

PATENT ASSIGNMENT

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSET PURCHASE AGREEMENT
CONVEYING PARTY DATA	
Name	Execution Date
TYEE AIRCRAFT INCORPORATED	02/06/1998
RECEIVING PARTY DATA	
Name:	WESTERN SKY INDUSTRIES, INC.
Street Address:	12th Floor, East Tower - Centre Square
Internal Address:	1500 Market Street
City:	Philadelphia
State/Country:	PENNSYLVANIA
Postal Code:	19102
PROPERTY NUMBERS Total: 2	
Property Type	Number
Patent Number:	6830223
Patent Number:	6595714
CORRESPONDENCE DATA	
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ATTORNEY DOCKET NUMBER:	031935-0293
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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made on this 6th day of February, 1998, by and among WESTERN SKY INDUSTRIES, INC., a Delaware corporation ("Buyer"), TYEE AIRCRAFT INCORPORATED, a Washington corporation ("Company"), ROBERT K. DENT, JR. ("RKDent"), CAROLE A. LYCETT-DENT ("CALycett-Dent"), THOMAS G. UNGER ("TGUnger"), and CHARLOTTE D. UNGER ("CDUnger" and, together with RKDent, CALycett-Dent and TGUnger, the "Shareholders").

Background

The Company is currently engaged in the design, manufacture, sale, and distribution of aluminum and steel control rods, torque shafts, engine struts, structural assemblies and related products for the aircraft industry (the "Company Business"). RKDent and TGUnger are principal shareholders of the Company.

The Company is the registered and beneficial owner of 592,500 shares (the "Company's TAC Shares") of the capital stock of Technical Airborne Components S.A., a Belgian corporation ("TAC"). RKDent is the registered and, together with CALycett-Dent, the beneficial owner of 78,750 shares of the capital stock of TAC (the "Dent TAC Shares"). TGUnger is the registered and, together with CDUnger, is the beneficial owner of 78,750 shares of the capital stock of TAC (the "Unger TAC Shares" and, along with the Company's TAC Shares and the Dent TAC Shares, collectively, the "TAC Shares"). TAC is currently engaged in the design, manufacture, sale and distribution of control rods, structural tubes, supports and related products for the aircraft industry (the "TAC Business" and, together with the Company Business, collectively, the "Business").

Buyer desires to acquire from the Company, and the Company desires to sell to Buyer, all of the assets and properties relating to the Company Business (including the TAC Shares), excluding the Excluded Assets, on the terms and conditions set forth in this Agreement.

Certain capitalized terms used but not defined elsewhere in the text of this Agreement are defined in Section 12(B) hereof.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations, and warranties contained

in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer, Company and the Shareholders, intending to be legally bound, hereby agree as follows:

1. PURCHASE AND SALE

(A) Assets.

(i) Acquired Assets. On the terms and subject to the conditions of this Agreement, the Company shall, at the Closing, sell, convey, transfer, assign and deliver to Buyer, and Buyer shall purchase and acquire from the Company, any and all assets, rights, properties and interests owned by the Company (the "Acquired Assets"), including, without limitation, the following (but excluding the Excluded Assets):

(a) Personal Property. All machinery, equipment, accessories, attachments, ancillary devices, motor vehicles, furniture, computers, printers, software, files, books, records, tools, dies, jigs, fixtures, supplies, furnishings and all other tangible personal property owned by the Company as of the date hereof or acquired by the Company between the date hereof and the Closing (the "Company Personal Property"). The Company has provided the list requested in Section 3(F) as of January 31, 1998.

(b) Inventory. All inventories of the Company at Closing including, without limitation, the types of inventory described in Schedule 1(A)(i)(b) (the "Company Inventory"). A Company Inventory run as of the end of the month prior to the execution of this Agreement has been provided to Buyer upon the execution hereof.

(c) Contract Rights. The benefit of any and all contracts, customer orders (unfilled or partially filled), employee loans (excepting loans to employees who are shareholders), leases (including, without limitation, real estate (capital or otherwise) and software leases (the real property which is subject to any lease by the Company shall herein be

referred to as the "Company Leased Real Property"), leasehold improvements, rental agreements, tenancies, licenses, engagements and commitments, written or oral, expressed or implied, relating to the Company Business ("Company Contracts"). Except for (a) Company Contracts and which could be terminated within thirty (30) days of giving notice of termination without resulting in any material cost or penalty to the Company and (b) purchase orders, Schedule 1(A)(i)(c) to this Agreement sets forth any Company Contract which: (i) involves the future payment by the Company thereunder of an amount in excess of \$25,000 including but not limited to operating or capitalized leases where the Company is lessor or lessee, (ii) relates to any of the Acquired Assets and was not made in the ordinary course of business, (iii) contains any provision or covenant prohibiting or limiting the ability of the Company to operate the Company Business, (iv) is an agreement with a Person other than a supplier or customer and involves an obligation to indemnify, defend or hold harmless that person and/or any other Person, (v) is a partnership, joint venture, profit sharing or similar contract with any Person, (vi) is a sales representative or distribution contract, (vii) is a supply contract with any customer, (viii) is a contract which principally relates to intellectual property used by the Company in the Company Business or (ix) is a contract which is principally a secrecy or confidentiality contract.

- (d) Accounts Receivable. The accounts receivable of the Company outstanding at the Closing (the "Company Receivables"). The Company shall provide to Buyer a true, correct and accurate Company Receivables listing as of January 31, 1998, attached as Schedule 1(A)(i)(d).
- (e) Permits. All existing Permits of the Company.
- (f) Records. All documents, records, files and reports, whether written, printed or

electronically stored, owned by the Company relating primarily or exclusively to the Company Business (including, without limitation, all sales, financial, purchasing and personnel records) and the Acquired Assets, excluding the minute books, stock registers, corporate tax returns of the Company (copies of which have been provided to the Buyer) and other corporate legal records of the Company.

- (g) Legal Claims. All of the Company's rights and incidents of interest in and to causes of action, suits, proceedings, judgments, claims and demands of any nature, whenever maturing or asserted, relating to or arising directly or indirectly out of the Acquired Assets or the Company Business, including, without limitation, all interests in and rights to claims under insurance policies and insurance contracts and claims thereunder.
- (h) Intellectual Property. All intellectual property owned by the Company and used exclusively in the Company Business as conducted on or prior to the date hereof, including, without limitation, (i) all United States, state or foreign rights, privileges or priorities relating to trademarks, trade names (including, without limitation, the trade name "Tyee Aircraft Incorporated" or any variations of such name), service marks, service names and trade dress rights, together with all common law rights relating thereto, and all copyrights, licenses, patents, patent applications, know-how, processes, formulae (all of which are listed on Schedule 1(A)(i)(h) to this Agreement), inventions, trade secrets, pattern designs, technical, accounting, manufacturing and procedural manuals, confidential and proprietary information and technology; (ii) all rights, licenses, contracts and other agreements with third parties relating to the foregoing, whether or not registered or filed with the appropriate governmental authorities; (iii) all rights to obtain renewals, reissues and extensions of or to the foregoing; (iv) all registrations, legal protections and applications relating to the

foregoing, whether or not issued by or filed with the appropriate governmental authorities; and (v) the right to sue at law or in equity for any infringement, imitation, distortion, dilution, or other unauthorized use or conduct in derogation of the foregoing (the "Company Intellectual Property").

- (i) Intangible and Other Assets. All goodwill associated with the Company and the Company Business, all confidential information relating to or arising out of the Company Business, all telephone listings, telephone numbers and telephone advertising contracts, all lists of customers and prospective customers, files, books and records and other information relating to the day to day carrying on of the Company Business, and all other rights used in connection with the Company Business (collectively, the "Company Goodwill").
- (j) all of the Company's TAC Shares.
- (k) all bank, investment and other accounts with a third party which are used by, intended for use by or required to be used by, the Company.
- (ii) Excluded Assets. The following assets or rights of the Company ("Excluded Assets") will be retained by the Company and will not be included in the Acquired Assets, or sold, conveyed or transferred to Buyer hereunder:
 - (a) This Agreement. The consideration delivered to the Company pursuant to this Agreement for the Acquired Assets, subject to any rights Buyer may have in the Escrow Fund (as defined in Section 1(D)(i)(b)), the right of the Company to enforce the obligations of Buyer to pay, perform or discharge the Assumed Liabilities as hereinafter provided and all other rights of the Company under this Agreement;
 - (b) Charter Documents. The Company's Articles of Incorporation, corporate seal, minute books and stock books and all other records which the Company is required by law to keep in its

possession, as to which the Company will furnish to Buyer, at the Buyer's cost, after the Closing Date, copies or transcripts;

- (c) Tax Refunds. The Company's rights to refunds of Taxes paid with respect to the Company Business for the periods ending prior to the Closing Date;
- (d) Cash and Equivalents. The Company's cash, bank deposits, cash equivalents listed on Schedule 1(A)(ii)(d)-1, prepayments listed on Schedule 1(A)(ii)(d)-2, deposits listed on Schedule 1(A)(ii)(d)-3, and readily marketable securities (including shares of Quadrant Group PLC), all as existing as of 12:01 a.m. on the Closing Date;
- (e) Excluded Real Property. The real property, and all rights and liabilities relating thereto, described in Schedule 1(A)(ii)(e) to this Agreement referenced below (the "Excluded Real Property");
- (f) Excluded Contracts. All of the Company's right, title and interest in, to and under all contracts and agreements described in Schedule 1(A)(ii)(f) to this Agreement;
- (g) Fife Fabrications. All of the Company's interest and rights in Fife Fabrications Ltd. ("Fife"), including any related contract rights of Fife with respect to third parties; and
- (h) Other Excluded Assets. All assets of the Company described in Schedule 1(A)(ii)(h) to this Agreement.

(B) Liabilities.

- (i) Assumed Liabilities. On the terms and subject to the conditions of this Agreement, Buyer will, at the Closing, assume all obligations, contracts, and liabilities of the Company of any kind, character or description, incurred in the ordinary course of the Company's Business and arising exclusively out of, incurred exclusively in or related exclusively to the conduct of the Business (the "Assumed Liabilities"), except for the

Retained Liabilities and liabilities or obligations relating to Excluded Assets, including, without limitation, the following:

- (a) Contracts. All liabilities and obligations of the Company arising under the terms of the Company Contracts;
- (b) Current Liabilities. All liabilities accrued on or before the Closing Date, including, without limitation, property taxes, sales and use taxes, utilities, freight expense, inventory gain/loss and all other accrued liabilities, and any trade payable or account payable (whether or not the same has become due and payable), accrued expense, loan, note, advance, credit, intercompany borrowing, liability or account allocation or other form of indebtedness of any kind or nature incurred by the Company Business on or prior to the Closing Date;
- (c) Tax Liabilities. Any liabilities for Taxes either accruing or relating to the Company Business not yet due and payable as of the Closing Date (except for federal income Taxes) and all liabilities for personal and real property taxes on the Acquired Assets, including without limitation all real and personal property taxes payable with respect to the transfer of the Acquired Assets in connection with the consummation of this Agreement;
- (d) Product Liabilities. Any liabilities and obligations relating to or arising out of any products sold, or services rendered, by the Company, before or after the Closing Date;
- (e) Environmental Liabilities. Any liabilities arising in connection with the Business, its products or the Acquired Assets under federal, state, local or foreign environmental or health laws before or after the Closing Date, including all claims and liabilities arising out of or relating to (w) the treatment, storage or disposal on or prior to the Closing Date of Hazardous Materials by the Company or any other person (including, without limitation, any previous

owner, lessor or sublessor) on or at the Company's real property or any other real property previously owned, leased, subleased or used by the Company in the operation of the Business; (x) releases of Hazardous Materials on, at or from any assets or properties, including, without limitation, the Company's Leased Real Property; (y) generation or transportation of Hazardous Materials by the Company in the operation of the Business; and (z) releases of Hazardous Materials by any Person (including, without limitation, any previous owner, lessee or sublessee) on or from the Company's Leased Real Property prior to the Company's ownership or use thereof;

- (f) Legal Claims. All claims, liabilities or other obligations that relate to injuries, actions, omissions, conditions or events that occurred or existed, whether before or after the Closing Date, whether based on any act or omission of the Company, in connection with the operation of the Business, including, without limitation, any claim, judgment, penalty, settlement agreement or other obligation to pay in respect of any claim that is pending or threatened on or prior to the Closing Date;
- (g) Warranty Liabilities. The Company's liabilities and obligations pursuant to warranties (express or implied) to customers for products manufactured, whether prior to or after the Closing Date;
- (h) Severance Costs. All severance obligations and other costs of terminating employees (other than employees who are shareholders of the Company) wherever located resulting from any termination or cessation of employment occurring on or prior to the Closing Date, from whatever source such obligations and costs arise, including, without limitation, contractual obligations, notices to employees, employment manuals, course of dealings, past practices, obligations relating to Section 280G or 4999 of the Code (other than as they may relate to employees

who are shareholders of the Company) or otherwise;

- (i) Benefit Plans. All liabilities and obligations with respect to all Employee Plans, and all liabilities with respect to accrued payroll, bonuses, hourly and salary vacation pay, workers compensation liability, year-end profit sharing, state disability tax, hourly and salary profit sharing, fringe benefits and other employee benefits with respect to or that relate to periods of employment on or prior to the Closing Date and all liabilities and obligations described in Section 6(L);
- (j) Product Return Liabilities. All liabilities and obligations relating to or in respect to (a) return of merchandise sold by the Business on or prior to the Closing Date, or (b) offset payments with respect to sales after the Closing Date against claims on merchandise sold on or prior to the Closing Date, in each case by reason of alleged overshipments, defective merchandise, missed delivery dates, incorrect quantities or any other failure to meet agreed upon specifications.

provided; however, that the Buyer's obligation to pay, perform and discharge any of the Assumed Liabilities shall not in any manner affect or impair Buyer's ability to assert and receive indemnification with respect to a Claim pursuant to the provisions of Section 8(B) hereof.

- (ii) Retained Liabilities. The Company will retain and Buyer shall not assume any of the following obligations or liabilities as to which neither the Threshold nor the Cap shall apply (all obligations or liabilities not assumed by Buyer are called the "Retained Liabilities"):
 - (a) The obligations of the Company pursuant to this Agreement in connection with the sale of the Acquired Assets to Buyer.
 - (b) All Funded Debt of the Company, all of which shall be paid on or before Closing;

- (c) Certain machine financing arrangements described in Schedule 1(B)(ii)(c);
- (d) Obligations with respect to Fife including without limitation guarantees by the Company of certain Fife debt and liabilities and obligations relating to the Excluded Real Estate;
- (e) All liabilities for (i) any federal income Taxes, (ii) all sales tax on the sale of furniture and fixtures pursuant to this Agreement and (iii) all business and occupancy tax on the sale of Inventory pursuant to this Agreement;
- (f) any obligations to any finder, broker or financial adviser incurred in connection with the transactions contemplated by this Agreement including, but not limited to, William L. Eisenhart; and
- (g) All liabilities arising from or in connection with the failure of the Company Profit Sharing Plan & 401(k) Plan to provide participants with the right to receive benefits in the form of a "qualified joint and survivor annuity," within the meaning of Section 417(b) of the Code, or a "qualified pre-retirement survivor annuity," within the meaning of Section 417(c) of the Code. The Company and Buyer agree to cooperate with each other to correct any such failures as soon as practicable after the Closing. Buyer and Company agree that correction shall be effected in the manner reasonably determined by Buyer and Company to be the most cost effective, provided that the correction method is in accordance with and consistent with principles and procedures promulgated by the Internal Revenue Service. The Company agrees to reimburse Buyer for any costs it incurs in effecting correction of such failures, including, but not limited to, reasonable professional expenses and all compliance fees that are incurred in connection with any submission to the Internal Revenue Service under the Voluntary

Compliance Program described in Revenue Procedure 94-62 or other remedial program administered by the Internal Revenue Service.

- (C) Sale of TAC Stock. On the terms and subject to the Conditions of this Agreement, RKDent, CALycett-Dent, CDUnger and TGUnger, respectively, shall, at the Closing, sell, convey, transfer, assign and deliver to Buyer, and Buyer shall purchase and acquire from RKDent, CALycett-Dent, CDUnger and TGUnger, respectively, free and clear of all Liens and/or equitable or legal interest of all third parties, the Dent TAC Shares and the Unger TAC Shares.
- (D) Purchase Price.
- (i) Payments. In addition to assuming the Assumed Liabilities, Buyer will pay for the Acquired Assets, the Dent TAC Shares, the Unger TAC Shares, the Company Covenant, and the Shareholder Covenants, an aggregate purchase price ("Purchase Price"), which shall be calculated and paid on the Closing Date as follows:
- (a) \$27.7 Million plus the Capital Expenditures, by wire transfer in immediately available funds (the "Closing Payment"); plus
- (b) \$3 Million shall be delivered by wire transfer to the Escrow Agent (the "Escrow Deposit") to secure the obligations of the Company under Article 8 hereof. The Escrow Agent shall hold, invest and disburse the Escrow Deposit, together with all interest or dividends accrued thereon (the "Escrow Fund"), until January 31, 2000 (unless such term is extended in accordance with the Escrow Agreement), all in accordance with the terms of the Escrow Agreement.
- (ii) Allocation. The Purchase Price will be allocated among the Acquired Assets, the Dent TAC Shares, the Unger TAC Shares, the Company Covenant and the Shareholder Covenants in the manner set out in Schedule 1(D)(ii) to this Agreement. Buyer and the Company agree to report the transactions contemplated by this Agreement for all Tax purposes in accordance with such allocation.

2. NONASSIGNABLE INTERESTS AND RIGHTS

To the extent that any Contract or Necessary Permit included in the Total Assets is not capable of being validly transferred to Buyer (or retained by TAC due the change of control of TAC) without Consent (the "Nonassignable Assets") or that any such transfer or attempted transfer without such Consent would constitute a breach thereof or a violation of any Laws, this Agreement shall not constitute a transfer thereof. From and after the date of this Agreement, the Company will use its best efforts, and Buyer will cooperate with the Company, to obtain all Consents that are necessary for the valid transfer to Buyer of all Nonassignable Assets. To the extent that such a Consent is not obtained by the Company prior to the Closing Date, the Company, from and after the Closing, shall use commercially reasonable efforts to (i) obtain such Consents, (ii) provide to Buyer the benefits of any Nonassignable Asset, (iii) cooperate in any reasonable and lawful arrangement designed by Buyer to provide such benefits to Buyer, and (iv) enforce, at the request of Buyer for the account of Buyer, any rights of the Company under any such Nonassignable Asset (including the right to elect to renew, extend or terminate any of the foregoing in accordance with the terms thereof).

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer as follows:

- (A) Organization, Power of Authority. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and has the corporate power and authority to own, operate and lease its properties and to carry on its business as it is presently being conducted. The Company is duly qualified to do business and is in good standing in each jurisdiction in which the nature of its business or location of its properties makes such qualification necessary, except where the failure to be so qualified would not have a material adverse effect upon the Company and TAC, taken as a whole. TAC is a corporation duly organized, validly existing and in good standing under the laws of Belgium and has the corporate power and authority to own, operate and lease its properties and to carry on its business as it is presently being conducted.
- (B) TAC Capitalization; Corporate Records. The entire authorized capital stock of TAC consists of Seven Hundred Fifty Thousand (750,000) shares of common

stock, par value BEF 44.7 of which Seven Hundred Fifty Thousand (750,000) fully paid and nonassessable shares of common stock are issued and outstanding. The TAC Shares constitute all of the issued and outstanding capital stock of TAC. The Company, RKDent and TGUnger are the registered and, together with CALycett-Dent and CDUnger, respectively, beneficial owner of the Shares. All of the Company's TAC Shares are free and clear of all Liens, and no other Person's authorization or Consent is required in order to consummate the transactions contemplated hereby by virtue of any such Person having an equitable or beneficial interest in TAC or any of the capital stock of TAC. There are no outstanding options, warrants, calls, commitments or plans by TAC to issue any additional shares of its capital stock, to pay any dividends on such shares or to purchase, redeem, or retire any outstanding shares of its capital stock, nor are there outstanding any securities or obligations which are convertible into or exchangeable for any shares of capital stock of TAC. TAC's minute books, stock ledger and stock records that have heretofore been provided to Buyer are true, correct and complete. Attached hereto as Schedule 3(B) to this Agreement is a true, correct and complete list of all officers and directors of TAC.

- (C) Validity of Agreement. This Agreement constitutes the legal, valid and binding obligation of the Company, enforceable in accordance with its terms. The Company has the power and authority to enter into this Agreement and to undertake and perform fully the transactions contemplated hereby. All necessary director and shareholder actions have been taken by and on behalf of the Company with respect to the authorization, execution, delivery and performance of this Agreement.
- (D) Absence of Equity Investments. Except as set forth on Schedule 3(D), neither the Company (except for TAC) nor TAC either directly or indirectly, owns of record or beneficially any shares or other equity interests in any corporation, partnership, limited partnership, limited liability company, limited liability partnership, joint venture, trust or other business entity.
- (E) No Breach. Except as set forth on Schedule 3(E), neither the execution and delivery of this Agreement by the Company nor the performance of its obligations hereunder will (i) violate, conflict with or result in

a breach of any domestic or foreign Law which customarily apply to the Company or to transactions of this nature or the charter documents of the Company, (ii) violate, conflict with or result in a breach or termination of, or otherwise give any contracting party additional rights or compensation under, or the right to terminate or accelerate, or constitute (with notice or lapse of time, or both) a default under the terms of, any note, deed, lease, instrument, security agreement, mortgage, commitment, contract, agreement, license or other instrument, whether written or oral, express or implied, including, without limitation, the Contracts, to which the Company is a party or by which any of the Acquired Assets or the Company are bound, or (iii) result in the creation or imposition of any Liens with respect to the Acquired Assets. Neither the Company nor TAC is in violation of its respective Charter or Bylaws nor will either the Company or TAC be in violation of its Charter or Bylaws upon the execution hereof or upon consummation of the transactions contemplated hereby.

- (F) Title and Condition of Acquired Assets. The Company has separately provided to Buyer a correct and complete list of all material tangible Personal Property (including all automobiles, owned, leased or used by the Company or TAC) with an individual depreciated book value in excess of \$15,000. Each of the Company and TAC has good and marketable title to the Total Assets owned by it, free and clear of all Liens, except for (i) Liens that will be satisfied prior to Closing, (ii) Liens set forth in Schedule 3(F)-1 to this Agreement and (iii) Liens for current Taxes, assessments or other governmental charges not yet due (the Liens described in clause (i) or those in clause (ii) that are marked on Schedule 3(F)-1 with an asterisk being collectively referred to herein as "Permitted Liens"). The Total Assets are in good condition and repair (subject to normal wear and tear) and are sufficient to permit Buyer to conduct the Business as now conducted. Schedule 3(F)-2 sets forth all assets, properties or interests which are used in connection with the Business which are not Acquired Assets (except for Excluded Assets) and, pending any required consents with respect to the transfer of possession thereof, possession of all such assets, properties and interests will be transferred to Buyer at Closing.
- (G) Real Property. Neither the Company nor TAC owns any real property except for Excluded Assets.

Schedule 3(G)-1 to this Agreement constitutes a complete and correct list of all Leased Real Property. Each of the Company and TAC has delivered or caused to be delivered true, complete and correct copies of all documents evidencing the lease of the Leased Real Property. Each of the Company and TAC has a valid and enforceable leasehold interest in all of the Leased Real Property, which leasehold interest is free and clear of all Liens except Permitted Liens. Each of the Company and TAC enjoys peaceful and undisturbed possession under all of their real property leases. All such leases are valid and in full force and effect, neither the Company, TAC nor, to the best knowledge of the Company and TAC, any other Person is in default under any of such leases and no event has occurred which with the giving of notice or the passage of time or both would constitute a default by the Company, TAC or, to the best knowledge of the Company and TAC, any other Person under any of such leases. With respect to the Leased Real Property:

- (i) no portion of the Leased Real Property is subject to any pending condemnation proceeding or proceeding by any Governmental Authority materially adverse to the Leased Real Property and, to the best knowledge of the Company and TAC, there is no threatened condemnation or proceeding with respect thereto;
- (ii) the structures, improvements and fixtures comprising part of the Leased Real Property have, during the Company's or TAC's occupancy, been reasonably maintained and are in a condition sufficient to operate the Business substantially as it has been operated in the 12 months prior to the Closing Date;
- (iii) except as set forth on Schedule 3(G)-2, there is no water diffusion or other intrusion into any buildings, structures or other improvements included in the Leased Real Property which would impair the use thereof in connection with the conduct of the Business;
- (iv) no notice of any increase in the assessed valuation of the Leased Real Property and no notice of any contemplated special assessment has been received by the Company or TAC and, to the best knowledge of the Company and TAC, there is no

threatened special assessment pertaining to any of the Leased Real Property;

(v) there are no contracts or agreements to which either the Company or TAC is a party or, to the best knowledge of the Company and TAC, by which any of the Leased Real Property is bound, granting to any Person other than the Company or TAC the right of use or occupancy of any portion of the Leased Real Property; and

(vi) there are no Persons (other than the Company or TAC, applicable) in possession of the Leased Real Property.

(H) Intentionally Omitted.

(I) Environmental Issues.

(i) Except to the extent set forth in writing in the Phase I Reports (as defined herein) or otherwise described in Schedule 3(I), neither the Company, TAC nor, to the best knowledge of the Company and TAC, any other Person has engaged in or permitted any operations or activities upon, or any use or occupancy of, the Leased Real Property, or any portion thereof, resulting in the storage, emission, release, discharge, dumping or disposal of any Hazardous Materials on, under, in or about the Leased Real Property, nor have any Hazardous Materials migrated from the Leased Real Property to, upon, about or beneath other properties, nor has any Hazardous Materials migrated or threatened to migrate from other properties to, upon, about or beneath the Leased Real Property.

(ii) Except to the extent set forth in writing in the Phase I Reports or otherwise described in Schedule 3(I), (A) the Leased Real Property and its existing uses and activities and, to the best knowledge of Company and TAC, its prior uses and activities, comply and have at all times complied in all material respects with all Environmental Requirements, and each of the Company and TAC has obtained all Permits necessary under applicable Environmental Requirements, (B) during the period beginning on January 1, 1990 and ending on the date hereof, neither the Company nor TAC has received any written notice or other communication concerning any alleged violation of Environmental

Requirements, whether or not corrected to the satisfaction of the appropriate authority, or any written notice or other communication concerning alleged liability for Environmental Damages in connection with the Leased Real Property, and there exists no judgment, decree, order, writ or injunction outstanding, nor any litigation, action, suit, claim (including citation or directive) or proceeding pending or, to the Company's or TAC's best knowledge, threatened, relating to the ownership, use, maintenance or operation of the Leased Real Property by any Person, or arising from the alleged violation of Environmental Requirements, or from the suspected presence of Hazardous Materials thereon or potential migration thereto, and there are no existing facts or conditions which could give rise to any such violation or liabilities and (C) with respect to the Company, from January 1, 1962 to December 31, 1989 ("Company Ownership Period"), and with respect to TAC, from January 1, 1985 to December 31, 1989 ("TAC Ownership Period"), to the best knowledge of the Company and TAC, neither the Company, TAC nor any prior owner or occupant (at any time) of the Leased Property has received any written notice or other communication concerning any alleged violation of Environmental Requirements, whether or not corrected to the satisfaction of the appropriate authority, or any written notice or other communication concerning alleged liability for Environmental Damages in connection with the Leased Real Property, and there exists no judgment, decree, order, writ or injunction outstanding, nor any litigation, action, suit, claim (including citation or directive) or proceeding pending or, to the Company's or TAC's best knowledge, threatened, relating to the ownership, use, maintenance or operation of the Leased Real Property by any Person, or arising from the alleged violation of Environmental Requirements, or from the suspected presence of Hazardous Materials thereon or potential migration thereto, and there are no existing facts or conditions which could give rise to any such violation or liabilities.

- (J) OSHA AND ADA. The Company and TAC are, except as set forth in Schedule 3(J) to this Agreement, in compliance with all requirements of the Occupational Safety and Health Act ("OSHA"), or similar foreign laws, as

applicable, pertaining to the facilities and operations of the Company and TAC, the noncompliance with which would have a material adverse effect on the Business or Total Assets. The Company is not aware of any claims made involving the Company under the Americans with Disabilities Act and the Company has no knowledge of any circumstances which would be likely to give rise to such a claim.

- (K) Contracts. Schedule 1(A)(i)(c) sets forth all Contracts required to be disclosed pursuant to Section 1(A)(i)(c). Except as disclosed on Schedule 1(A)(i)(c) or Schedule 3(M), all of the Company Contracts set forth on those Schedules are capable of assignment to Buyer without notice to or Consent of any other Person and are in full force and effect, there exists no default or breach thereunder by the Company nor, after commercially reasonable investigation by the Company, by any other party thereto, and the Company has not received any written notice claiming that the Company has committed any such default or breach or indicating the desire or intention of any party thereto to amend, modify, rescind or terminate any Company Contract.

Except for (a) TAC Contracts and which could be terminated within thirty (30) days of giving notice of termination without resulting in any material cost or penalty to TAC and (b) purchase orders, Schedule 3(K) to this Agreement sets forth any TAC Contract which:

- (i) involves the future payment by TAC thereunder of an amount in excess of \$25,000 including but not limited to operating or capitalized leases where TAC is lessor or lessee, (ii) relates to any of the TAC Assets and was not made in the ordinary course of business, (iii) contains any provision or covenant prohibiting or limiting the ability of TAC to operate the TAC Business, (iv) is an agreement with a Person other than a supplier or customer and involves an obligation to indemnify, defend or hold harmless that person and/or any other Person, (v) is a partnership, joint venture, profit sharing or similar contract with any Person, (vi) is a sales representative or distribution contract, (vii) is a supply contract with any customer, (viii) is a contract which principally relates to intellectual property used by TAC in TAC Business or (ix) is a contract which is principally a secrecy or confidentiality contract. Except as set forth on Schedule 3(K), no TAC Contract set forth on that

Schedule will be terminated or breached in connection with the change of control of TAC.

- (L) Permits. Schedule 3(L) to this Agreement contains a current list of all of the Permits the Company and TAC need for their present operations, except for Permits which, if not in full force and effect and currently valid, could not reasonably be expected to have a material adverse effect upon the Company, (the "Necessary Permits") and the Necessary Permits (i) are, and as of the Closing will be, in full force and effect and (ii) are freely transferrable to Buyer or are freely renewable in Buyer's name without material cost or consent. To the Company's best knowledge, after commercially reasonable investigation, there are no material restrictions on the Company's ability to renew any of the Necessary Permits. To the Company's best knowledge, after commercially reasonable investigation, the consummation of the transactions contemplated by this Agreement will not conflict with the terms of, result in default under, or violate the terms of, any Necessary Permit or result in the termination of any of the Necessary Permits. Each of the Company and TAC is in material compliance with all Necessary Permits. There are no present plans to expand the operations of the Company or TAC which would require any additional permits.
- (M) Consents. Except for those consents, approvals, authorizations or filings heretofore obtained, satisfied or made or those set forth on Schedule 3(M) to this Agreement, no Consent is required to be obtained, satisfied or made by the Company or TAC pursuant to any Laws, Permits, Contracts or other agreements by which the Company, TAC or any of their properties or assets, including, without limitation, the Total Assets, are bound in connection with (i) the execution and delivery of this Agreement by the Company or (ii) the sale and transfer to Buyer of the Acquired Assets, including, without limitation, the Assumed Contacts and the Permits, or the consummation by the Company of the other transactions contemplated by this Agreement, except for such Consents the absence of which could not reasonably be expected to have a material adverse effect upon the Company Business or the TAC Business.
- (N) Compliance with Laws. Each of the Company Business and TAC Business is and has been conducted in substantial compliance with all applicable Laws and neither the

Company nor TAC has received any written notice of any alleged noncompliance relating to the Company, TAC or the Total Assets, which noncompliance has not been cured.

- (O) Political Contributions and Other Payments. Neither the Company, TAC nor any other Person acting on their behalf has, during the past five years, made any payment to any governmental official or other governmental employee or agent (domestic or foreign) to unlawfully induce the recipient or the recipient's employer to do business with, grant favorable treatment to or compromise or forego any claim against the Company or TAC.
- (P) Litigation. Except as disclosed in Schedule 3(P) attached hereto, there is no litigation, action, suit, judgment, investigation, claim or proceeding that is pending and as to which the Company has knowledge, affecting or, to Company's and TAC's best knowledge after commercially reasonable investigation, threatened in writing against the Company, TAC or any of their properties or assets, including, without limitation, the Total Assets, either at law or in equity, before any Governmental Authority or any arbitration panel which, if adversely determined, could have a material adverse effect on the value of the Total Assets to Buyer or on Buyer's ability to conduct the Business. Neither the Company nor TAC knows of facts or circumstances or other events which have occurred or may reasonably be expected to occur that reasonably can be expected to give rise to any such litigation. There have been no product liability claims made against the Company or TAC.
- (Q) Taxes. The Company has duly and properly filed an election to be a subchapter S corporation and such election is currently in effect (i) under Section 1362 of the Code ("Federal S Election") and (ii) in all states where the nature of the Company's Business requires such an election. The Federal S Election has been in effect without interruption, including without limitation any inadvertent termination which has been reinstated, since December 31, 1986 ("S Election Date"). Since the S Election Date, all of the current and former shareholders of the Company are and have been permitted shareholders under Section 1361 of the Code. The Company has never been taxable under Subchapter C of the Code. The Company has no assets subject to the built-in-gains tax under Section 1374 of

the Code. At the Closing, each of the Company and TAC will have timely filed or caused to be timely filed with the appropriate Governmental Authorities all Tax Returns required to be filed by them on or prior to the Closing Date (taking into account all extensions of due dates). At the Closing, all such Tax Returns will be correct and complete, and all amounts in respect of Taxes due to or claimed to be due by any Governmental Authority or other taxing authority will have been fully paid. The Company and TAC have established or will establish prior to Closing on its books and records reserves that are adequate for the payment of all Taxes incurred, but not yet due and payable (other than federal income Taxes). No claim has been made by a tax authority in any jurisdiction where the Company or TAC does not file Tax Returns that the Company or TAC is or may be subject to taxation in such jurisdiction, and neither the Company nor TAC is aware that any such assertion of jurisdiction is threatened. No issue has been raised by any tax authority which reasonably can be expected to result in a deficiency for any taxable period and neither the Company nor TAC is a party to, or has received written notice of any pending or threatened administrative or judicial action or proceeding by any Governmental Authority for the assessment or collection of any Taxes. None of the Acquired Assets is property that is required to be treated as being owned by any other person pursuant to the safe-harbor lease provisions of former Section 168(f)(8) of the Code, and none of the Acquired Assets is "tax exempt use property" within the meaning of Section 168(h) of the Code. Each of the Company and TAC has (i) withheld proper and accurate amounts in compliance with the tax withholding provisions of all applicable Laws from their employees and former employees for all periods which, as of the date of this Agreement, remain open under applicable Laws for assessment or collection, (ii) correctly and properly prepared and duly and timely filed all returns and reports relating to Taxes withheld from their employees and former employees and to their employer liability for employment Taxes under all applicable Laws, and (iii) duly and timely paid and remitted to the appropriate taxing authorities all amounts withheld from their employees and former employees and any additional amounts that represent their employer liability for employment Taxes under applicable Law. The Company has not filed a consent under Section 341(f) of the Code.

(R) Financial Statements.

(i) Attached as Schedule 3(R)-1 are the Company's balance sheets and income statements as at and for the periods ended December 31, 1995 and December 31, 1996 (the "Company Reviewed Statements"), which have been reviewed by Moss Adams LLP and the internally-generated balance sheet and income statement at December 31, 1997, and for the 12-month period then ended (the "Company Internal Statements"). The Company Reviewed Statements together with the notes thereto have been prepared in accordance with United States Generally Accepted Accounting Principles ("GAAP") except as may be disclosed in the Moss Adams LLP report thereon. Except as disclosed on Schedule 3(R)-2, the Company Internal Statements have been prepared in a manner consistent with the Company Reviewed Statements. The Company Reviewed Statements and the Company Internal Statements fairly present, in all material respects, the Company's financial position as of the respective dates of the balance sheets included therein and the results of operations for the respective periods identified.

(ii) Attached as Schedule 3(R)-3 are the balance sheet and income statements of TAC as at and for the periods ended December 31, 1995 and December 31, 1996 (the "TAC Audited Statements"), which statements have been derived from the financial statements of TAC, prepared in accordance with Belgian Law, and audited by Henri LaFosse and the internally-generated balance sheet and income statement at December 31, 1997, and for the 12-month period then ended (the "TAC Internal Statements"). The TAC Audited Statements have been prepared in accordance with Belgian GAAP except as may be disclosed in the accountant's report thereon. Except as disclosed on Schedule 3(R)-4, the TAC Internal Statements have been prepared in a manner consistent with the TAC Audited Statements. The TAC Audited Statements and the TAC Internal Statements fairly present, in all material respects, TAC's financial position as of the respective dates of the balance sheets included therein and the results of operations for the respective periods identified.

(S) Conduct of Business. Since November 11, 1997 to the date hereof and except as set forth on Schedule 3(S),

(i) there has been no material adverse change in the financial condition or results of operations of TAC and the Company, taken as a whole and (ii) the Company has not (a) taken any action described in Section 6(E) or (b) omitted to take any action which would result in the occurrence of any of the events described in Section 6(E), and the Company has made no agreement or commitment therefor. All distributions of the Company made to the Shareholders of the Company since November 11, 1997 are set forth on Schedule 3(S).

(T) Labor Relations. Except as set forth on Schedule 3(T), neither the Company nor TAC is (i) a party to any collective labor agreements, collective bargaining or union contract or (ii) aware of any current union organization effort with respect to their employees. During the most recent two-year period, neither the Company nor TAC has received any notice of, and there have not been, any strikes, slowdowns, work stoppages, lockouts or threats thereof, by or with respect to any of their employees. The labor regulation of TAC had been deposited with the Belgian Ministry of Labor under number 18471 and has been in place since October 15, 1988, as amended by numbers 24065 and 2129. Such labor regulation is in conformity with the applicable laws, regulations and collective labor agreements. All material data about the representatives of the Unions, about the Council of Enterprise and about the Commission for Security and Health in TAC is set forth on Schedule 3(T). TAC has fulfilled all legal, regulatory or other obligations vis-à-vis the Council of Enterprise and the Commission for Security and Health (including the obligations of information) and vis-à-vis any person or administration (including the tax and social security administration).

(U) Employee Benefits and Plans. Except as set forth on Schedule 3(U):

(i) Schedule 3(U) to this Agreement lists all Employee Plans. Neither the Company nor TAC has taken any action directly or indirectly to obligate either the Company or TAC, as applicable, to adopt any additional Employee Plans. Each of the Company and TAC has furnished to Buyer true, correct and complete copies (or, if oral, written descriptions) of the Employee Plans, including any amendments thereto, together with true, correct and complete copies of any trust agreements and other material contracts related to the Employee

Plans. Each of the Company and TAC has complied in all material respects with the terms and conditions of the Employee Plans. Each Employee Plan of the Company which is intended to be qualified under Section 401(a) and exempt from tax under Section 501(a) of the Code is the subject of an unrevoked favorable determination letter from the Internal Revenue Service. To the best knowledge of Company, nothing has occurred since the date of any such letter which may adversely affect such qualification or exemption (other than changes in applicable Law that have occurred since the date of such letter and for which the remedial amendment period of Section 401(b) of the Code has not expired as of the date hereof), or result in the imposition of a material tax on unrelated business income under the Code or ERISA with respect to such Employee Plan. No legal action, suit, investigation, claim (other than claims for benefits submitted by participants or beneficiaries in the normal course) or proceeding is pending or, to the best knowledge of the Company, threatened with respect to the Employee Plans. The Employee Plans have been maintained in material compliance with all applicable Laws, including without limitation, ERISA. There are no material liabilities associated with any previously terminated Employee Plan whether or not such Employee Plan is in existence as of the Closing Date. Except as provided in Schedule 3(U), the consummation of the transactions contemplated herein will not, in and of themselves, accelerate any material liability under the Employee Plans because of an acceleration of any rights or benefits to which any participant or beneficiary (as such terms are defined in Section 3 of ERISA) may be entitled thereunder, nor, except as set forth in Schedule 3(U), trigger any material benefits under any change in control agreement.

- (ii) The Company and TAC have made all payments and contributions to the Employee Plans on a timely basis as required by the terms of each such Employee Plan and any applicable Law. The Company and TAC have paid or will pay all applicable premiums for any insurance contract which funds an Employee Plan for coverage provided through Closing.

- (iii) The Company has filed or caused to be filed with the Internal Revenue Service annual reports on Form 5500 for each Employee Plan for all years and periods for which such reports were required with respect to such Employee Plan and within the time period required by ERISA and the Code.
- (iv) No "prohibited transaction," as defined in Section 406 of ERISA and Section 4975 of the Code, has occurred with respect to any Employee Plan, and, to the best knowledge of the Company, no civil or criminal action brought pursuant to Part V, Title I of ERISA is pending or is threatened in writing or orally against any fiduciary of any such Plan.
- (v) Neither the Company nor any entity that is treated as a single employer with the Company pursuant to Section 414(b), (c), (m) or (o) of the Code currently maintains any Employee Plan that is subject to Title IV of ERISA (other than a multi-employer plan, within the meaning of Section 3(37) or 4001(a)(3) of ERISA) nor has previously maintained any such plan that has resulted in any liability or potential liability for the Company under said Title IV.
- (vi) Neither the Company nor any entity that is treated as a single employer with the Company pursuant to Section 414(b) or (c) of the Code maintains, or has contributed to within the past five years, any multi-employer plan, within the meaning of Section 3(37) or 4001(a)(3) of ERISA. Neither the Company nor any such entity currently has any liability to make withdrawal liability payments to any multi-employer plan.
- (vii) Neither the Company nor TAC maintains any plans or programs providing post-retirement medical benefits or other post-retirement welfare benefits, within the meaning of Section 3(1) of ERISA, to employees or former employees of the Company or TAC, other than benefits required by Law, including, but not limited to Section 4980B(f) of the Code and Part 6 of Subtitle B of Title I of ERISA.
- (viii) Each Employee Plan that is a group health plan sponsored or maintained by the Company, or any entity that is treated as a single employer with

the Company pursuant to Section 414(b), (c), (m) or (o) of the Code, has been operated in material compliance with the applicable requirements of Parts 6 and 7 of Subtitle B of Title I of ERISA, and Sections 4980B(f), 9801 and 9802 of the Code. The Company has not contributed to a non-conforming group health plan, as that term is defined in Section 5000(c) of the Code, or incurred any material tax liability under Section 5000(a) of the Code.

- (ix) The Company has not incurred any material excise tax liability which has not been satisfied as of the Closing Date with respect to any Employee Plan.
- (x) TAC has no liability to any TAC employee or worker for any vacation pay due on any bonus amounts paid to such employee or worker.
- (V) Insurance. Each of the Company and TAC maintains (and for the past three years has maintained) insurance in such amounts, and in respect of such risks and with such retentions and deductibles, as are set forth on Schedule 3(V) to this Agreement.
- (W) Brokers. Neither the Company nor anyone acting on its behalf, has retained a broker, finder, financial advisor or anyone acting in any similar capacity in connection with this Agreement or the transactions contemplated by this Agreement, with the exception of William L. Eisenhart, for whose fees the Company shall be solely liable.
- (X) Intellectual Property. The list of Intellectual Property set forth on Schedule 1(A)(i)(h) of this Agreement contains all of the U.S., foreign and counterpart patents, trademarks, trade names and service marks and registered copyrights, and applications therefor, used exclusively in connection with the Business, including all registrations therefor and licenses thereof. To the extent indicated on Schedule 1(A)(i)(h) of this Agreement, the Intellectual Property has been duly registered in, filed in or issued by the United States Patent and Trademark Office. Except as set forth on Schedule 1(A)(i)(h) of this Agreement: (a) the Company or TAC, as applicable, is the sole and exclusive owner of the registrations or applications set forth on Schedule 1(A)(i)(h) of this Agreement; (b) to its knowledge, the Company or TAC, as

applicable, has the sole and exclusive right to use the Intellectual Property; (c) except as set forth on Schedule 1(A)(i)(h) to this Agreement, neither the Company nor TAC has received notice from any other person challenging the right of Company or TAC to use the Intellectual Property; (d) to the best knowledge of the Company, neither the Company nor TAC has, in its operation of the Business, infringed and is now infringing, on any patent, trademark, trade name, trade secret or copyright held by any other person, firm or company, in any manner which materially affects the Business or any of the Total Assets; (e) except as set forth on Schedule 1(A)(i)(h) to this Agreement, neither the Company nor TAC has granted any outstanding licenses or other rights and has no obligations to grant licenses or other rights under any of the Intellectual Property; (f) except as set forth on Schedule 1(A)(i)(h) to this Agreement, no claims have been made by Company or TAC for any violation or infringement by others of the rights of Company or TAC, as applicable, with respect to any Intellectual Property and neither Company nor TAC knows of any basis for the making of any such claim; (g) with respect to any pending applications for registration of any Intellectual Property, to the best knowledge of Company or TAC, there are no interferences or other contesting proceedings, either pending or threatened in writing, in the United States Patent and Trademark Office, any federal, state or local court or foreign patent and trademark office or court; and (h) to the Company's best knowledge, the Company has the right to sell, assign and transfer to Buyer all of the Intellectual Property as provided in this Agreement.

- (Y) Full Disclosure. None of the representations and warranties made by the Company in this Agreement (including the Schedules hereto) or made in any certificate, furnished or to be furnished by the Company to Buyer, contains or will contain any untrue statement of a material fact, or omits or will omit any material fact necessary in order to make the statements made or information delivered, in light of the circumstances under which they were made or delivered, not misleading.
- (Z) Product Returns. Schedule 3(Z) sets forth with respect to the Company and TAC the aggregate dollar amount (by year, for each of the last three years ended December 31, 1995, 1996 and 1997) of products sold and/or delivered by the Company and TAC (separately with

respect to each) returned to the Company and TAC for any reason or no reason.

4. REPRESENTATIONS AND WARRANTIES OF SHAREHOLDERS

Shareholders hereby severally warrant and represent to Buyer as follows:

- (A) TAC Capitalization; Corporate Records. Each of the Dent TAC Shares and the Unger TAC Shares are owned of record and beneficially by them and are free and clear of all Liens, and no other Person's authorization or Consent is required in order to consummate the transactions contemplated hereby by virtue of any such Person having an equitable or beneficial interest in TAC or the capital stock of TAC. There are no outstanding options, warrants, calls, commitments or plans by any of the Shareholders to dispose of any of their Shares.
- (B) Validity of Agreement. This Agreement constitutes the legal, valid and binding obligation of the each of the Shareholders, enforceable in accordance with its terms. Each of the Shareholders has the requisite legal capacity to enter into, deliver and perform this Agreement and to undertake and perform fully the transactions contemplated hereby.
- (C) Brokers. None of the Shareholders nor anyone acting on their behalf (either individually or in the aggregate) has retained a broker, finder, financial advisor or anyone acting in any similar capacity in connection with this Agreement or the transactions contemplated by this Agreement.

5. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer warrants and represents to the Company as follows:

- (A) Organization, Power of Authority. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the corporate power and authority to own, operate and lease its properties and to carry on its business as presently being conducted.
- (B) Validity of Agreement. This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Buyer has the corporate power and authority to enter

into this Agreement and to undertake and perform fully the transactions contemplated hereby. All corporate action on the part of Buyer necessary for the due authorization, execution, delivery and performance of this Agreement by Buyer has been taken. This Agreement has been duly authorized, executed and delivered by Buyer and is a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

- (C) Brokers. Neither Buyer nor anyone acting on its behalf has taken any action that would directly or indirectly obligate the Company to anyone acting as a broker, finder, financial advisor or in any similar capacity in connection with this Agreement or the transactions contemplated by this Agreement.
- (D) No Approvals or Notices Required; No Conflicts with Instruments. The execution, delivery and performance of this Agreement by Buyer, and the consummation by Buyer of the transactions contemplated hereby, will not (a) constitute a violation (with or without the giving of notice or lapse of time or both) of any provision of any domestic or foreign law applicable to Buyer, (b) require any consent, approval or authorization of any person, corporation, partnership, domestic or foreign governmental authority or other organization or entity, (c) result in a default under, an acceleration or termination of, or the creation in any party of the right to accelerate, terminate, modify or cancel, any material agreement, lease, note or other restriction, encumbrance, obligation or liability to which Buyer is a party or by which Buyer is bound or to which any of its assets are subject, or (e) conflict with or result in a breach of or constitute a default under any provision of Buyer's documents.
- (E) Legal Claims and Legal Proceedings. There are no material outstanding or unsatisfied judgments, orders, decrees, stipulations or settlements to which Buyer is a party which involve the transactions contemplated herein.
- (F) HSR. As of the date of Buyer's last regularly prepared balance sheet (December 31, 1997) and the last regularly prepared statement of income and expenses (December 31, 1997), Buyer does not have "total assets" or "annual net sales" of \$100 million or more. For purposes of the preceding sentence, the reference to Buyer shall mean Buyer and all entities "controlled" by

Buyer. For purposes of this Section 5(F), the terms in quotations shall have the meanings ascribed to them in the Hart-Scott-Rodino Anti-Trust Act of 1976, as amended, and all regulations thereunder.

6. COVENANTS

- (A) Preservation. Prior to Closing, the Company will (and will cause TAC to) use its best efforts to (i) obtain all Required Consents, (ii) effect the transfer to Buyer of the Necessary Permits as of the Closing or promptly thereafter and (iii) protect the ongoing Goodwill of the Business and to use its best efforts to ensure that key employees and key independent contractors continue their association with the Company and TAC through the Closing Date.
- (B) Access to Information. The Company will ensure that Buyer and its attorneys, accountants and other representatives have full access during regular business hours to the Total Assets and all properties, books, accounts, records, Contracts and documents of or relating to the Company, TAC, the Total Assets and the Business. The Company agrees to furnish to Buyer and its representatives all data and information concerning the Total Assets, the Business, the Company and TAC that may be reasonably requested by any of them.
- (C) Insurance. The Company and TAC, as applicable, will maintain in full force and effect through the Closing Date the existing policies of insurance covering the Total Assets. The Total Assets will remain at the risk of the Company to the Closing. In the event of any destruction of the Total Assets which (in the aggregate) is less than \$1 million, then Buyer shall continue to be obligated as set forth herein. In the event of loss (in the aggregate) in excess of \$1 million, then Buyer may, at its discretion, (i) be paid the insurance proceeds with respect thereto by the Company and proceed to Closing of the transactions contemplated hereby or (ii) cancel this Agreement in which event it shall be null and void ab initio.
- (D) Further Assurances. From and after the Closing, the Company and the Shareholders will execute all documents and do all such acts that may be reasonably requested by Buyer to more perfectly and absolutely assign, transfer, and vest in Buyer title to the Acquired Assets, free and clear of all Liens, except Permitted Liens, and for carrying out the intention of or

facilitating the performance of the terms of this Agreement.

- (E) Conduct of Business Pending Closing. From the date hereof until the Closing, the Company will:
- (i) conduct the Company Business and cause TAC to conduct the TAC Business only in the ordinary course consistent with past practices and shall not make commitments for any capital expenditures without the prior written consent of Buyer;
 - (ii) not, and will not permit TAC to, except in the ordinary course of Business or with the consent of Buyer: (a) make any increase in the compensation payable or to become payable to any of its officers, employees or sales representatives of the Business (collectively, "Personnel"), (b) grant any bonus, incentive compensation, service award or other like benefit grant, contingent or otherwise, for or to the credit of any of the Personnel except in the ordinary course of business, (c) change any employee welfare, pension, retirement, profit-sharing or similar payment or arrangement except as may be required to comply with applicable Law, or (d) enter into any employment agreement to which either the Company or TAC is a party;
 - (iii) not, and not permit TAC to, transfer, license or otherwise dispose of or agree to transfer, license or otherwise dispose of any of the Total Assets, except for Inventory and immaterial miscellaneous assets not otherwise necessary in the conduct of the Business, in the ordinary course of the Business;
 - (iv) not, and not permit TAC to, grant, create, or suffer a Lien on any of the Total Assets other than Permitted Liens;
 - (v) not, and not permit TAC to, enter into any compromise or settlement of any litigation, action, suit, claim, proceeding or investigation relating to or affecting the Business or the Total Assets;
 - (vi) not permit TAC to, declare, set aside or pay any dividend or other distribution in respect of its shares of capital stock or redeem, purchase or

otherwise acquire any such shares of capital stock;

- (vii) promptly advise Buyer in writing of any matters arising or discovered after the date hereof which, if existing or known at the date hereof, would be required to be set forth or described in this Agreement or the Schedules hereof.
- (F) Transfer Taxes and Recordation Fees. Any transfer or sales Taxes or other similar state, federal or local Taxes attributable to the transfer of the Acquired Assets by the Company to Buyer, together with all recording fees related to such transfer, shall be borne and paid for by Buyer.
- (G) Satisfaction of Conditions. Each party shall use commercially reasonable efforts to satisfy promptly all conditions precedent to the obligations of the other to consummate the transactions contemplated by this Agreement.
- (H) Proprietary Information. The Company shall hold in confidence, and use its best efforts to have all of its officers, directors and personnel hold in confidence, all knowledge and information of a secret or confidential nature with respect to the Business and shall not disclose, publish or make use of the same without the consent of Buyer, except to the extent that such information shall have become public knowledge other than by breach of this Agreement by the Company. The Company agrees that the remedy at law for any breach of this Section would be inadequate and that Buyer shall be entitled to injunctive relief in addition to any other remedy it may have upon breach of any provision of this Section.
- (I) Covenant/Noncompetition and Nonsolicitation Agreement.
 - (i) For a period of three (3) years after the Closing Date, the Company shall not (i) anywhere in the world, directly or indirectly, manufacture, market or sell any product which has the same or substantially the same form, function and primary application as any existing product manufactured by the Company or TAC during the two (2) year period prior to the date of this Agreement, except as permitted hereunder, and (ii) in any capacity, directly or indirectly, for its own account or for the benefit of any Person, solicit the employees

of the Business to leave the employ of the Buyer (the "Company Covenant").

(ii) For a period of three (3) years after the Closing Date, neither RKDent nor TGUnger shall (i) anywhere in the world, directly or indirectly, manufacture, market or sell any product which has the same or substantially the same form, function and primary application as any existing product manufactured by the Company or TAC during the two (2) year period prior to the date of this Agreement, except as permitted hereunder and (ii) in any capacity, directly or indirectly, for their own account or for the benefit of any Person, solicit the employees of the Business to leave the employ of the Buyer (the "Shareholder Covenants" and, together with the Company Covenant, the "Noncompetition Covenants").

(iii) The parties hereto agree that the duration and geographic scope of the Noncompetition Covenants set forth in this Article are reasonable. In the event that any court determines that the duration or the geographic scope, or both, are unreasonable and that such provision is to that extent unenforceable, the parties hereto agree that the provision shall remain in full force and effect for the greatest time period and in the greatest area that would not render it unenforceable. The parties intend that the Noncompetition Covenants shall be deemed to be a series of separate covenants, one for each and every county of each and every state of the United States of America and each and every political subdivision of each and every country outside the United States of America where this provision is intended to be effective. The parties agree that damages are an inadequate remedy for any breach of this provision and that Buyer shall, whether or not it is pursuing any potential remedies at law, be entitled to equitable relief in the form of preliminary and permanent injunctions without bond or other security upon any actual or threatened breach of the Noncompetition Covenants.

(J) Publicity. No party to this Agreement shall issue, or permit to be issued by any affiliate of such party, any press release or other public statement regarding this Agreement or the transactions contemplated hereby

without prior written consent of the other parties hereto.

- (K) Confidentiality. Except as required by law, contemplated by this Agreement or necessary to carry out the transactions contemplated hereby, all information or documents furnished in connection with such transactions and this Agreement by any party shall be kept confidential by the party or parties to whom furnished at all times prior to the Closing, and in the event such transactions are not consummated, each such party shall promptly return to the other all documents furnished hereunder and shall continue to keep confidential all information furnished hereunder and shall not thereafter use the same for its advantage; provided, however, that any such obligation to keep information confidential shall not apply to any information that (a) becomes or has become available to such party from other sources not known by such party to be bound by a confidentiality agreement, (b) is disclosed with the prior written approval of the party to which such information pertains, or (c) is or becomes readily ascertainable from published information or trade sources.

(L) Employees and Employee Benefits.

- (i) On or before Closing, the Company shall transfer the sponsorship of the Employee Plans maintained by the Company to Buyer, effective as of the Closing. On or before Closing, the Buyer shall adopt and substitute itself as the sponsor of the Employee Plans, effective as of the Closing, pursuant to the terms and provisions of such Plans.
- (ii) As of the Closing, all of the Company's active employees listed in Schedule 6(L) (hereinafter referred to as "Transferred Employees") shall become employees of Buyer with the same or comparable positions and at the same or comparable hourly wage or salaries subject to the completion by the Transferred Employees of the Buyer's standard employee related documents. For purposes of the preceding sentence, the term "active employees" shall include employees on worker's compensation, military leave, other approved leaves of absence, short and long term disability, nonoccupational disability and employees on layoff with recall rights, but only to the extent such

employees are identified as such on Schedule 6(L).

- (iii) At Closing, and for a period of not less than one year therefrom, Buyer and its Affiliates shall provide the Transferred Employees with employee benefit plans, policies, programs and arrangements that are consistent with those provided to employees of Buyer occupying like positions. For purposes of all employee benefit plans, policies, programs and arrangements maintained or contributed to by Buyer or any of its Affiliates, Buyer and its Affiliates shall treat, and shall cause each such plan, policy, program or arrangement (in each case, once made available to Transferred Employees) to treat the Transferred Employee's prior service with the Company, TAC and/or Fife as service rendered to Buyer and its Affiliates for purposes of determining eligibility to participate and vesting thereunder. Likewise, for purposes of determining the amount of vacation, sick leave and similar benefits to which Transferred Employees shall be entitled upon becoming employees of Buyer or any of its Affiliates, Buyer and its Affiliates shall treat each Transferred Employee's entire period of employment with the Company, TAC and/or Fife as if it had been employment with Buyer and its Affiliates.
- (iv) Buyer and its Affiliates shall waive, or shall cause to be waived, any and all pre-existing condition limitations and eligibility waiting periods under any health, dental, vision, disability, life insurance, cafeteria or similar plan, program or arrangement sponsored or maintained by Buyer or its Affiliates (once such plan, program or arrangement is made available to Transferred Employees) with respect to (a) Transferred Employees and (b) their eligible dependents, but only to the extent such limitations and waiting periods exceed those in the comparable plan sponsored, maintained or contributed to by the Company or TAC. A Transferred Employee's entire period of service with the Company, TAC and/or Fife shall count toward satisfaction of any such limitations and waiting periods with respect to such Transferred Employee and his or her dependents under any such

plan, program or arrangement maintained by Buyer or its Affiliates.

- (v) Notwithstanding the foregoing subsections 6(L)(ii) and (iii), nothing in this Agreement shall cause duplicate benefits to be paid or provided to or with respect to a Transferred Employee under any employee pension, benefit or welfare plan or plans or bonus paid.
- (vi) Subject to Buyer's obligations under Subsection (ii) above, Buyer shall have no obligation or liability to maintain or keep in force any specific welfare or other plans for Transferred Employees, including, but not limited to, severance, medical, retiree medical, health, dental, accident, life, retiree life, short and long term disability or nonoccupational disability on or after the Closing.
- (vii) Schedule 6(L) is a true and correct list of all Transferred Employees, their names, dates of birth, dates of hire credited by the Company, and present hourly rates or salaries. At Closing the Company will update Schedule 6(L) to make it accurate, true and correct as of the Closing Date.
- (viii) Nothing herein expressed or implied shall confer upon any Transferred Employee or any other employee of TAC, the Buyer or the Company or any Affiliate of the Buyer or the Company or any legal representative thereof or any collective bargaining agent, any rights or remedies, including any right to employment, or continued employment for any specified period, of any nature or kind whatsoever under or by reason of this Agreement or elsewhere. Unless separately agreed to by Buyer and only to the extent otherwise mandated by law, Buyer's employment of any Transferred Employee will be on an "at will" basis.
- (ix) Nothing in this Agreement shall be deemed to confer upon any person (or any beneficiary thereof) any rights under or with respect to any plan, program or arrangement described in or contemplated by this Agreement, and each person (and any beneficiary thereof) shall be entitled to look only to the express terms of any such plan, program or arrangement for his rights thereunder.

- (x) Buyer retains and shall not be deemed to waive any of its rights or abilities to control the use and operation of the Assets or the conduct of the Business on or after the Closing or to take any other actions it deems appropriate with respect thereto including, but not limited to, reorganization of the Business, divestiture of any of the Assets, reduction or relocation of employees or plant locations or reassignment of personnel and/or duties. It is contemplated by the parties that Buyer may establish subsidiaries or affiliates to carry out the provisions of this Agreement. Nothing herein shall be construed to require that Buyer itself directly employ or provide benefits to any of the Transferred Employees.

(M) Section 338 Election.

- (i) Buyer shall indemnify and hold the Company, RKDent, CALycett-Dent, TGUnger and CDUnger (the "TAC Shareholders") harmless with respect to any Tax Reimbursements (defined below in Section 6(M)(iii)) incurred by the TAC Shareholders resulting by reason of any election made or deemed to be made by Buyer or the Company or TAC, whether express or implied, under Section 338 of the Code and the Treasury Regulations thereunder or any similar provision of state, local or foreign law (collectively, a "Section 338 Election"). Buyer shall provide at least 90 days written notice to the TAC Shareholders of any Section 338 Election that Buyer makes or causes to be made and, prior to making such election, shall reimburse the TAC Shareholders pursuant to the procedure set forth in Section 6(M)(iii) below. Buyer will not make a Section 338 Election without the prior written consent of the TAC Shareholders.
- (ii) In reliance upon and in consideration of Buyer's reimbursement obligations set forth in this Section and upon timely written notice from Buyer, each of the TAC Shareholders covenants and agrees to join Buyer, if Buyer so elects, in making the Section 338 Election. Buyer and the TAC Shareholders shall cooperate fully with each other in making such Section 338 Election. In particular, and not by way of limitation, in order to effect such election, Buyer and each TAC Shareholder shall jointly execute Internal Revenue

Service Form 8023 and all attachments required to be filed therewith pursuant to applicable Treasury regulations.

- (iii) Buyer hereby agrees to reimburse each TAC Shareholder for any Additional Taxes. For these purposes, "Additional Taxes" are defined as (a) the total amount of Taxes imposed upon each TAC Shareholder taking into account any Section 338 Election, less (ii) the total amount of Taxes imposed upon each TAC Shareholder if no such Section 338 Election was made. In addition, Buyer agrees to reimburse each TAC Shareholder for any additional reasonable legal, accounting, consulting and related out of pocket expenses incurred by any TAC Shareholder ("Additional Expenses" and, together with Additional Taxes, "Tax Reimbursements") as a result of the Section 338 Election.
- (iv) Sixty (60) days after Buyer's providing notice to the TAC Shareholders of such Section 338 Election, the TAC Shareholders shall provide to Buyer a detailed calculation of the amount of the Tax Reimbursement ("TAC Shareholders' Detailed Calculation") prepared by an independent certified public accountant or firm of independent certified public accountants (a "CPA") engaged by the TAC Shareholders. Buyer may object in writing to the TAC Shareholders within thirty (30) days following delivery of the TAC Shareholders' Detailed Calculation as to the accuracy thereof, provided that Buyer's objection is accompanied by a writing setting forth a detailed calculation of Buyer's calculation of the amount of the TAX Reimbursement prepared by a CPA retained by Buyer. If the amount of the Tax Reimbursement determined by such CPA retained by Buyer is materially different from the amount of Tax Reimbursement calculated by the CPA retained by the TAC Shareholders and the two CPAs cannot agree on the correct amount of the Tax Reimbursement, then the disagreement as to the amount of the Tax Reimbursement shall be resolved pursuant to Section 8(F) of this Agreement. If it is thereby determined that the amount of the Tax Reimbursement was in error and that Buyer overpaid (or that one or more TAC Shareholders were underpaid) the correct amount of the Tax Reimbursement, Buyer or such TAC Shareholder or Shareholders, as the case may be, shall within ten

(10) days of such final determination by arbitration reimburse Buyer or such TAC Shareholder or Shareholders for the amount of such overpayment or underpayment. Buyer shall advance to each TAC Shareholder his or its pro rata share of the amount of the Tax Reimbursement as determined hereby not later than 30 days prior to the date on which such Tax is due (as agreed upon by the parties hereto or as finally determined by arbitration); provided, however, that in the event that any disagreement regarding the amount of the Tax Reimbursement is not resolved before the 30th day prior to the date on which such Tax is due, Buyer shall advance to each TAC Shareholder his or its pro rata share of the amount of the Tax Reimbursement as set forth on the TAC Shareholders Detailed Calculation not later than 30 days prior to the date on which such Tax is due and such advance shall be adjusted upon final determination thereof as set forth herein.

- (v) If the Internal Revenue Service or other taxing authority later proposes a written adjustment that additional other Taxes are owed by any TAC Shareholder as a result of the Section 338 Election so that the Tax Reimbursement paid by Buyer was insufficient, the TAC Shareholders, upon receipt of such notice of deficiency from the Internal Revenue Service or other taxing authority with respect to the above, shall promptly notify Buyer. Thereafter, the TAC Shareholders shall keep Buyer reasonably informed of the progress of such contest, if any, and shall consult in good faith with Buyer with respect to any issues in such contest relating to the Section 338 Election. If the final determination of such taxing authority results in Additional Tax owing by the TAC Shareholders, Buyer shall reimburse the TAC Shareholders for any such Additional Taxes or any related Additional Expenses within 10 days of the receipt of a detailed calculation thereof.
- (vi) In addition and notwithstanding any other provision of this Agreement, Buyer shall, with respect to each and every payment of Additional Taxes or Additional Expenses to a TAC Shareholder, pay an additional amount (the "Gross-Up Amount") to such TAC Shareholder such that, after deduction of the amount of all Taxes required to be paid by the TAC Shareholder with respect to the receipt by

the TAC Shareholder of Buyer's payments hereunder (including the Gross-Up Amount), the aggregate payments to the TAC Shareholder (as so reduced) equal the payments of Additional Taxes and Additional Expenses otherwise required to be made hereunder. In calculating the Gross-Up Amount, it shall be assumed that the TAC Shareholder was subject to taxation at the highest marginal tax rates applicable to individuals with respect to such Taxes for the year in which such income is taxed.

- (N) TAC Lease Guarantee. With respect to the TAC real property lease pursuant to which the Company acts a guarantor for certain obligations of TAC contained therein, subsequent to Closing, Buyer shall indemnify and hold the Company harmless with respect to such all liability under such guarantee which arises subsequent to Closing and will use its best efforts to remove the Company as a guarantor thereunder.
- (O) George Black. Buyer shall contract with the Company for the services of George Black until such time as his permanent visa is issued by the United States government.

7. TERMINATION, AMENDMENT AND WAIVER

- (A) Termination. This Agreement may be terminated and this transaction may be abandoned at any time prior to Closing:
 - (i) by mutual written consent of the Company and Buyer duly authorized by the Board of Directors of the Company and by Buyer, respectively;
 - (ii) by either the Company or Buyer, if the Closing shall not have been consummated on or prior to February 15, 1998, provided, however, that the right to terminate this Agreement under this subsection (ii) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date;
 - (iii) by either the Company or Buyer, if there shall be any law, regulation or similar legal authority that makes consummation of this transaction

illegal or otherwise prohibited or if any judgment, injunction, order or decree enjoining Buyer or the Company from consummating this transaction is entered and such judgment, injunction, order or decree shall become final and nonappealable; provided, however, that the party seeking to terminate this Agreement pursuant to this subsection (iii) shall have used all reasonable efforts to remove such judgment, injunction, order or decree;

(iv) Intentionally Omitted;

(v) by the Company, in the event of a material breach by Buyer of any representation, warranty, covenant or other provision of this Agreement which has not been cured or is not curable by February 15, 1998; or

(vi) by Buyer, in the event of a material breach by the Company of any representation, warranty, covenant or other provision of this Agreement which has not been cured or is not curable by February 15, 1998.

(B) Effect of Termination. In the event of the termination of this Agreement pursuant to Section 7(A) above, there shall be no further obligation on the part of any party hereto, except that nothing herein shall relieve any party from liability for any breach hereof.

(C) Amendment. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

(D) Waiver. At any time prior to Closing, any party hereto may (i) extend the time for the performance of any obligation or other act of any other party hereto, (ii) waive any inaccuracy in the representations and warranties contained herein or in any document delivered pursuant hereto, or (iii) waive compliance with any agreement or condition contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby.

8. SURVIVAL AND INDEMNIFICATION

(A) Survival. All representations and warranties contained in this Agreement shall survive until June 30, 1999; provided, however, that the representations and warranties relating to (i) tax shall survive for ninety

(90) day following the applicable statute of limitation and (ii) environmental matters shall survive for three (3) years following the Closing Date. The covenants and agreements contained in this Agreement shall continue until all obligations with respect thereto have been performed or satisfied or have been terminated in accordance with their terms. No Claim may be made or asserted by any person, and no obligation to indemnify in respect thereof shall exist, unless written notice of such Claim shall have been given as provided in this Article 8.

(B) Indemnification; Adjustment of Consideration.

- (i) Indemnification by the Company. From and after the Closing Date, subject to the limitations set forth in this Article 8, the Company, shall indemnify and hold the Buyer and its Affiliates ("Buyer Indemnified Parties") harmless from and against any and all Losses suffered by such Buyer Indemnified Parties as a result of any inaccuracy in any representation or warranty made by the Company or the Shareholders in this Agreement or any breach by the Company or the Shareholders of any covenant or other agreement of the Company or such Shareholders contained in this Agreement.
- (ii) Indemnification by the Buyer. From and after the Closing Date, subject to the limitations set forth in this Article 8, Buyer shall indemnify and hold the Company and its Affiliates ("Company Indemnified Parties") harmless from and against any and all Losses suffered by such Company Indemnified Parties as a result of any inaccuracy in any representation or warranty made by the Buyer in this Agreement or any breach by the Buyer of any covenant or other agreement of the Buyer contained in this Agreement. Notwithstanding anything to the contrary herein, for purposes of determining whether the Company has breached the representation or warranty made by it in Section 3(I)(ii)(C) and determining the amount of Loss incurred by reason of such breach, such representation and warranty, as it applies to the Company Ownership Period and the TAC Ownership Period, shall be read as if such representation or warranty was not qualified by the phrase "to the best knowledge of the Company and TAC".

(iii) Use of Escrow Amount.

- (a) The indemnification obligations of the Company under this Article 8, with respect to Losses, shall be limited to a maximum aggregate liability of \$3,000,000, plus interest paid or accrued in a manner calculated in the Escrow Agreement subject to adjustment as set forth in Section 8(G) ("Cap"), for the Losses over and above the Threshold; provided, however, that notwithstanding anything to the contrary herein, the Cap shall not apply to (i) actual fraud and (ii) any breach of Sections 3(B), 3(U)(x) and 4(A). The Cap shall be the maximum aggregate liability of the Company after taking into account insurance proceeds or tax-related benefits in accordance with Section 8(C)(ii). No Indemnifying Party shall have any liability in respect of Losses in excess of, and all Losses shall be satisfied exclusively from, the Escrow Fund in accordance with the Escrow Agreement.
- (b) The aggregate dollar amount of the indemnification obligations of the Company under this Article 8 which are so satisfied from the Escrow Fund shall be deemed to reduce the total consideration otherwise payable to the Company pursuant to Section 1(D).

(C) Threshold and Limitations.

Notwithstanding any other provision of this Agreement:

- (i) No Buyer Indemnified Party shall be entitled to any amount in respect of Losses as to which Claims are made unless and until the aggregate amount of all Losses as to which indemnification otherwise would be required under this Agreement exceeds \$150,000 (the "Threshold"), and then, only for the amount of such Losses in excess of the Threshold; provided, however, that the Threshold shall not be applicable to a claim (a) for actual fraud, (b) in connection with any of the Retained Liabilities, or (c) for indemnification arising under Section 3(A), 3(B), 3(Q), 3(U)(x), 3(W) or Article 4.
- (ii) The amount of any Loss otherwise eligible for indemnification under this Article 8 shall be

reduced by (a) the amount of any insurance proceeds (minus all reasonably allocable costs, charges and expenses incurred by an Indemnified Party in obtaining such recovery) actually recovered in respect thereof (but not in excess of such Loss), and (b) any tax-related benefits when actually realized either in the tax year in which the Claim is made or in the two tax years following the tax year in which the Claim was made (but only after taking into account the tax benefits to which the Indemnified Party would be entitled without regard to such item).

(D) Procedure for Indemnification.

- (i) The Buyer Indemnified Parties or the Company Indemnified Parties, as applicable, ("Indemnified Party") shall give written notice of any Claim for indemnification under this Article 8 to the indemnifying party ("Indemnifying Party") as promptly as practicable, but in any event (a) if such Claim relates to the assertion against any Indemnified Party of any claim or dispute by a third party (a "Third Party Claim"), within 30 days after the assertion of such Third Party Claim, or (b) if such Claim is not in respect of a Third Party Claim, within 60 days after the discovery by the Indemnified Party of the facts on which such Claim is to be based; provided that in either case no delay on the part of the Indemnified Party in giving any such notice shall relieve the Indemnifying Party of any indemnification obligations hereunder unless, and then solely to the extent that, the Indemnifying Party is materially prejudiced by such delay. Any such notice shall describe the nature of the Claim, the amount thereof if then ascertainable and, if not then ascertainable, the estimated maximum amount thereof, and the provision or provisions of this Agreement on which the Claim is based.
- (ii) The Indemnifying Party shall have the right, upon written notice given to the Indemnified Party within 60 days of the receipt by the Indemnifying Party of the notice contemplated by Section 8(D)(i) hereof, to assume the defense or handling of such Third Party Claim, at the Indemnifying Party's sole expense, in which case the provisions of Section 8(D)(ii)(a) below shall govern.

- (a) The Indemnifying Party shall select counsel to conduct the defense or handling of such Third Party Claim, which counsel shall be reasonably satisfactory to the Indemnified Party. The Indemnifying Party shall defend or handle such Third Party Claim in consultation with the Indemnified Party and shall keep the Indemnified Party timely apprised of the status of such Third Party Claim. The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, agree to a settlement of any Third Party Claim, unless the settlement (1) provides an unconditional release and discharge of the Indemnified Party, (2) imposes no material liabilities or obligations on the Indemnified Party, and (3) with respect to any non-monetary provisions of such settlement, could not have a material adverse effect on the business operations, assets, properties or prospects of the Indemnified Party. The Indemnified Party shall cooperate with the Indemnifying Party and shall be entitled to participate in the defense or handling of such Third Party Claim with its own counsel and at its own expense. The Indemnified Party shall not, without the prior written consent of the Indemnifying Party, agree to a settlement of any Third Party Claim, unless the Indemnified Party shall also waive any right to indemnification for the applicable Claim.
- (iii) If the Indemnifying Party does not give written notice to the Indemnified Party, within 30 days after receipt of the notice from the Indemnified Party of a Third Party Claim, that the Indemnifying Party has elected to assume the defense or handling of such Third Party Claim, then the amount of any such Third Party Claim or, if the same shall be contested by the Indemnified Party, then that portion of any such Third Party Claim to which such defense is unsuccessful (and all reasonable cost and expenses pertaining to such defense) shall be the liability of the Indemnifying Party hereunder; provided, however, that the Indemnified Party shall keep the Indemnifying Party timely apprised of the status of such Third Party Claim; provided, further, that if the Indemnified Party defends or handles such

Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party and shall be entitled to participate in the defense or handling of such Third Party Claim with its own counsel and at the Indemnifying Party's expense.

- (E) Exclusive Remedies. The indemnification provided in this Article 8 shall be the exclusive remedy available to the parties hereto and their Affiliates in respect of any breach of this Agreement by any party hereto or any other dispute arising out of or in connection with this Agreement and the transactions contemplated hereby, other than (i) claims based on fraud in the inducement and (ii) claims for breach of Section 6(H), 6(I), 6(J) or 6(K).
- (F) Alternative Dispute Resolution. Neither party shall institute a proceeding in any court or administrative agency to resolve a dispute between the parties hereunder, whether arising prior to or after the Closing Date, before that party has sought to resolve the dispute through direct negotiation with the other party. If the dispute is not resolved within three weeks after a demand for direct negotiation, the parties shall attempt to resolve the dispute through non-binding mediation. If the parties do not promptly agree on a mediator, then either party may notify the CPR Institute For Dispute Resolution, 366 Madison Avenue, New York, New York, to initiate selection of a mediator from the CPR Panel of Neutrals. The fees and expenses of the mediator shall be paid one-half each by the Company and Buyer. Any controversy, dispute or claim arising out of or relating to this Agreement or the breach hereof which cannot be settled by mutual agreement or non-binding mediation (except for actions by any party seeking equitable or injunctive relief) shall be finally settled by arbitration as follows: Any party who is aggrieved shall deliver a notice to the other parties hereto setting forth the specific points in dispute. Any points remaining in dispute 20 days after the giving of such notice shall be submitted to arbitration in Seattle, Washington, to CPR Institute For Dispute Resolution or a comparable organization, before a single arbitrator appointed in accordance with that organization's rules, modified only as herein expressly provided. The arbitrator may enter a default decision against any party who fails to participate in the arbitration proceedings. The decision of the arbitrator on the points in dispute will be final, unappealable and binding and judgment on the award may

be entered in any court having jurisdiction thereof. The parties to this Agreement hereby submit to the exclusive jurisdiction of the federal and state courts located in the State of Delaware for the purpose of enforcement of any arbitration award or pursuit of any action seeking equitable or injunctive relief and hereby waive any claim based on a lack of personal jurisdiction concerning the matter in dispute. Notwithstanding any other provision of this Agreement, the arbitrator will be authorized to apportion its fees and expenses and the reasonable attorneys' fees and expenses of the parties as the arbitrator deems appropriate and in the absence of any such apportionment, the fees and expenses of the arbitrator will be borne fifty percent (50%) by Buyer on one hand, and fifty percent (50%) by the Company on the other hand and each party will bear the fees and expenses of its own attorneys. The parties agree that this clause has been included to rapidly and inexpensively resolve any disputes between them with respect to this Agreement, and that this clause shall be grounds for dismissal of any court action commenced by either party with respect to this Agreement, other than post-arbitration actions seeking to enforce an arbitration award or actions for equitable or injunctive relief. The parties shall keep confidential, and shall not disclose to any person, except as may be required by law, the existence of any controversy hereunder, the referral of any such controversy to arbitration or the status or resolution thereof.

(G) TAC Environmental Issue.

- (i) Buyer and the Company agree that this Section 3(G) shall govern the responsibilities of the parties with respect to the issues set forth in the Dames & Moore report attached to this Agreement as Schedule 3(G) (the D&M Report") as they relate to the Leased Real Property of TAC (the "TAC Property").
- (ii) The Company agrees to indemnify, defend and hold the Buyer harmless without regard to amount for any Losses arising from or relating to the matters set forth in the D&M Report; provided, that with respect to the indemnity obligation set forth in this subsection (a) neither the Threshold nor the Cap shall apply and (b) Buyer and the Company shall share equally dollar for dollar up to an aggregate of \$500,000 with Buyer's share reduced

by any amount paid by Buyer pursuant to subsection (iii) below.

- (iii) In the event that Company determines in its discretion at any time to remediate or otherwise treat the TAC Property to address the matters set forth in the D&M Report, then: (a) to the extent within Buyer's control, Buyer shall cause TAC to give the Company (or its representatives) access to the TAC Property for all work to be performed in connection with such remediation or treatment and (b) Buyer shall share equally dollar for dollar in the cost of remediation or other treatment up to a maximum of up to \$250,000 less the amount, if any, paid by Buyer pursuant to subsection (ii)(b) above. Notwithstanding anything to the contrary in the preceding sentence, the Company shall be, if so required, obligated to remediate the TAC Property with respect to those matters referred to in the D&M Report to the full extent required by applicable Law. For purposes of this subsection (iii), remediation shall include the cost of all studies, tests, samples, consulting expenses, professional fees and any work or services actually performed.
- (iv) Upon delivery to Buyer of invoices for work performed pursuant to subsection (iii) above, the Company and Buyer shall jointly direct the Escrow Agent in writing to disburse Escrow Funds equal to the invoiced amounts (converted into US dollars) provided that the maximum amount of Escrow Funds which may be disbursed pursuant to this subsection (iv) is \$1.5 million.
- (v) The Cap shall be reduced dollar for dollar by amounts actually paid by the Company in discharge of its liabilities (if any) pursuant to subsection (ii) and/or (iii) above up to a maximum reduction of \$1 million.
- (vi) For so long as the TAC Property is not appropriately remediated to address the issues raised in the D&M Report and in accordance with applicable law and sound engineering practices, the Company shall maintain liquid assets (that is assets which would be treated as cash equivalents under GAAP including but not limited to marginable securities) of not less than \$3 million, taking into account the amount in the Escrow Fund. Any

dispute with respect to whether or not the TAC Property has been remediated in accordance with the preceding sentence shall be governed by the provisions of Section 8(F) of this Agreement.

9. CONDITIONS PRECEDENT TO CLOSING

- (A) Conditions to Buyer Closing. The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to the satisfaction on or before the Closing of the following conditions, any one or more of which may be waived by Buyer at its option:
- (i) the representations and warranties of the Company in this Agreement shall be true and correct in all respects, both on the date of this Agreement and, as amended or updated to reflect any changes in the ordinary course which do not result in a material adverse change to TAC and the Company taken as a whole, at and as of the Closing, except for representations or warranties made as of a specified date, which as of the Closing shall remain true and correct in all material respects as of such specified date (the Schedules to this Agreement, other than the Company's Receivable Schedule, shall be updated as of Closing to reflect changes occurring in the ordinary course);
 - (ii) the Company shall have performed or complied with, in all material respects, all covenants and agreements contemplated by this Agreement to be performed or complied by them at or prior to the Closing;
 - (iii) the Company shall have delivered, or caused to be delivered, to Buyer each of the documents required by Section 10(A) hereof;
 - (iv) between the date of this Agreement and the Closing, there shall not have occurred a material adverse change with respect to the Company, TAC or the Business, taken as a whole (the occurrence of such material adverse change to be determined by Buyer in its reasonable discretion);
 - (v) no actions, suits, proceedings assessments or judgments shall be pending or threatened seeking to restrain or prohibit the consummation of the transactions contemplated by this Agreement or any damages in connection therewith, or any material

divestiture or to revoke or suspend any material Contract or Necessary Permit by reason of any or all of the transactions contemplated by this Agreement, nor shall there be any reasonable basis to conclude that the consummation of the transactions contemplated by this Agreement would constitute a violation of any Law;

- (vi) all Consents which are set forth on Schedule 9(A)(vi) shall have been made, given or obtained and shall be in full force and effect;
 - (vii) No order of any court or administrative agency shall be in effect which enjoins, restrains, conditions or prohibits consummation of this Agreement, and no litigation, investigation or administrative proceeding shall be pending or threatened which would enjoin, restrain, condition or prevent consummation of this Agreement;
 - (viii) All approvals of or notices to public agencies, federal, state, local or foreign, the granting of which is necessary for the consummation of the transaction contemplated hereby, shall have been obtained.
- (B) Conditions to the Company Closing. The obligations of the Company and the Shareholders to consummate the transactions contemplated by this Agreement are subject to the satisfaction on or before the Closing of the following conditions, any one or more of which may be waived by the Company at its option:
- (i) The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects, both on the date of this Agreement and at and as of the Closing, except for representations or warranties made as of a specified date, which as of the Closing shall remain true and correct in all material respects as of such specified date;
 - (ii) Buyer shall have performed or complied with, in all material respects, all covenants and agreements contemplated by this Agreement to be performed or complied with by Buyer at or prior to the Closing;

- (iii) Buyer shall have delivered, or caused to be delivered, to the Company each of the documents required by Section 10(B);
- (iv) no actions, suits, proceedings assessments or judgments shall be pending or threatened seeking to restrain or prohibit the consummation of the transactions contemplated by this Agreement or any damages in connection therewith, or any material divestiture or to revoke or suspend any material Contract or Necessary Permit by reason of any or all of the transactions contemplated by this Agreement, nor shall there be any reasonable basis to conclude that the consummation of the transactions contemplated by this Agreement would constitute a violation of any Law;
- (v) No order of any court or administrative agency shall be in effect which enjoins, restrains, conditions or prohibits consummation of this Agreement, and no litigation, investigation or administrative proceeding shall be pending or threatened which would enjoin, restrain, condition or prevent consummation of this Agreement;
- (vi) The shareholders of the Company shall have duly and validly approved the transaction contemplated by this Agreement by a vote or written consent in accordance with Washington Law;
- (vii) All approvals of or notices to public agencies, federal, state, local or foreign, the granting of which is necessary for the consummation of the transaction contemplated hereby, shall have been obtained; and
- (viii) all Consents which are set forth on Schedule 9(A)(vi) shall have been made, given or obtained and shall be in full force and effect.

10. CLOSING DOCUMENTS

- (A) Delivery of Closing Documents by the Company. At the Closing, the Company will deliver to Buyer the following documents in form and substance reasonably satisfactory to Buyer, duly executed as required:
 - (i) a bill of sale and assignment conveying the Acquired Assets to Buyer, in the form attached hereto as Exhibit 1;

- (ii) a certificate of an officer of the Company to the effect that the TAC Shares have been transferred to Buyer on the appropriate books and records of TAC in accordance with applicable Law;
 - (iii) a certificate of the Company, signed by an executive officer thereof, to the effect that the conditions set forth in Sections 9(A)(i), (ii), (iv), (v), (vii) and (viii) hereof have been satisfied;
 - (iv) a current certificate of existence of the Company issued by the Secretary of State of the State of Washington.
 - (v) the resignations of all directors of TAC;
 - (vi) an opinion of the Company's counsel, dated as of the Closing Date and addressed to Buyer and to Buyer's lender(s) as they may request and substantially in the form of Exhibit 2 to this Agreement;
 - (vii) duly endorsed certificates of title for the automobiles evidencing that title to such vehicles are held in the Company and are free and clear of all Liens (one for each automobile);
 - (viii) a term sheet outlining the understanding of the parties regarding the contracting by Buyer for the services of George Black;
 - (ix) a term sheet outlining the understanding of the parties regarding the amendment of the lease for the premises at Paine Field; and
 - (x) all other bills of sale, deeds, transfers, assignments, acts and assurances as may be required in the reasonable opinion of Buyer for more perfectly and absolutely assigning, transferring, conveying, assuring to and vesting in Buyer title to the Acquired Assets free and clear of all Liens except Permitted Liens.
- (B) Delivery of Closing Documents by Buyer. At the Closing, Buyer will deliver to the Company the following:

- (i) a certificate of Buyer, signed by an executive officer thereof, to the effect that the conditions set forth in Sections 9(B)(i) and (ii) hereof have been satisfied;
- (ii) in the manner specified in Section 1(D)(i) hereof, an amount equal to the Closing Payment, as adjusted pursuant to this Agreement, and delivery of the Escrow Deposit to the Escrow Agent as set forth herein;
- (iii) a State of Washington Certificate of Resale, if requested by the Company, and a State of Washington Certificate of exemption for machinery and equipment used directly in a manufacturing operation, if requested by the Company; and
- (iv) a term sheet outlining the understanding of the parties regarding the contracting by Buyer for the services of George Black;
- (v) a term sheet outlining the understanding of the parties regarding amendment of the lease for of the premises at Paine Field; and
- (vi) an opinion of Buyer's counsel, dated as of the Closing Date and addressed to the Company, in a form satisfactory to the Company.

11. CLOSING

As used in this Agreement, the "Closing" shall mean the time at which the Company consummates the sale, assignment, transfer and delivery of the Acquired Assets to Buyer as provided for in, and in the manner contemplated by, this Agreement, against payment of the Closing Payment by Buyer to the Company in the manner set forth in Section 1(D)(i)(a) hereof and the assumption by Buyer of the Assumed Liabilities in accordance with Section 1(B)(i) hereof. The Closing shall take place at 9:00 a.m., Eastern Standard Time, on February 6, 1998, at the offices of Stradley, Ronon, Stevens & Young, LLP, or at such time and date as will be agreed upon between the parties or their respective attorneys (the "Closing Date"); provided, however, that Buyer may extend the Closing Date by not more than fifteen (15) days if Buyer reasonably determines that it requires such time to obtain the Required Consents.

12. GENERAL

- (A) Notices. All notices and other communications required or permitted hereunder will be in writing and, unless otherwise provided in this Agreement, will be deemed to have been duly given when delivered in person or when dispatched by telegram or electronic facsimile transfer (confirmed in writing by mail simultaneously dispatched) or one business day after having been dispatched by a nationally recognized overnight courier service to the appropriate party at the address specified below:

COMPANY:

Tyee Aircraft Incorporated
3008 100th Street S.W.
Everett, WA 98204

WITH COPIES TO:

Perkins Coie, LLP
1201 Third Avenue
40th Floor
Seattle, WA 98101
Attention: Stewart M. Landefeld, Esquire

BUYER:

Western Sky Industries, Inc.
12th Floor, East Tower
Centre Square
1500 Market Street
Philadelphia, PA 19102
Attn: Washburn Oberwager,
Co-Chairman of the Board of
Directors
Telecopy No.: (215) 665-5701

WITH COPIES TO:

Stradley, Ronon, Stevens & Young, LLP
2600 One Commerce Square
Philadelphia, PA 19103-7098
Attn: James A. Papada, III, Esquire

- (B) Certain Defined Terms. As used in this Agreement, the terms listed below shall have the respective meanings indicated.

- (i) "Acquired Assets" - See Section 1(A)(i).
- (ii) "Affiliate" means, with respect to any Person, who at such time controls, is controlled by, or is under common control with, such Person.
- (iii) "Assumed Liabilities" - See Section 1(B)(i).
- (iv) "Capital Expenditures" - means the actual aggregate cash expenditures made by the Company for items which under GAAP are required to be capitalized and which cash expenditures were made between November 11, 1997 and the Closing Date, each of which has received the written approval of Buyer.
- (v) "Claims" means any claim for indemnification made under Article 8.
- (vi) "Closing" - See Article 11.
- (vii) "Code" means the Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated thereunder.
- (viii) "Company Covenant" - See Section 6(I)(i).
- (ix) "Consent" means any consent, waiver, approval, order or authorization of, or registration, declaration or filing with or notice to, any Governmental Authority or other Person.
- (x) "Contracts" mean (i) the Company Contracts and (ii) the TAC Contracts.
- (xi) "Covenants" - See Section 6(I)(ii).
- (xii) "Current Liabilities" - See Section 1(B)(i)(b).
- (xiii) "Environmental Liabilities" - See Section 1(B)(i)(d).
- (xiv) "Employee Plans" means all employee benefit plans as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), or under comparable Belgian law and all severance, bonus, retirement, pension, profit sharing, and deferred compensation plans and other similar material, fringe or employee benefit plans, programs or arrangements, and all material

employment or compensation agreements, written or otherwise, sponsored or maintained by the Company (or any entity that is treated as a single employer with the Company pursuant to Section 414(b), (c), (m) or (o) of the Code) or TAC for the benefit of any employee or former employee of either the Company or TAC.

- (xv) "Environmental Damages" means any and all Losses which are incurred at any time as a result of the existence at or prior to Closing of Hazardous Materials upon, about or beneath the Leased Real Property or migrating or threatening to migrate to or from the Leased Real Property, or the existence of a violation of Environmental Requirements pertaining to the Leased Real Property.
- (xvi) "Environmental Requirements" means all applicable Laws, Permits and similar items of any Governmental Authority relating to the protection of human health or the environment, including:
 - (x) all requirements pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous Materials;
 - (y) all requirements pertaining to the protection of the health and safety of employees or the public; and (z) all other limitations, restrictions, conditions, standards, prohibitions, obligations, schedules and timetables contained therein or in any notice or demand letter issued, entered, promulgated or approved thereunder.
- (xvii) "Escrow Agent" means CoreStates Bank N.A.
- (xviii) "Escrow Agreement" means the Escrow Agreement in the form of Exhibit 3 hereto.
- (xix) "Excluded Assets" - See Section 1(A)(ii).
- (xx) "Excluded Real Property" - See Section 1(A)(ii)(e).
- (xxi) "Necessary Permits" - See Section 3(L).
- (xxii) "Funded Debt" means any indebtedness for borrowed money (including principal and accrued interest and penalties and including the current portion of any Funded Debt) of the Company to a bank, financing institution, individual, leasing company

(including capital leases) or any other Person which, under generally accepted accounting principles is required to be shown as indebtedness on a balance sheet or any other transaction having the commercial effect of borrowing money or any guarantees by the Company of any of the foregoing.

(xxiii) "GAAP" - See Section 3(R).

(xxiv) "Goodwill" means (i) the Company Goodwill and (ii) all goodwill associated with TAC and the TAC Business, all confidential information relating to or arising out of the TAC Business, all telephone listings, telephone numbers and telephone advertising contracts, all lists of customers and prospective customers, files, books and records and other information relating to the day to day carrying on of the TAC Business, and all other rights used in connection with the TAC Business.

(xxv) "Governmental Authority" means any federal, state, local or foreign government or any subdivision, authority, department, commission, board, bureau, agency, court or other instrumentality thereof.

(xxvi) "Hazardous Materials" means any substances that are listed, classified or regulated as hazardous substances pursuant to any Environmental Requirement.

(xxvii) "Intellectual Property" means (i) the Company Intellectual Property and (ii) all intellectual property owned by TAC and used exclusively in the TAC Business as conducted on or prior to the date hereof, including, without limitation, (i) all United States, state or foreign rights, privileges or priorities relating to trademarks, trade names (including, without limitation, the trade name "Technical Airborne Components S.A." or any variations of such name), service marks, service names and trade dress rights, together with all common law rights relating thereto, and all copyrights, licenses, patents, patent applications, know-how, processes, formulae, inventions, trade secrets, pattern designs, technical, accounting, manufacturing and procedural manuals, confidential and proprietary information and technology; (ii) all rights, licenses, contracts and other agreements with third parties relating to the foregoing, whether

or not registered or filed with the appropriate governmental authorities; (iii) all rights to obtain renewals, reissues and extensions of or to the foregoing; (iv) all registrations, legal protections and applications relating to the foregoing, whether or not issued by or filed with the appropriate governmental authorities; and (v) the right to sue at law or in equity for any infringement, imitation, distortion, dilution, or other unauthorized use or conduct in derogation of the foregoing.

- (xxviii) "Inventory" means (i) the Company Inventory and (ii) all inventories of TAC, in each case, at Closing.
- (xxix) "knowledge" or "to the best knowledge" or words of similar import means (i) with respect to the Company, the actual knowledge of Robert K. Dent, Chairman, Thomas G. Unger, CEO and President, Debra L. Wick, General Manager, Gary Moen, Program Manager, Joel Bisset, Quality Manager, Lea E. Cole, Marketing & Sales Manager, Steven G. Slosson, Quality Assistance Representative, George Black, Manager (Plant 1), Jack Erickson, Manager (Plant 2) and Larz Bell, Environmental/OSHA Compliance Officer and (ii) with respect to TAC, the actual knowledge of Robert K. Dent, Director, Thomas G. Unger, Director, Fioretto Bortot, Director General and Serge Hautain, Secretary General.
- (xxx) "Laws" means any laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Authorities.
- (xxxi) "Leased Real Property" means (i) the Company Leased Real Property and (ii) the real property which is subject to any lease, written or oral, pursuant to which TAC is a lessee or lessor.
- (xxxii) "Legal Claims" - See Section 1(B)(i)(f).
- (xxxiii) "Liens" means any and all liens, mortgages, claims, charges, security interests, options, licenses, preemptive purchase rights, easements, restrictions or other encumbrances.

- (xxxiv) "Losses" means any and all actions, suits, demands, assessments, judgments, losses, liabilities, damages, costs and expenses (including interest, penalties, attorney's fees, accounting fees and investigation costs).
- (xxxv) "Permitted Liens" - See Section 3(F).
- (xxxvi) "Permits" means any licenses, permits, approvals, registrations, certificates (including, but not limited to, certificates of occupancy) and other evidence of authority.
- (xxxvii) "Person" means any individual, firm, corporation, partnership, trust, estate, association or other entity.
- (xxxviii) "Personal Property" means (i) the Company Personal Property and (ii) all machinery, equipment, accessories, attachments, ancillary devices, motor vehicles, furniture, computers, printers, software, files, books, records, tools, dies, jigs, fixtures, supplies, furnishings and all other tangible personal property owned by TAC as of the date hereof or acquired by TAC between the date hereof and the Closing.
- (xxxix) "Product Liabilities" - See Section 1(B)(i)(d).
- (xl) "Required Consents" - See Section 3(M).
- (xli) "Retained Liabilities" - See Section 1(B)(ii).
- (xlii) "Severance Obligations" - See Section 1(B)(i)(b).
- (xliii) "Shareholder Covenants" - See Section 6(I)(ii)
- (xliv) "Shareholders" - See face page.
- (xlv) "TAC Assets" means all assets, rights, properties and interests that are owned by TAC or used by TAC in connection with the TAC Business.
- (xlvi) "TAC Contracts" means the benefit of any and all contracts, customer orders (unfilled or partially filled), employee loans (excepting loans to employees who are shareholders), leases (including, without limitation, real estate (capital or otherwise) and software leases, leasehold improvements, rental agreements,

tenancies, licenses, engagements and commitments, written or oral, expressed or implied, relating to the TAC Business

- (xlvi) "Tax" means any federal, state, local, foreign or other net income, gross income, gross receipts, sales, use, value added, ad valorem, transfer, franchise, profits, service, service use, withholding, social security, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties or other taxes of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts with respect thereto.
- (xlviii) "Tax Returns" means all returns, reports, declarations and information returns and statements relating to Taxes, including any amendments thereto.
- (xlix) "Total Assets" means collectively the Acquired Assets and the TAC Assets.
 - (l) "Transferred Employees" - See Section 6(L).
 - (li) "Warranty Obligations" - See Section 1(B)(i)(g).
- (C) Applicable Law. This Agreement will be deemed to be a contract made under the laws of the State of Delaware and for all purposes will be governed by and interpreted in accordance with the laws prevailing in the State of Delaware, without regard to principles of conflict of laws.
- (D) Counterparts. This Agreement may be executed in several counterparts, each of which when so executed will be deemed to be an original and all of which will together constitute the one and the same agreement.
- (E) Entire Agreement. The terms and provisions of this Agreement, its schedules and Exhibits (when executed by the appropriate parties) together with all documents required hereby constitute the entire agreement between the parties and there are no collateral agreements or representations or warranties other than as expressly set forth or referred to in this Agreement. This Agreement (including the Schedules) supersedes any other agreement, whether written or oral, that may have been made or entered into by any party hereto or any of their respective Affiliates (or by any director,

officer or representative hereof) relating to the matters contemplated hereby.

- (F) Inurement. This Agreement will inure to the benefit of and be binding upon the parties, their heirs, administrators, successors and assigns.
- (G) Time of Essence. Time is of the essence of this Agreement.
- (H) Rights of the Parties. Nothing expressed or implied in this Agreement is intended or will be construed to confer upon or give any Person other than the parties hereto any rights or remedies under or by reason of this Agreement or any transaction contemplated hereby.
- (I) Severability. If a court of competent jurisdiction should find any term or provision of this Agreement to be unenforceable and invalid by reason of being overly broad, the parties agree that the court shall limit the scope or duration of such provision to the maximum enforceable scope or duration allowed by law. Any term or provision deemed by a court of competent jurisdiction to be unenforceable and invalid for any other reason shall be severed from this Agreement, and the remainder of this Agreement shall continue in full force and effect.
- (J) Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date by mutual agreement in writing of Buyer and the Company.

IN WITNESS WHEREOF the parties have executed this

Agreement as of the day and year first above written.

WESTERN SKY INDUSTRIES, INC.

By: 

Name: DINESH R. DESAI

Its: President, Co-CEO, Co-Chairman

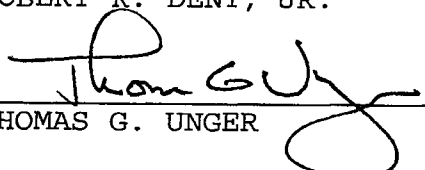
TYEE AIRCRAFT INCORPORATED

By: 

Name: ROBERT K. DENT

Its: Chairman


ROBERT K. DENT, JR.


THOMAS G. UNGER

LIST OF SCHEDULES AND EXHIBITS

SCHEDULE 1(A) (i) (b)	INVENTORY
SCHEDULE 1(A) (i) (c)	CONTRACTS
SCHEDULE 1(A) (i) (d)	RECEIVABLES
SCHEDULE 1(A) (i) (h)	INTELLECTUAL PROPERTY - COMPANY & TAC
SCHEDULE 1(A) (ii) (d) -1	CASH EQUIVALENTS
SCHEDULE 1(A) (ii) (d) -2	PREPAYMENTS
SCHEDULE 1(A) (ii) (d) -3	DEPOSITS
SCHEDULE 1(A) (ii) (e)	EXCLUDED REAL PROPERTY
SCHEDULE 1(A) (ii) (f)	EXCLUDED CONTRACTS
SCHEDULE 1(A) (ii) (h)	EXCLUDED ASSETS
SCHEDULE 1(B) (ii) (c)	MACHINE FINANCING ARRANGEMENTS
SCHEDULE 1(D) (ii)	ALLOCATION OF PURCHASE PRICE
SCHEDULE 3(B)	OFFICERS AND DIRECTORS OF TAC
SCHEDULE 3(D)	EQUITY INVESTMENTS - COMPANY & TAC
SCHEDULE 3(E)	VIOLATIONS
SCHEDULE 3(F) -1	PERMITTED LIENS - COMPANY & TAC
SCHEDULE 3(F) -2	BUSINESS ASSETS, PROPERTIES AND INTERESTS USED BUT NOT OWNED
SCHEDULE 3(G) -1	LEASED REAL PROPERTY - COMPANY & TAC
SCHEDULE 3(G) -2	WATER DIFFUSION/INTRUSION - COMPANY & TAC
SCHEDULE 3(I)	ENVIRONMENTAL ISSUES - COMPANY & TAC
SCHEDULE 3(J)	OSHA AND ADA, AND SIMILAR FOREIGN LAWS - COMPANY & TAC
SCHEDULE 3(K)	TAC CONTRACT ISSUES
SCHEDULE 3(L)	PERMITS - COMPANY & TAC
SCHEDULE 3(M)	NECESSARY CONSENTS
SCHEDULE 3(P)	PENDING OR THREATENED LITIGATION - COMPANY & TAC
SCHEDULE 3(R) -1	COMPANY REVIEWED AND INTERNAL STATEMENTS
SCHEDULE 3(R) -2	EXCEPTIONS TO COMPANY INTERNAL STATEMENTS
SCHEDULE 3(R) -3	TAC AUDITED AND INTERNAL STATEMENTS
SCHEDULE 3(R) -4	EXCEPTIONS TO TAC INTERNAL STATEMENTS
SCHEDULE 3(S)	CONDUCT OF BUSINESS - COMPANY & TAC
SCHEDULE 3(T)	LABOR RELATIONS - COMPANY & TAC
SCHEDULE 3(U)	EMPLOYEE BENEFIT PLANS - COMPANY & TAC
SCHEDULE 3(V)	INSURANCE - COMPANY & TAC
SCHEDULE 3(Z)	PRODUCT RETURNS
SCHEDULE 6(L)	TRANSFERRED EMPLOYEES
SCHEDULE 9(A) (vi)	MANDATORY CONSENTS
EXHIBIT 1	BILL OF SALE
EXHIBIT 2	FORM OF LEGAL OPINION
EXHIBIT 3	ESCROW AGREEMENT

ASSET PURCHASE AGREEMENT

Table of Contents

1.	<u>PURCHASE AND SALE</u>	-2-
	(A) <u>Assets</u>	-2-
	(B) <u>Liabilities</u>	-6-
	(C) <u>Sale of TAC Stock</u>	-11-
	(D) <u>Purchase Price</u>	-11-
2.	<u>NONASSIGNABLE INTERESTS AND RIGHTS</u>	-12-
3.	<u>REPRESENTATIONS AND WARRANTIES OF THE COMPANY</u>	-12-
	(A) <u>Organization, Power of Authority</u>	-12-
	(B) <u>TAC Capitalization; Corporate Records</u>	-12-
	(C) <u>Validity of Agreement</u>	-13-
	(D) <u>Absence of Equity Investments</u>	-13-
	(E) <u>No Breach</u>	-13-
	(F) <u>Title and Condition of Acquired Assets</u>	-14-
	(G) <u>Real Property</u>	-14-
	(H) <u>Intentionally Omitted</u>	-16-
	(I) <u>Environmental Issues</u>	-16-
	(J) <u>OSHA AND ADA</u>	-17-
	(K) <u>Contracts</u>	-18-
	(L) <u>Permits</u>	-19-
	(M) <u>Consents</u>	-19-
	(N) <u>Compliance with Laws</u>	-19-
	(O) <u>Political Contributions and Other Payments</u>	-20-
	(P) <u>Litigation</u>	-20-
	(Q) <u>Taxes</u>	-20-
	(R) <u>Financial Statements</u>	-22-
	(S) <u>Conduct of Business</u>	-22-
	(T) <u>Labor Relations</u>	-23-
	(U) <u>Employee Benefits and Plans</u>	-23-
	(V) <u>Insurance</u>	-26-
	(W) <u>Brokers</u>	-26-
	(X) <u>Intellectual Property</u>	-26-
	(Y) <u>Full Disclosure</u>	-27-
	(Z) <u>Product Returns</u>	-27-
4.	<u>REPRESENTATIONS AND WARRANTIES OF SHAREHOLDERS</u>	-28-
	(A) <u>TAC Capitalization; Corporate Records</u>	-28-
	(B) <u>Validity of Agreement</u>	-28-
	(C) <u>Brokers</u>	-28-

5.	<u>REPRESENTATIONS AND WARRANTIES OF BUYER</u>	-28-
	(A) <u>Organization, Power of Authority</u>	-28-
	(B) <u>Validity of Agreement</u>	-28-
	(C) <u>Brokers</u>	-29-
	(D) <u>No Approvals or Notices Required; No</u> <u>Conflicts with Instruments</u>	-29-
	(E) <u>Legal Claims and Legal Proceedings</u>	-29-
	(F) <u>HSR.</u>	-29-
6.	<u>COVENANTS</u>	-30-
	(A) <u>Preservation</u>	-30-
	(B) <u>Access to Information</u>	-30-
	(C) <u>Insurance</u>	-30-
	(D) <u>Further Assurances</u>	-30-
	(E) <u>Conduct of Business Pending Closing</u>	-31-
	(F) <u>Transfer Taxes and Recordation Fees</u>	-32-
	(G) <u>Satisfaction of Conditions</u>	-32-
	(H) <u>Proprietary Information</u>	-32-
	(I) <u>Covenant/Noncompetition and Nonsolicitation</u> <u>Agreement</u>	-32-
	(J) <u>Publicity</u>	-33-
	(K) <u>Confidentiality</u>	-34-
	(L) <u>Employees and Employee Benefits</u>	-34-
	(M) <u>Section 338 Election.</u>	-37-
	(N) <u>TAC Lease Guarantee</u>	-40-
	(O) <u>George Black.</u>	-40-
7.	<u>TERMINATION, AMENDMENT AND WAIVER</u>	-40-
	(A) <u>Termination</u>	-40-
	(B) <u>Effect of Termination</u>	-41-
	(C) <u>Amendment</u>	-41-
	(D) <u>Waiver</u>	-41-
8.	<u>SURVIVAL AND INDEMNIFICATION</u>	-41-
	(A) <u>Survival</u>	-41-
	(B) <u>Indemnification; Adjustment of Consideration</u> (C) <u>Threshold and</u> <u>Limitations.</u>	-43-
	(D) <u>Procedure for Indemnification</u>	-44-
	(E) <u>Exclusive Remedies.</u>	-46-
	(F) <u>Alternative Dispute Resolution.</u>	-46-
9.	<u>CONDITIONS PRECEDENT TO CLOSING</u>	-47-
	(A) <u>Conditions to Buyer Closing</u>	-47-
	(B) <u>Conditions to the Company Closing</u>	-49-
10.	<u>CLOSING DOCUMENTS</u>	-50-
	(A) <u>Delivery of Closing Documents by the Company</u>	-50-
	(B) <u>Delivery of Closing Documents by Buyer</u>	-51-
11.	<u>CLOSING</u>	-52-

12.	<u>GENERAL</u>	-52-
(A)	<u>Notices</u>	-52-
(B)	<u>Certain Defined Terms</u>	-53-
(C)	<u>Applicable Law</u>	-59-
(D)	<u>Counterparts</u>	-59-
(E)	<u>Entire Agreement</u>	-59-
(F)	<u>Inurement</u>	-59-
(G)	<u>Time of Essence</u>	-59-
(H)	<u>Rights of the Parties</u>	-59-
(I)	<u>Severability</u>	-60-
(J)	<u>Termination</u>	-60-

Trademarks

Schedu. (A)(i)(h)

Country	Mark	App. No.	App. Date	Reg. No.	Reg. Date	Class	Status
USA	AEROKIT ¹	75/128,675	6/7/96			12 Intent to Use	Published 4/15/97 Notice of Allowance Issued 7/6/97 Extension of Time filed 1/98
USA	DESIGN ² (Indian Logo)	72/385,369	3/3/71	933,922	5/16/72	7 (first use 1/14/65)	Registration EXPIRED: 5/16/92
USA	TYPE ³	72/384,365	2/19/71	933,519	2/19/71	7 (first use 1/14/65)	Registration EXPIRED: 5/9/92
USA	DESIGN ⁴ (Indian Logo)	72/358,166	4/27/70	912,272	6/8/71	6 (first use 1/14/65)	Registration EXPIRED: 6/8/91
USA	TYPE ⁵	72/358,144	4/27/70	912,271	6/8/71	6 (first use 1/14/65)	Registration EXPIRED: 6/8/91
USA	TYPE ⁶	72/328,086	5/22/69	887,395	3/10/70	12 (first use 1/14/65)	REGISTERED Renewed 5/22/90
USA	DESIGN ⁷ (Indian Logo)	72/328,085	5/22/69	887,394	3/10/70	12 (first use 1/14/65)	REGISTERED Renewed: 6/19/90

¹ Structural parts for airplanes² Screw Machine Products, i.e., bearings and bushings³ Screw Machine Products, i.e., bearings and bushings⁴ Screw Machine Products, i.e., bolts, nuts, fasteners, rods and eyebolts⁵ Screw Machine Products, i.e., bolts, nuts, fasteners, rods and eyebolts⁶ Aircraft control rods⁷ Aircraft control rods

PATENT

REEL: 019466 FRAME: 0982

Patents

Schedu. (A)(i)(h)

Country	Patent No.	Issued	App. No.	Filed	Status	Description
U.S.A.	4,851,065	7/25/89	937,454	12/1/86	EXPIRED 7/25/93 due to failure to pay maintenance fees	Construction of hollow, continuously wound filament load-bearing structure
U.S.A.	4,097,163	6/27/78	757,950	1/10/77	UNKNOWN	Method of swage joining a rod end to a tube and the product
U.S.A.	3,990,542	11/9/76	651,609	1/22/76	"	Linear motion arresting device
U.S.A.	3,951,238	4/20/76	533,285	12/16/74	"	Linear Motion arresting device
U.S.A.	4,183,694	1/15/80	908,404	5/22/78	"	Combination tube fixed to a shank or nipple
U.S.A.	4,114,250	9/19/78	714,600	8/16/76	"	Method of fixing a threaded tube to a threaded shank or nipple
U.S.A.	2,862,215	12/2/58	443,049	7/13/54	"	Machines for forming threads within a metallic tube by swaging
U.S.A.	3,722,076	3/27/73	181,725	9/20/71	"	Method of swage joining a metallic tube to an insert
U.S.A.	3,652,111	3/28/72	883,904	12/10/69	"	Method of swage joining a metallic tube to an insert and the product thereof
Australia	462,941	6/25/75	37492/71	12/30/71	"	Method of swage joining a metallic tube to an insert and the product thereof
Canada	926,157	5/15/73	099,286	11/27/70	"	Method of swage joining a metallic tube to an insert and the product thereof.

PATENT

REEL: 019466 FRAME: 0983

Schedule 1(A)(i)(h)

Intellectual Property

Licenses

Tyee has granted a license to the Boeing Company for patent 4,097,163 from February 22, 1980 through the life of the patent

Tyee has granted a license to the Boeing Company for technical data and drawing for certain rod ends identified by part families 1254, 1290, 1484 and 1486. This license dated October 22, 1997 exists in perpetuity

The Boeing Company has granted a license to Tyee to use Advanced Quality System materials, which include software and training manuals, dated February 1, 1991

Hardware Maintenance Agreement between Tyee and Minolta Business Systems, dated May 28, 1997

Software Maintenance Agreement between Tyee and Minolta Business Systems, dated May 28, 1997

Software Support Services Agreement between Tyee and Minolta Business Systems, dated May 28, 1997

Least Cost Routing License Agreement and Maintenance Agreement between Executone Information Systems, Inc. and Tyee, effective May 30, 1997

Software

Tyee has created and has nonexclusive, unrestricted use rights in an inventory, accounting and contract management software program. Tyee has the source code for this software, but it is likely that any copyrights in the software have entered the public domain.

Tyee Aircraft computer software license agreements

<u>Software Description</u>	<u># of Licenses</u>
MS NT Server	3
MS NT Client access	55
MS Windows 95	50
MS Front Page	1
MS Backoffice	1
MS SQL Server	1
MS SQL Client	25
MS Team Manager	8
MS Exchange Server	1
MS Exchange client	20

Right Fax enterprise	1
Hummingbird Exceed	5
Seagate Enterprise	1
Visio	1
MS Project 98	3
Via Systems Via Duct	11
Unidata Wintergrate	36
Cybermetrics Gagetrak	5
MS Office 95	28
MS Office 97	16
MS Word 97	2
MS Publisher	2
Minolta Imaging System	
Catia License	
Escom, Inc. License	

Letter Agreement between Productivity Software for Manufacturing
 ("PRO:MAN") and Tyee amending Software License Agreement,

ADDs: Operating System License

Under renewal. No current license in place.

Trademarks

See attached table

Patents

See attached table

Tradenames

Tyee Aircraft

Aerokit

Aero Assembly

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PAGE 07/12

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NT4 UTILISATEUR
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OFFICE 97
ACCESS 97
LASERFAX
Cada

1 LICENCE
3 LICENCES
10 LICENCES
10 LICENCES
2 LICENCES
1 LICENCE 16 UTILISATEURS
1 LICENCE

Boulle/Hautain/Demazy
Galant/Lucchesi/Garroy/Pasquazy/Leonard/Emmons/S. réunion/Ramelot/Royen/Phanon
Lucchesi/Garroy/Pasquazy/Leonard/Emmons/S. réunion/Ramelot/Royen/Phanon/Boulle/Hautain/Demazy
Emmons/Boulle