

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT2861451

SUBMISSION TYPE:	NEW ASSIGNMENT	
NATURE OF CONVEYANCE:	STOCK PURCHASE AGREEMENT	
CONVEYING PARTY DATA		
	Name	Execution Date
	CMI RUBBER COMPANY, INC.	10/06/2011
RECEIVING PARTY DATA		
Name:	SANDERS INDUSTRIES	
Street Address:	3701 CONANT STREET	
City:	LONG BEACH	
State/Country:	CALIFORNIA	
Postal Code:	90808	
PROPERTY NUMBERS Total: 5		
Property Type	Number	
Patent Number:	7053144	
Patent Number:	7144940	
Patent Number:	5623367	
Patent Number:	8672491	
Patent Number:	6053816	
CORRESPONDENCE DATA		
Fax Number:	(972)479-0464	
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	9724790462	
Email:	ADMIN@DALPAT.COM	
Correspondent Name:	JOHN J. ARNOTT	
Address Line 1:	PO BOX 741715	
Address Line 4:	DALLAS, TEXAS 75374	
ATTORNEY DOCKET NUMBER:	CMIR-26096	
NAME OF SUBMITTER:	JOHN J. ARNOTT	
SIGNATURE:	/John J. Arnott, Reg. #39095/	
DATE SIGNED:	05/19/2014	
Total Attachments: 56		
source=CM126096 Stock Purchase Agreement Executed copy with complete redactions#page1.tif		
source=CM126096 Stock Purchase Agreement Executed copy with complete redactions#page2.tif		

PATENT

[illegible]

source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page51.tif
source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page52.tif
source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page53.tif
source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page54.tif
source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page55.tif
source=CMI26096 Stock Purchase Agreement Executed copy with complete redactions#page56.tif

EXECUTION COPY

STOCK PURCHASE AGREEMENT

BY AND AMONG

SANDERS INDUSTRIES,

CMI RUBBER COMPANY, INC.

AND

THE SHAREHOLDERS OF CMI RUBBER COMPANY, INC.

DATED AS OF OCTOBER 6, 2011

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 SALE AND PURCHASE OF STOCK.....	1
1.1 Sale and Purchase of Stock.....	1
1.2 Purchase Price.....	1
1.3 Working Capital Adjustment.....	1
ARTICLE 2 CLOSING	2
2.1 Closing Date.....	2
2.2 Seller Deliveries.....	3
2.3 Buyer Deliveries	4
2.4 Buyer Payments	4
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLERS AND THE COMPANY.....	5
3.1 Organization and Standing.....	5
3.2 Authority.....	5
3.3 No Violation of Law and Agreements	6
3.4 Capitalization.....	6
3.5 Equity Interest.....	7
3.6 Financial Statements	7
3.7 Books and Records	8
3.8 No Undisclosed Liabilities.....	8
3.9 Absence of Certain Changes.....	8
3.10 Title to Properties; Absence of Liens.....	9
3.11 Real Estate.....	10
3.12 Tax Matters.....	11
3.13 Compliance with Laws	13
3.14 Contracts and Other Agreements.....	13
3.15 Environmental Matters.....	15
3.16 Intangible Assets.....	17
3.17 Permits	17
3.18 Labor and Employment Matters.....	18
3.19 Employees.....	18
3.20 Employee Benefit Plans.....	18
3.21 Litigation.....	20
3.22 Insurance.....	21
3.23 Product Liability, Recalls and Warranties.....	21
3.24 Transactions with Affiliates.....	22
3.25 Absence of Certain Business Practices	22
3.26 Condition of Tangible Assets and Inventories.....	22
3.27 Accounts Receivables	23
3.28 Accounts Payable.....	23
3.29 Bank Accounts	23
3.30 Powers of Attorney; Guarantees	23

3.31	Relations with Customers and Suppliers	23
3.32	Brokerage	24
3.33	Materials and Information.....	24
3.34	Accuracy of Representations	24
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER		24
4.1	Due Incorporation	24
4.2	Authority	24
4.3	Consents and Approvals	25
4.4	No Breach	25
ARTICLE 5 COVENANTS AND AGREEMENTS OF SELLERS AND BUYER.....		25
5.1	Conduct of Business	25
5.2	Efforts to Close	25
5.3	Continued Effectiveness of Representations and Warranties of Sellers	26
5.4	Termination of 401(k) Plan.....	26
5.5	Corporate Examinations and Investigations	26
5.6	Expenses	26
5.7	Post-Closing Restrictive Covenants.....	26
5.8	Tax Matters	28
5.9	Seller Representative	29
ARTICLE 6 CONDITIONS TO THE OBLIGATIONS OF SELLERS		30
6.1	Representations and Warranties.....	30
6.2	Compliance with Covenants	30
6.3	Absence of Adverse Governmental Action	30
6.4	Other Documents	30
6.5	Approval of Documentation	30
ARTICLE 7 CONDITIONS TO THE OBLIGATIONS OF BUYER.....		30
7.1	Representations and Warranties.....	30
7.2	Compliance with Covenants	31
7.3	Litigation.....	31
7.4	Absence of Adverse Governmental Action	31
7.5	Consents and Approvals	31
7.6	Due Diligence Review	31
7.7	Minimum Cash.....	31
7.8	No Material Adverse Effect	31
7.9	Other Documents	31
7.10	Approval of Documentation	31
ARTICLE 8 SURVIVAL		31
ARTICLE 9 INDEMNIFICATION.....		32
9.1	Obligation to Indemnify.....	32
9.2	Limitations.	32
9.3	Notice of Asserted Liability.....	33

9.4	Opportunity to Defend	34
9.5	Tax Adjustment.....	34
9.6	No Contribution	34
9.7	Buyer's Right of Offset.....	35
9.8	Scheduled Litigation	35
9.9	Exclusive Remedy	35
9.10	Effect of Waiver.....	35
ARTICLE 10 TERMINATION OF AGREEMENT		35
10.1	Termination.....	35
10.2	Survival	36
ARTICLE 11 MISCELLANEOUS		37
11.1	Notices	37
11.2	Entire Agreement	37
11.3	Waivers and Amendments; Remedies	38
11.4	Governing Law; Reference to U.S. Dollars	38
11.5	Binding Effect; Assignment.....	38
11.6	No Third Party Beneficiaries	39
11.7	Counterparts.....	39
11.8	Effect of Investigations	39
11.9	Schedules and Exhibits	39
11.10	Headings; Gender and Person	39
11.11	Severability	39
11.12	Time of Essence	39
11.13	Attorneys' Fees	39
11.14	No Publicity	40
11.15	Mutual Drafting	40
11.16	Further Assurances.....	40

EXHIBIT INDEX

Exhibit A	Form of Lease
Exhibit B	Form of Mutual Release
Exhibit C	Forms of Employment and Consulting Agreements
Exhibit D	Form of Subordination Agreement
Exhibit E	Form of Escrow Agreement
Exhibit F	Form of Purchase Note
Exhibit G	Form of Security Agreement

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement") is entered into as of October 6, 2011 by and among Sanders Industries, a California corporation ("Buyer"), on the one hand, and CMI Rubber Company, Inc., a Texas corporation (the "Company"), and John M. Immel, Janice R. Immel, Karl W. Immel, Mark H. Immel, and Carol Ann Immel (each, a "Seller" and together, "Sellers"), on the other hand.

RECITALS

A. Sellers collectively own one hundred percent (100%) of the issued and outstanding capital stock of the Company, consisting of 9,999.996 shares of common stock (the "Stock").

B. Sellers desire to sell, and Buyer desires to purchase, the Stock, in accordance with the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows (Annex A hereto contains definitions of certain terms used in this Agreement):

ARTICLE I SALE AND PURCHASE OF STOCK

1.1 Sale and Purchase of Stock. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Sellers shall sell, convey, transfer, assign and deliver to Buyer, free and clear of any Security Interests, and Buyer shall purchase from Sellers, the Stock.

1.2 Purchase Price. Subject to the adjustments set forth in Section 1.3, as payment for the Stock, Buyer shall pay to Sellers a purchase price of [REDACTED] (the "Purchase Price"), which shall be payable as provided in Section 2.4.

1.3 Working Capital Adjustment.

(a) Estimated Closing Working Capital. On or before a date not less than five (5) days prior to the Closing Date, the Company shall prepare and deliver to Buyer (i) an estimated balance sheet of the Company as of the Effective Time (the "Estimated Closing Balance Sheet") and (ii) a statement of the book value of the current assets less the current liabilities of the Company (the "Working Capital") as reflected on the face of the Estimated Closing Balance Sheet (the "Estimated Closing Working Capital"). The Estimated Closing Balance Sheet will be prepared using the same accounting methods, policies, practices and procedures, with consistent classifications and estimation methodologies, as were used in the preparation of the Interim Financial Statements and will not include any changes in assets or

liabilities as a result of purchase accounting adjustments arising from or resulting as a consequence of the transactions contemplated hereby.

(b) Adjustment at Closing. The amount, if any, by which the Estimated Working Capital exceeds [REDACTED] (the "Target Working Capital") is referred to herein as the "Estimated Working Capital Surplus." The amount, if any, by which the Estimated Working Capital is less than the Target Working Capital is referred to herein as the "Estimated Working Capital Deficiency." The Purchase Price will be adjusted at Closing if there is an Estimated Working Capital Surplus or Estimated Working Capital Deficiency in the manner described in Section 2.4.

(c) Closing Balance Sheet. Within the sixty (60) day period following the Closing Date, Buyer shall cause the Company to prepare and deliver to the Seller Representative a balance sheet of the Company as of the Effective Time (the "Closing Balance Sheet") and a statement of the Working Capital of the Company (the "Closing Working Capital Statement") as reflected on the face of the Closing Balance Sheet (the "Closing Working Capital"). The Closing Balance Sheet will be prepared using the same accounting methods, policies, practices and procedures, with consistent classifications and estimation methodologies, as were used in the preparation of the Interim Financial Statements and will not include any changes in assets or liabilities as a result of purchase accounting adjustments arising from or resulting as a consequence of the transactions contemplated hereby.

(d) Access. From Buyer's delivery of the Closing Working Capital Statement until the final determination of the Closing Working Capital in accordance with this Section 1.3, Buyer and the Company shall afford to the Seller Representative access, during normal business hours (and at other times as may be mutually agreed), upon reasonable advance notice, to the accounting records of the Company solely to permit the Seller Representative to verify the Closing Working Capital Statement and to calculate the Closing Working Capital; provided, however, that such access shall not unreasonably interfere with the day to day operations of the business of the Company.

(e) Dispute. If the Seller Representative disagree with the determination of the Closing Working Capital as shown on the Closing Working Capital Statement, such disagreement shall be resolved as provided in Annex B hereto.

(f) Payments. Within two (2) Business Days (i) if no Objection Notice is delivered, after the Objection Period has expired, or (ii) if an Objection Notice is delivered, after all disputes are finally resolved pursuant to Annex B, (A) Buyer shall pay to Sellers the amount, if any, by which the Closing Working Capital exceeds Estimated Closing Working Capital, or (B) Sellers shall pay to Buyer the amount, if any, by which the Closing Working Capital is less than the Estimated Closing Working Capital.

ARTICLE 2 CLOSING

2.1 Closing Date. The closing of the transactions provided for herein (the "Closing") shall take place on the third (3rd) Business Day after the conditions set forth in Articles 6 and 7

have been satisfied or waived (other than conditions that by their terms are to be satisfied at the Closing) at the offices of Sheppard, Mullin, Richter & Hampton LLP, 333 South Hope Street, 48th Floor, Los Angeles, California 90071, or at such other place, time or date as the parties may mutually agree to in writing (such time on such date being referred to herein as the "Closing Date"). The sale of the Stock pursuant to this Agreement shall be deemed to take place and to be effective at 11:59 p.m. on the Closing Date (the "Effective Time").

2.2 Seller Deliveries. At the Closing, Sellers shall execute and deliver or cause to be executed and delivered to Buyer:

(a) certificates evidencing the Stock, duly endorsed for transfer to Buyer or accompanied by one or more stock assignments separate from certificate duly executed in favor of Buyer;

(b) a lease for the property located at 202 S. International Road, Garland, TX, 75042 ("Real Property") in the form attached hereto as Exhibit A (the "Lease") (which shall contain a right to purchase the Real Property within ninety (90) days of Closing at fair market value, as determined in accordance with the Lease) duly executed by the Company and the owner of such property;

(c) the articles of incorporation and all amendments thereto of the Company, duly certified as of a recent date by the Secretary of State of the state of its incorporation as set forth in the preamble to this Agreement;

(d) a Secretary's certificate, in a form approved by Buyer, duly executed by the Secretary of the Company;

(e) certificates dated as of a date not earlier than the third (3rd) Business Day prior to the Closing as to the good standing of the Company and payment of all applicable state Taxes by the Company, executed by the appropriate officials of the State of Texas and each jurisdiction in which the Company is licensed or qualified to do business as a foreign corporation;

(f) the Escrow Agreement, duly executed by the Seller Representative;

(g) the Security Agreement (defined below), duly executed by the Seller Representative;

(h) resignations, effective as of the Closing, of the directors and officers of the Company;

(i) the Mutual Release attached hereto as Exhibit B, duly executed by Sellers and the Company;

(j) such certificates and documents as may be necessary or appropriate to change the authorized signatories on all bank accounts and safe deposit boxes maintained by or in the name of the Company;

- (k) the original minute and stock books of the Company;
- (l) the Employment Agreements and Consulting Agreement attached hereto as Exhibit C, duly executed by the individuals named therein;
- (m) the Subordination Agreement in the form attached hereto as Exhibit D, duly executed by the Sellers and the Seller Representative;
- (n) a certificate stating that all conditions to Closing set forth in Articles 6 and 7 that are within Sellers' control have been satisfied and, to Sellers' knowledge, all conditions to Closing set forth in Article 6 and 7 that are within Buyer's control have been satisfied; and
- (o) such other documents, certificates and instruments as Buyer requests from Sellers pursuant to the specific terms of this Agreement or as Buyer otherwise reasonably requests from Sellers to effect the transactions contemplated hereby.

2.3 Buyer Deliveries. At the Closing, Buyer shall execute and/or deliver to Sellers:

- (a) the Escrow Agreement, duly executed by Buyer;
- (b) the Purchase Note and the Security Agreement, duly executed by Buyer;
- (c) the Employment Agreements and Consulting Agreement referred to in Section 2.2, duly executed by the Company;
- (d) the Subordination Agreement referred to in Section 2.2, duly executed by Buyer;
- (e) the Mutual Release referred to in Section 2.2, duly executed by Buyer;
- (f) a certificate stating that, to Buyer's knowledge, all conditions to Closing set forth in Article 7 that are within Buyer's control have been satisfied; and
- (g) such other documents, certificates and instruments as Sellers request from Buyer pursuant to the specific terms of this Agreement.

2.4 Buyer Payments. At the Closing, Buyer shall:

- (a) deposit with Union Bank, N.A. (the "Escrow Agent") [REDACTED] (the "Escrow Amount") pursuant to an Escrow Agreement in the form of Exhibit E attached hereto among Buyer, the Escrow Agent and the Seller Representative (the "Escrow Agreement"); which Escrow Amount shall be held by the Escrow Agent as security for the satisfaction of Seller's indemnification obligations hereunder; and
- (b) pay to Sellers (pro rata in accordance with the percentages set forth in Schedule 3.4(b)) an amount equal to the Purchase Price, less the sum of (i) the Escrow Amount and (ii) the original principal amount of the Purchase Note, and plus or minus, as applicable, the Estimated Working Capital Surplus or the Estimated Working Capital Deficiency, by wire

transfer of immediately available funds to the accounts designated in writing by Sellers to Buyer no less than two (2) Business Days prior to the Closing.

(c) deliver to Sellers (i) a Non-Negotiable Subordinated Secured Promissory Note in the form attached hereto as Exhibit F (the "Purchase Note"), duly executed by Buyer, in the original principal amount of [REDACTED] and (ii) a Security Agreement, in the form attached hereto as Exhibit G (the "Security Agreement"), duly executed by the Company, pursuant to which the Company shall grant to Seller a junior security interest in the Company's assets for Buyer's obligations under the Purchase Note.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLERS AND THE COMPANY

Sellers and the Company hereby jointly and severally represent and warrant to Buyer that the following statements are true as of the date hereof and shall be true on the Closing Date as if made thereon:

3.1 Organization and Standing.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation as set forth in the preamble to this Agreement. The Company has all necessary corporate power and corporate authority to carry on the Business as it is now being conducted and to own or use the properties and assets that it purports to own or use. The Company is duly qualified in each jurisdiction where the character of its properties owned or leased or the nature of its activities, make such qualification necessary, as set forth in Schedule 3.1(a).

(b) Complete and accurate copies of the Governing Documents and stock ledgers of the Company, as currently in effect, have been delivered to Buyer.

3.2 Authority.

(a) Each Seller and the Company has the full right, power and authority, and has taken all action necessary, to execute and deliver this Agreement and the Transaction Documents, to consummate the transactions contemplated hereby and thereby and to perform their obligations hereunder and thereunder. This Agreement has been duly authorized, executed and delivered by Sellers and the Company and (assuming the due authorization, execution and delivery by Buyer) constitutes the legal, valid and binding obligations of Sellers and the Company enforceable against Sellers and the Company in accordance with its terms. Each of the Transaction Documents will, when duly authorized, executed and delivered at the Closing by Sellers or the Company, as the case may be (and assuming the due authorization, execution and delivery by Buyer), constitute the legal, valid and binding obligations of Sellers and the Company enforceable against Sellers and the Company in accordance with its terms.

(b) Each Seller (i) is mentally competent and in all respects of sound mind, (ii) has not been deprived of his civil rights, (iii) is over the age of 21, (iv) is used to managing

his financial affairs, (v) has not had a conservator or guardian appointed for him or her pursuant to a court order, (vi) has the full legal capacity and all requisite power and authority to enter into and deliver, and perform his obligations under, this Agreement and the Transaction Documents, and (vii) is familiar with and fully understands the nature, purpose and effect of this Agreement and the Transaction Documents and the transactions contemplated thereby.

3.3 No Violation of Law and Agreements. The execution, delivery and performance by Sellers and the Company of this Agreement and each Transaction Document do not and will not, directly or indirectly (with or without notice or lapse of time):

(a) Conflict with or violate any provision of the Articles of Incorporation, Bylaws or other organizational documents of the Company;

(b) Except as set forth on Schedule 3.3(b), conflict with, violate, result in a breach of, or cause a default under (i) any provision of any Applicable Law relating to a Seller, the Company or any assets of the Company, (ii) any provision of any Order to which a Seller, the Company or any of their respective assets or property are subject, (iii) any provision of any Contract to which a Seller, the Company or their respective assets or properties are subject, or (iv) any other restriction of any kind or character to which a Seller, the Company or their respective assets or properties are subject;

(c) Cause the Company to become subject to, or to become liable for the payment of, any Tax or any Liabilities, except for the express obligations of the Company to Sellers pursuant to this Agreement and the Transaction Documents;

(d) Give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any Contract; or

(e) Except as provided in the Security Agreement, result in the imposition or creation of any Security Interest upon or with respect to any of the Stock or assets or property of the Company.

3.4 Capitalization.

(a) The total authorized capital stock of the Company consists of 100,000 shares of common stock, of which only the Stock is issued and outstanding, and there are no other shares of other classes or series of capital stock of the Company authorized, issued or outstanding. All issued and outstanding shares of the Stock is duly authorized, validly issued, fully paid and nonassessable. There are no authorized or outstanding (A) securities convertible into or exchangeable for any equity interests of the Company; (B) stock options, stock appreciation rights, warrants, calls, restricted shares, restricted stock, stock units, phantom shares or other actual or phantom compensatory equity or equity-linked awards, rights, preemptive or similar rights, convertible securities, bonds, debentures, notes or other indebtedness having general voting rights or debt convertible into securities having such rights ("Other Securities") or other rights to purchase or subscribe to equity interests of the Company or securities convertible into or exchangeable for equity interests of the Company; or (C) contracts, commitments, agreements, understandings, arrangements, calls or claims of any kind relating to the issuance of

any equity interests of the Company, any such convertible or exchangeable securities or any such options, warrants or rights. No shares of Stock are subject to any preemptive right, right of first refusal, right of first offer or right of rescission. There are no accrued or declared but unpaid dividends on any of the Stock. No claim has been made or threatened asserting that any Person other than Sellers is the holder or beneficial owner of, or has the right to acquire beneficial ownership of, any securities (including options and warrants) of, or any other voting, equity or ownership interest in the Company. As a result of the transactions contemplated hereby, Buyer will be the sole record and beneficial holder of all issued and outstanding equity interests of the Company.

(b) Each Seller owns beneficially and of record shares of common stock of the Company representing the percentage of the Stock set forth opposite such Seller's name on Schedule 3.4(b), such shares are issued in such Seller's name and are held by such Seller free and clear of all Security Interests, and upon delivery of the Purchase Price on the Closing Date as herein provided, Buyer will acquire good and marketable title to the Stock, free and clear of all Security Interests.

(c) There are no (i) securities of the Company reserved for issuance for any purpose, (ii) agreements pursuant to which registration rights in the securities of the Company have been granted, (iii) shareholder agreements between the Company and any current shareholders of the Company regarding the securities of the Company or (iv) agreements among shareholders of the Company with respect to the voting or transfer of the securities of the Company or with respect to any other aspect of the Company's affairs.

(d) The Company has not violated any Applicable Laws, including applicable federal or state securities laws, in connection with the offer, sale or issuance of any equity securities of the Company, and such equity securities have been issued and granted in compliance with all requirements set forth in the Company's Articles of Incorporation and Bylaws.

3.5 Equity Interest. The Company (i) has no Subsidiaries, (ii) is not party to a participant in any joint venture, partnership, or similar arrangement, (iii) does not own, directly or indirectly, beneficially or of record, any equity interests in any Person, and (iv) has no obligation to provide funds to, or make any investment in (whether in the form of a loan, capital contribution or otherwise), any Person.

3.6 Financial Statements. Attached as Schedule 3.6 are (a) true, complete and correct copies of the Company's unaudited balance sheets (the "Balance Sheets"), including the notes thereto, as at September 30, 2011 (the "Year-End Balance Sheet Date"), September 30, 2010, September 30, 2009 and September 30, 2008, and the related unaudited statements of income and retained earnings and cash flow for each of the fiscal years then ended (the statements described in clause (a) shall be referred to as the "Year-End Financial Statements"); and (b) true, complete and correct copies of the Company's unaudited interim balance sheet (the "Interim Balance Sheet") dated July 31, 2011 (the "Interim Balance Sheet Date") and the related unaudited statements of income and retained earnings and cash flow for the period ended on the Interim Balance Sheet Date (collectively, the "Interim Financial Statements"; and together with the Year-End Financial Statements, the "Financial Statements"). The Financial Statements

(i) are in accordance with the Books and Records of the Company, (ii) have been prepared consistently in accordance with past practice, and (iii) fairly and accurately present in all material respects the assets, liabilities (including all reserves) and financial position of the Company as of the respective dates thereof and the results of operations and changes in cash flow for the periods then ended, subject, in the case of the Interim Financial Statements, to normal recurring year-end adjustments.

3.7 Books and Records. The Company has maintained (and given Buyer access to) all Books and Records, which are complete and correct and accurately reflect the activities of the Company, in each case in all material respects.

3.8 No Undisclosed Liabilities. The Company has no Liabilities, except Liabilities the amounts of which are disclosed or reserved against on the Year-End Balance Sheet, and Liabilities incurred in the Ordinary Course of Business since the Interim Balance Sheet Date, none of which has or might be reasonably expected to have a Material Adverse Effect. To the Knowledge of the Company, there are no unrealized or anticipated losses from any present commitment of the Company, which contingent obligations and losses in the aggregate would reasonably be expected to be material. As of the Closing there will be no Closing Company Indebtedness.

3.9 Absence of Certain Changes. Since September 30, 2010, the Company has not:

(a) Entered into any transaction, Contract or commitment or incurred any obligation or Liability which was not entered into or incurred in the Ordinary Course of Business or which has or might be reasonably expected to have a Material Adverse Effect;

(b) Waived or released any rights of material value except in the Ordinary Course of Business;

(c) Accelerated receivables, delayed payables or liquidated inventory, except in accordance with prior practices;

(d) Transferred or granted any material rights under any Contracts, concessions, Intangible Assets, or registrations or licenses thereof or applications therefor;

(e) Made or granted any wage or salary increase, entered into or begun negotiations with respect to any employment contract with any officer or employee, or made any loan (excluding advances for normal reimbursable business expenses) to, or entered into any transaction of any other nature with, any officer or director of the Company and there are no plans of any key employee or employees of the Company to terminate their employment;

(f) Suffered any Material Adverse Effect;

(g) Issued, granted, sold or otherwise disposed of any shares of stock or Other Securities of the Company, declared any dividend or made any other payment in respect of the capital stock of the Company or issued, sold or otherwise disposed of any evidence of indebtedness of the Company;

(h) Settled or compromised any claim, notice, audit report or assessment in respect of Taxes; changed any annual Tax accounting period or Tax election; adopted or changed any Tax accounting principles, methods, practices or policies; filed any income Tax Return, amended Tax Return or other material Tax Return; entered into any Tax allocation agreement, Tax sharing agreement, Tax indemnity agreement or closing agreement relating to any Tax; surrendered any right to claim a material Tax refund; or consented to any extension or waiver of the statute of limitations period applicable to any Tax claim or assessment;

(i) Incurred any indebtedness for borrowed money or committed to borrow money, or guaranteed any indebtedness other than in the Ordinary Course of Business;

(j) Paid, discharged or satisfied any Liabilities other than in the Ordinary Course of Business;

(k) Amended any Governing Documents related to the Company;

(l) Suffered any damage to or loss of any asset of the Company, whether or not covered by insurance;

(m) Suffered any material change in employee relations;

(n) Sold, leased, mortgaged or pledged any capital asset of the Company having a value in excess of \$10,000 or moved any capital asset of the Company away from the Facilities;

(o) Committed to any capital expenditures for the Company in excess of \$10,000;

(p) Experienced any other event or condition for the Company which in any one case or in the aggregate has or might be reasonably expected to have a Material Adverse Effect; or

(q) Entered into any negotiation or Contract to do any of the things described in this Section 3.9.

Since the Interim Balance Sheet Date, the Company has operated in the Ordinary Course of Business.

3.10 Title to Properties; Absence of Liens. The Company has good and marketable title to all properties and assets it purports to own, whether real, personal, tangible or intangible, including but not limited to all properties reflected in the Year-End Balance Sheet and those acquired since the date thereof, free and clear of all Security Interests, other than any liens for taxes not due. Except for the Real Property, none of the assets necessary to operate the business of the Company is owned by any Seller or any of such Seller's Affiliates.

3.11 Real Estate.

(a) The Company neither owns nor is contractually obligated to purchase real property or interests in real property or any buildings, structures or improvements situated on real property.

(b) Schedule 3.11(b) contains a complete and accurate list of the following:

(i) All leases (the "Leases") of real property and interests in real property and the buildings, structures and improvements thereon (the "Leased Property") pursuant to which the Company is the lessee;

(ii) All Contracts or options (and all amendments, extensions and modifications thereto) held by the Company, or contractual obligations (and all amendments, extensions and modifications thereto) on the part of the Company, to lease any interest in real property;

(iii) All Contracts or options (and all amendments, extensions and modifications thereto) granted by the Company, or contractual obligations (and all amendments, extensions and modifications thereto) on the part of the Company, to sell or dispose of any interest in real property; and

(iv) All policies of title insurance issued to the Company with respect to the Facilities, if any.

(c) The Facilities are sufficient for the conduct of the business of the Company as now being conducted. The Company has the right under valid and existing leases or other agreements to occupy and use all Leased Property. Neither the whole nor any portion of the Facilities has been condemned, requisitioned or otherwise taken by any Governmental Authority, and neither the Company nor Sellers has received any notice that any such condemnation, requisition or taking is threatened, which condemnation, requisition or taking would preclude or materially impair the current use thereof. To the Company's Knowledge, the Facilities have received all Permits required in connection with the operation thereof and have been operated and maintained in accordance with all Applicable Laws in all material respects. All Facilities are supplied with utilities (including, without limitation, water, sewage, disposal, electricity, gas and telephone) and other services necessary for the operation of such Facilities as currently operated. To the Knowledge of the Company, the improvements constructed on the Facilities, including, without limitation, all Leasehold Improvements, and all Fixtures and Equipment and other tangible assets owned, leased or used by the Company at the Facilities are (i) insured to the extent and in a manner customary in the industry, (ii) structurally sound with no known material defects, (iii) sufficient for the operation of the Company as presently conducted, and (iv) to the Company's Knowledge, in conformity with all applicable laws, ordinances, orders, regulations and other requirements relating thereto currently in effect.

(d) Each Lease is in full force and effect, the Company is not in default of its obligations under any Lease, and no Lease is subject to or encumbered by any lien or other restriction which substantially impairs the use of the property to which it relates.

3.12 Tax Matters.

(a) Each Tax and other federal, foreign, state, county and local Tax Return which is required to have been filed with respect to the operations, income or assets of the Company has been duly and timely filed by or on behalf of the Company and is complete and correct in all respects, all Taxes related to the operations, income or assets of the Company which have become due (whether or not shown on such Tax Returns) have been fully and timely paid, and all estimated tax payments for the current fiscal year have been paid or accrued for.

(b) No extension or waiver of any statute of limitations has been requested of or granted by the Company with respect to any Tax for any period, and no extension or waiver of time within which to file any Tax Return has been requested by or granted to the Company.

(c) No deficiency, delinquency or default for any Taxes relating to the Company or its receipts, income, sales, transactions or other business activities has ever been claimed, proposed or assessed against the Company nor has the Company ever received notice of any such deficiency, delinquency or default; and to the Company's Knowledge, there is no audit, examination, investigation, claim, assessment, action, suit, proceeding, lien or encumbrance in effect, pending or proposed by any Tax authority with respect to any such Taxes or with respect to any Tax Return of the Company.

(d) To the Company's Knowledge, there is no Tax ruling, request for ruling or settlement, compromise, closing or Tax collection agreement in effect or pending which does or could affect the liability of the Company for Taxes for any period after the Closing Date.

(e) The Company has delivered or made available to Buyer complete copies of all material Tax Returns of the Company relating to taxable periods that ended after December 31, 2003. No claim has been made by a Governmental Authority in a jurisdiction in which the Company does not currently file a Tax Return that the Company is or may be subject to taxation by that jurisdiction.

(f) The Company has not been a member of an Affiliated Group filing a consolidated federal income Tax Return, or incurred any liability for the Taxes of any Person (i) under Treasury Regulation Section 1.1502-6, (ii) under any provision of state, local or foreign law similar to Treasury Regulation Section 1.1502-6, (iii) as a transferee or successor, or (iv) by contract or other commitment.

(g) The Company is not obligated to make any payments, nor is a party to any agreement that under any circumstances could obligate the Company to make any payments, that are not or would not be deductible under Code Section 162(m) or Code Section 280G.

(h) The Company is not obligated to make any bonus payments to any independent contractors. Any bonuses payable by the Company to any employee were granted in the Ordinary Course of Business and not as part of a plan in connection with the transactions contemplated hereby.

(i) The Company has complied in all material respects with all Applicable Laws relating to the payment and withholding of Taxes and has duly and timely withheld and

paid over to the appropriate Taxing Authorities all amounts required to be so withheld and paid over under all Applicable Laws

(j) Except as set forth on Schedule 3.12(j), the Company has not agreed, and is not required, to include in income any adjustment pursuant to Code Section 481(a) (or similar provisions of other Tax laws) by reason of a change in accounting method or otherwise, and the Company is not required to include in a taxable period ending after Closing Date any taxable income or gain attributable to income that accrued in a prior taxable period but was not recognized in a prior taxable period as a result of the installment method of accounting, the completed contract method of accounting, the long-term contract method of accounting, the cash method of accounting (or similar provisions of other Tax laws). As disclosed on Schedule 3.12(j), the maximum amount of income that the Company will be required to include for all taxable years ending after September 30, 2011 by reason of the change in accounting method is [REDACTED] and in no event will any such amount be required to be included in income of the Company for the taxable year ending September 30, 2011.

(k) The Company has not been either a "distributing corporation" or "controlled corporation" within the meaning of Code Section 355(a)(1)(A) in any distribution intended to qualify under Code Section 355 within the two-year period ending on the date of this Agreement or as part of a "plan" or "series of related transactions" within the meaning of Code Section 355(e) in conjunction with the transactions contemplated hereby.

(l) No property owned by the Company is (i) "tax exempt use property" within the meaning of Code Section 168(h)(1), (ii) tax-exempt bond financed property within the meaning of Code Section 168(g), (iii) "limited use property" within the meaning of Rev. Proc. 76-30, (iv) subject to Section 168(g)(1)(A) of the Code, or (v) property required to be treated as being owned by another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended and in effect immediately prior to the enactment of the Tax Reform Act of 1986.

(m) None of the Company's assets are subject to any Security Interest in favor of the United States pursuant to Section 6321 of the Code for nonpayment of federal Taxes, or any Security Interest in favor of any country, state or locality pursuant to any comparable provision of state or local law.

(n) The Company has never been a United States real property holding corporation within the meaning of Code Section 897(c)(2).

(o) The Company is not a party to or obligated under any tax sharing, tax indemnity, or similar agreement, arrangement or practice with respect to Taxes.

(p) No election under Code Section 341(f) has been or will hereafter be made to treat the Company as a consenting corporation, as defined in Code Section 341(f).

(q) Schedule 3.12(q) sets forth the following information with respect to the Company as of the most recent practicable date: (i) the amount of any net operating losses, unused investment or other credits, or unused foreign Tax credits, for federal income and alternative minimum Tax and state income Tax purposes (including dates of expiration of such

items), and (ii) each state, county, local municipal, domestic or foreign jurisdiction in which the Company (A) files, or is or has been required to file, a Tax Return relating to state or local Taxes of any kind, (B) is required to register for Tax purposes, (C) is or has been liable for any Taxes on a "nexus" basis at any time for taxable periods ending after December 31, 2000, (D) is qualified to do business, (E) owns or regularly uses property, or (F) has any employee or in which any employee of the Company is regularly present.

(r) The Company has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Code Section 6662.

(s) The Company has not been a participant in any "reportable transaction" as currently defined in and pursuant to Treasury Regulation Section 1.6011-4(b).

(t) The unpaid Taxes of the Company (i) did not, as of the Year-End Balance Sheet Date, exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Year-End Balance Sheet (rather than in any notes thereto) and (ii) will not, as of the Closing Date, exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Closing Balance Sheet (rather than in any notes thereto). Since the Year-End Balance Sheet Date, the Company has not incurred any liability for Taxes outside the Ordinary Course of Business.

(u) Each Seller is a not "foreign person" as that term is used in the Treasury Regulation § 1.1445-2.

3.13 Compliance with Laws. The Company has materially complied, and is in material compliance, with all Applicable Laws. Neither the Company nor any Seller has received any notice to the effect that, or otherwise been advised that, it the Company is not in compliance with any such Applicable Law, and neither the Company nor any Seller is aware of any existing circumstances which (with or without written notice or lapse of time) are likely to result in any such non-compliance.

3.14 Contracts and Other Agreements.

(a) Schedule 3.14 sets forth a list of all of the Contracts hereinafter referred to in this Section 3.14 to which the Company is a party or by or to which it or its assets or properties are bound or subject:

(i) Contracts with any current or former officer, director, employee, consultant, agent or other representative having more than six (6) months to run from the date hereof or providing for an obligation to pay and/or accrue compensation of [REDACTED] or more per annum, or providing for the payment of fees or other consideration in excess of [REDACTED];

(ii) Contracts with any labor union or association representing any employee;

(iii) Contracts for the purchase or sale of inventory, equipment or services in excess of [REDACTED] that contain an escalation, renegotiation or redetermination clause or which cannot be canceled without liability, premium or penalty;

(iv) Contracts for the sale of any assets or properties other than in the Ordinary Course of Business and for a sale price exceeding [REDACTED] in any one case (or in the aggregate, in the case of any series of related contracts or other agreements) or for the grant to any Person of any preferential rights to purchase any assets or properties of the Company;

(v) Contracts calling for an aggregate purchase price or aggregate payments in any one (1) year of more than [REDACTED] in any one case (or in the aggregate, in the case of any series of related contracts and other agreements);

(vi) Joint venture Contracts;

(vii) Contracts under which it agrees to indemnify any Person other than in the Ordinary Course of Business;

(viii) Contracts containing covenants of the Company not to compete in any line of business or with any Person in any geographical area or covenants of any other Person not to compete with the Company in any line of business or in any geographical area;

(ix) Contracts relating to the making of any loan by the Company except for advances to employees for normal reimbursable business expenses;

(x) Contracts relating to the borrowing of money by the Company (including mortgages, deeds of trust, indentures or other similar documents), or the direct or indirect guaranty by the Company of any obligation for, or an agreement by the Company to service, the repayment of borrowed money, or any other contingent obligation in respect of indebtedness of any other Person or Governmental Authority;

(xi) Contracts related to the Intangible Assets;

(xii) Contracts for or relating to computers, computer equipment, computer software or computer or software services in excess of [REDACTED];

(xiii) Contracts relating to the lease of personal property; and

(xiv) Any other Contracts (i) requiring payments in excess of [REDACTED] in any year or which cannot be terminated by the Company on less than 30 days' notice or (ii) the breach or termination of which could reasonably be expected to constitute a Material Adverse Effect.

(b) To the extent there is any material oral Contract involving payments aggregating in excess of [REDACTED] and that may not be terminated without penalty by the Company upon notice of thirty (30) days or less, a summary description of such oral Contract is set forth in Schedule 3.14.

(c) There are no cost overruns on any Contract being performed and any amount recorded on the books of the Company with respect to any Contract is within the amount quoted for such Contract having regard to the state of completion.

(d) There have been no deposits received in respect of any Contract which would require the performance of work by the Company without the obligation for future payment therefor.

(e) Sellers have delivered or made available to Buyer true and complete copies of all of the Contracts set forth in Schedule 3.14 or in any Schedule. All Contracts set forth on Schedule 3.14 are in full force and effect, there is no default by the Company under any Contract set forth in Schedule 3.14 or elsewhere in the Schedules, and Sellers have no knowledge of any breach or anticipatory breach by any other party thereto.

(f) The Company shall have no liability following the Closing by reason of its agreement with Charles Immel or any and all lines of credit as in effect prior to Closing.

3.15 Environmental Matters.

(a) For purposes of this Section 3.15, the term "Company" shall include (i) the Company, (ii) all Affiliates of the Company, (iii) all partnerships, joint ventures and other entities or organizations in which the Company was at any time or is a partner, joint venturer, member or participant and (iv) all predecessor or former corporations, partnerships, joint ventures, organizations, businesses or other entities, whether in existence as of the date hereof or at any time prior to the date hereof, the assets or obligations of which have been acquired or assumed by the Company or to which the Company has succeeded. Further, all representations and warranties made within this Section 3.15 shall be deemed to be to the Company's Knowledge, and exclude any information disclosed in the environmental reports from Buyer's representatives.

(b) The Facilities have been maintained in compliance with all "Environmental Laws," which means all Applicable Laws, court decisions, agency guidelines or principles of law, restrictions and Permits, which (i) regulate or relate to the protection or clean-up of the Environment; the use, treatment, storage, transportation, handling, disposal or Release of Hazardous Substances, the preservation or protection of waterways, groundwater, drinking water, air, wildlife, plants or other natural resources; or the health and safety of persons or property, including without limitation protection of the health and safety of employees; or (ii) impose liability with respect to any of the foregoing, including without limitation, the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), Resource Conservation & Recovery Act (42 U.S.C. §6901 et seq.) ("RCRA"), Safe Drinking Water Act (21 U.S.C. §349, 42 U.S.C. §300f-300j-26), Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Clean Air Act (42 U.S.C. §7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.) ("CERCLA"), or any other similar federal, state or local law of similar effect, each as amended.

(c) The Facilities are, and at all times have been, owned, leased and operated in compliance with all Environmental Laws and in a manner that will not give rise to any liability under any Environmental Laws.

(d) The Company has, and at all times within the last five years has had, all Permits required under any Environmental Law and the Facilities are, and at all times has been, in compliance with all such Permits.

(e) There has been no Release at, on, under, above or from the Facilities.

(f) There has been no disposal of any Hazardous Substance at, on or under the Facilities.

(g) The consummation of any of the transactions contemplated by this Agreement will not require an application for issuance, renewal, transfer or extension of, or any other administrative action regarding, any Permit required under any Environmental Law.

(h) Neither the Company nor any Seller has received any notice at any time that he, she or it is or was claimed to be in violation of or in non-compliance with the conditions of any Permit required under any Environmental Law or the provisions of any Environmental Law with respect to the Facilities.

(i) There is not now pending or to the Knowledge of the Company threatened, nor any basis for, nor has there ever been, any Action against the Company under any Environmental Law with respect to any Release or mishandling of any Hazardous Substance.

(j) There are no consent Orders or agreements with, or liens by, any Governmental Authority or quasi-governmental entity relating to any Environmental Law which regulate, obligate, bind or in any way affect the Company.

(k) The Company has at all times used, generated, treated, stored, transported, disposed of or otherwise handled its Hazardous Substances in compliance with all Environmental Laws and in a manner that will not result in liability of the Company under any Environmental Law.

(l) There are no present or past Environmental Conditions in any way relating to the Company, or the Facilities. "Environmental Conditions" means the introduction into the Environment of any pollution, including without limitation any contaminant, irritant or pollutant or other Hazardous Substance (whether or not such pollution constituted at the time thereof a violation of any Environmental Law as a result of any Release of any kind whatsoever of any Hazardous Substance) as a result of which the Company has or may become liable to any Person or by reason of which the Facilities may suffer or be subjected to any lien.

(m) No current or past use, generation, treatment, transportation, storage, disposal or handling practice of the Company with respect to any Hazardous Substance has or will result in any liability under any Environmental Laws.

(n) There is not now and has not been at any time in the past any underground or above-ground storage tank or pipeline at the Facilities.

(o) True, complete and correct copies of the written reports, and all parts thereof, including any drafts of such reports if such drafts are in the possession or control of the Company or any Seller, of all environmental audits or assessments which have been conducted at the Facilities within the past five (5) years, by any environmental consultant or engineer engaged for such purpose, have been delivered to Buyer and a list of all such reports, audits and assessments is included on Schedule 3.15.

(p) The Company is not a party, whether as a direct signatory or as successor, assignee or third party beneficiary, or otherwise bound, to any Contract (excluding insurance policies disclosed in the Schedules) under which the Company is obligated by or entitled to the benefits of, directly or indirectly, any representation, warranty, indemnification, covenant, restriction or other undertaking concerning Environmental Conditions.

(q) The Company has not released any other Person from any claim under any Environmental Law or waived any rights concerning any Environmental Condition.

(r) The Company has given all notices and warnings, made all reports, and has kept and maintained all records required by, and in compliance with, all Environmental Laws.

3.16 Intangible Assets

(a) Schedule 3.16(a) lists all trademarks, service marks, trade names, brand marks, brand names, patents (other than patents that have expired), patent applications and employee invention disclosures, copyrights and custom computer software (collectively, the "Intangible Assets") used by the Company. To the extent any Intangible Asset is the subject of a licensing agreement, such licensing agreement and the parties thereto are described in Schedule 3.16(a). Neither the Company nor any Seller has received notice that the Company is infringing upon any intellectual property or any application pending therefor and no Seller knows of any basis for any such claim of infringement.

(b) The Company has the right to use, or has ownership of, all customer lists, customer data, customer contact information, customer correspondence and customer licensing and purchasing histories relating to its current and former customers, in each case free and clear of all Security Interests and third party claims to use such information. No current or former employees, consultants or contractors of the Company or other parties own any Intangible Assets used or held for use by the Company.

3.17 Permits. Schedule 3.17 sets forth all Permits held by the Company. No Permit other than those listed on Schedule 3.17 is necessary for the operation of the Business as currently conducted. All such Permits are currently in force. No notice of any violation has been received by the Company in respect of any such Permit, and there is no proceeding which is pending or threatened that would suspend or revoke or limit any such Permit.

3.18 Labor and Employment Matters.

(a) The Company (i) is not liable for any arrears of wages, Taxes, penalties or other sums for failure to comply with any requirement to withhold and pay to the appropriate Governmental Authorities, or to withhold for payment not yet due to such authorities, all amounts to be withheld from the Company's employees; and (ii) has complied with all Applicable Laws, rules and regulations relating to the employment of labor, including Title VII of the Federal Civil Rights Act of 1964, as amended, Occupational Safety and Health Laws, and those relating to hours, wages, collective bargaining, hiring, promotion, demotion, and termination.

(b) Neither the Company nor any Seller is a party to any collective bargaining agreement or other labor contract applicable to the employees of the Company; and the Company is not subject to any (i) unfair labor practice complaint pending before the National Labor Relations Board or any other federal, state, local or foreign agency, (ii) pending or threatened labor strike, slowdown, work stoppage, lockout, or other organized labor disturbance, (iii) pending grievance proceeding, (iv) pending arbitration proceeding arising out of or under any collective bargaining agreement, or (v) attempt by any union to represent employees of the Company as a collective bargaining agent. Except for the Scheduled Litigation and as set forth in Schedule 3.18(b), the Company knows of no actions or grievances filed or threatened by any employees of the Company.

3.19 Employees. Schedule 3.19 sets forth a true and complete list of the names of all employees of the Company (the "Employees"), and Sellers have provided to Buyer separately a true and complete list of the current salary or wage rate of each Employee. Schedule 3.19 sets forth a list of all employees terminated by the Company since the date ninety (90) days prior to the date of this Agreement.

3.20 Employee Benefit Plans.

(a) Schedule 3.20(a) contains a complete and accurate list of all employee stock ownership, pension, profit sharing, retirement, deferred compensation, equity incentive, stock purchase, option, incentive, bonus, vacation, severance, disability, hospitalization, medical insurance, life insurance, fringe benefit, welfare and other employee benefit plans, programs or arrangements that the Company and/or any of its ERISA Affiliates sponsors or has sponsored, participates in or has participated in, or is obligated to contribute to or has ever been obligated to contribute to, on behalf of or with respect to any current or former employees, directors or consultants of the Company or any of its ERISA Affiliates or their beneficiaries (the "Employee Plans"). Furthermore, Schedule 3.20(a) identifies each Employee Plan that is an "employee pension benefit plan" as defined in Section 3(2) of ERISA or an "employee welfare benefit plan" as defined in Section 3(1) of ERISA. For purposes of this Agreement, "ERISA Affiliate" means any Person or trade or business (whether or not incorporated), other than the Company, that together with the Company is considered under common control or treated as a single employer under Section 4001(b)(1) of ERISA or Code Sections 414(b), (c), (m) or (o).

(b) Sellers have delivered to Buyer true and complete copies of the following documents with respect to each Employee Plan, where applicable: (i) all plan documents and

any amendments thereto, including, without limitation, adoption agreements, prototype basic plan documents and any other plan texts; (ii) written descriptions of any unwritten Employee Plans; (iii) each related trust agreement, insurance contract or any other funding arrangement and any amendments thereto; (iv) all summary plan descriptions, summary of material modifications or any other material employee communications; (v) the three (3) most recently filed Form 5500 series annual reports (including all schedules and attachments thereto), the three (3) most recent nondiscrimination tests and the most recent actuarial report or valuation, and other annual and periodic accounting and financial statements of related plan assets; (vi) the most recent favorable determination letter received from the Internal Revenue Service ("IRS"); and (vii) all correspondence to or from any Governmental Authority, including, without limitation, any filings under the IRS' Employee Plans Compliance Resolution System or the Department of Labor's Delinquent Filer Voluntary Compliance Program or Voluntary Fiduciary Correction Program.

(c) Each Employee Plan conforms to, and its operation and administration are in compliance with, all applicable requirements of ERISA, the Code, the plan documents and any other Applicable Laws, including, without limitation, all funding, reporting, disclosure and fiduciary requirements. No "prohibited transaction," as such term is defined in Section 406 of ERISA or Code Section 4975, nor any breach of fiduciary duty, has occurred with respect to any Employee Plan that could subject such Employee Plan, any fiduciary thereof, the Company, any Seller or Buyer with any Liability or penalty imposed by ERISA Section 502 or the excise Tax imposed by Code Section 4975.

(d) Each Employee Plan that is intended to be qualified under Code Section 401(a) is so qualified and has received a favorable determination letter from the IRS stating that such Employee Plan and each related trust is qualified and tax-exempt under the provisions of Code Sections 401(a) and 501(a), respectively. Neither the Company nor any of its ERISA Affiliates has ever maintained, sponsored, contributed to or been required to contribute to, (i) an "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is subject to Title IV or Section 302 of ERISA or Code Section 412, (ii) a "multiemployer plan" within the meaning of Sections 3(37) or 4001(a)(3) of ERISA, or (iii) a multiple employer plan within the meaning of Section 413(c) of the Code.

(e) There are no pending or, to the Company's Knowledge, threatened claims, lawsuits or arbitrations (other than routine claims for benefits) that have been asserted or instituted against or with respect to any Employee Plan or the assets of any of the trusts under any such Employee Plan, and none of the Employee Plans are under audit or investigation by the IRS, the Department of Labor or any other Governmental Authority. No condition exists which would prevent the Company, any Seller, Buyer or any ERISA Affiliate from amending or terminating any Employee Plan.

(f) Each Employee Plan that is a "group health plan" within the meaning of Code Section 5000(b)(1) has complied in all respects with the notice and continuation coverage requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), and similar state laws. None of the Employee Plans that are "employee welfare benefit plans" within the meaning of Section 3(1) of ERISA provide for any post-employment or retiree benefits in the form of medical, disability or life insurance (whether or not insured), other

than continuation coverage required under COBRA, or similar state law. No Employee Plan is a "voluntary employee benefit association" under Code Section 501(c)(9).

(g) All contributions and other payments required to be made by the Company or any ERISA Affiliate to or under any Employee Plan through the date hereof, have been made when due, or, if not yet due, the amount of such payment or contribution obligation has been properly accrued for in the Ordinary Course of Business. In addition, with respect to each Employee Plan intended to include a Code Section 401(k) arrangement, the Company and its ERISA Affiliates have at all times made timely deposits of employee salary deferral contributions and participant loan repayments, as determined pursuant to regulations issued by the Department of Labor.

(h) The Company and its ERISA Affiliates have timely filed all requisite governmental reports, documents and notices (which were true, correct and complete as of the date filed), including any required audit reports, and has properly and timely filed and distributed or posted all notices and reports to employees required to be filed, distributed or posted with respect to each such Employee Plan, in accordance with all Applicable Laws, including, without limitation, ERISA and the Code.

(i) Neither the Company, nor any ERISA Affiliate has announced to current or former employees, directors or consultants an intention to create, or otherwise created, a legally binding commitment to adopt any additional Employee Plan which is intended to cover current or former employees, directors or consultants of the Company or any ERISA Affiliate, or to amend or modify any existing Employee Plan.

(j) None of the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby (or such transactions in combination with any subsequent transactions or events) will (i) result in any current or former employee, director or consultant of the Company or any ERISA Affiliate becoming entitled to any unemployment compensation, deferred compensation, bonus or severance pay, materially increase or otherwise enhance any benefits otherwise payable by the Company or any ERISA Affiliate, (ii) result in the acceleration of time of payment or vesting, or an increase in the amount of any compensation due to any current or former employee, director or consultant of the Company or any ERISA Affiliate, (iii) result in forgiveness in whole or in part of any outstanding loans made by the Company or any ERISA Affiliate to any of their current or former employees, directors or consultants, or (iv) result in a payment that would be considered an "excess parachute payment" and treated as nondeductible under Code Section 280G or subject to the excise Tax under Code Section 4999.

(k) Each Employee Plan that is a "nonqualified deferred compensation plan" (as defined in Code Section 409A(d)(1)) complies in both form and operation with Code Section 409A, including, without limitation, the regulations issued thereunder and any other available guidance issued from the IRS as of the date hereof.

3.21 Litigation

(a) Except for the Actions set forth in Schedule 3.21(a), there is no litigation, action, suit, proceeding or investigation presently pending against (collectively, "Actions") or, to the Knowledge of the Company, threatened against any Seller or the Company or restricting or prohibiting the consummation of the transactions contemplated by this Agreement before any Governmental Authority. Schedule 3.21(a) sets forth a description of the damages or other relief sought in all Actions described therein.

(b) (i) There is no Order to which a Seller, the Company, its business or any of its assets is subject; and (ii) to the Knowledge of the Company, no officer, director, agent or employee of the Company is subject to any Order that prohibits such officer, director, agent or employee from engaging in or continuing any conduct, activity or practice relating to the business of the Company.

(c) (i) The Company is, and, at all times, has been in compliance with all of the terms and requirements of each Order to which it or any of its assets is or has been subject; (ii) no event has occurred or circumstance exists that is reasonably likely to constitute or result in (with or without notice or lapse of time) a violation of or failure to comply with any term or requirement of any Order to which the Company or any of its assets is subject; and (iii) the Company has not received any notice or other communication (whether oral or written) from any Governmental Authority or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any term or requirement of any Order to which the Company or any of its assets is or has been subject.

3.22 Insurance

(a) Schedule 3.22 sets forth a list of all policies or binders of fire, liability, product liability, worker's compensation, vehicular and other insurance held by or on behalf of the Company (the "Insurance Policies"). The Insurance Policies are valid and enforceable in accordance with their terms, are in full force and effect, and insure against risks and liabilities of the kinds and in amounts customarily insured against by persons of established reputation engaged in the same or a similar business similarly situated. All premiums on all the Insurance Policies have been paid to date and the Company has complied with all conditions of the Insurance Policies. Neither the Company nor any Seller has received notice of any failure to comply with the terms of the Insurance Policies or any notice of nonrenewal of any the Insurance Policies. In addition, Schedule 3.22 sets forth in respect of the Insurance Policies binders (a) the type and amount of coverage provided thereby, (b) their respective effective and expiration dates and (c) claims made or occurrences reported during the past two (2) years.

(b) The Company is not and will not be liable for any material, retroactive premium adjustments respecting any of its Insurance Policies. None of the Insurance Policies is subject to any special or unusual terms or restrictions or provides for a premium in excess of the stipulated normal rate.

3.23 Product Liability, Recalls and Warranties.

(a) There is no action, suit, claim, inquiry, proceeding or investigation in any case by or before any Governmental Authority pending or, to the Company's Knowledge,

threatened against or involving the Company relating to any product alleged to have been designed, manufactured or sold by the Company and alleged to have been defective or improperly designed or manufactured.

(b) (i) There has been no recall or investigation, or, to the Company's Knowledge, threatened recall or investigation, in the last five (5) years of any product designed, manufactured or sold by the Company, (ii) there is no pending or, to the Company's Knowledge, threatened recall or investigation of any product designed, manufactured or sold by the Company, and (iii) there is no reasonable basis to believe that there are any threatened or contemplated recalls or investigations of any product designed, manufactured or sold by the Company.

(c) A copy of each standard warranty of the Company is attached to Schedule 3.23. The Company has not expanded its warranty obligation to any customer beyond that set forth in such standard warranties.

3.24 Transactions with Affiliates. Schedule 3.24 is a true, correct and complete list of all existing business relationships between the Company and any of the officers, directors or shareholders of the Company or any of such officer's, director's or shareholder's Affiliates. No such Person has any material interest in any property, real or personal, tangible or intangible of the Company, is indebted or otherwise obligated to the Company, has any contractual relationship with the Company or is an officer, director, employee or consultant of a competitor of the Company. The Company is not indebted or otherwise obligated to any such Person, except for amounts due under normal arrangements applicable to all employees generally as to salary or reimbursement of ordinary business expenses not unusual in amount or significance. The consummation of the transactions contemplated by this Agreement will not (either alone, or upon the occurrence of any act or event, or with the lapse of time, or both) result in any benefit or payment (severance or other) arising or becoming due from the Company or the successor or assign of any thereof to any person.

3.25 Absence of Certain Business Practices. Neither the Company nor any officer, employee or agent of the Company acting on its behalf has, directly or indirectly, (a) within the past three (3) years given any gift or similar benefit to any customer, supplier, competitor or governmental employee or official which would subject Company to any damage or penalty in any civil, criminal or governmental litigation or proceeding and which might reasonably be expected to have a Material Adverse Effect, or (b) acted in any other unlawful manner with, to, or in connection with Company's customers, suppliers, or competitors which might reasonably be expected to have a Material Adverse Effect.

3.26 Condition of Tangible Assets and Inventories.

(a) All items of Fixtures and Equipment currently used by the Company, including without limitation, those shown on the Year-End Balance Sheet, are in good operational condition, reasonable wear and tear excepted, have been regularly and properly serviced and maintained in a manner that would not void or limit the coverage of any warranty thereon, other than items currently under, or scheduled for, repair or construction, and are

adequate and fit to be used for the purposes for which they are currently used in the manner they are currently used.

(b) The assets that the Company owns or has the right to use constitute all of the assets, tangible and intangible, of any nature whatsoever, necessary to operate the Company's business in the manner presently operated by the Company.

3.27 Accounts Receivables. All of the Accounts Receivable owing to the Company on the date hereof constitute (and those owing to the Company on the Closing Date will constitute) valid and enforceable claims arising from bona fide transactions in the Ordinary Course of Business. To the Company's Knowledge, no account debtor has refused or threatened to refuse to pay its obligations for any reason, or is insolvent or bankrupt. There is no material contest, claim, defense or right of setoff, other than returns in the Ordinary Course of Business, under any Contract with any account debtor of an Account Receivable relating to the amount or validity of such Account Receivable. Schedule 3.27 contains a complete and accurate list of all Accounts Receivable as of the date of the Year-End Balance Sheet, which list sets forth the aging of each such Account Receivable.

3.28 Accounts Payable. All accounts payable of the Company are legal, valid and binding obligations of the Company, and were incurred in the Ordinary Course of Business. Schedule 3.28 sets forth an accurate list of all accounts payable of the Company as of the date two business days prior to the date hereof, reflecting agings per account payable, in categories of 30, 60, 90 and more than 90 days after the date of invoice.

3.29 Bank Accounts. Schedule 3.29 sets forth the names and locations of all banks, trust companies, savings and loan associations and other financial institutions at which the Company maintains accounts of any nature, the account numbers of all such accounts and the names of all persons authorized to draw thereon or make withdrawals therefrom.

3.30 Powers of Attorney; Guarantees. The Company has no obligation to act under any outstanding power of attorney or any obligation or liability, either accrued, accruing or contingent, as guarantor, surety, consignor, endorser (other than for purposes of collection in the Ordinary Course of Business of the Company), co-maker or indemnitor in respect of the obligation of any person, corporation, partnership, joint venture, association, organization or other entity.

3.31 Relations with Customers and Suppliers. Within the twelve (12) months prior to the date hereof (a) no supplier of the Company has canceled any Contract or order for provisions of, and there has been no threat by any such supplier to cancel any Contract or order or not to provide, products, supplies or services (including utilities) to the Company in the future; (b) no customer of the Company has canceled any Contract or order for goods and services, and there has been no threat by any customer to cancel any Contract or order for or not to purchase goods or services of the Company in the future and (c) neither the Company nor any Seller is aware of anything that would lead the Company to reasonably conclude that any supplier or customer relationship may be in jeopardy.

3.32 Brokerage. Except for Perry Morren and Trinity Business Partners, who are to be paid by Sellers via separate agreement, no broker or finder has acted, directly or indirectly, for any Seller or the Company, nor has the Company incurred any obligation to pay any brokerage or finder's fee or other commission or similar fee in connection with the transactions contemplated by this Agreement.

3.33 Materials and Information. All cost estimates, forecasts, projections and other forward looking information regarding the Company that have been provided to Buyer and its Representatives, were prepared in good faith based upon assumptions believed to be reasonable at the time. To the Knowledge of the Company, there is no reason to believe that any of the assumptions reflected in such cost estimates, forecasts, projections or other predictions or forward looking information are no longer reasonable or accurate as of the date hereof.

3.34 Accuracy of Representations. No representation, statement, or information contained in this Agreement (including the Schedules) or any Contract or document executed in connection herewith or delivered pursuant hereto or thereto or made available or furnished to Buyer or its Representatives by the Company, any Seller or their Representatives contains or will contain any untrue statement of a material fact or omits or will omit a material fact necessary to make the information contained therein not misleading. The Company has provided Buyer with correct and complete copies of all documents listed or described in the Schedules relating to the Company's representations and warranties. To the Knowledge of the Company, there is no impending change in the Business or in any Applicable Law affecting the Business that has resulted in or is reasonably likely to result in a Material Adverse Effect.

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE TRANSACTIONS CONTEMPLATED HEREIN ARE "AS-IS, WHERE-IS, AND WITH ALL FAULTS." NOTHING IN THE FOREGOING SENTENCE SHALL BE DEEMED TO RELIEVE THE COMPANY OR SELLERS OF ANY BREACH OF OR INACCURACY IN ANY OF THE REPRESENTATIONS, WARRANTIES, COVENANTS OR AGREEMENTS CONTAINED HEREIN OR FOR FRAUD OR INTENTIONAL MISREPRESENTATION.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers that the following statements are true as of the date hereof and shall be true on the Closing Date as if made thereon:

4.1 Due Incorporation. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of California. Buyer has all necessary corporate power and corporate authority to own or use the properties and assets that it purports to own or use, and to execute and deliver this Agreement and the Transaction Documents and to perform its obligations hereunder and thereunder.

4.2 Authority. Buyer has all requisite corporate power and corporate authority, and has taken all corporate action necessary, to execute and deliver this Agreement and the Transaction Documents, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. This Agreement has been duly authorized,

executed and delivered by Buyer and (assuming the due authorization, execution and delivery by Seller) constitutes the legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with its terms. Each of the Transaction Documents will, when duly authorized, executed and delivered at the Closing by Buyer (and assuming the due authorization, execution and delivery by the other parties thereto), constitute the legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with its terms.

4.3 Consents and Approvals. The execution and delivery by Buyer of this Agreement and each Transaction Document, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby do not require Buyer to obtain any consent, approval or action of, or make any filing with or give any notice to, any Person.

4.4 No Breach. The execution, delivery and performance of this Agreement and each Transaction Document does not and will not, directly or indirectly (with or without notice or lapse of time) (a) conflict with or violate any provision of the Articles of Incorporation, Bylaws or other organizational documents of Buyer; (b) conflict with, violate, result in a breach of, or cause a default under (i) any provision of Applicable Law relating to Buyer; or (ii) any provision of any Order to which Buyer is subject; or (c) (i) require a consent, approval or waiver from, or notice to, any party to any material contract to which Buyer is a party; or (ii) result in a breach of or cause a default under any provision of a material contract to which Buyer or any Affiliate thereof is a party.

ARTICLE 5 COVENANTS AND AGREEMENTS OF SELLERS AND BUYER

5.1 Conduct of Business. Between the date of this Agreement and the Closing, the Company shall (i) conduct its business only in the Ordinary Course of Business, (ii) use its commercially reasonable efforts to preserve intact its current business organization, keep available the services of its officers, employees and agents and maintain its relations and good will with suppliers, customers, landlords, creditors, employees, agents and others having business relationships with it, (iii) keep all insurance policies currently maintained, or suitable replacements therefor, in full force and effect and (iv) not engage in any practice, take any action, or enter into any transaction which, if engaged in, taken or entered into at any time between the date of the Interim Balance Sheet and the date hereof would constitute a breach of Section 3.9 if not disclosed pursuant thereto. Prior to the Closing, the Company shall terminate its agreement with Charles Immel and any and all lines of credit.

5.2 Efforts to Close. From the date hereof through the Closing Date, Sellers shall use commercially reasonable efforts to take, or cause to be taken, all actions, and shall do, or cause to be done, all things necessary, proper or advisable to consummate and make effective as promptly as practicable the transactions contemplated hereby, including, without limitation, using best efforts to (a) satisfy the conditions precedent to consummation of the transactions contemplated by this Agreement, (b) obtain all waivers, licenses, agreements, permits, consents, approvals or authorizations of third parties or Governmental Authorities and any modifications or amendments to existing agreements with third parties or Governmental Authorities necessary

to consummate the transaction contemplated by this Agreement and (c) cooperate with Buyer in connection with the foregoing.

5.3 Continued Effectiveness of Representations and Warranties of Sellers. From the date hereof through the Closing Date, (a) each Seller shall use commercially reasonable efforts to conduct such Seller's affairs, and cause Company to conduct its affairs in such a manner so that, except as otherwise contemplated or permitted by this Agreement, the representations and warranties contained in Article 3 shall continue to be true and correct on and as of the Closing Date as if made on and as of the Closing Date, and (b) Sellers shall promptly notify Buyer of any event, condition or circumstance occurring from the date hereof through the Closing Date that would constitute a violation or breach of this Agreement by Sellers or the Company and of any changes to the Schedules; provided, however, that such disclosure shall not be deemed to cure any breach of a representation, warranty, covenant or agreement or to satisfy any condition.

5.4 Termination of 401(k) Plan. Effective no later than the day immediately preceding the Closing Date, Sellers shall cause the Company to terminate any and all Employee Plans intended to include a Code Section 401(k) arrangement (each a "Company 401(k) Plan"). The Seller Representative shall provide Buyer with a copy of the resolutions of the Company's board of directors terminating the Company 401(k) Plan in accordance with this Section 5.4, which shall be subject to reasonable prior review and comment by Buyer prior to its approval by the Company's board of directors.

5.5 Corporate Examinations and Investigations. From the date herein through the Closing Date, Buyer and its Representatives shall be entitled, to make such investigation of the assets, liabilities, properties, business and operations of the Company, and such examination of the books, records and financial condition of the Company, as Buyer reasonably determines is necessary. Sellers shall furnish Buyer with such additional financial, operating and other relevant data and information as Buyer may reasonably request; and otherwise cooperate and assist, to the extent reasonably requested by Buyer, with Buyer's investigation of the properties, assets and financial condition related to Sellers. In addition, Buyer shall have the right to have the Leased Property and Tangible Personal Property inspected by its Representatives, at Buyer's sole cost and expense, for purposes of determining the physical condition and legal characteristics of the Leased Property and Tangible Personal Property. In the event subsurface or other destructive testing is recommended by any of Buyer's Representatives, Buyer shall be permitted to have the same performed. Sellers shall arrange for Buyer and its Representatives to contact the Company's customers, suppliers and other business relationships for the purpose of ascertaining that the condition set forth in Section 7.9 has been satisfied.

5.6 Expenses. Sellers, on the one hand, and Buyer, on the other hand, shall bear all expenses incurred on their behalf in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, without limitation, all fees and expenses of their Representatives. In addition, Sellers shall pay all Closing Company Expenses promptly following the Closing.

5.7 Post-Closing Restrictive Covenants.

(a) For a period of eight (8) years after the Closing, no Seller shall, nor shall he permit any of his Affiliates to, directly or indirectly, within each county in the State of Texas, and in every other State of the United States (it being acknowledged by the parties that the Company does business throughout the United States), (i) own, manage, be employed, by, finance, operate, or control any Person that engages in a business competitive with the Business, (ii) engage in any activity which is in competition with the Business or (iii) interfere with, disrupt or attempt to disrupt the relationship, contractual or otherwise, between Buyer and any customer or prospective customer, supplier or employee of Buyer. Notwithstanding anything in this Agreement to the contrary: (i) each Seller may own or hold, as a passive investment, not more than two percent (2%) of the outstanding securities of any person or entity engaged in a business which is competitive with the Company if the securities of such a person or entity are publicly traded.

(b) For a period of eight (8) years following the Closing Date, no Seller shall, nor shall he permit any of his Affiliates to, directly or indirectly, induce or attempt to induce any employee of the Company or any Affiliate thereof engaged in the Business to leave the employ of such Person.

(c) Each Seller agrees on behalf of himself and his Affiliates that at no time following the Closing shall any of such Persons make statements intended to or reasonably likely to be deemed to disparage, discredit or otherwise adversely reflect upon the reputation and public image of the Company or Buyer, their respective Affiliates or any directors, officers or employees thereof or any direct or indirect investor therein.

(d) For a period of eight (8) years following the Closing Date, each Seller will, and will cause his Affiliates to, hold in strict confidence, and will not use to the detriment of the Company or Buyer or any of their respective Affiliates, any confidential information with respect to the Company. Notwithstanding the foregoing, a Seller may disclose such confidential information (i) if compelled to disclose the same by judicial or administrative process or by other requirements of law, (ii) if the same hereafter is in the public domain through no fault of such Seller, or (iii) if the same is later acquired by such Seller from another source and to such Seller's knowledge such source is under no obligation to keep such information confidential. If a Seller or any Affiliate thereof becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demands, or similar process) or required by a regulatory body to make any disclosure that is prohibited by this Section 5.7, such Seller shall provide Buyer and the Company with prompt notice (to the extent such notice is not prohibited by law) of such requirement so that Buyer and Company may seek an appropriate protective order or other appropriate remedy. Subject to the foregoing, Sellers or their Affiliate may furnish that portion (and only that portion) of such information that it is legally compelled or otherwise required to disclose.

(e) The parties agree that the restrictions contained in Section 5.7(a) are reasonable in scope, duration and otherwise. If any provision contained in Section 5.7(a) is nonetheless held by any court or arbitrator of competent jurisdiction to be unenforceable because of the duration of such provision, the geographic area covered thereby or otherwise, the powers agree that the court or arbitrator making such determination shall have the power to, and is hereby directed by the parties to, reduce the duration or geographic area of such provision or

otherwise modify such provision, and, in its reduced or modified form, such provision shall be enforceable.

(f) Notwithstanding anything to the contrary in this Agreement, in the event of a breach or threatened breach of this Section 5.7 or Section 11.16 hereof, a party hereto may, in addition to other rights and remedies existing in their favor, apply to a court of competent jurisdiction in accordance for specific performance and/or injunctive or other relief in order to enforce, or prevent any violations of, the provisions of this Section 5.7 or Section 11.16 (without posting a bond or other security).

(g) As the consideration for the covenants of Sellers under this Section 5.7, Buyer shall pay to Sellers at the Closing (pro rata in accordance with the percentages set forth in Schedule 3.4(b)) the aggregate sum of [REDACTED], which shall be independent of the Purchase Price.

5.8 Tax Matters.

(a) Each Seller shall be responsible for, and shall indemnify Buyer and the Company and hold them harmless from and against (without duplication), any and all Losses attributable to (i) all Taxes (or the non-payment thereof) of the Company for all taxable periods or portion thereof ending on or before the Closing Date and the portion through the end of the Closing Date for any taxable period that includes (but does not end on) the Closing Date (each a "Pre-Closing Period"), (ii) all Taxes of any member of an affiliated, consolidated, combined or unitary group of which the Company is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation §1.1502-6 or any analogous or similar state, local, or foreign law or regulation, and (iii) any and all Taxes of any Person (other than the Company) imposed on the Company as a transferee or successor, by contract or pursuant to any Law, rule, or regulation, which Taxes relate to an event or transaction occurring before the Closing. In the case of any taxable period that includes but does not end on the Closing Date (a "Straddle Period"), the amount of any Taxes based on or measured by income or receipts of the Company for the Pre-Closing Period and/or Post-Closing Period (as defined below) shall be determined based on an interim closing of the books as of the close of business on the Closing Date and the amount of other Taxes of the Company for a Straddle Period that relates to the Pre-Closing Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period ending on the Closing Date, and the denominator of which is the number of days in such Straddle Period.

(b) Sellers or Sellers' designee shall be entitled to reasonable access all books, records, and other information pertinent to the taxes of the Company for purposes of filing tax returns, responding to audits, and otherwise preparing tax related information for periods prior to the Closing. Sellers Representative, at Sellers' expense, shall be entitled to participate in and consult with Buyer with respect to any Tax audit or examination relating to Tax items and issues of the Company for which, in the reasonable opinion of Buyer, Sellers are or may be liable under Section 9.1.

(c) At the Sellers' sole expense, the Seller Representative shall cause to be prepared and filed all federal and state income tax returns required to be filed by the Company

for taxable periods ending prior to or on the Closing Date which are to be filed after the Closing Date (the "Sellers Returns"). The Sellers Returns shall be prepared in a manner consistent with the Company's past practice except as otherwise required by applicable law. The Seller Representative shall submit to Buyer, at least thirty (30) days prior to any applicable deadlines, the Sellers Returns and copies of all workpapers and calculations to support the Sellers Returns. Upon Buyer's approval of the Sellers Returns (which approval may not be unreasonably withheld or delayed), Buyer will cause duly authorized officers of the Company timely to execute such Sellers Returns and Sellers shall remit to Buyer payment of the amount shown as due and owing on such Sellers Returns.

(d) Sellers, jointly and severally, agree to pay to Buyer no later than one day following the Closing, by wire transfer of immediately available funds to an account designated in writing by Buyer to the Sellers Representative, the sum of [REDACTED], it being acknowledged that such amount represents an adjustment to the Purchase Price by reason of the additional income that the Company may be required to include for all taxable years ending after September 30, 2011 resulting from the change in accounting method disclosed in schedule 3.12(j).

5.9 Seller Representative. Each Seller hereby authorizes, directs and appoints Mark H. Immel as the "Seller Representative" to act as sole and exclusive agent, attorney-in-fact and representative of Sellers, with full power of substitution, with respect to all matters under this Agreement, the Escrow Agreement, the Purchase Note and the Security Agreement, and to engage and employ Representatives and to incur such other expenses as the Seller Representative shall reasonably deem necessary or prudent in connection with the foregoing. Without limiting the foregoing, it is specifically agreed that the Seller Representative shall have the sole and exclusive right on behalf of Sellers to take any action or provide any waiver, or receive and give any notice, with respect to the working capital adjustment under Section 1.3, the tax matters set forth in Section 5.8, and the indemnification provisions set forth in Article 9. Any such actions taken, exercises of rights, power or authority, and any decision or determination made by the Seller Representative consistent herewith, shall be absolutely and irrevocably binding on each Seller as if such Person personally had taken such action, exercised such rights, power or authority or made such decision or determination in such Person's individual capacity, and no Person shall have the right to object, dissent, protest or otherwise contest the same. It is also specifically agreed that the Seller Representative shall act as the collateral agent of Sellers for purposes of the collateral under the Security Agreement and that the Seller Representative is hereby authorized to subordinate Sellers' interest in the collateral to any lender of Buyer as provided in the Security Agreement. In the event of the Seller Representative's death, or any mental or physical incapacity that would render him unable to perform his functions as the Seller Representative pursuant to the terms and conditions of this Agreement, John M. Immel shall act as the successor Seller Representative. Buyer is a third party beneficiary of this Section 5.9 and no amendment hereto or waiver hereof shall be made without Buyer's prior written consent.

ARTICLE 6
CONDITIONS TO THE OBLIGATIONS OF SELLERS

The obligation of Sellers to enter into and complete the Closing is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by him, to the extent permitted by law:

6.1 Representations and Warranties. The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects (other than representations or warranties that contain materiality or knowledge standards or qualifications, which such representations and warranties shall be true and correct in all respects) on and as of the Closing Date as though made at and as of that date, except for those representations and warranties which refer to facts existing at a specific date (which shall be true and correct as of such date) and Buyer shall have delivered to Seller a certificate to such effect.

6.2 Compliance with Covenants. Buyer shall have performed and complied with all terms, agreements, covenants and conditions of this Agreement to be performed or complied with by it on or prior to the Closing Date in all material respects and Buyer shall have delivered to Seller a certificate to such effect.

6.3 Absence of Adverse Governmental Action. No Action shall have been taken, proposed or threatened and no statute, rule, regulation or order shall have been proposed, enacted or entered by any Governmental Authority or by any court with jurisdiction over the transaction contemplated herein which threatens to prohibit or unduly delay consummation of such transaction on the terms and provisions herein set forth.

6.4 Other Documents. Buyer shall have delivered the documents, instruments, certificates and other items identified in Section 2.3.

6.5 Approval of Documentation. The form and substance of all certificates, instruments, Transaction Documents and other documents delivered by Buyer to Sellers under this Agreement shall be satisfactory in all reasonable respects to Sellers and their counsel.

ARTICLE 7
CONDITIONS TO THE OBLIGATIONS OF BUYER

The obligation of Buyer to enter into and complete the Closing is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by it, to the extent permitted by law:

7.1 Representations and Warranties. The representations and warranties of Sellers and the Company contained in this Agreement shall be true and correct in all material respects (other than representations or warranties that contain materiality or knowledge standards or qualifications, which such representations and warranties shall be true and correct in all respects) on and as of the Closing Date as though made at and as of that date, except for those representations and warranties which refer to facts existing at a specific date (which shall be true and correct as of such date), and Seller shall have delivered to Buyer a certificate to such effect.

7.2 Compliance with Covenants. Sellers and the Company shall have performed and complied with all terms, agreements, covenants and conditions of this Agreement to be performed or complied by such Person on or prior to the Closing Date in all material respects and Seller shall have delivered to Buyer a certificate to that effect.

7.3 Litigation. On the Closing Date, there shall be no litigation, proceeding or investigation pending or threatened pertaining to the transactions contemplated by this Agreement or to its consummation, or which, if decided adversely, would materially affect the value of the Company or the right of the Company to retain its properties or to continue the operation of its business.

7.4 Absence of Adverse Governmental Action. No Action shall have been taken, proposed or threatened and no statute, rule, regulation or order shall have been proposed, enacted or entered by any Governmental Authority, including without limitation, by any court with jurisdiction over any transaction contemplated herein, which threatens to prohibit or unduly delay consummation of such transaction on the terms and provisions herein set forth.

7.5 Consents and Approvals. All consents, approvals, and notices set forth on Schedule 7.5 shall have been obtained or given, as applicable, and shall be in full force and effect and without conditions or limitations which restrict the ability of the parties hereto to carry out the transactions contemplated hereby, and Buyer shall have been furnished with appropriate evidence, reasonably satisfactory to it and its counsel, of the granting of same.

7.6 Due Diligence Review. Buyer shall have completed a due diligence review of the Company and shall be satisfied with the results thereof. Such review shall have no effect whatsoever on the liability of Seller to Buyer under this Agreement or otherwise for breach of any representations, warranties, or covenants.

7.7 Minimum Cash. The Company shall have Cash on Hand of no less than [REDACTED]

7.8 No Material Adverse Effect. Since the date hereof through the Closing Date, there shall not have been any Material Adverse Effect with regard to the Company, and the Company shall not have sustained any material loss or damage, whether or not insured.

7.9 Other Documents. Sellers shall have delivered the documents, instruments, certificates and other items identified in Section 2.2.

7.10 Approval of Documentation. The form and substance of all certificates, instruments, Transaction Documents and other documents delivered by Sellers to Buyer under this Agreement shall be satisfactory in all reasonable respects to Buyer and its counsel.

ARTICLE 8 SURVIVAL

No covenant or agreement contained herein to be performed prior to the Closing Date shall survive the Closing Date and any covenant and agreement to be performed after the Closing Date shall survive the Closing indefinitely, except as otherwise provided herein. Except as

expressly provided otherwise herein, each representation and warranty contained herein shall survive the Closing until, and will expire and be of no force and effect on the second (2nd) anniversary of the Closing Date (the "General Survival Period"), with the exception of (A) each representation and warranty contained in Sections 3.1 (Organization and Standing), 3.2 (Authority), 3.4 (Capitalization), 4.1 (Due Incorporation) and 4.2 (Authority) and claims for breach of representations and warranties based on fraud or intentional misrepresentation which shall survive the Closing indefinitely, (B) each representation and warranty contained in Sections 3.10 (Title to Properties), 3.14(f) (Charles Immel Agreement; line of credit), 3.15 (Environmental), and 3.32 (Brokerage), which shall survive the Closing for five (5) years and (C) each of the representations and warranties contained in Sections 3.12 (Tax Matters) and 3.20 (Employee Benefits), which shall survive until sixty (60) days following the conclusion of the statutory period of limitations applicable to the underlying claim. The time periods referenced in this Article 8 shall also hereinafter be referred to as the "Survival Period."

ARTICLE 9 INDEMNIFICATION

9.1 Obligation to Indemnify.

(a) Sellers, jointly and severally, shall indemnify, defend and hold harmless Buyer and its Affiliates (including, without limitation, following the Closing, the Company), Representatives and assigns (the "Buyer Indemnified Parties") from and against all Losses incurred by any Buyer Indemnified party resulting from or arising out of (i) any inaccuracy in or any breach of any representation, warranty, covenant or agreement of any Seller or the Company contained in this Agreement or any Transaction Document, (ii) any Closing Company Indebtedness or Closing Company Expenses, (iii) facts or circumstances existing or arising prior to the Closing, including, without limitation, the Actions described in Schedule 3.21(a), including any actions ancillary thereto (the "Scheduled Litigation") or (iv) Undisclosed Liabilities, including, without limitation, environmental liabilities, tax liabilities, and claims arising from product liabilities.

(b) Buyer agrees to indemnify, defend and hold harmless Sellers from and against all Losses resulting from or arising out of any inaccuracy in or any breach of any representation, warranty, covenant or agreement of Buyer contained in this Agreement or any Transaction Document.

9.2 Limitations.

(a) Neither party may assert a claim for Losses for which indemnification otherwise would be available under this Article 9 after the expiration of the applicable Survival Periods; provided, that, to the extent an Indemnitee (as defined below) asserts any claim for indemnification prior to the expiration of the related Survival Period which has not been definitively resolved by the expiration of such Survival Period, Indemnitee's indemnification rights as to such claim shall survive such expiration until definitively resolved as provided in this Article 9.

(b) Subject to Section 9.2(c), Sellers shall not be required to provide indemnification for any inaccuracy in or any breach of any representation or warranty of Sellers or the Company set forth in Article 3 hereof:

(i) with respect to Losses unless and until the aggregate amount of Losses for which Buyer seeks indemnification first exceeds [REDACTED] (the "Basket Amount"), in which event Buyer shall be entitled to indemnification for all Losses from the first dollar thereof; or

(ii) for aggregate Losses in excess of [REDACTED]

(c) The limitations set forth in Sections 9.2(b)(i) and (ii) shall not apply to the extent such Losses result from (i) fraud or intentional misrepresentation by any Seller or the Company or (ii) breaches of the representations and warranties that are not subject to the General Survival Period.

9.3 Notice of Asserted Liability.

(a) Promptly after either Buyer or any Seller becomes aware of any fact, condition or event that may give rise to Losses for which indemnification may be sought under this Article 9, the party entitled to indemnification ("Indemnitee") shall give written notice thereof in the manner provided in Section 11.1 (the "Claims Notice") to the other party ("Indemnitor"). The Claims Notice shall include a description in reasonable detail of any claim by or the commencement (or threatened commencement) of any action, proceeding or investigation against Indemnitee (an "Asserted Liability"), and shall indicate the amount (estimated, if necessary) of the Losses that have been or may be suffered by Indemnitee. Failure of Indemnitee to promptly give notice hereunder shall not affect rights to indemnification hereunder, except to the extent that Indemnitor demonstrates actual damage caused by such failure (e.g., the loss of rights or defenses). Upon Indemnitor's request, Indemnitee shall provide Indemnitor with such reasonable documentation as Indemnitor shall request pertaining to any claim.

(b) Within twenty (20) days after delivery of a Claims Notice, Indemnitor may, upon written notice thereof to Indemnitee, assume control of the defense of such Asserted Liability at its own expense with counsel reasonably satisfactory to Indemnitee, so long as Indemnitor agrees in writing to fully indemnify Indemnitee for any and all Losses in respect of such Asserted Liability and Indemnitor conducts the defense of the Asserted Liability actively and diligently; provided, however, that Indemnitor shall not have the right to assume the defense of an Asserted Liability if (i) any such Asserted Liability seeks, in addition to or in lieu of monetary losses, any injunctive or other equitable relief, (ii) the amount of the Losses that may result from such Asserted Liability exceed Indemnitor's indemnification obligation hereunder, (iii) settlement of, or an adverse judgment with respect to, the Asserted Liability may establish (in the good faith judgment of Indemnitee) a precedential custom or practice adverse to the business interests of Indemnitee or would increase the liability for Taxes of Indemnity, (iv) the Asserted Liability seeks criminal sanctions against Indemnitee, (v) the Indemnitee reasonably believes that an adverse determination of such proceeding could be detrimental to or injure the Indemnitee's reputation or future business prospects; (vi) the Indemnitee reasonably believes that

there exists or could arise a conflict of interest that, under applicable principles of legal ethics, could prohibit a single legal counsel from representing both the Indemnitee and Indemnitor in such proceeding; or (iv) Indemnitor has failed or is failing to prosecute or defend vigorously such claim. The party not controlling such defense may participate therein at its own expense; provided, that, if Indemnitor assumes control of such defense and (i) Indemnitee reasonably concludes that Indemnitor and Indemnity have a conflict of interest or different defenses available with respect to such Asserted Liability, or (ii) Indemnitor has not in fact employed counsel to assume control of such defense, the reasonable fees and expenses of counsel to Indemnitee (limited to one law firm) shall be considered "Losses," as applicable for purposes of this Agreement.

(c) The parties hereto shall cooperate in the defense or prosecution of any Asserted Liability, with such cooperation to include (i) the retention and the provision of Indemnitor records and information that are reasonably relevant to such Asserted Liability, and (ii) the making available of employees on a mutually convenient basis for proving additional information and explanation of any material provided hereunder.

9.4 Opportunity to Defend. Indemnitor may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Liability; provided, however, that Indemnitor may not compromise or settle any Asserted Liability without the consent of Indemnitee, such consent not to be unreasonably withheld or delayed. If Indemnitor elects to compromise or defend such Asserted Liability, it shall within fifteen (15) days (or sooner, if the nature of the Asserted Liability so requires) notify Indemnitee of its intent to do so and Indemnitee shall cooperate in the compromise of, or defense against, such Asserted Liability. If Indemnitor elects not to compromise or defend any Asserted Liability, fails to notify Indemnitee of its election as herein provided or contests its obligation to indemnify or fails to defend in good faith and with diligence, Indemnitee may pay, compromise or defend such Asserted Liability without prejudice to any right it may have hereunder.

9.5 Tax Adjustment. Any amounts payable by Indemnitor to or on behalf of an Indemnitee in respect of a Loss will be adjusted as follows: If an Indemnitee is liable for any additional taxes as a result of the payment of amounts in respect of an indemnifiable claim, Indemnitor will pay to Indemnitee in addition to such amounts in respect of the loss within ten (10) days after being notified by Indemnitee of the payment of such liability (x) an amount equal to such additional taxes (the "Tax Reimbursement Amount") plus (y) any additional amounts required to pay additional taxes imposed with respect to the Tax Reimbursement Amount and with respect to amounts payable under this clause (y), with the result that Indemnitee will have received from Indemnitor, net of the payment of taxes, an amount equal to the loss.

9.6 No Contribution. Anything to the contrary herein notwithstanding, Sellers shall not have any right to seek any indemnification or contribution from or remedy against the Company whether arising prior to or after the Closing Date in respect of any breach of any representation or warranty by the Company or the failure of the Company to comply with any covenant or agreement to be performed by the Company on or prior to the Closing Date and Seller hereby waives any such claim he may have against the Company with respect thereto whether at law, in equity or otherwise.

9.7 Buyer's Right of Offset. Notwithstanding any other provision in this Agreement, Buyer may, in good faith, withhold and set off against any amounts due to Sellers, whether under this Agreement or any other Transaction Document, that amount as to which any Seller is obligated to indemnify Buyer pursuant to this Article 9 and/or, without limiting the foregoing, the amount any Seller is obligated to pay Buyer pursuant to Section 5.8(d). Buyer's exercise of such right of offset, whether or not ultimately determined to be justified, will not constitute an event of default under the Purchase Note, unless such exercise shall be determined by a non-appealable order of a court of competent jurisdiction to be other than in good faith. Neither the exercise of nor the failure to exercise such right of set-off will constitute an election of remedies or limit Buyer in any manner in the enforcement of any other remedies that may be available to it.

9.8 Scheduled Litigation. Notwithstanding the foregoing provisions of this Section 9, including, without limitation, Sections 9.3 and 9.4, the parties acknowledge and agree that the Buyer Indemnified Parties shall have the exclusive right to defend, compromise and settle the Scheduled Litigation, and otherwise take any actions in connection therewith, without the approval of Sellers. The Buyer Indemnified Parties shall have the right to collect from escrow under the Escrow Agreement, without approval from Sellers, all Losses related to the Scheduled Litigation. To the extent that the Escrow Amount is insufficient to cover such Losses, the Buyer Indemnified Parties may offset such amount against amounts otherwise payable to Sellers under the Transaction Documents and/or may collect such amount from any Seller directly.

9.9 Exclusive Remedy. Following the Closing, except with respect to claims based upon fraud or as otherwise provided in this Agreement or the Transaction Documents, the indemnification provided by this Article 9 shall be the sole and exclusive remedy for any Losses with respect to this Agreement and any exhibit or schedule hereto or any certificate delivered hereunder.

9.10 Effect of Waiver. A party's right to indemnity pursuant to this Article 9 shall not be adversely affected by its waiver of a condition to closing set forth in Article 6 or 7, as applicable, unless such party makes clear by the terms of its waiver that it is foreclosing its right to indemnity with respect to the matter that is the subject of the waiver.

ARTICLE 10 TERMINATION OF AGREEMENT

10.1 Termination. This Agreement may be terminated prior to the Closing as follows:

(a) At the election of Sellers, if any one or more of the conditions to their obligation to close has not been fulfilled as of October 7, 2011, unless such fulfillment has been frustrated or made impossible by any breach of the terms of this Agreement by any Seller;

(b) At the election of Buyer, if any one or more of the conditions to its obligation to close has not been fulfilled as of October 7, 2011, unless such fulfillment has been frustrated or made impossible by any breach of the terms of this Agreement by Buyer;

(c) At the election of Sellers, if Buyer has breached any material representation, warranty, covenant or agreement contained in this Agreement, and such breach remains uncured ten (10) days after written notice from Sellers of such failure;

(d) At the election of Buyer, if any Seller or the Company has breached any material representation, warranty, covenant or agreement contained in this Agreement, and such breach remains uncured ten (10) days after written notice from Buyer of such failure;

(e) At the election of Sellers, on the one hand, or Buyer, on the other hand, if any action, suit or proceeding shall have been instituted and be continuing by any Governmental Authority with proper authority to restrain, modify or prohibit the carrying out of the transactions contemplated hereby; or

(f) At any time on or prior to the Closing Date, by mutual written consent of Sellers and Buyer.

In the event that Buyer or Sellers, as the case may be, elects to terminate this Agreement pursuant to Section 10.1(a), (b), (c), (d) or (e) hereof, the terminating party shall deliver a notice to the other party to this Agreement declaring its election to so terminate this Agreement in accordance with the provisions of Section 10.1(a), (b), (c), (d) or (e), as the case may be, and setting forth therein the basis for such termination. If this Agreement so terminates, it shall become null and void and have no further force or effect, except as provided in Section 10.2.

10.2 Survival. If this Agreement is terminated and the transactions contemplated hereby are not consummated as described in Section 10.1, this Agreement shall become void and of no further force and effect except for the provisions of Section 5.6 and Article 11; it being specifically acknowledged that Section 11 (Confidentiality) of that certain Letter of Intent regarding the Proposed Acquisition of the Stock of CMI Rubber Co., dated June 2, 2011, by and between Buyer and the Company shall survive the termination of this Agreement in accordance with its terms. None of the parties hereto shall have any liability in respect to a termination of this Agreement pursuant to this Article 10, except to the extent that failure to satisfy the conditions of Articles 6 and 7 results from the intentional or willful breach or violation of the representations, warranties, covenants or agreements of such party under this Agreement. For purposes of the preceding sentence, the failure of any party to comply with its respective obligations under Articles 1 and 2 promptly after all conditions to such compliance shall have been fulfilled, shall constitute an intentional or willful violation of the agreement herein contained by such failing party. Notwithstanding the foregoing, and in addition thereto, in the event that this Agreement is terminated by Buyer because material information provided by Sellers or the Company as part of Buyer's due diligence process in connection herewith was fraudulent or constituted an intentional material misrepresentation, each Seller and the Company, jointly and severally, shall, in addition, be liable to reimburse, and shall reimburse, Buyer for its reasonable out-of-pocket expenses relating to this transaction (which shall include, among other things, legal and accounting fees).

ARTICLE 11
MISCELLANEOUS

11.1 Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed given or delivered (a) when delivered personally, against written receipt, (b) if sent by registered or certified mail, return receipt requested, postage prepaid, when received, (c) when received by electronic transmission, if confirmed by the other means described in clause (a) or (b), and (d) when delivered by a nationally recognized overnight courier service, prepaid, and shall be addressed as follows:

If to Buyer to:

Sanders Industries
3701 Conant Drive
Long Beach, California 90808
Attention: Richard M. Ginsburg
Email: rginsburg@sandersind.com

With a copy to:

Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071
Attention: Lawrence M. Braun, Esq.
Email: lbraun@sheppardmullin.com

If to any Seller or the Company, to the Seller Representative:

Mark H. Immel
1521 Briardale Dr.
Lucas, Texas 75002
Email: caimmel@sbcglobal.net

With a copy to:

Basinger Leggett Clemons Bowling
5700 Granite Parkway, Suite 950
Plano, Texas 75024
Attention: Dewey B. Leggett
Email: dleggett@blcblaw.com

Any party may by notice given in accordance with this Section 11.1 to the other parties designate another address or Person for receipt of notices hereunder.

11.2 Entire Agreement. This Agreement (including the Annexes, Exhibits and Schedules hereto), and the Transaction Documents contain the entire agreement of the parties with respect to the purchase of the Stock and related transactions, and supersedes all prior

agreements written or oral with respect thereto (other than Section 11 (Confidentiality) of that certain Letter of Intent regarding the Proposed Acquisition of the Stock of CMI Rubber Co., dated June 2, 2011, by and between Buyer and the Company, which provision shall terminate upon the Closing).

11.3 Waivers and Amendments; Remedies. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed by Buyer and Sellers or, in the case of a waiver, by the party waiving compliance. The failure of any party to insist, in any one or more instances, upon performance of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any right granted hereunder or of the future performance of any such term, covenant or condition. No waiver on the part of any party of any right, power or privilege, nor any 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. The rights and remedies of any party based upon, arising out of or otherwise in respect of any inaccuracy in or breach of any representation, warranty, covenant or agreement contained in this Agreement shall in no way be limited by the fact that the act, omission, occurrence or other state of facts upon which any claim of any such inaccuracy or breach is based may also be the subject matter of any other representation, warranty, covenant or agreement contained in this Agreement (or in any other agreement between the parties) as to which there is no inaccuracy or breach.

11.4 Governing Law; Reference to U.S. Dollars. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of California applicable to agreements made and to be performed entirely within such State. The parties hereby agree that any action, suit, arbitration or other proceeding arising out of or related to this Agreement or any document referenced in this Agreement shall be conducted only in Phoenix, Arizona. Each party hereby irrevocably consents and submits to the personal jurisdiction of and venue in United States District Court serving Phoenix, Arizona in any legal action, equitable suit or other proceeding arising out of or related to this Agreement or any document referenced in this Agreement. All references in this Agreement to amounts of money expressed in dollars are references to United States dollars.

11.5 Binding Effect; Assignment. This Agreement and each Transaction Document shall be binding upon and inure to the benefit of the parties and their respective permitted successors and permitted assigns. Neither this Agreement or any Transaction Document, nor any of the rights hereunder or thereunder, may be assigned by any party, nor may any party delegate any obligations hereunder or thereunder, without the written consent of the other parties hereto or thereto. Any non-permitted assignment or attempted assignment shall be void. Notwithstanding the foregoing, (A) Buyer may without the other parties' prior written consent at any time on or after the date hereof assign all or any of Buyer's rights and obligations under this Agreement and the Transaction Documents to any Affiliate of Buyer and (B) Buyer may without the other parties' prior written consent at any time on or after the date hereof (i) assign this Agreement and the Transaction Documents, and any of Buyer's rights hereunder or thereunder, or delegate any of Buyer's obligations hereunder or thereunder, in connection with (x) any merger, consolidation or recapitalization of Buyer or (y) any sale of a substantial portion of the assets of Buyer or a business or division of Buyer, or (ii) assign Buyer's indemnification rights under this Agreement to Buyer's or its Affiliates lenders.

11.6 No Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to give any Person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. Without limiting the generality of the foregoing, no provision in this Agreement shall create any third party beneficiary or other right in any employee or former employee of the Company (including any beneficiary or dependent thereof) in respect of continued employment (or resumed employment) with the Company or in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan.

11.7 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart of the signature page to this Agreement by facsimile or email with scan attachment shall be as effective as delivery of a manually executed counterpart of this Agreement.

11.8 Effect of Investigations. The representations and warranties of Sellers and the Company shall not be affected or deemed waived by reason of any investigation made (or not made) by or on behalf of the Buyer or by reason of the fact that the Buyer knew or should have known that any such representation or warranty is or might be inaccurate or untrue. Each Seller hereby acknowledges that, regardless of any investigation made (or not made) by or on behalf of the Buyer, and regardless of the results of any such investigation, the Buyer has entered into this transaction in express reliance upon the representations and warranties of Sellers and the Company made herein.

11.9 Schedules and Exhibits. The Schedules and Exhibits attached to this Agreement are a part of this Agreement as if fully set forth herein. All references herein to Sections, paragraphs, Schedules and Exhibits shall be deemed references to such parts of this Agreement unless otherwise specified.

11.10 Headings; Gender and Person. The headings herein are for reference only and shall not affect the interpretation of this Agreement. Whenever the context requires in this Agreement, the masculine pronoun shall include the feminine and the neuter, and the singular shall include the plural.

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

11.12 Time of Essence. Time is of the essence for each and every provision of this Agreement.

11.13 Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or

prevailing party shall be entitled to recover such reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled, as may be awarded by the court or arbitrator.

11.14 No Publicity. From the date of this Agreement, no party shall (nor shall they permit their Affiliates to), without the written approval of the other, make any press release or other public announcement concerning the transactions contemplated by this Agreement, except as and to the extent that any such party shall be so obligated by applicable Law, in which case such party shall allow the other party reasonable time to comment on such release or announcement and the parties shall use their reasonable efforts to cause a mutually agreeable release or announcement to be issued; provided, however, that the foregoing shall not preclude communications or disclosures necessary to implement the provisions of this Agreement or to comply with any Applicable Law; provided, further, that following the Closing Date, the provisions of this Section 11.14 shall not apply to Buyer.


11.15 Mutual Drafting. The parties hereto are sophisticated and have been represented by lawyers throughout the transactions contemplated hereto who have carefully negotiated the provisions hereof. As a consequence, the parties do not intend that the presumptions of California Civil Code Section 1654 and similar laws or rules relating to the interpretation of contracts against the drafter of any particular clause should be applied to this Agreement or any Transaction Document and, therefore, the parties hereby waive their effects.

11.16 Further Assurances. Each party hereto shall execute such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

IN WITNESS WHEREOF, Buyer, the Company and Sellers have duly executed and delivered this Agreement as of the date first above written.

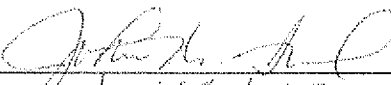
"Buyer"

SANDERS INDUSTRIES, a California corporation

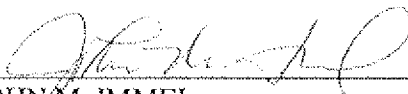
By: 
Richard M. Ginsburg,
Executive Vice President

"Company"

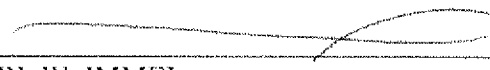
CMI RUBBER COMPANY, INC., a Texas corporation

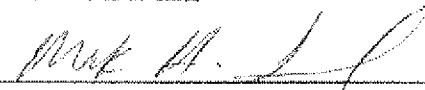
By: 
Name: John M. Immel
Its: PRESIDENT

"Sellers"


JOHN M. IMMEL


JANICE R. IMMEL


KARL W. IMMEL


MARK H. IMMEL


CAROL ANN IMMEL

Signature Page to Stock Purchase Agreement

Annex A

Definitions

As used herein, the terms below shall have the following meanings. Any of such terms, unless the context otherwise requires, may be used in the singular or plural, depending upon the reference.

"Accounting Arbitrator" is defined in Annex B.

"Accounts Receivable" means (a) all bill and unbilled trade accounts receivable and other rights to payment from customers of the Company and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers of the Company, (b) all other accounts or notes receivable of the Company and the full benefit of all security for such accounts or notes and (c) any claim, remedy or other right related to any of the foregoing.

"Actions" is defined in Section 3.21(a).

"Affiliate" means "affiliate" as defined in the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder. In addition, an "Affiliate" of a person includes any family member of such person.

"Affiliated Group" means any affiliated group within the meaning of §1504 of the Code, any group of corporations filing a combined report for purposes of California corporate franchise or corporate income tax, and any similar group defined under a similar provision of state, local or foreign law.

"Agreement" is defined in the preamble hereof.

"Applicable Law" means, with respect to any Person, any domestic or foreign, federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, Order, writ, injunction, directive, judgment, decree, notice requirement or other requirement of any Governmental Authority (including any Environmental Law) applicable to such Person or any of its Affiliates or any of their respective properties, assets, officers, directors, employees, consultants or agents (in connection with such officer's, director's, employee's, consultant's or agent's activities on behalf of such Person or any of its Affiliates).

"Asserted Liability" is defined in Section 9.3(a).

"Balance Sheets" is defined in Section 3.6.

"Basket Amount" is defined in Section 9.2(b)(i).

"Books and Records" means originals, if available and copies if not, of all of the Company's books, data, files and records, whether in print, electronic or other media, including without limitation, correspondence, employee records for employees of the Company, salary

records, sales data, customer lists, information relating to customers, supplier lists, mailing lists, brochures, advertising materials, business and marketing plans, sales literature, promotional literature, customer, supplier and distributor lists, display units, telephone and fax numbers and purchasing records.

"Business" means the business of the designing, manufacturing and/or selling rubber and/or silicon molding components.

"Business Day" means any day other than a Saturday, Sunday, or a day on which banking institutions in Los Angeles, California or Dallas, Texas are permitted or obligated by law to be closed for regular banking business.

"Buyer" is defined in the preamble hereof.

"Buyer Indemnified Parties" is defined in Section 9.1(a).

"Cash on Hand" means, as of a particular time, the aggregate cash balance of the Company as of such time (whether positive or negative), including all cash, commercial paper, certificates of deposit and other bank deposits, treasury bills, and all other cash equivalents in all accounts of each of the Companies, and third Person checks deposited in any Company accounts that have not yet cleared; provided that Cash on Hand shall be reduced by (a) security and similar deposits and amounts held in escrow to secure the performance of trade contracts, leases, letters of credit or similar obligations and (b) the amount of all outstanding checks on draft of the Company issued or outstanding at such time

"CERCLA" is defined in Section 3.15(b).

"Claims Notice" is defined in Section 9.3(a).

"Closing Balance Sheet" is defined in Section 1.3(c).

"Closing Working Capital" is defined in Section 1.3(c).

"Closing Working Capital Statement" is defined in Section 1.3(c).

"Closing" or "Closing Date" is defined in Section 2.1.

"Closing Company Expenses" means the Company Expenses that have been incurred but remain unpaid as of immediately prior to the Closing.

"Closing Company Indebtedness" means the Company Indebtedness that is outstanding immediately prior to the Closing.

"COBRA" is defined in Section 3.20(f).

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder.

"Company" is defined in the preamble hereof.

"Company 401(k) Plan" is defined in Section 5.4.

"Company Expenses" shall mean the aggregate amount of (a) all fees and expenses incurred by the Company in connection with the negotiation, preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, without limitation, all legal, financial advisory, accounting, consulting and other fees and expenses and any broker's or finder's fees and (b) all amounts (plus any associated withholding Taxes or any Taxes required to be paid by the Company with respect thereto) payable by the Company, whether immediately or in the future, under any "change of control," retention, termination, compensation, severance or other similar arrangements as a result of the consummation of the transactions contemplated hereby (including, without limitation, such amounts payable to any employee of the Company at the election of such employee pursuant to any such arrangements).

"Company Indebtedness" means, as of a particular time, the following obligations, contingent or otherwise of the Company: (a) all Liabilities for borrowed money, (b) all Liabilities evidenced by notes, bonds, debentures, acceptances or instruments, or arising out of letters of credit or bankers' acceptances issued for such Person's account, (c) all Liabilities, whether or not assumed, secured by any Security Interests, (d) the capitalized portion of lease Liabilities under capitalized leases, (e) all Liabilities arising from installment purchases of property or representing the deferred purchase price of property or services, (f) all Liabilities pursuant to any phantom equity plan or Liabilities with respect stock appreciation or similar rights, and (g) any other Liabilities, contingent or otherwise, that, in accordance with GAAP, should be classified upon the balance sheet of the Company as indebtedness (other than trade payables or current liabilities incurred in the Ordinary Course of Business, but including all trade payable and current liabilities (i) not incurred in the Ordinary Course of Business or (ii) more than sixty (60) days past invoice or sixty (60) days past due).

"Contract" means any agreement, contract, lease, note, indenture, mortgage, loan, evidence of indebtedness, purchase order, letter of credit, franchise agreement, undertaking, covenant not to compete, employment agreement, license, instrument, obligation or commitment to which the Company or the assets of the Company are bound, whether oral or written, and all amendments, supplements or modifications thereto.

"Effective Time" is defined in Section 2.1.

"Employee Plans" is defined in Section 3.20(a).

"Employees" is defined in Section 3.19.

"Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters and ocean waters), groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

"Environmental Conditions" is defined in Section 3.15(I).

"Environmental Laws" is defined in Section 3.15(b).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" is defined in Section 3.20(a).

"Escrow Agent" is defined in Section 2.4(a).

"Escrow Agreement" is defined in Section 2.4(a).

"Escrow Amount" is defined in Section 2.4(a).

"Estimated Closing Balance Sheet" is defined in Section 1.3(a).

"Estimated Closing Working Capital" is defined in Section 1.3(a).

"Estimated Working Capital Deficiency" is defined in Section 1.3(b).

"Estimated Working Capital Surplus" is defined in Section 1.3(b).

"Facilities" means the Leased Property.

"Final Closing Working Capital" is defined in Annex B.

"Financial Statements" is defined in Section 3.6.

"Fixtures and Equipment" means all of the furniture, fixtures, furnishings, machinery, automobiles, trucks, spare parts, supplies, equipment and other tangible personal property owned by the Company.

"GAAP" means United States generally accepted accounting principles consistently applied.

"General Survival Period" is defined in Article 8.

"Governing Documents" means with respect to any particular entity, (i) if a corporation, the articles or certificate of incorporation and the bylaws; (ii) if a general partnership, the partnership agreement and any statement of partnership; (iii) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (iv) if a limited liability company, the articles of organization and operating agreement; (v) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (v) all equityholders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equityholders of any Person; and (vu) any amendment or supplement to any of the foregoing.

"Governmental Authority" means any foreign, domestic, federal, territorial, state or local governmental authority, quasi-governmental authority, instrumentality, court, government or self-regulatory organization, commission, tribunal or organization or any

regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

"Hazardous Substance" means any substance, material or waste which is or will foreseeably be regulated by any Governmental Authority, including any material, substance or waste which is defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "contaminant," "toxic waste" or "toxic substance" under any provision of Environmental Law, and including petroleum, petroleum products, asbestos, presumed asbestos-containing material or asbestos-containing material, urea formaldehyde and polychlorinated biphenyls.

"Indemnitee" is defined in Section 9.3(a).

"Indemnitor" is defined in Section 9.3(a).

"Insurance Policies" is defined in Section 3.22(a).

"Intangible Assets" is defined in Section 3.16(a).

"Interim Balance Sheet" is defined in Section 3.6.

"Interim Balance Sheet Date" is defined in Section 3.6.

"Interim Financial Statements" is defined in Section 3.6.

"Inventory" means all of the Company's inventory of goods, including all merchandise, raw materials, work in progress and finished products, wrapping, supply and packaging items and similar items, wherever the same may be located.

"IRS" is defined in Section 3.20(b).

"Knowledge of the Company" means the knowledge of any shareholder, director, officer or manager of the Company, including such knowledge that any such Person should have after due inquiry in the ordinary course of business.

"Leased Property" is defined in Section 3.11(b)(i).

"Leasehold Improvements" means all leasehold improvements situated in or on the Leased Property and owned by the Company.

"Leases" is defined in Section 3.11(b)(i).

"Liability" or "Liabilities" means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

"Losses" means all losses, costs (including without limitation, attorneys' fees), claims, Liabilities, damages, lawsuits, deficiencies, demands and expenses (whether or not arising out of third-party claims), including without limitation, interest, penalties, costs of litigation, lost profits and other losses resulting from any shutdown or curtailment of operations, and all amounts paid in the investigation, defense or settlement of any of the foregoing. "Losses" is not limited to matters asserted by third parties, but includes Losses incurred or sustained in the absence of third party claims, such as a diminution in the value of the Company.

"Material Adverse Effect" means any material adverse effect or change in the condition (financial or other), business, results of operations, assets, liabilities, operations, public image or prospects of the Company or on the ability of Buyer to consummate the transactions contemplated hereby, or any event or condition which would, with the passage of time, constitute such a material adverse effect or change.

"Neutral Accounting Firm" is defined in Annex B.

"Objection Notice" is defined in Annex B.

"Objection Period" is defined in Annex B.

"Order" means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Authority or arbitrator.

"Ordinary Course of Business" means an action taken by a Person if that action (i) is consistent in nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person; (ii) does not require authorization by the board of directors or shareholders of such Person (or by any Person or group of Persons exercising similar authority) and does not require any other separate or special authorization of any nature; and (iii) is similar in nature, scope and magnitude to actions customarily taken, without any separate or special authorization, in the ordinary course of the normal, day-to-day operations of other Persons that are in the same line of business as such Person.

"Other Securities" is defined in Section 3.4(a).

"Permits" means all licenses, permits, franchises, approvals, authorizations, consents or orders of, or filings with, any Governmental Authority, or any other Person, necessary for the present conduct of the Business.

"Person" means an individual, corporation, partnership, association, trust, estate or other entity or organization, including a Governmental Authority.

"Pre-Closing Period" is defined in Section 5.8.

"Proposition 65" is defined in Section 3.15(p).

"Purchase Note" is defined in Section 2.4(c).

"Purchase Price" is defined in Section 1.2.

"RCRA" is defined in Section 3.15(b).

"Release" means and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or migrating within the Environment or disposing into the Environment or the workplace of any Hazardous Substance, and otherwise as defined in any Environmental Law, in violation of Environmental Laws.

"Representative" means with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor, accountant, financial advisor, legal counsel or other representative of that Person.

"Scheduled Litigation" is defined in Section 9.1(a).

"Security Agreement" is defined in Section 2.4(c).

"Security Interest" means any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

"Seller" and "Sellers" are defined in the preamble hereof.

"Seller Representative" is defined in Section 5.9.

"Straddle Period" is defined in Section 5.8.

"Stock" is defined in Recital A.

"Subsidiary" means (a) any corporation in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain then owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain, (b) any partnership in which the Company is a general partner, or (c) any partnership in which the Company possesses a 50% or greater interest in the total capital or total income of such partnership.

"Survival Period" is defined in Article 8.

"Tangible Personal Property" means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies, materials, vehicles and other items of tangible personal property (other than Inventories) of every kind owned or leased by the Company (wherever located and whether or not carried on the Company's books), together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

"Target Working Capital" is defined in Section 1.3(b).

"Tax" or "Taxes" means (whether or not disputed) taxes of any kind, levies or other like assessments, customs, duties, imposts, charges or fees, including, without limitation, Income Taxes, gross receipts, ad valorem, value added, excise, real property, personal property, occupancy, asset, sales, use, license, payroll, transaction, capital, capital stock, net worth, estimated, withholding, employment, social security, unemployment, unemployment compensation, workers' compensation, disability, utility, severance, production, environmental, energy, business, occupation, mercantile, franchise, premium, profits, windfall profits, documentary, stamp, registration, transfer and gains taxes, toll charges (for example, toll charges under Sections 367 and 1492 of the Code), or other taxes of any kind whatsoever, imposed by or payable to the United States, or any state, country, local or foreign government or subdivision, instrumentality, authority or agency thereof or under any treaty, convention or compact between or among any of them, and in each instance such term shall include any interest (including interest on deferred tax liability under Section 453A(c) of the Code and "look-back" interest under Section 460 of the Code and similar amounts of interest imposed by the Code), penalties, additions to tax or similar charges imposed in lieu of a Tax or attributable to any Tax.

"Tax Reimbursement Amount" is defined in Section 9.5.

"Tax Return" means any return, declaration, report, claim for refund, information return or statement that relates to Taxes, including any schedule or attachment thereto and any amendment thereof.

"Transaction Documents" means, with respect to a party hereto, all agreements, certificates and other instruments to be delivered by such party under this Agreement.

"Treasury Regulation" means any final, proposed or temporary regulations promulgated under the Code.

"Undisclosed Liabilities" means any Liabilities of the Company other than (a) as reflected or reserved against in the Closing Balance Sheet, or (b) Liabilities arising in the ordinary course of business with respect to periods following the Closing under the Company's Contracts, but for the avoidance of doubt, excluding any Liabilities arising from any default that occurred prior to the Closing.

"Working Capital" is defined in Section 1.3(a).

"Year-End Balance Sheet" means the balance sheet of the Company as at September 30, 2011.

"Year-End Balance Sheet Date" is defined in Section 3.6.

"Year-End Financial Statements" is defined in Section 3.6.

Annex B

Working Capital Disputes

(i) If the Seller Representative disagrees with the determination of the Closing Working Capital as shown on the Closing Working Capital Statement, the Seller Representative shall notify Buyer in writing (the "Objection Notice") of such disagreement within thirty (30) days after delivery of the Closing Working Capital Statement (such thirty (30) day period, the "Objection Period"), which notice shall describe the nature of any such disagreement in reasonable detail, identify the specific items involved and the dollar amount of each such disagreement and provide reasonable supporting documentation for each such disagreement. After the delivery of the Objection Notice, the Seller Representative may not introduce additional disagreements with respect to any item in the Closing Working Capital Statement or increase the amount of any disagreement, and any item not so identified shall be deemed to be agreed to by the Seller Representative and will be final and binding, and except to the extent that the Seller Representative makes a specific objection to a specific determination set forth on the Closing Working Capital Statement pursuant to the Objection Notice delivered to Buyer within the Objection Period, the Closing Balance Sheet, the Closing Working Capital Statement and the amounts contained therein shall be conclusive and binding on the parties for purposes of determining the amount payable by Sellers or Buyer pursuant to Section 1.3.

(ii) If Buyer and the Seller Representative are unable to resolve all disagreements properly identified by the Seller Representative pursuant to Section 1.3(d)(i) within forty five (45) days, then such disagreements shall be submitted for final and binding resolution to an independent accounting firm of nationally recognized standing that is reasonably independent from the Company, the Seller Representative and Buyer (a "Neutral Accounting Firm") to resolve such disagreements (the "Accounting Arbitrator"). The Accounting Arbitrator shall be a Neutral Accounting Firm selected by mutual agreement of Buyer and the Seller Representative; provided, that, (i) if, within thirty (30) days after the Seller Representative has delivered the Objection Notice to Buyer, Buyer and the Seller Representative are unable to agree on a Neutral Accounting Firm to act as the Accounting Arbitrator, Buyer on the one hand and the Seller Representative on the other hand shall each select a Neutral Accounting Firm and such firms together shall select the Neutral Accounting Firm to act as the Accounting Arbitrator, and (ii) if Buyer or the Seller Representative does not select a Neutral Accounting Firm within ten (10) days of written demand therefor by the other party, the Neutral Accounting Firm selected by the other party shall act as the Accounting Arbitrator. Each party shall be permitted to present a supporting brief to the Accounting Arbitrator (which supporting brief shall also be concurrently provided to the other party) within ten (10) days of the appointment of the Accounting Arbitrator. Within five (5) days of receipt of a supporting brief, the receiving party may present a responsive brief to the Accounting Arbitrator (which responsive brief shall also be concurrently provided to the other party). Each party may make an oral presentation to the Accounting Arbitrator (in which case, such presenting party shall notify the other party of such presentation, though the other party shall have no right to be present at such presentation) within twenty (20) days of the appointment of the Accounting Arbitrator. The Accounting Arbitrator shall only consider the briefs and oral presentations of the parties, and shall not conduct any independent review, in determining those items and amounts disputed by the parties. The Accounting Arbitrator shall only consider those items and amounts set forth in the Closing Working Capital

Statement as to which Buyer and the Seller Representative have disagreed within the time periods set forth in Section 1.3(d)(i) and on the terms specified above. The Accounting Arbitrator must resolve the matter in accordance with the terms and provisions of this Agreement. The Accounting Arbitrator shall deliver to Buyer and the Seller Representative, as promptly as practicable and in any event within thirty (30) days after its appointment, a written report setting forth the resolution of any such disagreement determined in accordance with the terms of this Agreement and the resulting computation of the Closing Working Capital. The Accounting Arbitrator shall select the position of either Buyer or the Seller Representative as a resolution for each item of disagreement and may not impose an alternative resolution. The Accounting Arbitrator shall make its determination based on presentations and supporting material provided by the parties and, at its election, pursuant to responses provided by the parties to inquiries posed by the Accounting Arbitrator based on such presentations and supporting material but not pursuant to its independent review. The determination of the Accounting Arbitrator shall be final and binding in the absence of manifest error. The Closing Working Capital, as determined by the Accounting Arbitrator, will be conclusive and binding upon the parties and will constitute the Closing Working Capital for all purposes of this Section 1.3. The fees, cost and expenses of the Accounting Arbitrator shall be paid by the party who did not prevail in the arbitration in all or the majority of the items or the amount of disagreement.

(iii) The Closing Working Capital set forth in the Closing Working Capital Statement, either as agreed by the Seller Representative and Buyer in accordance with Section 1.3(d)(i) if such statement is not referred to the Accounting Arbitrator or as finally determined by the Accounting Arbitrator in accordance with Section 1.3(d)(ii) is referred to herein as the “Final Closing Working Capital.”