

STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT (the "Agreement") dated as of _____, 2002~~0~~, by and between _____ (hereinafter referred to as the "Buyer"), on the one hand, and _____ ("Seller"), on the other hand. Buyer and Seller may be referred to individually herein as a "Party" or collectively as the "Parties".

WITNESSETH:

WHEREAS, Seller owns all of the issued and outstanding shares of capital stock, \$1.00 par value per share (the "Shares"), of _____, a Texas corporation (the "Company");

WHEREAS, Seller desires to sell, and Buyer desires to purchase, all of the Shares pursuant to the terms and conditions of this Agreement; and

WHEREAS, it is the intention of the Parties hereto that, upon consummation of the purchase and sale of the Shares pursuant to this Agreement, Buyer shall own one hundred percent (100%) of the outstanding shares of capital stock of the Company.

NOW, THEREFORE, in consideration of the mutual promises and conditions herein contained, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I

SALE OF STOCK

I.1 Sale of the Shares. At the Closing, as defined below, subject to the terms and conditions herein stated, the Seller shall sell, assign, transfer and deliver to Buyer, and Buyer shall purchase from Seller on the Closing Date, the Shares.

At the Closing, the share certificates representing the Shares shall be duly registered in the name of the Seller. Such share certificates will be duly endorsed in blank, or accompanied by stock powers duly endorsed in blank, by the Seller at the Closing.

I.2 Closing. The closing of the transactions provided for in this Agreement (the "Closing") shall be held at 10:00 a.m., local time, in the offices of _____, on or before August __, 20__ at such other time and place as Buyer and Seller may mutually agree (the "Closing Date").

I.3 Price. In consideration of the sale by the Seller of the Shares, free and clear of all obligations, liens, security interests or encumbrances of every type and description, Buyer shall pay to Seller \$ _____ by wire transfer of immediately available funds on the Closing Date (the "Initial Purchase Price") ~~the aggregate amount of \$__ Million.~~

In addition to the Initial Purchase Price, payable pursuant to the immediately preceding paragraph. Buyer shall, subject to the terms and conditions set forth herein, pay to Buyer an

amount equal to twenty percent (20%) of annual earnings before interest and taxes (EBIT”) each year for a total of up to five (5) years following the Closing, in each case, only in the event that EBIT, calculated according to generally accepted accounting principles (“GAAP”), meets or exceeds \$ _____ in each such year (the “Additional Consideration”). The Additional Consideration shall be paid by Buyer to Seller each year within sixty (60) days after the close of the Company’s fiscal year in check or by wire transfer of immediately available funds. The total aggregate Additional Consideration payable hereunder shall not exceed \$ _____

ARTICLE II

REPRESENTATIONS OF SELLER

2. Representations of the Seller. Seller represents and warrants, to the Buyer as follows:

II.1 Existence and Good Standing of Company. Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and is duly qualified to do business in, and is in good standing in, every jurisdiction in which the character or location of the properties owned or leased by Company or the nature of its business makes such qualification necessary. Company has the corporate power to own its property and to carry on its business as the business is currently being conducted and to perform all its obligations under all contracts, agreements, licenses, proposals, bids, quotations, purchase orders and commitments, and sales orders and commitments, arrangements and permissions with respect to the Company’s business (collectively, the “Contracts”).

II.2 Power. Seller has the power and authority to make, execute, deliver and perform this Agreement and all other agreements contemplated hereby and to be entered into in connection herewith (collectively, the “Closing Documents”). The Closing Documents constitute legal, valid and binding agreements of the Seller, enforceable against Seller in accordance with their terms. Neither Seller nor Company is or will be required to give any notice to or obtain any consent from any Party in connection with the execution and delivery of the Closing Documents or the consummation or performance of the Closing Documents.

II.3 No Conflicts. Neither the execution and delivery of this Agreement nor the consummation or performance of any of the transactions contemplated hereby will, directly or indirectly (with or without notice or lapse of time):

(i) contravene, conflict with, or result in a violation of (A) any provision of the organizational documents of the Company, or (B) any resolution adopted by the board of directors or the shareholders of the Company;

(ii) contravene, conflict with, or result in a violation of, or give any governmental body or other Party the right to challenge any of the contemplated transactions or to exercise any remedy or obtain any relief under, any legal requirement or any order to which the Company or Seller, or any of the assets owned or used by the Company, may be subject;

- (iii) contravene, conflict with, or result in a violation of any of the terms or requirements of, or give any governmental body the right to revoke, withdraw, suspend, cancel, terminate, or modify, any governmental authorization that is held by the Company or that otherwise relates to the business of, or any of the assets owned by, the Company;
- (iv) cause Buyer or Company to become subject to, or to become liable for the payment of, any tax;
- (v) cause any of the assets owned by the Company to be reassessed or revalued by any taxing authority or other governmental body;
- (vi) contravene, conflict with, or result in a violation of any breach of any provision of, or give any Party the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate, or modify, any Contract; or
- (vii) result in the imposition or creation of any encumbrance upon or with respect to any of the assets owned or used by the Company.

II.4 Capitalization. The authorized equity securities of the Company consist of 5,000 shares of common stock, par value \$1.00 per share, constituting all of the issued and outstanding shares of capital stock of Company. Seller is and will be on the Closing Date the record and beneficial owner and holder of the Shares. Seller has good, valid and marketable title to the Shares, free and clear of any lien, claim, mortgage, pledge, voting trust, restriction on sale, proxy or encumbrance. No legend or other reference to any purported encumbrance appears upon any certificate representing equity securities of the Company. All of the outstanding equity securities of the Company have been duly authorized and validly issued and are fully paid and nonassessable, and no shares of capital stock of the Company are subject to, nor have any been issued in violation of, preemptive or similar rights. There are no contracts relating to the issuance, sale or transfer of any equity securities or other securities of the Company. All issuances, sales and repurchases by the Company of shares of its capital stock have been effected in compliance with all applicable laws, including, without limitation, all applicable federal and state securities laws. The Company does not own, or have any contract to acquire, any equity securities or other securities of any Party (other than the Company) or any direct or indirect equity or ownership interest in any other business. Except as set forth above in this Section and as provided in this Agreement, there are (and as of the Closing Date there will be) outstanding (i) no shares of capital stock or other voting securities of the Company, (ii) no securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of the Company, (iii) no options or other rights to acquire from the Company, and no obligation of the Company to issue or sell, any shares of capital stock or other voting securities of the Company or any securities of the Company convertible into or exchangeable for such capital stock or voting securities, and (iv) no equity equivalents, interests in the ownership or earnings, or other similar rights of or with respect to the Company. There are (and as of the Closing Date there will be) no outstanding obligations of the Company or any subsidiary of the Company to repurchase, redeem, or otherwise acquire any of the foregoing shares, securities, options, equity equivalents, interests or rights. The Company is not a party to, and is not aware of, any voting

agreement, voting trust, or similar agreement or arrangement relating to any class or series of its capital stock.

II.5 Subsidiaries and Investments. The Company has no subsidiaries and does not own of record or beneficially any equity interests in any third party.

II.6 Financial Statements. Seller has delivery to Buyer: (a) audited consolidated balance sheets of the Company as at _____ in each of the years ____ through _____, and the related audited consolidated statements of income, changes in shareholders' equity, and cash flow for each of the fiscal years then ended, together with the report thereon of _____, independent certified public accountants, (b) a consolidated balance sheet of the Company as at _____ (including the notes thereto, the "Balance Sheet"), and the related consolidated statements of income, changes in shareholders' equity, and cash flow for the fiscal year then ended, together with the reports thereon of _____, independent certified public accountants, and (c) an unaudited consolidated balance sheet of the Company as at _____ (the "Interim Balance Sheet") and the related unaudited consolidated statements of income, changes in shareholders' equity, and cash flow for the ____ months then ended, including in each case the notes thereto. Such financial statements and notes fairly present the financial condition and the results of operations, changes in shareholders' equity, and cash flow of the Company as at the respective dates of and for the periods referred to in such financial statements, all in accordance with GAAP; the financial statements referred to in this Section reflect the consistent application of such accounting principles throughout the periods involved. No financial statements of any Party other than the Company are required by GAAP to be included in the consolidated financial statements of the Company.

II.7 Books and Records. The books of account, minute books, stock record books, and other records of the Company, all of which have been made available to Buyer, are complete and correct and have been maintained in accordance with sound business practices and the requirements of Section 13(b)(2) of the Securities Exchange Act of 1934, as amended (regardless of whether or not the Company is subject to that Section), including the maintenance of an adequate system of internal controls. The minute books of the Company contain accurate and complete records of all meetings held of, and corporate action taken by, the shareholders, the Boards of Directors, and committees of the Board of Directors of the Company, and no meeting of any such shareholders, Board of Directors, or committees has been held for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of the Company.

II.8 Title to Properties; Encumbrances. Schedule 2.8 contains a complete and accurate list of all real property, leaseholds, or other interests therein owned by the Company. Seller has delivered or made available to Buyer copies of the deeds and other instruments (as recorded) by which the Company acquired such real property and interests, and copies of all title insurance policies, opinions, abstracts, and surveys in the possession of Seller or the Company and relating to such property or interests. The Company owns (with good and marketable title in the case of real property, subject only to the matters permitted by the following sentence) all the properties and assets (whether real, personal, or mixed and whether tangible or intangible) that it purports to own, including all of the properties and assets reflected in the Balance Sheet and the Interim Balance Sheet (except for assets held under capitalized leases disclosed or not required

to be disclosed in Schedule 2.8 and personal property sold since the date of the Balance Sheet and the Interim Balance Sheet, as the case may be, in the ordinary course of business), and all of the properties and assets purchased or otherwise acquired by the Company since the date of the Balance Sheet (except for personal property acquired and sold since the date of the Balance Sheet in the ordinary course of business and consistent with past practice), which subsequently purchased or acquired properties and assets (other than inventory and short-term investments) are listed in Schedule 2.8. All material properties and assets reflected in the Balance Sheet and the Interim Balance Sheet are free and clear of all encumbrances and are not, in the case of real property, subject to any rights-of-way, building use restrictions, exemptions, variances, reservations or limitations of any nature except, with respect to all such properties and assets, (a) mortgages or security interests shown on the Balance Sheet or the Interim Balance Sheet as securing specified liabilities or obligations, with respect to which no default (or event that, with notice or lapse of time or both, would constitute a default) exists, (b) mortgages or security interests incurred in connection with the purpose of property or assets after the date of the Interim Balance Sheet (such mortgages and security interests being limited to the property or assets so acquired), with respect to which no default (or event that, with notice or lapse of time or both, would constitute a default) exists, (c) liens for current taxes not yet due, and (d) with respect to real property, zoning laws and other land use restrictions that do not impair the present or anticipated use of the property subject thereto. All buildings, plants, and structures owned by the Company lie wholly within the boundaries of the real property owned by the Company and do not encroach upon the property of, or otherwise conflict with the property rights of, any other Party.

II.9 Condition and Sufficiency of Assets. The buildings, plants, structures and equipment of the Company are structurally sound, are in good operating condition and repair, and are adequate for the uses to which they are being put, and none of such buildings, plants, structures or equipment is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The building, plants, structures and equipment of the Company are sufficient for the continued conduct of the Company's business after the Closing in substantially the same manner as conducted prior to the Closing.

II.10 Inventory. All inventory of the Company, whether or not reflected in the Balance Sheet or the Interim Balance Sheet, consists of a quality and quantity usable and salable in the ordinary course of business, except for obsolete items and items of below-standard quality, all of which have been written off or written down to net realizable value in the Balance Sheet or the Interim Balance Sheet or on the accounting records of the Company as of the Closing Date, as the case may be. All inventories not written off have been priced at the lower of cost or **[market][net realizable value]** on a **[last in, first out][first in, first out]** basis. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive, but are reasonable in the present circumstances of the Company.

II.11 Leases. Schedule 2.11 contains an accurate and complete listing of all material leases for property, real or personal, and equipment to which Company is a party (as lessee or lessor). Each lease set forth in Schedule 2.11 is in full force and effect and all rents due and payable to date on each such lease have been paid; in each case the lessee is in peaceable possession and is not in material default thereunder and no waiver, indulgence or postponement of the lessee's obligation thereunder has been granted by the lessor; and there exists no event of

default or event, occurrence, condition or act (including the purchase of the Shares hereunder) which, with the giving of notice, the lapse of time, or the happening of any further event or condition, would become a default under such lease. Company has not violated any of the terms or conditions under any such lease in any material respect, and all of the covenants to be performed by any other Party under any such lease have been performed in all material respects. The property leased by Company is in a state of operational maintenance and repair and is adequate and suitable for the purposes for which it is presently being used.

II.12 Material Contracts. Except as set forth in Schedule 2.12, Company does not have and is not bound by (a) any contract or commitment relating to the employment of any Party by Company (other than contracts or commitments that may be terminated by Company without penalty on less than 30 days' notice) or any bonus, deferred compensation, pension, profit sharing, stock option, employee stock purchase, retirement, or other employee benefit plan, (b) any agreement, indenture or other instrument which contains restrictions with respect to payment of dividends or any other distribution in respect of its capital stock, (c) any contract, or commitment relating to capital expenditures, (d) any loan or advance to, or investment in, any other Party (including, but not limited to, officers and directors of Company) or any contract or commitment relating to the making of any such loan, advance or investment, (e) any guarantee or other contingent liability in respect of any indebtedness or obligation of any other Party (other than the endorsement of negotiable instruments for collection in the ordinary course of business), (f) any management, service, consulting or other similar type contract (excluding consulting subcontracts which do not contractually obligate Company to use such consultants' services), (g) any contract or commitment limiting the freedom of Company to engage in any line of business or to compete with any Party, or (h) any contract or commitment not entered into in the ordinary course of business. Each contract or commitment set forth in Schedule 2.12 is in full force and effect and there exists no event of default or event, occurrence, condition or act (including the purchase of the Shares hereunder) which, with the giving of notice, the lapse of time, or the happening of any further event or condition, would become a default or event of default thereunder. Company is not in violation of any of the material terms or conditions of any contract or agreement set forth in Schedule 2.12 in any material respect and there exists no known continuing liability on any past contract and/or agreement, and all of the covenants to be performed by any other Party thereto have been performed.

II.13 Restrictive Documents. Except as set forth in Schedule 2.13, Company is not subject to any charter, by-law, mortgage, lien, lease, license, permit, contract, instrument, order, judgment or decree or any other restriction of any kind or character (i) which materially adversely affects the business practices, operations or condition (financial or otherwise) of Seller or any of its assets or property, (ii) which would prevent the continued operation by Buyer of the business of Company after the date hereof on substantially the same basis as heretofore operated, or (iii) which would prevent the consummation of the transactions contemplated by this Agreement.

II.14 Litigation.

(a) Except as set forth in Schedule 2.14, there is no action, suit, proceeding at law or in equity by any Party, or any arbitration or any administrative or other proceeding or to the knowledge of the Seller any investigation by or before any governmental or other instrumentality or agency, pending against, or to the knowledge of the Company, threatened against or affecting Company or any of its properties or rights. Except as set forth in Schedule 2.14, Company is not subject to any judgment, order or decree entered in any lawsuit or proceeding.

(b) No officer, director, agent, or employee of the Company is subject to any governmental or court order that prohibits such officer, director, agent or employee from engaging in or continuing any conduct, activity or practice relating to the business of the Company.

II.15 Taxes.

(a) Except as set forth in Schedule 2.15, Company has filed or caused to be filed, within the time and within the manner prescribed by law, all federal, state, local and foreign tax returns and tax reports which are required to be filed by, or with respect to, Company. Such returns and reports reflect accurately all liability for taxes of Company for the periods covered thereby. All federal, state, local and foreign income, profits, franchise, sales, use, occupancy, excise, property and other taxes and assessments (including interest and penalties) payable by, or due from, Company have been fully paid or adequately disclosed and fully provided for in the books of Company. No examination by any governmental authority of any tax return of Company is currently in progress. There are no outstanding agreements or waivers extending the statutory period of limitation applicable to any tax return of Company.

(b) The United States federal and state income tax returns of the Company subject to such taxes have been audited by the Internal Revenue Service (“IRS”) or relevant state tax authorities or are closed by the applicable statute of limitations for all taxable years through _____. Schedule 2.15 contains a complete and accurate list of all audits of all such tax returns, including a reasonably detailed description of the nature and outcome of each audit. All deficiencies proposed as a result of such audits have been paid, reserved against, settled, or as described in Schedule 2.15, are being contested in good faith by appropriate proceedings. Schedule 2.15 describes all adjustments to the United States federal income tax returns filed by the Company or any group of corporations including the Company for all taxable years since _____, and the resulting deficiencies proposed by the IRS. Except as described in Schedule 2.15, neither Seller nor the Company have given or been requested to give waivers or extensions (or is or would be subject to a waiver or extension given by any other Party) or any statute of limitations relating to the payment of taxes of the Company or for which the Company may be liable.

(c) The charges, accruals, and reserves with respect to taxes on the respective books of the Company are adequate (determined in accordance with GAAP) and are at least equal to the Company’s liability for taxes. There exists no proposed tax assessment against the Company except as disclosed in the Balance Sheet or in Schedule 2.15. No consent to the application of Section 341(f)(2) of the Internal Revenue Code has been filed with respect to any property or assets held, acquired or to be acquired by the Company. All taxes that Company is or was

required by legal requirements to withhold or collect have been duly withheld or collected and, to the extent required, have been paid to the proper governmental body or other Party.

II.16 No Undisclosed Liabilities. Except as set forth in Schedule 2.16, the Company has no liabilities or obligations of any nature (whether known or unknown and whether absolute, accrued, contingent, or otherwise) except for liabilities or obligations reflected or reserved against in the Balance Sheet or the Interim Balance Sheet and current liabilities incurred in the ordinary course of business since the respective dates hereof.

II.17 Insurance.

(a) Seller has delivered to Buyer:

(i) true and complete copies of all policies of insurance to which the Company is a party or under which the Company, or any director of the Company, is or has been covered at any time within the _____ years preceding the date of this Agreement;

(ii) true and complete copies of all pending applications for policies of insurance; and

(iii) any statement by the auditor of the Company's financial statements with regard to the adequacy of such entity's coverage or of the reserves for claims.

(b) Schedule 2.17(b) describes:

(i) any self-insurance arrangement by or affecting the Company, including any reserves established thereunder;

(ii) any contract or arrangement, other than a policy of insurance, for the transfer or sharing of any risk by the Company; and

(iii) all obligations of the Company to third parties with respect to insurance (including such obligations under leases and service agreements) and identifies the policy under which such coverage is provided.

(c) Schedule 2.17(c) sets forth, by year, for the current policy year and each of the _____ preceding policy years:

(i) a summary of the loss experience under each policy;

(ii) a statement describing each claim under an insurance policy for an amount in excess of \$_____, which sets forth:

(A) the name of claimant;

- (B) a description of the policy by insurer, type of insurance, and period of coverage; and
 - (C) the amount and a brief description of the claim.
 - (iii) a statement describing the loss experience for all claims that were self-insured, including the number and aggregate cost of such claims.
- (d) Except as set forth in Schedule 2.17(d):
 - (i) All policies to which the Company is a party or that provide coverage of to either Seller, the Company, or any director or officer of the Company:
 - (A) are valid, outstanding, and enforceable;
 - (B) are issued by an insurer that is financially sound and reputable;
 - (C) taken together, provide adequate insurance coverage for the assets and the operations of the Company;
 - (D) are sufficient for compliance with all legal requirements and contracts to which the Company is a party or by which it is bound;
 - (E) will continue in full force and effect following the consummation of the contemplated transactions; and
 - (F) do not provide for any retrospective premium adjustment or other experienced-based liability on the part of the Company.
 - (ii) Neither Seller nor the Company have received (A) any refusal of coverage or any notice that a defense will be afforded with reservation of rights, or (B) any notice of cancellation or any other indication that any insurance policy is no longer in full force or effect or will not be renewed or that the issuer of any policy is not willing or able to perform its obligations hereunder.
 - (iii) The Company has paid all premiums due, and has otherwise performed all of its respective obligations, under each policy to which the Company is a party or that provides coverage to the Company or directors thereof.
 - (iv) The Company has given notice to the insurer of all claims that may be insured thereby.

II.18 Intellectual Properties.

- (a) The phrase “Intellectual Property” includes:

- (i) the name _____, all fictional business names, trading name, registered and unregistered trademarks, service marks, and applications (collectively, “Marks”);
- (ii) all patents, patent applications, and inventions and discoveries that may be patentable (collectively, “Patents”);
- (iii) all copyrights in both published works and unpublished works (collectively, “Copyrights”);
- (iv) all rights in mask works (collectively, “Rights in Mask Works”); and
- (v) all know-how, trade secrets, confidential information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints (collectively, “Trade Secrets”); owned, used, or licensed by the Company as licensee or licensor.

(b) The Company owns or has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the businesses of the Company as presently conducted and as presently proposed to be conducted. Each item of Intellectual Property owned or used by the Company immediately prior to the Closing hereunder will be owned or available for use by the Company on identical terms and conditions immediately subsequent to the Closing hereunder. The Company has taken all necessary or desirable action to protect each item of Intellectual Property that it owns or uses.

(c) The Company has not interfered with, infringed upon, misappropriated, or ~~otherwise~~ otherwise come into conflict with any Intellectual Property rights of third parties, and none of the Seller and the directors and officers (and employees with responsibility for Intellectual Property matters) of the Company has ever received any charge, complaint, claim, or notice alleging any such interference, infringement, misappropriation, or violation. To the knowledge of any of the Seller and the directors and officers (and employees with responsibility for Intellectual Property matters) of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of the Company.

(d) Schedule 2.18 identifies each patent or registration which has been issued to the Company with respect to any of its Intellectual Property, identifies each pending patent application or application for registration which the Company has made with respect to any of its Intellectual Property, and identifies each license, agreement, or other permission which the Company has granted to any third party with respect to any of its Intellectual Property (together with any exceptions). The Seller and the Company have delivered to the Buyer correct and complete copies of all such patents, registrations, applications, licenses, agreements, and permissions (as amended to date), and have made available to the Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such item. With respect to each item of Intellectual Property that the Company owns:

- (i) the Company possesses all right, title and interest in and to the item;

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

(iii) no charge, complaint, action, suit, proceeding, hearing, investigation, claim, or demand is pending or, to the knowledge of the Seller and the directors and officers (and employees with responsibility for Intellectual Property matters) of the Company is threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and

(iv) except as set forth in Schedule 2.18, the Company has never agreed to indemnify any Party or entity for or against any interference, infringement, misappropriation, or other conflict with respect to the item.

(d) Schedule 2.18 also identifies each item of Intellectual Property that any third party owns and that the Company uses pursuant to license, sublicense, agreement or permission. The Seller and the Company have supplied the Buyer with correct and complete copies of all such licenses, sublicenses, agreements, and permissions (as amended to date). With respect to each such item of used Intellectual Property:

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

(ii) 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 Closing;

(iii) 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;

(iv) no Party to the license, sublicense, agreement, or permission has repudiated any provision thereof;

(v) 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;

(vi) the underlying item of Intellectual Property is not subject to any outstanding judgment, order, decree, stipulation, injunction, or charge;

(vii) no charge, complaint, action, suit, proceeding, hearing, investigation, claim, or demand is pending, or, to the knowledge of any of the Seller and the directors and officers (and employees with responsibility for Intellectual Property matters) of the Company is threatened which challenges the legality, validity or enforceability of the underlying item of Intellectual Property; and

(viii) the Company has not granted any sublicense or similar right with respect to the license, sublicense, agreement or permission.

II.19 Compliance with Legal Requirements; Governmental Authorizations.

(a) Except as set forth in Schedule 2.19:

(i) the Company is, and at all times since _____, _____ has been, in full compliance with each legal requirement that is or was applicable to it or to the conduct or operation of its business or the ownership or use of any of its assets;

(ii) no event has occurred or circumstance exists that (with or without notice or lapse of time) (A) may constitute or result in a violation by the Company of, or a failure on the part of the Company to comply with, any legal requirement, or (B) may rise to any obligation on the part of the Company to undertake, or to bear all or any portion of the cost of, any remedial action of any nature; and

(iii) the Company has not received, at any time since _____, _____, any notice or other communication (whether oral or written) from any governmental body or any other Party regarding (A) any actual, alleged, possible, or potential violation of, or failure to comply with, any legal requirement, or (B) any actual, alleged, possible, or potential obligation on the part of the Company to undertake, or to bear all or any portion of the cost of, any remedial action of any nature.

(b) Schedule 2.19 contains a complete and accurate list of each governmental authorization that is held by the Company or that otherwise relates to the business of, or to any of the assets owned or used by, the Company. Each governmental authorization listed or required to be listed in Schedule 2.19 is valid and in full force and effect. Except as set forth in Schedule 2.19:

(i) the Company is, and all time since _____, _____ has been, in full compliance with all of the terms and requirements of each governmental authorization identified or required to be identified in Schedule 2.19;

(ii) no event has occurred or circumstance exists that may (with or without notice or lapse of time) (A) constitute or result directly or indirectly in a violation of or a failure to comply with any term or requirement of any governmental authorization listed or required to be listed in Schedule 2.19, or (B) result directly or indirectly in the revocation, withdrawal, suspension, cancellation, or termination of, or any modification to, any governmental authorization listed or required to be listed in Schedule 2.19;

(iii) the Company has not received, at any time since _____, _____, any notice or other communication (whether oral or written) from any governmental body or any other Party regarding (A) any actual, alleged, possible, or potential violation of or failure to comply with any term or requirement of any

governmental authorization, or (B) any actual, proposed, possible, or potential revocation, withdrawal, suspension, cancellation, termination of, or modification to any governmental authorization; and

(iv) all applications required to have been filed for the renewal of the governmental authorizations listed or required to be listed in Schedule 2.19 have been duly filed on a timely basis with the appropriate governmental bodies, and all other filings required to have been made with respect to such governmental authorizations have been duly made on a timely basis with the appropriate governmental bodies.

The governmental authorizations listed in Schedule 2.19 collectively constitute all of the governmental authorizations necessary to permit the Company to lawfully conduct and operate their businesses in the manner they currently conduct and operate such businesses and to permit the Company to own and use their assets in the manner in which they currently own and use such assets.

II.20 Accounts Receivable. All accounts receivable of the Company that are reflected on the Balance Sheet or the Interim Balance Sheet or on the accounting records of the Company as of the Closing Date (collectively, the “Accounts Receivable”) represent or will represent valid obligations arising from sales actually made or services actually performed in the ordinary course of business. Unless paid prior to the Closing Date, the Accounts Receivable are or will be as of the Closing Date current and collectible net of the respective reserves shown on the Balance Sheet or the Interim Balance Sheet or on the accounting records of the Company as of the Closing Date (which reserves are adequate and calculated consistent with past practice and, in the case of the reserve as of the Closing Date, will not represent a greater percentage of the Accounts Receivable as of the Closing Date than the reserve reflected in the Interim Balance Sheet represented of the Accounts Receivable reflected therein and will not represent a material adverse change in the composition of such Accounts Receivable in terms of aging). Subject to such reserves, each of the Accounts Receivable either has been or will be collected in full, without any set-off, within ninety (90) days after the day on which it first becomes due and payable. There is no contest, claim, or right of set-off, other than returns in the Ordinary Course of Business, under any contract with any obligor of an Accounts Receivable relating to the amount or validity of such Accounts Receivable. Schedule 2.20 contains a complete and accurate list of all Accounts Receivable as of the date of the Interim Balance Sheet, which list sets forth the aging of such Accounts Receivable.

II.21 Employment Relations.

(a) The Company is in substantial compliance with all federal, state, provincial or other applicable laws, domestic or foreign, respecting employment and employment practices, terms and conditions of employment and wages and hours, including without limitation, the employment of non-resident aliens, and has not and is not engaged in any unfair labor practice;

(b) no unfair labor practice complaint against the Company is pending before a labor commissioner or other competent authority;

- (c) there is no labor strike, dispute, slowdown or stoppage actually pending or to the Company's knowledge, threatened against or involving the Company;
- (d) no labor grievance that would reasonably be expected to have a material adverse effect upon the Company or the conduct of its businesses exists, no arbitration proceedings arising out of or under any collective bargaining agreement is pending, and no claim therefore has been asserted;
- (e) no collective bargaining agreement is currently being negotiated by the Company; and
- (f) the Company has not experienced any material labor difficulty since its incorporation. There has not been, and to the knowledge of the Company, there will not be, any material adverse change in relations with employees of the Company as a result of any announcement of the transactions contemplated by this Agreement. Except as set forth in Schedule 2.21, to the knowledge of the Company, no key employee, or group of employees, has any plans to terminate employment with the Company. As of the Closing Date, the Company does not have any employment contracts with any of its employees, except as contemplated by this Agreement or disclosed in Schedule 2.21.

II.22 Employee Benefit Plans.

(a) List of Plans. Set forth in Schedule 2.22 is an accurate and complete list of all employee benefit plans ("Employee Benefit Plans") within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that have been established, maintained or contributed to by Company, whether or not any such Employee Benefit Plans are otherwise exempt from the provisions of ERISA. The Seller has delivered to the Buyer correct and complete copies of (i) the plan documents and summary plan descriptions, (ii) the most recent determination letter received from the IRS, (iii) the most recent Form 5500 Annual Report, and (iv) all related trust agreements, insurance contracts, and other funding agreements which implement each Employee Benefit Plan.

(b) Status of Plans. Company has not and does not maintain or contribute to any such Employee Benefit Plan that is not in substantial compliance with ERISA, nor does Company maintain or contribute to any defined benefit plan subject to ERISA or to any Employee Benefit Plan subject to the minimum funding requirement of the Internal Revenue Code (the "Code").

(c) Contributions. Full payment has been made of all amounts which Company is required, under applicable law or under any Employee Benefit Plan or any agreement relating to any Employee Benefit Plan to which Company is a party, to have paid as contributions thereto as of the date hereof. Company has made adequate provision for reserves in the Balance Sheet to meet any contributions that have not been made because they are not yet due under the terms of any Employee Benefit Plan or related agreements. Benefits under all Employee Benefit Plans are as represented and have not been increased subsequent to the date of the Balance Sheet. The requirements of Part 6 of Subtitle B of Title I of the ERISA has been met with respect to each Employee Benefit Plan. All required reports and descriptions, including Form 5500 Annual Reports, have been filed or distributed appropriately with respect to each Employee Benefit Plan.

(d) Tax Qualification. Each Employee Benefit Plan is intended to be qualified under the Code, and consistent with Section 1140 of the Tax Reduction Act of 1986 (“TRA 86”) and Revenue Procedure 89-65, and the plan documents have been amended to conform to TRA 86 and the regulations and rules promulgated thereunder.

(e) Transactions. Company has not knowingly engaged in any transaction with respect to the Employee Benefit Plans which would subject it to a tax, penalty or liability for prohibited transactions under ERISA or the Code nor has its directors, officers or employees, to the extent they or any of them are fiduciaries with respect to such plans, breached any of their responsibilities or obligations imposed upon fiduciaries by ERISA or would result in any claim being made under or by or on behalf of any such plans by any Party with standing to make such claim.

II.23 Bank Accounts. Set forth in Schedule 2.23 is an accurate and complete list showing the name and address of each bank in which Company has an account or safe deposit box, the number of any such account or box and the names of all Parties authorized to draw thereon or to have access thereto.

II.24 Environmental Matters.

(a) The Company and Seller represent and warrant that:

(i) the properties, operations, and activities of the Company comply with all Applicable Environmental Laws (as defined below);

(ii) the Company and the properties, operations, and activities of the Company are not subject to any existing, pending, or, to the best knowledge of Seller and the Company, threatened proceeding under, or to any remedial obligations under, any Applicable Environmental Laws;

(iii) all permits, if any, required to be obtained by the Company under any Applicable Environmental Laws in connection with any aspect of the business of the Company, including, without limitation, those relating to the treatment, storage, disposal or release of a hazardous material (as defined below), have been duly obtained and are in full force and effect, and the Company is in compliance with the terms and conditions of all such permits;

(iv) the Company has satisfied and is currently in compliance with all financial responsibility requirements applicable to its operations and imposed by any governmental entity under any Applicable Environmental Laws, and the Company has not received any notice of noncompliance with any such financial responsibility requirements;

(v) to the best knowledge of Seller and the Company, there are no physical or environmental conditions existing on any property owned or leased by the Company or resulting from the Company’s operations or activities, past or present, at any location,

that would give rise to any on-site or off-site remedial obligations under any Applicable Environmental Laws;

(vi) to the best knowledge of Seller and the Company, since the effective date of the relative requirements of Applicable Environmental Laws, all hazardous materials generated by the Company or used in connection with its properties, operations or activities have been transported only by carriers authorized under Applicable Environmental Laws to transport such materials, and have been disposed of only at treatment, storage and disposal facilities authorized under Applicable Environmental Laws to treat, store or dispose of such materials, and, to the best knowledge of Seller and the Company, such carriers and facilities have been and are operating in compliance with such authorizations and are not the subject of any existing, pending, or threatened Proceeding in connection with any Applicable Environmental Laws;

(vii) there has been no exposure of any Party or property to hazardous materials, nor has there been any release of hazardous materials into the environment, by the Company or in connection with its properties, operations or activities that could reasonably be expected to give rise to any claim for damages or compensation; and

(viii) the Company shall make available to Buyer all internal and external environmental audits and studies and all correspondence on substantial environmental matters in the possession of the Company relating to any of the current or former properties, operations, or activities of the Company, provided that the Company shall not be required to make available any such audits, studies or correspondence that may be subject to the attorney-client privilege or similar privilege.

(b) For purposes of this Agreement, “Applicable Environmental Laws” means any and all applicable laws pertaining to health, safety or the environment in effect (currently or hereafter) in any and all jurisdictions in which the Company has conducted operations or activities or owned or leased property, including, without limitation, the Clear Air Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Rivers and Harbors Act of 1899, as amended, the Federal Water Pollution Control Act, as amended, the Occupational Safety and Health Act of 1970, as amended, the Resource Conservation and Recovery Act of 1976, as amended, the Safe Drinking Water Act, as amended, the Toxic Substances Control Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Hazardous Materials Transportation Act, as amended, the Texas Water Code, the Texas Solid Waste Disposal Act, and other environmental conservation or protection laws. For purposes of this Agreement, the term “hazardous material” means (i) any substance which is listed or defined as a hazardous substance, hazardous constituent, or solid waste pursuant to any Applicable Environmental Laws and (ii) petroleum (including crude oil and any fraction thereof), natural gas, and natural gas liquids.

(c) The representations and warranties contained in this Section would continue to be true and correct following disclosure to the applicable governmental entities of all relevant facts, conditions and circumstances, if any, pertaining to the properties, operations and activities of the Company.

II.25 Powers of Attorney. Set forth in Schedule 2.25 is an accurate and complete list of the names of all Parties, if any, holding powers of attorney from Company and a summary statement of the terms thereof.

II.26 Compensation of Employees.

(a) Schedule 2.26 contains a complete and accurate list of the following information for each employee or director of the Company, including each employee on leave of absence or layoff status: employer, name, job title, current compensation paid and any change in compensations since _____, _____, vacation accrued, and service credited for purposes of vesting and eligibility to participate under Company's pension, retirement, profit-sharing, thrift-savings, deferred compensation, stock bonus, stock option, cash bonus, employee stock ownership (including investment credit or payroll stock ownership), severance pay, insurance, medical, welfare, or vacation plan, other Employee Pension Plan or Employee Welfare Benefit Plan, or any other employee benefit plan or any Director Plan.

(b) No employee or director of the Company is a party to, or is otherwise bound by, any agreement or arrangement, including any confidentiality, noncompetition, or proprietary rights agreement, between such employee or director and any other Party ("Proprietary Rights Agreement") that in any way adversely affects or will affect (i) the performance of his duties as an employee or director of the Company, or (ii) the ability of the Company to conduct its business, including any Proprietary Rights Agreement with Seller or the Company by any such employee or director. To Seller's knowledge, no director, officer, or other key employee of the Company intends to terminate with the Company.

(c) Schedule 2.26 also contains a complete and accurate list of the following information for each retired employee or director of the Company, or their dependents, receiving benefits or scheduled to receive benefits in the future: name, pension benefit, pension option election, retiree medical insurance coverage, retiree life insurance coverage, and other benefits.

II.27 No Changes. Furthermore, during the period from through the date hereof, except as expressly contemplated hereby and as set forth in Schedule 2.27, Company has not suffered any material adverse change in its business, properties, prospects or assets, and no event has occurred or circumstance exists that may result in such a material adverse change. Furthermore, during the period from January 30, 2002 through the date hereof, except as expressly contemplated hereby and as set forth in Schedule 2.27, Company has not:

(a) permitted any of its assets to be subjected to any mortgage, pledge, lien, security interest, encumbrance, restriction or charge of any kind, except liens for taxes not yet due and payable;

(b) sold, transferred or otherwise disposed of any assets other than in the ordinary course of business;

(c) made any capital expenditure or commitment therefor in excess of \$ _____;

(d) made any change in the Company's authorized or issued capital stock; grant of any stock option or right to purchase shares of capital stock of the Company; issuance of any security

convertible into such capital stock; grant of any registration rights; purchase, redemption, retirement or other acquisition by the Company of any shares of any such capital stock; or declaration or payment of any dividend or other distribution or payment in respect of shares of capital stock;

- (e) increased its indebtedness for borrowed money or made any loan to any Party;
- (f) written off as uncollectible any notes or accounts receivable;
- (g) canceled, compromised or waived any claims or rights of substantial value;
- (h) made any change in any method of accounting or auditing practice;
- (i) any change to any material contract or agreement by which the Company or any of its assets is bound or subject;
- (j) any change in any compensation arrangement or agreement with any employee, officer, director or shareholder;
- (k) any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets;
- (l) any death, permanent disability, loss of capacity, resignation or termination of employment of any key officer of the Company; and the Company does not know of any impending resignation or termination of employment of any such officers;
- (m) amendment to the organizational documents of the Company;
- (n) entry into, termination of, or receipt of notice of termination of (i) any license, distributorship, dealer, sales representative, joint venture, credit, or similar agreement, or (ii) any contract or transaction involving a total remaining commitment by or to the Company of at least \$_____;
- (o) receipt of notice that there has been a loss of, or material order cancellation by, any major customer of the Company; or
- (p) except as specifically set forth herein, agreed, whether or not in writing, to do any of the foregoing.

II.28 Broker's or Finder's Fees. Except for an amount to be paid by Seller to no agent, broker, Party or firm acting on behalf of Seller or Company is, or will be, entitled to any commission or broker's or finder's fees from any of the parties hereto in connection with any of the transactions contemplated herein.

II.29 Full Disclosure. To its knowledge, this Agreement, the exhibits hereto and the other documents delivered by the Company to the Buyer or its counsel or agents in connection herewith or with the transactions contemplated hereby, when taken as a whole, do not contain

any untrue statement of a material fact nor omit to state a material fact necessary in order to make the statements contained herein or therein not misleading. There are no facts which in the aggregate are reasonably likely to materially adversely affect the business, assets, liabilities, financial condition, prospects or operations of the Company that have not been set forth in the Agreement, the schedules or exhibits hereto or in other documents delivered to Buyer or its counsel or agents in connection herewith.

ARTICLE III

REPRESENTATIONS OF BUYER

3. Representations of Buyer. Buyer represents and warrants as follows:

3.1 Conflicts. Buyer is not subject to any charter, by-law, mortgage, lien, lease, license, permit, contract, instrument, order, judgment or decree, or any other restriction of any kind or character, which materially adversely affects the business practices, operations or conditions of Buyer or any of its assets or property, or which would prevent consummation of the transactions contemplated by this Agreement. This Agreement constitutes a legal, valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms.

3.2 Broker's or Finder's Fees. No agent, broker, Party or firm acting on behalf of Buyer is, or will be, entitled to any commission or broker's or finder's fees from any of the Parties hereto in connection with any of the transactions contemplated herein.

3.3 Buyer's Intentions. It is Buyer's present intent to cause Company to operate its business in a manner substantially equivalent to the manner in which it is currently being operated, either as a wholly-owned subsidiary, a division, group, or other distinct unit of Buyer, and to cause Company to perform its contracts in accordance with their terms.

ARTICLE IV

PRECLOSING COVENANTS

4. Preclosing Covenants. The Parties agree as follows with respect to the period between the execution of this Agreement the Closing:

—4.1 General. Each of the Parties will use its best efforts to take all action and to do all things necessary, proper, or advisable to consummate and make effective the transactions contemplated by this Agreement (including satisfying the closing conditions set forth herein).

—4.2 Notices and Consents. The Seller will cause the Company to give any notices to third Parties, and will cause the Company to use its best efforts to obtain any third party consents that the Buyer may reasonably request in connection with the matters pertaining to the Company disclosed or required to be disclosed hereunder, including, but not limited to consents or approvals of lenders, vendors and significant customers. Each of the Parties will take any

additional action (and the Seller will cause the Company to take any additional action) that may be necessary, proper or advisable in connection with any other notices to, filings with, and authorizations, consents and approvals of governments, governmental agencies and third Parties that it may be required to give, make or obtain.

—4.3 Conduct Pending Closing. Except as otherwise consented to in writing by the Buyer, prior to Closing, Seller will not, and Seller will not permit the Company to:

- (a) incur any indebtedness other than trade payables incurred in the ordinary course of business;
- (b) pay or declare any dividend, whether payable in stock, cash or other property;
- (c) sell, assign, lease, license or otherwise transfer any assets of the Company, other than sales of inventory in the ordinary course of business;
- (d) make any capital expenditure or any commitments therefor or which, individually or in the aggregate, would be material;
- (e) conduct any transaction or business other than in the ordinary course of business of the Company;
- (f) enter into any material contract, agreement, instrument or understanding or make or agree to any amendment or modification to a material contract, agreement, instrument or understanding; and
- (g) increase or extend the amount of accounts payable of the Company resulting in an increase in the historical ratio of accounts payable to inventory.

—4.4 Preservation of Business. The Seller will cause the Company to keep its business, assets and properties substantially intact, including its present operations, facilities, working conditions and relationships with lessors, licensors, suppliers, customers and employees. Seller and the Company will use their best efforts to maintain, or cause to be maintained, without lapse of coverage until the Closing Date, the present insurance coverage maintained by the Company.

—4.5 Notice of Developments. The Seller will give prompt written notice to the Buyer of any material development effecting the assets, liabilities, business, financial condition, operations, results of operations, or future prospects of the Company. Each Party will give prompt written notice to the other of any material development effecting the ability of the Parties to consummate the transactions contemplated by this Agreement. No disclosure by any Party pursuant to this Section 4.5, however, shall be deemed to amend or supplement any disclosure made by a Party hereunder, or to prevent or cure any misrepresentation, breach of warranty, or breach of covenant.

—4.6 Exclusivity. The Seller will not (and the Seller will not cause or permit the Company to) (i) solicit, initiate, or encourage the submission of any proposal or offer from any Party relating to any liquidation, dissolution, or recapitalization, merger or consolidation,

acquisition or purchase of securities or assets or similar transaction or business combination involving the Company, or (ii) participate in any discussions or negotiations regarding, furnish any information with respect to, assist or participate in, or facilitate in any other manner any effort or attempt by any Party to do or seek any of the following. The Seller will notify the Buyer immediately if any Party makes any proposal, offer, inquiry or contact with respect to any of the foregoing.

4.7 Access and Investigation. Between the date of this Agreement and the Closing Date, Seller will (a) afford Buyer and its representatives and prospective lenders and their representatives (collectively, "Buyer's Advisors") reasonable access to the Company's personnel, properties (including subsurface testing), contracts, books and records, and other documents and data, (b) furnish Buyer and Buyer's Advisors (at Buyer's cost) with copies of all such contracts, books and records, and other existing documents and data as Buyer may reasonably request, and (c) furnish Buyer and Buyer's Advisors with such additional financial, operating, and other data and information as Buyer may reasonably request.

ARTICLE V

CONDITIONS TO OBLIGATIONS OF BUYER

5. The obligation of Buyer to proceed with the Closing under this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, each of which may be waived by Buyer:

5.1 Representations and Warranties True. The representations and warranties of Seller and the Company contained in this Agreement shall have been true and correct in all material respects when made and shall be true and correct in all material respects at the Closing Date as though made at such time and, at the Closing, Seller shall have executed and delivered to the Buyer (and shall cause the Company to execute and deliver to Buyer) a certificate to that effect.

5.2 Performance of Obligations. The covenants and obligations of Seller and the Company to be complied with or performed before the Closing Date pursuant to the terms of this Agreement shall have been performed and complied with in all material respects and, at the Closing, Seller shall have executed and delivered to Buyer (and shall cause the Company to execute and deliver to Buyer) a certificate to that effect. The Company shall have procured all third party consents required under this Agreement.

5.3 Cash Accounts. The Balance Sheet shall reflect a cash account balance of no less than \$ _____ as of the Closing Date. The Seller will deliver a certificate at Closing certifying that the Company has no less than \$ _____ in cash.

5.4 Absence of Litigation. There shall not be any litigation, action or proceeding ~~threatened~~ or pending (including, without limitation, any litigation or proceeding arising under antitrust or securities laws) wherein an unfavorable judgment, order, decree, stipulation, injunction or charge would (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, or (iii) effect adversely the ability of Buyer

to own, operate or control the Shares or the Company (and no such judgment, order, decree, stipulation, injunction or charge shall be in effect).

| 5.54 Financing. The Buyer shall have obtained on terms and conditions satisfactory to it all of the financing it needs in order to consummate the transactions contemplated hereby, and fund the working capital requirements of the Company after Closing.

| 5.5-65 Due Diligence. The Buyer shall have completed to its satisfaction, its operational and financial due diligence of the Company.

| 5.5-77 Legal Opinion. The Buyer shall have received from ~~in-house~~ legal counsel for the Seller a legal opinion, reasonably satisfactory to counsel for the Buyer, substantially to the effect that:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas and has all requisite corporate power under its Articles of Incorporation and Bylaws to own, lease and operate its properties and to carry on its business as presently conducted.

(b) Seller has full power, authority and legal right to enter into this Agreement and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement by Seller and the Company have been duly authorized by all necessary corporate or partnership action, if applicable, on the part of the Seller and the Company; and this Agreement has been duly executed and delivered by Seller and constitutes a valid and binding obligation of Seller enforceable against him in accordance with its terms. Such opinion regarding the validity and enforceable of this Agreement may be subject to the effect of liquidation, conservatorship, insolvency, bankruptcy, reorganization, moratorium, principles of equity, the doctrine of commercial reasonableness, the doctrine of fraudulent conveyances and/or statutes relating thereto, and other laws generally affecting enforcement of creditors' rights where the collection of debtors' obligations.

(c) The authorized capital stock of the Company is as set forth in Section 2.4 hereof; stating the number of shares of the capital stock of the Company then issued and outstanding and that all such shares have been duly authorized and validly issued and are fully paid and nonassessable; and, to such counsel's knowledge, the number of shares of capital stock of the Company subject to options or rights granted by the Company.

(d) The execution and delivery by Seller of this Agreement, the consummation by Seller of the transactions contemplated hereby, and the compliance by Seller with the provisions hereof will not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit hereunder, (x) any provisions of the Articles of Incorporation or Bylaws of the Company or (y) any material agreement of the Company or, to such counsel's knowledge, any judgment, order or decree to which the Seller or the Company is a party or by which they or any of their respective properties or assets may be bound.

(e) Any consent, approval, order or authorization of, any governmental authority under the laws of the State of Texas where other applicable law, which is required by or with respect to the

Seller or the Company in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby, has been obtained as specified in such opinion, or, in the case of any such waiting period, has expired.

5.8 Noncompetition Agreement. Seller shall execute and deliver to Buyer an agreement containing the covenant against competition referred to in Section 8.2(c) below, satisfactory in form and substance to Buyer.

ARTICLE VI

CONDITIONS TO SELLER'S OBLIGATIONS

6. The obligation of Seller to proceed with the Closing under this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, each of which may be waived by Seller:

6.1 Representations and Warranties True. The representations and warranties of Buyer contained in this Agreement shall have been true and correct in all material respects when made and shall be true and correct in all material respects at the Closing Date as though made at such time and, at the Closing, Buyer shall have delivered to the Seller a certificate to that effect.

6.2 Performance of Obligations. The obligations of Buyer to be performed before the Closing Date pursuant to the terms of this Agreement shall have been performed and complied with in all material respects and, at the Closing, Buyer shall have delivered to Seller a certificate to that effect.

6.3 Absence of Litigation. There shall not be any litigation or proceeding, pending or threatened (including, without limitation, any litigation or proceeding arising under antitrust or securities laws), to restrain or invalidate the sale and purchase of the Shares or the other transactions contemplated herein.

ARTICLE VII

TERMINATION

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

(a) at the election of Buyer, if any of the conditions set forth in Article V to its obligations to proceed with the Closing has not been fulfilled on the Closing Date;

(b) at the election of Seller, if any of the conditions set forth in Article VI to its obligations to proceed with the Closing has not been fulfilled on the Closing Date;

(c) at the election of Buyer, if Seller has breached any representation, warranty, covenant or agreement contained in this Agreement, which breach cannot be or is not cured by the Closing Date;

(d) at the election of Seller, if Buyer has breached any representation, warranty, covenant or agreement contained in this Agreement, which breach cannot be or is not cured by the Closing Date;

(e) at the election of Buyer or Seller, if any legal proceeding is commenced or threatened by any governmental or regulatory body or other Party (other than Buyer or Seller) directed against the consummation of the Closing and either Buyer or Seller, as the case may be, reasonably and in good faith deems it impractical or inadvisable to proceed in view of such legal proceeding or threat thereof, taking into account the potential expense and delay likely to be involved;

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

If this Agreement so terminates, it shall become null and void and have no further force and effect, except as provided in Section 7.2.

7.2 Survival. If this Agreement is validly terminated pursuant to Section 7.1 and the transactions contemplated hereby are not consummated as described above, this Agreement shall become void and of no further force and effect; provided, however, that if Buyer terminates this Agreement because any of the conditions contained in Section 5.1, 5.2 or Section 5.3 have not been satisfied, or if Seller terminates this Agreement because any of the conditions contained in Section 6.1 or Section 6.2 have not been satisfied, then the terminating Party shall have the right to pursue all of its legal remedies for breach of contract and damages; provided further that if this Agreement is validly terminated pursuant to Section 7.1 and the transactions contemplated hereby are not consummated as described above, the Parties agree to keep confidential and not to use any information obtained by it from the other Party and to return to such party all documents and copies thereof, and the provisions of Section 7.3 relating to responsibility for expenses shall survive. No Party hereto shall have any liability to any other Party in respect of a valid termination of this Agreement pursuant to Section 7.1 except to the extent set forth above.

7.3 Expenses if No Closing. If the Closing does not occur and the transactions contemplated hereby are not consummated, then, subject to the right of a non-defaulting Party to recover damages, costs and expenses from a defaulting Party pursuant to Section 7.2, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such expenses, i.e., by Buyer if incurred by Buyer and by Seller if incurred by Seller.

ARTICLE VIII

MISCELLANEOUS

8.1 Indemnification. Subject to the provisions of this Article VIII, the Seller shall indemnify and hold Buyer and its heirs, assigns, successors and predecessors harmless from and against, any and all damages, claims, deficiencies, losses, including taxes, all expenses (including interest, penalties and attorneys' and accountants' fees and disbursements) (collectively "Damages") suffered or incurred directly or indirectly by Buyer as a result of or arising out of any misrepresentation, breach of warranty or nonfulfilment or failure to perform any covenant or agreement on the part of Seller under this Agreement. Subject to the provisions of this Article VIII, Buyer agrees to indemnify and hold Seller and its heirs, successors, assigns, and

predecessors harmless from and against, any and all Damages suffered or incurred directly or indirectly by Seller as a result of or arising out of any misrepresentation, breach of warranty or nonfulfillment or failure to perform any covenant or agreement on the part of Buyer under this Agreement. The Party claiming indemnification hereunder is hereinafter referred to as the “Indemnified Party” and the Party against whom such claims are asserted hereinafter is hereinafter referred to as the “Indemnifying Party.” Damages for which a claim may be asserted hereunder are hereinafter referred to as a “Loss.”

All claims for indemnification by any Indemnified Party under this Article VIII shall be asserted and resolved as follows:

(a) In the event that any claim or demand for which an Indemnifying Party would be liable to an Indemnified Party hereunder is asserted against or sought to be collected from such Indemnified Party by a third party, said Indemnified Party shall with reasonable promptness notify the Indemnifying Party of such claim or demand, specifying the nature of and specific basis for such claim or demand in the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim and demand (the “Claim Notice”). The Indemnifying Party shall not be obligated to indemnify the Indemnified Party with respect to any such claim or demand if the Indemnified Party fails to notify the Indemnifying Party thereof in accordance with the provisions of this Agreement in reasonably sufficient time so that the Indemnifying Party’s ability to defend against the claim or demand is not materially prejudiced. The Indemnifying Party shall have thirty (30) days from the personal delivery or mailing of the Claim Notice (the “Notice”) to notify the Indemnified Party (i) whether or not it disputes the liability of the Indemnifying Party to the Indemnified Party hereunder with respect to such claim or demand and (ii) whether or not it desires at the sole cost and expense of the Indemnifying Party, to defend the Indemnified Party against such claim or demand; provided, however, that any Indemnified Party is hereby authorized prior to and during the Notice period to file a motion, answer or other pleading which it shall deem necessary or appropriate to protect its interests or those of the Indemnifying Party and not materially prejudicial to the Indemnifying Party. In the event that the Indemnifying Party notifies the Indemnified Party within the Notice period that it desires to defend the Indemnified Party against such claim or demand and except as hereinafter provided, the Indemnifying Party shall have the right to defend by all appropriate proceedings, which proceedings shall be promptly settled or prosecuted by it to a final conclusion. If the Indemnified Party desires to participate in, but not control, any such defense or settlement it may do so at its sole cost and expense. If requested by the Indemnifying Party, the Indemnified Party agrees to cooperate with the Indemnifying Party and its counsel in contesting any claim or demand which the Indemnifying Party elects to contest, or, if appropriate and related to the claim in question, in making any counterclaim against the Party asserting the cross-complaint against Party, no claim may be settled without the consent of the Indemnifying Party.

(b) In the event any Indemnified Party should have a claim against any Indemnifying Party hereunder which does not involve a claim or demand being asserted against or sought to be collected from it by a third party, the Indemnified Party shall send a Claim Notice with respect to such claim to the Indemnifying Party. If the Indemnifying Party does not notify the Indemnified Party within the Notice period that the Indemnifying Party disputes such a claim, the amount of such claim shall be conclusively deemed to be a liability of the Indemnifying Party hereunder.

8.2 Post-Closing Covenants. The Parties agree as follows with respect to the period following the Closing:

(a) General. In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as the other Party reasonably may request, all at the sole cost and expense of the requesting Party. The Seller and the Company acknowledge and agree that from and after the Closing Date, Buyer will be entitled to possession of all documents, books, records, agreements and financial data of any sort relating to the Company.

(b) Transition. The Seller shall not take any action that primarily is designed or intended to have the effect of discouraging any lessor, licensor, customer, supplier, or other business associates of the Company from maintaining the same business relationship with the Company after the Closing as it maintained with the Company prior to the Closing. The Seller will refer all customer inquiries relating to the business of the Company to Buyer from and after the Closing.

(c) Covenant Not to Compete. For a period of three (3) years from and after the Closing Date, Seller will not engage directly or indirectly in any business that the Company conducts as of the Closing Date; provided, however, that ownership of less than five percent (5%) of the outstanding stock of any publicly traded corporation shall not be deemed as an engagement in any business of the Company.

8.3 Knowledge of Seller. Where any representation or warranty contained in this Agreement is expressly qualified by reference to the knowledge of Seller, Seller confirms that it has made diligent inquiry as to the matters that are the subject of such representations and warranty.

8.4 Expenses. Subject to Sections 7.2 and 7.3, the Parties hereto shall pay all of their own expenses relating to the transactions contemplated by this Agreement, including, without limitation, the fees and expenses of their respective counsel and advisers.

8.5 Disputes. Any dispute arising hereunder which cannot be amicably resolved by the Parties shall be submitted to binding arbitration in accordance with the rules and regulations of the American Arbitration Association. The location for any such arbitration shall be in Dallas, Texas.

8.6 Governing Law. **THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (EXCLUSIVE OF CONFLICTS OF LAW PRINCIPLES) AND WILL, TO THE MAXIMUM EXTENT PRACTICABLE, BE DEEMED TO CALL FOR PERFORMANCE IN DALLAS COUNTY, TEXAS. COURTS WITHIN THE STATE OF TEXAS SHALL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY AND ALL DISPUTES ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES HEREBY CONSENT TO AND AGREE TO SUBMIT**

TO THE JURISDICTION OF SUCH COURTS. VENUE IN ANY SUCH DISPUTE WHETHER IN FEDERAL OR STATE COURT SHALL BE LAID IN DALLAS COUNTY, TEXAS.

| 8.7 Captions. The Article and Section captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

| 8.8 Publicity. Except as otherwise required by law, rule or regulation, none of the Parties hereto shall issue any press release or make any other public statement, in each case relating to or connected with or arising out of this Agreement or the matters contained herein, without obtaining the prior approval of Seller and Buyer to the contents and the manner of presentation and publication thereof.

| 8.9 Confidentiality. Between the date of this Agreement and the Closing Date, Buyer and Seller will maintain in confidence, and will each cause its directors, officers, employees, agents, and advisors to maintain in confidence, and not use to the detriment of the disclosing Party or the Company any written, oral, or other information obtained in confidence in connection with the transactions contemplated by this Agreement unless (a) such information is already known to such Party or to others not bound by a duty of confidentiality or such information becomes publicly available through no fault of such Party, (b) the use of such information is necessary or appropriate in making any filing or obtaining any consent or approval required for the consummation of the Closing, or (c) the furnishing or use of such information is required by legal proceedings. Should the Closing not be consummated, each Party will return or destroy as much of such written information as the other Party may reasonably request.

| 8.10 Notices. Any notice or other communications required or permitted hereunder shall be sufficiently given if delivered in Party or sent by certified mail, postage prepaid, addressed as follows:

(a) If to Seller:

with a copy to their counsel:

(b) if to Buyer:

with a copy to its counsel:

Such notice or communication shall be deemed to have been given as of the date so delivered.

8.11 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any Party hereto, except that Buyer may assign its rights under this Agreement to another entity wholly-owned by Buyer. This Agreement is not intended, nor shall it be construed, to confer upon any Party (except the Parties hereto, and their successors and permitted assigns) any rights or remedies under or by reason of this Agreement.

8.12 Counterparts. This Agreement may be executed in two or more counterparts, all of which taken together shall constitute one instrument.

8.13 Entire Agreement. This Agreement, including the other documents referred to herein which form a part hereof, contains the entire understanding of the Parties hereto with respect to the subject matter contained herein and therein. This Agreement supersedes all prior and contemporaneous agreements, representations, warranties, promises, covenants and understandings between the Parties with respect to such subject matter. There are no arguments, representations, warranties, promises, covenants or understandings other than those expressly set forth or referred to herein.

8.14 Amendments. This Agreement may be changed only by an agreement in writing signed by Buyer and Seller.

8.15 Severability. In case any provision in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written.

Buyer

Seller:

Schedules

(Begin Next Page)