

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
Racing Strollers, Inc.	11/17/2003
RECEIVING PARTY DATA	
Name:	Bag Boy, LLC
Street Address:	2042 Westmoreland Street
City:	Richmond
State/Country:	VIRGINIA
Postal Code:	23230
PROPERTY NUMBERS Total: 1	
Property Type	Number
Patent Number:	D452194
CORRESPONDENCE DATA	
Fax Number:	
Phone:	8046153939
Email:	mail@pikeiplaw.com
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>	
Correspondent Name:	Bernard G. Pike
Address Line 1:	P.O. Box 8592
Address Line 4:	Richmond, VIRGINIA 23226
ATTORNEY DOCKET NUMBER:	DYN020.DES
NAME OF SUBMITTER:	Bernard G. Pike
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ASSET PURCHASE AGREEMENT

BY AND AMONG

Racing Strollers, Inc.

AND

Bag Boy, LLC

November 17, 2003

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "**Agreement**") is made and entered into as of this 17 day of November, 2003 by and among Racing Strollers, Inc., a Washington corporation dba the Baby Jogger Company, ("**Seller**") and Bag Boy, LLC, a Virginia Limited Liability Company, ("**Buyer**").

RECITALS

WHEREAS, a portion of Seller's business relates to the design, development, marketing, and distribution of jogging strollers (the "**Business**");

WHEREAS, Seller is currently party to the Chapter 11 Case (as hereinafter defined); and

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, certain of Seller's assets related to the Business including principally receivables, inventory, equipment, contracts, software, intellectual property, intangibles, and other assets, as more particularly set forth herein, free and clear of Encumbrances, and to assume from Seller the Assumed Agreements pursuant to the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties, and agreements hereinafter set forth, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms have the meanings specified in this Section 1.1:

"**Accounts Receivable**" means any and all accounts, accounts receivable, notes, contract rights, drafts, and other forms of claims, demands, employee advances, instrument, receivables, trade accounts receivable, and rights to payment of money or other forms of consideration, whether for goods sold or leased, services performed or to be performed, or otherwise, owned by Seller or Sellers' Affiliates or in which Seller or any of its Affiliates has any interest, in each case in connection with the Business, together with all guarantees, security agreements, collateral, and rights and interests securing the same and any interest or unpaid financing charges accrued thereon as of the Closing Date.

"**Adjustment Amount**" means the difference determined by subtracting Seller's Accounts Receivables and Inventories provided in the draft Final Closing Balance Sheet from the Accounts Receivables and Inventories as of the Closing.

"**Affiliate**" means, with respect to any specified Person, any other Person that directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. For purposes of this definition, Affiliate means the power of one or more persons to direct the affairs of the Person controlled by reason of ownership of voting stock, contract or otherwise, or the Purchased Assets.

"Agreement" has the meaning set forth in the Preamble.

"Allocation" has the meaning set forth in Section 7.7(d).

"Assumed Agreements" means all contracts, agreements, personal property leases, commitments, understandings, or instruments related to the Business listed on Schedule 2.3.

"Assumption Agreement" means the Assumption Agreement to be executed and delivered by Buyer and Seller at the Closing, substantially in the form of Exhibit A attached hereto.

"Auction" means the auction held by the Bankruptcy Court for the sale of the Business.

"Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq.

"Bankruptcy Court" means the United States Bankruptcy Court for the Eastern District of Washington or such other court having competent jurisdiction over the Chapter 11 Case.

"Bill of Sale" means the Bill of Sale to be executed and delivered by Seller to Buyer at the Closing, substantially in the form of Exhibit B attached hereto.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks are required or authorized by law to be closed in Yakima, Washington.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Disclosure Schedule" has the meaning set forth in Article VI.

"Buyer's Representatives" means Buyer's accountants, employees, counsel, financial advisors, and other authorized representatives.

"Chapter 11 Case" means Seller's Chapter 11 Bankruptcy Case No. 02-08000, pending before the United States Bankruptcy Court for the Eastern District of Washington.

"Closing" has the meaning set forth in Section 4.1.

"Closing Agent" shall mean Velikanje Moore & Shore, Inc., P.S.

"Closing Date" has the meaning set forth in Section 4.1.

"Code" means the Internal Revenue Code of 1986, as amended.

"Confidential Information" means the Information (as defined in the Confidentiality Agreement) furnished to Buyer's Representatives pursuant to the Confidentiality Agreement and subject to the confidentiality provisions thereof, and the confidential information relating to Buyer provided to Seller by Buyer.

"Confidentiality Agreement" means the Confidentiality Agreement by and between Buyer and Seller, dated September 22, 2003, as amended from time to time.

"Consent/Assignment Order" means, with respect to each Assumed Agreement and each Intellectual Property Agreement set forth in Schedule 2.1, 2.4, or 2.4(f), either (i) the written consent of the counterparty to Seller's assignment and Buyer's assumption of said Assumed Agreement or Intellectual Property Agreement, or (ii) the entry of a Final Order of the Bankruptcy Court (which may be the Sale Order or a separate Final Order), which Final Order grants to Buyer the protections of Bankruptcy Code § 363(m) with respect to said assignment and authorizes the assumption and assignment of said Agreement to Buyer free and clear of all Encumbrances.

"Deposit" has the meaning set forth in Section 3.3.

"Encumbrances" means any mortgages, hypothecations, pledges, liens, claims (including options and rights of first refusal), charges, security interests, conditional and installment sale agreements, activity and use limitations, conservation easements, servitudes, deed restrictions, equitable interests, exceptions to title, encumbrances, and charges of any kind (other than as may exist pursuant to the terms of the Assumed Agreements or the Excluded Contracts).

"Excluded Assets" means those assets not included as Purchased Assets in Section 2.2 herein.

"Excluded Contracts" has the meaning set forth in Section 2.2.

"Excluded Liabilities" has the meaning set forth in Section 2.3.

"Final Order" means an order of the Bankruptcy Court, the operation or effect of which has not been stayed and is not subject to any stay, injunction, or restraining order.

"Financial Statements" has the meaning set forth in Section 5.12.

"Force Majeure Event" means the occurrence of (i) a natural catastrophe (such as a fire, storm, flood, hurricane, earthquake, etc.), (ii) a war, terrorist act, civil disturbance, or other disruption of telecommunications, power, or essential services, or (iii) any other event beyond the control of any party hereto, in each case that has a material adverse effect on Seller's ability to consummate the transaction contemplated hereby.

"Governmental Authority" means any federal, municipal, state, county, local, foreign, or other governmental, administrative, or regulatory authority, department, agency, commission, or body.

"Indemnifiable Amounts" has the meaning set forth in Section 8.1.

"Intangible Property" has the meaning set forth in Section 2.1(e).

"Intellectual Property" means (a) all discoveries, innovations, inventions, and all improvements thereto and all classes and types of patents, including, without limitation, utility models, utility patents and design patents, and all patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all registered and unregistered trademarks, service marks, trade dress and logos, including all goodwill associated therewith, and all applications, registrations, and

renewals in connection therewith, (c) all works of authorship and all copyrights therein, whether such works are published or unpublished works, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets, know-how, product prototypes, and all proprietary, technical, and non-technical data and information, including, without limitation, customer lists, supplier lists, pricing and cost information, business and marketing plans, and other confidential business information, (e) all computer programs and related code and software other than commercially available "off-the-shelf" software, (f) all domain name registrations and URL addresses, (g) all other recognizable equivalent proprietary rights, and (h) all copies and tangible embodiments of the foregoing, in each case related to and/or used in the Business and in each case whether arising under the laws of the United States or any jurisdiction world wide.

"Intellectual Property Agreements" means all (i) licenses of Intellectual Property to Seller or any of its Affiliates, and (ii) licenses of Intellectual Property by Seller or any of its Affiliates to third parties that are related to the Business, described on Schedule 2.1(b).

"Inventory" means the inventories, including inventory reserves, raw materials, work in-process, and finished products, of Seller and its Affiliates related to and/or used in the Business, including, without limitation, supplies, materials, packaging, and shipping containers.

"July 31 Balance Sheet" has the meaning set forth in Section 5.12.

"Laws" means any law, statute, regulation, rule, ordinance, or Order of a Governmental Authority.

"Leased Real Property" has the meaning set forth in Section 7.1(c).

"Management" means the directors and officers of Seller as of the date hereof.

"Option Assets" means the certain assets related to the X-Jogger that are currently the subject of ongoing litigation and are listed in Schedule 1.1.

"Order" means any decree, injunction, judgment, order, ruling, writ, quasi-judicial decision or award, or administrative decision or award of any Governmental Authority to which any Person is a party or that is or may be binding on any Person or its securities, assets, or business.

"Permit" means any license, permit, franchise, certificate of authority, or Order, or any waiver of the foregoing, required to be issued by any Governmental Authority.

"Person" means any individual, corporation, partnership, limited partnership, limited liability company, syndicate, group, trust, association, or other organization or entity or government, political subdivision, agency, or instrumentality of a government.

"Personal Property" has the meaning set forth in Section 2.1(d).

"Purchase Price" has the meaning set forth in Section 3.1.

"Purchased Assets" has the meaning set forth in Section 2.1.

"Receivables" has the meaning set forth in Section 2.1(f).

"Regulatory Approvals" has the meaning set forth in Section 7.6(a).

"Sale Hearing" means the hearing at which the Bankruptcy Court considers approval of the Sale Order.

"Sale Order" means the Order on Debtor's Motion to Sell It's Business dated October 17, 2003 and attached hereto as Exhibit C.

"Sales Procedures Order" means the Order Approving Sales Procedures entered by the Bankruptcy Court on September 17, 2003, establishing notice, sales, and bidding procedures for sale of the Business.

"Schedules" means the Schedules attached to this Agreement and forming a part of this Agreement.

"Seller" has the meaning set forth in the Preamble.

"Seller Disclosure Schedule" has the meaning set forth in Article V.

"Seller's knowledge" has the meaning set forth in Section 5.5.

"Seller's Representatives" means Seller's accountants, employees, counsel, financial advisors, and other authorized representatives.

"Tax" and **"Taxes"** means all taxes, charges, fees, levies, penalties, or other assessments of any kind whatsoever imposed by any federal, provincial, municipal, state, local, or foreign taxing authority, including any interest, penalties, or additions attributable thereto.

"Tax Return" means any return, report, information return, or other document (including any related or supporting information) required to be supplied to any Governmental Authority with respect to Taxes that are related to the Business.

"Termination Date" has the meaning set forth in Section 10.1(d).

"Total Assets" means the value of the "Total Assets" (excluding line items related to cash in the bank, cash on hand, stock purchases, loan fees, and any item related to goodwill) as reflected on the Seller's balance sheets, including, but not limited to, the July 31 Balance Sheet and the Final Closing Balance Sheet.

"Transfer Date" has the meaning set forth in Section 7.1(a).

"WARN Act" means the Worker Adjustment and Retraining Notification Act, as amended, 29 U.S.C. §§ 2101 – 2109.

Section 1.2 Construction. The terms "hereby," "hereto," "hereunder," and any similar terms as used in this Agreement, refer to this Agreement in its entirety and not only to the particular portion of this Agreement where the term is used. The term "including," when used herein without the qualifier, "without limitation," shall mean "including, without limitation." Wherever in this Agreement the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The word "or" shall not be construed to be exclusive. Provisions shall

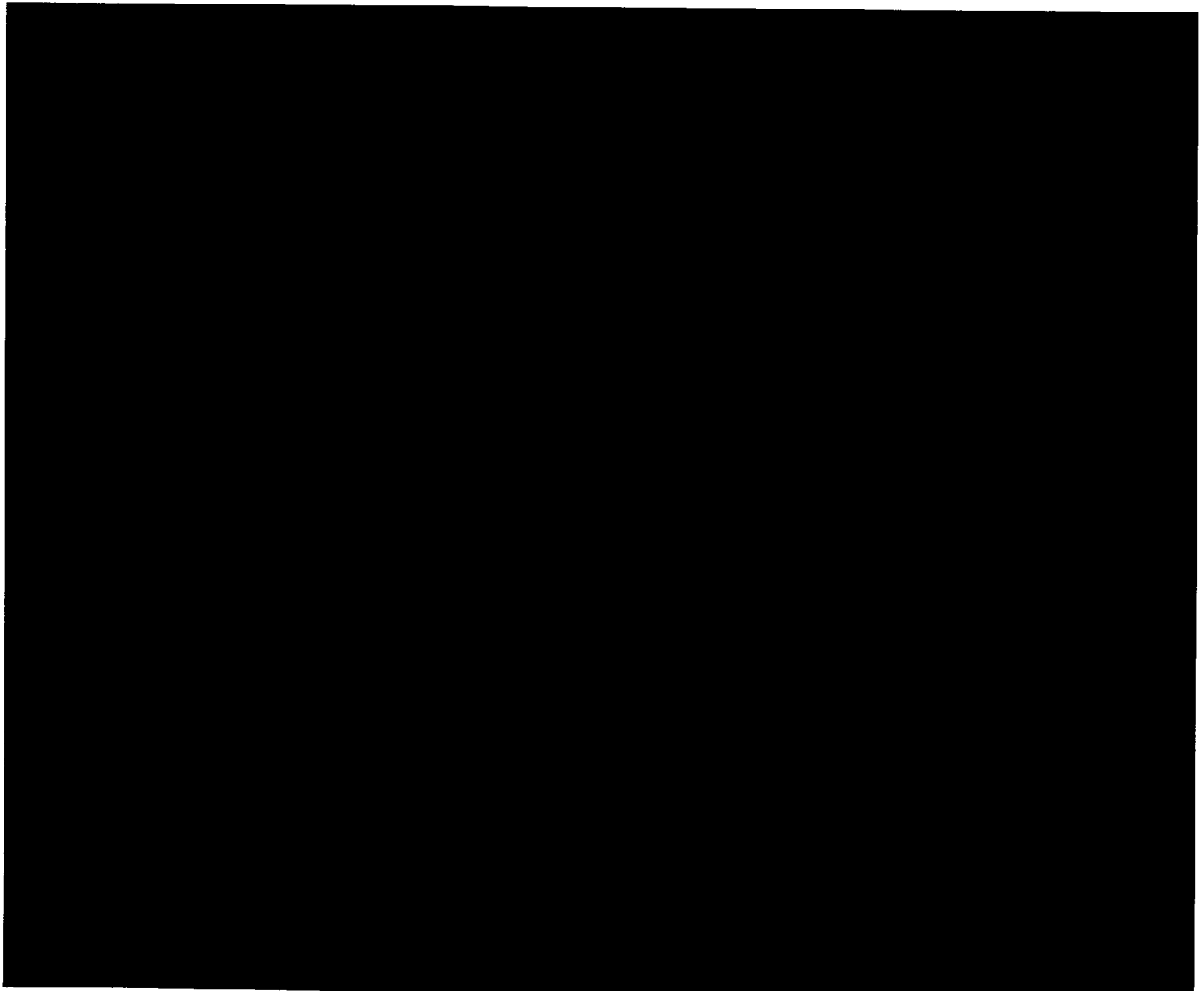
apply, when appropriate, to successive events and transactions. Unless otherwise indicated, references to Articles and Sections refer to Articles and Sections of this Agreement.

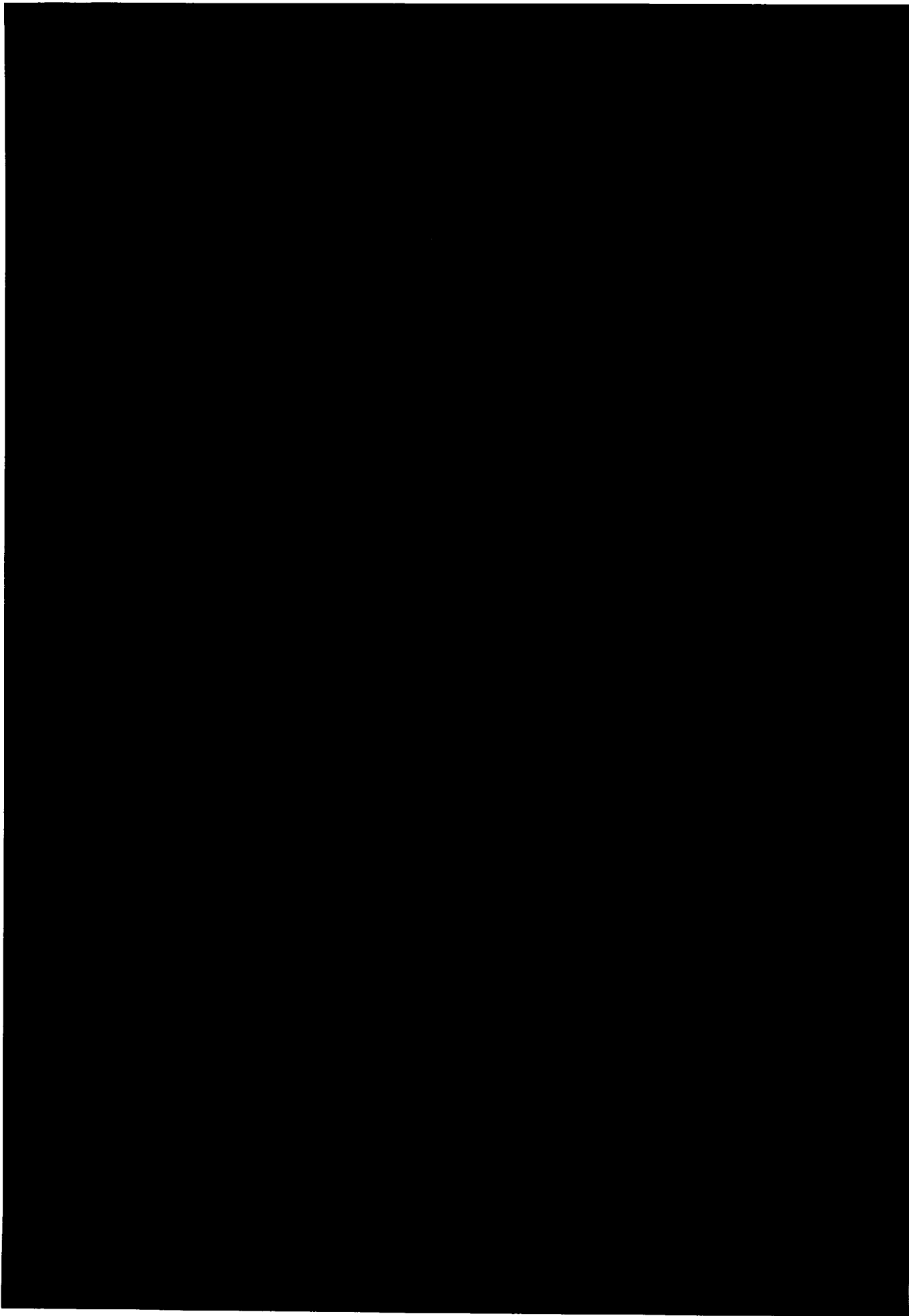
ARTICLE II PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement and in reliance upon the representations and warranties of Seller and Buyer herein set forth, at the Closing, Seller shall sell, assign, convey, transfer, and deliver to Buyer, and Buyer shall, by payment of the Purchase Price, purchase and acquire from Seller, free and clear of all Encumbrances, all of the right, title, and interest that Seller possesses as of the Closing in and to all of the Purchased Assets. For purposes of this Agreement, the term "**Purchased Assets**" shall mean all goodwill, assets, properties, and rights of every nature, kind, and description, whether tangible or intangible, real, personal, or mixed, wherever located and whether or not carried or reflected on the books and records of Seller, primarily related to the Business (other than the Excluded Assets and the Option Assets), including, without limitation, the following:

(a) all Assumed Agreements listed on Schedule 2.3;

(b) all Intellectual Property, including, without limitation, the Intellectual Property listed on Schedule 2.1(b);





PATENT
REEL: 028060 FRAME: 0654

**ARTICLE III
PURCHASE PRICE; DEPOSIT; ESCROW**

Section 3.1 Purchase Price. In consideration for the Purchased Assets, and subject to the terms and conditions of this Agreement, the entry and effectiveness of the Sale Order, and the fulfillment of the conditions set forth in Article IX, Buyer shall assume the Assumed Agreements and pay Seller an amount equal to [REDACTED] payable as set forth in the following sentence. On the Closing Date, Buyer shall (i) pay and deliver to Seller, by wire transfer of immediately available U.S. funds, the Purchase Price less the Deposit (as defined below), and interest accrued thereon, and (ii) Seller shall apply the Deposit to the Purchase Price in accordance with the Sales Procedures Order.

Section 3.2 Adjustment Procedure.

[REDACTED]

Section 3.3 Deposit. Prior to the date hereof, Buyer shall have delivered a deposit of [REDACTED] to Seller as provided in the Sales Procedures Order (the "**Deposit**"), which Deposit shall be held in escrow by Sternberg Thomson Okrent & Scher, PLLC pursuant to the Sales Procedures Order and distributed in accordance with the Sales Procedures Order.

**ARTICLE IV
THE CLOSING**

Section 4.1 Time and Place of the Closing. Upon the terms and subject to the satisfaction of the conditions contained in Article IX of this Agreement, the closing of the sale of the Purchased Assets and the assumption of the Assumed Agreements contemplated by this Agreement (the "**Closing**") shall take place at the offices of Velikanje Moore & Shore in Yakima, Washington, or such other location as the parties agree, on or before November 18, 2003. The date and time at which the Closing actually occurs is herein referred to as the "**Closing Date.**"

Section 4.2 Deliveries by Seller. At or prior to the Closing (or as specifically provided in this Section 4.2), Seller shall deliver the following to Buyer through the Closing Agent:

- (a) the Bill of Sale, duly executed by Seller;

(b) all consents, waivers, and approvals obtained by Seller with respect to the sale, assignment, conveyance, transfer, and delivery of the Purchased Assets and the consummation of the transactions required in connection with the sale of the Purchased Assets contemplated by this Agreement, to the extent specifically required hereunder;

(c) bills of sale or equivalent documents of transfer reasonably acceptable to Buyer, duly executed by Seller or its Affiliates, as applicable, transferring all of Seller's or its Affiliates' right, title, and interest in and to the Purchased Assets, including, without limitation, software, source code, test equipment, computers, and rights and claims under all confidentiality, non-disclosure, invention secrecy, non-competition, or non-solicitation obligations owed to them, free and clear of all Encumbrances and adverse license agreements, at no additional cost to Buyer or increase in the Purchase Price;

(d) if applicable, the Assumption Agreement, duly executed by Seller and all such other instruments of assignment or conveyance as shall be reasonably necessary to transfer to Buyer all of Seller's right, title, and interest in, to, and under all of the Purchased Assets in accordance with this Agreement (to be delivered as of the close of business on the Closing Date);

(e) a copy of the Sale Order;

(f) if applicable, a Consent/Assignment Order for the Assumed Agreements and Intellectual Property Agreements described as required to be assigned to Buyer at the Closing, as set forth on Schedule 2.4;

(g) (A) an initial draft of the Final Closing Balance Sheet as of October 31, 2003, and (B) any updates from the initial draft of the Final Closing Balance Sheet which support the Adjustment Amount on the Closing Date; and

(h) such other instruments and documents as are reasonably necessary in the opinion of Buyer in order to acquire the Purchased Assets free and clear of all Encumbrances.

Section 4.3 Deliveries by Buyer. At or prior to the Closing (or as specifically provided in this Section 4.3), Buyer shall deliver the following to Seller through the Closing Agent:

(a) the Purchase Price in accordance with Section 3.1 and

(b) if applicable, the Assumption Agreement, duly executed by Buyer, and all such other instruments of assumption as shall be reasonably necessary for Buyer to assume the Assumed Agreements in accordance with this Agreement (to be delivered as of the close of business on the Closing Date)

Section 4.4 Closing and Agent; Release of Closing Agent

(a) Velikanje Moore & Shore, Inc. P.S. is authorized to act as the Closing Agent by the parties and the Court.

(b) At closing, the Closing Agent shall disburse funds in accordance with the Court Order.

(c) The costs of the Closing Agent shall be borne by Seller.

(d) Velikanje Moore & Shore, in its capacity as Closing Agent under this Agreement, shall have no liability to either the Buyer or Seller for any act or omission in connection with, or arising out of, the Chapter 11 Case, the commencement of the Chapter 11 Case, the operation of the Debtors during the pendency of the Chapter 11 Case, the administration of the Chapter 11 Case, the pursuit of the approval of the Asset Purchase Agreement and the consummation of the Asset Purchase Agreement, except for willful misconduct or gross negligence, and, in all respects, Seller and Buyer hereby release all direct or derivative rights, claims, obligations and causes of action, whether known or unknown, existing or hereafter arising against the Closing Agent (the "Released Claims").

ARTICLE V REPRESENTATIONS AND WARRANTIES OF SELLER

Except as disclosed in a document referring specifically to the representations and warranties in this Agreement, which identifies by section number the section and subsection to which such disclosure relates and is delivered by Seller to Buyer prior to or simultaneous with the execution of this Agreement (the "**Seller Disclosure Schedule**"), Seller hereby represents and warrants to Buyer as follows:

Section 5.1 Authority Relative to this Agreement. Seller is a corporation duly organized and validly existing under the laws of the State of Washington. Subject to the applicable provisions of the Bankruptcy Code and the approval of this Agreement by the Bankruptcy Court, Seller has all corporate power to execute and deliver this Agreement and, upon entry and effectiveness of the Sale Order, will have all corporate authority necessary to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller, and assuming that this Agreement constitutes a valid and binding agreement of Buyer, and, subject to the entry and effectiveness of the Sale Order and any applicable Bankruptcy Code provision, constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

Section 5.2 No Conflict. Except to the extent excused by or unenforceable as a result of the filing of the Chapter 11 Case and except for the entry and effectiveness of the Sale Order, neither the execution and delivery of this Agreement by Seller, the performance of its obligations hereunder nor the consummation of the transactions contemplated by this Agreement will: (a) conflict with or result in any breach of any provision of Seller's Certificate of Incorporation or Bylaws; or (b) assuming that all consents, approvals, and notices contemplated by Section 5.3 have been obtained and all filings described therein have been made (i) conflict with or violate any Laws or Orders or other binding requirements of any Governmental Authority applicable to Seller or by which its properties are bound or affected, or (ii) result in any breach or violation of or constitute a default (or an event that with notice or lapse of time or both could become a default) or result in the loss of a material benefit under, or give rise to any right of termination, amendment, acceleration, or cancellation of, or result in the creation of an Encumbrance on any of the properties or assets of Seller pursuant to, any note, bond, contract, permit, or other

instrument or obligation to which Seller is a party or by which Seller or any of its properties are bound or affected.

Section 5.3 Required Filings and Consents. Except to the extent excused by or unenforceable as a result of the filing of the Chapter 11 Case and except for the entry and effectiveness of the Sale Order, neither the execution and delivery of this Agreement by Seller, the performance of its obligations hereunder nor the consummation of the transactions contemplated by this Agreement require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority that has not otherwise been obtained or made.

Section 5.4 Assets. Except for the Assumed Agreements and the Excluded Contracts, Seller has not previously transferred or licensed any Purchased Assets other than in the ordinary course of business consistent with past custom and practice. Seller has good, marketable, and valid title to the Purchased Assets and, at the Closing, Buyer, subject to the Final Order including the Consent/Assignment Order, shall acquire all of Seller's right, title, and interest in, to, and under (subject to such being assumed and assigned in accordance with Section 2.1), all of the Purchased Assets, in each case free and clear of all Encumbrances.

Section 5.5 Intellectual Property.

(a) Seller owns, or is licensed or otherwise has the right to use (in each case, free and clear of any Encumbrance), all Intellectual Property used in or necessary for the conduct of the Business as currently conducted, except as otherwise disclosed herein.

(b) To the actual knowledge of the Management ("**Seller's knowledge**") no claims are pending or threatened that Seller is infringing on or otherwise violating the rights of any Person with regard to any Intellectual Property; and

(c) Schedule 2.1 identifies all registered Intellectual Property used in the Business and identifies the Assumed Agreements including (i) each material license, agreement, or other permission that Seller has granted to any third party with respect to any Intellectual Property used in the Business (other than Excluded Contracts), and (ii) each material item of Intellectual Property that any third party owns and that Seller uses in connection with the Business, other than commercially available "off-the shelf" software (and other than Excluded Contracts).

(d) To Seller's knowledge, the Intellectual Property owned by Seller used in or necessary for the conduct of the Business as currently conducted is valid and enforceable.

Section 5.7 Compliance with Laws. To Seller's knowledge, Seller is in compliance with all Laws and Orders applicable to Seller, except for such failures to comply that have not or would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Seller's ability to consummate the transactions contemplated hereby.

Section 5.8 Labor and Employment Matters. Seller is not a party to any collective bargaining agreement, union contract, or similar agreement pursuant to which Seller is obligated to pay residuals or make other on-going payments or other union contributions on behalf of employees who rendered services to the Business.

Section 5.9 Assumed Agreements. Upon the entry of a Final Order of the Bankruptcy Court, Buyer shall have the protections of Bankruptcy Code § 363(m) with respect to the assumption by and assignment to Buyer of the Assumed Agreements free and clear of all Encumbrances. True, correct, and complete copies (or, if oral, written summaries) of each Assumed Agreement have been made available to Buyer.

Section 5.10 Permits. Seller holds all Permits that are required by any Governmental Authority to allow them to conduct the Business and to own and use the Purchased Assets. To Seller's knowledge, no suspension, cancellation, or termination of any of such Permits is threatened or imminent.

Section 5.11 Brokers. No Person is entitled to any brokerage, financial advisory, finder's, or similar fee or commission payable by Seller or any of its respective Affiliates in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

Section 5.12 Financial Statements.

(a) Seller has delivered to Buyer (i) a balance sheet as of December 31, 2002, (ii) balance sheets as of March 31, 2003 and July 31, 2003, respectively, (iii) the related statements of income and cash flow for the period ended December 31, 2002, and (iv) the statements of income and cash flow for the periods ended March 31, 2003 and July 31, 2003, respectively (such balance sheets and statements of income and cash flow set forth in (i) through (iv) were prepared by Management without review or audit by a Certified Public Account, unless specifically stated and are collectively referred to herein as the "**Financial Statements**").

(b) To the best of Management's ability, all Financial Statements are in accordance with the books and records of Seller and prepared in accordance with historic corporate practice. There are, to Seller's knowledge, no off-balance sheet liabilities, claims, or obligations of any nature in excess of [REDACTED] in the aggregate, whether accrued, absolute, contingent, anticipated, or otherwise, whether due or to become due, that are not shown or provided for either in the Financial Statements or the Seller Disclosure Schedule. The liabilities of Seller were incurred in the ordinary course of business, except for the obligations arising out of the transactions contemplated by this Agreement.

(c) The "**July 31 Balance Sheet**" attached as Schedule 5.12 sets forth, based on reasonable assumptions relating to the operation of the business conducted by Seller, the balance sheet of Seller, on a consolidated basis as of July 31, 2003. A draft "**Final Closing Balance Sheet**" will be prepared as of a date no later than three October 31, 2003, and any updates or revisions of such statement will be prepared, on a basis consistent with the Financial Statements and Schedule 5.12.

Section 5.13 No Material Adverse Change. Since July 31, 2003, there has not been any material adverse change in the business, operations, prospects, assets, results of operations or condition (financial or other) of Seller, except as maybe related to the Seller's Chapter 11 case.

Section 5.14 Disclaimer of Warranty – As Is Condition. All assets sold and conveyed pursuant to this Agreement are transferred in “as is” condition without warranty of merchantability or fitness for a particular purpose. Buyer has had an opportunity to review the books and records, assets and operating history of Seller and relies solely upon its own inspection and evaluation of the business and assets. Seller disclaims any warranty or representation with regard to the financial condition or position of Seller; future sales, revenues and/or expenses; and future business and operations.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF BUYER

Except as disclosed in a document referring specifically to the representations and warranties in this Agreement, which identifies by section number the section and subsection to which such disclosure relates and is delivered by Buyer to Seller prior to or simultaneous with the execution of this Agreement (the “**Buyer Disclosure Schedule**”), Buyer hereby represents and warrants to Seller as follows:

Section 6.1 Authority Relative to this Agreement. Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Virginia. Buyer has all corporate power and authority necessary to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate proceedings on the part of Buyer. This Agreement has been duly and validly executed and delivered by Buyer, and, assuming that this Agreement constitutes a valid and binding agreement of Seller, constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors’ rights generally or general principles of equity.

Section 6.2 Consents and Approvals; No Violation. Except for the entry and effectiveness of the Sale Order, neither the execution and delivery of this Agreement by Buyer, nor the purchase by Buyer of the Purchased Assets and the assumption by Buyer of the Assumed Agreements pursuant to this Agreement will: (a) conflict with or result in any breach of any provision of Buyer’s Certificate of Incorporation or Bylaws; (b) require any consent, approval, authorization, or permit of, or filing with or notification to, any Governmental Authority that has not otherwise been obtained or made; or (c) result in a default (or give rise to any right of termination, cancellation, or acceleration) under any of the terms, conditions, or provisions of any material note, bond, mortgage, indenture, license, agreement, lease, or other instrument or obligation to which Buyer is a party or by which any of its assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been obtained.

Section 6.3 Inspection – Reliance Upon Independent Judgment. Buyer has had an opportunity to inspect any and all assets that are the subject of this sale and review financial records of Seller. Buyer’s determination to purchase assets hereunder is based upon an independent evaluation and review of the subject business and assets without warranty or representation by Seller with regard to future operations, sales, revenues, or expenses. Buyer relies solely upon their own independent judgment in acquiring the assets under this Agreement.

Section 6.4 Legal Proceedings and Judgments. There are no material claims, actions, proceedings, or investigations pending or, to Buyer's knowledge, threatened against or relating to Buyer before any court or other Governmental Authority acting in an adjudicative capacity that could have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby.

Section 6.5 Brokers. No Person is entitled to any brokerage, financial advisory, finder's, or similar fee or commission payable by Buyer or any of its Affiliates in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer.

Section 6.6 Buyer Financing. As of the date of this Agreement and on the Closing Date, Buyer has and will have funds sufficient to pay the Purchase Price and all of its fees and expenses incurred in connection with the transactions contemplated hereby.

ARTICLE VII COVENANTS OF THE PARTIES

Section 7.1 Conduct of Business.

(a) Except as (i) described on Schedule 7.1, or (ii) required by any order of the Bankruptcy Court, the Bankruptcy Code, and any order or agreement related to the use of cash collateral or postpetition financing, during the period commencing on the date of this Agreement and ending on the date all of the Purchased Assets have been transferred to Buyer (the "**Transfer Date**"), which date shall in no event be more than thirty (30) days following the Closing Date, Seller shall exercise commercially reasonable efforts, in each case taking into account Seller's status as a debtor under Chapter 11 of the Bankruptcy Code other than as permitted in writing by Buyer, to preserve, in all material respects, the Business, the Purchased Assets, and to preserve, in all material respects, the goodwill and relationships with suppliers and contractors having business dealings with the Business.

(b) Prior to the Transfer Date, Seller shall (i) not sell, lease (as lessor), transfer, or otherwise dispose of any of the Purchased Assets (other than the sale of Inventory in the ordinary course of business consistent with past custom and practice, taking into account Seller's status as a debtor under Chapter 11 of the Bankruptcy Code), and (ii) use, in good faith, commercially reasonable efforts to prevent the abandonment of the Intellectual Property unless Seller first obtains the written consent of Buyer approving any such abandonment.

(c) With respect to any leased real property included in the Purchased Assets ("**Leased Real Property**"), Seller agrees that, between the date of this Agreement and the Transfer Date, Seller shall (i) maintain the Leased Real Property in substantially the same condition as exists on the date hereof, reasonable wear and tear excepted, (ii) operate the Leased Real Property in compliance with all applicable laws, rules, regulations, and codes in all material respects, (iii) maintain in full force and effect all property and liability insurance policies on the Leased Real Property in effect as of the date hereof, and (iv) afford Buyer and Buyer's Representatives reasonable access during normal business hours to the Leased Real Property and all agreements, books, records, and other documents and data of Seller related thereto, provided that Seller need not supply Buyer with any information that Seller is under a legal obligation not

to supply, including customer-specific costing and pricing information, taking into account Seller's status as a debtor under Chapter 11 of the Bankruptcy Code.

(d) During the period commencing on the date of this Agreement and ending on the Transfer Date, Seller covenants that it will not, absent the written consent of Buyer, (i) in the case of the Accounts Receivable, change the terms of such Accounts Receivable in a manner that is inconsistent with current practices, or (ii) in the case of all sales subsequent to the date hereof, provide for any customer or type of customer terms for sales that are materially inconsistent with current or historic practices for such customer or type of customer.

Section 7.2 Access to Information; Maintenance of Records.

(a) Between the date of this Agreement and the Closing Date, Seller shall, during ordinary business hours, upon reasonable notice, (i) give Buyer and Buyer's Representatives reasonable access to all books, records, offices, and other facilities constituting the Purchased Assets to which Buyer is not denied access by law, (ii) permit Buyer to make such reasonable inspections thereof as Buyer may reasonably request, and (iii) furnish Buyer with such financial and operating data and other information with respect to the Business as Buyer may from time to time reasonably request; provided, however, that (A) any such access shall be conducted in such a manner so as not to interfere unreasonably with the operation of the Business and shall be at the expense of Buyer, (B) Seller shall not be required to take any action that would constitute a waiver of the attorney-client privilege, and (C) Seller need not supply Buyer with any information that Seller is under a legal obligation not to supply or any information, documents, or materials related to customer-specific costing and pricing information or product development. Notwithstanding anything in this Section 7.2 to the contrary, Buyer shall not have access to any employee records or other personal and medical records or other records, which, in Seller's good faith judgment, are sensitive or the disclosure of which could subject Seller to any risk of liability.

(b) Buyer and Seller acknowledge that they are bound by the Confidentiality Agreement. All information furnished to, or obtained by Buyer, or any of Buyer's Representatives pursuant to this Agreement, shall be subject to the provisions of the Confidentiality Agreement and shall be treated as Confidential Information for all purposes of the Confidentiality Agreement.

(c) Between the Closing Date and the later of (x) the third (3rd) anniversary of the Closing Date, and (y) the date of entry of an order or final decree of the Bankruptcy Court closing the Chapter 11 Case, or if converted to a case under Chapter 7 of the Bankruptcy Code, an order of the Bankruptcy Court closing such case, Seller or its successor-in-interest or their respective Representatives shall have reasonable access to all of the books and records relating to the operation of the Business and the Purchased Assets prior to the Closing Date, including all information pertaining to the Assumed Agreements, in the possession of Buyer to the extent that such access may reasonably be required by Seller in connection with the Excluded Liabilities, or other matters relating to or affected by the operation of the Business and the Purchased Assets. Such access shall be afforded by Buyer upon receipt of reasonable advance notice and during normal business hours; provided, however, that (i) any such access shall be conducted in such a manner as not to interfere unreasonably with the operation of the business of Buyer or its Affiliates, (ii) Buyer shall not be required to take any action that would constitute a waiver of the attorney-client privilege, and (iii) Buyer need not supply Seller with any information that Buyer

is under a legal obligation not to supply. Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 7.2(c). If Buyer shall desire to dispose of any such books and records upon or prior to the expiration of such period, Buyer shall, prior to such disposition, give Seller a reasonable opportunity at Seller's expense, to segregate and remove such books and records as Seller may select.

Section 7.3 Expenses. Except to the extent specifically provided herein or in the Sale Order, whether or not the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the party incurring such costs and expenses.

Section 7.4 Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each of the parties hereto shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable laws and regulations to consummate and make effective the sale of the Purchased Assets in accordance with this Agreement, including using commercially reasonable efforts to ensure (i) timely satisfaction of the conditions precedent to each party's obligations hereunder, and (ii) that the Purchased Assets transferred to Buyer comprise all material assets required for the continued conduct of the Business by Buyer as now being conducted by Seller and its Affiliates other than central corporate functions performed by Seller on behalf of the Business and its other businesses. Neither Seller, on the one hand, nor Buyer, on the other hand, shall, without the prior written consent of the other party take any action that would reasonably be expected to prevent or materially impede, interfere with, or delay the transactions contemplated by this Agreement. From time to time, on or after the Closing Date, Seller shall use reasonable efforts, at Buyer's expense, to execute and deliver such documents to Buyer as Buyer may reasonably request in order to more effectively vest in Buyer Seller's title to the Purchased Assets. From time to time after the date hereof, Buyer shall use reasonable efforts, at Seller's expense, to execute and deliver such documents to Seller as Seller may reasonably request in order to more effectively consummate the sale of the Purchased Assets and the assumption and assignment of the Assumed Agreements in accordance with this Agreement.

(b) In the event that any Purchased Asset shall not have been conveyed to Buyer at the Closing, Buyer and Seller shall use their respective commercially reasonable efforts to convey such Purchased Asset to Buyer as promptly as is practicable after the Closing.

Section 7.5 Public Statements. Seller and Buyer shall consult with each other prior to issuing any public announcement, statement, or other disclosure with respect to this Agreement or the transactions contemplated hereby, except that the parties may make disclosures with respect to this Agreement and the transactions contemplated hereby to the extent required by law or by the rules of the Bankruptcy Court, regulations of any securities exchange or commission and to the extent and under the circumstances in which the parties are expressly permitted by the Confidentiality Agreement to make disclosures of Confidential Information. Nothing herein shall in any way impede or limit the Debtor's proceeding to send notices as required by the Bankruptcy Rules, including the Local Rules of the Eastern District of Washington with reference to the Section 363 Sale or relating to its Disclosure Statement and Plan, or in communications with its Creditors and filings with the Bankruptcy Court.

Section 7.6 Governmental Authority Approvals and Cooperation.

(a) Seller and Buyer shall each use their commercially reasonable efforts to cooperate with each other in determining and making any filings, notifications, and requests for approval required to be made and received prior to the Closing under applicable law or regulation (collectively, the "**Regulatory Approvals**"). In connection with any Regulatory Approvals, neither Buyer nor Seller will, and Buyer and Seller will use their commercially reasonable efforts to cause their officers, directors, partners, or other Affiliates not to, take any action that could reasonably be expected to materially and adversely affect the submission of any required filings or notifications or the grant of any such approvals.

(b) Each party hereto (i) shall promptly inform each other of any communication from any Governmental Authority concerning this Agreement, the transactions contemplated hereby and any filing, notification or request for approval related thereto, and (ii) shall permit the other party hereto to review in advance any proposed written communication or information submitted to any such Governmental Authority in response thereto. In addition, neither Seller nor Buyer shall agree to participate in any meeting with any Governmental Authority in respect of any filings, investigation, or other inquiry with respect to this Agreement, the transactions contemplated hereby, or any such filing, notification, or request for approval related thereto unless it consults with the other party hereto in advance and, to the extent permitted by any such Governmental Authority, gives the other party hereto the opportunity to attend and participate thereat, in each case to the maximum extent practicable. Subject to any restrictions under applicable laws, rules, or regulations, Seller and Buyer shall furnish Buyer or Seller, as the case may be, with copies of all correspondence, filings, and communications (and memoranda setting forth the substance thereof) between it and its Affiliates and their respective representatives, on the one hand, and the Governmental Authority or members of its staff, on the other hand, with respect to this Agreement, the transactions contemplated hereby (excluding documents and communications that are subject to preexisting confidentiality agreements and to the attorney-client privilege or work product doctrine), or any such filing, notification, or request for approval related thereto. Seller and Buyer shall also furnish the other party hereto with such necessary information and assistance as such other party and its Affiliates may reasonably request in connection with its preparation of necessary filings, registration, or submissions of information to the Governmental Authority in connection with this Agreement, the transactions contemplated hereby, and any such filing, notification, or request for approval related thereto. Seller and Buyer shall prosecute all required requests for approval with all necessary diligence and otherwise use their respective commercially reasonable efforts to obtain the grant thereof as soon as possible.


Section 7.7 Taxes.

(a) **Transfer Taxes.** In the event that any transfer or use Tax, stamp Tax, or similar Tax is determined to apply to the transactions contemplated by this Agreement, such Taxes shall be paid by Seller.

(b) **No Withholding.** Buyer shall pay the Purchase Price free and clear of withholding or deduction for any Taxes.

(c) **Allocation of Taxes.** Buyer shall be liable for and shall be allocated all Taxes in respect of the Purchased Assets that accrued after the Closing Date.

(d) **Allocation of Purchase Price.** Buyer and Seller have agreed to the following allocations with regard to the Purchase Price for purposes of Section 1060 of the Code and the



(e) **Cooperation.** Buyer and Seller agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to Seller's operations as is reasonably necessary for the preparation and filing of any Tax Return, for the preparation for and proof of facts during any tax audit, for the preparation for any tax protest, for the prosecution or defense of any suit or other proceeding relating to tax matters, and for the answer of any governmental or regulatory inquiry relating to tax matters.

Section 7.8 Submission for Bankruptcy Court Approval

(a) Seller shall promptly provide Buyer and its counsel with copies of all notices, filings, and orders of the Bankruptcy Court (and other courts) that Seller has in its possession pertaining to the motion for approval of any order related to any of the transactions contemplated by this Agreement.

(b) If the Sale Order or any other orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby, shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing, or reargument shall be filed with respect to the Sale Order or other such order), subject to rights otherwise arising from this Agreement, Seller and Buyer shall cooperate in taking such steps to prosecute diligently such appeal, petition, or motion and Seller and Buyer shall use their commercially reasonable efforts to obtain an expedited resolution of any such appeal, petition, or motion.

Section 7.9 Employment Arrangements. Seller shall be responsible for and pay any and all liabilities or obligations (including those arising under the WARN Act), if any, arising out of or resulting from layoffs of its employees, including any obligation imposed on Seller or Buyer to provide such employees with continued health, disability, or life insurance or other benefits (whether covered by insurance or not).

Section 7.10 Bankruptcy Filings. From and after the date hereof until the Closing Date, Seller shall endeavor to deliver to Buyer prior to filing copies of all pleadings, motions, notices, statements, schedules, applications, reports, and other papers that Seller files in the Chapter 11 Case that relate to this Agreement, the sale of the Purchased Assets, Assumed Agreements, Buyer, or in any manner relate to or affect the transactions contemplated hereby.

Section 7.11 Power of Attorney; Right of Endorsement, Etc. Effective as of the Closing, Seller hereby constitutes and appoints Buyer and its successors and assigns the true and lawful attorney of Seller with full power of substitution, in the name of Buyer or the name of Seller, on behalf of and for the benefit of Buyer, (a) to collect all Purchased Assets, (b) to endorse, without recourse, checks, notes, and other instruments attributable to the Purchased Assets, (c) to defend and compromise all actions, suits, or proceedings with respect to any of the Purchased Assets, (d) to institute and prosecute all proceedings that Buyer may deem proper in

order to collect, assert or enforce any claim, right, or title in or to the Purchased Assets, and (e) to do all such reasonable acts and things with respect to the Purchased Assets as Buyer may deem advisable, subject to the consent of Seller, which consent shall not be unreasonably withheld. Seller agrees that the foregoing powers are coupled with an interest and shall be irrevocable by Seller directly or indirectly by the dissolution of Seller or in any other manner. Buyer shall retain for its own account any amounts lawfully collected pursuant to the foregoing powers and Seller shall promptly pay to Buyer any amounts received by Seller after the Closing with respect to the Purchased Assets to which Buyer may be entitled.

Section 7.12 Post-Closing Funds. Following the Closing Date, all amounts, whether in the form of cash, proceeds, checks, drafts, orders, or other instruments for the payment of money, received or recovered by Seller with respect to the Business, the Purchased Assets, or the Assumed Agreements shall immediately upon receipt thereof by Seller be paid over and delivered in the form received, but with any necessary endorsements or instruments required for payment, to Buyer, and, until so delivered shall not be commingled with any other funds or property but shall be held by Seller upon an express trust for the benefit of Buyer.

ARTICLE VIII INDEMNIFICATION

Section 8.1 Indemnification. Subject to Section 8.4 and Section 8.5, Seller, by reason of Seller's acceptance of the consideration provided for in Article III, agrees to defend, indemnify, and hold Buyer harmless from and against, and to reimburse Buyer with respect to, any and all losses, damages, liabilities, claims, judgments, settlements, fines, costs, and expenses (including reasonable attorneys' fees and after taking into account any insurance proceeds received by Buyer) ("**Indemnifiable Amounts**") of every nature whatsoever incurred by Buyer by reason of or arising out of or in connection with (i) any breach, or any claim (including claims by parties other than Buyer) that if true, would constitute a breach, by Seller of any representation or warranty of Seller contained in this Agreement or in any certificate or other document delivered to Buyer by Seller pursuant to the provisions of this Agreement, (ii) the failure, partial or total, of Seller to perform any agreement or covenant required by this Agreement to be performed by it, (iii) any federal, state, local, or foreign tax liability, or asserted tax liability of Seller, (iv) the Retained Assets and liabilities of Seller; (v) any liability under any fraudulent transfer or bulk sales law or act, (vi) any liability relating to or arising out of the ownership or operation of Seller prior to Closing; (vii) any broker's fees; or (viii) any liability to employees of Seller.

Section 8.2 Procedure for Claims between Parties. If a claim for Indemnifiable Amounts is to be made by Buyer, it shall give written notice to Seller as soon as practicable after it becomes aware of any fact, condition, or event which may give rise to damages for which indemnification may be sought under Section 8.1. Any failure to submit any such notice of claim to Seller shall not relieve Seller of any liability hereunder, except to the extent Seller is actually prejudiced by such failure. Seller shall be deemed to have accepted the notice of claim and to have agreed to pay the damages at issue (subject to other limitations herein) if Seller does not send a notice of disagreement to Buyer within ten (10) business days after receiving the notice of claim.

Section 8.3 Third Party Claims. With respect to any claims or demands by third parties as to which Buyer may seek indemnification hereunder, whenever Buyer shall have received a written notice that such a claim or demand has been asserted or threatened, Buyer shall promptly notify Seller in writing of such claim or demand and of the facts within Buyer's knowledge that relate thereto within a reasonable time after receiving such written notice and in any event Buyer shall provide notice within fifteen (15) calendar days. The failure of Buyer to give timely notice hereunder shall not affect rights to indemnification hereunder, except to the extent that Seller demonstrates it was actually prejudiced by such failure. Seller shall then have the right to contest, negotiate, or settle any such claim or demand through counsel of its own selection and solely at Seller's cost, risk, and expense. Notwithstanding the preceding sentence, Seller shall not settle, compromise, or offer to settle or compromise any such claim or demand without the prior written consent of Buyer, which consent shall not be unreasonably conditioned, withheld, or delayed; provided, however, that Buyer may object to a settlement or compromise that includes any provision that in its reasonable judgment may have an adverse impact on or establish an adverse precedent for the business condition of Buyer. If Seller fails to give written notice to Buyer of its intention to contest or settle any such claim or demand within fifteen (15) calendar days after Buyer has notified Seller that any such claim or demand has been made in writing and received by Buyer, or if any such notice is given but any such claim or demand is not promptly contested by Seller, Buyer shall have the right to contest or settle any such claim or demand and seek full indemnification pursuant to this Article VIII as to any Indemnifiable Amounts. If Buyer assumes the defense of the claim, it will keep Seller reasonably informed of the progress of any such defense, compromise, or settlement.

Section 8.4 Limitations. The obligation of Seller to indemnify Buyer under Section 8.1 shall be Buyer's sole monetary remedy under this Agreement against Seller for Indemnifiable Amounts incurred by Buyer by reason of or arising out of or in connection with clauses (i) through (viii) of Section 8.1, absent fraud or willful misrepresentation.

Section 8.5 Time Limit. The representations, warranties, covenants, and agreements of Seller set forth in this Agreement shall survive the Closing and the consummation of the Transactions and shall continue until two (2) years from the Closing Date, at which time all representations and warranties shall expire, provided, however, that (i) the obligation of Seller to indemnify Buyer pursuant to clause (iii) of Section 8.1 or for breaches of the representations, warranties, and covenants relating to taxes shall continue until thirty (30) days after the expiration of all statutes of limitations applicable to such taxes; and (ii) that obligations of Seller for Indemnifiable Amounts arising out of fraud or willful misstatements or willful omissions of Seller will have no time limit. Notwithstanding the foregoing, termination of any agreement, covenant, representation, or warranty as provided above shall not affect the rights of Buyer in respect of any claim made by Buyer pursuant to notice given to Seller prior to expiration of the applicable survival period set forth above and such claim shall continue to survive until such claim has been resolved.

Section 8.6 Binding Effect. The indemnification obligations of Seller contained in this Article VIII are an integral part of this Agreement in the absence of which Buyer would not have entered into this Agreement.

ARTICLE IX CONDITIONS TO CLOSING

Section 9.1 Conditions to Each Party's Obligations to Effect the Closing. The respective obligations of each party to effect the sale and purchase of the Purchased Assets shall be subject to the fulfillment at or prior to the Closing Date of the following conditions:

(a) no preliminary or permanent injunction, stay pending appeal, or other order or decree by any federal or state court that prevents the consummation of the sale of any material part of the Purchased Assets contemplated hereby shall have been issued and remain in effect (each party agreeing to use its commercially reasonable efforts to have any such injunction, order, or decree lifted) and no statute, rule, or regulation shall have been enacted by any Governmental Authority that prohibits the consummation of the sale of the Purchased Assets; and

(b) the Sale Order shall have been entered by the Bankruptcy Court, shall have become a Final Order and shall be substantially in the form of Exhibit C hereto.

Buyer may waive any condition specified in this Section 9.1; provided that no such waiver shall be effective against Buyer unless it is set forth in a writing executed by Buyer.

Section 9.2 Conditions to Obligations of Buyer. The obligation of Buyer to effect the purchase of the Purchased Assets and the assumption of the Assumed Agreements contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing Date of the following additional conditions:

(a) Seller shall have performed and complied in all material respects with the covenants contained in this Agreement that are required to be performed and complied with by Seller on or prior to the Closing Date and the representations and warranties of Seller that are set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date) as though made at and as of the Closing Date;

(b) since the date of this Agreement, no event shall have occurred that has had or would reasonably be expected to have, individually or in the aggregate, the effect of a Force Majeure Event; and

(c) Buyer shall have received the other items to be delivered to it pursuant to Section 4.2.

Buyer may waive any condition specified in this Section 9.2; provided that no such waiver shall be effective against Buyer unless it is set forth in a writing executed by Buyer.

Section 9.3 Conditions to Obligations of Seller. The obligation of Seller to effect the sale of the Purchased Assets contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing Date of the following additional conditions:

(a) Buyer shall have performed and complied in all material respects with the covenants contained in this Agreement that are required to be performed and complied with by Buyer on or prior to the Closing Date and the representations and warranties of Buyer that are set

forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date) as though made at and as of the Closing Date; and

(b) Seller shall have received the other items to be delivered to it pursuant to Section 4.3.

Seller may waive any condition specified in this Section 9.3; provided that no such waiver shall be effective against Seller unless it is set forth in a writing executed by Seller.

ARTICLE X TERMINATION AND ABANDONMENT

Section 10.1 Termination. This Agreement may be terminated at any time prior to the Closing Date by:

(a) mutual written consent of Seller and Buyer;

(b) Seller, if there has been a material violation or breach by Buyer of any covenant, representation, or warranty made by it contained in this Agreement that has prevented the satisfaction of any condition to the obligations of Seller to effect the Closing and such violation or breach has not been cured by Buyer within ten (10) Business Days of receipt of written notice thereof or is waived by Seller;

(c) Seller or Buyer, if (i) there shall be any law or regulation that makes consummation of the transactions contemplated hereby illegal or otherwise prohibited, or (ii) there shall be any nonappealable final order, decree, or judgment of the Bankruptcy Court or any other court or Governmental Authority having competent jurisdiction that prohibits the consummation of the transactions contemplated hereby or otherwise alters the terms and conditions of the transactions contemplated hereby in any material respect;

(d) Buyer or Seller, if the Closing shall not have occurred on or prior to November 18, 2003 (the "**Termination Date**"), unless extended by mutual written agreement of Buyer and Seller; provided that Buyer or Seller, as the case may be, shall not be entitled to terminate this Agreement pursuant to this Section 10.1(d) if the failure of the Closing to occur on or prior to such date results primarily from such party itself breaching any representation, warranty, or covenant contained in this Agreement;

(e) Buyer, if there has been a material violation or breach by Seller of any covenant, representation or warranty made by it contained in this Agreement that has prevented the satisfaction of any condition to the obligations of Buyer to effect the Closing and such violation or breach has not been cured by Seller within ten (10) Business Days of receipt of written notice thereof or is waived by Buyer.

Section 10.2 Procedure and Effect of Termination. In the event of termination of this Agreement and abandonment of the transactions contemplated hereby by either or both of the parties pursuant to Section 10.1, written notice thereof shall forthwith be given by the terminating party to the other party and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further order of the Bankruptcy Court and without further action by any of the parties hereto. If this Agreement is terminated as provided

herein: (i) all filings, applications, and other submissions made pursuant to this Agreement, to the extent practicable, shall be withdrawn from the agency or other Person to which they were made; and (ii) Confidential Information from Seller shall be returned to Seller, and all Confidential Information from Buyer shall be returned to Buyer.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section 11.1 Amendment and Modification. This Agreement may be amended, modified, or supplemented only by written agreement of Seller and Buyer.

Section 11.2 Waiver of Compliance; Consents. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant, or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party or parties granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, or condition shall not operate as a waiver of, or estoppel with respect to any subsequent or other failure. No delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof. No waiver on the part of any party of any such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege, shall preclude any further exercise thereof or the exercise of any other such right, power, or privilege.

Section 11.3 Survival. The parties hereto agree that the representations and warranties contained in this Agreement shall not survive the Closing hereunder, and neither of the parties nor any of their respective officers, directors, representatives, employees, advisors, or agents shall have any liability to the other after the Closing for any breach thereof. The parties hereto agree that only the covenants contained in this Agreement to be performed at or after the Closing Date shall survive the Closing hereunder, including without limitations those covenants contained in Section 7.9 and in Article 8, and each party hereto shall be liable to the other after the Closing Date for any breach thereof.

Section 11.4 No Impediment to Liquidation. Nothing herein shall be deemed or construed as to limit, restrict, or impose any impediment to Seller's right to liquidate, dissolve, and wind-up its affairs and to cease all business activities and operations at such time as it may determine following the Closing.

Section 11.5 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (i) when personally sent/delivered, by facsimile transmission (with hard copy to follow), or sent by reputable express courier, or (ii) five (5) days following mailing by registered or certified mail postage prepaid and return receipt requested. Unless another address is specified in writing, notices, demands and communications to Seller and Buyer shall be sent to the addresses indicated below:

(a) If to Seller, to:

Racing Strollers, Inc.
1907 South 14th Street
Union Gap, WA 98903
Phone: 509 457-0925
Facsimile: 509 453-7732
Attention: Mary Baechler

with a copy to:

James C. Carmody
Velikanje, Moore & Shore, P.S.
405 East Lincoln Avenue
Yakima, Washington 98901
Phone: (509) 248-6030
Facsimile: (509) 453-6880

(b) If to Buyer, to:

Bag Boy, LLC
2042 Westmoreland Street
Richmond, VA 23230
Phone: (804) 262-3000
Facsimile: (804) 515-1091
Attention: David Boardman, President

with a copy to:

Jerome R. Aiken
Meyer, Fluegge & Tenney
230 South Second Street
Yakima, Washington 98901
Phone: (509) 575-8500
Facsimile: (509) 575-4676

Section 11.6 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and with respect to Seller, any entity that may succeed to substantially all the assets of Seller, but neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either party hereto, including by operation of law, without the prior written consent of the other party; provided, however, that this Agreement shall be assignable by Buyer, upon written notice to Seller, but without the prior written consent of Seller, to an Affiliate of Buyer, so long as Buyer shall continue to remain obligated hereunder. Any assignment of this Agreement or any of the rights, interests, or obligations hereunder in contravention of this Section 11.6 shall be null and void and shall not bind or be recognized by Seller or Buyer.

Section 11.7 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other terms, conditions, and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 11.8 Governing Law. This Agreement shall be governed by the laws of the State of Washington, without giving effect to the principles of conflicts of laws thereof, and by the laws of the United States of America.

Section 11.9 Submission to Jurisdiction. Unless and to the extent otherwise specifically provided herein, the parties hereto irrevocably submit to the exclusive jurisdiction of the Bankruptcy Court (or any court exercising appellate jurisdiction over the Bankruptcy Court) over any dispute arising out of or relating to this Agreement or any other agreement or instrument contemplated hereby or entered into in connection herewith or any of the transactions contemplated hereby or thereby. Each party hereby irrevocably agrees that all claims in respect of such dispute or proceedings may be heard and determined in such courts. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection that they may now or hereafter have to the laying of venue of any such dispute or proceeding brought in such courts or any defense of inconvenient forum in connection therewith.

Section 11.10 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in any number of counterparts, and by the different parties hereto in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

Section 11.11 Incorporation of Exhibits. All Schedules and all Exhibits attached hereto and referred to herein are hereby incorporated herein by reference and made a part of this Agreement for all purposes as if fully set forth herein.

Section 11.12 Entire Agreement. This Agreement (including all Schedules and all Exhibits) and the Confidentiality Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect thereto.

Section 11.13 Remedies. Seller and Buyer hereby acknowledge and agree that money damages may not be an adequate remedy for any breach or threatened breach of any of the provisions of this Agreement and that, in such event, Seller or its respective successors or assigns, or Buyer or its successors or assigns, as the case may be, may, in addition to any other rights and remedies existing in their favor, apply to the Bankruptcy Court or any other court of competent jurisdiction for specific performance, injunctive, and/or other relief in order to enforce or prevent any violations of this Agreement.

Section 11.14 Headings. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 11.15 Third Party Beneficiaries. Nothing in this Agreement shall confer any rights upon any Person other than the parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

SELLER:

RACING STROLLERS, INC.

By: Mary Baechler
Name: Mary Baechler
Title: President

BUYER:

BAG BOY, LLC

By: Leighton A.C. Klevana
Name: Leighton A.C. Klevana
Title: Authorized Member