

04-17-2002

3-27-02

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings



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

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

1. Name of conveying party(ies): DOBI-Symplex, Inc., 2 Bethesda Metro Center, 12th Flr, Bethesda, MD 20814

- Individual(s) Association General Partnership Limited Partnership Corporation-State Delaware Other

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

- Assignment Merger Security Agreement Change of Name Other Grant of Security Interest

Execution Date: 02/28/02

2. Name and address of receiving party(ies)

Name: BNP Paribas Internal Address:

Street Address: 787 Seventh Avenue City: NY State: NY

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other Commercial Bank

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

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

A. Trademark Application No.(s)

See Attached

B. Trademark Registration No.(s)

2101956

Additional number(s) attached Yes No

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

Name: Danice M. Kowalczyk, Esq.

Internal Address: White & Case

Street Address: 1155 Avenue of the Americas

City: NY State: NY Zip: 10036

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41) \$ 115.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number: 23-1705

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

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

Danice M. Kowalczyk, Esq.

Name of Person Signing

Signature

3/26/02

Date

Total number of pages including cover sheet, attachments and document: 62

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

04/16/2002 0000075 2101856

01 FD:481 02 FD:462

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TRADEMARK REEL: 002484 FRAME: 0760

GRANT OF SECURITY INTEREST  
IN UNITED STATES TRADEMARKS

FOR GOOD AND VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, DOBI-Symplex, Inc.,<sup>1</sup> (the "Grantor"), a Delaware corporation, with principal offices at 2 Bethesda Metro Center, 12<sup>th</sup> Floor, Bethesda, Maryland 20814, hereby assigns and grants to BNP Paribas, as Collateral Agent, with principal offices at 787 Seventh Avenue, New York, New York 10019 (the "Grantee"), a security interest in (i) all of the Assignor's rights, title and interest in and to the United States trademarks, trademark registrations and trademark applications (the "Marks") set forth on Schedule A attached hereto, in each case together with (ii) all Proceeds (as such term is defined in the Security Agreement referred to below) and products of the Marks, (iii) the goodwill of the business with which the Marks are associated and (iv) all causes of action arising prior to or after the date hereof for infringement of any of the Marks or unfair competition regarding the same.

THIS GRANT is made to secure the satisfactory performance and payment of all the Obligations of the Grantor, as such term is defined in the Security Agreement among the Grantor, the other assignors from time to time party thereto and the Grantee, dated as of February 15<sup>th</sup>, 2002 (as amended from time to time, the "Security Agreement"). Upon the occurrence of the Termination Date (as defined in the Security Agreement), the Grantee shall execute, acknowledge, and deliver to the Grantor an instrument in writing releasing the security interest in the Patents acquired under this Grant.

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<sup>1</sup> DOBI-Symplex, Inc. ("DOBI"), a subsidiary of Hanger Orthopedic Group, Inc., ("Hanger"), shall be named current owner of the trademarks listed in Schedule A pursuant to the terms of an Asset Purchase Agreement executed in October, 2001 wherein Hanger Orthopedic Group, Inc. sold its subsidiary, Seattle Orthopedic Group ("Seattle"). Specifically, this Agreement, between Hanger and Seattle (as sellers) and U.S. Manufacturing Corp., LLC (as buyer), excluded from such sale, by its terms, the trademarks listed herein. See attached Asset Purchase Agreement.

This Grant has been granted in conjunction with the security interest granted to the Grantee under the Security Agreement. The rights and remedies of the Grantee with respect to the security interest granted herein are as set forth in the Security Agreement, all terms and provisions of which are incorporated herein by reference. In the event that any provisions of this Grant are deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall govern.

\* \* \*

IN WITNESS WHEREOF, the undersigned have executed this Grant as of the

\_\_ day of \_\_\_\_, \_\_\_\_.

DOBI-Symplex, Inc., Grantor

By Gleu Lohmann  
Name: Gleu Lohmann  
Title: Secretary

BNP Paribas, as Collateral Agent and Grantee

By C. Scallier  
Name: CATHERINE SCAILLIER  
Title: Director

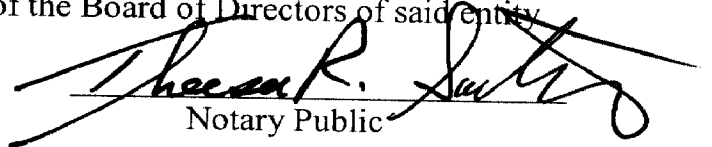
STATE OF MD )  
COUNTY OF Montgomery ) SS:

On this 8 day of Feb, 2002 before me personally came \_\_\_\_\_  
Glen Lehman who, being by me duly sworn, did state as follows: that [s]he is  
Secretary of DOBI-Symplex, Inc., that [s]he is authorized to execute the foregoing Grant  
on behalf of said corporation and that [s]he did so by authority of the Board of Directors of said  
corporation.

[Signature]  
Notary Public

STATE OF New York )  
COUNTY OF New York ) ss:

On this 14<sup>th</sup> day of February, 2002 before me personally came Catherine  
Scaillier who, being by me duly sworn, did state as follows: that [s]he is  
Director of BNP Paribas, that [s]he is authorized to execute the foregoing Grant on  
behalf of said entity and that [s]he did so by authority of the Board of Directors of said entity.

  
Notary Public

**THERESA R. SANTIAGO**  
Notary Public, State of New York  
No. 01SA6050929  
Qualified in Queens County  
Certificate Filed in New York County  
My Commission Expires 11-13-2002

SCHEDULE OF TRADEMARKS

<u>Trademark</u>	<u>Reg./Ser. No.</u>	<u>Reg. Date</u>
CHARLESTON BENDING BRACE	2,101,856	Reg. 09/30/97
SCOTT-CRAIG	1,369,983	Reg. 11/12/85
SEAFAB	2,446,923	Reg. 04/24/01
SEAFAB	2,453,799	Reg. 05/22/01

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of the 9th day of October, 2001, by and among United States Manufacturing Company, LLC, a Delaware limited liability company ("USMC"), Seattle Orthopedic Group, Inc., a Delaware corporation ("Seller"), and Hanger Orthopedic Group, Inc., a Delaware corporation ("Hanger").

WHEREAS, Seller is engaged in the following business (the "Business"): designing, manufacturing and selling prosthetic and orthotic components and products and fabricating customized orthoses, including, without limitation, custom and non-custom limb segments, braces, materials, compositions, components, processes for making and using the foregoing in the manner engaged in by the Seller as of the closing under this Agreement; provided, however, that the Business shall specifically exclude (i) all rights with regard to the creation, promotion and sale of the Charleston Bending Brace, (ii) the central fabrication facilities and business of the Seller relating to its facilities located in Alpharetta, Georgia; Orlando, Florida; Ft. Lauderdale, Florida; Anaheim, California; Livermore, California; Tempe, Arizona, and Kansas City, Missouri (collectively, "Sea Fab facilities"), (iii) all rights and assets relating solely to the creation, promotion and sale of the gel liner product and gel liner technology developed by Seller, including but not limited to machinery, tooling, equipment, vehicles, tools, inventory, work-in-progress, raw materials and all other items related solely to the gel liner, with all such items being listed on Schedule 1.2(vii) hereto (the "Gel Liner Assets"), and (iv) the historical and on-going activities of Hanger and its other subsidiaries in the distribution, sale and provision of orthotic and prosthetic services and devices; and

WHEREAS, Hanger is the sole stockholder of Seller; and

WHEREAS, Seller desires to sell to USMC or, at USMC's direction, OPMC Acquisition Corp., a California corporation ("OPMC") or a subsidiary of USMC or OPMC (USMC, OPMC and any such subsidiary are hereinafter collectively referred to as "Purchaser", or, alternatively in the event that USMC assigns its rights as Purchaser pursuant to Section 8.9 hereof, an "Assignee Purchaser"), and Purchaser desires to purchase and acquire from Seller, certain of Seller's assets, and to assume certain of Seller's liabilities as described below; and

WHEREAS, Hanger desires to sell and license to Purchaser, and Purchaser desires to purchase and acquire a license from Hanger with respect to, certain assets of Hanger described below.

NOW, THEREFORE, in consideration of the premises and of the mutual agreements hereinafter contained and intending to be legally bound hereby, the parties hereto hereby agree as follows:



**ARTICLE I**  
**Purchased Assets**

1.1 Purchase and Sale of Assets of Seller. Subject to the terms and conditions of this Agreement, on the Closing Date (as defined in Section 2.9 below) Seller shall sell, convey, assign, transfer and deliver to Purchaser, and Purchaser shall purchase and acquire Seller's right, title and interest in and to all of the assets, properties, rights and interests of Seller (other than those which are specifically excluded in this Agreement or which are specifically excluded by a Schedule hereto), as of the Closing Date, wherever located, wherever granted and whether or not reflected on Seller's books and records, including, without limitation, the following:

(a) the lease of the Poulsbo, Washington facility and rights thereunder, a copy of which is attached hereto as Schedule 1.1(a) (the "Facility Lease");

(b) all machinery, tooling, equipment, vehicles, fixtures, tools and office, plant, warehouse and storeroom equipment and furnishings located on the Closing Date in the Poulsbo, Washington facility and all other tangible personal property concerning or necessary for the use, operation, maintenance or repair thereof, including, without limitation, spare parts and those items listed in Schedule 1.1(b) hereto, which shall include all leasehold improvements and fixtures attached to the Seller's facility located in Poulsbo, Washington, including leasehold improvements and fixtures which were installed thereat for purposes of the machinery and equipment relating solely to the Gel Liner Assets (the "Equipment"), which Equipment shall exclude all machinery, tooling, equipment, vehicles, tools and all other items related solely to the Gel Liner Assets, except as otherwise provided by the foregoing provisions of this paragraph;

(c) all of Seller's books, records, ledgers, files, correspondence, documents, drawings, designs, specifications, charts, blueprints, plans, customer lists, channel partner lists, supplier lists, creative materials, advertising and promotional materials, studies, reports, engineering and safety data, telephone and facsimile numbers and listings, URLs and domain names (including, without limitation, "soginc.com"), on-line files and directories, HTML script and files, image (including, without limitation, jpeg and gif) files, source, object and option code, and other printed or written materials, except those items which relate solely to the Sea Fab facilities and/or the Gel Liner Assets;

(d) all of Seller's Intellectual Property related to the Business and (to the extent related to the Business) Hanger Intellectual Property and goodwill associated therewith and all licenses and sublicenses granted and obtained with regard thereto, and rights thereunder, remedies against infringements thereof, and rights to protection of interests therein under the laws of all jurisdictions. "Intellectual Property" means software programs, licenses to third party software programs, know-how, trade secrets, confidential information, research, reports, formulae, recipes, compositions, process procedures, techniques, ideas, inventions (whether patentable or not and whether or not reduced to practice), invention records, registered designs, data, database rights, design rights, patents (including continuations, continuations-in-part, divisionals, other extensions, reissued patents and reexamined patents), trade names, corporate names, service marks, domain names and other electronic communication identifications, trademarks, trade dress, logos, copyrights, moral rights, mask works, rights of publicity, licenses to, rights in, translations, adaptations derivations,

applications issuances, registrations and renewals for any of the foregoing and other intangible property concerning the Business or necessary for the use, operation, maintenance or repair thereof (whether or not used on or before the Closing Date) including, without limitation, those items listed on Schedule 1.1(d) (which shall include an itemized listing of Seller's Intellectual Property and Hanger Intellectual Property) and any rights of Seller to the use of the name "Seattle Orthopedic" and any variations or components of and logos associated with such name, and rights in the nature of any of the aforesaid items in any country or jurisdiction and rights in the nature of unfair competition rights and rights to sue for passing off; provided, however, that the Seller's Intellectual Property and the portion of the Hanger Intellectual Property being sold and transferred to the Purchaser shall not include anything related solely to the Sea Fab facilities and/or the Gel Liner Assets;

(e) all raw materials and supplies, manufactured and purchased parts, work in process and finished products, including, without limitation, those items listed in Schedule 1.1(e) hereto, which lists inventory for the Seller's facility at Poulsbo, Washington;

(f) all accounts receivable, notes receivable and other receivables, in each case whether billed or unbilled, and all negotiable instruments, other instruments and chattel paper, as are payable to Seller from all persons (other than Hanger and any direct or indirect subsidiary or affiliate of Hanger or Seller ("Excluded Receivables")), except those items which relate solely to the business of the Sea Fab facilities;

(g) all prepaid rents and other prepaid expenses, advance payments, deposits and claims for refund, credit, causes of action, choses in action, rights of recovery, rights of set off, and rights of recoupment, except those items which relate solely to the Sea Fab facilities;

(h) all rights of Seller under all contracts, leases, agreements and commitments with customers, suppliers and others entered into by or for the benefit of Seller, including, without limitation, all sale and purchase orders, license agreements, sales representative agreements, guarantees, warranty rights, rights in respect of letters of credit, suretyship and subrogation arrangements, and dealer and distributorship agreements, including, without limitation, those listed on Schedule 1.1(h) hereto, except those items which relate solely to the business of the Sea Fab facilities (the "Assumed Contracts");

(i) all rights of Seller in all licenses, permits, authorizations, certificates, variances and similar approvals obtained from governments, governmental agencies and non-governmental entities (and applications for any of the foregoing), which are either included under Section 1.1(d) or as listed on Schedule 1.1(i) hereto, except those items which relate solely to the business of the Sea Fab facilities (the "Assigned Licenses");

(j) all claims and rights of Seller under insurance policies in respect of any assets purchased by Purchaser pursuant to this Agreement and the Assumed Liabilities (as defined in Section 2.7(a) below), and all causes of action, judgments, claims and demands relating to any assets purchased by Purchaser pursuant to this Agreement and the Assumed Liabilities; and

(k) the goodwill, if any, of Seller and (to the extent relating to the Business) Hanger including goodwill in trade names, corporate names, trademarks, trade dress, logos and service marks of Seller, except those items which relate solely to the business of the Sea Fab facilities and/or the Gel Liner Assets.

The foregoing assets to be sold by Seller and by Hanger as set forth in Section 1.3 below and purchased by Purchaser pursuant to this Article I are hereinafter collectively referred to as the "Purchased Assets."

1.2 Excluded Assets. The Purchased Assets shall not include, and Purchaser shall not acquire: (i) the charter and Bylaws, qualifications to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications in states of the United States, taxpayer and other identification numbers, seals, minute books, tax returns, stock transfer books, blank certificates, and other documents relating to the organization, maintenance, and existence of Seller as a corporation, (ii) any of the rights of Seller under this Agreement (or under any other agreement between Seller and Purchaser entered into on or after the date of this Agreement except as otherwise provided herein), (iii) any items related to the mark and/or name of Sabolich and anything related to the patented Sabolich Socket Technology owned by Hanger and/or its subsidiaries (all such items only as listed on Schedule 1.2(iii) hereto), (iv) any and all assets and liabilities related solely to the Sea Fab facilities, except as otherwise provided herein, (v) the Excluded Receivables, (vi) anything related to the Charleston Bending Brace, (vii) anything related solely to the Gel Liner (all such items only as listed on Schedule 1.2(vii) hereto), (viii) cash, and (ix) the historical and on-going activities of Hanger and its other subsidiaries in the distribution, sale and provision of orthotic and prosthetic services and devices (collectively the "Excluded Assets"). The parties agree that the Gel Liner Assets shall be permitted by the Purchaser to remain in their current operating condition and connected to their current utility connections at their present location within the Seller's facility in Poulsbo, Washington for a period of sixty (60) days from the Closing Date, during which time Purchaser agrees, upon five (5) days prior written notice to Purchaser from Hanger, to permit Hanger and persons designated by Hanger to inspect and demonstrate the operation of the Gel Liner Assets, at Hanger's sole cost, at any reasonable time other than Purchaser's normal business hours (which are Monday through Friday from 8:00 a., to 5:00 p.m., local time) (a "Permitted Inspection Time"), for purposes of the possible sale of the Gel Liner Assets to a third-party buyer to be located by Hanger, and upon the expiration of such 60-day period, Hanger agrees at its sole cost, upon five (5) days prior written notice to Purchaser from Hanger, to enter the Seller's facility in Poulsbo, Washington at any reasonable Permitted Inspection Time for the sole purpose of dismantling and removing the Gel Liner Assets from the Seller's facility in Poulsbo, Washington.

1.3 Purchase and Sale of Assets of Hanger. Subject to the terms and conditions of this Agreement, on the Closing Date Hanger shall sell, convey, assign, transfer and deliver to Purchaser, and Purchaser shall purchase and acquire Hanger's right, title and interest in and to the following:

(a) any and all of the items listed in Section 1.1(d) above that (i) are owned not by Seller but by Hanger or an entity controlled by Hanger other than Seller and (ii) are used by or held for the Business (including without limitation patents, trade secrets, trademarks, service marks, common law marks, trade dress, copyrights, moral rights, and mask works, and any issuances, registrations, and applications for the foregoing) (where the term "used" means used on or before

the Closing Date, and the term "held" means not being used on the Closing Date but available for use in the future), being only the items listed on attached Schedule 1.3; and

(b) any and all rights in the items listed in Section 1.1(d) above that (i) are licensed not by Seller but by Hanger or an entity controlled by Hanger, and (ii) are used by or held for the Business (including without limitation rights in third party patents, trade secrets, know-how, confidential information, trademarks, service marks, common law marks, trade dress, copyrights, moral rights, and mask works, and any issuances, registrations, and applications for the foregoing, but excluding anything relating solely to the Sea Fab facilities and/or the Gel Liner Assets), being only the items listed on attached Schedule 1.3.

1.4 License of Certain Intellectual Property Rights of Hanger.

(a) Subject to the terms and conditions of this Agreement, Hanger hereby grants to Purchaser, effective at Closing, the following rights:

- (i) an exclusive, worldwide, royalty-free, paid-up, perpetual, transferable (but only in connection with a sale of all or substantially all of Purchaser's assets), sublicensable, irrevocable limited license in the Licensed Fields (defined herein) under all patents, trade secrets, know-how, confidential information, inventions (whether patentable or not and whether reduced to practice or not), ideas, copyrights, moral rights, and mask works and any issuances, registrations, and applications for the foregoing owned by Hanger or an entity controlled by Hanger as of the Closing Date and not conveyed to Purchaser under Sections 1.1 and 1.3. The "Licensed Fields" means the Business; provided, however, that notwithstanding anything contained in this Agreement to the contrary, Hanger does not grant an exclusive license, but only a co-license of use between the Purchaser and Hanger of the digitized libraries of various body and knee shapes and the software related thereto which is used to construct spinal and knee bracing by the Sea Fab facilities and Hanger. No right in trademarks, service marks, trade names, corporate names or trade dress are granted in this Section 1.4(a); and
- (ii) a non-exclusive, worldwide, royalty-free, paid-up, non-transferable, non-sublicensable license in the Licensed Fields (defined in Section 1.4(a)) to use the Hanger trademark and logo, and goodwill associated therewith, only to the extent necessary to exhaust over the next twelve (12) months any product, packaging, or promotional content possessed or committed to under a supply agreement as of the Closing Date to which the Hanger trademark or logo is affixed.

(b) Hanger shall use its best efforts to obtain the approval of the licensor of the Tracer Cad software for the transfer of such software to the Purchaser.

**ARTICLE II**  
**Purchase Price, Assumption of Liabilities and Related Matters**

2.1 Purchase Price. As the purchase price for the Purchased Assets (the "Purchase Price"), Purchaser shall pay or deliver at the Closing:

(a) to Seller, an amount in cash equal to (i) Twenty Million Dollars (\$20,000,000.00), minus (ii) the Shareholder Note Amount as of the Closing Date, minus (iii) the Excluded Receivables, minus (iv) the Escrow Amount (as defined below), plus (v) any excluded payables;

(b) to Seller, an instrument or instruments, executed by Purchaser, in form and substance reasonably satisfactory to Seller, whereby Purchaser shall assume and agree to be responsible for, pay, perform, discharge and indemnify Seller against the Assumed Liabilities;

(c) to Hanger, an amount in cash equal to Thirty Three Thousand Three Hundred Eighty-Five Dollars (\$33,385.00) as reimbursement for the prior prepayment by Hanger of Microsoft operating system software licenses relating to the computer workstations which are included as part of the Purchased Assets; and

(d) to Bank One Trust Company (the "Escrow Agent"), an amount in cash equal to an additional Three Million Dollars (\$3,000,000.00) (the "Escrow Amount") to be held in escrow (the "Escrow") by the Escrow Agent in accordance with the terms of the Escrow Agreement, substantially in the form attached hereto as Exhibit A (the "Escrow Agreement") for up to a period of three (3) years (the "Escrow Period") and during the Escrow Period the Escrow Amount shall be released to Seller or its designee (the "Escrow Payee") as Seller or Hanger may direct to the Escrow Agent during the Escrow Period in the manner provided in Section 1 of the Escrow Agreement (which relates to possible deductions from the Escrow Amount as provided in Sections 2.1(d) and 6.1 hereof), in the following amounts upon the occurrence of the following events: (i) in the event Hanger and/or its subsidiaries makes Actual Purchases (as defined pursuant to Section 3.4(b)(ii) of the Supply Agreement attached hereto as Exhibit B; the "Supply Agreement" and as calculated and adjusted, if necessary, pursuant to Section 3.5 of the Supply Agreement) for at least \$7,500,000 in Products (as defined in the Supply Agreement) from Purchaser as provided and calculated under the terms of the Supply Agreement at any time during the first Purchase Year (as defined in the Supply Agreement), then in such event \$1,000,000.00 of the Escrow Amount shall be promptly released by the Escrow Agent to the Escrow Payee for such Purchase Year; (ii) in the event Hanger and/or its subsidiaries makes Actual Purchases for at least \$8,500,000 in Products from Purchaser as provided and calculated under the terms of the Supply Agreement at any time during the second Purchase Year, then in such event \$1,000,000.00 of the Escrow Amount shall be promptly released by the Escrow Agent to the Escrow Payee for such Purchase Year; (iii) in the event Hanger and/or its subsidiaries makes Actual Purchases for at least \$9,500,000 in Products from Purchaser as provided

and calculated under the terms of the Supply Agreement at any time during the third Purchase Year, then in such event \$1,000,000.00 of the Escrow Amount shall be promptly released by the Escrow Agent to the Escrow Payee for such Purchase Year; (iv) in the event Hanger and/or any of its subsidiaries makes Actual Purchases for less than \$7,500,000 but more than \$6,500,000 in Products from Purchaser as provided and calculated under the Supply Agreement during the first Purchase Year, then in such event the Escrow Agent shall (A) release to the Escrow Payee for such Purchase Year an amount (the "Escrow Payee Portion") equal to the amount of such Actual Purchases in excess of \$6,500,000, and (B) release to Purchaser an amount equal to \$1,000,000.00 minus the Escrow Payee Portion; (v) in the event Hanger and/or any of its subsidiaries makes Actual Purchases for less than \$8,500,000 but more than \$7,500,000 in Products from Purchaser as provided and calculated under the Supply Agreement during the second Purchase Year, then in such event the Escrow Agent shall (A) release to the Escrow Payee for such Purchase Year an amount (the "Escrow Payee Portion") equal to the amount of such Actual Purchases in excess of \$7,500,000, and (B) release to Purchaser an amount equal to \$1,000,000.00 minus the Escrow Payee Portion; (vi) in the event Hanger and/or any of its subsidiaries makes Actual Purchases for less than \$9,500,000 but more than \$8,500,000 in Products from Purchaser as provided and calculated under the Supply Agreement during the third Purchase Year, then in such event the Escrow Agent shall (A) release to the Escrow Payee for such Purchase Year an amount (the "Escrow Payee Portion") equal to the amount of such Actual Purchases in excess of \$8,500,000, and (B) release to Purchaser an amount equal to \$1,000,000.00 minus the Escrow Payee Portion; and (vii) in the event Hanger and/or its subsidiaries makes Actual Purchases of less than \$6,500,000 during the first Purchase Year or less than \$7,500,000 during the second Purchase Year or less than \$8,500,000 during the third Purchase Year, then in each such event \$1,000,000.00 of the Escrow Amount shall be promptly released by the Escrow Agent to the Purchaser for such Purchase Year.

2.2 Payment. The cash portions of the Purchase Price shall be paid by Purchaser in the manner set forth in Section 2.1 in U.S. Dollars in immediately available funds on the Closing Date by certified check or by wire transfer as directed by Seller in written instructions to Purchaser as set forth in Schedule 2.2 hereto.

2.3 Pre-Closing Purchase Price Adjustments. [INTENTIONALLY DELETED]

2.4 Post - Closing Purchase Price Adjustments. [INTENTIONALLY DELETED]

2.5 Title to Purchased Assets. Seller shall deliver to Purchaser at the Closing full title to the Purchased Assets free and clear of all mortgages, liens, pledges, charges, agreements, title retention or security agreements, claims, defects of title, utility easements or other encumbrances or rights of others, except those liens and encumbrances which are listed in Schedule 2.5 hereto (the "Permitted Encumbrances"), which liens and encumbrances do not materially interfere with Seller's current operation,

occupancy, use or maintenance of the Purchased Assets. Delivery of the remaining Purchased Assets shall be by such bills of sale and other instruments of transfer reasonably satisfactory to counsel for Purchaser.

2.6 Assignments. Effective the Closing Date, Seller shall assign and transfer to Purchaser (i) the Facility Lease, (ii) to the extent assignable, all Assumed Contracts, and (iii) to the extent assignable, all Assigned Licenses, all as set forth on Schedule 2.6 hereto. Such assignments shall be by instruments of assignment and other instruments of transfer reasonably satisfactory to the parties and their respective counsel. Purchaser acknowledges that the Assumed Contracts and Assigned Licenses identified in Schedule 2.6 hereto may not be assignable by Seller and that any such Assumed Contracts and Assigned Licenses may need to be amended, modified or reissued. Seller and Hanger shall cooperate with Purchaser in order to obtain the amendment, modification or reissuance of such Assumed Contracts and Assigned Licenses; provided, however, that Purchaser shall not be obligated to accept any terms different from those that presently exist in such Assumed Contracts and Assigned Licenses, and Seller and Hanger shall not be liable for any inability or failure to obtain the assignment to Purchaser of any Assumed Contracts and/or Assigned Licenses, with any unassigned Assumed Contracts and any unassigned Assigned Licenses to be held by Seller or Hanger for the constructive benefit of Purchaser, with the parties continuing after the Closing to use their commercially reasonable efforts to attempt to obtain assignments of such previously unassigned Assumed Contracts and unassigned Assigned Licenses.

2.7 Assumption of Liabilities.

(a) Assumed Liabilities. Effective the Closing Date, Purchaser shall assume all liabilities, obligations and indebtedness of Seller with respect to: (i) the Assumed Contracts (except to the extent related to the Gel Liner Assets); (ii) the Assigned Licenses (except to the extent related to the Gel Liner Assets); (iii) the amounts owed by Seller to Donald L. Poggi and Shirley C. Poggi, David L. Poggi, Alane M. Poggi, James G. Cairns, Jr. and Doris A. Cairns, under the Promissory Notes described on Schedule 2.7(a) (the aggregate sum of which equals the "Shareholder Note Amount"); (iv) all other liabilities of Seller shown on the Balance Sheet other than those relating to the business of the Sea Fab facilities and/or the Gel Liner Assets; (v) all accrued and unused vacation time and sick time as shown on Schedule 2.7(a) and all obligations of any type as described in the letter severance agreements listed in Schedule 2.7(a); (vi) any liability of Seller relating to the manufacture, distribution or sale of any products or the performance of any services prior to the Closing in connection with the Business (except for litigation which, as of the Closing Date, is pending or has been threatened against Seller, as specifically set forth on Schedule 3.1(f) and except for pending or threatened litigation to the extent relating to the Gel Liner Assets); and (vii) all liabilities of Seller which have arisen after the Balance Sheet Date in the ordinary course of business consistent with past custom and practice, including with regard to quantity and frequency (the "Ordinary Course of Business"), but which do not relate to the business of the Sea Fab facilities and/or the Gel Liner Assets (other than any liability resulting from, arising out of, relating to, or in the nature of, or caused by any breach of contract, breach of warranty, tort, infringement, violation of law or environmental matter). The liabilities assumed by Purchaser pursuant to this Section 2.7 are collectively referred to herein as the "Assumed Liabilities."

(b) Excluded Liabilities. Except as provided in Section 2.7(a) hereof, Purchaser shall not assume or have any responsibility with respect to any Excluded Liability, and Purchaser shall not be deemed by anything contained in this Agreement or any other instrument to have assumed or

become responsible for any Excluded Liability. All Excluded Liabilities shall remain the responsibility of Seller and/or Hanger. "Excluded Liabilities" means all liabilities of Seller and/or Hanger (whether contingent or absolute) other than the Assumed Liabilities, including, without limiting the generality of the foregoing, (i) any liability of Seller and/or Hanger for income and all other Taxes arising in connection with the consummation of the transactions contemplated hereby (including any income taxes arising because Seller and/or Hanger are transferring the Purchased Assets), but not the liability of Purchaser for all transfer, sales and use taxes arising in connection with the consummation of the transactions contemplated hereby as provided in Section 4.2(d) hereof; (ii) any liability of Seller and/or Hanger for Taxes, including Taxes of any person other than Seller or Hanger under Treasury Regulation Section 1.1502-6 (or similar provision of state, local or foreign law), as a transferor or successor, by contract or otherwise; (iii) any liability of Seller and/or Hanger with respect to any indebtedness for borrowed money (other than the Shareholder Note Amount); (iv) any liability of Seller and Hanger arising out of any threatened or pending litigation or other claim; (v) any liability of Seller and/or Hanger, whether arising by operation of law, contract, past custom or otherwise, for unemployment compensation benefits, pension benefits, salaries, wages, bonuses, incentive compensation, severance or termination pay, and other forms of compensation or any other form of employee benefit plan, agreement (including employment agreements), arrangement or commitment payable to or for the benefit of any current or former officers, directors, employees and independent contractors of Seller or Hanger (except as otherwise provided in Section 2.7(a) above as to the inclusion in the Assumed Liabilities of all accrued and unused vacation time and sick time as shown on Schedule 2.7(a) and all obligations of any type as described in the letter severance agreements listed in Schedule 2.7(a)); (vi) any liability under Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") or any state benefit continuation or conversion requirements for qualified beneficiaries who have elected such COBRA and/or state continuation or conversion benefits prior to the Closing Date or any liability for such COBRA or state continuation or conversion benefits arising out of or in connection with the transaction contemplated under this Agreement (except for any individuals which become the subject of the Transition Services Agreement as described in Section 5.2(k) hereof); (vii) any liability to the extent relating to Sea Fab facilities or the business thereof or the Gel Liner Assets or the business related thereto; (viii) liabilities in respect of accounts payable to Hanger or any direct or indirect subsidiary or other affiliate of Hanger; or (ix) bonuses, if any, which may become payable to Seller's employees for any period of time prior to the Closing Date.

2.8 Allocation of Purchase Price. The Purchase Price (and other capitalizable costs of the transactions contemplated by this Agreement) shall be allocated to the Purchased Assets for tax and financial accounting purposes in accordance with Section 1060 of the Code and as set forth in Schedule 2.8 hereto (the "Allocation"). Seller and Purchaser affirm that said allocation is fair and equitable. Neither Seller nor Purchaser shall take a position inconsistent with the allocation of the Purchase Price (and other capitalizable costs of the transactions contemplated by this Agreement) set forth in Schedule 2.8 hereto for all federal, state, local and foreign tax purposes for any tax years or periods, including the determination of taxable gain or loss on the sale of the Purchased Assets. In the event that the information necessary to complete Schedule 2.8 is not available on or before the Closing Date, the parties shall use their best efforts to agree to the Allocation to be set forth on Schedule 2.8 within sixty (60) days after the Closing Date. In the event that the parties are unable to agree to the Allocation within such 60-day period, then each of the Seller and the Purchaser shall each designate an accounting firm and such accounting firms shall use their best efforts during the thirty (30) day period immediately following the expiration of the 60-day period set forth



above to determine the Allocation. If the accounting firms are unable to agree on an Allocation within such 30-day period, then such accounting firms shall mutually agree on a third accounting firm to determine the Allocation and such determination shall be conclusive and binding on the parties. Each party shall be responsible for the fees and costs of its own accounting firm and the Seller and Purchaser shall each be responsible for one-half of the fees and costs of the third accounting firm.

2.9 Closing. The closing of the sale and purchase of the Purchased Assets (the "Closing") pursuant to this Agreement shall take place at the offices of Foley & Lardner, 3000 K Street, N.W., Washington, D.C. 20007 at 10:00 a.m. local time on October 9, 2001 (the "Closing Date"), or at such other time and place as the parties may agree. All of the actions taken and instruments and other documents delivered at the Closing shall be deemed to be taken or delivered, as the case may be, simultaneously. No action taken or delivery made at the Closing shall be effective until all actions to be taken, and deliveries to be made, at the Closing are completed (the "Effective Time").

2.10 Deliveries at Closing. At the Closing,

(a) Seller shall deliver to Purchaser (i) the various certificates, agreements, instruments, and documents referred to in Section 5.1 below, and such bills of sale, deeds, lease assignments, assumption and modification documents (including Intellectual Property transfer documents) as Purchaser and its counsel may reasonably request in form and substance reasonably satisfactory to Purchaser; (ii) such pay-off letters and releases relating to the indebtedness of the Business and Seller as Purchaser may reasonably request in form and substance satisfactory to Purchaser; (iii) the Seller's Legal Opinion; and (iv) the executed Landlord Estoppel Certificates;

(b) Purchaser shall deliver to Seller and/or Hanger, as the case may be, (i) cash in the amount of the Purchase Price specified in Section 2.1 above; (ii) the various certificates, instruments, agreements and documents referred to in Section 5.2 below; (iii) the Purchaser's Legal Opinion; and (iv) such instruments of assumption of liabilities as Seller and its counsel may reasonably request in form and substance satisfactory to Seller.

### ARTICLE III Representations and Warranties

3.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser that:

(a) Organization, Qualification and Corporate Power. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Seller is duly qualified to do business as a foreign corporation and is in good standing under the laws of each jurisdiction where the nature of its activities or of its properties owned or leased makes such qualification necessary, except any jurisdiction in which the failure to be so qualified and in good standing would not, individually or in the aggregate, have a Material Adverse Effect (as defined in Section 5.1(c) of this Agreement) on the business, assets, operations or financial condition of Seller. Set forth in Schedule 3.1(a) hereto is a list of each jurisdiction in which Seller is qualified to do business as a foreign corporation. Seller has all requisite power and authority (corporate or

otherwise) to own and operate its properties and to carry on its business as now being conducted. Seller has all requisite power and authority (corporate or otherwise) to execute and deliver this Agreement and to consummate the transactions contemplated hereby. True and correct copies of the Certificate of Incorporation of Seller, as amended to date, the Bylaws of Seller, and all minutes and actions of the stockholders and board of directors of Seller have been delivered or made available to Purchaser, and all actions taken and required to be taken prior to the date hereof are properly reflected in such minutes and actions. Set forth in Schedule 3.1(a) hereto are true and correct lists of the directors and officers of Seller as of the Closing Date. Seller does not have any direct or indirect interest in any other firm, corporation, partnership, limited liability company, joint venture, association or other business organization, except for the Research and Development Agreement with Sandia Corporation dated September 12, 2000, and membership in The American Orthotic and Prosthetic Association.

(b) Corporate Authorization; Binding Agreement. The execution and delivery of this Agreement by Seller, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary action on the part of Seller, including, if required under applicable law or under the Certificate of Incorporation and Bylaws of Seller, the approval of Hanger as sole stockholder of Seller. This Agreement and all other instruments required hereby to be executed and delivered by Seller have been, or will be, duly executed and delivered by authorized officers of Seller and are, or when delivered will be, legal, valid and binding obligations of Seller, enforceable against Seller, in accordance with their terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

(c) No Conflicts with Other Instruments. Except as provided in Section 3.1(d) hereof, the execution and delivery of this Agreement by Seller, and the consummation of the transactions contemplated hereby, will not (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge or other restriction of any government, governmental agency or court to which Seller is subject or any provision of the Certificate of Incorporation or Bylaws of Seller, or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which Seller is a party or by which Seller is bound or to which any of Seller's assets is subject (or result in the imposition of any lien or other encumbrance upon any of Seller's assets) which has not been previously waived in writing by Purchaser on written notice previously given, except for any such violation, conflict or default that, individually or in the aggregate, would not, individually or in the aggregate, have a Material Adverse Effect.

(d) Notices, Consents and Approvals. Except as set forth in Schedule 3.1(d) hereto, Seller is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any governmental authority or other entity in order for the parties hereto to consummate the transactions contemplated by this Agreement, except where the failure to give such notice, to file, or to obtain any such authorization, consent or approval would not, individually or in the aggregate, have a Material Adverse Effect on the ability of Seller, or a Material Adverse Effect on the ability of the other parties to this Agreement, to consummate the transactions contemplated by this Agreement.

(e) Capitalization. The entire authorized capital stock of Seller consists of (i) One Thousand (1,000) shares of Common Stock, par value \$.01, of which One Thousand (1,000) shares are issued and outstanding, all of which are owned of record by Hanger. All of such issued and outstanding shares of Seller have been duly and validly authorized and issued and are fully paid and nonassessable. There are no outstanding subscriptions, contracts, conversion privileges, options, warrants, calls or other rights obligating Seller to issue, sell or otherwise dispose of, or to purchase, redeem or otherwise acquire, any equity interests in Seller. There is no agreement, restriction or encumbrance to which Seller or Hanger is a party or by which any of them is bound (such as a right of first refusal, right of first offer, option, voting trust, proxy, power of attorney or the like) with respect to the acquisition, disposition or voting of equity interests in Seller.

(f) Claims and Proceedings. Except as set forth in Schedule 3.1(f) hereto, there is no pending or, to the knowledge of Seller, threatened legal action, suit, arbitration or other legal, administrative or governmental proceeding or investigation relating to Seller or any of its properties (including, without limitation, the Leased Facility), assets or business, including, without limitation, any action, proceeding or investigation relating to product liability, anti-trust or anti-competition, intellectual property infringement or misappropriation, or environmental matters, and Seller is not subject to any outstanding order, judgment, writ, injunction or decree of any court or governmental authority.

(g) Product Liability. Except as set forth in Schedule 3.1(g) hereto, during the past five years there have been no (i) product liability claims made with Seller (whether or not brought in court) or actions brought against Seller in any court, (ii) recalls mandated, (iii) settlements made, or (iii) to the knowledge of Seller, governmental investigations instituted with respect to any of the products manufactured, sold or held for sale by Seller. To the knowledge of Seller, no such products may become in any respect faulty or defective or fail to comply with any applicable regulations, standards or requirements or their terms of sale. All products made by Seller relating to the Business and, to the knowledge of Seller, all products made by third parties which are sold or held for sale by Seller in the Business comply with all Food and Drug Administration and other applicable regulatory requirements. Schedule 3.1(g) sets forth all product liability claims, whether or not as actions brought in court.

(h) Financial Statements. Attached as Schedule 3.1(h) hereto are (a) unaudited balance sheets and income statements of Seller as of December 31, 1999 and as of December 31, 2000, for each of the years then ended, and (b) an unaudited balance sheet and income statement of Seller (the "Balance Sheet") as of May 31, 2001 (the "Balance Sheet Date"). Such financial statements (i) are in accordance with the books and records of Seller, and (ii) present fairly the financial condition of Seller at the balance sheet dates. To the knowledge of Seller, Seller has made available to Purchaser all the work papers requested by Purchaser which were used by Seller to create its financial statements and the Balance Sheet. To the knowledge of Seller, other than as and to the extent disclosed or reserved against in the Balance Sheet or the notes thereto, Seller has no material liabilities or obligations of any nature whatsoever (whether accrued, absolute, contingent, asserted, unasserted or otherwise, and whether due or to become due, including, without limitation, deferred compensation obligations or tax or product liabilities, and whether incurred in respect of or measured by income for any

period up to and including the Closing Date or arising out of transactions entered into, or any state of facts existing, prior to or on the Closing Date) except: (i) liabilities and obligations incurred in the Ordinary Course of Business since the Balance Sheet Date, (ii) liabilities and obligations set forth in, or arising under, leases, agreements, contracts or commitments set forth in any schedule hereto, and (iii) liabilities and obligations which would otherwise be required to be disclosed pursuant to the representations and warranties set forth in the various paragraphs of this Section 3.1 but are not so disclosed by reason of the express exceptions to disclosure included in the various paragraphs of this Section 3.1.

(i) Tax Matters. The term "Taxes" means all federal, state, local, foreign and other net income, gross income, gross receipts, ad valorem, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and the term "Tax" means any one of the foregoing Taxes other than any sales, use and/or transfer taxes arising in connection with the consummation of the transactions contemplated hereby for which Purchaser shall be solely liable as provided in Section 4.2(e) hereof. Seller has timely filed all Tax returns (including information returns and estimates) required to be filed by it, including, but not limited to, those with respect to income, premiums, withholding, social security, unemployment, franchise, ad valorem, excise and sales Taxes, and has paid all Taxes owed by it (whether or not shown on any returns) and has paid all assessments made against it to the extent such have become due, except as set forth on Schedule 3.1(i) hereto. All of such returns and estimates were complete and accurate in all material respects, except as set forth on Schedule 3.1(i) hereto. Except as provided in Schedule 3.1(i) hereto, to the knowledge of Seller no Tax returns filed by Seller are currently being audited and no claims for additional taxes have been made by any taxing authority and are pending. Seller has not received a notice of deficiency or assessment of additional Taxes which notice or assessment remains unresolved, and to the knowledge of Seller no taxing authority has asserted or proposed to assert any deficiency or assessment. Proper and accurate amounts have been withheld by Seller from its employees and paid for Tax purposes in compliance with all applicable laws. To the knowledge of Seller, Seller has collected and/or paid all sales and use Taxes required to be collected or paid by Seller. The reserve for Taxes (other than any reserve for deferred taxes) in the Balance Sheet is adequate to cover all accrued but unpaid Taxes of Seller as of the Balance Sheet Date and any Taxes which would have accrued as of such date but which are being contested in good faith (all of which contested taxes are disclosed on Schedule 3.1(i)). Seller has not extended the time for assessment or payment of any Tax, except as set forth on Schedule 3.1(i) hereto. To the knowledge of Seller, the Tax returns for Seller present fairly and accurately all information contained therein. There are no liens for Taxes (other than current Taxes not yet due and payable) upon the Purchased Assets. The Seller is not party to any tax sharing or reporting agreement or arrangement. The Seller has not entered into any arrangement with any taxing authority to toll the statute of limitations with respect to any Tax.

(j) Absence of Certain Changes or Events. Except as agreed by Purchaser pursuant to Section 4.1(b) hereof or as set forth on Schedule 3.1(j) hereto, since December 31, 2000:

- (i) Seller has not incurred any obligations and liabilities which were not incurred in the Ordinary Course of Business or for money borrowed; made any loans to or guaranteed any indebtedness of others; prepaid any indebtedness; changed or modified any existing accounting method, principle or practice; mortgaged, pledged or subjected to a lien, charge or encumbrance any of its assets, tangible or intangible other than mechanic's or materialmen's liens arising in the Ordinary Course of Business; sold, transferred or otherwise disposed of any material portion of the tangible assets related to the Business, except for sales of inventory in the Ordinary Course of Business; sold, assigned or transferred any patents, trademarks, trade names, service marks or other intangible assets; suffered any business interruption or disruption or labor disputes, whether or not covered by insurance; entered into or modified any agreement, contract or commitment other than in the Ordinary Course of Business or waived any rights of substantial value; purchased any capital assets for use in the Ordinary Course of Business of Seller in excess of \$75,000; leased any assets as lessee or lessor; terminated or modified any lease related to the Business to which it is a party or by which it is bound, except for terminations of leases which expired in accordance with their terms; suffered any destruction of the Purchased Assets, whether or not covered by insurance, ordinary wear and tear excepted; become subject to any other event or condition materially and adversely affecting its business, management, assets, operations or financial condition, other than general changes in market conditions affecting Seller and similarly situated competitors; or entered into any other transaction other than in the Ordinary Course of Business;
- (ii) no dividends or other distributions have been declared, set aside, made or paid, except for distributions of cash prior to Closing to reflect the parties' agreement that Purchaser is not acquiring Seller's cash;
- (iii) no equity interests of Seller have been purchased, redeemed or otherwise acquired, directly or indirectly, by Seller from any stockholder;
- (iv) no equity interests or other securities of Seller, or options or other rights of the type referred to in Section 3.1(e) hereof, have been issued or authorized for issuance;
- (v) Seller has not increased or decreased the compensation of any of its officers or employees, except pursuant to past practices as disclosed to Purchaser, and no sums or other assets have been paid to or withdrawn by the officers or employees of Seller, except for ordinary compensation and fees, and payments under established compensation or incentive plans, ordinary expense reimbursement and similar payments.
- (vi) Seller has not entered into any commitment to do any of the foregoing.
- (k) Facility Lease. The only real property and facility lease of Seller which will be assigned to Purchaser shall be the Facility Lease for Seller's location in Poulsbo, Washington, which is attached hereto as Schedule 1.1(a) (the "Leased Facility"). Except for the transactions

contemplated by this Agreement and the sublease of a certain portion of the Leased Facility to Otto Bock on terms previously disclosed in writing to Purchaser, no person or entity has any rights in, or rights to acquire any interest in Seller's interest in the Leased Facility. To the knowledge of Seller, there is no pending or threatened condemnation or transfer in lieu thereof affecting the Leased Facility or any proposed or pending special assessments against the Leased Facility which may give rise to special assessments against the Leased Facility and which is not reflected in the Balance Sheet. Except for any required landlord consent (which Seller shall deliver prior to Closing), the Facility Lease constitutes the legal, valid and binding obligation of the parties thereto enforceable according to its terms, is assignable to Purchaser, and will continue in full force and effect immediately after the consummation of the transactions contemplated by this Agreement subject to the landlord's required pre-approval of the assignment of the Facility Lease from Seller to Purchaser, there are no known material disputes pending or threatened under the Facility Lease, and neither Seller nor any other party thereto is in default (nor has any event or occurrence occurred which, with the giving of notice, the passage of time or both, would constitute a default) under the terms of the Facility Lease. To the knowledge of Seller, all improvements on the parcels subject to the lease for the Leased Facility and all parts thereof, including, without limitation, all mechanical, electrical and plumbing systems, roofs and structures, are in good condition without any defects or deficiencies that would materially inhibit or interfere with the operation of the business of Seller. To the knowledge of Seller, there are no defects or inadequacies in the Leased Facility or any improvements thereon which would materially adversely affect the insurability of such improvements or the premiums for the insurance thereof. To the knowledge of Seller, the Leased Facility is zoned to permit its current use, without special permit, condition or other conditional approvals or arrangements of any kind under applicable zoning laws, and there are no known variances, special exceptions, conditions or agreements pertaining to the Leased Facility imposed or granted by any state, county or municipal governmental authority, any neighborhood or civic group or any similar body, except where failure to comply with any such laws would not, individually or in the aggregate, have a Material Adverse Effect. To the knowledge of Seller, no written notice from any city, county or other governmental authority has been received by Seller requiring or calling attention to the need for any work, repair, construction, alteration or installation on, or in connection with, the Leased Facility or any improvement thereof, and Seller has no reasonable basis to believe that any such notice will be issued. The Leased Facility has connection to septic, water, electricity, gas, telephone and all other necessary utilities for their current use and, to the knowledge of Seller, there are no existing circumstances or conditions which could result in the termination of such access or connections for any significant period of time.

(l) Title to Assets. Except as set forth in Schedule 2.5 hereof, Seller has good and marketable title to the Purchased Assets free and clear of any liens, mortgages, pledges, encumbrances, defects or other restrictions or rights of third parties. In the case of personal properties used by Seller in connection with its trade or business, but not owned by it, Seller has a valid, binding and enforceable right to use such properties pursuant to a written lease, license or other agreement or understanding. All leases of personal property held by Seller will (according to their terms), subject to any required consents of any lessors, not be changed or voided by the Closing of the asset acquisition transaction which is the subject of this Agreement, there are no material disputes pending or threatened under any of such leases,

and no default (or any event or occurrence which, with the giving of notice, the passage of time or both, would constitute a default) has occurred and is continuing with respect to any such lease. Except for ordinary wear and tear, all tangible personal property owned or leased by Seller is in operating condition sufficient for the operation of the Business as currently operated by Seller.

(m) Contracts. Set forth in Schedule 3.1(m) hereto is a list of contracts or commitments (hereinafter collectively "contracts") required to be listed pursuant to the third sentence of this Section 3.1(m), and to the extent such contracts are evidenced by documents, true and correct copies thereof have been delivered or made available to Purchaser unless otherwise noted hereinafter. To the knowledge of Seller, all such contracts and all other material contracts to which Seller is a party or by which it is bound are valid, subsisting and legally binding on Seller and, to the knowledge of Seller, the other parties thereto. Except as set forth in Schedule 3.1(m) hereto, Seller is not a party to or bound by any:

- (i) contract with any labor union or any collective bargaining agreement;
- (ii) employee benefit plan (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended); written or oral severance pay plan or agreement; employee relations policy or practice, agreement, or arrangement; agreements with respect to leased or temporary employees; vacation plan or arrangement; sick pay plan; stock purchase plan; stock option plan; fringe benefit plan; incentive plan; bonus plan; cafeteria or flexible spending account plan; and any deferred compensation agreement or plan, program or arrangement;
- (iii) employment (exclusive of employment at will without written agreement), agency, consulting or similar service contract;
- (iv) agreement (including sales representative, broker or distributorship agreement) for the payment of royalties, fees, commissions, or other compensation which involves payment or product sales (in the case of distributorship agreements) of \$10,000 or more per year or is not terminable by Seller without cost or penalty upon 30 days' or less notice;
- (v) lease (including the Facility Lease), whether as lessor or lessee, with respect to any real or personal property which involves payment of \$10,000 or more per year;
- (vi) contract as licensor or licensee for the license of any patent, know-how, trademark, trade name, service mark or other intangible asset;
- (vii) guaranty, suretyship, indemnification or contribution agreement (other than warranties made in the ordinary course), together with any notices or claims made by or against Seller with respect to any of the foregoing;

(viii) loan agreement, promissory note or other document evidencing indebtedness of or to Seller (other than trade accounts payable or receivable and other indebtedness incurred in the ordinary course and not for money borrowed);

(ix) mortgage, security agreement, sale-leaseback agreement or other agreement which effectively creates (or could, in the future, create) a lien on any assets of Seller;

(x) contract for the purchase of capital assets or for remodeling or construction which involves payment of \$75,000 or more a year;

(xi) contract for advertising or promotional services to be rendered for Seller which involves payment of \$25,000 or more a year;

(xii) contract concerning confidentiality or restricting Seller from engaging in business or from competing with any other parties;

(xiii) contract with any officer, director or affiliate of Seller or any entity owned, in whole or in part, directly or indirectly, by any such officer, director or affiliate;

(xiv) purchase or sales orders for merchandise or supplies outside the Ordinary Course of Business;

(xv) plan of reorganization;

(xvi) any other contract involving the acquisition or disposition of \$75,000 or more in assets (excluding purchases and sales of raw materials, components and finished products in the Ordinary Course of Business);

(xvii) agreement concerning a partnership, limited liability company or joint venture; or

(xviii) any other contract not otherwise disclosed in a schedule to this Agreement which involves payments of \$75,000 or more a year and is not terminable by Seller without cost or penalty upon 30 days' or less notice.

(n) No Defaults. Except as set forth in Schedule 3.1(n) hereto, Seller is not in default and to the knowledge of Seller no event has occurred which, with the lapse of time or the giving of notice, or both, would constitute a default by Seller, under any lease, indenture, loan agreement, contract, instrument or other agreement to which it is a party or by which it or any of its assets is bound. Except as set forth in Schedule 3.1(n) hereto, Seller has not received notice that any party with whom Seller has leases or other agreements or contracts is not in compliance in all material respects therewith. Seller is not in violation of its Certificate of Incorporation or its Bylaws.

(o) Transactions with Affiliates. Except as set forth in Schedule 3.1(o) hereto, no director, officer or stockholder of Seller, nor any person who is a member of the immediate family



or an affiliate of any such director, officer or stockholder, (i) has any material direct or indirect interest, as director, officer, partner, shareholder or otherwise, in any entity that does business with Seller, or in any property, asset or right which is used by Seller in the conduct of its business, or (ii) has any contractual relationship with Seller other than as an employee.

(p) Insurance. Schedule 3.1(p) hereto sets forth the following information with respect to each insurance policy (including policies providing property, casualty, liability and workers' compensation coverage and bond and surety arrangements) with respect to which Seller is a party, a named insured or otherwise the beneficiary of coverage:

- (i) the name, address and telephone number of the agent;
- (ii) the name of the insurer, the name of the policyholder and the name of each covered insured; and
- (iii) the policy number and the period of coverage.

With respect to each such insurance policy: (A) the policy is legal, valid, binding, enforceable and in full force and effect in all material respects; (B) Seller is not, nor has Seller received notice that any other party to the policy is, in material breach or default (including with respect to the payment of premiums or the giving of notices), and no event has occurred which, with notice or the lapse of time, would constitute such a material breach or default, or permit termination, modification or acceleration, under the policy; (C) Seller has not repudiated, and to the knowledge of Seller no party to the policy has repudiated any material provision thereof; and (D) Seller has not received any notice of non-renewal or any proposed material change in the terms upon which such policy is offered for renewal (including, but not limited to, material changes in the premiums payable thereunder or the scope of coverage). Schedule 3.1(p) hereto describes any material self-insurance arrangements affecting Seller.

(q) Compliance with Laws; Permits and Licenses. Seller is in compliance in all material respects with all federal, state, local or foreign laws, ordinances and regulations, and all judgments, awards, orders, writs, injunctions and decrees with which it is or was required to comply and has received no notice of any failure to comply which remains uncorrected. To the knowledge of Seller, Seller has obtained and is now in possession of all material governmental permits, licenses, approvals, authorizations, permissions and similar filings that are required for the operation of the Business as presently conducted, including, without limitation, those relating to environmental laws, occupational safety and health and equal employment practices (collectively, the "Permits"). To the knowledge of Seller, no notice, citation, summons or order has been issued, no complaint has been filed and no penalty has been assessed which is outstanding or has not been resolved by Seller during the five years preceding the date hereof, and no investigation or review is pending or, to the knowledge of Seller, threatened, by any governmental or other entity with respect to the Permits. To the knowledge of Seller, the Permits are in full force and effect.

(r) Labor Matters. Seller is not subject to any unfair labor practice charge, work stoppage, picketing or other labor dispute or disturbance. There is no collective bargaining unit

representing any of the employees of Seller. To the knowledge of Seller, no petition has been filed and is pending with the National Labor Relations Board by any labor organization or any group of employees for an election or certification regarding the representation of any group of employees of Seller by a labor organization, nor to the knowledge of Seller, is there at present any solicitation or campaign by any labor organization or employee for the representation of employees of Seller by a labor organization. To the knowledge of Seller, Seller is in material compliance with all requirements of applicable federal, state, local and foreign laws and regulations governing employee relations, including, but not limited to, anti-discrimination laws, wage/hour laws, labor relations laws and occupational safety and health laws. Seller has not engaged in any plant closing, workforce reduction or other action which has resulted or could result in liability under the Workers Adjustment and Retraining Notification Act or issued any notice that any such action is to occur in the future. To the knowledge of Seller, Seller is in compliance with all applicable requirements of the Immigration Reform and Control Act and has in its file properly completed copies of Form I-9 for all employees to whom that requirement applies.

(s) Employee Benefit Plans. Except as disclosed in Schedule 3.1(m) hereto, Seller does not maintain or contribute to any "employee benefit plan" (including any employee welfare benefit plan, any employee pension benefit plan or any multiemployer pension plan) which is subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Except as disclosed in Schedule 3.1(m) hereto, Seller has no form of plan or agreement with any of its current or former employees, officers or directors providing for options to purchase equity interests or any other present or future employee benefits (including, without limitation, health benefits) or deferred compensation of any nature whatsoever (hereinafter collectively referred to as a "plan"). Each plan (and each related trust, insurance contract or fund) is in compliance in form and in operation with all applicable requirements of ERISA, the Internal Revenue Code (the "Code"), and any other applicable federal or state law or regulation, each plan has been administered in accordance with its plan documents and the applicable laws and regulations, and there has been no breach of fiduciary duty, prohibited transaction, or other event with respect to a plan which could result in an excise tax or other claim or liability against Seller, any plan or any fiduciary of a plan. All health plans, programs or arrangements subject to Code Section 4980B and Part 6 of Subtitle B of Title I of ERISA relating to COBRA continuation of health coverage have been operated in accordance therewith, and Seller is not aware of any failure to comply therewith with respect to any employee or former employee of Seller or any qualified beneficiary thereof. No representation has been made to any employee or former employee of Seller with respect to any plan which would entitle such employee to benefits greater than or in addition to the benefits provided by the actual terms of the plan, including, without limitation, representations as to post-retirement health or death benefits. A true and correct copy of each of the plans and agreements listed in Schedule 3.1(m) hereto, together with (i) the summary plan description prepared with respect to such plan, if any, (ii) each trust agreement, insurance contract or other funding arrangement relating to any plan, and (iii) any currently effective Internal Revenue Service ruling or determination letter relating to any plan, has been furnished to Purchaser by Seller. No "prohibited transaction" (as defined in Section 4975 of the Code or Section 406 of ERISA) has occurred which involves the assets of any plan which could subject any employees of Seller, an

administrator or other fiduciary of any plan, or a trustee of any trust created under any plan, to the tax or penalty on prohibited transactions imposed by Section 4975 of the Code or the sanctions and penalties imposed on prohibited transactions under Title I of ERISA. No "reportable event" (as defined in Section 4043 of ERISA and the regulations thereunder) has occurred, or will result from the transactions set forth in this Agreement, with respect to any plan. None of the plans is subject to Title IV of ERISA or is subject to the minimum funding requirements of Section 302 of ERISA or Section 412 of the Code. No facts exist which might give rise to any liability of the Seller under Title IV of ERISA or which could reasonably be anticipated to result in any claims being made against Seller by the Pension Benefit Guaranty Corporation ("PBGC") with respect to any "employee pension benefit plan" (as defined in Section 3(2) of ERISA) ever maintained or contributed to by Seller at any time. For purposes of the preceding sentence and the next sentence hereof, the term "Seller" shall also include any entity which is under common control or affiliated with Seller, within the meaning of Section 4001(b)(1) of ERISA and the rules and regulations promulgated thereunder and/or Sections 414(b), (c), (m) or (o) of the Code and the rules and regulations promulgated thereunder. At no time has Seller been required to contribute to, or incurred any withdrawal liability (within the meaning of Section 4201 of ERISA) to any plan which is a multiemployer plan as defined in Section 3(37) of ERISA. There are no officers or employees, current or former, active or inactive, of Seller working outside the United States of America.

(t) Relationships with Suppliers. Except as set forth in Schedule 3.1(t) hereto, Seller has not experienced material difficulties in securing the merchandise, supplies and services necessary to conduct its business, nor to the knowledge of Seller does it anticipate any material difficulties with respect thereto prior to the Closing Date. No supplier of more than \$25,000 per year during 2000 or the portion of 2001 up to the date of this Agreement in merchandise, supplies or services to Seller has refused to supply further merchandise, supplies or services to Seller and there are no threatened refusals or terminations by any such supplier of its relationship with Seller. To the knowledge of Seller, the relationship of Seller with its current suppliers is satisfactory.

(u) Relationships with Customers. Except as set forth in Schedule 3.1(u) hereto, none of the five largest customers (as measured by sales volume) in merchandise or services of Seller during 2000 or 2001 has refused to continue to purchase further merchandise or services from Seller, and to the knowledge of Seller there are no such threatened terminations or reductions by any such customer of its relationship with Seller. To the knowledge of Seller, the relationship of Seller with its current customers is satisfactory.

(v) Accounts Receivable. Except as set forth in Schedule 3.1(v) hereto, all accounts receivable of Seller have arisen and will arise in the Ordinary Course of Business (in each case, in accordance with terms granted in the Ordinary Course of Business), are reflected properly on its books and records, and to Seller's knowledge constitute valid and binding obligations of the account debtors and obligors enforceable in accordance with their terms at the amounts recorded therefor in the books and records.

(w) Inventory. Except as set forth in Schedule 3.1(w) hereto, there have been no changes in the inventory of Seller since the Balance Sheet Date, except changes in the Ordinary Course of Business which have been duly accounted for on the books and records of Seller. Except as set forth in Schedule 3.1(w) hereto, the booked inventory of Seller (and the previously booked inventory of Seller that has been returned to vendors), net of booked reserves, consists of items of a quality and quantity useable or saleable in the Ordinary Course of Business of Seller immediately prior to the Closing, provided that for purposes of this Section 3.1(w), the sale of any material amount of finished goods inventory at a price insufficient to cover the book value thereof in the ordinary course of business, in the aggregate, shall not be deemed to be in the Ordinary Course of Business of Seller. No inventory is consigned.

(x) Products. Substantially all of the products sold and delivered by Seller have conformed in all material respects with all applicable contractual commitments and all express and implied warranties, and Seller has no knowledge of any material liability (whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due) for replacement or modification thereof or other damages in connection therewith, subject only to liabilities or expenses with respect to nonconforming products reasonably consistent with the amount of such liabilities and expenses historically experienced by Seller. All of the products manufactured, sold and delivered by Seller are sold pursuant to order acknowledgments and other written instruments containing standard terms and conditions of sale or lease. Schedule 3.1(x) hereto includes copies of the standard terms and conditions of sale or lease for products of Seller (containing applicable guaranty, warranty and indemnity provisions). The warranty reserve maintained by Seller is adequate to cover known and anticipated warranty claims.

(y) Intellectual Property.

(i) Seller owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the Business as presently conducted and as presently proposed to be conducted by Seller, including, without limitation, the Intellectual Property being conveyed by Seller in Section 1.1(d) above. Each item of Intellectual Property owned, used or held for use by Seller immediately prior to the Closing will be owned or available for use by Purchaser on identical terms and conditions immediately subsequent to the Closing, subject to Purchaser's execution of the appropriate licenses with Microsoft for the operating system software being transferred by Seller and Hanger to Purchaser with the computer workstations which are part of the Purchased Assets. To the knowledge of Seller, Seller has taken all necessary and desirable action to maintain and protect each item of Intellectual Property that it owns, uses or holds for use.

(ii) Except as set forth in Schedule 3.1(f), to the knowledge of Seller, Seller has not interfered with, infringed upon, misappropriated, diluted or otherwise come into conflict with any intellectual property right of any third party, including, without limitation, a right in a patent, trade secret, know-how, trademark, service mark, trade dress trade name, corporate name, copyright, moral right, mask work, publicity, or privacy, or an issuance, registration, or application for any of the foregoing. Seller has not received any charge,

complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, dilution or violation described in the preceding sentence (including any claim that Seller must license or refrain from using any intellectual property right of any third party), and Seller does not have any reasonable basis to believe that any such charge, complaint, claim, demand or notice will be made. To the knowledge of Seller, no third party has interfered with, infringed upon, misappropriated, diluted or otherwise come into conflict with any Intellectual Property right of Seller.

(iii) Schedule 1.1(d) identifies each patent or registration which Seller owns with respect to any of the Intellectual Property, identifies each pending patent application or application for registration which Seller owns with respect to any of the Intellectual Property, and identifies each license, agreement, or other permission which Seller has granted to any third party with respect to the Intellectual Property. Seller has delivered to Purchaser correct and complete copies of all such patents, registrations, applications, licenses, agreements, and permissions (as amended to date) and has made available to Purchaser correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such item. Schedule 1.1(d) also identifies each trade name or unregistered trademark used by Seller in the Business. With respect to each item of Seller's Intellectual Property required to be identified in Schedule 1.1(d) and subject to the knowledge of Seller:

- (A) to the extent that ownership is indicated on such Schedule, Seller possesses all right, title, and interest in and to the item, free and clear of any security interest, license, or other restriction;
- (B) the item is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;
- (C) no action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is pending or, to the knowledge of Seller, is threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and
- (D) Seller has never agreed to indemnify any person for or against any interference, infringement, misappropriation, dilution or other conflict with respect to the item.

(iv) Schedule 1.1(d) identifies each item of Intellectual Property that any third party owns and that Seller uses or holds for use pursuant to license, sublicense, agreement, or permission granted to the licensor by such third party. Seller has delivered to Purchaser correct and complete copies of all such licenses, sublicenses, agreements, and permissions (as amended to date). With respect to each item of Intellectual Property required to be identified in Schedule 1.1(d) and subject to the knowledge of Seller:

- (A) the license, sublicense, agreement, or permission covering the item is legal, valid, binding, enforceable, and in full force and effect;

- (B) the license, sublicense, agreement, or permission will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby, subject to any consents required from any licensor;
- (C) except as set forth in Schedule 1.1(d), neither Seller nor, to the knowledge of Seller, any other party to the license, sublicense, agreement, or permission is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder;
- (D) to the knowledge of Seller, no party to the license, sublicense, agreement, or permission has repudiated any provision thereof;
- (E) with respect to each sublicense, the representations and warranties set forth in subsections (A) through (D) above are true and correct with respect to the underlying license;
- (F) the underlying item of Intellectual Property is not subject to any outstanding, injunction, judgment, order, degree, ruling, or charge;
- (G) no action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is pending or, to the knowledge of Seller, threatened which challenges the legality, validity, or enforceability of the underlying item of Intellectual Property; and
- (H) Seller has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(v) Purchaser will not interfere with, infringe upon, misappropriate, dilute or otherwise come into conflict with any intellectual property rights of third parties as a result of the continued operation of the Business as presently conducted by Seller.

(z) Banking Matters. Set forth in Schedule 3.1(z) hereto is a true and correct list containing the name of each bank in which Seller has an account or safe deposit box and the names of all persons authorized to draw thereon or having access thereto. Except as set forth in Schedule 3.1(z) hereto, no persons hold powers of attorney from Seller.

(aa) Environmental Matters. Except as set forth on Schedule 3.1(aa) hereto:

(i) Seller has not deposited nor, to the knowledge of Seller, are there present in, on or under the Existing Property (as hereinafter defined) any Hazardous Substances (as hereinafter defined) in such form or quantities and so situated as to create any liability or obligation under any Environmental Law (as hereinafter defined) for Seller or Purchaser. All Hazardous Substances on the Existing Property are properly stored above ground, and the wastes therefrom are being stored, transported, treated and/or disposed of in compliance with all applicable laws, regulations, ordinances and codes, including, but not limited to, the Environmental Laws (as hereinafter defined).

(ii) Seller has not deposited nor, to the knowledge of Seller, are there present in, on or under the Owned Property (as hereinafter defined) any Hazardous Substances in such form or quantity and so situated as to create any liability or obligation under any Environmental Law for Seller or Purchaser. All Hazardous Substances on the Owned Property were properly stored above ground, and the wastes therefrom were stored, transported, treated and/or disposed of in compliance with all applicable laws, regulations, ordinances and codes, including, but not limited to, the Environmental Laws.

(iii) To the knowledge of Seller, there are not, and never have been, any underground storage tanks or above-ground storage tanks in, on or under the Existing Property.

(iv) To the knowledge of Seller, there are not, and never have been, any asbestos containing materials or polychlorinated biphenyls used or stored in, on or under the Existing Property.

(v) To the knowledge of Seller there are no substances or conditions in, on or under the Existing Property that could support a claim or cause of action against Purchaser under any Environmental Law.

(vi) To the knowledge of Seller there are no substances or conditions in, on or under the Owned Property that could support a claim or cause of action against Purchaser under any Environmental Law.

(vii) No activity has been undertaken on the Existing Property by Seller, or, to the knowledge of Seller by any other person, that would cause or contribute to a release or threatened release of Hazardous Substances from Existing Property so as to create liability for the owner or operator of the Existing Property under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601 et seq., or any similar state, or foreign law or local ordinance.

(viii) No activity has been undertaken on the Owned Property by Seller, or, to the knowledge of Seller, by any other person, that would cause or contribute to a release or threatened release of Hazardous Substances from the Owned Property so as to create

liability for the owner or operator of the Owned Property under CERCLA or any similar state law or local ordinance.

(ix) Seller has and at all times has had in full force and effect, and is and at all times has been in full compliance in all material respects with, all permits, licenses and other authorizations required by any Environmental Law.

(x) Seller has not received, nor, to the knowledge of Seller, is there, any request for response action, administrative or other order (or request therefor), judgment, complaint, claim, investigation, request for information or other request for relief in any form relating to any facility where wastes generated or transported by Seller have been disposed of, placed or located.

(xi) Seller has not, in connection with the Owned Property or otherwise, stored, used, generated, treated, transported, disposed of, or arranged for the disposal of any Hazardous Substances in any manner to create any liability or obligation under any Environmental Law or any other liability or obligation for Seller or Purchaser. To the knowledge of Seller, Seller has not ever sent, arranged for disposal or treatment, arranged with a transporter for transport for disposal or treatment, transported, or accepted for transport any Hazardous Substances to a facility, site or location that has been placed or is proposed to be placed on the National Priorities List or any state equivalent; to any facility, site or location that is subject to an investigation, claim, administrative order or other request to take clean-up action or remedial action by any person; or to any facility, site or location that is subject to a claim for damages by any person (including any governmental entity).

(xii) To the knowledge of Seller, there are no pending or threatened claims, investigations, administrative proceedings, litigation, regulatory hearings or requests or demands for remedial or response actions or for compensation, with respect to the Existing Property, alleging noncompliance with or violation of any Environmental Law or seeking relief under any Environmental Law.

(xiii) To the knowledge of Seller, the Existing Property is and never has been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on any other list, schedule, log, inventory or record of hazardous waste sites that require environmental remediation maintained by any federal, state, foreign or local agency.

(xiv) To the knowledge of Seller, the Owned Property is and never has been listed on the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or on any other list, schedule, log, inventory or record of hazardous waste sites that require environmental remediation maintained by any federal, state, foreign or local agency.



(xv) Seller has made available to Purchaser all environmental reports and investigations which, to the knowledge of Seller, exist with respect to the Existing Property.

(xvi) Seller has made available to Purchaser all environmental reports and investigations which, to the knowledge of Seller, exist with respect to the Owned Property.

(xvii) "Hazardous Substances" is defined as toxic, radioactive or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in CERCLA) and any substance or material regulated by any Environmental Law.

(xviii) "Environmental Law" is defined as any federal, state, county, municipal, local, foreign or other statute, law, ordinance or regulation, which relates to or deals with the environment or human health as affected by environmental conditions, all as in effect on the date hereof.

(xix) "Owned Property" is defined as any parcel of real estate previously owned or occupied by Seller or in which Seller had any interest, including any lessee's interest, at which the Business is being currently conducted or at which the Business was conducted with the Purchased Assets but not including any parcel of real estate defined as "Existing Property" pursuant to this Section 3.1(aa).

(xx) "Existing Property" is defined as any parcel of real estate now owned or occupied by Seller or in which Seller has any interest, including any lessee's interest, at which the Business is being currently conducted or at which the Business was conducted with the Purchased Assets.

As to any Owned Property, this Section 3.1(aa) does not apply to any period of time prior to or subsequent to the termination of Seller's ownership, occupancy, leasehold interest in or use of such Owned Property, except with respect to matters and conditions relating to any such prior period of which Seller had knowledge.

(bb) Purchased Assets Sufficient. The Purchased Assets constitute all of the property and assets of Seller necessary for the operation of the Business as currently operated by Seller. The premises subject to the Facility Lease constitutes the premises owned, occupied or otherwise used by Seller in connection with the Business.

(cc) Employee Bonuses. No representation has been made by Seller to any employee or former employee of Seller with respect to the award of any bonuses, except as described at Section 3.1(j)(v).

(dd) Equipment. Schedule 1.1(b) hereto contains a complete and accurate list of all items of Equipment carried on the books of Seller as of the Balance Sheet Date.

(ee) Condition of Assets.

(i) The Purchased Assets are, in all material respects, except for normal wear and tear, in a condition and working order sufficient so as to not materially impair the present operation thereof.

(ii) To the knowledge of Seller, the Leased Facility and Seller's use thereof are in compliance in all material respects with all local, state or federal laws and regulations affecting the current use and occupancy of such facility, including, without limitation, regulations of the Occupational Safety and Health Administration and the Americans with Disabilities Act and regulations promulgated thereunder.

(ff) Fees. Seller has no liability or obligation to pay any fees, commissions or other payment to any broker, finder, agent or third party with respect to the transactions contemplated by this Agreement. Notwithstanding anything in this Agreement to the contrary, and without regard to any dollar or time limits contained in Section 6.1 or Section 8.1 hereof, should any claims for commissions or other fees be made by any other person claiming an interest in this Agreement, or in the underlying transactions, by reason of any agreement, understanding or other arrangement with Seller or its agents, servants, employees, or other representatives, then Seller shall indemnify and hold harmless Purchaser from any and all liabilities and expenses associated therewith. The foregoing provisions of this Section 3.1(ff) shall survive not only the Closing hereunder, but also any termination or cancellation of this Agreement.

(gg) Full Disclosure. Neither this Agreement, nor any of the schedules, attachments or exhibits hereto, contains any untrue statement of a material fact concerning Seller or, to the knowledge of Seller, omits a material fact necessary to make the statements concerning Seller contained herein or therein, taken as a whole, in light of the circumstances in which they were made, not misleading.

(hh) Definition of Knowledge. For purposes of this Section 3.1, "knowledge" of any person shall mean the actual knowledge of such person after conducting a reasonable investigation, and "knowledge of Seller" shall mean the knowledge of each of the officers and directors of Seller and Seller's employees with responsibility for the relevant subject matter.

3.2 Representations and Warranties of Hanger. Hanger hereby represents and warrants to Purchaser that:

(a) Organization, Qualification and Corporate Power. Hanger is a corporation duly organized and validly existing under the laws of the State of Delaware. Hanger is duly qualified to do business as a foreign corporation and is in good standing under the laws of each jurisdiction where the nature of its activities or of its properties owned or leased makes such qualification necessary, except any jurisdiction in which the failure to be so qualified and in good standing would not, individually or in the aggregate, have a material adverse effect on the business, assets,

operations or financial condition of Hanger. Hanger has all requisite power and authority (corporate or otherwise) to own and operate its properties and to carry on its business as now being conducted. Hanger has all requisite power and authority (corporate or otherwise) to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

(b) Corporate Authorization: Binding Agreement. The execution and delivery of this Agreement by Hanger, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary action on the part of Hanger, including, if required under applicable law or under the Certificate of Incorporation and Bylaws of Hanger, the approval of the stockholders of Hanger. This Agreement and all other instruments required hereby to be executed and delivered by Hanger have been, or will be, duly executed and delivered by authorized officers of Hanger and are, or when delivered will be, legal, valid and binding obligations of Hanger, enforceable against Hanger, in accordance with their terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

(c) No Conflicts with Other Instruments. The execution and delivery of this Agreement by Hanger, and the consummation of the transactions contemplated hereby, will not (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge or other restriction of any government, governmental agency or court to which Hanger is subject or any provision of the Certificate of Incorporation or Bylaws of Hanger, or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which Hanger is a party or by which Hanger is bound or to which any of Hanger's assets is subject (or result in the imposition of any lien or other encumbrance upon any of Hanger's assets) which has not been previously waived in writing by Purchaser on written notice previously given, except for any such violation, conflict or default that, individually or in the aggregate, would not, individually or in the aggregate, have a Material Adverse Effect.

(d) Notices, Consents and Approvals. Hanger is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any governmental authority or other entity in order for the parties hereto to consummate the transactions contemplated by this Agreement, except where the failure to give such notice, to file, or to obtain any such authorization, consent or approval would not, individually or in the aggregate, have a Material Adverse Effect on the ability of Hanger to consummate the transactions contemplated by this Agreement.

(e) Intellectual Property.

(i) Hanger owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property of Hanger subject to the provisions of Sections 1.3 and 1.4 above (the "Hanger Intellectual Property"). Each item of Hanger Intellectual Property owned, used or held for use by Hanger for Seller and the Business as listed on Schedule 1.3 hereof immediately prior to the Closing will be owned or available for use by Purchaser on identical terms and conditions immediately subsequent to the

Closing. To the knowledge of Hanger, Hanger has taken all necessary and desirable action to maintain and protect each item of Intellectual Property that it owns, uses or holds for use.

(ii) Except as provided in Schedule 3.1(f) hereto, with regard to the Hanger Intellectual Property, to the knowledge of Hanger, Hanger has not interfered with, infringed upon, misappropriated, diluted or otherwise come into conflict with any intellectual property right of any third party. Hanger has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, dilution or violation described in the preceding sentence (including any claim that Hanger must license or refrain from using any intellectual property right of any third party), and Hanger does not have any reasonable basis to believe that any such charge, complaint, claim, demand or notice will be made. To the knowledge of Hanger, no third party has interfered with, infringed upon, misappropriated, diluted or otherwise come into conflict with any Hanger Intellectual Property.

(iii) With respect to each item of Hanger Intellectual Property:

(A) to the extent that ownership is indicated on Schedule 1.3, Hanger possesses all right, title, and interest in and to the item, free and clear of any security interest, license, or other restriction;

(B) the item is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;

(C) no action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is pending or is threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and

(D) Hanger has never agreed to indemnify any person for or against any interference, infringement, misappropriation, dilution or other conflict with respect to the item.

(iv) With respect to each item of Hanger Intellectual Property licensed to Purchaser hereunder:

(A) the license, sublicense, agreement, or permission covering the item is legal, valid, binding, enforceable, and in full force and effect;

(B) the license, sublicense, agreement, or permission will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby;

(C) except as set forth in Schedule 1.3, no party to the license, sublicense, agreement, or permission is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default or permit termination, modification, or acceleration thereunder;

- (D) no party to the license, sublicense, agreement, or permission has repudiated any provision thereof;
- (E) with respect to each sublicense, the representations and warranties set forth in subsections (A) through (D) above are true and correct with respect to the underlying license;
- (F) the underlying item of Hanger Intellectual Property is not subject to any outstanding, injunction, judgment, order, degree, ruling, or charge;
- (G) no action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is pending or threatened which challenges the legality, validity, or enforceability of the underlying item of Hanger Intellectual Property; and
- (H) Hanger has not granted any sublicense or similar right with respect to the license, sublicense, agreement, or permission.

(v) Purchaser will not interfere with, infringe upon, misappropriate, dilute or otherwise come into conflict with any intellectual property rights of third parties as a result of the continued operation of the Business as presently conducted by Seller.

(f) Fees. Hanger has no liability or obligation to pay any fees, commissions or other payment to any broker, finder, agent or third party with respect to the transactions contemplated by this Agreement. Notwithstanding anything in this Agreement to the contrary, and without regard to any dollar or time limits contained in Section 6.1 or Section 8.1 hereof, should any claims for commissions or other fees be made by any other person claiming an interest in this Agreement, or in the underlying transactions, by reason of any agreement, understanding or other arrangement with Hanger or its agents, servants, employees, or other representatives, then Hanger shall indemnify and hold harmless Purchaser from any and all liabilities and expenses associated therewith. The foregoing provisions of this Section 3.2(f) shall survive not only the Closing hereunder, but also any termination or cancellation of this Agreement.

(g) Full Disclosure. Neither this Agreement, nor any of the schedules, attachments or exhibits hereto, contains any untrue statement of a material fact concerning Hanger or, to the knowledge of Hanger, omits a material fact necessary to make the statements concerning Hanger contained herein or therein, taken as a whole, in light of the circumstances in which they were made, not misleading.

(h) Definition of Knowledge. For purposes of this Section 3.2, "knowledge" of any person shall mean the actual knowledge of such person after conducting a reasonable investigation, and "knowledge of Hanger" shall mean the knowledge of each of the officers and directors of Hanger and Hanger's employees with responsibility for the relevant subject matter; except that for purposes of Section 3.2(e) (Hanger Intellectual Property), "knowledge of Hanger" shall mean the knowledge of (i) each of the officers and directors of Hanger and any entity controlled by Hanger

and (ii) the employees of Hanger and any entity controlled by Hanger who have responsibility for intellectual property and technology matters.

3.3 Representations and Warranties of Purchaser. USMC hereby represents and warrants to Seller that:

(a) Organization and Authority. USMC is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. In the event that USMC assigns its rights as Purchaser pursuant to Section 8.9 hereof (a "Purchaser Assignment"), the Assignee Purchaser shall, as of the Closing Date, be duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. USMC is duly qualified to do business as a foreign limited liability company and is in good standing under the laws of each jurisdiction where the nature of its activities or of its properties owned or leased makes such qualification necessary, except any jurisdiction in which the failure to be so qualified and in good standing would not have a material adverse effect on the business, assets, operations or financial condition of USMC and all its subsidiaries taken as a whole or the financial condition of USMC. In the event of a Purchaser Assignment, the Assignee Purchaser shall, as of the Closing Date, be duly qualified to do business as a foreign entity of its type and shall be in good standing under the laws of each jurisdiction where the nature of its activities or of its properties owned or leased makes such qualification necessary, except any jurisdiction in which the failure to be so qualified and in good standing would not have a Material Adverse Effect on the business, assets, operations or financial condition of Assignee Purchaser and all its subsidiaries taken as a whole or the financial condition of Assignee Purchaser. True and correct copies of the certificate of formation and limited liability company agreement of USMC in effect as of the date of this Agreement have been provided or made available to Seller. USMC has all requisite power and authority (as a limited liability company or otherwise) to own and operate its properties, to carry on its business as now being conducted, to execute and deliver this Agreement and to consummate the transactions contemplated hereby. In the event of a Purchaser Assignment, the Assignee Purchaser shall, as of the Closing Date, have all requisite power and authority (as an entity of its type or otherwise) to own and operate its properties, to carry on its business as then conducted, and to consummate the transactions contemplated hereby.

(b) Company Authorization; Binding Agreement. The execution and delivery of this Agreement by USMC, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary limited liability company action on the part of USMC. In the event of a Purchaser Assignment, consummation of the transactions contemplated hereby shall, as of the Closing Date, have been duly authorized by all necessary action on the part of the Assignee Purchaser for an entity of its type. This Agreement and all other instruments required hereby to be executed and delivered by USMC have been, or will be, duly executed and delivered by authorized officers of USMC and are, or when delivered will be, legal, valid and binding obligations of USMC, enforceable against USMC in accordance with their terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

(c) No Conflicts with Other Instruments. The execution, delivery and performance of this Agreement will not (i) violate any constitution, statute, regulation, rule, injunction, judgment,

order, decree, ruling, charge or other restriction of any government, governmental agency or court to which Purchaser is subject or any provision of the certificate of formation or limited liability company agreement of USMC or, in the event of a Purchaser Assignment, the organizational documents of the Assignee Purchaser, or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any agreement, contract, lease, license, instrument or other arrangement to which Purchaser is a party or by which Purchaser is bound or to which any of Purchaser's assets is subject (or result in the imposition of any lien or other encumbrance upon any of Purchaser's assets).

(d) Notices, Consents and Approvals. Purchaser does not need to give any notice to, make any filing with, or obtain any authorization, consent or approval of any governmental authority or other person or entity in order for the parties hereto to consummate the transactions contemplated by this Agreement, except where the failure to give notice, to file or to obtain any authorization, consent or approval would not have an adverse effect on the ability of the parties hereto to consummate the transactions contemplated by this Agreement.

(e) Claims and Proceedings. There is no legal action, suit, arbitration or governmental proceeding or investigation pending or threatened against or affecting Purchaser that could adversely affect or prevent the consummation of the transactions contemplated hereby.

(f) Fees. Purchaser does not have any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement. Notwithstanding anything in this Agreement to the contrary, and without regard to any dollar or time limits contained in Section 6.1 or Section 8.1 hereof, should any claims for commissions or other fees be made by any other person claiming an interest in this Agreement, or in the underlying transactions, by reason of any agreement, understanding or other arrangement with Purchaser or its agents, servants, employees, or other representatives, then Purchaser shall indemnify and hold harmless Seller from any and all liabilities and expenses associated therewith. The foregoing provisions of this Section 3.3(f) shall survive not only the Closing hereunder, but also any termination or cancellation of this Agreement.

#### **ARTICLE IV Certain Covenants**

4.1 Covenants of Seller and Hanger. Seller and Hanger, jointly and severally, hereby covenant and agree with Purchaser as follows:

(a) Normal Course of Business. From the date hereof until the Effective Time, except for entering into this Agreement and consummating the transactions expressly contemplated hereby or to the extent that Purchaser shall give its prior written consent, Seller shall, and Hanger shall cause Seller to, maintain its corporate existence; maintain the general character of its business and proper business and accounting records; maintain its tangible properties in good repair and condition, ordinary wear and tear excepted; maintain all presently existing insurance coverage under which it is a beneficiary; use reasonable efforts to preserve its business organization intact, to keep the services of its present principal employees and to preserve its goodwill and the goodwill of

its suppliers, customers and others having business relationships with it; pay its trade payables in a manner consistent with its present financial condition and its anticipated sale of the business; enforce and enlarge its Intellectual Property rights in a manner consistent with prudent practice, including, without limitation, instructing relevant patent counsel to take the necessary steps to preserve any right (including any right to claim priority) regarding the filing of non-U.S. counterpart patent applications under the Patent Cooperation Treaty or with the European Patent Organization, and in all other respects conduct its business consistent with its present financial condition and its anticipated sale of the business.

(b) Actions Prior to the Effective Time. From the date hereof until the Effective Time, except to the extent that Purchaser shall otherwise consent in writing, Seller shall not, and Hanger shall not permit Seller to: amend or otherwise modify its Certificate of Incorporation, Bylaws or any contract listed in Schedule 3.1(m) hereto (except modifications in the Ordinary Course of Business to purchase or sale orders for merchandise or supplies); reduce its level of inventory in a manner inconsistent with past business practices; make any changes affecting its banking or safe deposit arrangements; merge or consolidate with, or sell all or substantially all of its assets to, any other person or corporation; acquire any other business; take any of the actions described in Section 3.1(j) hereof; enter into any other transaction other than in the Ordinary Course of Business; or enter into any commitment to do any of the foregoing.

(c) Access to Properties and Records. From the date hereof through the Effective Time, Seller and Hanger shall permit Purchaser and its representatives reasonable access during regular business hours to the properties of Seller and shall make their management and other employees and agents and authorized representatives (including counsel and independent public accountants) available to confer with Purchaser and its representatives regarding Seller and the Business, and Seller and Hanger shall disclose and make available to Purchaser, and shall use their best efforts to cause the agents and authorized representatives of Seller to disclose and make available to Purchaser, all books, papers and records relating to the assets, properties, operations, obligations and liabilities of Seller and of Hanger (as they relate to Seller), including, but not limited to, all books of account (including the general ledger), financial statements, tax records, tax returns, minute books of meetings of directors, committees and stockholders, organizational documents, Bylaws, contracts and agreements, loan files, filings with any regulatory authority, accountants' work papers, litigation files, employment agreements or employee plans affecting employees and any other business activities or prospects of Seller, as Purchaser may from time to time reasonably request; provided, however, that no such access or disclosure shall in any way affect, diminish or terminate any of the representations, warranties or covenants of Seller or Hanger herein expressed.

(d) Notification of Certain Matters. Subsequent to the date of this Agreement and on or prior to the Effective Time, Seller shall, and Hanger shall cause Seller to, promptly notify Purchaser of the following:

(i) the receipt of any notice of, or other communication relating to, a default or event which, with notice or lapse of time or both, would become a default under any contract listed in Schedule 3.1(m) hereto;



(ii) the receipt of any notice or other communication from any third party whose consent or approval is or may be required in connection with the transactions contemplated by this Agreement, denying such consent or approval;

(iii) the receipt of any notice or other communication from any governmental regulatory agency or authority in connection with the transactions contemplated hereby;

(iv) any material adverse change in its Business, assets, operations, financial condition, management, employee relations or customer relations, or the occurrence of an event or development concerning the foregoing which, so far as reasonably can be foreseen at the time of its occurrence, could result in any such change; and

(v) any condition or fact which would not permit it to satisfy any condition set forth in Section 5.1 hereto required to be satisfied by Seller or Hanger.

(e) Approvals, Consents and Other Matters. Seller and Hanger shall take all necessary action to obtain any approvals of regulatory authorities, consents and other approvals required to carry out the transactions contemplated by this Agreement, without creating any violations of any laws or any defaults (or liens on assets) under, or breaches or terminations of, or increases in the consideration payable by Seller under, any agreements, and shall cooperate with Purchaser to obtain all such approvals and consents. Seller and Hanger shall use their best efforts to satisfy at or before the Effective Time each of the conditions set forth in Section 5.1 hereto required to be satisfied by Seller or Hanger.

(f) Confidentiality. Seller and Hanger shall hold in strict confidence all documents and information concerning Purchaser furnished to them and their representatives in connection with the transactions contemplated by this Agreement and shall not release or disclose such information to any other person, except as required by law, judicial or administrative order, or rule or regulation of the Securities and Exchange Commission or any applicable securities exchange, and except to their accountants, attorneys and Seller personnel in connection with this Agreement, with the same undertaking from such accountants, attorneys, financial advisors and Seller personnel. Regardless of whether the transactions contemplated by this Agreement shall be consummated, such confidence shall be maintained and such information shall not be used in competition with Purchaser and all such documents shall be, immediately after the Effective Time or the termination of this Agreement, as the case may be, returned to Purchaser. Notwithstanding the foregoing, such information shall not be considered confidential if it (i) was already properly in Hanger's or Seller's possession, (ii) is or becomes generally available to the public other than as a result of disclosure by any of Hanger, Seller or their representatives, (iii) becomes available to Hanger or Seller on a non-confidential basis from a source other than Purchaser; or (iv) is independently developed by Hanger or Seller through persons who have not had, directly or indirectly, access to any non-public information.

(g) Transactions Relating to Seller Equity Interests. From and after the date hereof until the Effective Time, neither Seller nor Hanger shall enter into, directly or indirectly, any discussions, negotiations or agreement with any other potential purchaser with respect to sale of the

Business or any part thereof or any merger or consolidation of Seller or the sale, transfer, pledge, encumbrance or disposal of any of Hanger's equity interest in Seller.

(h) Release of Information. From and after the date hereof until the Effective Time, no party to this agreement shall release information to the public concerning this Agreement or the transactions contemplated herein without the prior written consent of the other parties unless required by law, judicial or administrative order, or rule or regulation of the Securities and Exchange Commission or any applicable securities exchange.

(i) Tax Matters.

(i) Seller shall make no new elections with respect to Taxes, or any changes in current elections with respect to taxes, affecting the Purchased Assets after the date of this Agreement without the consent of Purchaser.

(ii) Seller shall retain, until the applicable statute of limitations have expired, copies of all Tax returns, supporting work schedules and other records or information which may be relevant to such returns for all Tax periods or portions thereof ending on or before the Closing Date, and shall provide Purchaser with a reasonable opportunity to review and copy such records. The parties shall cooperate in responding to any inquiry or audit with respect to such records. Such cooperation shall include, without limitation, each of Seller's and Purchaser's obligations to provide one another, in a timely fashion, with all available and necessary documents, invoices, records and any other materials reasonably necessary to respond to any such inquiry or audit, upon either party's written request to the other.

(iii) Seller shall pay any income taxes applicable to Seller and/or Hanger as a result of its sale of the Purchased Assets to Purchaser, but with Purchaser being solely liable for all transfer, sales and use taxes arising in connection with the consummation of the transactions contemplated hereby as provided in Section 4.2(d) hereof.

(j) Excluded Liabilities. From and after the Closing Date, Seller shall be responsible for all liabilities of Seller other than the Assumed Liabilities.

(k) Covenant Not to Compete.

(i) In consideration of the payment by Purchaser of the Purchase Price, Seller and Hanger each hereby agree that, for the period of five (5) years from the Closing Date, it shall not, directly or indirectly through any person controlled by it (hereinafter collectively referred to as "Affiliates"), alone or in association with any other person, firm, corporation or other business organization:

(1) engage in or have any interest in any business which is engaged in activity competitive with the Business anywhere in the world (hereinafter, a "Competitive Business"); provided, however, that notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement shall be

construed to limit or restrict in any way (i) the ability of any person or entity to purchase any securities issued by Hanger or (ii) Hanger to merge or combine with any other entity; provided, that such merger or combination shall not be an acquisition by Hanger of a prosthetic component manufacturer unless the Board of Directors of Hanger immediately prior to such acquisition constitute less than a majority of the Board of Directors of Hanger or such successor organization immediately following such an acquisition; and provided, further, that Hanger hereby represents to Purchaser that except for the sale of the Purchased Assets to Purchaser, Hanger is not, as of the Closing Date, a party to any agreement whereby Hanger would merge or combine (whether by a sale of stock or assets or a recapitalization, tender offer, "going private" transaction, consolidation or other transaction) with any other entity, and as of the Closing Date no proposal for any such transaction is under negotiation or other consideration by Hanger's management, board of directors or stockholders, and except as set forth in Hanger's public filings with the Securities and Exchange Commission, Hanger is not, as of the Closing Date, a party to any agreement whereby Hanger would sell or otherwise issue any of Hanger's securities to any person or entity, and as of the Closing Date no proposal for any such transaction is under negotiation or other consideration by Hanger's management, board of directors or stockholders; or

(2) in any way, directly or indirectly, for the purpose of conducting or engaging in any Competitive Business, call upon, solicit, advise or otherwise do, or attempt to do, business with any former customers of Seller, or take away or interfere or attempt to interfere with any former customer, trade, business or patronage of Seller relating to such Competitive Business of Seller or any affiliate of Seller as continued by Purchaser or any of its subsidiaries (the "Continued Business"); or

(3) interfere with or attempt to interfere with any officers, employees, representatives or agents of Purchaser or any of its subsidiaries in the conduct of the Continued Business, or hire or solicit for hire any officers or employees of Purchaser or any of its subsidiaries who are former employees of Seller or any affiliate of Seller.

(ii) The following shall not be a violation of this Agreement:

(1) ownership by Seller or Hanger of any interest in a Competitive Business which arises solely from the ownership of less than a five percent (5%) equity interest in a corporation, partnership or other entity; or

(2) engaging, consistent with current practices, in the operation of the Sea Fab facilities, patient care facilities with fabrication capability and market fabrication centers, and market fabrication centers ("market fabrication centers," such as those currently operated by Hanger in Chicago, Illinois, Philadelphia,

Pennsylvania and Newington, Connecticut, are facilities which provide fabrication services to a small number of local Hanger patient care facilities but which do not engage in commercial sales to non-Hanger customers); or

(3) engaging in the sale of the Hanger Select branded line of prosthetic devices as in existence on or before the Closing Date and supplied by Purchaser after the Closing Date, for so long as Hanger owns Southern Prosthetic Supply, Inc.

(iii) Seller acknowledges that the failure to comply with the provisions of this Section 4.1(k) will result in irreparable and continuing damage to Purchaser for which there will be no adequate remedy at law and that, in the event of such failure, Purchaser and its successors and assigns shall be entitled to injunctive relief and to such other and further relief as may be proper and necessary to ensure compliance with the provisions of this Section 4.1(k).

(l) Covenant to Change Name. Seller shall provide Purchaser with evidence, including, without limitation, certified copies of directors' and shareholders' resolutions and an amended Certificate of Incorporation, verifying that Seller has liquidated and dissolved or has changed its name to eliminate "Seattle Orthopedic" therefrom and has changed any filings with regard to assumed names, qualifications to conduct business as a foreign corporation and the like as necessary to permit Purchaser to assume the trade name "Seattle Orthopedic." Seller shall file such documents in the office of the Delaware Secretary of State and with all other relevant offices and agencies as soon as practicable but not later than ten (10) business days after Closing.

(m) Intellectual Property. At Purchaser's expense, Seller and Hanger shall promptly record in all relevant governmental offices the assignment to Purchaser of all issuances, registrations, and applications for patents, trademarks, and copyrights being conveyed to Purchaser pursuant to this Agreement. Hanger and Seller agree not to adopt, use, register, or apply to register a trademark, service mark, trade dress, tradename, corporate name, domain name or any other indication of origin or sponsorship that is confusingly similar to any trademark, service mark, trade dress, tradename, or corporate name conveyed to Purchaser pursuant to this Agreement.

4.2 Covenants of Purchaser. Purchaser hereby covenants and agrees with Seller as follows:

(a) Confidentiality. Until the Effective Time, Purchaser shall hold in strict confidence all documents and information concerning Hanger and Seller furnished to Purchaser and its representatives in connection with the transactions contemplated by this Agreement and shall not release or disclose such information to any other person, except as required by law, and except to Purchaser's accountants, attorneys, financial advisors and employees in connection with this Agreement with the same undertaking of strict confidence being first obtained from such accountants, attorneys, financial advisors and employees. If the transactions contemplated by this Agreement shall not be consummated, such confidence shall be maintained and such information shall not be used in competition with Seller and all such documents shall immediately after termination of this Agreement be returned to Hanger or Seller, as may be appropriate. Notwithstanding the foregoing, such information shall not be considered confidential if it (i) was already in Purchaser's possession, (ii) is or becomes generally available to the public other than as a result of disclosure by Purchaser and its representatives, (iii) becomes available to Purchaser on a non-confidential basis from a source other than Hanger or Seller; or (iv) is independently developed by Purchaser through persons who have not had, directly or indirectly, access to any non-public information.

(b) Approvals, Consents and Other Matters. Purchaser shall take all necessary action and use its best efforts to obtain any approvals of regulatory authorities, consents and other approvals required to carry out the transactions contemplated by this Agreement, including, without limitation, those required under federal and state securities laws known by Purchaser to be applicable to the transactions contemplated hereby, and shall cooperate with Seller and Hanger to obtain all such approvals and consents.

(c) Notification of Certain Matters. Subsequent to the date of this Agreement and on or prior to the Effective Time, Purchaser shall promptly notify Seller of the following:

(i) the receipt of any notice or other communication from any third party whose consent or approval is or may be required in connection with the transactions contemplated by this Agreement, denying such consent or approval;

(ii) the receipt of any notice or other communication from any governmental regulatory agency or authority in connection with the transactions contemplated hereby; and

(iii) any condition or fact which would not permit it to satisfy any of the conditions set forth in Section 5.2 hereto.

(d) Sales, Use and Transfer Taxes. Purchaser agrees that Purchaser shall be solely liable for the payment by Purchaser of all sales, use and transfer taxes relating to the transactions which are the subject of this Agreement, other than the income taxes of Seller and/or Hanger relating to their sale of the Purchased Assets hereunder to Purchaser.

(e) Shapemaker Carvers. Purchaser agrees to do all acts necessary to maintain the Shapemaker carvers and related software in the facilities of Hanger and its subsidiaries for a price equal to the actual cost of Purchaser plus twenty percent (20%). Purchaser further agrees to upgrade the Shapemaker carvers and software in the facilities of Hanger and its subsidiaries for a price to be mutually agreed upon by Purchaser and Hanger.

(f) Employee Health Coverage.

(i) Purchaser agrees that it shall offer group health and welfare plan coverage to all of the employees of Seller and to the dependents of such employees who become employed by Purchaser as of the date the Transition Services Agreement (as defined in Section 5.2(k) of this Agreement) terminates (the "Employees") on the same terms and conditions generally applicable to all of Purchaser's full-time employees. For purposes of providing such coverage, Purchaser shall waive all preexisting condition limitations for all such Employees who were covered by the Seller's health and welfare plans as of such date of termination of the Transition Services Agreement and shall provide such health and welfare coverages effective as of such date without the application of any eligibility period for coverage. In addition, Purchaser shall credit all Employee payments toward deductible, out-of-pocket and co-payment obligation limits under Seller's health and welfare plans for the plan year that includes the termination date the Transition Services Agreement as if such payments had been made for similar purposes under Purchaser's health and welfare plans during the plan year that includes the termination date of the Transition Services Agreement, with respect to the Employees and the dependents of such Employees who become employed by Purchaser as of the date the Services Agreement terminates.

(ii) With respect to all group health plans, Purchaser shall retain full responsibility and liability for compliance with the continuation health care coverage requirements of Code Section 4980B and ERISA Sections 601 through 608 (the "Continuation Coverage Requirements") for all qualifying events with respect to the Employees within the meaning of Section 4980B(f)(3) of the Code and Section 603 of ERISA. On or after the termination date of the Transition Services Agreement, Purchaser also shall comply with the Continuation Coverage Requirements with respect to all qualifying events affecting any former employees of the Purchaser who were subject to the Transition Services Agreement and any qualifying beneficiary of such former employee which occurred prior to the termination date of the Transition Services Agreement. Purchaser shall hold Seller, Hanger and any entity required to be combined with Seller and/or Hanger (within the meaning of Sections 414(b), (c), (m) or (i) of the Code) harmless from and fully indemnify them against any costs, expenses, losses, damages and liabilities incurred or suffered by them directly or indirectly, including, but not limited to, reasonable attorneys' fees and expenses, which relate to such continuation coverage. Seller shall offer no inducement to any Employee to elect continuation coverage with respect to any group health plan of Purchaser.

**ARTICLE V**  
**Conditions to Closing**

5.1 Conditions to Obligation of Purchaser to Close. The obligation of Purchaser to effect the closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Seller and Hanger under this Agreement shall be true and correct in all material respects as of the Closing Date with the same effect as though made on and as of the Closing Date.

(b) Observance and Performance. Seller and Hanger shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed and complied with by them prior to or as of the Closing Date.

(c) No Adverse Effect. There shall have occurred no Material Adverse Effect on the business, assets, operations or financial condition of Seller since May 31, 2001, except as disclosed herein and on Schedule 5.1(c) hereof. For purposes of this Agreement, a "Material Adverse Effect" shall mean any adverse effect which exceeds Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate on or to (i) the business, assets (including intangible assets), liabilities, properties (including intangible properties), financial condition, operations, results of operations, or future prospects of the relevant party, (ii) the rights of Purchaser with respect to the Purchased Assets or the Business, (iii) the ability of Purchaser to own and operate the Purchased Assets and to operate the Business in the Ordinary Course of Business following the Closing, or (iv) the ability of Seller or Hanger to consummate the transactions contemplated by this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the parties recognize and agree that a Material Adverse Effect has occurred with respect to the sales and revenues of the Seller as disclosed on Schedule 5.1(c) hereof.

(d) Certificates of Seller and Hanger. Seller and Hanger shall have delivered to Purchaser certificates, dated the Closing Date, executed by Seller and Hanger and certifying to the satisfaction of the conditions specified in Sections 5.1(a), (b) and (c) hereof.

(e) Consents of Third Parties. Purchaser shall have received duly executed copies of all consents and agreements necessary for Seller and Hanger to effect the transactions contemplated hereby. Purchaser hereby agrees to use its best efforts to assist Seller and Hanger in obtaining such consents and agreements; provided, however, that Purchaser shall not be obligated to accept any terms different from those that presently exist in such agreements.

(f) Seller Legal Opinion. Purchaser shall have received a legal opinion from Foley & Lardner, counsel to Seller and Hanger, substantially in the form attached hereto as Exhibit C and dated the Closing Date (the "Seller Legal Opinion").

(g) Supply Agreement. Hanger shall have executed and delivered the Supply Agreement, substantially in the form attached hereto as Exhibit B.

(h) Employment Agreements. Each of James G. Cairns, Jr., David Lucas, Scott Slocum, Jim Cairns, III, Karen McLean, David Adams and Stewart Atkinson shall have executed and delivered employment or retention agreements with Purchaser as of the Closing Date (the "Employment Agreements"), which Employment Agreements shall contain terms that result in no severance payment being due to any such persons pursuant to the terms of their existing letter severance agreements, dated as of February 23, 2001, with Seller and Hanger (to which Stewart Atkinson is not a party).

(i) Landlord Estoppel Certificate. A landlord estoppel certificate shall have been executed in form and substance reasonably satisfactory to Purchaser and its counsel, by the lessor in respect of all the Leased Facility at Poulsbo, Washington (the "Landlord Estoppel Certificate").

(j) Security Interests. Purchaser shall have received consents to the transactions contemplated hereby, duly executed by the lenders (or their agent) under the Credit Agreement dated as of June 16, 1999, and as amended on March 20, 2000, and March 16, 2001, among Hanger, The Chase Manhattan Bank and certain other parties, in a form satisfactory to Purchaser, and all other secured lenders of Hanger and Seller, and UCC-3 forms and other lien releases duly executed by The Chase Manhattan Bank, as collateral agent for certain lenders (or any successor collateral agent), Banque Paribas, as collateral agent for certain lenders (or any successor collateral agent), and such other lenders releasing all liens, security interests, pledges, mortgages and encumbrances imposed by such collateral agents and lenders on the Purchased Assets. Purchaser shall have received proof that the lien on the assets of Hanger in the State of Maryland, which lien includes Hanger's intangible property, in favor of Rockford Industries, Inc. has been amended to a lien solely on an item of equipment owned by another subsidiary of Hanger, Hanger Prosthetics & Orthotics, Inc., in Jacksonville, Florida.

(k) Copies of Documents. To the extent requested by Purchaser, copies of all documents and instruments listed in any of the schedules to this Agreement shall have been furnished or made available to Purchaser prior to the Closing Date.

(l) Closing Documents. Purchaser shall have received such further instruments and documents as may be reasonably required for Seller and Hanger to consummate the transactions contemplated hereby.

(m) No Legal Actions. No court or governmental authority of competent jurisdiction shall have issued an order, not subsequently vacated, restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, and no person, firm, corporation or governmental agency shall have instituted an action or proceeding which shall not have been previously dismissed seeking to restrain, enjoin or prohibit the consummation of the transactions contemplated by this Agreement or seeking damages with respect thereto.

(n) Proceedings and Documents. All corporate and other proceedings and actions taken in connection with the transactions contemplated hereby and all certificates, opinions, agreements, instruments and documents mentioned herein or incident to any such transaction shall be reasonably satisfactory in form and substance to Purchaser and its counsel.



(o) Intellectual Property. Purchaser agrees not to adopt, use register, or apply to register a trademark, service mark, trade dress, tradename, corporate name, domain name or any other indication of origin or sponsorship that is confusingly similar to any trademark, service mark, trade dress, tradename or corporate name of Hanger.

(p) Escrow Agreement. Hanger and Seller shall have executed and delivered the Escrow Agreement, substantially in the form attached hereto as Exhibit A.

(q) Noncompetition and Nonsolicitation Agreement. Seller and Hanger shall have delivered a noncompetition and nonsolicitation agreement in favor of Purchaser in the form attached as Exhibit E.

5.2 Conditions to Obligation of Seller and Hanger to Close. The obligation of Seller and Hanger to effect the closing of the transactions contemplated by this Agreement is subject to the satisfaction prior to or at the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Purchaser under this Agreement shall be true and correct in all material respects as of the Closing Date with the same effect as though made on and as of the Closing Date.

(b) Observance and Performance. Purchaser shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed and complied with by it prior to or as of the Closing Date.

(c) Certificates of Purchaser. Purchaser shall have delivered to Seller a certificate, dated the Closing Date, executed by Purchaser certifying to the satisfaction of the conditions specified in Sections 5.2(a) and (b) hereof.

(d) Purchaser Legal Opinion. Seller and Hanger shall have received an opinion, dated the Closing Date, from Michael Best & Friedrich LLP, counsel to Purchaser, substantially in the form attached hereto as Exhibit D and dated the Closing Date (the "Purchaser Legal Opinion").

(e) No Legal Actions. No court or governmental authority of competent jurisdiction shall have issued an order, not subsequently vacated, restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, and no person, firm, corporation or governmental agency shall have instituted an action or proceeding which shall not have been previously dismissed seeking to restrain, enjoin or prohibit the consummation of the transactions contemplated by this Agreement or seeking damages with respect thereto.

(f) Proceedings and Documents. All corporate and other proceedings and actions taken by Purchaser in connection with the transactions contemplated hereby, and all certificates, opinions, agreements, instruments and documents mentioned in this Section 5.2 or incident to any such transaction shall be reasonably satisfactory in form and substance to Seller, Hanger and their counsel.

(g) Supply Agreement. Purchaser shall have executed and delivered the Supply Agreement.

(h) Escrow Agreement. Purchaser shall have executed and delivered the Escrow Agreement.

(i) Employment Agreements. Purchaser shall have executed and delivered an Employment Agreement with James G. Cairns, Jr. With respect to James G. Cairns, Jr., David Lucas, Scott Slocum, Jim Cairns, III, Karen McLean and David Adams, Purchaser hereby represents and warrants that it has offered, and each of the individuals listed in this Section 5.2(i) has accepted, employment upon the Closing with Purchaser at no less than each individual's respective then current base salary for a period of at least one year following the Closing. Purchaser further agrees that it shall not, within ninety (90) days following the Closing, terminate the employment of any of the individuals listed in this Section 5.2(i) without cause, nor shall it cause any of the individuals listed in this Section 5.2(i) to relocate and perform services from a different facility (outside the Greater Seattle area) than Seller's current location in Poulsbo, Washington. As a result of the foregoing, the parties hereto agree that from and after Closing Hanger and/or Seller shall have no obligation whatsoever to make any severance payments to any of the individuals listed in this Section 5.2(i) and to the extent that any such individual makes a claim for severance pursuant to the terms of the existing letter severance agreements, dated as of February 23, 2001, with Seller and Hanger, Purchaser shall be solely responsible for making such payments and agrees to indemnify and hold harmless Hanger and/or Seller for any such claim.

(j) Transition Services Agreement. Purchaser and Hanger shall enter into a Transition Services Agreement (the "Transition Services Agreement" in the form attached hereto as Exhibit F, which Transition Services Agreement shall provide, among other things, that (i) Hanger shall continue to employ certain of its employees following the Closing and shall make such employees available to Purchaser from the Closing of this Agreement through December 15, 2001, unless the Transition Services Agreement is sooner terminated as provided therein, (ii) Purchaser shall pay to Hanger in advance for all of Hanger's expenses to be incurred in connection with such Transition Services Agreement, including, but not limited to, payroll and benefit expenses, and (iii) Purchaser shall indemnify and hold Hanger harmless from any and all claims and liability, including, but not limited to, worker's compensation claims, which arise during the term of the Transition Services Agreement as a result of the use of such employees by Purchaser.

(k) Distribution Agreement. Purchaser and Southern Prosthetic Supply, Inc. shall have executed and delivered the Distribution Agreement, substantially in the form attached hereto as Exhibit G.

**ARTICLE VI**  
**Indemnification**

6.1 Joint Indemnification by Seller and Hanger. Seller and Hanger, jointly and severally, agree to indemnify and hold harmless Purchaser through and after the date of the claim for indemnification (including any loss, injury, damages or deficiency which Purchaser may suffer after the end of any applicable survival period) resulting from, arising out of, relating to, in the nature of or caused by any of the following:

(a) Any and all loss, injury, damage or deficiency resulting from any misrepresentation or breach of warranty by Seller or Hanger under Section 3.1 or Section 3.2 of this Agreement, provided that Purchaser makes a written claim for indemnification pursuant to Section 6.3 below within any applicable survival period set forth below;

(b) Any and all loss, injury, damage or deficiency resulting from any non-fulfillment of any covenant or agreement on the part of Seller or Hanger under Section 4.1 of this Agreement, provided that Purchaser makes a written claim for indemnification pursuant to Section 6.3 below within any applicable survival period set forth below;

(c) Any and all loss, injury, damage or deficiency resulting from any income tax liability of Seller incurred in connection with the transactions contemplated by this Agreement, provided that Purchaser makes a written claim for indemnification pursuant to Section 6.3 below within any applicable survival period set forth below;

(d) Any and all loss, injury, damage or deficiency which arise out of or relate to any aspect of the Business at any time prior to the Closing Date, provided that Purchaser makes a written claim for indemnification pursuant to Section 6.3 below within any applicable survival period set forth below;

(e) Any and all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees (including court costs and reasonable attorneys' fees and expenses) incident to any of the foregoing.

Except as hereinafter specifically provided, no indemnification nor liability shall be due or payable by Seller or Hanger under Section 6.1(a) and (d) hereof (as it relates to Section 6.1(a)) unless and until the aggregate amount of indemnification which Purchaser would otherwise be entitled to receive pursuant to Section 6.1(a) and (d) hereof (as it relates to Section 6.1(a)) exceeds \$500,000, at which point Seller and Hanger shall be liable to indemnify Purchaser for such initial \$500,000 amount and thereafter indemnify Purchaser for all amounts which do not exceed an aggregate total of \$7,500,000 (inclusive of such initial \$500,000 amount; provided however, that (except as set forth in the next following sentence) to the extent that (x) Purchaser has a claim or claims for indemnification pursuant to Section 6.1(a), (d) and (e) (as it relates to Section 6.1(a)) and (y) and any amounts are then being held in Escrow pursuant to Section 2.1(d) hereof, then in such event Purchaser agrees to first seek and pursue any such indemnification only against such Escrow Amount until it is fully depleted prior to

seeking any indemnification payments from Seller and/or Hanger. The limitations in the immediately preceding sentence shall not apply to indemnification by Seller and Hanger under Section 6.1(a) and (d) (as it relates to Section 6.1(a)) in respect of a breach of the representations and warranties contained in Sections 3.1(e), 3.1(f), 3.1(i), 3.1(l), and 3.1(s), 3.1(y) and 3.1(aa), provided that the maximum aggregate liability of Seller and Hanger under this Section 6.1 shall not exceed the Purchase Price.

6.2 Indemnification by Purchaser. Purchaser agrees to indemnify and hold harmless each of Seller and Hanger through and after the date of the claim for indemnification (including any loss, injury, damages or deficiency which Seller or Hanger may suffer after the end of any applicable survival period) resulting from, arising out of, relating to, in the nature of or caused by any of the following:

(a) Any and all loss, injury, damage or deficiency resulting from any misrepresentation or breach of warranty by Purchaser under Section 3.3 of this Agreement, provided that Seller or Hanger makes a written claim for indemnification against Purchaser pursuant to Section 6.3 below within any applicable survival period set forth below;

(b) Any and all loss, injury, damage or deficiency resulting from any non-fulfillment of any covenant or agreement on the part of Purchaser under this Agreement, provided that Seller or Hanger makes a written claim for indemnification against Purchaser pursuant to Section 6.3 below within any applicable survival period set forth below;

(c) Any and all loss, injury, damage or deficiency which arise out of or relate to the operation or conduct of the Business or the ownership of the Purchased Assets after the Closing, or any incident, occurrence, condition or claim arising or accruing after the Closing and relating to the operation of the Business or the ownership or use of the Purchased Assets after the Closing, provided that Seller or Hanger makes a written claim for indemnification pursuant to Section 6.3 below within any applicable survival period set forth below; and

(d) Any and all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees (including court costs and reasonable attorneys' fees and expenses) incident to any of the foregoing.

Except as hereinafter specifically provided, no indemnification nor liability shall be due or payable by Purchaser under Section 6.2(a) and (c) hereof (as it relates to Section 6.2(a)) unless and until the aggregate amount of indemnification which Seller and/or Hanger would otherwise be entitled to receive pursuant to Section 6.2(a) and (c) hereof (as it relates to Section 6.2(a)) exceeds \$500,000, at which point Purchaser shall be liable to indemnify Seller and Hanger for such initial \$500,000 amount and thereafter indemnify Seller and Hanger for all amounts which do not exceed an aggregate total of \$7,500,000 (inclusive of such initial \$500,000 amount); provided, however, that notwithstanding the foregoing or anything else contained in this Agreement to the contrary, the Purchaser shall indemnify Hanger and the Seller from any and all liability whatsoever in any amount in the event of any liability to Hanger and/or Seller with regard to the Purchaser's use of Hanger's trademark, logo and goodwill under Section 1.4(a)(ii) hereof. Except as

provided in the preceding sentence, the maximum liability of Purchaser under this Section 6.2 shall not exceed \$7,500,000.

6.3 Procedures for Indemnification. Promptly after receipt by an indemnified party ("Indemnitee") pursuant to the provisions of this Article VI of notice of the commencement of any action, claim or proceeding involving the subject matter of the foregoing indemnity provisions, such Indemnitee shall, if a claim thereof is to be made against an indemnifying party ("Indemnitor") pursuant to the provisions of this Article VI, provide such Indemnitor with a certificate signed by the Indemnitee or its authorized representative: (i) stating that the Indemnitee has paid or accrued (or intends to pay or accrue) amounts ("Indemnifiable Damages") to which it is entitled to indemnification pursuant to Article VI and the amount thereof (to the extent then known); and (ii) specifying to the extent possible (A) the individual items of loss, damage, liability, cost, expense or deficiency included in the amount so stated, (B) the date each such item was or will be paid or accrued and (C) the basis upon which Indemnifiable Damages are claimed; provided, however, that the omission to so notify such Indemnitor shall not relieve such Indemnitor from any liability which it may have to the Indemnitee otherwise than hereunder. If the Indemnitor shall object to such Notice of Claim, the Indemnitor shall simultaneously deliver a written notice of objection ("Notice of Objection") by the Indemnitor (which shall set forth the grounds upon which the objection is based and state whether the Indemnitor objects to all or only a portion of the matter described in the Notice of Claim) to the Indemnitee within fifteen (15) days after the Indemnitee's delivery of the Notice of Claim. If the Notice of Objection shall not have been so delivered within such fifteen (15) day period, all Indemnitors shall be conclusively deemed to have acknowledged the correctness of the claim or claims specified in the Notice of Claim for the full amount thereof, and the Indemnifiable Damages set forth in the Notice of Claim shall be promptly paid to the Indemnitee by the Indemnitor. If the Indemnitor shall make timely objection to a claim or claims set forth in any Notice of Claim, and if such claim or claims shall not have been resolved or compromised within sixty (60) days from the date of delivery of the Notice of Objection, then such claims shall be settled by arbitration pursuant to Section 8.17 hereof. The arbitrator shall promptly obtain such information regarding the matter that the arbitrator deems necessary and shall decide the matter and render a written award which shall be delivered to the Indemnitor and Indemnitee. Any award shall be a conclusive determination of the matter and shall be binding upon the Indemnitor and Indemnitee. If, by arbitration, it shall be determined that the Indemnitee shall be entitled to any Indemnifiable Damages by reason of its claim or claims, the Indemnifiable Damages so determined shall be paid to the Indemnitee by the Indemnitor in the same manner as if the Indemnitee had not delivered a Notice of Objection. In case such action, claim or proceeding is brought against an Indemnitee and it notifies the Indemnitor of the commencement thereof, the Indemnitee shall have the right to participate in, and, to the extent that it may wish, to assume the defense or conduct thereof, with counsel reasonably satisfactory to such Indemnitee; provided, however, if the defendants in any action include both the Indemnitee and the Indemnitor and the Indemnitee shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to those available to the Indemnitor, or if there is a conflict of interest which would prevent counsel for the Indemnitor from also representing the Indemnitee, the Indemnitee shall have the right to select separate counsel to participate in the defense of such action on behalf of such Indemnitee. After notice from the Indemnitor to such Indemnitee of its election so to assume the defense thereof, the Indemnitor shall not be liable to the Indemnitee for any legal or other expense subsequently incurred by such Indemnitee in connection with the defense thereof other than reasonable costs of investigation, unless (i) the Indemnitee

shall have employed counsel in accordance with the proviso of the preceding sentence, (ii) the Indemnitor shall not have employed counsel satisfactory to the Indemnitee to represent the Indemnitee within a reasonable time after the notice of the commencement of the action, or (iii) the Indemnitor has authorized the employment of counsel for the Indemnitee at the expense of the Indemnitor. No Indemnitor, in the defense of any such claim or litigation, shall, except with the consent of each Indemnitee, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the release from all liability in respect to such claim or litigation. In the event the proceeding is a tax audit, the Indemnitee shall not take any action, including, without limitation, the extension of any applicable limitations period, without the express written consent of the Indemnitor, which consent shall not be unreasonably withheld.

## **ARTICLE VII Termination**

7.1 Termination. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Effective Time:

(a) by mutual consent of the Boards of Directors of Purchaser and Seller; or

(b) by either Purchaser or Seller if (i) any of the conditions to their respective obligations specified in Article VII hereof have not been satisfied or waived prior to October 9, 2001, or (ii) the transactions contemplated hereby shall not have been consummated on or before October 9, 2001; provided, however, that the right to terminate this Agreement pursuant to this Section 7.1(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement shall have been the cause of, or resulted in, the failure of any of the conditions specified in Article V that are required to have been satisfied prior to the consummation of the transactions contemplated hereby.

7.2 Effect of Termination. In the event of the termination of this Agreement by either Purchaser or Seller, as provided above, this Agreement shall thereafter become void and there shall be no liability on the part of any party hereto or their respective directors, officers, stockholders or agents, except as provided in Sections 4.1(f), 4.2(a), 8.2 and 8.3 hereof and except that any such termination shall be without prejudice to the rights of any party hereto arising out of the willful breach by any other party of any covenant or agreement contained in this Agreement.

## **ARTICLE VIII Miscellaneous**

8.1 Survival of Representations and Warranties. The representations and warranties of Purchaser, Seller and Hanger in this Agreement shall survive the Effective Time until the second anniversary of the Closing Date, except as follows:

(a) the representations and warranties contained in Section 3.1(i) (Tax Matters) shall survive until ninety (90) days following the expiration of the statute of limitations applicable to Taxes subject to such provision;

(b) claims based upon the inaccuracy or breach of a representation or warranty which was made fraudulently and the representations and warranties contained in Sections 3.1(e) (Capitalization), Section 3.1(l) (Title to Assets) and Section 3.1(aa) (Environmental Matters) shall survive indefinitely; and

(c) any representation or warranty that would otherwise terminate on any date determined in accordance with the foregoing shall continue to survive only with respect to a particular claim for indemnity made under Article VI on or prior to such date, until such claim has been satisfied or otherwise resolved.

8.2 Risk of Loss. Unless otherwise noted in this Agreement, all risk of damage or loss of any sort from any cause with respect to the Purchased Assets shall remain with Seller until the Effective Time and shall be with Purchaser after the Effective Time.

8.3 Expenses. Each of the parties shall bear its own costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby (except as otherwise provided herein).

8.4 Notices. Any notice or other communication provided for herein or given hereunder to a party hereto shall be in writing and shall be deemed to be received when delivered in person or at the close of the second full business day following the day on which such notice is mailed by first class registered or certified mail, postage prepaid, or nationally recognized express courier, addressed as follows:

If to Purchaser: United States Manufacturing Company, LLC  
180 North San Gabriel Boulevard  
Pasadena, California 91117-0030  
Attention: President  
Telephone: (626) 796-0477  
Telecopy: (626) 535-0834

With a copy to: Michael Best & Friedrich LLP  
One South Pinckney Street, Suite 700  
Madison, Wisconsin 53703  
Attention: Tod B. Linstroth, Esq.  
Telephone: (608) 257-3501  
Telecopy: (608) 283-2275

If to Seller: Seattle Orthopedic Group, Inc.  
26296 Twelve Trees Lane  
Poulsbo, Washington 98370  
Attention: President  
Telephone: (360) 598-8950  
Telecopy: (360) 697-5763

With a copy to: Foley & Lardner  
3000 K Street, N.W., Fifth Floor  
Washington, D.C. 20007  
Attention: Jay W. Freedman, Esq.  
Telephone: (202) 295-4008  
Telecopy: (202) 672-5399

If to Hanger: Hanger Orthopedic Group, Inc.  
Two Bethesda Metro Center, Suite 1200  
Bethesda, Maryland 20814  
Attention: President  
Telephone: (301) 986-0701  
Telecopy: (301) 652-8307

With a copy to: Foley & Lardner  
3000 K Street, N.W., Fifth Floor  
Washington, D.C. 20007  
Attention: Jay W. Freedman, Esq.  
Telephone: (202) 295-4008  
Telecopy: (202) 672-5399

or to such other address with respect to any party as such party shall notify the others in writing as above provided.

8.5 Amendments. This Agreement may not be amended, modified or supplemented except by written agreement of the parties hereto.

8.6 Waiver. At any time prior to the Effective Time, Purchaser or Seller may (i) extend the time for the performance of any of the obligations or other acts of the other party hereto, (ii) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered pursuant hereto and (iii) waive compliance with any of the obligations of the other party or any of the conditions to its own obligations contained herein to the extent permitted by law. Any agreement on the part of Purchaser and Seller to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of Purchaser and Seller. Any such agreement on the part of Seller shall also be binding upon Hanger.

8.7 Publicity. Any public announcement or press release concerning the transactions contemplated by this Agreement shall require the prior approval of all parties hereto both as to the making of such announcement or release and as to the form and content thereof, except to the extent that a party is



advised by counsel, in good faith, that such announcement or release is required as a matter of law, judicial or administrative order, or rule or regulation of the Securities and Exchange Commission or other applicable securities exchange, and full opportunity for prior consultation is afforded to the other parties to the extent practicable.

8.8 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.9 Assignment of Agreement. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by Purchaser, Seller or Hanger, whether by operation of law, asset or stock sale or otherwise, without the prior written consent of the other parties hereto; provided, however, that USMC may, without obtaining the consent of Seller or Hanger, assign its rights and delegate its obligations under this Agreement to any Assignee Purchaser so long as USMC remains fully liable for the indemnification of Seller and Hanger as provided under Section 6.2 of this Agreement for any matter for which USMC, Purchaser or the Assignee Purchaser may be responsible or liable under the terms of this Agreement.

8.10 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their successors and permitted assigns, and nothing in this Agreement, expressed or implied, is intended to confer upon any other person any rights or remedies of any nature under or by reason of this Agreement.

8.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original and shall become effective when one or more counterparts have been signed by each of the parties hereto.

8.12 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflicts of law rules.

8.13 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such which may be hereafter declared invalid, void or unenforceable.

8.14 Remedies. Except as otherwise provided in this Section 8.14, nothing contained herein is intended to or shall be construed so as to limit the remedies which any party may have against the others in the event of a breach by any party of any representation, warranty, covenant or agreement made under or pursuant to this Agreement, it being intended that any remedies shall be cumulative and not exclusive. Notwithstanding any contrary provision in this Agreement, in the absence of fraud, the indemnification provisions contained in Article VI hereof shall constitute the sole and exclusive remedy for any breach of a representation or warranty (but not a covenant) of any party to this Agreement.

8.15 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and supersedes all prior agreements and understandings oral or written, among the parties hereto with respect to the subject matter hereof and thereof.

8.16 Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto shall use commercially reasonable efforts to take, or cause to be taken all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement. From time to time after the Effective Time, without further consideration, Seller and Hanger shall, at their own expense, execute and deliver such documents to Purchaser as Purchaser may reasonably request in order more effectively to vest in Purchaser good title to the Purchased Assets.


8.17 Arbitration. Except as hereafter provided in this Section 8.17, any dispute or claim arising out of this Agreement, or breach thereof, shall be decided by arbitration, under the commercial arbitration rules of the CPR Institute for Dispute Resolution (the "CPR"), and shall be conducted in the Washington, D.C. metropolitan area. Demand for arbitration hereunder may be made by any party hereto upon written notification to the other parties. The arbitration shall be by a single arbitrator mutually selected by Purchaser and Seller; provided, however, that Purchaser and Seller may agree that any arbitration hereunder shall be before a mutually selected panel of arbitrators. If Purchaser and Seller do not agree within 20 days after the date of a demand for such arbitrator, the selection of the single arbitrator or panel shall be made in accordance with the rules of the CPR. This agreement to arbitrate shall be specifically enforceable. Any decision rendered by the arbitrator (or panel) shall be final and binding, and judgment may be entered upon it by any court having jurisdiction. The arbitrator shall assess arbitration fees, expenses and attorneys' fees with respect to matters subject thereto, and otherwise to the prevailing party in accordance with applicable CPR rules. Nothing herein contained shall bar either party from seeking equitable remedies in a court of appropriate jurisdiction.

[remainder of this page left intentionally blank]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Purchaser, Seller and Hanger as of the date first above written.

**PURCHASER:**

UNITED STATES MANUFACTURING  
COMPANY, LLC

By:   
[unclear]

**SELLER:**

SEATTLE ORTHOPEDIC GROUP, INC.

By: \_\_\_\_\_  
\_\_\_\_\_

**HANGER:**

HANGER ORTHOPEDIC GROUP, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Doc#583371.v13

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Purchaser, Seller and Hanger as of the date first above written.

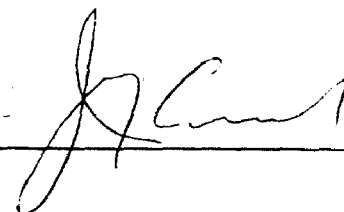
**PURCHASER:**

UNITED STATES MANUFACTURING  
COMPANY, LLC

By: \_\_\_\_\_  
\_\_\_\_\_

**SELLER:**

SEATTLE ORTHOPEDIC GROUP, INC.

By:  \_\_\_\_\_  
\_\_\_\_\_

**HANGER:**

HANGER ORTHOPEDIC GROUP, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Doc#583371.v12

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Purchaser, Seller and Hanger as of the date first above written.

**PURCHASER:**

UNITED STATES MANUFACTURING  
COMPANY, LLC

By: \_\_\_\_\_  
\_\_\_\_\_

**SELLER:**

SEATTLE ORTHOPEDIC GROUP, INC.

By: \_\_\_\_\_  
\_\_\_\_\_

**HANGER:**

HANGER ORTHOPEDIC GROUP, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Doc#583371.v1312

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