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TO THE ASSISTANT COMMISSIONER FOR PATENT

ments or copy thereof.

1. Name of conveying party(ies): (If multiple assignors, list numerically)

2. Name

ceiving party(ies):

Eaton Leonard, Inc.

Name: Eaton Leonard Robolix, Inc.

Internal Address:

Street Address: 1391 Specialty Drive, Ste. A

City: Vista State: CA ZIP: 92083

Additional name(s) of conveying party(ies) attached?

() Yes (X) No

Additional name(s) of receiving party(ies) attached?

() Yes (X) No

3. Nature of conveyance:

- ☐ Assignment  
☐ Merger  
☐ Security Agreement  
☐ Change of Name  
☒ Other: Asset Transfer

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

() Application(s) filed herewith Execution Date(s):

☐ Patent Application No.:  
 Filing Date:

Execution Date: (If multiple assignors, list execution dates in numerical order corresponding to numbers indicated in above) May 29, 2000

Patent No.: 4,849,643 Issue Date: July 18, 1989

Patent No. 5,008,555 Issue Date: April 16, 1991

Additional numbers attached? () Yes (X) No

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

Name: Johnfar Kerlee  
 KNOBBE, MARTENS, OLSON & BEAR, LLP  
 Customer No. 20,995

Internal Address: Fourteenth Floor

Street Address: 2040 Main Street

City: Irvine State: CA ZIP: 92614

Attorney's Docket No.: ERIXL.001L

7. Total fee (37 CFR 1.21(h)): \$80

(X) Enclosed

(X) Authorized to be charged to deposit account if any additional fees are required, or to credit any overpayment

8. Deposit account number: 11-1410

Please charge this account for any additional fees which may be required, or credit any overpayment to this account.

6. Total number of patents involved: 2

7. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct, and any attached copy is a true copy of the original document.

Johnfar Kerlee

Name of Person Signing

Signature

Date

P-53,111

Registration No.

8. Total number of pages including cover sheet, attachments and document: 14

9. Mail documents to be recorded with required cover sheet information to:

04/25/2003 LMUELLER 00000243 4849643

01 FC:8021

80.00 DP

10. DOC S\JFK\JFK-2295.DOC:gem040303

U.S. Patent and Trademark Office

Attn: Assignment Division

Crystal Gateway-4

1213 Jefferson Davis Highway, Suite 320

Arlington, VA 22202

**PATENT**  
**REEL: 013974 FRAME: 0815**

# ASSET TRANSFER AND SUBSCRIPTION AGREEMENT

THIS AGREEMENT made the 29<sup>th</sup> day of May, 2000.

BETWEEN:

EATON LEONARD, INC., a corporation  
incorporated under the laws of California

("Eaton")

- and -

EATON LEONARD ROBOLIX, INC., a  
corporation incorporated under the laws of  
California,

("ERIX")

## RECITALS:

- A. Eaton has agreed to subscribe for 501 shares in the common stock of ERIX (the "Purchased Stock").
- B. As consideration for Eaton's subscription, Eaton and ERIX have agreed that Eaton will transfer to ERIX assets used by Eaton in carrying on (i) its business of manufacturing small diameter (meaning less than 45 mm) metal tube benders (ii) its business of manufacturing the VB200HP, and (iii) its business of manufacturing metal tube measuring devices, all as more specifically described on Schedule "A" (the "Transferred Assets").

NOW THEREFORE in consideration of the mutual covenants hereinafter set forth, the parties hereby covenant and agree as follows:

## ARTICLE I - DEFINITIONS

### 1.1 Definitions.

Whenever used in this agreement, unless there is something inconsistent in the subject matter or context, the following words and terms shall have the meanings set out below:

- (a) "Agreement" means this Agreement and all schedules attached hereto and all amendments and supplements hereto and thereto and all restatements and replacements hereof and thereof;
- (b) "Assumed Liabilities" has the meaning ascribed thereto in section 2.03;

- (c) "Business" means the business to be carried on by ERIX in place of Eaton, namely, (i) the business of manufacturing, marketing and selling small-diameter (meaning less than 45 mm) metal tube benders or metal wire benders; (ii) manufacturing, marketing and selling the VB200HP and such replacements or upgrades to the VB200HP as may be developed in the future; and (iii) the manufacturing, marketing and sales of metal tube measuring devices;
- (d) "Claim" means any and all losses, damages, taxes, expenses, liabilities (whether accrued, actual, contingent or otherwise), claims, demands and actions of whatever nature or kind, including legal fees and expenses on a solicitor/attorney and client basis and other professional fees and disbursements;
- (e) "Closing Date" means 10:00 a.m. Toronto time on May 24, 2000 or such other time or date as may be agreed upon by the parties;
- (f) "Person" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative;
- (g) "Purchased Stock" has the meaning ascribed thereto in Recital A of this Agreement;
- (h) "Transferred Assets" has the meaning ascribed thereto in Recital B of this Agreement;
- (i) "Transferred Employees" has the meaning ascribed thereto in Section 4.1 of this Agreement.

## ARTICLE II - SUBSCRIPTION

### 2.1 Subscription.

Eaton hereby subscribes for and agrees to purchase from ERIX, pursuant to the terms and conditions of this Agreement, the Purchased Stock for \$300,000 (the "Subscription Price").

### 2.2 Subscription Price.

Eaton shall satisfy the Subscription Price by transferring the Transferred Assets to ERIX on the Closing Date. Eaton and ERIX agree that the Subscription Price equals to fair market value of the Transferred Assets less the Assumed Liabilities.

### 2.3 Assumption of Liabilities.

On the Closing Date, ERIX shall assume the outstanding customer deposit liabilities on work-in-progress of Eaton listed on Schedule "A" related to the Transferred Assets together with all outstanding vacation pay liabilities in connection with the Transferred

Employees as set out on Schedule "A" (collectively, the "Assumed Liabilities"). ERIX will not assume any other liabilities associated with the Transferred Assets.

**2.4 Allocation of Subscription Price.**

The parties agree that the Subscription Price shall be allocated among the Transferred Assets and the Assumed Liabilities in the manner determined by the parties and attached hereto as Schedule "A" and such determinations will be binding on both parties.

**2.5 Taxes.**

ERIX shall pay to Eaton or to the appropriate taxing authority within the time limits required by the applicable legislation all goods and services, sales, use, consumption, or transfer or other similar taxes to the extent required by any federal, provincial or local legislation in connection with the transfer of the Transferred Assets.

**2.6 California Securities Legislation**

The sale of the securities which are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefore prior to such qualifications is unlawful, unless the sale of securities is exempt from qualification by Section 25100, Section 25102, or Section 25105 of the *California Corporations Code*. The rights of all parties to this Agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt. The parties to this Agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

**2.7 Bulk Sales**

ERIX agrees to waive compliance with the provisions of any applicable bulk sales legislation in respect of the purchase and sale of the Transferred Assets on the condition that Eaton shall indemnify and save harmless ERIX as provided in Article III hereof.

**ARTICLE III - INDEMNITIES**

**3.1 ERIX Indemnity**

ERIX hereby agrees to indemnify and save harmless Eaton from and against any Claims made against Eaton related to:

- (a) the Assumed Liabilities;
- (b) the Transferred Assets, provided that such Claims relate to facts arising entirely on or after the Closing Date; and

- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.2 of this Agreement.

### 3.2 Eaton Indemnity.

Eaton hereby agrees to indemnify and save harmless ERIX from and against any Claims made against ERIX related to:

- (a) all liabilities associated with the Transferred Assets, other than the Assumed Liabilities;
- (b) all liabilities relating to bulk sales or similar legislation concerning creditors' rights; and
- (c) any inaccuracy in or breach of the representations and warranties set out in Section 5.1 of this Agreement.

### 3.3 Minimum Threshold for Claim.

Notwithstanding any of the provisions of Article III, neither party will be liable for any Claim incurred by the other directly or indirectly resulting from any inaccuracy or misrepresentation in any representation or warranty contained in this Agreement unless and until the aggregate of all such Claims exceed \$10,000 in which event the amount of all such Claims, including such \$10,000, may be recovered by the party making such Claim.

### 3.4 Maximum Liability of Each Party.

The maximum aggregate liability of each party for all Claims made by the other party under Article III shall be limited to the amount of the Subscription Price. The maximum liability of Eaton for any single Claim made by ERIX under subsection 3.2(c) in respect of any single Transferred Asset shall be limited to the book value of such Transferred Asset. Notwithstanding the foregoing, the parties agree that there shall be no maximum liability for any claims made against ERIX by creditors of Eaton relating to bulk sales or similar legislation concerning creditors' rights.

### 3.5 Amounts Recovered.

The amount of any Claim shall be determined after giving effect to any amount recovered from any insurer or any other third party, provided that nothing herein obliges either party to make a claim against its insurer or any third party or to accept a settlement.

### 3.6 Set-Off.

Each party shall be entitled to set-off the amount of any Claim submitted under Article III as damages or by way of indemnification against any other amounts payable by the other parties whether under this Agreement or otherwise, provided that if any amount set-off by such party is finally determined to be less than the actual amount of the Claim, such party shall,

promptly after receipt of such notice of final determination, pay the amount of such difference to the other party.

#### ARTICLE IV - EMPLOYMENT MATTERS

##### 4.1 Employees.

- (a) On the Closing Date, ERIX shall extend offers of employment to all employees of Eaton who are listed on Schedule "B" on substantially the same or comparable terms and conditions as to salary, benefits, duties and working conditions as those in force immediately prior to the Closing Date. For greater certainty, ERIX will recognize the length of service with Eaton of each such employee. The employees who accept the offer from ERIX shall be referred to as the "Transferred Employees".
- (b) Nothing contained herein shall confer any former, current or future employee of Eaton or ERIX or legal representative or beneficiary thereof, any rights or remedies, including without limitation, any right to employment or continued employment of any nature, for any specified period.
- (c) Except for those liabilities set out on Schedule "B", which shall be for the account of ERIX, all liabilities and costs in respect of the Transferred Employees including premiums for applicable pension and benefit plans and statutory payroll deductions, accrued wages, salaries and commissions, vacation pay, employee benefit plan payments and employee bonus and incentive payments shall be for the account of Eaton to the extent that they relate to the period preceding the Closing Date and for the account of ERIX, to the extent that they relate to the period following the Closing Date. For greater certainty, ERIX shall, following the Closing Date, honour all obligations arising after the Closing Date, including normal compensation and severance arrangements, due to Transferred Employees.
- (d) ERIX agrees to indemnify and save harmless Eaton with respect to any Claims (including claims for severance, notice of termination, breach of contract, constructive dismissal or damages in connection therewith) relating to the employment of any of the Transferred Employees or the termination of employment of any of the Transferred Employees after the Closing Date, including continuation, discontinuation or provision of the employment policies, benefit plans or other benefits previously provided by Eaton.

#### ARTICLE V - REPRESENTATIONS AND WARRANTIES

##### 5.1 Representations and Warranties of Eaton.

Eaton hereby represents and warrants to the Purchaser that:

- (a) **Organization:** Eaton is a corporation duly incorporated, validly existing and in good standing under the laws of California. Eaton has all necessary corporate power, authority and capacity to own its property and assets and to carry on its business as presently owned and carried on by it and is duly licensed, registered and qualified as a corporation to do business and is in good standing in each jurisdiction in which the nature of its business and assets make such qualification necessary;
- (b) **Authorization:** Eaton has all necessary corporate power, authority, capacity and right to enter into and deliver this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of Eaton;
- (c) **Binding Obligation:** This Agreement constitutes a valid and legally binding obligation of Eaton, enforceable in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization and other laws of general application limiting the enforcement of creditors' right generally and to the fact that specific performance is an equitable remedy available only in the discretion of the court;
- (d) **No Contracts:** Other than in connection with security granted to Canadian Imperial Bank of Commerce ("CIBC"), Eaton is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, instrument, statute, regulation, arbitration award, charter or by-law provision, order or judgment which would be violated, contravened or breached by or under which any default would occur as a result of the execution and delivery of this Agreement or the consummation of any of the transactions contemplated in this Agreement. Other than in connection with security granted to CIBC, there is no contract, option or any other right of another binding upon or which at any time in the future may become binding upon Eaton to sell, transfer, assign, pledge, charge, mortgage or in any other way dispose of or encumber any of the Transferred Assets other than pursuant to the provisions of this Agreement. At Closing, the security granted to CIBC in connection with the Transferred Assets will be released and discharged;
- (e) **Title to Transferred Assets:** On closing, Eaton will be, and ERIX shall become, the absolute beneficial and legal owner of the Transferred Assets with a good title, free and clear of any liens, charges, mortgages, security interests, encumbrances or rights or claims of others and Eaton is exclusively entitled to possess and dispose of the same, and in particular, without limiting the generality of the foregoing, there has been no assignment, subletting or granting of any licence (of occupation or otherwise) of or in respect of any of the Transferred Assets;
- (f) **Location of Transferred Assets:** Other than finished goods, all the Transferred Assets are situate at 6030 Avenida Encinas, Carlsbad, California;

- (g) **Intellectual Property:** To the best knowledge of Eaton, the use by ERIX of the Optical Probe with Overlapping Detection Fields (U.S. Patent application no. 4,849,643) and the Eaton Leonard name (the "Intellectual Property") will not infringe upon the intellectual property rights of any other Person. Eaton has received no claim or threatened claim of infringement from any Person relating to the Intellectual Property and knows of no basis for any such claim. No employee of Eaton owns, directly or indirectly in whole or in part, the Intellectual Property;
- (h) **Liabilities:** To the best knowledge of Eaton, there are no liabilities of Eaton of any kind whatsoever, whether or not accrued and whether or not determined or determinable, in respect of which ERIX may become liable on or after the Closing Date other than the Assumed Liabilities;
- (i) **Employees:** Schedule "B" sets out the names, current annual salaries or hourly rates, job descriptions, length of employment or date of hire, dates and amounts of the most recent increases in salary, the amounts of any bonus payments, commissions, accrued vacation pay and other amounts owing to all employees listed thereon. Other than an internal severance policy implemented by Eaton in 1995 pursuant to which Eaton determined to provide a maximum of 12 weeks severance pay per employee, Eaton is not a party to any written contracts of employment with any of the employees listed on Schedule "B" or any oral contracts of employment which are not terminable on the giving of reasonable notice and/or severance pay in accordance with applicable law and no inducements to accept employment with Eaton were offered to any such employees which have the effect of increasing the period of notice of termination to which any such employee is entitled. Eaton has deducted and remitted to the relevant governmental authorities all income taxes, remittances, deductions or other amounts which it is required by law to collect and remit to any governmental authority or other entity relating to the employment of such employees;
- (j) **Employment Payments:** Eaton has paid to the date of this Agreement all amounts payable on account of salary, bonus payments and commission to or on behalf of any and all employees listed in Schedule "B";
- (k) **Labour Matters:** To the best knowledge of Eaton, there is no unfair labour practice complaint by any of the employees listed on Schedule "B" against Eaton under any agency or body having jurisdiction therefor. To the best knowledge of Eaton, there is no labour strike threatened against or involving Eaton and there is no grievance or arbitration proceeding or governmental proceeding relating to any of the employees listed on Schedule "B" pending, nor is there any such proceeding threatened against Eaton which might have a material adverse effect on ERIX or on the conduct of the Business. To the best knowledge of Eaton, no collective bargaining agreement is currently being negotiated by Eaton with respect to the employees listed on Schedule "B". To the best knowledge of Eaton,



there are no employees listed on Schedule "B" in receipt of or who have claimed benefits under any weekly indemnity, long term disability or workers' compensation plan or arrangement or any other form of disability benefit program;

- (l) **Litigation:** There are no actions, suits or proceedings (whether or not purportedly on behalf of or against Eaton) pending or threatened against or materially adversely affecting, or which would materially adversely affect the Transferred Assets, or before or by any federal, state, municipal or other government, court, department, commission, board, bureau, agency or instrumentality, and which would involve the possibility of any lien, charge, encumbrance or any other right of another against the Transferred Assets;
- (m) **Consents:** Other than the consent of CIBC to be obtained by Closing, there are no consents, authorizations, licences, permits, approvals or orders of any Person or governmental authority required to permit Eaton to complete this transaction with ERIX other than consents, authorizations, licenses, permits, approvals or orders which, if not obtained, would not have a material adverse affect on the Transferred Assets.

## 5.2 Representations and Warranties of ERIX.

ERIX hereby represents and warrants to Eaton that:

- (a) ERIX is a corporation duly organized, validly existing and in good standing under the laws of California with full corporate power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by it.
- (b) it has full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; and
- (c) its authorized capital consists of one million shares in its common stock;
- (d) its issued and outstanding capital consists of no shares of its common stock; and
- (e) the Purchased Stock, upon its issuance in accordance with this Agreement, will be validly issued as fully paid and non-assessable.

## 5.3 Survival.

The representations and warranties contained in this shall survive Closing of the within transactions for a period of two (2) years.

## ARTICLE VI - THE CLOSING

6.1

On the Closing Date:

- (a) Eaton shall execute a general conveyance which conveys to ERIX all of the Transferred Assets, and shall deliver the Transferred Assets to ERIX;
- (b) Eaton and ERIX shall execute an assumption of liabilities agreement pursuant to which ERIX will assume the Assumed Liabilities; and
- (c) ERIX shall deliver to Eaton a share certificate representing the Purchased Stock.

## ARTICLE VII - USE OF NAME

7.1

Eaton acknowledges that the Transferred Assets includes a royalty-free license to use the names "EATON" and "EATON LEONARD".

## ARTICLE VIII- MISCELLANEOUS

### 8.1 Enurement.

This agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

### 8.2 Jurisdiction.

This agreement shall be governed by and construed in accordance with the laws of the State of California and shall be treated, in all respects, as a California contract. Each of the parties to this agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of California with venue in San Diego County and hereby waive any objection to such choice of venue and inconvenient forum.

### 8.3 Further Assurances.

The parties shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this agreement.

### 8.4 Notice.

All notices, requests, demands or other communications required or permitted to be given by one party to another under this Agreement shall be given in writing by personal

delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

(a) if to Eaton: 6030 Avenida Encinas  
Carlsbad, California 92009  
U.S.A.

Attention: Alex Kepecs

(b) if to ERIX: Route de Sarrant  
32430 Cologne - France

Attention: Philippe Jaubert

with a copy to: 6030 Avenida Encinas  
Carlsbad, California 92009  
U.S.A.

Attention: Alex Kepecs

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next Business Day after sending if sent by facsimile, or, if mailed, on the fourth Business Day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth Business Day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

#### 8.5 Facsimile Signatures.

The parties agree that this Agreement may be executed by the parties transmitted by facsimile transmission to the respective parties at the facsimile numbers set out in Section 8.4 above and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

#### 8.6 Counterparts.

This agreement may be executed in counterparts all of which shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF the parties have executed this agreement.

EATON LEONARD INC.

Per:

Per:

EATON LEONARD ROBOLIX, INC.

Per:

Per:

G24/GARYIESU271978.6  
EAGA 994398

**SCHEDULE "A"**  
**TRANSFERRED ASSETS AND ASSUMED LIABILITIES**

Transferred Assets includes all of the following:

- (a) a royalty-free license to use the names "EATON" and "EATON LEONARD";
- (b) the Eaton Leonard logo as shown in Exhibit 1 attached hereto;
- (c) all right, title and interest of Eaton to all patents (including patent applications), inventions, processes, technology, designs, drawings, plans, engineering reports, production specifications, raw material specifications, copyrights, know-how, trade secrets and similar materials relating to the design and manufacture of the VMM, including the following patent:

<u>Title</u>	<u>Country</u>	<u>Application No.</u>	<u>Date</u>
Optical Probe with overlapping detection fields	United States	4,849,643	

- (d) raw material inventory as listed in the Net Asset Schedule attached hereto;
- (e) work-in-process inventory as listed in the Net Asset Schedule (Sub-schedule A) attached hereto;
- (f) finished goods inventory as listed in the Net Asset Schedule (Sub-schedule B) attached hereto; and
- (g) fixed assets as listed in the Net Asset Schedule (Sub-schedule C) attached hereto.

The Assumed Liabilities are as follows:

- (a) Customer deposits as listed in the Net Asset Schedule (Sub-schedule D) attached hereto; and
- (b) Vacation liability as listed in the Net Asset Schedule (Sub-schedule E) attached hereto.

