

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM557842

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	RELEASE OF SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Elk River Machine Company, LLC		12/30/2019	Limited Liability Company: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Bridgewater Bank		
<b>Street Address:</b>	3800 American Blvd, Suite 100		
<b>City:</b>	Bloomington		
<b>State/Country:</b>	MINNESOTA		
<b>Postal Code:</b>	55431		
<b>Entity Type:</b>	Corporation: MINNESOTA		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3183687	ACROMIX	
<b>Registration Number:</b>	3183689	ACROMIX	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	4142713552		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	414-277-5704		
<b>Email:</b>	tm-dept@quarles.com		
<b>Correspondent Name:</b>	Sue Hoffman		
<b>Address Line 1:</b>	Quarles & Brady LLP, 411 East Wisconsin		
<b>Address Line 4:</b>	Milwaukee, WISCONSIN 53202		
<b>NAME OF SUBMITTER:</b>	Sue Hoffman		
<b>SIGNATURE:</b>	/Sue Hoffman/		
<b>DATE SIGNED:</b>	01/16/2020		
<b>Total Attachments: 16</b>			
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## BRIDGEWATER BANK

December 30, 2019

Elk River Machine Company, LLC  
c/o TJM Capital Partners, LLC  
1230 N. State, Suite 11A  
Chicago, IL 60610

**Re: Limited Release and Consent to Asset Sale**

Reference is made to the Loan and Security Agreement dated as of October 7, 2019, by and between Elk River Machine Company, LLC ("Borrower"), and Bridgewater Bank ("Lender") (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement.

Borrower has advised Lender that Borrower desires to sell certain assets related to its brand name Acromix to Mixer Systems, Inc., a Wisconsin corporation ("Buyer") pursuant to the terms of an Asset Purchase Agreement dated as of the date hereof (the "Asset Purchase Agreement") attached hereto as Exhibit A.

Notwithstanding anything to the contrary contained in the Credit Agreement or any other Loan Document, Lender hereby consents to Borrower's sale of the Acquired Assets (as defined in the Asset Purchase Agreement) pursuant to the Asset Purchase Agreement on the terms and conditions set forth in the Asset Purchase Agreement.

Upon consummation of the transactions contemplated by the Asset Purchase Agreement, Lender agrees that all liens and security interests of Lender in the Acquired Assets sold pursuant to the Asset Purchase Agreement shall automatically terminate and be released without any further action by any party. At the request and sole cost of Borrower, Lender agrees to execute and deliver any documents reasonably necessary to evidence the foregoing release of liens. Lender acknowledges and agrees that Buyer and its affiliates are intended beneficiaries of, and are entitled to rely on, this letter agreement. Upon Lender's request from time to time, Borrower agree to provide Lender with fully executed copies of each other document or agreement contemplated by or executed in connection with the consummation of the asset sale pursuant to the Asset Purchase Agreement.

The consent granted hereunder is specific to the transactions described herein and does not constitute or imply consent to any other transactions, whether or not similar to the transactions described in this letter. Neither the execution and delivery of this letter nor the delivery of any further consent or amendment constitutes a waiver of any Default or Event of Default outstanding on the date hereof or of any of Lender's rights, privileges, powers and remedies under the Credit Agreement or any other Loan Document. Nothing in this letter is or shall constitute a release, satisfaction, or termination of any Obligations, and Borrower hereby reaffirms that each of the Loan Documents is the valid and binding agreement of Borrower, enforceable in accordance with its terms, and reaffirm that the Obligations are not subject to any restriction, setoff, deduction, counterclaim or defense of any kind or characters whatsoever. The Credit Agreement and the other Loan Documents remain in full force and effect in accordance with their original terms, except to the extent of the consent expressly set forth in this letter.

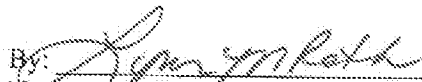
This letter may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts of this letter, taken together, shall constitute but one and the same instrument. Delivery of an executed signature page to this letter by PDF or facsimile transmission shall be as effective as delivery of a manually signed counterpart of this letter.

*Signature page follow*



Very truly yours,

**BRIDGEWATER BANK**

By:   
Name: Lynn Roth  
Title: Vice President

Accepted and agreed:

**ELK RIVER MACHINE COMPANY, LLC**

By:  Gary L. Houselt  
Its:  CEO

*Signature Page to Limited Release and Consent to Asset Sale*

**TRADEMARK**  
**REEL: 006839 FRAME: 0444**

EXHIBIT A

Asset Purchase Agreement

[Executed copy attached.]



## ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this “**Agreement**”) is made as of this 30th day of December, 2019 (the “**Closing Date**”), by and between Elk River Machine Company, LLC, a Delaware limited liability company (the “**Seller**”), and Mixer Systems, Inc., a Wisconsin corporation (the “**Purchaser**”). The parties named above may be referred to individually as a “**Party**” and collectively as the “**Parties**.” Certain capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in **Section 5.6** hereof.

### **RECITALS**

**WHEREAS**, the Seller recently purchased substantially all of the assets (the “**Old Elk River Assets**”) of Elk River Machine Company, a Minnesota corporation (“**Old Elk River**”).

**WHEREAS**, among the Old Elk River Assets were certain assets that Old Elk River used to engage in the business of manufacturing and selling concrete batching and mixing systems under the Acromix brand name (the “**Acromix Business**”);

**WHEREAS**, the Seller desires to sell to the Purchaser, and the Purchaser desires to purchase from the Seller, those certain assets of the Seller set forth on **Exhibit A** attached hereto (the “**Acquired Assets**”) pertaining to the Acromix Business.

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

### **ARTICLE I**

#### **PURCHASE AND SALE OF THE ASSETS**

1.1 **Agreement to Sell and Purchase.** Upon the terms and subject to the conditions set forth herein, the Seller shall sell the Acquired Assets to the Purchaser, and the Purchaser shall purchase the Acquired Assets from the Seller, on the Closing Date and at the time and place of Closing (as defined below) for an aggregate purchase price (the “**Purchase Price**”) of Five Hundred Fifty Thousand Dollars (\$550,000), payable at Closing (as defined below) by wire transfer of immediately available funds to an account specified by the Seller in writing at the Closing.

1.2 **Time and Place of Closing.** The consummation of the transactions that are the subject of this Agreement (the “**Closing**”) shall take place as of the beginning of business on the date hereof.

1.3 **Deliveries.**

(a) **The Seller’s Delivery.** At the Closing, the Seller will execute and deliver or cause to be executed and delivered to the Purchaser: (i) a bill of sale and assignment agreement (the “**Bill of Sale and Assignment Agreement**”), in the form of **Exhibit B** attached hereto, evidencing the Seller’s assignment of the Acquired Assets to the Purchaser; and (ii) assignments of intellectual property in form and substance satisfactory to Purchaser and duly executed by the Company, affecting the assignment of all intangible assets included in and related to the Acquired Assets;

(b) **The Purchaser’s Deliveries.** At the Closing, the Purchaser will execute and deliver or cause to be executed and delivered to the Seller simultaneously with the delivery of the items

referred to in **Section 1.3(a)** above: (i) the bank wire transfer as provided in **Section 1.1**; and (ii) the Bill of Sale and Assignment Agreement.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller hereby represents and warrants to the Purchaser as follows:

2.1 Authorization. The Seller has full authority, right and power to enter into and perform his obligations under this Agreement and each of the agreements, instruments and other documents contemplated hereby (collectively, the “**Transaction Documents**”). This Agreement and each of the Transaction Documents has been duly executed and delivered by the Seller and constitutes the legal, valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as enforcement may be limited under laws relating to bankruptcy, insolvency and similar circumstances and subject to general principles of equity.

2.2 Title to Acquired Assets. The Seller is the sole beneficial and record owner of the Acquired Assets, free and clear of any Liens. The Seller has good and marketable title to the Acquired Assets. Upon consummation of the transactions provided for in this Agreement in accordance with the terms hereof, the Purchaser will acquire good and marketable title to all of the Acquired Assets, free and clear of any Liens.

2.3 Sufficiency of Assets. The Acquired Assets are sufficient to carry on the Acromix Business as currently conducted.

2.4 **DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**. EXCEPT FOR THE FOREGOING REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS ARTICLE II, THE PARTIES AGREE THAT THE SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES TO THE PURCHASER OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY REPRESENTATIONS OR WARRANTIES RELATING TO (A) THE VALUE OF THE ACROMIX BUSINESS OR ANY OF THE ACQUIRED ASSETS, (B) THE MAINTENANCE, REPAIR, CONDITION, DESIGN, PERFORMANCE OR MARKETABILITY OF ANY OF THE ACQUIRED ASSETS, INCLUDING MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY INTENDED USE, (C) THE PRESENCE OR ABSENCE OF ANY HAZARDOUS SUBSTANCES IN, UNDER OR ON, OR DISPOSED OF OR DISCHARGED FROM, THE ACQUIRED ASSETS, OR (D) THE PRESENCE OF ANY VICES OR DEFECTS, WHETHER APPARENT, LATENT OR HIDDEN. IT IS THE EXPRESS AGREEMENT OF THE PARTIES HERETO THAT THE PURCHASER IS OBTAINING ITS RIGHTS IN THE ACQUIRED ASSETS IN THEIR CURRENT CONDITION AND STATE OF REPAIR, “AS-IS, WHERE-IS” AND WITH ALL FAULTS.

## ARTICLE III

### REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Seller as follows:

3.1 Authorization. The Purchaser has full authority, right and power to enter into and perform its obligations under this Agreement and the Transaction Documents to which he is a party. This Agreement has been duly executed and delivered by the Purchaser and constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except as



enforcement may be limited under laws relating to bankruptcy, insolvency and similar circumstances and subject to general principles of equity.

## ARTICLE IV

### COVENANTS AFTER CLOSING

#### 4.1 Restrictive Covenants.

(a) Non-Competition by Seller Restricted Parties. To induce the Purchaser to consummate the transactions contemplated hereby and in consideration, the Seller covenants and agrees that, commencing on the Closing Date and ending on the second anniversary of the Closing Date (the “**Term**”), the Seller will not engage, directly or indirectly, individually or as a security holder, director, officer, employee, partner, consultant, or agent of any other Person, in any business which is competitive with the Acromix Business in continental United States (the “**Territory**”).

(b) Blue-Pencil. If any court of competent jurisdiction shall at any time deem the term of any restrictive covenant contained in this **Section 4.1** too lengthy or the geographic area covered too extensive, the other provisions of this **Section 4.1** shall nevertheless stand, the Term shall be deemed to be the longest period permissible by law under the circumstances and the Territory shall be deemed to comprise the largest territory permissible by law under the circumstances. The court in each case shall reduce the Term and/or the Territory covered to permissible duration or size.

(c) Remedies. Each Party agrees that in the event of any actual or threatened breach of any of the provisions contained in this **Section 4.1**, any non-breaching Party shall be entitled to such injunctive and other equitable relief, without the necessity of showing that monetary damages cannot be measured or posting any bond, as may be deemed necessary or appropriate by a court of competent jurisdiction. Nothing contained herein shall be construed as prohibiting the non-breaching Party from pursuing any other remedies available to it or him for such breach or threatened breach, including the recovery of any damages which it or he is able to prove.

4.2 No Assumed Liabilities. It is understood that Purchaser is not assuming any liabilities or obligations of the Seller or its Affiliates, whether or not related to the Acromix Business, all of which shall remain the sole obligation of the Seller.

4.3 Use of Name. The Seller shall not use, or permit any of its Affiliates or successors to use, any of trademarks, trade names, or service marks included in the Acquired Assets within or in connection with any registered or assumed corporate name, product name, business unit name, or Internet domain name.

4.4 Survival of Representations and Warranties; Indemnification. All representations and warranties contained herein will survive the execution and delivery of this Agreement and the Closing until the first (1<sup>st</sup>) anniversary of the Closing Date. From and after the Closing Date, (a) the Seller agrees to indemnify, defend and hold harmless the Purchaser forever from and against any and all Losses suffered, sustained or incurred by the Purchaser relating to, resulting from, arising out of or otherwise by virtue of: (i) any inaccuracy in the representations or warranties of the Seller contained in this Agreement, or (ii) the failure of the Seller to perform any of its covenants or obligations contained in this Agreement, and (b) the Purchaser agrees to indemnify, defend and hold harmless the Seller forever from and against any and all Losses suffered, sustained or incurred by the Seller relating to, resulting from, arising out of or otherwise by virtue of: (i) any inaccuracy in the representations or warranties of the Purchaser contained in this Agreement, or (ii) the failure of the Purchaser to perform any of its covenants or obligations contained in

this Agreement. Notwithstanding anything to the contrary in this Agreement, the maximum amount of Losses that either Party shall, in the aggregate, be required to pay in such Party's capacity as the indemnifying party under this **Section 4.4** shall be limited to the Purchase Price.

4.5 Employee Matters. The parties acknowledge and agree that the Purchaser is not offering employment to any employees of the Company.

## ARTICLE V

### MISCELLANEOUS

5.1 Notices, Consents, Etc. Any notices, consents or other communication required to be sent or given hereunder by any of the Parties shall in every case be in writing and shall be deemed properly served if (i) delivered personally, (ii) sent by registered or certified mail, in all such cases with first class postage prepaid, return receipt requested, or (iii) delivered by a recognized overnight courier service, to the Parties at the addresses as set forth below or at such other addresses as may be furnished in writing.

(a) If to the Seller:

c/o TJM Capital Partners, LLC  
1230 North State Street  
Chicago, Illinois 60610  
Attention: Tom McDonough

(b) If to the Purchaser:

Mixer Systems, Inc.  
Attn: Doug Duley  
190 Simmons Avenue  
PO Box 10  
Pewaukee, WI 53072

Date of service of such notice shall be (x) the date such notice is personally delivered, (y) three (3) days after the date of mailing if sent by certified or registered mail, or (z) one (1) day after date of delivery to the overnight courier if sent by overnight courier.

5.2 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

5.3 No Successors. This Agreement is personal to the Parties hereto and shall not be binding upon any Party's successors, assigns, heirs and personal representatives, nor shall any of Seller's obligations hereunder survive any sale of such entity or substantially all of its assets. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the Parties to this Agreement, any rights or remedies under or by reason of this Agreement.

5.4 Further Assurances. From time to time after the Closing, upon the request of the Purchaser, and without further cost or expense to the Purchaser, the Seller shall execute and deliver, and cause to be executed and delivered, such further instruments of conveyance, assignment, and transfer and take such further action as the Purchaser may reasonably request in order more effectively to sell, assign, convey,

transfer, reduce to possession, and record title to any of the Acquired Assets. The Seller agrees to cooperate with the Purchaser, at the Purchaser's sole expense, in all reasonable respects to assure to the Purchaser continued title to and possession of the Acquired Assets. The Seller also agrees to, when requested by the Purchaser, communicate to the Purchaser all facts known regarding the intangible assets included in the Acquired Assets, execute all divisional, continuing, reissue, reexamination and foreign or international applications relating to the intangible assets included in the Acquired Assets, together with individual assignments therefor, make all rightful oaths, sign all lawful papers, testify in any legal proceedings and generally do everything possible to aid the Purchaser, at the Purchaser's sole expense, in the enforcement of the intangible assets included in the Acquired Assets and the obtaining of any subsequent or patents or trademarks

5.5 Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING VALIDITY, INTERPRETATION AND EFFECT, BY THE LAWS OF THE STATE OF MINNESOTA, WITHOUT REGARD TO ITS RULES OF CONFLICTS OF LAW.

5.6 Definition of Certain Terms. The terms defined in this Section 5.6, whenever used in this Agreement, shall have the respective meanings indicated below for all purposes of this Agreement:

(a) **"Affiliate,"** as applied to any Person, means any other Person controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" means the possession of 50% or more of the voting stock or equity interests of such Person.

(b) **"Liens"** means, collectively, any liens, claims, charges, restrictions, options, preemptive rights, mortgages, hypothecations, assessments, pledges, encumbrances or security interests of any kind or nature whatsoever.

(c) **"Losses"** means any liabilities, obligations, deficiencies, demands, claims, suits, actions, or causes of action, assessments, losses, costs and expenses (including reasonable attorneys' fees) sustained or incurred by any Party entitled to indemnification under **Section 4.4**.

(d) **"Person"** means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated association, corporation, entity or government (whether federal, state, county, city or otherwise, including, without limitation, any instrumentality, division, agency or department thereof).

5.7 Entire Agreement. This Agreement and all of the Exhibits attached to the Agreement (which shall be deemed incorporated in the Agreement and made a part hereof) set forth the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, and may be modified only by instruments signed by the Parties hereto.

5.8 Expenses. Except as otherwise specifically provided herein, each of the Parties shall pay all costs and expenses incurred or to be incurred by it in negotiating and preparing this Agreement and the Transaction Documents and in closing and carrying out the transactions contemplated by this Agreement. The Purchaser shall be solely responsible for payment of any stamp or other sales, transfer or transaction tax imposed under the laws of the United States or any state, county, municipality or other subdivision thereof on the direct or indirect transfer of the Acquired Assets by the Seller to the Purchaser.

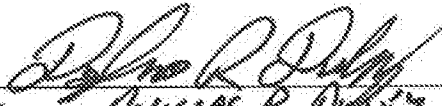
5.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute one instrument. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or e-mail of a PDF file, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

5.10 Construction. Each of the Parties have participated in the negotiation and drafting of this Agreement. As such, the language used herein shall be deemed to be the language chosen by the Parties hereto to express their mutual intent, and no rule of strict construction will be applied against any Party to this Agreement.

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

**THE PURCHASER:**

Mixer Systems, Inc.

By:   
Name: Douglas R. Doherty  
Title: PRESIDENT

**THE SELLER:**

Elk River Machine Company, LLC

By: \_\_\_\_\_  
Name: Thomas J. McDonough  
Title: Chairman

5.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute one instrument. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or e-mail of a PDF file, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

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

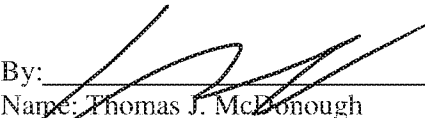
**THE PURCHASER:**

Mixer Systems, Inc.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE SELLER:**

Elk River Machine Company, LLC

By:  \_\_\_\_\_  
Name: Thomas J. McDonough  
Title: Chairman

## Exhibit A

### Acquired Assets

1. Inventories: All Acromix Business product inventory, components, and completed or partially completed assemblies, and spare parts stored at 828 4<sup>th</sup> Street, Elk River, MN 55330 (the “**Old Elk River Facility**”) on the Closing Date.
2. Fixed Assets and Equipment. Three programming computers stored at the Old River Facility that were used in making products for the Acromix Business, plus all manufacturing fixtures and jigs related to the Acromix Business.
3. Intangible Assets:
  - (a) Bills of Material: Complete Acromix Business bills of material for all mixers, batch plants, and control products produced and sold.
  - (b) Drawings: All Acromix Business drawings for all products produced and sold including assembly, schematics, paper and other hard copies, computer, digital, and CAD files.
  - (c) Job Paperwork and Files: All Acromix Business closed job paperwork and files including, file cabinets and drawing containers as well as digital media storage devices containing those documents.
  - (d) Software: Any software used exclusively in the conduct of the Acromix Business including software used by the Company in its production process and software installed in products produced as well as all documentation, software tools, flow diagrams and manuals used in connection therewith.
  - (e) Manuals and Promotional Materials: Owners’ manuals and sales and promotional materials for all products produced and sold by the Acromix Business.
  - (f) Patents and Know-How: All patent rights, inventions, discoveries, improvements, developments, and know how relating to the Acromix Business.
  - (g) Names: All rights to the following trade names: Acromix, VJ Pausch, Can Do Concrete Systems, Easy Touch, and any registrations of such trade names or any marks employing these names as well as other trade names, trademarks, service marks, registered or unregistered.
  - (h) Customer, Dealer, and Distributor Lists: All current and historical, partial or complete, lists of customers of the Acromix Business and all dealers and distributors of products of the Acromix Business.

**Exhibit B**

**Bill of Sale and Assignment Agreement**

## BILL OF SALE AND ASSIGNMENT AGREEMENT

**THIS BILL OF SALE AND ASSIGNMENT AGREEMENT** (this “**Agreement**”), dated as of December 30, 2019, is by and between (i) Mixer Systems, Inc., a Wisconsin corporation (the “**Purchaser**”), and (ii) Elk River Machine Company, LLC, a Delaware limited liability company (the “**Seller**”).

### RECITALS

A. The Purchaser and the Seller are parties to that certain Asset Purchase Agreement, dated as of even date herewith (the “**Asset Purchase Agreement**”), pursuant to which the Purchaser has agreed to purchase from the Seller all of the Acquired Assets (as defined in the Asset Purchase Agreement) upon the terms and conditions specified therein.

B. This Agreement is being executed and delivered in order to affect the transfer by the Seller to the Purchaser of the Acquired Assets as set forth in the Asset Purchase Agreement.

### AGREEMENTS

In consideration of the recitals and the mutual covenants and agreements set forth in the Asset Purchase Agreement, the parties, intending to be legally bound, hereby agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement and not otherwise defined herein shall have the meaning ascribed thereto in the Asset Purchase Agreement.
2. **Sale of Acquired Assets; Assignment.** The Seller, in accordance with and subject to the terms of the Asset Purchase Agreement, hereby sells, conveys, assigns, transfers and delivers to the Purchaser, and the Purchaser, in accordance with and subject to the Asset Purchase Agreement, hereby purchases and acquires from the Seller, all of the Seller’s right, title and interest of every kind and nature, in and to the Acquired Assets.
3. **Counterparts; Facsimile Copies.** This Agreement is executed pursuant to the Asset Purchase Agreement and may be executed in two counterparts, each of which as so executed shall be deemed to be an original but both of which together shall constitute one and the same instrument. A facsimile signature shall be acceptable as an original for all purposes.
4. **Binding Effect; Amendment, Waiver or Termination.** This Agreement shall inure to the benefit of and be binding upon the Seller and the Purchaser, and their respective successors and assigns, but shall not create any right of subrogation or other right on the part of any other Person. This Agreement cannot be amended, waived or terminated except by a writing signed by both of the parties hereto.
6. **No Effect on Purchase Agreement.** Notwithstanding any other provision of this Agreement, nothing contained herein shall in any way supercede, modify, replace, amend, change, rescind, waive or otherwise affect any of the provisions, including, but not limited to, any representations, warranties, covenants and agreements of the Seller or the Purchaser, set forth in the Asset Purchase Agreement.
7. **Further Assurances.** The Seller agrees that, from time to time after the delivery hereof, it will, upon the reasonable request of the Purchaser, take all such action and execute and deliver all such documents, instruments and conveyances which may be reasonably necessary or desirable to carry out the provisions of this Agreement.



8. **Further Actions.** The Seller hereby authorizes the Buyer, its successors and assigns, for the benefit and at the expense of the Buyer, to institute and prosecute all proceedings which the Buyer may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to any of the Acquired Assets, to defend or compromise any and all actions, suits or proceedings in respect of any of the Acquired Assets, and to do all such acts and things in relation thereto as the Buyer shall deem advisable, all subject to the requirements of the Asset Purchase Agreement.

9. **Governing Law.** THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MINNESOTA, WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE THEREOF.

**IN WITNESS WHEREOF**, the Seller and the Purchaser have caused this Bill of Sale and Assignment Agreement to be executed in their respective corporate names by their respective proper officers thereunto duly authorized, as of the date first written above.

**THE PURCHASER:**

Mixer Systems, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THE SELLER:**

Elk River Machine Company, LLC

By: \_\_\_\_\_

Name: Thomas J. McDonough

Title: Chairman

QB\61043895.2