in Section 8.1.19 of the Disclosure Schedule, Seller has not ceased doing business with any supplier or customer which accounts for five percent (5%) or more of the purchases or gross sales of Seller relating to the Business. Seller currently has no material problem in obtaining in a timely manner and at market prices any raw, finished or other materials used or necessary to be used in the Business.

8.1.20 Powers of Attorney. Except pursuant to this Agreement and the Exhibits hereto, there are no outstanding powers of attorney executed on behalf of Seller in respect of Seller, or the Acquired Assets.

8.1.21 Insurance and Risk Management. Other than deductibles, Seller has been covered during the past 5 years by insurance in scope and amount customary and reasonable for the Business during the aforementioned period. Section 8.1.21 of the Disclosure Schedule describes any self-insurance arrangements affecting Seller.

8.1.22 Litigation. Except as disclosed in Section 8.1.22 of the Disclosure Schedule, There are no judicial or administrative actions, claims, suits, proceedings or investigations pending, and Seller has no Knowledge that any such judicial or administrative actions, claims, suits, proceedings or investigations are threatened, that could be reasonably likely to result in a Material Adverse Effect, or that question the validity of this Agreement or of any action taken or to be taken pursuant to or in connection with the provisions of this Agreement nor, to Seller's Knowledge, is there any Basis for any such action, claim, suit, proceeding or investigation. There are no judgments, orders, decrees,

citations, fines or penalties heretofore assessed against Seller affecting Seller, the Acquired Assets or Assumed Liabilities under any federal, state or local law.

8.1.23 Product Warranties; Defects; Liability. To Seller's Knowledge, each Product manufactured, sold, leased, or delivered by Seller has been in conformity in all material respects with all applicable federal, state, local or foreign Laws and regulations, contractual commitments and all express and implied warranties, and Seller has no Liability (and there is no Basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand giving rise to any Liability) for replacement or repair thereof or other damages in connection therewith not covered by insurance. Except as disclosed in Section 8.1.23 of the Disclosure Schedule, no Product manufactured, sold, leased, or delivered by Seller is subject to any guaranty, warranty, or other indemnity beyond the applicable standard terms and conditions of sale or lease. Section 8.1.23 of the Disclosure Schedule includes copies of the standard terms and conditions of sale or lease for Seller (containing applicable guaranty, warranty, and indemnity provisions). To Seller's Knowledge, Seller has no Liability (and there is no Basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any Liability) arising out of any injury to individuals or property as a result of the ownership, possession, or use of any product manufactured, sold, leased, or delivered by Seller and there has been no inquiry or investigation made in respect thereof by any Person including any governmental or administrative agency. Seller represents and acknowledges that any future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against Buyer giving rise to any Liability (in contract or in tort) made after the Closing Date as a result of the ownership, possession, or use of any product manufactured, sold, leased, or delivered by Seller for occurrences arising prior to the Closing Date, shall be the sole responsibility (financially and otherwise) of the Seller.

8.1.24 Employees. To Seller's Knowledge, no executive, key employee, or group of employees relating to the Business has any plans to terminate employment with Seller, except as contemplated by Article 10. Except as set forth in Section 8.1.24 of the Disclosure Schedule, Seller is not a party to nor bound by any collective bargaining agreement, nor has Seller experienced any strikes, grievances, claims of unfair labor practices, or other collective bargaining disputes. Seller has not committed any unfair labor practice. To Seller's Knowledge, no organizational effort is presently being made or threatened by or on behalf of any labor union with respect to employees of Seller.

8.1.25 Employee Benefit Plans.

(1) Seller Plans. Section 8.1.25 of the Disclosure Schedule sets forth (A) all Employee Plans (i) that are maintained by Seller or by any corporation, trust, partnership or other entity (a "Related Entity") that would be considered as a single employer with Seller under Section 4001(b)(1) of ERISA or Section 414(b), (c), (m) or (o) of the Code, or to which Seller or any Related Entity contributes or is required to contribute or with respect to which Seller or any Related Entity has or may have any liability for premiums or benefits, and (ii) that benefit any Employee (a "Seller Plan"), as well as (B) all plans, agreements, policies and arrangements that would be Seller Plans if the term "employee" were construed to include outside directors, consultants or other independent contractors who provide services to or for the benefit of Seller. For purposes of this Agreement, the term "Employee Plan" means any plan, program, agreement, policy or arrangement (a "plan"), whether covering a single individual or group of individuals, and whether or not reduced to writing, that is: (A) a welfare benefit plan within the meaning of Section 3(1) of ERISA (a "Welfare Plan"); (B) a pension benefit plan within the meaning of Section 3(2) of ERISA; (C) a stock bonus, stock purchase,

stock option, restricted stock, stock appreciation right or similar equity-based plan; or (D) any other deferred-compensation, retirement, welfare-benefit, bonus, incentive or fringe benefit plan or arrangement. With respect to each Seller Plan, Seller has provided to Buyer accurate, current and complete copies of each of the following: (A) where the plan has been reduced to writing, the plan document together with all amendments; (B) where the plan has not been reduced to writing, a written summary of all material plan terms; and (C) copies of any summary plan descriptions, employee handbooks or similar employee communications.

(2) No Liability. Except for payments contemplated by this Agreement, no circumstance exists and no event (including any action or the failure to do any act) has occurred with respect to any Employee Plan maintained or formerly maintained by Seller or any Related Entity, or to which Seller or any Related Entity is or has been required to contribute, that could subject Buyer to Liability, or the Acquired Assets to any Lien, under ERISA or the Code, nor will the transactions contemplated by this Agreement give rise to any such Liability or Lien.

(3) Multiemployer Plans. With respect to current and former employees of Seller, neither Seller nor any Related Entity contributes to, ever has contributed to, or been required to contribute to any multiemployer plan within the meaning of ERISA section 3(37) (a "Multiemployer Plan") or has any Liability Employee (including withdrawal Liability) under any Multiemployer Plan.

(4) Retiree Benefits; Certain Welfare Plans. Except as described in Section 8.1.25 of the Disclosure Schedule and other than as required under Section 601 *et seq.* of ERISA, no Seller Plan that is a Welfare Plan provides benefits or coverage following retirement or other termination of employment. Nothing has occurred with respect to any Employee Plan described in Section 4980B of the Code that could subject Seller or any Related Party to a tax under Section 4980B of the Code.

(5) No Restrictions on Termination. No provision of any Seller Plan would result in any limitation on the ability of Seller to terminate the plan with respect to the Employees.

(6) No Additional Benefits. Except for accelerated vesting of Seller's profit sharing plan, the transactions contemplated by this Agreement shall not alone or upon the occurrence of any additional or subsequent event, result in any payment of severance or otherwise, or acceleration, vesting or increase in benefits under any Employee Plan for the benefits of any Employee.

8.1.26 Environment, Health, and Safety. Except as disclosed in Section 8.1.26 of the Disclosure Schedule:

(1) To Seller's Knowledge, Seller has complied and is in compliance with all applicable Environmental Laws and Safety Laws the violation of which could have a Material Adverse Effect;

(2) To Seller's Knowledge, Seller has obtained, and is and has been in material compliance with the conditions of, all Environmental Permits required for the continued

conduct of the Business in the manner now conducted and presently proposed to be conducted by Seller as of the date of this Agreement;

(3) Seller has filed all required applications, notices and other documents necessary to effect the timely renewal or issuance of all Environmental Permits for the continued conduct of the Business in the manner now conducted and presently proposed to be conducted by Seller;

(4) To Seller's Knowledge, there are no past or present events, conditions or circumstances, that are likely to interfere with or otherwise affect the Business in the manner now conducted or which would interfere with compliance with any Environmental Law or Permit or Safety Law;

(5) To Seller's Knowledge, there are no circumstances or conditions present at or arising out of the present or former assets, properties, leaseholds, businesses or operations of Seller in respect of off-site storage, transportation or disposal of, or any off-site Release of, a Chemical Substance which reasonably may be expected to give rise to any Environmental Liabilities and Costs;

(6) To Seller's Knowledge, there are no circumstances or conditions present at or arising out of the present or former assets, properties, leaseholds, businesses or operations of Seller, including but not limited to any on-site Storage, use, disposal or Release of a Chemical Substance, which reasonably may be expected to give rise to any Environmental Liabilities and Costs or Safety Liabilities and Costs;

(7) Seller has not received within the past three years any order, decree, judgment, complaint, agreement, claim, citation, or notice and is not subject to any ongoing judicial or administrative proceeding indicating that Seller or the past and present assets of Seller are or may be: (A) in violation of any Environmental Law; (B) in violation of any Safety Laws; (C) responsible for the on-site or off-site storage or Release of any Chemical Substance; or, (D) liable for any Environmental Liabilities and Costs or Safety Liabilities and Costs;

(8) Seller has no reason to believe that Seller will become subject to a matter identified in subsection (7); and Seller has no Knowledge that any investigation or review with respect to such matters is pending or is threatened, nor has any Authority or other third-party indicated an intention to conduct the same;

(9) Neither Seller nor any of the Acquired Assets is subject to, or as a result of the transactions contemplated by this Agreement will be subject to, the requirements of any Environmental Laws or other Laws which require notice, disclosure, cleanup or approval prior to transfer (subject to any consent of assignment being obtained) of such Acquired Assets or the Business or which will impose Liens on such Acquired Assets or otherwise interfere with or affect the Business ("Environmental Transfer Laws") or if subject to such requirements, Seller has complied or will comply therewith in accordance with the requirements of all such Environmental Transfer Laws;

(10) Section 8.1.26 of the Disclosure Schedule lists all property presently leased, owned or operated by Seller in connection with the Business and identifies all such property

(and the area within that property) that has been used by Seller or by any other Person (including a prior owner or operator) for the storage or disposal of Chemical Substances;

(11) To the extent available, copies of all waste manifests under the Resource Conservation and Recovery Act of 1976 as now in effect for treatment, storage, disposal, reuse or recycling in connection with the transport or disposal of Chemical Substances originating from Seller or the Acquired Assets have been made available to Buyer;

(12) Section 8.1.26 of the Disclosure Schedule sets forth a list of all underground storage tanks owned or operated on the Premises at any time by Seller and except as disclosed in Section 8.1.26 of the Disclosure Schedule, Seller has not received notice that any such tank is leaking or has leaked at any time in the past, and there is no pollution or contamination of the Environment caused by or contributed to or threatened by a Release of a Chemical Substance from any such tank; and

(13) Section 8.1.26 of the Disclosure Schedule lists all environmental audits, inspections, assessments, investigations or similar reports in Seller's possession or of which Seller is aware relating to the Acquired Assets or Seller's business or the compliance of the same with applicable Environmental Laws and Safety Laws.

For purposes of this Section 8.1.26 only, all references to the "Seller" are intended to include any and all other entities to which Seller may be considered a successor under applicable Environmental Laws. The representations and warranties in this section are the only representations and warranties with respect to Environmental Laws or Environmental Liabilities and Costs, or Safety Laws or Safety Liabilities and Costs notwithstanding any other language in this Agreement of general applicability.

8.1.27 Affiliated Transactions. Except as disclosed in Section 8.1.15 of the Disclosure Schedule, Seller and its Affiliates do not own or otherwise have any rights to or interests in any asset, tangible or intangible, which is used in the Business which is not being transferred as an Acquired Asset, other than the Excluded Assets.

8.1.28 Government Contracts. Except as set forth in Section 8.1.28 of the Disclosure Schedule, Seller is not a party to any contract or arrangement with any federal, state or local government agency.

8.1.29 Books and Records. To Seller's Knowledge, the books and all corporate and financial records of Seller are complete and correct in all material respects and have been maintained in accordance with applicable sound business practices, Laws and other material requirements.

8.1.30 Consents. Section 8.1.30 of the Disclosure Schedule sets forth a true, correct and complete list of the identities of any Person whose consent or approval is required and the matter, agreement or contract to which such consent relates in connection with the transfer, assignment or conveyance by Seller of any of the Acquired Assets.

8.1.31 Bankruptcy. Seller is not involved in any action, suit, complaint, charge, hearing, inquiry, investigation or legal or administrative arbitration proceeding by or against Seller as a debtor before any governmental entity or authority under Title 11 of the U.S. Bankruptcy Act or any other insolvency or debtor's relief act, whether state or federal, or for the appointment of a trustee,

receiver, liquidator, assignee, sequestration, or other similar official for any part of the property of Seller.

8.1.32 Absence of Undisclosed Liabilities. To Seller's Knowledge, to the extent it relates to the Business, except (1) as and to the extent for which provision is made on the Estimated Closing Date Balance Sheet and the Closing Date Balance Sheet (excluding the notes thereto, of which in any event there shall be none) or (2) as disclosed in Section 8.1.32 of the Disclosure Schedule, as of the Closing Date, Seller had (A) no debts, liabilities or obligations (whether absolute, accrued, contingent or otherwise) of any nature whatsoever arising out of or relating to the Business or operations thereof, and (B) no other debts, liabilities or obligations relating to or arising out of any act, omission, transaction, circumstance, sale of goods or services, state of facts or other condition which occurred or existed on or before such date, whether or not then known, due or payable.

8.1.33 Guaranties. Seller is not a guarantor or otherwise is liable for any Liability or obligation (including indebtedness) of any other Person.

8.1.34 Disclosure. The representations and warranties contained in this Section 8.1 (including the Disclosure Schedule and any other schedules and exhibits required to be delivered by Seller to Buyer pursuant to this Agreement) and any certificate furnished or to be furnished by Seller to Buyer do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements and information contained in this Section 8.1 not misleading.

8.2. Representations and Warranties of Buyer. Buyer represents and warrants to Seller that the statements contained in this Section 8.2 are true, correct and complete as of the date of this Agreement and, unless a date is specified in such representation and warranty, will be true, correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this Section 8.2). Buyer represents and warrants to Seller as follows:

8.2.1 Organization of Buyer. Buyer is a corporation duly organized, validly existing, and in good standing under the laws of The Commonwealth of Massachusetts.

8.2.2 Authority for Agreement. Buyer has full power and authority (including full corporate power and authority) to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and binding obligation of Buyer, enforceable in accordance with its terms and conditions.

8.2.3 Noncontravention. Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Sections 2 and 3 above), will (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which Buyer is subject or any provision of its charter or bylaws or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Buyer is a party or by which it is bound or to which any of its assets is subject. Subject to Article 4 hereof, Buyer does not need to give any notice to, make any filing with, or obtain any authorization, consent, or approval of any Government or Governmental agency in order for the Parties to consummate the transactions

contemplated by this Agreement (including the assignments and assumptions referred to in Sections 2 and 3 above).

8.2.4 Brokers' Fees. Buyer has no Liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated.

8.2.5 Litigation. No litigation or Governmental proceeding is pending or, to Buyer's Knowledge, threatened, that may challenge the validity of the obligations hereunder of Buyer or the performance of the terms and conditions of this Agreement by Buyer.

8.2.6 Disclosure. The representations and warranties contained in this Section 8.2 and any certificate furnished or to be furnished by Buyer to Seller do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements and information contained in this Section 8.2 not misleading.

8.2.7. Financial Condition. Buyer has the financial ability to complete the transactions described herein.

8.2.8. Regulatory Approvals and Consents. Between the date of this Agreement and the Closing Date, Buyer:

(a) will use its best efforts to obtain, as promptly as practicable, all consents, approvals, authorizations and clearances of governmental and regulatory authorities and other entities required to consummate the transactions contemplated herein;

(b) will provide such other information and communications to governmental and regulatory authorities and other entities as Seller or such authorities or entities may reasonably request; and

(c) will cooperate with Seller in obtaining, as soon as practicable, all consents, approvals, authorizations and clearances of governmental and regulatory authorities and other entities required to consummate the transactions contemplated hereby.

8.2.9. Employment Matters. Buyer shall use its best efforts to enter into a good faith collective bargaining agreement with the union.

8.2.10 Product Liability Claims. Buyer represents and acknowledges that any future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against Buyer which gives rise to any Liability, in contract, tort or otherwise, (a "Claim"), made after the Closing Date as a result of the ownership, possession, or use of any product manufactured, sold, leased, or delivered by Seller (irrespective of the date any product which gives rise to such Claim was sold), shall be the sole responsibility (financially and otherwise) of the Buyer provided that the occurrence giving rise to such Claim takes place after the Closing Date.

ARTICLE 9. PARTICULAR COVENANTS OF SELLER AND BUYER

9. Covenants. The Parties agree:

9.1 General. Each of the Parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement (including satisfaction, but not waiver, of the closing conditions set forth in Article 6 hereof).

9.2 Notices and Consents. Seller has given any notices to third parties, and Seller will use its best efforts to obtain any third party consents, that are required to transfer the Acquired Assets to Buyer, and any other consent that Buyer may reasonably request. Buyer will reasonably cooperate with Seller in obtaining any such consents.

9.3 Operation of Business. Except for the Construction, Seller will not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business in respect of the Business except as necessary in connection with this Agreement. Without limiting the generality of the foregoing, Seller (i) will not, in respect of the Business, engage in any practice, take any action, or enter into any transaction of the sort described in Section 8.1.8 hereof and (ii) until Closing will use reasonable efforts to (A) keep available to Buyer the services of the Employees, and use reasonable efforts to keep agents and independent contractors, and (B) use reasonable efforts to preserve for the benefit of Buyer the goodwill of Seller's customers, suppliers, landlords and others having business relations with it.

9.4 Preservation of Business. Seller will use reasonable efforts to keep its business and properties substantially intact, including its present operations, physical facilities, working conditions, and relationships with lessors, licensors, suppliers, customers, and employees.

9.5 Full Access. Seller will, upon reasonable advance notice and approval (which approval will not be unreasonably withheld or delayed), permit representatives of Buyer to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of Seller, to all premises, properties, personnel, customers, vendors, books, records (including Tax records), contacts, and documents of or pertaining to the Business. Seller will assist Buyer to transition customers and vendors to Buyer.

9.6 Notice of Developments. Each Party will give prompt written notice to the other Party of any specific events occurring subsequent to the execution of this Agreement and prior to the Closing Date which would cause a failure of the conditions set forth in Sections 6.1 and 6.2 hereof with respect to representations and warranties of such Party. No disclosure by any Party pursuant to this Section 9.6, however, shall be deemed to amend or supplement the Disclosure Schedule or to prevent or cure any misrepresentations, breach of warranty, or breach of covenant.

9.7 Exclusivity. Subject to the rights of the Parties to terminate this Agreement in accordance with Section 13.1, Seller will not (1) solicit, initiate, or encourage the submission of any proposal or offer from any Person, or enter into or consummate any transaction, relating to the acquisition of any portion of the Acquired Assets (other than sales of inventory in the Ordinary Course of Business) or (2) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or

attempt by any Person to do or seek any of the foregoing. Seller will notify Buyer immediately if any Person makes any proposal, offer, inquiry, or contact with respect to any of the foregoing.

9.8 Access to Records after Closing. Seller may retain a single set of copies of any financial books and records of Seller which Seller reasonably believes will be required by it for the purpose of performing any of Seller's accounting, public reporting, or other administrative functions which are performed in the Ordinary Course of Business. Seller shall destroy such copies upon Seller's determination that any such copies are no longer reasonably required by them for the purposes set forth in the preceding sentence. Seller's use, disclosure and disposition of such copies shall otherwise be governed in accordance with Section 9.12 to the extent that such copies contain Confidential Information. For a period of seven (7) years after the Closing Date, Seller and its representatives shall have reasonable access to any other financial books and records of Seller to the extent that such access may reasonably be required by Seller in connection with matters relating to or affected by the operations of the Business prior to the Closing Date. Such access shall be afforded by Buyer upon receipt of reasonable advance notice and during normal business hours. Seller shall be solely responsible for any costs or expenses incurred by them pursuant to this Section 9.8.

9.9 Bulk Sales Compliance. Buyer hereby waives compliance by Seller with the provisions of the Bulk Sales Law of any state.

9.10 Future Assurances.

(a) At any time and from time to time after the Closing, at the request of Buyer and without further consideration, except as stated below, Seller will execute and deliver such other instruments of sale, transfer, conveyance, assignment and confirmation and take such action as Buyer may reasonably determine is necessary to transfer, convey and assign to Buyer, and to confirm Buyer's title to or interest in the Acquired Assets, to put Buyer in actual possession and operating control thereof and to assist Buyer in exercising all rights with respect thereto.

(b) At any time and from time to time after the Closing, at the request of Seller and without further consideration, except as stated below, Buyer will execute and deliver such other instruments of sale, transfer, conveyance, assignment and confirmation and take such action as Seller may reasonably determine is necessary to effectuate the transactions contemplated herein.

9.11 Noncompetition. Seller and each of the Stockholders covenants as follows:

(a) For a period of four (4) years from and after the date hereof, each shall not, directly or indirectly, either as an individual or as an employee, partner, officer, owner, director, shareholder, advisor or consultant, or in any other capacity whatsoever, of any Person:

(1) conduct or assist others in conducting or be involved or interested in any manner in any business which is in competition with the developing, manufacturing, distribution, marketing or selling of Products;

(2) recruit, solicit or hire, or assist any other Person in recruiting, soliciting or hiring any Personnel (as hereinafter defined), or induce or attempt to induce or assist any other Person in inducing or attempting to induce any Personnel to terminate or alter his relationship with Buyer or any of its Affiliates (collectively "Recruiting Activity"); or

(3) solicit any Customer (as hereinafter defined), or induce, attempt to induce or assist any other Person in inducing or attempting to induce any Customer to discontinue or alter its relationship with Buyer or any of its Affiliates (collectively "Solicitation Activity").

(b) For the purposes of this Section 9.11, the term "Personnel" shall mean any Person who is an employee or consultant of Buyer or any of its Affiliates, and the term "Customer" shall mean any Person which is, or within the twelve (12) month period immediately preceding the date of such Solicitation Activity was, a customer, distributor, dealer or independent salesperson of Buyer or any of its Affiliates.

(c) The Stockholders represent that they are the sole stockholders of Seller and that a portion of the Purchase Price paid for the Acquired Assets will inure to their benefit and constitute compensation for their agreements set forth in this Section 9.11, and further represent that the business of Buyer and its Affiliates is, and the parties agree that it will be, international in scope, and that geographical limitations on the covenants set forth in this Section 9.11 are therefore not appropriate. The scope of each of the covenants contained in this Section 9.11 are reasonable as to time, area and persons and are necessary to protect the legitimate business interests of Buyer and its Affiliates. Such covenants will be regarded as divisible and if any such covenant is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or persons or in too broad a geographic area, despite the agreement of the parties as herein expressed, it shall be interpreted to extend over the maximum period of time, range of activities or persons, or geographic area as to which it may be enforceable. The provisions of this Section 9.11 shall survive the Closing hereunder.

9.12 Confidentiality.

(a) From and after the Closing, Seller will treat and hold as such all of the Confidential Information, refrain from using any of the Confidential Information except in connection with this Agreement, and deliver promptly to Buyer or destroy, at the request and option of Buyer, all tangible embodiments (and all copies) of the Confidential Information which are in its possession. From and after the Closing, in the event that Seller is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information, Seller will notify Buyer promptly of the request or requirement so that Buyer may seek an appropriate protective order or waive compliance with the provisions of this Section 9.12. If, in the absence of a protective order or the receipt of a waiver hereunder, Seller is, on the advice of counsel, compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, Seller may disclose the Confidential Information to the tribunal; provided, however, that Seller shall use its best efforts to obtain, at the request of Buyer, an order or other assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed as Buyer shall designate.

(b) If the Closing shall not occur, Buyer will treat and hold as such all of the Confidential Information, refrain from using any of the Confidential Information except in connection with this Agreement, and deliver promptly to Seller or destroy, at the request and option of Seller, all tangible embodiments (and all copies) of the Confidential Information which are in its possession. In the event that Buyer is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose

any Confidential Information, Buyer will notify Seller promptly of the request or requirement so that Seller may seek an appropriate protective order or waive compliance with the provisions of this Section 9.12(b). If, in the absence of a protective order or the receipt of a waiver hereunder, Buyer is, on the advice of counsel, compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, Buyer may disclose the Confidential Information to the tribunal; provided, however, that Buyer shall use its best efforts to obtain, at the request of Seller, an order or other assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed as Seller shall designate.

9.13 Injunctions. If any United States or state court having jurisdiction over Buyer, Seller or any of the Acquired Assets, issues or otherwise promulgates any injunction, decree or similar order which prohibits the consummation of the transactions contemplated hereby, Buyer and Seller shall use commercially reasonable efforts to have such injunction, decree or order dissolved or otherwise eliminated as promptly as possible and to pursue the underlying litigation in good faith; provided, however, that nothing herein shall affect Buyer's or Seller's respective rights under Sections 6.1 and 6.2 hereof.

9.14 Communications. Any communications, press releases, public announcements or publicity proposed to be released by either party hereto concerning this Agreement or the transactions hereby contemplated shall be subject to prior review by and written approval of the other party, except to the extent that such disclosure is required by applicable law or regulation within a time which acts to preclude such review and approval.

9.15 Satisfaction of Conditions. In the event that Buyer shall at any time prior to the Closing Date determine that any representation or warranty of Seller contained in this Agreement is not true or accurate, Buyer shall promptly give Seller written notice thereof, including a description of such untrue or inaccurate representation or warranty. If such representation or warranty can thereafter be made true and accurate by (a) the ministerial act of filing or recording a document or documents, (b) the payment of money, or (c) any other act, Seller shall have the obligation within twenty (20) business days after receipt of such notice to make such filing or recording, pay such money or take such act, and upon such filing, recording, payment or act, such condition shall be deemed timely satisfied, and the Closing Date shall to the extent needed be extended to the date of such satisfaction; provided, however, that with respect to subsection (c) of this Section 9.15, if any such act cannot be completed within such 20-day period, Seller shall be obligated to commence such action within such 20-day period and diligently pursue completion of such action as soon as reasonably possible after the expiration of the 20-day period.

9.16 Tax Matters; Purchase Price Allocation.

(a) Seller agrees to pay all sales, use and transfer Taxes on the transfer of the Acquired Assets hereunder, except that real estate stamp taxes on the Deed shall be paid in accordance with the allocation specified by the applicable Law.

(b) As between Seller (and its Affiliates) and Buyer (and its Affiliates), Buyer shall be liable for any and all Taxes with respect to the operation of the Business by Buyer or its Affiliates after Closing.

(c) Seller shall include the results of operations of the Business through the Closing in consolidated or other appropriate federal income tax returns required next to be filed after the Closing.

Buyer shall include the results of operations of the Business as conducted by Buyer or its affiliates following the Closing in consolidated or other appropriate returns required next to be filed after the Closing.

(d) Refunds or credits of Taxes relating to the operations of the Business before the Closing shall be for the account of Seller. Refunds or credits of Taxes relating to the operations of the Business by Buyer or its affiliates from and after the Closing shall be for the account of Buyer. Any refunds or credits of Taxes due Seller and received by Buyer pursuant to this subsection (c) shall be promptly paid by Buyer to Seller after receipt thereof. Any refunds or credits due Buyer and received by Seller pursuant to this subsection (c) shall be promptly paid by Seller to Buyer after receipt thereof.

(e) Buyer and Seller shall agree on the allocation of the Purchase Price among the Acquired Assets based on the Estimated Closing Date Balance Sheet in accordance with Schedule 9.16. To the extent that the Final Purchase Price differs from the Estimated Purchase Price, such allocation shall be adjusted proportionately to conform it to the Final Purchase Price.

(f) Neither Seller nor Buyer shall take a position in any tax proceedings, tax audit or otherwise inconsistent with the allocation of the Purchase Price established pursuant to subsection (e), above; provided, however, that nothing contained herein shall require Seller or Buyer to contest any challenge to such determinations beyond, or otherwise than by the exhaustion of, administrative remedies before any taxing authority or agency, and neither Seller nor Buyer shall be required to litigate before any court any proposed deficiency or adjustment by any taxing authority or agency which challenges such determinations of fair market value. In the event that any claim shall be made by any taxing authority against either Buyer or Seller that, if successful, would have the effect of altering such allocations, then the party that is the subject of such claim (the "Involved Party") shall give notice thereof to the other party (the "Other Party") in writing within ten (10) business days following the day on which such claim is made. Thereafter, the Involved Party shall have control of any contest relating thereto, but the Involved Party shall consider in good faith any request or suggestion by the Other Party concerning such contest, shall notify the Other Party of any conference, hearing or proceeding relating to such contest, shall (to the extent it is feasible to do so) permit the Other Party to participate therein at such Other Party's expense and shall not object to such Other Party's submission of briefs and memoranda of law relating thereto, and shall provide the Other Party on a timely basis with any relevant information reasonably requested by such Other Party.

(g) Each party will cooperate to the extent practicable in minimizing all taxes and fees levied by reason of the sale and conveyance to Buyer of the Acquired Assets.

9.17 Reassignable Accounts Receivable. (a) Buyer shall have the option, after the date which is one hundred eighty (180) days after the Closing Date but not later than the date which is two hundred forty (240) days following the Closing Date, to reassign to Seller any of the Accounts Receivable, without recourse to Buyer, which are outstanding as of one hundred eighty (180) days after the Closing Date, pursuant to and on the conditions set forth in this Section 9.17 (for purposes of this Section 9.17, the Accounts Receivable which meet the foregoing criteria shall be referred to as "Reassignable Accounts Receivable"), and Buyer may offset against the Escrowed Amount pursuant to Section 5.6 hereof the face amount remaining due and payable on the Reassignable Accounts Receivable transferred to Seller less the amount of reserve for doubtful accounts on the Closing Date Balance Sheet within thirty (30) days of the notice received from Buyer pursuant to Section 9.17(b) below. Buyer agrees that any Accounts Receivable which were not billed by Seller as of the Closing

Date will be billed by Buyer as soon after the Closing Date as is reasonably practicable. Buyer agrees that all payments received from account debtors with respect to any Accounts Receivable shall be applied to the oldest invoice or statement with respect to such account debtor, unless such account debtor specifies in writing that payment is on account of a particular identified invoice or statement.

(b) A list of Reassignable Accounts Receivable that Buyer intends to sell, assign and transfer to Seller shall be presented to Seller in writing no more than one hundred eighty (180) days following the Closing Date. Such list shall consist of the name of the account debtor, and the amount of the Reassignable Account Receivable which remains due and payable from such account debtor as of one hundred eighty (180) days following the Closing Date. Buyer need not assign and transfer all Reassignable Accounts Receivable remaining outstanding as of two hundred forty (240) days following Closing, but if Buyer includes any Reassignable Account Receivable from an account debtor for which Buyer has a reasonable basis to question its ability to pay, it may include all Reassignable Accounts Receivable from such account debtor. Following the reassignment of any Reassignable Accounts Receivable to Seller, Buyer shall cooperate with Seller in connection with any such reassignment by providing to Seller all information concerning such reassignment as may reasonably be requested by Seller.

(c) Buyer agrees at its own expense during the one hundred eighty (180)-day period following the Closing Date to maintain a reasonable staff of employees working on collections and exert good faith efforts to collect the Accounts Receivable as quickly as possible (using its normal collection practices for any other accounts receivable owned by Buyer).

(d) Seller and Buyer shall notify each other no later than the fifteenth (15th) day of each month of any payments they respectively received from any of the account debtors on the list presented to Seller pursuant to Section 9.17(a) during the prior month. Buyer shall immediately forward to Seller any payments it receives from account debtors on the list presented to Seller pursuant to Section 9.17(a) which are to be applied to the Reassignable Accounts Receivable. Seller and Buyer agree that so long as Seller has not received full payment from an account debtor with respect to any Reassignable Accounts Receivable, all amounts collected from the account debtor by Seller or Buyer, unless such account debtor specifies in writing that payment is on account of particular identified invoices or statements, shall be applied first to the account(s) owed to Seller by the account debtor with respect to any Reassignable Accounts Receivable.

9.18 Construction of Addition to Premises. Butcher's acknowledges that Seller is currently in the process of constructing an approximately 22,000± square foot addition to the Premises (the "Construction") and will continue to do so until the Closing. Seller agrees that it will keep Buyer fully informed about the Construction and the decisions relating thereto and will promptly provide to Buyer all correspondence, reports, agreements and other information related to the Construction. Seller further agrees that Buyer shall have an opportunity to discuss with Seller any issues that may arise relating to such Construction.

9.19 Obligations of Buyer Regarding Products. Buyer agrees that from and after the Closing date, it shall (a) maintain commercially reasonable amounts of product liability insurance, (b) maintain samples of each batch in accordance with Buyer's usual and customary procedures, which in any event shall be not less than for two (2) years from manufacture of the product; *provided, however*, that disinfectants and pesticides shall be maintained for three (3) years from manufacture, and (c) maintain batch records for seven (7) years from manufacture of the product to which the records relate.

ARTICLE 10. EMPLOYEES AND EMPLOYEE MATTERS

10.1. Employment. Buyer shall have no obligation under this Agreement to make offers of employment, or offers of employment on any specific terms, to any of Seller's employees in the Business. With respect to the Employees of Seller that Buyer desires to hire as of the Closing Date, Seller will assist Buyer in its efforts to hire such Employees and Seller shall (a) terminate all Employees immediately prior to Closing and, subject to Section 10.2 hereof, pay any and all Liabilities relating to such termination including, without limitation, any payments and benefits due such Employees pursuant to accrued salary and wages, vacation, pension, retirement, savings, health, welfare and other benefits and severance payments or similar payments of the Employees and (b) provide to all Employees any notice (which notice shall be reasonably acceptable to Buyer) required under any law or regulations in respect of such termination including, without limitation COBRA. With respect to the Employees of Seller that Buyer desires to hire as of the Closing Date, Buyer shall have the sole right to set the terms and conditions of employment for each of such Employees.

10.2. Benefit Plans. Any Exempt Employee who immediately after the Closing becomes an active full-time Exempt Employee of Buyer shall be eligible to participate in Buyer's employee health, life insurance and disability plans as of the date such Exempt Employee commences active employment with Buyer. For purposes of calculating seniority and vacation, personal and sick time benefits following the Closing, each Exempt Employee shall receive credit with Buyer for service while employed by Seller.

10.3. Allocation of Accrued Vacation, Sick Pay. Buyer shall be liable, responsible and obligated for the payment of up to the maximum amount of \$40,000 for vacation benefits of Employees accrued as of the Closing Date. Subject to the immediately preceding sentence, Seller shall be liable, responsible and obligated for the payment of all vacation, sick and unavoidable absence pay benefits which have been accrued as of the Closing Date by or on behalf of any and all employees.

10.4. No Third Party Rights. Any assumption by Buyer of the liabilities, responsibilities and obligations relating to Employees shall not in any way or at any time create any third party beneficiary rights for or on behalf of any person(s) other than the parties to this Agreement.

10.5. Contract Labor.

(a) Seller agrees to continue to employ those of its existing employees (other than Employees) whom Buyer shall have agreed to be employed during the 60-day period from and after the Closing (the "Transition Period") and who are willing to continue to work for Seller and perform the Business under the supervision of Buyer during the Transition Period. Buyer shall be responsible for payment of all amounts incurred by Seller in connection with the provision of such labor to Buyer during the Transition Period, including wages, insurance and other employee benefits, workers' compensation, payroll taxes (including the employer portion of such taxes), and payroll preparation fees and expenses, as well as all other reasonable and necessary expenses incurred by Seller as a result of the provision of such labor to Buyer during the Transition Period.

(b) Seller agrees to continue to employ those of its existing employees (other than Employees) who have then currently effective written employment agreements with Seller (each of whom is listed on Schedule 10.5(b) hereof) until the expiration of the notice period applicable to the termination of such employee, in accordance with the termination provisions of such employee's

employment agreement. Buyer shall be responsible for payment of all amounts incurred by Seller in connection with the continued employment of each such employee, including wages, insurance and other employee benefits, workers' compensation, payroll taxes (including the employer portion of such taxes), and payroll preparation fees and expenses, as well as all other reasonable and necessary expenses incurred by Seller as a result of such continued employment (all such amounts, the "Contract Employee Payments"); *provided, however*, that the maximum amount of Contract Employee Payments for each such employee shall be limited to the Contract Employee Payments incurred for the period from the Closing Date until the expiration of the termination notice period applicable to such employee (in accordance with the termination provisions of such employee's employment agreement) assuming that the termination notice in all cases was provided on the Closing Date. Seller agrees that it shall provide written notice of termination to each such employee on or prior to the Closing Date.

ARTICLE 11. TRANSFER OF REAL PROPERTY

Without in any way limiting the generality of the terms and conditions contained elsewhere in this Agreement (including any terms and conditions relating to the transfer of the real property), the Parties agree as follows:

11.1 Feasibility Study and Inspection. After the date hereof, Buyer is granted the right to conduct physical inspections and studies of the Real Property during normal business hours, including, without limitation, environmental assessments and studies, title and zoning review and survey work. Buyer or its designated agents may enter upon the Real Property for purposes of such inspection which may be deemed necessary by Buyer. If Buyer determines that the Real Property is not suitable for any reason for Buyer's intended use or purpose, or is not in satisfactory condition in Buyer's sole discretion, then Buyer may, by written notice to Seller, on or before the Closing Date, terminate this Agreement, in which event this Agreement shall terminate, and no Party shall have any further rights, duties or obligations hereunder. If the written notice described in the preceding sentence is not given to Seller prior to the Closing Date, or should Buyer indicate its written acceptance of the Real Property prior to the Closing Date, then the conditions of this Section 11.1 shall be deemed to have been fully satisfied, and Buyer may not thereafter terminate this Agreement pursuant to this Section 11.1. All inspections, studies and repairs resulting from environmental work shall be at Buyer's sole expense.

11.2 Possession. Full possession of the Real Property free of all tenants and occupants (except as set forth on Schedule 8.1.13(G) is to be delivered at the time of the delivery of the Deed, such Real Property to be then (a) in the same condition as it now is, ordinary use and wear thereof excepted, and (b) not in violation of any building and zoning Laws, and (c) in compliance with all instruments of record. The Buyer shall be entitled personally to inspect the Real Property prior to the delivery of the Deed in order to determine whether the condition thereof complies with the terms of this Agreement.

11.3 Title and Survey. The following shall be conditions precedent to Buyer's obligations under this Agreement:

11.3.1 Survey. Buyer, at Buyer's cost and expense, shall obtain a current ALTA/ACSM survey of the Real Property ("Survey"), prepared by a surveyor registered in the state where the Real Property is located and acceptable to Buyer and the Title Company. The Survey shall certify to Buyer and the Title Company as follows: (i) the Survey was made and staked on the ground;

(ii) the Survey shows the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other waterways, fences, easements, and rights-of-way on or adjacent to the Real Property, if any; (iii) there are no visible discrepancies, conflicts or encroachments except as shown on the Survey; (iv) the Real Property does not lie in the 100-year flood plain as established by the Federal Emergency Management Agency or any other governmental body; (v) the Survey is a true, correct and accurate representation of the Real Property; (vi) the Survey sets forth the number of total acres/square feet comprising the Real Property, together with a metes and bounds description thereof; and (vii) the Survey sets forth all building lines affecting the Real Property created by deed restriction, plat or municipal zoning ordinance. All easements and rights-of-way shall be referenced to the recording information applicable to the documents creating such easements or rights-of-way which have been recorded with the County Clerk of the County in which the Real Property is located. The Survey shall locate and mark all corners and angles of the Real Property's perimeter on the ground with permanent, buried iron surveyor's stakes. The Survey shall also reflect the distances between each property line and the closest building thereto; the distances between the buildings; the location of the water and electrical service to the Real Property, fire hydrants on or near the Real Property and storm sewer inlets on the Real Property; and selected topographical elevations for the Real Property. Buyer shall make any objections to matters revealed by the Survey within the time and in the manner set forth in Section 11.3.4 below, and such objections shall be treated as title objections as set forth in Section 11.3.4.

11.3.2 Owner Policy of Title Insurance. Buyer, at Buyer's expense, shall obtain at Closing an ALTA (1970 rev.) Owner's Policy of Title Insurance issued by the Title Company (the "Title Policy"), insuring title to the Real Property in Buyer's name in the amount of the Purchase Price allocated to the Real Property and deleting all preprinted exceptions, except for the then current year's taxes, eliminating the creditor's rights exceptions, and insuring easements included in the Real Property description as separate insured tracts as required by Buyer and, if available and at the election and sole cost of Buyer (but not as a condition of Closing), containing additional coverage for (1) 3.0 Zoning Endorsement; (2) access, (3) survey and location coverage insuring the Real Property is the same as shown on the Survey, (4) environmental lien coverage, (5) coverage verifying the property constitutes a separate tax parcel and has been subdivided in compliance with applicable ordinances, and (6) any matters which become permitted exceptions under Section 11.3.4 of this Agreement (herein collectively called the "Permitted Exceptions").

11.3.3 Title Commitment. Buyer will cause the Title Company to deliver to Buyer and Buyer's counsel (i) a written commitment ("Commitment") from the Title Company to issue the Title Policy, and (ii) legible copies of all instruments (the "Instruments") that are referred to in the Commitment.

11.3.4 Title and Survey Objections. Buyer shall have thirty (30) days after the date hereof in which to review and to object in writing to the Commitment, the Instruments, and/or the Survey. If Buyer fails to give written notice to Seller of an objection by the Closing Date, Buyer shall be deemed to have no objection to the Commitment, Instruments, or the Survey, as the case may be, and all title exceptions revealed thereby shall be deemed to be Permitted Exceptions. If Buyer gives written notice of objection to Seller, Seller shall have ten (10) days after Seller's receipt of Buyer's objections in which to respond to those objections in writing and to propose in writing any curative measures to be taken by Seller and the time period which Seller will need to cure the same. Buyer may then (i) accept Seller's proposed curative measures, if any, including the time period which Seller will need to cure the same, or (ii) terminate this Agreement if Buyer is not satisfied with Seller's response. In the event that Buyer accepts Seller's curative measures, Seller shall have the right, but not the

obligation (except as set forth below), up to the Closing Date to cure or remove any exceptions to which Buyer has made such a written objection, in order that the Title Policy will be issued to Buyer without containing the exceptions to which Buyer objected.

11.4 Inability to Transfer Property; Cure Period. If Seller shall be unable to give title or to make conveyance, or to deliver possession of the Real Property, all as herein stipulated, or if at the time of the delivery of the Deed the Real Property does not conform with the provisions hereof, then the Seller shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Real Property conform to the provisions hereof, as the case may be, in which event the Seller shall give written notice thereof to the Buyer at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) days. If at the expiration of the extended time the Seller shall have failed so to remove any defects in title, deliver possession, or make the Real Property conform, as the case may be, all as herein agreed, or if at any time during the period of this Agreement or any extension thereof, the holder of a mortgage on the Real Property shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then all other obligations of the Parties shall cease and this Agreement shall be void without recourse to the Parties. Seller shall have an affirmative obligation without any extension of the Closing Date to pay or discharge, at or prior to Closing (a) any and all liens or encumbrances arising after the date of the Commitment, whether created or assumed by Seller, (b) any and all mechanic's liens or materialman's liens, (c) any and all deeds to secure debt and other liens securing debt encumbering the Real Property, and (d) any and all objections which Seller has specifically agreed in writing to release or remove on or before the Closing Date. If Seller fails to pay or discharge any exception to title described in clauses (a), (b), (c) or (d) of the immediately preceding sentence, then, in addition to any other rights and remedies available to Buyer, Buyer shall have the option to (1) waive such lien or encumbrance and receive a credit against the Purchase Price equal to the cost of curing or eliminating same if it can be cured or eliminated by payment of a liquidated amount, or (2) require Seller to use the Purchase Price to the extent necessary to pay or discharge such lien or encumbrance at Closing. If Buyer elects to proceed under either clause (1) or clause (2) of the preceding sentence, and the total amount necessary to pay or discharge all such liens and encumbrances exceeds the Purchase Price, then Seller shall be obligated to pay such excess at the Closing.

11.5 Insurance. Until the delivery of the Deed, the Seller shall maintain insurance on the Real Property as follows and shall, simultaneously with the execution hereof, provide evidence of such insurance to Buyer in form and substance reasonably satisfactory to Buyer:

<u>Type of Insurance</u>	<u>Amount of Coverage</u>
Fire and Extended Coverage	As presently insured.
Liability Coverage	As presently insured.

11.6 Time of Essence. Time is of the essence of this Agreement.

11.7 Risk of Loss. The risk of loss or damage to the improvements to the Real Property or the personal property located thereon by fire or other casualty or cause beyond Seller's control, or the taking of all or any portion of the Real Property by condemnation, eminent domain or other Governmental acquisition proceedings (collectively, "Damage") in advance of the Closing Date shall be borne by Seller. In the event of any such Damage, Seller, at its option, shall have ninety (90) days within which to repair or replace such Damage. In the event that Seller does not elect to complete

such repair or replacement or fails to complete such repair or replacement within such ninety (90) day period after the occurrence of such Damage, Buyer shall have the right either:

(a) to terminate this Agreement, in which event this Agreement shall terminate, and the Parties shall have no further rights or obligations hereunder, except as otherwise provided herein; or

(b) to accept the Real Property as provided in this Agreement, without any reduction of the Purchase Price, in which event Buyer shall be entitled to an assignment from Seller of all insurance proceeds (and the amount of the deductible, if any) or condemnation or other award due or payable on account of such Damage, less any amounts actually expended by Seller with the prior written approval of Buyer in connection with any such proceedings and in connection with the repair (including any temporary repair) or replacement of such Damage.

ARTICLE 12. INDEMNIFICATION

12.1 Survival of Representations and Warranties. All of the representations and warranties of Seller (except for those contained in Sections 8.1.2 (Authorization of Transaction), 8.1.5 (Title to Assets), 8.1.12 (Taxes) and 8.1.26 (Environment, Health and Safety) contained herein or in any document certificate or other instrument required to be delivered hereunder shall survive the Closing and continue in full force and effect until twelve (12) months after Closing. The representations and warranties of Seller contained in Sections 8.1.2, 8.1.5, 8.1.12 and 8.1.26 shall survive the Closing and shall continue in full force and effect without limit as to time (subject to any applicable statutes of limitations and any extensions or waivers thereof for taxes). The termination of any such representation and warranty, however, shall not affect any claim for breaches of representations or warranties if written notice thereof is given to the breaching party or parties prior to such termination date. All of the representations and warranties of Buyer contained in Section 8.2 shall survive the Closing and shall continue in full force and effect until twelve (12) months after Closing.

12.2 Indemnification Provisions for Benefit of Buyer. Seller agrees to indemnify, defend and hold harmless Butcher's, Buyer and its respective directors, officers and Affiliates against and in respect of all Liabilities, obligations, judgments, Liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, Taxes, losses, fines, penalties, expenses, fees, costs, amounts paid in settlement (including reasonable attorneys' and expert witness fees and disbursements in connection with investigating, defending or settling any action or threatened action), arising out of any claim, damages, complaint, demand, cause of action, audit, investigation, hearing, action, suit or other proceeding asserted or initiated or otherwise existing in respect of any matter (collectively, the "Losses") that results from:

(a) the inaccuracy of any representation or warranty made by Seller herein or any third party allegation which if true would mean a representation or warranty made by Seller herein was inaccurate, or resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement or covenant of Seller contained herein or in any agreement or instrument required to be entered into in connection herewith or from any misrepresentation in or omission from any schedule, document, certificate or other instrument required to be furnished by Seller hereunder; provided, however, that Seller shall not be liable under this Section 12.2 in respect of Losses until the aggregate of such Losses exceeds \$100,000, provided, further, that after such event Seller shall be required to pay all amounts in excess of and including such \$100,000;

(b) any Liability which is not an Assumed Liability (including any Liability that becomes a Liability of Buyer under any bulk transfer law of any jurisdiction, under any common law doctrine of de facto merger or successor liability, or otherwise by operation of law).

(c) In the event that Seller may be obliged to indemnify Buyer under both subsection (a) and subsection (b) of this Section 12.2, its obligations under subsection (b) shall be controlling and the limitations provided in Section 12.1 hereof relating to its obligations in respect of Losses resulting from the inaccuracy of any representation and warranty, or any misrepresentation, breach of warranty or non-fulfillment of an agreement or covenant as described in Section 12.2(a), shall not apply. Buyer shall provide Seller written notice for any claim made in respect of the indemnification provided in this Section 12.2, whether or not arising out of a claim by a third party.

12.3 Environmental Indemnification. Notwithstanding any other provision of this Agreement to the contrary, this Section 12.3 shall control and limit Seller's obligation to indemnify Buyer for Environmental Liabilities and Costs. Seller agrees to indemnify and hold harmless Buyer against any Environmental Liabilities and Costs to the extent arising out of any condition existing at or prior to Closing that constitutes a violation of, or gives rise to a duty to remediate under, Environmental Laws which occur on property that is owned or leased by Seller on the Closing Date without limit in point of time, knowledge or amount.

12.4 Indemnification Provisions for Benefit of Seller. Buyer hereby agrees to indemnify, defend and hold harmless Seller and its respective directors, officers and Affiliates against and in respect of all Liabilities, obligations, judgments, Liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, Taxes, losses, fines, penalties, damages, expenses, fees, costs, amounts paid in settlement (including reasonable attorneys' and expert witness fees and disbursements in connection with investigating, defending or settling any action or threatened action) arising out of any claim, complaint, demand, cause of action, audit, investigation, hearing, action, suit or other proceeding asserted or initiated in respect of any matter that results from the inaccuracy of any representation or warranty made by Buyer herein, or any third party allegation which if true would mean a representation or warranty made by Buyer herein was inaccurate, or resulting from any misrepresentation, breach of warranty or nonfulfillment of any agreement or covenant of Buyer, including Buyer's agreement to assume certain Liabilities of Seller pursuant to Section 3.1 of this Agreement, contained herein or in any agreement or instrument required to be entered into in connection herewith or from any misrepresentation in or omission from any schedule, document, certificate or other instrument required to be furnished by Buyer hereunder provided, however, that Buyer shall not be liable under this Section 12.4 in respect of Losses until the aggregate of such Losses exceeds \$100,000, provided, further, that after such event Buyer shall be required to pay all amounts in excess of and including such \$100,000.

12.5 Matters Involving Third Parties.

(a) If any third party shall notify any Party (the "Indemnified Party") with respect to any matter (a "Third Party Claim") that may give rise to a claim for indemnification against any other Party (the "Indemnifying Party") under this Section 12, then the Indemnified Party shall promptly notify each Indemnifying Party thereof in writing; provided, however, that no delay on the part of the Indemnified Party in notifying any Indemnifying Party shall relieve the Indemnifying Party from any obligation hereunder unless (and then solely to the extent) the Indemnifying Party forfeits any substantial rights or defenses.

(b) Any Indemnifying Party will have the right to defend the Indemnified Party against the Third Party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as (1) the Indemnifying Party notifies the Indemnified Party in writing within 15 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 the entirety of any Losses the Indemnified Party may suffer covered by Sections 12.2, 12.3 or 12.4, as the case may be, (2) the Indemnifying Party provides the Indemnified Party with evidence acceptable to the Indemnified Party that the Indemnifying Party will have the financial resources to defend against the Third Party Claim and fulfill its indemnification obligations hereunder, (3) the Third Party Claim involves only money damages and does not seek an injunction or other equitable relief, (4) settlement of, or an adverse judgment with respect to, the Third Party Claim is not, in the good faith judgment of the Indemnified Party, likely to establish a precedential custom or practice adverse to the continuing business interests of the Indemnified Party, and (5) 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 12.5(b) above, (1) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, (2) the Indemnified 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 Indemnifying Party (which consent shall not unreasonably be withheld), and (3) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim unless written agreement is obtained releasing the Indemnified Party from all liability thereunder.

(d) In the event any of the conditions in Section 12.5(b) above is or becomes unsatisfied, however, (1) 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 may deem appropriate (and the Indemnified Party need not consult with, or obtain any consent from, any Indemnifying Party in connection therewith), (2) the Indemnifying Party will reimburse the Indemnified Party promptly and periodically for the costs of defending against the Third Party Claim (including attorneys' fees and expenses), and (3) the Indemnifying Party will remain responsible for any Losses the Indemnified Party may suffer to the fullest extent provided in this Section 12.

12.6 Non-Exclusive Remedy. The foregoing indemnification provisions are in addition to, and not in derogation of, any statutory, equitable, or common law remedy any Party may have for breach of representation, warranty, or covenant of this Agreement.

ARTICLE 13. MISCELLANEOUS

13. Termination.

13.1 Termination of Agreement. The Parties may terminate this Agreement as provided below:

(a) the Parties may terminate this Agreement by mutual written consent at any time prior to the Closing;

(b) Buyer may terminate this Agreement by giving written notice to Seller at any time prior to the Closing (1) in the event Seller has breached any representation, warranty, or covenant contained in this Agreement in any material respect, Buyer has notified Seller of the breach, and the breach has continued without cure for a period of 30 days after the notice of breach or (2) if the Closing shall not have occurred on or before December 31, 1998, by reason of the failure of any condition precedent under Section 6.1 hereof (unless the failure results primarily from Buyer itself breaching any representation, warranty, or covenant contained in this Agreement);

(c) Seller may terminate this Agreement by giving written notice to Buyer at any time prior to the Closing (1) in the event Buyer has breached any representation, warranty, or covenant contained in this Agreement in any material respect, Seller has notified Buyer of the breach, and the breach has continued without cure for a period of 30 days after the notice of breach or (2) if the Closing shall not have occurred on or before December 31, 1998, by reason of the failure of any condition precedent under Section 6.2 hereof (unless the failure results primarily from Seller itself breaching any representation, warranty, or covenant contained in this Agreement); or

(d) by either Buyer or Seller, if a court of competent jurisdiction or other governmental authority with competent jurisdiction shall have issued a nonappealable final order, decree or ruling or taken any other nonappealable final action, in each case having the effect of permanently restraining, enjoining or otherwise prohibiting the transfer of the Acquired Assets.

13.2 Effect of Termination. If either Party terminates this Agreement pursuant to Section 13.1 above, all rights and obligations of the Parties hereunder shall terminate without any Liability of either Party to the other Party provided, however, that the provisions of Section 13.12 shall remain in full force and effect and survive any termination of this Agreement.

13.3 No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

13.4 Entire Agreement. This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they related in any way to the subject matter hereof.

13.5 Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party; provided, however, that Buyer may (a) assign any or all of its rights and interests hereunder to one or more of its Affiliates and (b) designate one or more of its Affiliates to perform its obligations hereunder.

13.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

13.7 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

13.8 Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (i) upon confirmation of facsimile, (ii) one business day following the date sent when sent by overnight delivery and (iii) five business days following the date mailed when mailed by registered or certified mail return receipt requested and postage prepaid at the following address:

If to Seller:

Midland Chicago Corporation
5300 West 127th Street
Alsip, IL 60803
Attention: Peter Roth, President
Tel: 708.389.6600
Fax: 708.389.3745

Copy to:

Chuhak & Tecson, P.C.
225 West Washington Street, Suite 1300
Chicago, IL 60606
Attention: Donald J. Russ, Jr., Esq.
Tel: 312.444.9300
Fax: 312.444.9027

If to Buyer:

The Butcher Company, Inc.
67 Forest Street
Marlborough, MA 01752-3012
Attention: Paul P. McLaughlin, President
Tel: 508.481.5700
Fax: 508.485.9998

Copy to:

Gadsby & Hannah LLP
225 Franklin Street
Boston, Massachusetts
Attention: Walter D. Wekstein, Esq.
Tel: 617.345.7000
Fax: 617.345.7050

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

13.9 Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Illinois.

13.10 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

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

13.12 Expenses. Each of Buyer and Seller will bear its own costs and expenses (including legal and accounting fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

13.13 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation. Nothing in the Disclosure Schedule shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Disclosure Schedule identifies the exception with particularity. The Parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any Party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the Party has not breached shall not detract from or mitigate the fact that the Party is in breach of the other representation, warranty, or covenant.

13.14 Incorporation of Exhibits and Schedules. The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

13.15 Specific Performance. Each of the Parties acknowledges and agrees that the other Party 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 Party shall be entitled to an injunction or injunctions to prevent breaches 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 in addition to any other remedy to which it may be entitled, at law or in equity.

13.16 Dispute Resolution.

13.16.1 Mediation. In the event of any dispute, controversy or claim between Buyer and Seller arising under this Agreement (a "Dispute"), Buyer and Seller agree (i) to negotiate in good faith so as to use their best efforts for a period of sixty (60) days to settle any Dispute between them harmoniously and without mediation or arbitration, and (ii) in the event such Dispute is not settled within such sixty (60) day period, to retain a professional mediator who shall be afforded sixty (60) days to resolve any Dispute by mediation in Chicago, Illinois, and whose fees shall be borne equally by the Parties. Failing such harmonious resolution, the Parties expressly agree to comply with the arbitration procedure set forth in Section 13.16.2 hereof.

13.16.2 Arbitration.

(a) Any Dispute which is not resolved in accordance with Section 13.16.1 hereof shall, except as provided in Section 13.16.3 hereof, be settled by a panel of three arbitrators by arbitration in Chicago, Illinois, in accordance with the Rules for Commercial Arbitration of the American Arbitration Association (the "AAA Rules") as amended from time to time and as modified by this Agreement. The arbitrators shall apply Illinois Law.

(b) Seller and Buyer shall each select an arbitrator and the two arbitrators so chosen shall select a third arbitrator. The arbitrators shall possess substantive legal experience in the principal issues in Dispute. Within thirty (30) days after the designation of the arbitrators, the Parties shall meet with the arbitrators, at which time the Parties shall be required to set forth in writing all disputed issues and a proposed ruling on each such issue. After the appointment of the arbitrators, the Parties shall have the right to take such depositions and to obtain discovery regarding the subject matter of the arbitration as would be available to them under the Rules, and the arbitrators shall have the power and authority to enforce the Parties' respective discovery obligations in accordance with the provisions of the Rules; *provided, however*, that depositions shall not be taken unless leave to do so is first granted by the arbitrators.

(c) Except as may otherwise be agreed in writing by the Disputing Parties or as ordered by the arbitrators upon substantial justification (such as to allow reasonable discovery as provided herein), the hearings of the Dispute shall be held and concluded within one hundred twenty (120) days of submission of the Dispute to arbitration. The arbitrators shall render their final award within thirty (30) days following conclusion of the hearing. The arbitrators shall state the factual and legal basis for the award. The decision of the arbitrators shall be final and binding except as provided in the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.*, and except for errors of law based on findings of fact. Final judgment may be entered upon such an award in any court of competent jurisdiction, but entry of such judgment shall not be required to make such award effective.

13.16.3 Injunctive Relief.

(a) Nothing in this Section 13.16 shall limit any right that the Parties may otherwise have to seek to obtain preliminary injunctive relief in order to preserve the status quo pending the disposition of any mediation process or arbitration proceeding.

(b) For purposes of injunctive relief only, each of the Parties hereby consents to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois and the any court of general jurisdiction in and for Cook County, Illinois (and of the appropriate appellate

courts therefrom) and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue in any such court or that any such proceeding which is brought in any such court has been brought in an inconvenient forum. Subject to applicable Law, process in any such proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Nothing herein shall affect the right of any party to serve legal process in any other manner permitted by law or at equity.

13.16.4 Dispute Resolution/Legal Fees. In the event that legal proceedings, including mediation and/or arbitration, are commenced by Buyer against Seller or by Seller against Buyer, in connection with this Agreement or the Transactions, Buyer and Seller shall share equally in the fees charged by any mediator or arbitrator and each Party shall pay its own attorneys' fees and other costs and expenses, including expert witness costs, incurred by it in such proceedings.

#

[remainder of page intentionally left blank]

09/02/98 17:55 708 389 3745
SEP-02-98 06:46 PM JOHN.P.ROTH

MIDLAND CHICAGO
352 628 5351 +

001/001
P.01

09/02/98 17:48 709 386 3745
09/02/98 WED 18:37 FAX 18007867337

MIDLAND CHICAGO --- JPR
CUSTOMER SERVICE

001/001
002

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

MIDLAND CHICAGO CORP.

By: John P. Roth III
Name:
Its: PRESIDENT
thereunto duly authorized

THE BUTCHER COMPANY, INC.

By: Louise A. Mawhinney
Louise A. Mawhinney
Its Treasurer
thereunto duly authorized

Each of the Stockholders executes this Agreement to acknowledge and accept the terms and conditions of Section 9.11 hereof.

John P. Roth
John P. Roth, Trustee of the John P. Roth
Revocable Trust I, and not individually

John P. Roth
John P. Roth, Trustee of the John P. Roth
Revocable Trust II, and not individually

Jeffrey Roth
Jeffrey Roth, Trustee of the Jeffrey Roth
Revocable Trust, and not individually

John P. Roth III
John P. Roth III

SCHEDULE 2.1.7
INTELLECTUAL PROPERTY

Current Trademarks

1. Leekproof
2. Magee
3. Soft-Off
4. TilePRO
5. Waterthane

Expired Trademarks (In Use)

1. Chex
2. Preservo
3. Rain-Check
4. Weather Master

Expired Trademarks (Not In Use)

1. Building Care

Other Intellectual Property

1. Formulae for the Products set forth on Schedule 1(b).

Ref: 118640/2