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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

Total Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

6-14-02
REICHHOLD, INC.

3-11-02

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:



Assignment



Merger



Security Agreement



Change of Name



Other _____

Execution Date: 01-01-02

2. Name and address of receiving party(ies)

Name: THE DOW CHEMICAL COMPANY

Internal Address: _____

Street Address: _____

1790 BUILDING

City: MIDLAND State: MI Zip: 48674

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s) _____

B. Patent No.(s) 4,876,293

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: JAMES FUSCALDO

Internal Address: _____

THE DOW CHEMICAL COMPANY

Street Address: 1790 BUILDING

City: MIDLAND State: MI Zip: 48674

6. Total number of applications and patents involved: ☐ 1

7. Total fee (37 CFR 3.41).....\$ 40.00



Enclosed



Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

JOAN M. GRACE

Name of Person Signing

Joan M. Grace

Signature

2-15-02

Date

Total number of pages including cover sheet, attachments, and documents: ☐ 2

Mail documents to be recorded with required coversheet information to:

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REEL: 12983 FRAME: 0878

ASSET PURCHASE AGREEMENT

dated as of June 1, 2001

by and between

THE DOW CHEMICAL COMPANY

and

REICHHOLD, INC.

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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "*Agreement*") is entered into as of June 1, 2001, by and between THE DOW CHEMICAL COMPANY, a Delaware corporation (the "*Purchaser*"), and REICHHOLD, INC., a Delaware corporation (the "*Seller*") (the Purchaser and the Seller are referred to hereinafter individually as a "*Party*", and collectively as the "*Parties*").

W I T N E S S E T H :

WHEREAS, each of the Purchaser and the Seller is engaged, among other businesses, in the discovery, development, manufacture, distribution, marketing and sale of latex products throughout the world for specialty applications ("*Specialty Latex Business*");

WHEREAS, each of the Purchaser and the Seller is also engaged in the development, manufacture, marketing and sale of Latex for Carpet Backing applications and applications in the Paper/Paperboard Market Segment (as such capitalized terms are hereinafter defined) (the "*Supplemental Business*");

WHEREAS, the Purchaser and the Seller have entered into the Joint Venture Agreement, dated as of the date hereof (the "*JV Agreement*"), pursuant to which they shall cause to be formed Dow Reichhold Specialty Latex LLC, a Delaware limited liability company (the "*JV Company*"), that is to be jointly-owned by the Seller and an affiliate of the Purchaser and is to commence joint operation of the respective Specialty Latex Businesses currently conducted by the Purchaser and the Seller as more fully described therein (the "*Joint Venture*"); and

WHEREAS, subject to the terms and conditions hereinafter set forth, contemporaneous with the consummation of the Joint Venture transaction contemplated by the JV Agreement, the Seller desires to sell, and the Purchaser desires to purchase, certain assets, rights and interests of the Seller that are utilized in the operation of the Supplemental Business.

NOW, THEREFORE, in consideration of the premises hereof, the mutual representations, warranties, covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party, intending to be legally bound, does hereby agree as follows:

ARTICLE I GENERAL PROVISIONS; DEFINITIONS

SECTION 1.1. General.

Unless the context of this Agreement otherwise clearly requires, (a) references to the plural include the singular, (b) references to the singular include the plural, (c) references to any gender include the other genders, (d) the term "including" is not limiting and has the inclusive meaning represented by the phrase "including without limitation", (e) the term "include" is not limiting and has the inclusive meaning represented by the phrase "include without limitation",

(f) the term "includes" is not limiting and has the inclusive meaning represented by the phrase "includes without limitation", (g) the term "or" has the inclusive meaning represented by the phrase "and/or", (h) the terms "hereof", "herein", "hereunder", "hereto" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, (i) the terms "day" and "days" mean and refer to calendar day(s) and (j) the terms "year" and "years" mean and refer to calendar year(s). Unless otherwise set forth herein, references in this Agreement to (i) any document, instrument or agreement (including this Agreement) (A) includes and incorporates all exhibits, schedules and other attachments thereto, (B) includes all documents, instruments or agreements issued or executed in replacement thereof and (C) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified or supplemented from time to time in accordance with its terms and in effect at any given time, and (ii) a particular Law (as hereinafter defined) means such Law as amended, modified, supplemented or succeeded, from time to time and in effect at any given time. All Article, Section, Exhibit and Schedule references herein are to Articles, Sections, Exhibits and Schedules of this Agreement, unless otherwise specified. This Agreement shall not be construed as if prepared by one Party, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

SECTION 1.2. Defined Terms.

Capitalized terms used in this Agreement and not otherwise defined herein have the following respective meanings ascribed thereto:

"Acquisition Proposal" means any proposal for the sale of (a) all or substantially all of the assets of the Seller, (b) all or a substantial portion of the Supplemental Business or (c) all or a substantial portion of the Assets, other than the transactions contemplated hereby.

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling, controlled by, or under common control with, such Person; *provided, however*, all Subsidiaries of DIC that are not directly or indirectly controlling or controlled by the Seller shall not be considered Affiliates of the Seller. For purposes of this definition, ***"controlling"***, ***"controlled by"*** or ***"under common control with"***, mean the ownership, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership or control of voting interests, by contract or otherwise.

"Allocation" has the meaning assigned thereto in Section 2.9.

"Assets" has the meaning assigned thereto in Section 2.1(a).

"Assigned Contracts" has the meaning assigned thereto in Section 2.1(a)(iii).

"Assumed Liabilities" has the meaning assigned thereto in Section 2.2(a).

"Assumption Agreement" means the Assignment and Assumption Agreement to be executed by the Purchaser and the Seller on the Closing Date, substantially in the form attached hereto as Exhibit A, whereby the Assigned Contracts shall be assigned to, and assumed by, the Purchaser.

"Audit Certificate" has the meaning assigned thereto in Section 2.5(c).

"Audited Inventory Value" means the value, as of the Closing Date, of the Inventory, where such value (a) is the lower of cost or market with cost determined utilizing the first-in-first-out inventory valuation method in accordance with the past practices of the Seller and (b) subject to Section 2.5, is reflected in the Audit Certificate; *provided*, that, the Audited Inventory Value shall not include the value of any finished good in excess of 90 days of sale of such good.

"Authorized Person" means the Chief Executive Officer, President or Vice President of a Person or any other officer or employee thereof duly authorized to take the subject action.

"Average Inventory Value" means \$1,946,192.

"Benefit Plans" means all Pension Plans, Welfare Plans and Other Plans of the Seller or a Section 414 Affiliate in which any Transferred Employee participates.

"Bill of Sale" means the Bill of Sale to be executed by the Seller on the Closing Date, substantially in the form attached hereto as Exhibit B.

"Business Day" means a day other than (a) Saturday, (b) Sunday or (c) a day on which banks are not required to be open or are authorized to close in Midland, Michigan, Durham, North Carolina or New York, New York.

"Carpet Backing" means the backing for tufted, woven and needle felt broadloom carpets, rugs and tiles for commercial, residential and institutional installation, excluding thermo-molded applications.

"Claim Notice" has the meaning assigned thereto in Section 9.3.

"Closing" has the meaning assigned thereto in Section 6.1.

"Closing Date" has the meaning assigned thereto in Section 6.1.

"COBRA" means the United States Consolidated Omnibus Budget Reconciliation Act of 1985 and the rules and regulations promulgated thereunder.

"Code" means the United States Internal Revenue Code of 1986 as interpreted by applicable Treasury Regulations.

"Competing Business" means the business of the development, manufacture, marketing and sale of Latexes for Carpet Backing applications and applications in the Paper/Paperboard Market Segment.

"Contract" means any contract, agreement, lease, license, sales or work order or other legally binding commitment, obligation, undertaking or arrangement, whether oral or written, express or implied (including any mortgage or indenture).

"Credits" has the meaning assigned thereto in Section 2.1(a)(viii).

"Customers" has the meaning assigned thereto in Section 3.18.

"Delivery Date" has the meaning assigned thereto in Section 2.5(c).

"DIC" means Dainippon Ink and Chemicals Inc., the indirect owner of all the issued and outstanding capital stock of the Seller.

"DIC Supplemental Business Letter Agreement" means the letter agreement, dated as of the Closing Date, issued by DIC for the benefit of the Purchaser, substantially in the form attached hereto as Exhibit C, whereby DIC shall agree, among other things, to (a) guaranty the obligations of the Seller under the Supplemental Business Transaction Documents and (b) abide by Sections 5.11 and 5.12.

"DOL" means the United States Department of Labor and its successors.

"Dollar" or **"\$"** means the lawful money of the United States of America.

"Encumbrances" means any mortgage, deed of trust, lien, pledge, claim, charge, security interest, option, restriction, limitation, easement, title defect or other adverse claim of ownership or use, or other encumbrance of any kind, character or description, whether or not of record (including any deposit, conditional or installment sale, other title retention Contract or capital lease), any lease in the nature thereof, or any filing of, or agreement to give, any financing statement.

"Environmental Claim" means, with respect to any Person, (x) any Proceeding or administrative, regulatory or judicial injunction, judgment, demand (including any demand or other notice pursuant to any indemnification, contribution or similar agreement), demand letter, directive, claim, complaint, order, decree, Encumbrance or notice of noncompliance or violation or any other notice in writing by or from any Person, or (y) any oral information provided by a Governmental Authority stating that written action of the type described in clause (x) above is in progress, that (in the case of either clause (x) or (y) above) alleges potential or actual Liability or any other obligation to take any action or cease any action (including potential or actual Liability for enforcement, investigatory costs, monitoring costs, cleanup costs, governmental response costs, removal costs, remedial costs, corrective action, natural resources damages, property damages, personal injuries or penalties) arising out of, based on, or resulting from, (i) the presence or Release into the environment of any Hazardous Material at any location, whether or not owned, operated, occupied, leased or managed by such Person or such Person's Affiliates or (ii) circumstances or conditions forming the basis of any violation, or alleged violation, of any Environmental Law, including (in the case of either clause (i) or (ii) above) any claim by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence of, or Release of any Hazardous Material at, any location.

"Environmental Laws" means all Laws (and all policies imposed by a Governmental Authority) pertaining to: (a) the protection of health, safety and the indoor or outdoor environment; (b) the conservation, management or use of natural resources and wildlife; (c) the

protection or use of surface water, ground water, ambient air, land surface or subsurface strata; (d) the management, containment, manufacture, possession, presence, use, processing, generation, transportation, treatment, storage, disposal, Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material; or (e) pollution (including any Release of Hazardous Material to indoor or outdoor air, land surface or subsurface strata, surface water or ground water); and includes the following United States federal statutes (and their implementing regulations and the analogous state statutes and regulations): the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Solid Waste Disposal Act, the Federal Water Pollution Control Act of 1972, the Toxic Substances Control Act of 1976, the Emergency Planning and Community Right-To-Know Act of 1986, the Clean Air Act of 1966, the National Environmental Policy Act of 1970, the Rivers and Harbors Act of 1899, the Endangered Species Act of 1973, the Occupational Safety and Health Act of 1970, the Safe Drinking Water Act of 1974 and the Oil Pollution Act of 1990.

"Environmental Permits" means all applicable Governmental Approvals and Licenses required under applicable Environmental Law.

"ERISA" means the United States Employee Retirement Income Security Act of 1974 and the rules and regulations promulgated thereunder.

"Excluded Assets" has the meaning assigned thereto in Section 2.1(b).

"Excluded Liability" has the meaning assigned thereto in Section 2.2(b).

"Expiration Date" has the meaning assigned thereto in Section 8.1(b).

"GAAP" means United States generally accepted accounting principles and practices as in effect from time to time and consistently applied throughout the periods involved.

"Governmental Approval" means any grant, credit, concession, License, ruling, tariff or rate of, filing or registration with, or declaration, report or notice to, any Governmental Authority required under any applicable Law (including any Environmental Permit).

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof, any other governmental, quasi-governmental, regulatory, administrative, judicial, public or statutory department, instrumentality, authority, body, agency, commission, bureau or entity, or any arbitrator with authority to bind a party at law.

"Hazardous Material" means (a) any petroleum or petroleum product, radioactive material, asbestos in any form, (b) any transformer or other equipment that contains dielectric fluid containing polychlorinated biphenyls, (c) any chemical, material or substance that is currently defined as or included in the definition of "hazardous substance", "hazardous waste", "hazardous material", "extremely hazardous waste", "restricted hazardous waste", "toxic substance" or "toxic pollutant", or any other words of similar import, under any Environmental Law and (d) any other chemical, material, substance or waste, exposure to which is prohibited, limited or regulated under any Environmental Law.

"HSR Filing" has the meaning assigned thereto in Section 5.4.

"Indemnified Matter" means any matter in respect of which indemnity or payment may be sought under Section 9.1 or 9.2 by an Indemnified Person.

"Indemnified Person" means a Person entitled to indemnification pursuant to Section 9.1 or 9.2.

"Indemnifying Party" means the Party(s) obligated to provide indemnification pursuant to Section 9.1 or 9.2.

"Insurance Policies" has the meaning assigned thereto in Section 3.17.

"Intellectual Property Rights" means all (a) copyrights and other works that may be the subject matter of copyright protection, (b) trademarks, trade names, brand names, service names, service marks and domain names, (c) advertising concepts, marketing concepts, information, data, formulae, designs, design concepts, models and drawings (including all documentation, related listings, design specifications and flowcharts), (d) computer programs and software (including Third-Party Software), (e) trade secrets, (f) patents, know-how and inventions (including all processes, developments, improvements, discoveries, machines, manufactures and compositions of matter) and technology that may be the subject matter of patent protection or other protection thereon under applicable Law, (g) other licenses, invention disclosures, applications pending and to be filed for any of the foregoing, and registrations thereof and (h) other intangible intellectual property, all as recognized under the Laws of Canada, Mexico or the United States and utilized in the operation of, or otherwise in connection with, the Supplemental Business.

"Interest Rate" means the reference commercial lending rate set forth in *The Wall Street Journal* as the prime rate for money center banks in New York, New York for the applicable period.

"Inventory" means each item or distinct group of goods held by the Seller for sale (*i.e.*, finished goods) in connection with the Supplemental Business.

"Inventory Value Adjustment" has the meaning assigned thereto in Section 2.5(b).

"IRS" means the United States Internal Revenue Service or any successor.

"Joint Venture" has the meaning assigned thereto in the third *whereas* clause hereof.

"JV Agreement" has the meaning assigned thereto in the third *whereas* clause hereof.

"JV Company" has the meaning assigned thereto in the third *whereas* clause hereof.

"Latex" means an aqueous suspension, dispersion or emulsion of a polymer comprised of no less than 45% weight, in the aggregate, of polymers made of one or more of styrene, butadiene, acrylates, acryl-nitrile (acrylonitrile), vinyl acetates and vinylidene chloride

(excluding co-polymers of ethylene where ethylene comprises greater than five percent (5%) weight in the aggregate).

"Laws" means all statutes, rules, codes, regulations, ordinances, orders, Licenses, directives, judgments, injunctions, writs, awards and decrees of, or issued by, all Governmental Authorities, including all Environmental Laws.

"Leased Real Property" means the buildings, facilities, other structures and other real property leased by the Seller, as tenant, that are utilized in the operation of, or otherwise in connection with, the Supplemental Business, together with all leasehold improvements, fixtures, systems, equipment and items of personal property attached or appurtenant thereto, and all easements, Licenses, rights and appurtenances relating to the foregoing.

"Liabilities" means all debts, liabilities and obligations of any kind, nature or type, whether accrued or fixed, absolute, contingent or unliquidated, matured or unmatured, determined or determinable, known or unknown, or otherwise, including those arising under any applicable Law, any Proceeding and any order, writ, judgment, injunction, decree, stipulation, determination or award entered or issued by or with any Governmental Authority and those arising under any Contract (including all Environmental Claims).

"License" means any license, consent, waiver, ordinance, authorization, permit, certificate, variance, exemption, order, franchise or approval (including any Environmental Permit) issued, granted or otherwise given by any Person.

"Losses" means all Liabilities, losses, claims, damages, Taxes, penalties, fines and assessments, interest, profits, injuries, awards, judgments and costs, expenses and disbursements (including court costs and attorneys' and consultants' fees, expenses and disbursements).

"NLRB" means the United States National Labor Relations Board and its successors.

"Non-Transferred Employees" has the meaning assigned thereto in Section 5.10(a)(ii).

"Objection Notice" has the meaning assigned thereto in Section 2.5(e).

"Other Plan" means a deferred compensation, bonus, stock option, stock purchase, supplemental savings, qualified or nonqualified compensation, performance award, severance or other employee benefit plan, program, arrangement or Contract that does not constitute a Pension Plan or a Welfare Plan.

"Owned Real Property" means all real property owned or beneficially owned by the Seller (or with respect to which the Seller has an option to purchase), all buildings, facilities, structures, improvements located thereon and all fixtures, systems, equipment and items of personal property attached or appurtenant thereto, including all manufacturing facilities used in connection with the Supplemental Business.

"Paper/Paperboard Market Segment" means the market segment comprised of paper/paperboard producers that: (a) meter latex-containing coatings (apply or remove precise amounts of coating material to or from the surface of a moving cellulose web) onto the surface of

paper/paperboard; or (b) apply latex-containing coatings onto the surface of paper/paperboard that are subsequently metered-off.

"Patent and Technology Agreement" means the Dow Reichhold Carpet-Paper Patent and Technology Agreement, dated as of the Closing Date, by and between the Seller and the Purchaser, substantially in the form attached hereto as Exhibit D.

"PBGC" means the Pension Benefit Guaranty Corporation and its successors.

"Pension Plan" means an "employee pension benefit plan" as defined in Section 3(2) of ERISA.

"Performance Date" has the meaning assigned thereto in Section 5.8.

"Permitted Encumbrances" means such of the following as to which no enforcement, collection, execution, levy or foreclosure Proceeding has been commenced and that shall not have a material adverse effect on the transactions contemplated hereby or the ability of the Purchaser to own, hold, use or operate the Assets in the manner currently owned, held, utilized and operated by the Seller: (a) liens for Taxes not yet due and payable and that may thereafter be paid without penalty; and (b) Encumbrances imposed by applicable Law, such as materialmen's, mechanics', carriers', workmen's, landlord's and repairmen's liens and other similar liens arising in the ordinary course of business that are not yet due and payable, none of which has been perfected.

"Person" means any individual, corporation, business trust, sole proprietorship, partnership (whether general, limited or limited liability), joint venture, limited liability company, joint stock company, trust, unincorporated organization, enterprise, association, institution, Governmental Authority or other entity of whatever nature.

"Potential Benefit Plans" has the meaning assigned thereto in Section 3.13(a).

"Potential Transferred Employees" has the meaning assigned thereto in Section 5.10(a)(i).

"Proceeding" means any claim, action, litigation, suit, proceeding or formal investigation, inquiry, audit or review of any nature, civil, criminal, regulatory or otherwise, before or by any Governmental Authority.

"Purchase Price" has the meaning assigned thereto in Section 2.4.

"Records" means accounts, correspondence, memoranda, tapes, discs, papers, books and other documents or transcribed information of any type (in any medium).

"Referee" has the meaning assigned thereto in Section 2.5(e).

"Reichhold Facilities" means the facilities owned or operated by the Seller that are located in: Cheswold, Delaware; Kensington, Georgia; and Research Triangle Park, North Carolina.

"Rejecting Employees" means the Potential Transferred Employees who decline an offer of employment made by the Purchaser (or an Affiliate thereof) in connection with Section 5.10(a).

"Release" means any release or threatened release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment (including the atmosphere, soil, indoor air, subsurface, surface water and groundwater) or into or out of any real or personal property.

"Required Approvals" has the meaning assigned thereto in Section 3.2(a).

"Review Period" has the meaning assigned thereto in Section 2.5(e).

"Sales Materials" has the meaning assigned thereto in Section 2.1(a)(ix).

"Section 414 Affiliate" means all Persons under common control with the Seller within the meaning of Section 414(b), 414(c), 414(m) or 414(o) of the Code.

"Seller Tax Returns" has the meaning assigned thereto in Section 3.15(a).

"Severance Payment Adjustment" has the meaning assigned thereto in Section 2.6(b).

"Severance Payment Certificate" has the meaning assigned thereto in Section 2.6(c).

"Severance Payments" has the meaning assigned thereto in Section 2.6(b).

"Specialty Latex Business" has the meaning assigned thereto in the first whereas clause hereof.

"Straddle Tax Period" means all Tax periods commencing prior to the Closing Date and ending following the Closing Date.

"Subsidiary" means, with respect to any Person (the ***"Parent"***), any other Person directly or indirectly controlled by the Parent. For purposes of this definition, ***"controlled by"*** means the ownership, direct or indirect, of at least the majority of the equity of a Person entitled to vote.

"Supplemental Business" has the meaning assigned thereto in the second whereas clause hereof.

"Supplemental Business Transaction Documents" means this Agreement and the other agreements and instruments contemplated hereby (including the Assumption Agreement, the Bill of Sale, the DIC Supplemental Business Letter Agreement, the Patent and Technology Agreement and the Trademark License Agreement) and such other documents and instruments of transfer or assignment that are reasonably requested by a Party to carry out the intent of the Parties hereunder and thereunder.

"Supporting Documentation" has the meaning assigned thereto in Section 2.6(c).

"Tangible Personal Property" means (a) the Inventory, (b) each item or distinct group of supplies utilized in the operation of, or otherwise in connection with, the Supplemental Business and (c) each item or distinct group of equipment that both (i) is located at (A) the Seller's facilities at Research Triangle Park, North Carolina or Dalton, Georgia or (B) the facilities and buildings utilized by customers of the Seller or an Affiliate thereof and (ii) is predominately utilized in connection with the Supplemental Business.

"Tax" means any foreign and United States federal, state and local tax, charge, fee, levy, impost, contribution or other assessment, including any net income tax or franchise tax based on net income, any alternative or add-on minimum tax, any gross income, gross receipts, premium, sales, use, ad valorem, technical services, mercantile, value-added, transfer, remittance, profit, License, payroll, employment, withholding, excise, severance, stamp, occupation, property, environmental (including any tax under Section 59A of the Code), capital stock, social security (or similar), unemployment, disability, registration, estimated, or windfall profit tax, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest credit or charge, penalty, addition to tax or additional amount imposed by any taxing authority or Governmental Authority, whether disputed or not.

"Tax Refund" means a refund of any Taxes, including a reduction in Tax, the use of an overpayment as a credit or other Tax offset and any interest paid with respect to such refund.

"Tax Return" means any return, declaration, report, claim for refund, information return or statement relating to Taxes, including any amended return, extension request with respect thereto and any schedule or attachment thereto.

"Territory" means the world (other than Japan).

"Third-Party Software" means every computer software program that is utilized in the operation of, or otherwise in connection with, the Supplemental Business and owned by a Person other than the Seller.

"Trademark License Agreement" means the Trademark Agreement, dated as of the Closing Date, by and between the Seller and the Purchaser, substantially in the form attached hereto as Exhibit E.

"Transferred Employees" means the Potential Transferred Employees who accept an offer of employment of the Purchaser (or an Affiliate thereof) in connection with Section 5.10(a).

"Transfer Taxes" means all Taxes incurred or imposed by reason of the sale of the Assets and the assumption of the Assumed Liabilities hereunder regardless of upon whom such Taxes are levied or imposed by Law, including sales, use, excise (including Taxes on products of chemicals, petrochemicals and other taxable substances), real property transfer, value-added, gains, stamp, documentary, filing, recording, registration, permit, license, authorization, intangible and similar Taxes (including any penalties and interest).

"Treasury Regulation" means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code.

"*Welfare Plan*" means an "employee welfare benefit plan" as defined in Section 3(1) of ERISA.

SECTION 1.3. Accounting Terms.

All accounting terms not specifically defined herein shall be construed in accordance with GAAP.

ARTICLE II PURCHASE AND SALE

SECTION 2.1. Assets to Be Sold.

(a) On the terms and subject to the conditions of this Agreement, on the Closing Date, in consideration for (x) the payment of the Purchase Price in accordance with Section 2.7 and (y) the assumption by the Purchaser of the Assumed Liabilities in accordance with Section 2.2, the Seller shall sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser shall purchase, accept and take from the Seller, all rights, title and interest of the Seller in, under, and with respect to, the following assets (such assets, together with such rights, title and interest, collectively, the "*Assets*"), free and clear of all Encumbrances and Liabilities (except for, and subject to, the Permitted Encumbrances and the Assumed Liabilities):

(i) all Tangible Personal Property, including the Inventory and other Tangible Personal Property described on Schedule 2.1(a)(i);

(ii) the Leased Real Property, all as described on Schedule 2.1(a)(ii);

(iii) the Contracts and instruments set forth on Schedule 2.1(a)(iii) (the "*Assigned Contracts*");

(iv) all originals (to the extent relating solely to the Supplemental Business or the Assets) and copies of all current and historical (A) general and personnel Records, (B) operational Records and files, (C) data and (D) other Records, files and manuals (in any medium) associated with or employed by the Seller or its Affiliates, in each case predominantly relating to the Assets or the Supplemental Business (including research and development notebooks and files, production data, product specifications, material safety data sheets, correspondence and personnel files concerning the Transferred Employees), other than the organizational documents, the minute and stock record books, the corporate seals and the accounting, Tax, claims, litigation and insurance Records of the Seller and its Affiliates;

(v) the Intellectual Property Rights, including the items described on Schedule 2.1(a)(v);

(vi) the list of Customers;

(vii) all Required Approvals (which are set forth on Schedule 3.2(a)), to the extent transferable;

(viii) all of the credits, prepaid expenses, deferred charges, advance payments and security deposits of the Seller arising in connection with the operation and conduct of, or otherwise attributable to, the Supplemental Business or the Assets (the "**Credits**") set forth on Schedule 2.1(a)(viii) (as may be updated at the Closing) and all other Credits existing on the Closing Date;

(ix) all sales, promotional and other literature and other sales-related materials (in any medium) used, associated with or employed in the operation or conduct of the Supplemental Business (collectively, the "**Sales Materials**") set forth on Schedule 2.1(a)(ix); and

(x) the goodwill of the Seller relating to the Supplemental Business.

(b) The Assets shall specifically exclude the following assets owned by the Seller (the "**Excluded Assets**"):

(i) the Contracts being entered into by the Seller in connection with the transactions contemplated by this Agreement and the JV Agreement;

(ii) all Benefit Plans (including such Plans set forth on Schedule 3.13);

(iii) all the accounts and notes or other advances receivable of the Seller relating to the Supplemental Business; and

(iv) all Owned Real Property.

SECTION 2.2. Assumption and Exclusion of Liabilities.

(a) At the Closing, except as may be set forth herein, the Purchaser shall assume in accordance with their respective terms the unperformed or unfulfilled obligations and liabilities of the Seller relating to events or circumstances arising following the Closing Date with respect to (i) the Assigned Contracts solely as such Contracts relate to the Supplemental Business and (ii) the other Assets and the Supplemental Business (the "**Assumed Liabilities**").

(b) As a result of the transactions contemplated hereby, except for the Assumed Liabilities, the Purchaser shall not assume, be liable for, or otherwise become responsible for (i) any Liability of any nature of the Seller or any Affiliate of the Seller or DIC, (ii) any Liability arising from, or in connection with, the Assets (or the ownership, holding, use or operation thereof by the Seller or any Affiliate or independent contractor of the Seller or DIC) or the Supplemental Business (or the Seller's operation thereof) or (iii) any other Liability (any such Liability set forth in foregoing clause (i), (ii) or (iii), an "**Excluded Liability**"), which Excluded Liabilities, notwithstanding any other provision hereof, include:

(i) any Liability relating to the Reichhold Facilities or any non-Supplemental Business operations of the Seller or any Affiliate of the Seller or DIC;

(ii) any intercompany debt or other Liability between the Seller and any Affiliate of the Seller or DIC;

(iii) any Liability under, with respect to, or in connection with, any Contract of the Seller other than the Assumed Liabilities;

(iv) all Liabilities associated with products sold with respect to the Supplemental Business on or prior to the Closing Date and all other Liabilities with respect to the Supplemental Business relating to events or circumstances arising on or prior to the Closing Date;

(v) any Liability arising from an Environmental Claim (or any other environmental Liability) relating to events or circumstances arising on or prior to the Closing Date relating to the Supplemental Business, any Asset, the Seller or otherwise;

(vi) (A) any Liability relating to events or circumstances arising on or prior to the Closing Date in connection with any Benefit Plan and (B) any compensation and benefit obligation or other Liability relating to events or circumstances arising on or prior to the Closing Date in connection with any Potential Transferred Employee or any other employee or independent contractor of the Seller or any Affiliate of the Seller or DIC (including any payment with respect to accrued vacation, personal days and sick leave and any severance cost incurred as a result of the execution of this Agreement or the consummation of the transactions contemplated hereby);

(vii) any Liability in connection with any Proceeding (A) on the Closing Date that is in progress, pending or threatened in writing against or affecting the Seller, its assets (including the Assets) or business (including the Supplemental Business), this Agreement or any other Supplemental Business Transaction Document, at law or in equity, by or before any Governmental Authority or any other Person or body or (B) arising prior to, on, or following the Closing Date against or affecting the Seller, its assets (including the Assets) or business (including the Supplemental Business), at law or in equity, by or before any Governmental Authority or other Person or body, relating to the period prior to the Closing Date;

(viii) the outstanding expenses, accounts payable and other Liabilities of Seller;

(ix) any Tax obligation of the Seller;

(x) any Tax arising from (A) the ownership of the Assets, (B) the assumption of the Assumed Liabilities or (C) the operation and conduct of, or otherwise attributable to, the Supplemental Business, for any taxable period or portion thereof ending on or prior to the Closing Date;

(xi) any Liabilities under, with respect to, or in connection with, any Tax allocation or sharing Contract that may have been entered into by the Seller to apportion and share group-filing Tax Liabilities; and

(xii) all Transfer Taxes and other Taxes relating to and arising out of this Agreement.

SECTION 2.3. Assigned Contracts.

Notwithstanding Section 6.2(a), to the extent that any Assigned Contract is not capable of being assigned or transferred or the Assumed Liabilities thereunder assumed without the consent or waiver of the other party(s) thereto or any other Person, or if such assignment, transfer or assumption or attempted assignment, transfer or assumption would constitute a breach thereof or a violation of any applicable Law, (a) neither this Agreement nor the Assumption Agreement shall constitute an assignment or transfer thereof or an assumption of the Assumed Liabilities thereunder or an attempted assignment or transfer thereof or an attempted assumption of the Assumed Liabilities thereunder and (b) each Party shall, to the extent practicable, take all reasonable, lawful and appropriate steps to provide the Parties the respective benefits and burdens of any such assignment, transfer or assumption in accordance with the terms hereof and thereof.

SECTION 2.4. Purchase Price.

Subject to adjustment in accordance with Sections 2.5 and 2.6, the purchase price to be paid by the Purchaser for the Assets (the "***Purchase Price***") shall be \$70,000,000.

SECTION 2.5. Inventory Value Adjustment.

(a) The Purchase Price shall be subject to adjustment following the Closing as specified in this Section 2.5.

(b) In the event the amount of the Audited Inventory Value is (i) less than the amount of the Average Inventory Value or (ii) greater than the amount of the Average Inventory Value, the Purchase Price shall be decreased or increased, as the case may be, in accordance with Section 2.5(d) by the amount of such difference (the "***Inventory Value Adjustment***").

(c) No later than 30 days following the Closing Date (such 30th day, the "***Delivery Date***"), the Seller shall deliver a certificate (the "***Audit Certificate***") to the Purchaser that certifies (i) the amount of the Audited Inventory Value and (ii) the amount of the Inventory Value Adjustment, if applicable, together with such documentation in reasonable detail supporting the determination of such amounts as is deemed appropriate by the Purchaser.

(d) In the event of an Inventory Value Adjustment, subject to Section 2.5(e), no later than 10 Business Days following the issuance of the Audit Certificate, (i) in the event the amount of the Audited Inventory Value is less than the amount of the Average Inventory Value, the Seller shall pay to the Purchaser an amount equal to the Inventory Value Adjustment and (ii) in the event the amount of the Audited Inventory Value is greater than the amount of the Average Inventory Value, the Purchaser shall pay to the Seller an amount equal to the Inventory Value Adjustment. The Inventory Value Adjustment shall be effective upon such payment.

(e) Notwithstanding Section 2.5(d), if the Purchaser does not agree with the Audit Certificate, no later than five Business Days following the Purchaser's receipt of the Audit

Certificate (the "**Review Period**"), the Purchaser shall so advise the Seller in writing of such disagreement (the "**Objection Notice**"). The Objection Notice shall set forth in reasonable detail the basis for such disagreement and the amount proposed to be reflected as the Inventory Value Adjustment, if any. In the event of such a disagreement, representatives of the Purchaser and the Seller shall meet in person or by telephone to seek a resolution of such disagreement. If such representatives fail to reach agreement on the Inventory Value Adjustment within 10 Business Days following the delivery of the Objection Notice, then such disagreement shall be submitted to, and resolved by, KPMG, or another nationally-recognized firm of certified public accountants mutually acceptable to the Purchaser and the Seller (the "**Referee**"). The Referee shall use best efforts to make a determination as to the amount of the Inventory Value Adjustment within two weeks of its engagement, which determination shall be in writing and final and binding on the Parties. Each Party shall cooperate fully with the other Party and the Referee to facilitate a prompt determination of such amount. Except for the cost of the Referee, which shall be borne equally by the Purchaser and the Seller, each Party shall bear its own cost of such determination. The Referee shall not award punitive damages in any such determination. No later than 10 Business Days following such determination, (i) in the event the amount of the Audited Inventory Value is less than the amount of the Average Inventory Value, the Seller shall pay to the Purchaser an amount equal to the Inventory Value Adjustment, plus interest thereon at the Interest Rate for the period commencing on the tenth Business Day following the issuance of the Audit Certificate and ending on the Business Day prior to the date such payment is made and (ii) in the event the amount of the Audited Inventory Value is greater than the amount of the Average Inventory Value, the Purchaser shall pay to the Seller an amount equal to the Inventory Value Adjustment, plus interest thereon at the Interest Rate for such period. The Inventory Value Adjustment shall be effective upon such payment.

SECTION 2.6. Severance Payment Adjustment to Purchase Price.

(a) The Purchase Price shall be subject to adjustment following the Closing as specified in this Section 2.6.

(b) In the event that the Seller makes cash severance payments to one or more Non-Transferred Employees pursuant to Section 5.10(a)(ii) (the "**Severance Payments**"), the Purchase Price shall be increased by an amount equal to the aggregate amount of the Severance Payments (the "**Severance Payment Adjustment**") in accordance with Section 2.6(d).

(c) No later than 30 days following the Closing Date, the Seller shall deliver a certificate (the "**Severance Payment Certificate**") to the Purchaser that certifies the aggregate amount of the Severance Payments, together with such documentation in reasonable detail supporting the determination of such amount as is deemed appropriate by the Purchaser (the "**Supporting Documentation**").

(d) In the event of a Severance Payment Adjustment, no later than 10 Business Days following the issuance of the Severance Payment Certificate and the receipt by the Purchaser of the Supporting Documentation, the Purchaser shall pay to the Seller an amount equal to the Severance Payment Adjustment. The Severance Payment Adjustment shall be effective upon such payment.

(e) If within the two-year period following the Closing Date a Non-Transferred Employee to whom the Seller has made Severance Payments provides compensated services (through direct employment, contracted services or any other means) to the Seller, the JV Company, any Affiliate of the Seller, the JV Company or DIC or any Person operating a Competing Business, the Seller shall pay to the Purchaser an amount equal to the aggregate amount of all Severance Payments made to such Non-Transferred Employee no later than 10 Business Days following the date such Non-Transferred Employee provides such compensated services to the Seller, the JV Company, any such Affiliate or any such Person. Any such payment shall be deemed an adjustment to the Purchase Price and shall be effective upon such payment.

SECTION 2.7. Purchase Price Payment.

At the Closing, in satisfaction of the Purchaser's obligation under Section 2.4, the Purchaser shall pay the Purchase Price to the Seller.

SECTION 2.8. Payments.

All payments made hereunder shall be made in immediately available (same day) funds by wire transfer in Dollars to the account indicated in writing to the payor-Party by the payee-Party no later than two Business Days prior to the date on which such payment is due. Whenever any payment hereunder shall be stated to be due on or by no later than a day that is not a Business Day, such payment shall be made on or by no later than the next succeeding Business Day.

SECTION 2.9. Allocation.

The Purchase Price and the Assumed Liabilities shall be allocated for purposes of this Agreement, as of the Closing, among the Assets (the "*Allocation*"). Each Party shall cooperate fully with the other Party to facilitate a prompt determination of the Allocation. For all Tax purposes, the transactions contemplated by this Agreement shall be reported in a manner consistent with the terms of this Agreement and no Party shall take any position inconsistent therewith in any Tax Return, in any Tax Refund claim, in any litigation or otherwise.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLER

In order to induce the Purchaser to enter into this Agreement and to purchase the Assets and assume the Assumed Liabilities, the Seller hereby represents and warrants to the Purchaser as of the date hereof and the Closing Date as follows:

SECTION 3.1. Formation and Authority of the Seller.

The Seller (a) is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation, (b) has full corporate power and authority (i) to own its assets (including the Assets) and carry on its business as now being conducted (including the Supplemental Business) and (ii) to consummate or cause to be consummated the transactions and to fulfill or cause to be fulfilled all obligations contemplated by this Agreement

and the other Supplemental Business Transaction Documents to which it is a party and (c) is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to so qualify could have a material adverse effect on its operations, condition (financial or otherwise), assets (including the Assets) or the nature of its assets (including the Assets) or Liabilities. The principal office of the Seller is located in the State of North Carolina.

SECTION 3.2. Governmental Approvals and Licenses.

(a) The Governmental Approvals and Licenses listed on Schedule 3.2(a) constitute all Governmental Approvals and Licenses required (in accordance with applicable Law, by Contracts to which the Seller is a party or otherwise) (i) to conduct the Supplemental Business as currently conducted (excluding the operation of the Reichhold Facilities) and (ii) to own, hold, utilize and operate the Assets as currently owned, held, utilized and operated. All such Governmental Approvals and Licenses and all Governmental Approvals and Licenses otherwise material to the ownership and operation of the Assets and to the operation and conduct of the Supplemental Business (excluding the operation of the Reichhold Facilities) (collectively, the "***Required Approvals***") are in full force and effect and there are no reasonable grounds to believe that any such Required Approval shall not, in the ordinary course, be renewed upon expiration. Except as set forth on Schedule 3.2(a), (A) at and as of the Closing, all the Required Approvals have been issued to the Seller and are in full force and effect and (B) the Seller has fulfilled and performed all its obligations with respect to the Required Approvals. No event has occurred that allows, or after notice or lapse of time could allow, revocation or termination of any Required Approval or results, or after notice or lapse of time could result, in any material adverse effect with respect to the holder of any Required Approval.

(b) (i) No Required Approval has been revoked or suspended, (ii) the Seller has not been involved in a Proceeding or investigation, whether formal or informal, to revoke, suspend, limit or restrict any Required Approval, (iii) the Seller has not been notified by any Governmental Authority or other Person that there is cause to revoke, suspend, limit or restrict any Required Approval and (iv) no such revocation, suspension, limitation or restriction is, to the knowledge of the Seller, threatened by any Governmental Authority or other Person.

(c) Attached hereto as Schedule 3.2(c) is a list of all applications of the Seller for Governmental Approvals and Licenses with respect to the Supplemental Business (excluding the Reichhold Facilities) and the Assets and the current status of all such applications, which list is complete and accurate.

(d) Except as set forth in Schedule 6.2(a), no Governmental Approval or License is required for (i) the execution or delivery by the Seller of this Agreement or any other Supplemental Business Transaction Document to which it is a party or (ii) the performance thereby of its obligations hereunder or thereunder.

SECTION 3.3. No Violation, Breach or Conflict.

The execution and delivery by the Seller of this Agreement and each other Supplemental Business Transaction Document to which it is a party, the consummation of the transactions

contemplated hereby and thereby and the compliance by the Seller with the terms and provisions hereof and thereof shall not (a) conflict with, result in a breach or violation of, or require any consent under, the certificate of incorporation or other governing documents of the Seller or any applicable Law, or any Assigned Contract, lease or other Contract or instrument to which the Seller is a party or by which the Seller is bound or to which the Seller or any Asset is subject, (b) constitute a default under, or grounds for termination of, any such Assigned Contract, lease, other Contract or instrument, (c) result in the creation or imposition of any Encumbrance upon the Assets or any of the revenues or other assets of the Seller pursuant to the terms of any such Assigned Contract, lease, other Contract or instrument or otherwise, (d) conflict with, constitute a default under, or result in a breach or violation of or grounds for termination of, any Governmental Approval or License to which the Seller or any Asset is subject or by which the Seller may be bound or (e) result in the violation by the Seller of any applicable Law.

SECTION 3.4. Financial Statements; No Material Adverse Change.

(a) Attached hereto as Schedule 3.4(a) are (i) unaudited pro forma financial schedules summarizing volume sold, revenues, freight, net sales, raw material at standard and standard contribution margin of the Supplemental Business for each of the years in the three-year period ended on December 31, 2000, (ii) unaudited pro forma financial schedules summarizing volume sold, revenues, freight, net sales, raw material at standard and standard contribution margin of the Supplemental Business for the three-month period ended March 31, 2001 and (iii)- an unaudited financial schedule of Inventory detailing volumes and value of the Inventory for each of the twelve months preceding and including the month-end prior to the date hereof. All such financial schedules described above (A) are in accordance with the books and records of the Seller, (B) present fairly the respective financial information of the Supplemental Business as of the dates and for the periods indicated and (C) have been prepared in accordance with GAAP consistently applied..

(b) Since December 31, 2000, there has not occurred any material adverse change (or development involving a prospective change) in the Supplemental Business, the Assets or the condition thereof, or the condition (financial or otherwise) or the results of operations of the Seller with respect to the Supplemental Business or the Assets.

SECTION 3.5. Litigation.

There is no Proceeding in progress, pending or, to the knowledge of the Seller, threatened against, affecting, or relating to, the Seller, any Supplemental Business or the Assets, at law or in equity, that would adversely affect the ability of the Seller to perform its obligations under any Supplemental Business Transaction Document or to consummate any transaction contemplated hereby and thereby, and, to the knowledge of the Seller, there is no basis for any such Proceeding. There is no Proceeding in progress, pending or, to the knowledge of the Seller, threatened that would adversely affect the validity of any Supplemental Business Transaction Document or any action taken or to be taken thereunder. Except as set forth on Schedule 3.5, (a) no Proceeding is pending and, to the knowledge of the Seller, no threatened Proceeding exists or has been made against the Seller or any Affiliate thereof with respect to the current and prior operation of the Supplemental Business or the Assets and (b) there is no judgment, decree, injunction, rule, writ, determination or order of any Governmental Authority outstanding against,

or applicable to, the Seller or any Affiliate thereof that (in the case of either clause (a) or (b) above) would (i) adversely affect the ability of the Seller to perform its obligations under any Supplemental Business Transaction Document, (ii) enjoin, restrain or prohibit the consummation of the transactions contemplated by the Supplemental Business Transaction Documents or (iii) impose limitations on the ability of the Purchaser to operate the Supplemental Business or the Assets.

SECTION 3.6. Conduct of Business.

Since December 31, 2000, the Seller has not, with respect to the Supplemental Business: (a) except in the ordinary course of business, sold, leased or transferred, or agreed to sell, lease or transfer, any of its assets, property or rights (including any Asset); (b) entered or agreed to enter into any Contract granting any preferential right to purchase any of its assets, property or rights (including any Asset) or requiring the consent of any Person to the transfer and assignment of such assets, property and rights; (c) entered or agreed to enter into any transaction other than in the ordinary course of business, except as expressly stated herein or in the other Supplemental Business Transaction Documents; (d) except in the ordinary course of business, increased or agreed to increase the rate of compensation or benefits payable, or to become payable, to any Potential Transferred Employee; (e) made any change in any accounting method, practice or principle or in any system of internal accounting controls; or (f) agreed, whether in writing or otherwise, to take any action described in this Section 3.6.

SECTION 3.7. Certain Assets.

(a) The Seller solely owns, leases or has the legal right to use all the Assets (including the Leased Real Property), and, with respect to the Assigned Contracts (including the lease agreement(s) pursuant to which it is the lessee of the Leased Real Property), is a party to and enjoys the right to the benefits of such Contracts in accordance with their respective terms. The Seller solely owns and has good, marketable and insurable title to, or has valid and subsisting leasehold interests or licensee rights in, the Assets, all free and clear of all Encumbrances, except for Permitted Encumbrances and the Assumed Liabilities. Without limiting the generality of the foregoing, the Seller (i) has not granted, or agreed to grant, (A) any interest or right in, or with respect to, any Asset or (B) any right to acquire or receive any Asset or any interest or right therein or with respect thereto and (ii) is not a party to, or bound by, any Contract affecting or relating to a right to transfer any Asset (or any interest or right therein or with respect thereto).

(b) At the Closing, the Seller shall transfer and deliver to the Purchaser, and the Purchaser shall receive, the Seller's interests and rights in all Assets, free and clear of any Encumbrance, except for Permitted Encumbrances and the Assumed Liabilities. Without limiting the generality of the foregoing, at the Closing, the Seller shall transfer and deliver to the Purchaser, and the Purchaser shall receive, valid title to the Tangible Personal Property that is owned by the Seller and all other Assets owned by the Seller, but excluding all Excluded Assets, free and clear of any Encumbrance, except for Permitted Encumbrances.

(c) Schedule 2.1(a)(i) sets forth a complete and accurate list of all Tangible Personal Property. The Assets (i) have been adequately maintained, (ii) are in normal operating condition

(with the exception of normal wear and tear), (iii) are ready for their intended use without modification and (iv) constitute all the assets used by the Seller (other than the Reichhold Facilities) necessary for the operation of the Supplemental Business by the Purchaser after the Closing consistent with past practice.

(d) The Inventory included in the Assets (i) consists of items that are good and merchantable within normal trade tolerances, (ii) is of a quality and quantity presently usable or saleable in the ordinary course of business by the Seller, (iii) is not damaged, defective or contaminated and (iv) is valued on the books and records of the Seller at the lower of cost or market with the cost determined under the first-in-first-out inventory valuation method consistent with past practice.

(e) Except for the leases set forth on Schedule 3.7(e) (complete and accurate copies of which leases have heretofore been delivered to the Purchaser), (i) none of the Assets are subject to any lease or other Contract pursuant to which the Seller or another Person is a lessee or lessor of, or holds, manages or operates, any Asset and (ii) the Seller is not a party to any lease or other Contract under which (A) it is a lessee or lessor of, or holds, manages or operates, any property (real or personal) owned by any Person other than the Seller that is utilized in the operation of, or otherwise in connection with, the Supplemental Business, or (B) any property, real or personal, owned by the Seller that is utilized in the operation of, or otherwise in connection with, the Supplemental Business is held, occupied, operated or managed by a Person other than the Seller. With respect to each lease set forth on Schedule 3.7(e) pursuant to which the Seller is described therein as the lessee thereunder, it is the owner and holder of the leasehold estates purported to be granted by such lease.

(f) Set forth on Schedule 2.1(a)(viii) are the Credits.

(g) Schedule 2.1(a)(ii) sets forth a true and correct legal description of the buildings, facilities, other structures and other real property leased by the Seller, as tenant, that are utilized in the operation of, or otherwise in connection with, the Supplemental Business, together with all leasehold improvements, fixtures, systems, equipment and items of personal property attached or appurtenant thereto, and all easements, Licenses, rights and appurtenances relating to the foregoing.

SECTION 3.8. Assigned Contracts.

Schedule 2.1(a)(iii) is a complete and accurate list of all Contracts (a) entered into by the Seller relating to the Supplemental Business or the Assets, (b) to which any Asset is subject or (c) that are material to the operation of the Supplemental Business or the Assets (excluding supply Contracts for raw materials). The Seller has heretofore delivered (or made available) to the Purchaser a complete and correct copy of all Assigned Contracts, including any modifications, amendments or supplements thereto. Each Assigned Contract is valid, binding, in full force and effect, and constitutes a valid and binding obligation of, and is enforceable against, the Seller and the other parties thereto in accordance with its terms. No party to any Assigned Contract is in default thereunder. No condition exists or event has occurred that with notice or lapse of time, or both, could constitute a default thereunder, result in the loss of any right of the Seller thereunder or create a right of termination in favor of any party thereto.

SECTION 3.9. Intellectual Property.

Schedule 2.1(a)(v) sets forth a complete and accurate list of all the Intellectual Property Rights. All registrations for the Intellectual Property Rights are valid and in full force and effect, and, to the knowledge of the Seller, there are no outstanding challenges by any Person, either to any such registration or to any application thereof. The Seller has title or the right to use all intellectual property rights that are material or necessary to the operation of the Supplemental Business as it is currently conducted, and all such intellectual property rights constitute Assets. The Seller does not own or otherwise use any intellectual property rights with respect to the Supplemental Business outside of Canada, Mexico or the United States. Other than in Japan, neither the Seller nor any Affiliate of the Seller or DIC has used any of the Intellectual Property Rights outside of Canada, Mexico or the United States. The Seller has valid and enforceable perpetual licenses to use all Third-Party Software that constitute an Asset. No Person is infringing or has infringed upon any right of the Seller relating to any Intellectual Property Right. No infringement of any intellectual property right of any Person results from the ownership, use or operation by the Seller of any Asset or the operation of the Supplemental Business. There is no claim of any infringement by the Seller of any intellectual property right of any Person being made, asserted or threatened against the Seller with respect to, or in connection with the Seller's ownership, use or operation of, any Asset or the operation of the Supplemental Business, and no such claim has been made, asserted or threatened during the preceding three-year period.

SECTION 3.10. Brokers.

None of the Seller nor any Affiliate thereof has incurred any broker's, lender's or placement fee or commission with respect to the sale of the Assets, this Agreement, any other Supplemental Business Transaction Document or any other transaction contemplated hereby or thereby.

SECTION 3.11. Environmental Claim.

(a) There is no Environmental Claim pending or threatened against the Seller with respect to the Supplemental Business sold hereunder or any Asset, in whole or in part, directly or indirectly, and there is no basis for any such Environmental Claim.

(b) The Seller has disclosed to the Purchaser all material facts that the Seller reasonably believes could be reasonably expected to form the basis of a material adverse effect on the Supplemental Business or any Asset.

SECTION 3.12. Labor Relations.

There is no strike, work stoppage, walkout, slowdown, handbilling, picketing or other "concerted action" involving any Potential Transferred Employee, and no grievance Proceeding or other controversy in progress, pending or threatened between the Seller and any Potential Transferred Employee or any union or collective bargaining unit. No Potential Transferred Employee has been or is represented by a union, labor organization or collective bargaining unit certified by the NLRB, voluntarily recognized or recognized under foreign Law. No representation election petition has been filed by any Potential Transferred Employee or is pending with the NLRB and no union organizing campaign involving any Potential Transferred

Employee has occurred, is in progress or is threatened. No NLRB unfair labor practice charge (or litigation alleging such claim) has been filed or threatened or is presently pending against the Seller with respect to the Supplemental Business. No grievance or arbitration demand, whether or not filed pursuant to a collective bargaining Contract, has been filed or threatened or is pending against the Seller with respect to the Supplemental Business. No breach of contract or denial of fair representation claim has been filed or is pending against the Seller with respect to the Supplemental Business. The Seller, with respect to the Supplemental Business, has not taken any action that could constitute a "mass layoff" or "plant closing" within the meaning of the Worker Adjustment and Retraining Notification Act or could otherwise trigger any notice requirement or Liability under any local or state plant closing notice Law. Except as set forth in Schedule 3.12, there is no employment Contract or consulting or services Contract between the Seller and any Potential Transferred Employee. The Seller is not nor has it ever been a party to any collective bargaining Contract with respect to the Supplemental Business. Except as set forth in Schedule 3.12, no Potential Transferred Employee has any contractual right to continued employment with, or retention by, the Seller. The Seller, with respect to the Supplemental Business, has complied and is in compliance in all material respects with all Laws relating to the employment of labor and employment practices, including all Laws relating to terms and conditions of employment, wages, hours, collective bargaining, workers' compensation, occupational safety and health, equal employment opportunity and immigration, and is not engaged in any unfair labor or unlawful employment practice. The execution of this Agreement or any other Supplemental Business Transaction Document and the consummation of any transaction contemplated hereby or thereby shall not cause the Seller to incur or suffer any Liability for severance, termination or other payments to any Person.

SECTION 3.13. Employee Benefit Plans.

(a) Schedule 3.13 sets forth a complete and accurate list of all Pension Plans, Welfare Plans and Other Plans of the Seller or a Section 414 Affiliate in which any Potential Transferred Employee participates (the "***Potential Benefit Plans***"). There is no Proceeding in progress, pending or threatened by the IRS, the DOL or the PBGC with respect to any Potential Benefit Plan (including any participant claim with respect to any Potential Benefit Plan). All the Potential Benefit Plans are in compliance in all material respects with the requirements prescribed by applicable Law, and the Seller and each Section 414 Affiliate has performed all obligations required to be performed by it under, and is not in any material respect in default under or in violation of, any Potential Benefit Plan. The Seller has not received any written notice that any Potential Benefit Plan is not in compliance with the terms of such Plan, any collective bargaining Contract or other Contract, ERISA, any other applicable Law or otherwise and there exists no such non-compliance.

(b) Each Potential Benefit Plan intended to be qualified under Section 401(a) of the Code has heretofore been determined by the IRS to so qualify, and each trust created thereunder has heretofore been determined by the IRS to be exempt from Tax under the provisions of Section 501(a) of the Code and nothing has occurred since the date of the most recent determination that could cause any such Potential Benefit Plan or trust to fail to qualify under Section 401(a) or 501(a) of the Code.

(c) The transactions contemplated by this Agreement shall not (i) result in any additional payment (including any severance payment) to, or any benefit accrual for, or (ii) increase any vested interest in, a Potential Benefit Plan for any Potential Transferred Employee or any dependant of such employee.

SECTION 3.14. Necessary Action.

The Seller has full corporate power, right and authority to execute and deliver this Agreement and each other Supplemental Business Transaction Document to which it is a party and to perform its obligations hereunder and thereunder. Each of this Agreement and each other Supplemental Business Transaction Document has been duly and validly authorized, executed and delivered by the Seller and constitutes the legal, valid and binding obligation of the Seller, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

SECTION 3.15. Taxes.

(a) The Seller has duly filed with the appropriate taxing authorities and Governmental Authorities all Tax Returns required to be filed thereby (without regard to extensions of time permitted by Law or otherwise) (the "***Seller Tax Returns***"). All Seller Tax Returns are accurate and complete. No deficiency has been asserted with respect to any Seller Tax Return (as a result of an examination by the IRS (or other applicable taxing authority or Governmental Authority) of a Seller Tax Return, or otherwise) for any period through and including December 31, 2000 that have not been resolved and fully paid. The Seller has not granted or entered into any request, consent, waiver or agreement to extend the time within which to file any Tax Return, its taxable year or the statutory period of limitations applicable to the assessment or collection of any Tax with respect to any Seller Tax Return or otherwise. The Seller has (i) paid all Taxes owed thereby and (ii) withheld and paid to the applicable taxing authority or Governmental Authority all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other Person (including for income Taxes, social security Taxes, unemployment insurance Taxes and other employee withholding Taxes).

(b) There is no Encumbrance on any Asset that arose in connection with any failure (or alleged failure) to pay any Tax.

(c) The Seller has made available to the Purchaser for inspection complete and accurate copies of all Seller Tax Returns, and all schedules thereto, filed by or in the name of the Seller with any taxing authority or Governmental Authority, and all written communications, examination reports and statements of deficiencies assessed against or agreed to by the Seller relating to any such Tax Return, for each taxable year ending on or following December 31, 1997.

(d) No Assumed Liability is an obligation to make a payment that shall not be deductible under Section 280G of the Code, nor shall the termination of any Potential

Transferred Employee trigger an obligation to make a payment that shall not be deductible under such Section.

SECTION 3.16. Compliance With Law.

The Seller has not received any notice that it or the Assets are not in compliance with, and the Seller and the Assets are in compliance in all material respects with, all applicable Laws, in each case with respect to the Supplemental Business.

SECTION 3.17. Insurance.

Schedule 3.17 sets forth a complete and correct list of all policies or binders of insurance and all insurance bonds (the "***Insurance Policies***") held or maintained by or for the benefit of (a) the Seller with respect to the Supplemental Business or the Assets, specifying the insurer, the amount and nature of coverage, the risk insured against, the deductible amount (if any) and the date through which coverage shall continue by virtue of premiums already paid. Complete and accurate copies of the Insurance Policies have been made available to the Purchaser prior to the date hereof. Each Insurance Policy is in full force and effect and constitutes the valid and binding obligation of, and is enforceable against, the parties thereto in accordance with its terms. The Insurance Policies are issued by reputable insurers and cover all risks normally insured against, and in amounts normally carried, by business operations of similar size engaged in similar lines of business as the Seller and such coverage is sufficient (with respect to both the Supplemental Business and generally). The Seller has not reached or exceeded its policy limits for any of its insurance policies in effect at any time during the preceding five-year period with respect to the Supplemental Business.

SECTION 3.18. Customer and Supplier Relations.

At Closing, the Seller shall provide the Purchaser with a complete and accurate list of the names and addresses of the customers of the Supplemental Business and the potential customers of the Supplemental Business with which the Seller is in discussions regarding future Contracts (the "***Customers***"). The Seller has not received any notice that any Customer or any supplier of the Seller or the Supplemental Business may terminate or materially alter its business relations with the Supplemental Business, either as a result of the transactions contemplated by this Agreement or otherwise.

SECTION 3.19. Disclosures.

(a) Neither this Agreement, any other Supplemental Business Transaction Document nor any other document, certificate or statement furnished by the Seller (or the representatives or agents thereof) to the Purchaser in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

(b) The Seller has disclosed to the Purchaser any and all facts (other than general economic conditions) that (i) materially adversely affect or may materially adversely affect any Asset (or the ownership, operation, condition or nature thereof), the Supplemental Business (or the conduct and operation thereof as currently conducted and operated) and the Assumed

Liabilities or (ii) could adversely affect the ability of the Seller to execute or deliver this Agreement or any other Supplemental Business Transaction Document to which it is a party or to perform its obligations hereunder or thereunder.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Seller as follows:

SECTION 4.1. Incorporation and Authority of the Purchaser.

The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary corporate power and authority to enter into this Agreement and each Supplemental Business Transaction Document to which it is a party to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Each of this Agreement and each Supplemental Business Transaction Document to which the Purchaser is a party has been duly executed and delivered by the Purchaser, and (assuming due authorization, execution and delivery by the Seller and any other parties thereto) each of this Agreement and each such Supplemental Business Transaction Document constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

SECTION 4.2. No Conflict.

The execution and delivery of this Agreement by the Purchaser, the consummation of the transactions contemplated hereby by the Purchaser and the compliance by the Purchaser with the terms and provisions hereof shall not (a) conflict with, result in a breach or violation of, or require any consent under, the organizational and governing documents of the Purchaser or any applicable Law, or any material lease or other material Contract or instrument to which the Purchaser is a party or by which it is bound or to which it is subject, (b) constitute a default under or grounds for termination of any such lease, Contract or instrument, (c) result in the creation or imposition of any material Encumbrance upon any of the revenues or assets of the Purchaser pursuant to the terms of any such lease, Contract or instrument or (d) conflict with, constitute a default under, or result in a breach or violation of or grounds for termination of, any Governmental Approval to which the Purchaser is a party or by which the Purchaser may be bound.

SECTION 4.3. Litigation.

There is no Proceeding in progress, pending or, to the knowledge of the Purchaser, threatened against, affecting, or relating to, the Purchaser at law or in equity that would adversely affect the ability of the Purchaser to perform its obligations under any Supplemental Business Transaction Document or to consummate any transaction contemplated hereby or thereby, and, to the knowledge of the Purchaser, there is no basis for any such Proceeding. There is no Proceeding in progress, pending or, to the knowledge of the Purchaser, threatened that would

adversely affect the validity of any Supplemental Business Transaction Document or any action taken or to be taken thereunder.

SECTION 4.4. Brokers.

The Purchaser has not incurred any broker's, lender's or placement fee or commission in connection with this Agreement or the transactions contemplated hereby.

ARTICLE V COVENANTS

Each Party, for the period commencing on the date hereof or the other applicable period set forth below, with respect to actions or the forbearance to act, on behalf of such Party, shall take or forbear to take the following applicable actions, except as otherwise expressly consented to or approved by the other Party in writing or as otherwise contemplated by the other Supplemental Business Transaction Documents:

SECTION 5.1. Actions; Acquisition Proposals.

(a) Prior to the Closing, the Seller shall confer, to the extent reasonably practicable, with the Purchaser on a regular basis and report on significant matters and material decisions affecting the Supplemental Business or the Assets. For the period commencing on the date hereof and ending on the Closing Date, the Seller shall (i) utilize the Assets and conduct the Supplemental Business as currently utilized and conducted and only in the ordinary course (including with respect to all interactions with Governmental Authorities), (ii) keep available to it the goodwill of the Customers and other Persons with whom business or other relationships exist (including governmental officials) with respect to the Supplemental Business to the end that their goodwill, ongoing business or other relationship shall not be impaired in any material respect at or prior to Closing, (iii) exercise all commercially reasonable efforts to maintain its existing relationships with Potential Transferred Employees, (iv) except as may be required by Law or this Agreement or except in the ordinary course of business, not take any action to amend or terminate any Potential Benefit Plan or increase the compensation of any Potential Transferred Employee; (v) not declare, or take or fail to take any action that could constitute, a default or an event of default with respect to any Assigned Contract, (vi) not sell, assign or otherwise transfer or Encumber, or agree to sell, assign or otherwise transfer or Encumber, any Asset or any of its interests therein, (vii) not make any Tax election or settle or compromise (or agree to settle or compromise) any Tax Liability that affects the Assets or the Supplemental Business and (viii) not agree, whether in writing or otherwise, to take any action described in clause (iv), (v), (vi) or (vii) of this Section 5.1(a).

(b) Prior to the Closing, the Seller shall not take any action or authorize or permit any of its officers, directors, managers or employees or any investment banker, attorney, accountant or other representative retained thereby to take any action (i) to solicit or encourage, directly or indirectly (including by way of furnishing any information), any inquiry or the making of any proposal that could reasonably be expected to lead to any Acquisition Proposal, (ii) to engage in any negotiations with respect to an Acquisition Proposal, (iii) to provide any information concerning the Supplemental Business or any Asset to any Person in connection with any

Acquisition Proposal or (iv) to reach any agreement or understanding for or regarding any Acquisition Proposal. The Seller shall promptly advise the Purchaser orally and in writing of any such inquiry or proposal of which the Seller becomes aware.

SECTION 5.2. Tax Matters.

(a) The Seller shall, upon the reasonable request of the Purchaser from time to time, use the Seller's best efforts to obtain any certificate or other document from any taxing authority, Governmental Authority or other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed on the Purchaser with respect to the Supplemental Business or the Assets (including with respect to the transactions contemplated hereby).

(b) All Transfer Taxes shall be paid by the Seller when due. The Seller shall, at its own expense, prepare and file, or cause to be prepared and filed, when due, all necessary Tax Returns and other documentation with respect to all such Transfer Taxes.

SECTION 5.3. Public Announcements.

Except as may be required by Law or any listing Contract with a national securities exchange, no Party shall make any public announcement or issue any press release regarding the subject matter hereof without the prior written consent of the other Party.

SECTION 5.4. Regulatory Filings.

Each Party shall use commercially reasonable efforts to make or obtain the Licenses and Governmental Approvals set forth on Schedule 6.2(a), but provided that neither Party shall be obligated to divest, hold separate, license or take similar action with respect to any assets (tangible or intangible). Without limiting the generality of the foregoing, each Party shall, in connection with the consummation of the transactions contemplated by Article II, file the necessary Notification and Report Forms with the United States Federal Trade Commission and the United States Department of Justice in accordance with the HSR Act (the "*HSR Filing*"), if applicable, and make such filings in connection with the transactions contemplated hereby as may be required under applicable Law, if any.

SECTION 5.5. Consents and Waivers.

Each Party shall execute such consents, waivers or other documents as may be reasonably required in order to permit the Parties to effectuate the transactions contemplated by this Agreement or any other Supplemental Business Transaction Document.

SECTION 5.6. Expenses.

Except as otherwise set forth herein or in the other Supplemental Business Transaction Documents, each Party shall pay such Party's own costs and expenses incurred in connection with this Agreement and the other Supplemental Business Transaction Documents and the transactions contemplated hereby and thereby.

SECTION 5.7. Transfer of Documents.

Following the Closing, the Seller shall, from time to time, within 10 days following written request from the Purchaser therefor, turn over thereto all reports, Records, Contracts, certificates and other materials of any kind or nature whatsoever in the Seller's possession or within the Seller's control, so requested that relate to the Supplemental Business, the Assets or the Assumed Liabilities. Notwithstanding the foregoing, the Seller may retain (a) copies of all such reports, Records, Contracts, certificates and other materials belonging thereto that are required for the Seller's Tax Return purposes and (b) the originals of all such reports, Records, Contracts, certificates and other materials belonging thereto that do not solely relate to the Supplemental Business or the Assets.

SECTION 5.8. Access to Information.

From the date hereof until the expiration of the Review Period, for the purpose of permitting the Purchaser to complete its review of the Audit Certificate, and from the date hereof to the Closing Date, for the purpose of permitting the Purchaser to complete its financial, operations, management and other due diligence investigation of the Supplemental Business, the Assets and the Assumed Liabilities, the Seller shall and shall cause its officers, employees, accountants, auditors and agents to, (a) from time to time, upon the reasonable notice of the Purchaser, afford the officers, employees and authorized agents and representatives of the Purchaser reasonable access, during normal business hours, to (i) the offices, facilities, properties and the financial and accounting books and records of the Seller and (ii) the appropriate personnel of the Seller and such accountants, auditors and agents and (b) promptly furnish to the officers, employees and authorized agents and representatives of the Purchaser such additional financial and operating data and other information regarding the Supplemental Business, the Assets and the Assumed Liabilities as the Purchaser may from time to time reasonably request; *provided, however*, in the event following the Closing the officers, employees and authorized agents and representatives of the Purchaser are not granted such access or provided such information within one Business Day following the request thereby for such access or such information (the "***Performance Date***"), the Review Period shall be extended by the number of days between the Performance Date and the date such access or such information, as the case may be, is provided to the officers, employees or authorized agents or representatives of the Purchaser. The officers, employees or authorized agents or representatives of the Purchaser shall be permitted to make extracts and copies from the Seller's financial and accounting books and records in connection with conducting such investigation and review.

SECTION 5.9. Further Assurances.

Each Party shall cooperate with the other Party to expeditiously execute, deliver and file such other documents, instruments of transfer or assignment, files, books and records, and shall take such further actions that are commercially reasonable to consummate (and required in connection with the consummation of) the transactions contemplated by this Agreement and the other Supplemental Business Transaction Documents (including obtaining any License or Governmental Approval) or that are reasonably requested by the other Party to carry out the intent of the Parties hereunder and thereunder.

SECTION 5.10. Employees; Benefit Plans.

(a) (i) The Seller shall make available for employment by the Purchaser (or an Affiliate thereof), at Closing, each of the current employees of the Seller who are identified on Schedule 5.10(a)(i) (the "**Potential Transferred Employees**"), *provided*, that, the Purchaser shall not be obligated to offer employment to any such Potential Transferred Employee. Schedule 5.10(a)(i) shall set forth the location, level and compensation of each Potential Transferred Employee.

(ii) Potential Transferred Employees who are (A) not offered employment by the Purchaser and (B) terminated by the Seller on the Closing Date or within 30 days following the Closing Date (the "**Non-Transferred Employees**") shall be entitled to the severance payments and other benefits available under the Seller's basic severance plan in effect as of January 1, 2001, and the Seller shall be responsible for severance payments and all other expenses and costs incurred in connection with the termination of employment of any Non-Transferred Employee. The Purchaser shall not be responsible for severance payments or any other expenses or costs relating to the termination of employment of any Non-Transferred Employee or Rejecting Employee.

(iii) The Purchaser shall recognize service with the Seller by the Transferred Employees for purposes only of determining (i) permitted vacation time and (ii) eligibility and vesting of pension benefits under the Purchaser's defined benefit and other pension plans.

(b) Any Transferred Employee whose employment with the Purchaser or an Affiliate thereof is terminated during the period ending on the first anniversary of the Closing Date shall receive severance benefits in the aggregate that are substantially equivalent to, or greater than, severance benefits that such Transferred Employee would have received under the severance policies of the Seller currently in effect.

(c) At or prior to Closing, subject to applicable Law, the Seller shall have made or shall make all accrued cash contributions to (and shall otherwise fully fund) each Benefit Plan in accordance with the terms of such Plan, reasonable actuarial assumptions and applicable Law (including making any discretionary payment that has been elected to be made by the Seller) and the Seller shall provide the Purchaser at or prior to Closing with confirmation satisfactory to the Purchaser of such contributions, funding and payments.

(d) Upon, from time to time, a Potential Transferred Employee becoming a Transferred Employee, the Seller shall give notice to each Transferred Employee immediately and each dependent (as defined in Section 4980B(g)(1) of the Code) of such Transferred Employee who are then covered under Benefit Plans that are health plans of such individual's rights to continuation coverage in accordance with COBRA. The Seller shall be responsible for offering and providing any continuation coverage required under Section 4980B of the Code and Part 6 of Title I of ERISA and otherwise complying with the requirements of COBRA and ERISA with respect to such individuals and such health plans in connection with Potential Transferred Employees becoming Transferred Employees as part of the consummation of the transactions contemplated hereby.

SECTION 5.11. Non-competition.

The Seller hereby covenants and agrees that, for the five-year period commencing on the Closing Date, none of the Seller or any Affiliate of the Seller or DIC shall, within the Territory, either directly or indirectly, (a) in any manner engage in, or operate, manage or maintain, or license intellectual property rights to, a Competing Business or (b) participate as a director, officer, manager or employee of, or as a stockholder, member, partner, agent or representative or other independent contractor of, or have any direct or indirect financial interest in, any enterprise that is engaged, or plans to engage, in any Competing Business or in the operation, management or maintenance of any Competing Business within the Territory; *provided, however*, that the foregoing restriction shall be inapplicable to (i) the ownership of less than one percent (1%) of the securities of any publicly traded company or (ii) the business operations of the entities set forth on Schedule 5.11. In the event of a breach or threatened breach by the Seller or any Affiliate of the Seller or DIC of the provisions of this Section 5.11, the Purchaser shall be entitled to an injunction restraining the Seller or any such Affiliate, as the case may be, from any such breach. Nothing herein shall be construed as prohibiting the Purchaser or any of its Affiliates from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages.

SECTION 5.12. Non-solicitation.

The Seller hereby covenants and agrees that none of the Seller or any Affiliate of the Seller or DIC shall, either directly or indirectly, (a) for the five-year period commencing on the Closing Date, hire, solicit, entice away or cause or arrange for another Person to solicit or entice away any Person that is an employee of the Purchaser or any Affiliate thereof that engages in the Supplemental Business at any time during the period commencing on January 1, 2000 and ending on the fifth anniversary of the Closing Date, (b) for the five-year period commencing on the Closing Date, hire, solicit, entice away or cause or arrange for another Person to hire, solicit or entice away any Person that is a Transferred Employee or a Rejecting Employee or (c) cause the termination or diminishment of, or otherwise interfere with, the business relationship of the Purchaser or any of its Affiliates with any of their respective customers, suppliers or vendors or any other Person with which the Purchaser or any of its Affiliates interacts regarding the Supplemental Business. In the event of a breach or threatened breach by the Seller or any Affiliate of the Seller or DIC of the provisions of this Section 5.12, the Purchaser shall be entitled to an injunction restraining the Seller or any such Affiliate, as the case may be, from any such breach. Nothing herein shall be construed as prohibiting the Purchaser or any of its Affiliates from pursuing any other available remedy for such breach or threatened breach, including the recovery of damages.

SECTION 5.13. Intellectual Property Right Restriction.

The Purchaser shall not use the Intellectual Property Rights to manufacture Latex in Europe until after November 30, 2001.

ARTICLE VI
CLOSING; CONDITIONS TO PERFORMANCE OBLIGATIONS
OF THE PURCHASER AND THE SELLER

SECTION 6.1. Time and Place of Closing.

Unless otherwise mutually agreed upon in writing by the Seller and the Purchaser, the closing of the purchase of the Assets and assumption of the Assumed Liabilities in accordance with Article II and the other Supplemental Business Transaction Documents (the "**Closing**") shall be held at 10:00 a.m., local time, on the fifth Business Day following the date that all of the conditions precedent specified in this Article VI shall have been and continue to be (or can at the Closing be) satisfied or have been waived by all the Parties permitted to waive such conditions (such date of the Closing hereinafter being referred to as the "**Closing Date**"). The place of the Closing shall be the location of the "Closing" under the JV Agreement.

SECTION 6.2. Mutual Conditions Precedent.

The obligation of each Party to consummate the transactions contemplated by Article II and the other Supplemental Business Transaction Documents on and following (as applicable) the Closing Date is subject to the fulfillment at or prior to the Closing of each of the following conditions to the reasonable satisfaction of each Party:

(a) All Licenses and Governmental Approvals required to be filed or obtained (i) to execute and deliver the Supplemental Business Transaction Documents, (ii) to consummate the transactions contemplated by Article II and the Supplemental Business Transaction Documents and (iii) as a result of such execution, delivery or consummation, shall have been filed or obtained (including the Licenses and Governmental Approvals set forth on Schedule 6.2(a)).

(b) The conditions to closing set forth in Section 6.2 of the JV Agreement have been satisfied (or waived) in accordance with the terms thereof on or prior to the Closing Date.

(c) No Law shall be in effect that enjoins, restrains or prohibits the consummation by any Party of any transaction contemplated hereby or by any other Supplemental Business Transaction Document.

(d) Early termination shall have been granted or the applicable waiting periods shall have expired under the HSR Act with respect to the HSR Filing.

SECTION 6.3. Conditions to Obligations of the Seller.

In addition to the fulfillment of the conditions set forth in Section 6.2, the obligation of the Seller to consummate the transactions contemplated by Article II and the other Supplemental Business Transaction Documents on and following (as applicable) the Closing Date is subject to the fulfillment at or prior to the Closing of each of the following additional conditions to the reasonable satisfaction of the Seller:

(a) The Purchaser shall have duly executed and, if applicable, delivered the Supplemental Business Transaction Documents to which it is a party and each such

Supplemental Business Transaction Document shall be in full force and effect on the Closing Date.

(b) The representations and warranties of the Purchaser set forth herein and in the other Supplemental Business Transaction Documents shall be true and correct in all material respects at and as of the Closing Date.

(c) The Purchaser shall have duly performed and complied in all material respects with each agreement, covenant and condition herein and in the other Supplemental Business Transaction Documents that it is required to perform or with which it is required to comply on or prior to the Closing Date.

(d) A certificate, dated the Closing Date and signed by an Authorized Person of the Purchaser, certifying that as of the Closing Date all conditions specified in Sections 6.3(b) and 6.3(c) have been satisfied in full.

(e) The Purchaser shall have caused to be delivered to the Seller the opinion, dated the Closing Date, of internal counsel to the Purchaser, substantially in the form attached hereto as Exhibit F.

(f) The conditions to closing set forth in Section 6.4 of the JV Agreement have been satisfied (or waived) in accordance with the terms thereof on or prior to the Closing Date.

SECTION 6.4. Conditions to Obligations of the Purchaser.

In addition to the fulfillment of the conditions set forth in Section 6.2, the obligation of the Purchaser to consummate the transactions contemplated by Article II and the other Supplemental Business Transaction Documents on and following (as applicable) the Closing Date is subject to the fulfillment at or prior to the Closing of each of the following additional conditions to the reasonable satisfaction of the Purchaser:

(a) The Seller shall have duly executed and, if applicable, delivered the Supplemental Business Transaction Documents to which it is a party and each such Supplemental Business Transaction Document shall be in full force and effect on the Closing Date.

(b) The representations and warranties of the Seller set forth herein and in the other Supplemental Business Transaction Documents shall be true and correct in all material respects at and as of the Closing Date.

(c) The Seller shall have duly performed and complied in all material respects with each agreement, covenant and condition herein and in the other Supplemental Business Transaction Documents that it is required to perform or with which it is required to comply on or prior to the Closing Date (including all such agreements, covenants and conditions set forth in Section 5.10).

(d) The receipt by the Purchaser of the certificate of the Secretary or the Assistant Secretary of the Seller, dated the Closing Date, attesting as to the incumbency of each

Authorized Person of the Seller who shall execute any Supplemental Business Transaction Document.

(e) A certificate, dated the Closing Date and signed by an Authorized Person of the Seller, certifying that as of the Closing Date all conditions specified in Sections 6.4(b) and 6.4(c) have been satisfied in full.

(f) The delivery of a copy of the requisite approvals of the board of directors and, as applicable, the shareholder of the Seller authorizing the execution, delivery and performance by the Seller of this Agreement and the other Supplemental Business Transaction Documents to which it is a party, which copies are certified by the appropriate officer of the Seller as being true and correct copies of such approvals.

(g) All transferable Required Approvals shall have been transferred to the Purchaser and, with respect to non-transferable Required Approvals, the Purchaser shall have been issued or shall have otherwise received replacement Governmental Approvals or Licenses therefor.

(h) The Seller shall have caused to be delivered to the Purchaser the opinion, dated the Closing Date, of internal counsel of the Seller, substantially in the form attached hereto as Exhibit G.

(i) The conditions to closing set forth in Section 6.3 of the JV Agreement have been satisfied (or waived) in accordance with the terms thereof on or prior to the Closing Date.

ARTICLE VII SURVIVAL

It is the express intention and agreement of the Parties that all representations and warranties made by a Party herein or in any document or instrument delivered by a Party pursuant to the provisions of this Agreement or at or in connection with the Closing, shall survive the Closing and shall remain in full force and effect, regardless of any investigation made by or on behalf of the other Party, for a period of three years following the Closing Date, together with any associated right to indemnification pursuant to Article IX, except for those representations and warranties in Sections 3.1(a), 3.1(b), 3.7(a), 3.7(b), 3.11, 3.14 and 4.1 (the provisions of which (and such associated rights) shall survive indefinitely, regardless of any investigation made by or on behalf of the other Party) and in Section 3.15 (the provisions of which (and such associated rights) shall survive for the relevant statute of limitations, regardless of any investigation made by or on behalf of the Purchaser) and in Section 4.1 of the Patent and Technology Agreement (which shall survive for the periods set forth in Section 4.2 thereof). Notwithstanding the foregoing, if notice of breach of any representation or warranty that survives the Closing pursuant to this Article VII is given to the Indemnifying Party prior to the time it would otherwise terminate pursuant to this Article VII, thereby giving rise to a right to indemnification with respect thereto under Article IX, such representation or warranty shall survive until resolution of such indemnification claim in accordance with the terms thereof.

ARTICLE VIII TERMINATION

SECTION 8.1. Termination and Abandonment.

This Agreement may be terminated and the transactions contemplated by this Agreement may be abandoned at any time prior to the Closing:

(a) by mutual written consent of the Seller and the Purchaser;

(b) by the Seller, if the Closing shall not have occurred by the date 270 days following the date hereof (the "***Expiration Date***"), and the reason for the Closing not occurring by the Expiration Date is not the breach or default of the Seller of any of its obligations under this Agreement;

(c) by the Purchaser, if the Closing shall not have occurred by the Expiration Date, and the reason for the Closing not occurring by the Expiration Date is not the breach or default of the Purchaser of any of its obligations under this Agreement; or

(d) by either the Seller or the Purchaser, if (i) any court of competent jurisdiction shall have issued an order, decree or ruling or taken any other action (A) restraining or enjoining the transactions contemplated under this Agreement or the other Supplemental Business Transaction Documents until a date later than the Expiration Date, or (B) otherwise prohibiting the transactions contemplated under this Agreement or the other Supplemental Business Transaction Documents, and (ii) such order, decree, ruling or other action shall have become final and non-appealable (each Party hereby agreeing to use its reasonable best efforts during the period ending on the earlier to occur of (x) the Expiration Date, or (y) such order, decree, ruling or other action becoming final and non-appealable, to have any such order, decree, ruling or other action lifted or rescinded).

SECTION 8.2. Effect of Termination.

In the event of the termination of this Agreement pursuant to Section 8.1, this Agreement shall forthwith become void (except for this Section 8.2, Articles VII and IX and Sections 5.2, 5.5, 10.3, 10.7, 10.8 and 10.9, which shall continue in effect), and there shall be no liability or obligation on the part of any Party with respect to this Agreement, other than that such termination shall not (a) relieve any Party of any Liabilities resulting from any breach hereof by such Party on or prior to the date of such termination or (b) affect any rights arising hereunder on or prior to the date of such termination or as a result of such breach or termination.

ARTICLE IX INDEMNIFICATION

SECTION 9.1. Seller's Indemnification.

From and following the date hereof the Seller shall indemnify, defend and hold harmless the Purchaser and its Affiliates and the officers, directors, managers, employees, agents and

representatives thereof from and against, or otherwise pay such Persons for, any and all Losses (except for any Loss caused by the act or omission of the Purchaser or any of its Affiliates or any of their respective officers, directors, managers, employees, agents and representatives) incurred or suffered by any such Indemnified Person (including any Proceeding brought or otherwise initiated by any of them) arising out of, based upon, in connection with, or resulting from: (a) any inaccuracy in or breach of any representation or warranty made by the Seller or any Affiliate of the Seller in this Agreement or any other Supplemental Business Transaction Document; (b) any failure to perform, breach or violation by the Seller or any Affiliate of the Seller or DIC of any of their respective covenants or agreements contained in this Agreement or any other Supplemental Business Transaction Document; and (c) any Excluded Liability.

SECTION 9.2. Purchaser's Indemnification.

From and following the date hereof (with respect to clauses (a) and (b) below) and the Closing Date (with respect to clause (c) below), the Purchaser shall indemnify, defend and hold harmless the Seller and its Affiliates and the officers, directors, managers, employees, agents and representatives thereof from and against, or otherwise pay such Persons for, any and all Losses (except for any Loss caused by the act or omission of the Seller or any of its Affiliates or any of their respective officers, directors, managers, employees, agents and representatives) incurred or suffered by any such Indemnified Person (including any Proceeding brought or otherwise initiated by any of them) arising out of, based upon, in connection with, or resulting from: (a) any inaccuracy in or breach of any representation or warranty made by the Purchaser or any Affiliate of the Purchaser in this Agreement or any other Transaction Document; (b) any failure to perform, breach or violation by the Purchaser or any Affiliate of the Purchaser of any of their respective covenants or agreements contained in this Agreement or any other Transaction Document; and (c) any Assumed Liability.

SECTION 9.3. Indemnified Matters.

Promptly following (a) receipt by an Indemnified Person of notice of the commencement of any Proceeding or the written assertion of any claim or demand with respect to an Indemnified Matter or (b) any claim or Loss with respect to an Indemnified Matter otherwise arising of which an Indemnified Person obtains knowledge, such Indemnified Person shall notify the appropriate Indemnifying Party (the "*Claim Notice*") of such notice, assertion or claim, as the case may be; *provided, however*, the failure of the Indemnified Person to so notify the Indemnifying Party shall not affect any right of the Indemnified Person, except to the extent such failure to so notify the Indemnifying Party results in loss or impairment of any material defense or a material increase in Losses. The Indemnifying Party shall, at its own cost and expense, assume the defense of such Indemnified Matter within 30 days following receipt of the Claim Notice; *provided that* the Indemnified Person shall upon reasonable notice by such Indemnifying Party consult from time to time in respect of such Indemnified Matter and provide such Indemnifying Party with any document, other item or available information about any witness in the possession of such Indemnified Person that such Indemnifying Party deems in its reasonable judgment to be necessary in connection with such Indemnified Matter and any reasonable out-of-pocket costs therefor shall be paid or reimbursed by such Indemnifying Party. An Indemnified Person, at such Person's own expense, may participate in the defense of any Indemnified Matter and employ separate counsel; *provided that* the Indemnified Person shall have the right to select

separate counsel (x) to participate in the defense or handling of such Indemnified Matter on such Person's behalf, at the cost and expense of the Indemnifying Party, in the event the defendants or potential defendants or obligors in connection with such Indemnified Matter shall include both the Indemnifying Party and the Indemnified Person but counsel selected by such Indemnifying Party has a conflict of interest because of the availability of different or additional defenses to such Indemnified Person and (y) to control the defense and handling of such Indemnified Matter, at the cost and expense of the Indemnifying Party, in the event such Indemnified Person is the Purchaser or any of its Affiliates or the officers, directors, managers, employees, agents and representatives thereof and the Indemnified Matter could reasonably have a material effect on the Supplemental Business. Except as set forth above, the Indemnifying Party may, in its sole discretion, defend, settle or compromise any Indemnified Matter; *provided* that (x) such Indemnifying Party shall be solely liable in respect of Losses arising therefrom (whether by payment of any judgment, settlement, amount or indemnity hereunder), and (y) such Indemnifying Party shall not settle any such Indemnified Matter to the extent it involves remedies other than monetary damages without the prior written consent of the relevant Indemnified Person(s), which consent shall not be unreasonably withheld. If the Indemnifying Party chooses to defend or prosecute any Indemnified Matter, the Indemnified Person shall cooperate in any reasonable manner in the defense or prosecution thereof.

SECTION 9.4. Cooperation.

The Indemnifying Party and the Indemnified Person shall fully cooperate with each other in regard to any Indemnified Matter, including promptly delivering copies of all pleadings, documents, reports and correspondence to such other party, and acting reasonably in all matters in which joint decisions are required.

SECTION 9.5. Reimbursement; Subrogation.

The Indemnifying Party, no later than five Business Days following demand or request therefor, shall reimburse each Indemnified Person for any Loss incurred or suffered thereby with respect to any Indemnified Matter or shall pay such amounts directly, except as otherwise provided in Section 9.3. Any amounts reimbursed or paid under this Article IX shall be net of any Tax benefit received and include (x) any additional amount reasonably necessary to indemnify the Indemnified Person against any additional Liability for Taxes that such Indemnified Person may incur as a result of such reimbursement or payment itself, on a fully grossed up basis, and (y) in the event any such reimbursement or payment occurs more than five Business Days following the demand or request therefor, interest thereon at the Interest Rate for the period commencing on such fifth Business Day and ending on the Business Day prior to the date such reimbursement or payment is made. The Indemnifying Party shall be subrogated to such Indemnified Person's right in the affected transaction and shall have a right to determine the settlement of claims therein; *provided* that the Indemnifying Party shall enter into such settlement, subject to the terms of Section 9.3, with due consideration of the best interests of such Indemnified Person.

**ARTICLE X
GENERAL PROVISIONS**

SECTION 10.1. Notices.

All notices and other communications hereunder shall be in writing and shall be delivered personally, mailed by certified mail, return receipt requested, postage prepaid, delivered by reliable overnight delivery service (receipt confirmed), or given by telecopy (receipt confirmed), addressed as follows (or, with respect to a Party, at such other address as such Party shall have furnished to the other Party in writing):

<i>the Seller:</i>	Reichhold, Inc. 2400 Ellis Road Durham, North Carolina 27703 Attention: President Telephone No.: 919.570.6286 Telecopier No.: 919.990.7869
<i>with copy to:</i>	Reichhold, Inc. 2400 Ellis Road Durham, North Carolina 27703 Attention: General Counsel Telephone No.: 919.990.7862 Telecopier No.: 919.990.7869
<i>the Purchaser:</i>	The Dow Chemical Company 2030 Dow Center Midland, Michigan 48674 Attention: Corporate Director, Mergers & Acquisitions Telephone No.: 517.636.8164 Telecopier No.: 517.636.8907
<i>with copy to:</i>	The Dow Chemical Company 2030 Dow Center Midland, Michigan 48674 Attention: General Counsel Telecopier No.: 517.638.9397
<i>with copy to:</i>	King & Spalding 1185 Avenue of the Americas New York, New York 10036 Attention: Sandra W. Hallmark, Esq. Charles S. Detrizio, Esq. Telecopier No.: 212.556.2222

Notices and other communications so delivered personally shall be deemed delivered when actually received. Notices and other communications so sent by certified mail or by reputable

overnight air delivery service shall be deemed delivered and received on the first to occur of (x) five Business Days following deposit in the United States mail or one Business Day following delivery of the same to such delivery service, as applicable, (y) written acceptance of delivery by the recipient thereof or (z) written rejection of delivery by the recipient thereof. Notices and other communications so transmitted by telecopier shall be deemed delivered upon telephone or electronic confirmation of receipt. If a notice or other communication is received on a day that is not a Business Day, it shall be deemed received on the next Business Day following such day. The Seller hereby acknowledges that it has been notified that the 517 area code for telephone and telecopier numbers set forth above in this Section 10.1 shall be changed to 989 effective as of on or about September 1, 2001.

SECTION 10.2. Counterparts; Headings.

This Agreement may be executed in counterparts, and both when so executed and delivered shall be an original, but the counterparts shall together constitute one and the same instrument. The Article and Section headings and Table of Contents are inserted for convenience only and are not to be construed as part of this Agreement.

SECTION 10.3. Severability.

Except as set forth below, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be unenforceable or invalid for any reason, the validity of the remaining provisions of this Agreement shall not be affected thereby and the invalid or unenforceable provision shall be deemed not to be a part of this Agreement. If any covenant of this Agreement is determined by any court of law or equity of competent jurisdiction to be unreasonable or unenforceable, in whole or in part, as written, each Party hereby consents to and affirmatively requests that such court reform such covenant so as to be reasonable and enforceable and that such court enforce such covenant as reformed. Any such reformed covenant shall be deemed to be part of this Agreement.

SECTION 10.4. Entire Agreement.

This Agreement, together with the other Supplemental Business Transaction Documents and the JV Agreement, collectively constitute the entire agreement and understanding between the Parties relating to the transactions contemplated hereby and supersede and take the place of all other agreements and understandings, written or oral, of the Parties relating to the transactions contemplated hereby.

SECTION 10.5. Assignment.

This Agreement shall inure to the benefit of and be binding on the Parties and their respective successors and assigns; *provided, however*, that no Party shall assign, any of such Party's rights or delegate any of such Party's obligations hereunder without the prior written consent of the other Party, which consent may be granted or withheld at such Party's sole discretion. Notwithstanding the foregoing, a Party may assign any of its rights and delegate any of its obligations hereunder to any of its Affiliates without the consent of the other Party; *provided*, that such Party shall remain liable for all such delegated obligations under this

Agreement. Any attempted assignment or delegation not in accordance with the terms of this Section 10.5 shall be null and void.

SECTION 10.6. Amendment; Waiver.

This Agreement may not be amended or modified, except by an instrument in writing signed by all Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing signed by the Party not requesting such waiver and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. The failure of any applicable Party to insist upon the strict performance of any term, condition or other provision of this Agreement or to exercise any right or remedy hereunder or otherwise, shall not constitute a waiver by such applicable Party of any such term, condition or other provision or a waiver of any default or event of default in connection therewith; and any waiver by a Party of any such term, condition, other provision, default or event of default shall not otherwise affect or alter this Agreement, and each and every term, condition and other provision hereof shall, in such event, continue in full force and effect and shall be operative with respect to any other then existing or subsequent default or event of default.

SECTION 10.7. Governing Law.

This Agreement shall be governed by and construed in accordance with the Law of the State of Delaware applicable to contracts made and to be performed in such State, except that no doctrine of choice of law shall be used to apply any Law other than that of such State, and no defense, counterclaim or right of setoff given or allowed by the Laws of any other state or jurisdiction, or arising out of the enactment, modification or repeal of any Law of any state or foreign jurisdiction, shall be interposed in any action hereon.

SECTION 10.8. Consent to Jurisdiction.

Each Party hereby irrevocably and unconditionally submits, for itself and its properties, to the non-exclusive jurisdiction of any court of the State of Delaware and any federal court in each case located in Wilmington, Delaware. Each Party hereby irrevocably and unconditionally waives any objection or defense that it may have based on improper venue or forum non conveniens to the conduct of any Proceeding in any such courts. A final judgment in any such Proceeding shall be conclusive and may be enforced in any jurisdiction by suit on the judgment or in any other manner provided by Law.

SECTION 10.9. Jury Waiver.

EACH PARTY HEREBY WAIVES TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF, THIS AGREEMENT OR ANY OTHER SUPPLEMENTAL BUSINESS TRANSACTION DOCUMENT, OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF OR THEREOF. THIS WAIVER IS INFORMED AND FREELY MADE.

SECTION 10.10. Tolling.

The running of each of the covenants in Sections 5.11 and 5.12 shall be tolled and suspended for such period that the Seller or an Affiliate of the Seller or DIC is in violation of any such covenant.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed as of the date first written above by its officer thereunto duly authorized.

THE DOW CHEMICAL COMPANY

By Ted Cosse
Name: Ted Cosse
Title: Global Vice President
Emulsion Polymers

REICHHOLD, INC.

By Y. Kawasima
Name: Y. Kawasima
Title: Chairman and CEO

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed as of the date first written above by its officer thereunto duly authorized.

THE DOW CHEMICAL COMPANY

By Ted Cosse
Name: Ted Cosse
Title: Global Vice President, Emulsion Polymers

REICHHOLD, INC.

By Y. Kawashima
Name: Y. Kawashima
Title: Chairman and CEO

ASSET PURCHASE AGREEMENT

Schedule 2.1(a)(v) INTELLECTUAL PROPERTY

ISSUED PATENTS

U.S. Patent 4,876,293

Textile Adhesives Comprising a Latex Binder Consisting
Essentially Of Styrene, Butadiene, Monoester or Maleic
Or Fumaric Acid

Canadian Patent No. 1339926

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