AUCTION SALE PROCESS MATERIALS

John F. Seegal
Orrick, Herrington & Sutcliffe LLP
The purpose of an auction sale process is to maximize the seller’s bargaining leverage through the creation of a competitive bidding environment in which all prospective bidders are required to submit bids which can be easily compared and adhere to an expedited time schedule which is designed to minimize the likelihood that the buyer will be able to renegotiate the terms of the deal after its bid has been accepted. In order to facilitate this streamlined process, the professionals who structure these sale processes generally strive to use documents which are straightforward and relatively standard.

The forms included as exhibits hereto illustrate the principal types of documents which are used in auction sale processes.
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EXHIBIT A

CONFIDENTIALITY AGREEMENT

[Date]

STRICTLY PRIVATE AND CONFIDENTIAL

[Name of Company]

[Address]

Attention: [Name]

[Title]

Gentlemen:

In connection with your consideration of a possible transaction involving the Widget Products Group (the “Group”) of Widget Industries International (the “Company”), a wholly-owned subsidiary of GLOBAL Conglomerate Company (“Parent”), the Company is prepared to make available to you certain information concerning the business, financial condition, operations, assets and liabilities of the Group. As a condition to such information being furnished to you, and at your request your directors, officers, employees, agents or advisors (including, without limitation, attorneys, accountants, consultants, banks and financial advisors) (collectively, “Representatives”), you agree to treat any information concerning the Group, the Company or Parent which is furnished to you or to your Representatives, now or in the future, by or on behalf of the Company (herein collectively referred to as the “Evaluation Material”) in accordance with the provisions of this letter agreement, and to take or abstain from taking certain other actions hereinafter set forth.

The term “Evaluation Material” shall also be deemed to include all notes, analyses, compilations, studies, or other documents prepared by you or your Representatives which contain, reflect or are based upon, in whole or in part, the information furnished to you or your Representatives pursuant hereto. The term Evaluation Material does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by you or your Representatives; or (ii) becomes available to you on a non-confidential basis from a source other than Parent, the Company or any of their Representatives, provided that such source is not believed by you to be bound by a confidentiality agreement with Parent or the Company with respect to such information.

You hereby agree that you shall use the Evaluation Material solely for the purpose of a possible transaction between the Company and you, that the Evaluation material will be kept confidential and that you will not disclose any of the Evaluation Material in any manner whatsoever; provided, however, that (i) you may make any disclosure of such information to which the Company gives its prior written consent and (ii) any of such information may be disclosed to your Representatives who need to know such information for the sole purpose of evaluating a possible transaction with the Company and who agree to keep such Information confidential and agree to be bound by the terms of this letter agreement.
In addition, you agree that, without the prior written consent of the Company, you will not disclose to any other person, and you will direct your Representatives not to disclose to any other person, the fact the Evaluation Material has been made available to you, that discussions or negotiations are taking place concerning a possible transaction between you, Parent and the Company or any of the terms, conditions, or other facts with respect thereto (including the status thereof); provided, however, that you may make such disclosure if you have received the written opinion of your counsel that such disclosure is required by applicable law. The term person as used in this letter agreement shall be broadly interpreted to include any corporation, partnership, group or individual.

In the event that you or any of your Representatives are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the Evaluation Material, you shall provide the Company with prompt notice of any such request or requirement so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this letter agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Company, you or any of your Representatives are nonetheless, in the written opinion of your counsel, legally compelled to disclose any portion of the Evaluation Material, you or your Representatives may, without liability hereunder, disclose only that portion of the Evaluation Material which counsel advises you is legally required to be disclosed. You agree that you will cooperate with the Company to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material by such tribunal.

If you decide that you do not wish to proceed with a transaction with the Company, you will promptly inform the Company of that decision. In that case, or at any time upon the written request of the Company for any reason, you will promptly deliver to the Company all Evaluation Material (and all copies thereof whether received from the Company or made by you or your Representatives) furnished to you or your Representatives by or on behalf of the Company pursuant hereto. In the event of such a decision or request, all materials prepared by you or your Representatives which contain or are based upon the Evaluation Material shall be destroyed and no copy thereof shall be retained. Notwithstanding the return or destruction of the Evaluation Material, you and your Representatives will continue to be bound by your obligations of confidentiality and all other obligations hereunder.

You understand and acknowledge that neither Parent, the Company, nor any of their Representatives including, without limitation, any of Parent’s or the Company’s directors, officers, employees, or agents makes any representation or warranty, express or implied, as to the accuracy or completeness of the Evaluation Material. You agree that neither Parent, the Company nor any of their Representatives (including, without limitation, any of Parent’s or the Company’s directors, officers, employees, or agents) shall have any liability to you or to any of your Representatives, relating to or resulting from the use of the Evaluation Material. Only those representations and warranties which are contained in a final definitive agreement regarding the
transaction contemplated hereby, when, as and if executed, and subject to such limitations, conditions and restrictions as may be specified therein, will have any legal effect.

In consideration of the Evaluation Material being furnished you, you hereby agree that, for a period of two (2) years from the date hereof, neither you nor any of your officers, employees or Representatives who are apprised of the potential of a transaction between you and the Company, directly or indirectly, or who receive, directly or indirectly through your evaluation of the potential transaction with the Company information concerning any current employee of Parent or the Company or any of its subsidiaries, will solicit the employ of such current employee, so long as such current employee is then currently employed by Parent or the Company, without obtaining the prior written consent of the Company.

You and we understand and agree that no contract or agreement providing for any transaction involving you and the Company shall be deemed to exist between you and the Company unless and until a final definitive agreement has been executed and delivered, and you and we hereby waive, in advance, any claims, (including, without limitation, breach of contract) in connection with any transaction involving you and the Company unless and until you and the Company shall have entered into a final definitive agreement. You also agree that, unless and until a final definitive agreement regarding a transaction between you and the Company has been executed and delivered, neither the Company nor you will be under any legal obligation of any kind whatsoever with respect to such a transaction by virtue of this letter agreement except for the matters specifically agreed to herein.

You hereby acknowledge that you are aware, and that you will advise such of your Representatives who are informed as to the matters which are the subject of this letter agreement, that the United States securities laws prohibit any person who has received from Parent or the Company material, non-public information concerning the matters which are the subject of this letter agreement from purchasing or selling the securities of Parent or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell securities of Parent in reliance upon such information.

It is understood and agreed that no failure or delay by Parent or the Company in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege hereunder.

You hereby acknowledge and agree that the breach of any provision of this letter agreement would cause Parent and the Company irreparable harm, the exact amount of which may be difficult to ascertain. Therefore, you agree that Parent or the Company shall have the right to apply to a court of competent jurisdiction for the purpose of seeking specific performance and/or an order restraining and/or enjoining such further breach of this letter agreement, and for such other and further relief as Parent and the Company deem appropriate. Such rights of Parent and the Company shall be in addition to any other remedies available to Parent and the Company at law or in equity.
This letter agreement is for the benefit of Parent and the Company, and shall be governed by, and construed in accordance with, the laws of the State of California. You also hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the courts of the State of California located in the counties of Contra Costa or San Francisco and of the federal district courts located in the Northern District of the State of California for any actions, suits or proceedings arising out of or relating to this letter agreement and the transactions contemplated hereby (and you agree not to commence any action, suit, or proceeding relating thereto except in such courts), and further agree that service of any process for any action, suit or proceeding may be brought against you in any such court. You hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this letter agreement or the transactions contemplated hereby, in the courts of the State of California, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Please confirm your agreement with the foregoing by signing and returning one copy of this letter agreement to the undersigned, whereupon this letter agreement shall become a binding agreement between you, Parent and the Company.

Very truly yours,

GLOBAL Conglomerate Company and Widget Industries International

By: ________________________________
ABC International Partners, Inc., on behalf of GLOBAL Conglomerate Company and Widget Industries International

Accepted and agreed as of the date first written above:

[SIGNATOR]

By: ________________________________
Name: ______________________________
Title: ______________________________
Date: ________________________________
EXHIBIT B
TRANSMITTAL LETTER

[Date]

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Title]
[Company]
[Address]

Dear [Name]:

We appreciate your interest in the Widget Products Group (the “Group”) of Widget Industries International (“the Company”). Having received your executed confidentiality agreement, we are enclosing a copy of the Confidential Memorandum to assist you in your evaluation of a possible transaction involving the Group.

We currently anticipate asking for written, non-binding indications of interest by September ____, 1997, and we will provide you with further information regarding the process early in September.

You are reminded that pursuant to the confidentiality agreement, under no circumstances are you to contact any individual, either at the Group or the Company, regarding this matter. In order to avoid any disruption to the Company’s business, ABC Investment Bank will be your sole point of contact regarding the Group, and all requests for information should be channeled accordingly.

At any time during the process, ABC will be available to consult with prospective parties. Please fell free to contact me on ________________ with any inquiries you may have.

Sincerely yours,
EXHIBIT C

PROCEDURES LETTER

[Date]

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Title]
[Company]
[Address]

Dear [Name]:

On behalf of Widget Industries International (the “Company”), ABC Investment Bank (“ABC”) is pleased to inform you of the timing and procedures for submitting a preliminary non-binding indication of interest relative to a transaction involving the Widget Products Group (the “Group” or the “Widget Products Group”) of the Company. We have been requested by the Company to solicit such indications of interest in order to identify a limited number of parties to be invited to proceed with further due diligence activities.

Your proposal should be received no later than 5:00 p.m. P.D.T. on September ___, 1997 and be sent to:

Benjamin Banker
Managing Director
ABC Investment Bank
100 Gold Street

Nirvana, New York 02111

Your indication of interest should be in writing and specify the following information:

1. The cash consideration, in U.S. dollars, which you, based upon the information received to date, would be willing to pay for the Widget Products Group.

2. A detailed description of the basis for your interest in the Group.

3. Any material conditions upon which you are basing your indication of interest, including any conditions relating to the Company’s acceptance thereof.

4. The sources of financing required to complete a transaction, its availability and any contingencies or material conditions relating thereto.

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5. An indication of the level of review and approval within your organization prior to the submission of your proposal and the level of further review that would be required prior to your submitting a definitive bid.

6. Your proposed timetable for consummating a transaction, including a description of any corporate, shareholder, regulatory or other approvals or consents necessary to complete a transaction, as well as any other relevant information which might influence your ability to consummate a transaction in a timely manner.

7. A description of any additional information you require to complete your due diligence, including specific questions which you need answered or documents you would like to review, in order to submit a definitive binding bid.

8. The extent, duration and general terms and conditions of any post-closing transition services, including tolling agreements, that you would require.

9. Identification of your key due diligence team members, including their functions.

10. The name, telephone and facsimile number of a contact person to whom we may address all communications regarding your indication of interest.

Based upon the proposals received, the Company, with the assistance of ABC, will evaluate all indications of interest as soon as practicable after receipt, and will select a limited number of parties to be admitted to the next phase of the process, which will include further due diligence and meetings with relevant management of the Company and the Group. Selection for the next phase will be based, in the Company’s sole discretion, upon a variety of factors including the preliminary indications of value as well as assessments of an interested party’s ability to complete a transaction expeditiously.

The Company and its parent, GLOBAL Conglomerate Company ("Parent"), will consider transaction structures, other than a sale of assets of the Group, which provide for a more extended inflow of economic benefits to the Company while at the same time providing equivalent present value.

At this time we anticipate that the next phase of the process will commence as soon as practicable following the date on which preliminary indications of interest are due. Selected participants will be contacted about scheduling due diligence visits. Such due diligence visits will be conducted in San Francisco and will involve a management presentation and a data room. Prior to their arrival, selected participants will receive detailed due diligence procedures and a data room index. After the visit, it is expected that participants will be sent a proposed form of transaction agreement specifying the terms and conditions under which the Company will enter into a transaction involving the Group. Binding, definitive bids, including contract mark-ups, will be requested at the end of the next phase of the process.
Please recall that pursuant to the confidentiality agreement that you have previously executed, you have agreed not to disclose the fact that you are participating in this process. Further, we would appreciate your continuing to channel your requests for information only through ABC. Please do not contact any employee of the Company directly.

ABC will be available to discuss these procedures with you and to provide guidance as to the form and content of your proposal. Please do not hesitate to call me on _____________ with any questions regarding these procedures or any other matter.

We thank you again for your interest in this opportunity and look forward to hearing from you.

Sincerely,
EXHIBIT D

BID LETTER

[Date]

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Title]
[Company]
[Address]

Dear [Name]:

On behalf of Widget Industries International (the “Company”), we appreciate your company’s continued interest in a transaction involving the Widget Products Group (the “Group”) of the Company. This letter provides the guidelines for submitting a final, definitive proposal (the “Proposal”) relative to the Group.

In evaluating the Proposals, the Company and its parent, GLOBAL Conglomerate Company (“Parent”) will consider such matters as they deem appropriate including, without limitation, (i) the highest possible value offered; (ii) the certainty and speed of closing; (iii) the fewest proposed changes to the enclosed form of Stock Purchase Agreement, which contains the terms, other than price, on which the Company would be prepared to consummate a transaction; and (iv) the extent of possible areas of future cooperation between the Company and a prospective party. The Company and Parent, with the assistance of their advisors, will promptly evaluate all Proposals received, with the goal of promptly entering into a definitive agreement with the party who submits the Proposal which best meets the Company’s objectives.

Please review the following guidelines carefully. Any Proposal submitted which is not in compliance with these procedures and guidelines could place a prospective party at a disadvantage. Please note that the Company’s legal and financial advisors will be available to consult with you and your representatives to clarify or provide guidance with respect to any of the matters raised herein prior to the submission date.

1. Your Proposal should specify the amount, in U.S. dollars, that you are willing to pay to effect a transaction with the Group. We do not intend to return to interested parties after the submission of Proposals other than for purposes of clarification. Therefore, your Proposal should contain your best and final price and terms.

2. The form of the Stock Purchase Agreement contains the terms, other than price, which the Company would accept to conclude a transaction. Please mark-up the form of Stock Purchase Agreement to reflect any proposed modification or additional terms and
conditions you would require prior to the execution thereof and include it with your Proposal. Your Proposal should clearly state that you are willing to execute the Stock Purchase Agreement in the form provided therewith. Please do not retype the Stock Purchase Agreement as this will only delay its review. The extent and nature of any proposed changes to the form of Stock Purchase Agreement could have a material impact on the Company’s evaluation of your Proposal. If it would be helpful to discuss potential changes with the Company’s counsel, we would be happy to arrange such a discussion prior to the submission of your Proposal.

3. The disclosure schedules referenced in the Stock Purchase Agreement will be sent out shortly for your review.

4. Prospective parties should have completed their due diligence investigation by the time Proposals are to be submitted. Any Proposal conditioned upon further due diligence will place a prospective party at a distinct disadvantage.

5. Any material conditions to closing must be clearly set forth in the Proposal and any approvals and consents which the prospective party deems essential to completing the transaction must be identified. Your Proposal should also set forth the anticipated timing for closing the transaction.

6. Any Proposal which is subject to a financing contingency will be considered as having a higher level of risk of consummation and will therefore place the prospective party at a significant disadvantage.

7. Your Proposal must be submitted in writing no later than 5:00 PST on ____________, October, 1997 to:

Benjamin Banker
Managing Director
ABC Investment Bank
100 Gold Street
Nirvana, New York 02111

Your Proposal should provide contact information for key members of your team immediately following the Proposal submission deadline, including home and weekend telephone numbers.

8. The Company and its advisors reserve the right to discuss with any prospective party the terms and conditions of its Proposal for the purpose of clarifying the terms of such Proposal. The Company and its advisors intend to consider your Proposal as your best offer and to disregard any statements that your Proposal is negotiable as to price. Similarly, any Proposal which contains provisions that vary depending upon the terms of another Proposal or other
external factors will not be considered. While the Company reserves the right to negotiate with any of the parties submitting Proposals, each prospective party should assume that it may not be given the opportunity to submit a subsequent Proposal or to negotiate with the Company.

9. The Company shall have no obligation to accept any Proposal. The Company reserves the right, without assigning any reason therefor, to negotiate or enter into the Stock Purchase Agreement with any party or to reject all Proposals. A Proposal will only be deemed to be accepted upon the execution and delivery of a definitive Stock Purchase Agreement by the Company. Until such time, the Company will not have any obligation to any prospective party with respect to the Group other than the other party to the definitive Stock Purchase Agreement and only as set forth therein. Neither the Company nor ABC Investment Bank shall have any liability whatsoever to any prospective party as a result of the rejection of any Proposal or the acceptance of another Proposal.

10. Following the evaluation of your Proposal by the Company and its advisors, we will contact you regarding the Company’s plan for proceeding. The Company reserves the right to change or modify the process for this transaction at its sole discretion at any time.

11. Each prospective party is reminded that the confidentiality agreement previously executed by it remains in full force and effect and is requested to comply with its terms.

    Your modification of the Stock Purchase Agreement will be an important component of your Proposal. Any questions or proposed alterations to the Stock Purchase Agreement or any specific issues relating thereto may be discussed with the Company’s outside counsel, Orrick, Herrington & Sutcliffe LLP. Please contact John F. Seegal at Orrick, Herrington & Sutcliffe LLP on (415) 773-5797. If you view it as desirable, we encourage you to arrange a conference call or a meeting with Orrick, Herrington & Sutcliffe LLP.

    Please direct any questions you may have regarding the guidelines for submitting Proposals, or requests for additional business due diligence, to me on ________________.

    Sincerely yours,
EXHIBIT E
DATA ROOM CHECKLIST

1. Determine number of data rooms.
2. Determine location of data room(s).
3. Establish hours for data room(s).
4. Who will staff data room(s)?
5. Prepare sign-in/sign-out sheets.
6. Determine whether advisors to bidders should sign confidentiality agreements.
7. Determine maximum number of persons allowed entry.
8. Establish photo-copying policy/draft photo-copy request form.
9. Will photo-copying be performed on-site or off-site?
10. Who will be responsible for photo-copying?
11. Remove any privileged material.
12. Remove any competitively sensitive material.
13. Finalize Index of Documents.
14. Arrange to furnish Index to bidders in advance of their arrival.
15. Determine which documents cannot be copied.
16. Arrange for coffee, water and other refreshments.
17. Will any food be provided?
18. Review prior due diligence requests of bidders and add responsive documents to Data Room as appropriate.
19. Will phones be available?
20. Draft rules (and disclaimers) to be handed out upon entry.
EXHIBIT F

DATA ROOM PROCEDURES

IMPORTANT -- PLEASE READ THE FOLLOWING

1. Prior to the review of any documents, a confidentiality agreement must have been executed by a representative of each firm visiting the Data Room. If a confidentiality agreement has not been executed by your firm, you will not be provided access to the Data Room.

2. The hours of the Data Room are 9:30 a.m. to 4:30 p.m., Monday through Friday. Please sign in at the door of the Data Room on the guest register provided.

3. The documents in the Data Room are contained in binders. Please do not remove any documents from the binders.

4. Documents may not be removed from the Data Room. The only information which may be removed from the Data Room is the Data Room Catalog. If you wish to have a document copied, please complete a Copy Request Form and place it in the box marked “Copy Requests”. Your copies will be available for pickup within 48 hours after your request is made. When filling out Copy Request Forms, please include the Bates numbers of the documents you want to receive. These numbers are located on the lower right side of every page. Please note that the Bates numbers of a particular document in a binder may not follow in numerical order the Bates numbers of the preceding or subsequent documents in that binder. You will be billed $.20 per page for copies of all documents you receive.

5. If, after reviewing the documents provided, you have any questions or require additional information and/or documentation, please complete one of the Document/Information Request Forms provided in the Data Room and place it in the box marked “Document/Information Requests”. Responses to requests will be available for pickup within 24 hours after they are received.

6. Do not contact any officer, director or employee of [INSERT COMPANY NAME]. If you wish to meet with a particular individual, please complete an Interview Request Form and place it in the box marked “Document/Information Request”. All such meetings will be arranged through Orrick, Herrington & Sutcliffe.

7. The central switchboard of Orrick, Herrington & Sutcliffe has been notified of your firm’s presence. Accordingly, the operator will forward calls and take messages. Long distance calls may be made with a telephone credit card only.

8. Fax messages of fairly short length may be sent by filling out the Facsimile Transmission Request Form provided in the Data Room. Please place the form in the box marked “Copy Requests”. You will be billed $2.00 per page for fax messages.
STOCK PURCHASE AGREEMENT

BY AND AMONG

[BUYER]

AND

Widget Industries International

Dated ____________, 2002

[BIDDERS ARE INSTRUCTED TO PROVIDE COMMENTS ON A COPY OF THIS AGREEMENT. DO NOT INPUT THIS DOCUMENT ONTO YOUR WORD PROCESSING SYSTEM.]
STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT (this “Agreement”), dated ____________, 1997, by and among [BUYER], a __________ corporation (“Buyer”), Widget Industries International, a California corporation (“Widget Industries”), and Max Manager (“Manager”) (Widget Industries and Manager being hereinafter collectively referred to as “Sellers”).

RECITALS:

WHEREAS, Sellers are the record and beneficial owners of __________ shares (the “Shares”) of common stock (the “Common Stock”) of Widget Products Group, a California corporation (the “Company”), representing all of the issued and outstanding shares of capital stock of the Company;

WHEREAS, Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers, all of the Shares, all in accordance with the provisions of this Agreement;

WHEREAS, the Board of Directors of Buyer has approved the acquisition of the Company by Buyer pursuant to this Agreement; and

WHEREAS, Buyer and Sellers desire to make certain representations, warranties and agreements in connection with the sale and acquisition of the Shares and also desire to set forth various conditions precedent thereto.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 Definitions. For purposes of this Agreement, the term:

(a) “affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person.

(b) “Buyer” has the meaning set forth in the introduction.

(c) “Closing” has the meaning set forth in Section 7.1.

(d) “Closing Date” has the meaning set forth in Section 7.1.

(e) “Code” means the Internal Revenue Code of 1986, as amended (including any successor code), and the rules and regulations promulgated thereunder.
“Common Stock” has the meaning set forth in the recitals.

“Company” has the meaning set forth in the recitals.

“Company Indemnified Parties” has the meaning set forth in Section 5.8(b).

“contract” means any contract, agreement, indenture, note, bond, loan, instrument, lease, conditional sales contract, mortgage, license, franchise, insurance policy, commitment or other arrangement or agreement.

“Damages” has the meaning set forth in Section 9.1.

“DOJ” has the meaning set forth in Section 3.6.

“Employee Benefit Plans” has the meaning set forth in Section 3.10.

“ERISA” has the meaning set forth in Section 3.10.

“Financial Statements” has the meaning set forth in Section 3.7.

“GAAP” has the meaning set forth in Section 3.7.

“Governing Instruments” has the meaning set forth in Section 5.8(b).

“Governmental Authority” means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“HSR Act” has the meaning set forth in Section 3.6.

“Indemnification Agreements” has the meaning set forth in Section 5.8(b).

“Indemnified Party” has the meaning set forth in Section 9.1.

“Indemnifying Party” has the meaning set forth in Section 9.1.

“knowledge” of Sellers means the actual knowledge of any of the executive officers of Sellers.

“Liabilities” has the meaning set forth in Section 10.12(b).

“Liability Termination Date” has the meaning set for in Section 10.12(b).

“Licenses” has the meaning set forth in Section 3.16.

“Manager” has the meaning set forth in the recitals.
“Material Adverse Effect” means a material adverse effect on the business, operations, liabilities, properties, assets or financial condition of the Company and its Subsidiaries taken as a whole, and in the case of Buyer, Buyer and its Subsidiaries taken as a whole.

“Non-Competition Agreement” has the meaning set forth in Section 6.2(c).

“person” means an individual, corporation, partnership, joint venture, association, trust, unincorporated organization or, as applicable, any other entity.

“Purchase Price” has the meaning set forth in Section 2.2.

“Sellers” has the meaning set forth in the introduction.

“Shares” has the meaning set forth in the recitals.

“Subsidiary” means any person of which at least a majority of the outstanding shares or other equity interests having ordinary voting power for the election of directors or comparable managers of such person are owned, directly or indirectly, by another person.

“Third Party Claim” has the meaning set forth in Section 9.2.

“Widget Industries” has the meaning set forth in the recitals.

ARTICLE II

THE ACQUISITION

SECTION 2.1 Purchase and Sale of Shares. On the terms and subject to the conditions hereof, at the Closing, Sellers will sell, assign, transfer and convey to Buyer, and Buyer will purchase and acquire from Sellers, all right, title and interest of Sellers in and to the Shares.

SECTION 2.2 Consideration for the Shares. The aggregate purchase price payable by Buyer for the Shares shall be $____________ (the “Purchase Price”) in cash. On the Closing Date, Buyer will pay the Purchase Price by wire transfer of immediately available funds to such account or accounts as Sellers shall have designated in writing at least two days prior to the Closing Date.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers represent and warrant to Buyer severally in proportion to their respective ownership of Shares, and not jointly, as set forth below.
SECTION 3.1 Organization and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of California, with all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as it is now being conducted, except where the failure to be so organized, existing and in good standing or to have such power or authority is not, in the aggregate, reasonably likely to have a Material Adverse Effect. The Company is qualified or licensed to do business and is in good standing in every jurisdiction where the nature of the business conducted by it or the properties owned or leased by it requires qualification, except where the failure to be so qualified or licensed is not, in the aggregate, reasonably likely to have a Material Adverse Effect. Sellers has delivered to Buyer complete and correct copies of the Articles of Incorporation and Bylaws of the Company.

SECTION 3.2 Authorization.

(a) Widget Industries has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Widget Industries, the performance by Widget Industries of its obligations hereunder, and the consummation by Widget Industries of the transactions contemplated hereby, have been duly authorized by the Board of Directors of Widget Industries. No other corporate action on the part of Widget Industries is necessary to authorize the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Sellers and constitutes a valid and binding obligation of Sellers, enforceable against them in accordance with its terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors’ rights generally, and the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

SECTION 3.3 No Violation. Except as set forth in Schedule 3.3, neither the execution and delivery of this Agreement by Sellers, the performance by Sellers of their obligations hereunder nor the consummation by Sellers of the transactions contemplated hereby will (a) violate, conflict with or result in any breach of any provision of the Articles of Incorporation or Bylaws of Widget Industries or the Certificate of Incorporation or Bylaws of the Company, (b) violate, conflict with or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under the terms, conditions or provisions of any note, bond, mortgage, indenture or deed of trust, or any material license, lease or agreement to which Sellers or the Company are a party or (c) violate any order, writ, judgment, injunction, decree, statute, rule or regulation of any court or Governmental Authority applicable to Sellers or the Company except such defaults and violations which, in the aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 3.4 Capitalization of the Company. The authorized capital stock of the Company consists of ________ shares, all of which are designated Common Stock. As of the date hereof, the Company has ________ shares of Common Stock issued and outstanding (constituting the Shares), all of which have been validly issued, are fully paid and non-assessable and were not issued in violation of any preemptive rights. There are no options,
warrants, calls, subscriptions, conversion or other rights, agreements or commitments obligating
the Company to issue any additional shares of capital stock or any other securities convertible
into, exchangeable for or evidencing the right to subscribe for any shares of capital stock of the
Company.

SECTION 3.5 Subsidiaries and Equity Investments. The Company has no
Subsidiaries nor any direct or indirect equity ownership in any person.

SECTION 3.6 Consents and Approvals. Except as set forth in Schedule 3.6, no filing
or registration with, no notice to and no permit, authorization, consent or approval of any
Governmental Authority is necessary for the consummation by Sellers of the transactions
contemplated by this Agreement other than (a) consents and approvals of or filings or
registrations with the Antitrust Division of the United States Department of Justice (the “DOJ”)
pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “HSR
Act”), (b) requirements of federal and securities laws, (c) those already obtained and (d)
consents, regulations, approvals, authorizations, permits, filings or notifications which, in the
aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 3.7 Financial Statements. Sellers has delivered to Buyer (a) copies of the
balance sheets of the Company as of ____________ and ____________, together with the
related audited statements of operations and retained earnings and cash flows for the years then
ended (the “Financial Statements”). The Financial Statements (i) were prepared in accordance
with generally accepted accounting principles applied on a consistent basis (“GAAP”)
throughout the periods covered thereby, except as otherwise noted thereon or disclosed in
Schedule 3.7, and (ii) present fairly in all material respects the financial position and results of
operations of the Company as of such dates and for the periods then ended.

SECTION 3.8 Absence of Undisclosed Liabilities. Except for matters relating to the
transactions contemplated by this Agreement, there are no liabilities or financial obligations of
the Company that are required to be reflected on a balance sheet prepared in accordance with
GAAP, other than liabilities and obligations (a) provided for or reserved against in the Financial
Statements, (b) arising after _________________ in the ordinary course of business, (c) which
are not material to the financial position of the Company, or (d) disclosed in Schedule 3.8.

SECTION 3.9 Absence of Certain Changes. Except as disclosed Schedule 3.9, and
except for matters relating to the transactions contemplated by this Agreement), since December
31, 1996, the Company has not suffered any change in its business, operations or financial
position, except such changes as, in the aggregate, are not reasonably likely to have a Material
Adverse Effect.

SECTION 3.10 Employee Benefit Plans.

Schedule 3.10 sets forth a true and complete list of each “employee benefit plan” (within
the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as
amended (“ERISA”)), each written employment, severance, retention, termination, consulting or
retirement contract, and each bonus or other incentive compensation, stock purchase stock
option, stock award or other equity-based compensation, or vacation plan or policy (other than

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any governmental program), and any related trust, as to which the Company has any obligation or liability, contingent or otherwise (collectively, "Employee Benefit Plans"). True, correct and complete copies of the following documents with respect to each of the Employee Benefit Plans have been provided to Buyer by Sellers: (i) the Employee Benefit Plan and related trust documents, and amendments thereto, (ii) the most recent Form 5500, (iii) the last Internal Revenue Service determination letter, and (iv) summary plan descriptions and modifications thereto.

SECTION 3.11 Brokers’ Fees and Commissions. Except for ABC Investment Bank, whose fees will be paid by the Company, none of Sellers or the Company or any of their respective directors, officers, partners, employees or agents has employed any investment banker, broker or finder in connection with the transactions contemplated hereby.

SECTION 3.12 Contracts. Schedule 3.12 hereto sets forth a list of all other contracts to which the Company is a party or by which it is bound, except (a) any contract that does not require payment by any party thereto of more than $200,000, (b) any contract that is terminable by the Company upon ninety (90) days’ notice or less without the payment of any material penalty or material termination fee, (c) any contract entered into, after the date hereof and prior to Closing, with Buyer or with any other Person in connection with any transaction contemplated by this Agreement, (d) any contract entered into in the ordinary course of business after the date hereof and prior to the Closing, (e) purchase orders for goods and services entered into in the ordinary course of business, and (f) any contract specifically listed in any other Schedule to this Agreement. As used in this Section 3.12, the word "contract" means and includes every written agreement of any kind which is legally enforceable by or against the Company. Each of the contracts listed on Schedule 3.12 hereto or any of the other Schedules hereto is in full force and effect and the Company has not committed any breach or default thereunder which would have a Material Adverse Effect.

SECTION 3.13 Taxes. The Company has duly filed with the appropriate government agencies all of the income, sales, use, employment, excise and other tax returns and reports required to be filed by it as of the date hereof, and will duly file all such returns and reports as are required to be filed by it on or before the Closing Date. In all material respects, all such returns and reports are and will be accurate, true, correct and complete. No waiver of any statute of limitations relating to taxes has been executed or given by the Company. No federal tax return of the Company is currently under audit by the Internal Revenue Service, no other tax return of the Company is currently under audit by any other taxing authority and no elections, consents, waivers, conventions or agreements have been filed or entered into in respect of any tax or taxing authority. Neither the Internal Revenue Service nor any other taxing authority is now asserting or, to Sellers’ knowledge, threatening to assert against the Company any deficiency or claim for additional taxes or interest thereon or penalties in connection therewith.

SECTION 3.14 Title to Assets. Except as set forth in Schedule 3.14 hereto, the Company has good and marketable title to all of its assets, in each case free and clear of all mortgages, liens, security interests, pledges, charges or encumbrances of any nature whatsoever.

SECTION 3.15 Litigation. Except as set forth in Schedule 3.15, there are no lawsuits, claims, proceedings or investigations pending or, to the best knowledge of the Company,
threatened by or against the Company or administrative proceedings to which the Company is a party, which would prevent the consummation of the transactions contemplated by this Agreement or have a Material Adverse Effect.

SECTION 3.16 Licenses. Except as set forth in Schedule 3.16, the Company holds each license, permit or other governmental authorization (hereinafter referred to as “Licenses”) which is required for the operation of its business and, all such Licenses are in full force and effect and will remain in full force and effect notwithstanding the closing of the transactions contemplated hereby.

SECTION 3.17 Environmental Matters. There have been no private or governmental claims, citations, complaints, notices of violation or letters made, issued to or, to the knowledge of the Company, threatened against the Company by any governmental entity or private or other party for the impairment or diminution of, or damage, injury or other adverse effects to, the environment or public health resulting from the Company’s ownership, use or operation of its facilities.

The Company has not used any of its properties for the disposal of “hazardous waste” or “hazardous materials” as those terms are defined below. As used in this Agreement, the term”hazardous materials” or “hazardous waste” means any hazardous or toxic substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as a hazardous substance (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or may become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) defined as a “hazardous waste,” “extremely hazardous waste” or “restricted hazardous waste” or “hazardous material” under applicable state laws and regulations, (v) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251, et seq. (33 U.S.C. § 1321) or U.S.C. § 1317, (vi) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. (42 U.S.C. §6903) or (vii) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq. (42 U.S.C. § 9601).

The Company has been issued, and will maintain until the date of Closing, all required federal, state and local permits, licenses, certificates and approvals with respect to its properties relating to (i) air emissions, (ii) discharges to surface water or groundwater, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of hazardous materials or hazardous wastes, or (vi) other environmental, health or safety matters.

SECTION 3.18 Other Activities of the Sellers. Except as set forth in Schedule 3.18 neither the Sellers nor any officer or director of Widget Industries or the Company owns, directly or indirectly, any interest or has any investment or profit participation in a corporation or other entity which is a competitor or potential competitor of or which otherwise, directly or indirectly, does business with the Company.
SECTION 3.19 Ownership of Shares. Sellers own the Shares free and clear of any liens, claims or encumbrances, and are not a party to any voting trust, proxy or other agreement with respect to the voting of any Shares.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers as set forth below.

SECTION 4.1 Organization and Qualification. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, with all requisite corporate power and authority to own, lease and operate its properties and to carry on its businesses as now being conducted, except where the failure to be so organized, existing and in good standing or to have such power or authority is not, in the aggregate, reasonably likely to have a Material Adverse Effect.

SECTION 4.2 Authorization. Buyer has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. No other corporate proceeding on the part of Buyer is necessary to authorize the execution and delivery of this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and constitutes a valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except to the extent that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors’ rights generally, and the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

SECTION 4.3 No Violation. Neither the execution and delivery of this Agreement by Buyer and the performance by Buyer of its obligations hereunder nor the consummation by Buyer of the transactions contemplated hereby will (a) violate, conflict with or result in any breach of any provision of the Certificate or Articles of Incorporation or Bylaws of Buyer, (b) violate, conflict with or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under the terms, conditions or provisions of any note, bond, mortgage, indenture or deed of trust, or any material license, lease or agreement to which Buyer or any of Buyer’s Subsidiaries is a party or (c) violate any order, writ, judgment, injunction, decree, statute, rule or regulation of any court or Governmental Authority applicable to Buyer or any of Buyer’s Subsidiaries, except such defaults and violations which, in the aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 4.4 Consents and Approvals. No filing or registration with, no notice to and no permit, authorization, consent or approval of any third party or any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated by this Agreement other than (a) consents and approvals of or filings or registrations with the DOJ pursuant to the HSR Act, (b) requirements of federal and state securities laws and (c) consents,
registrations, approvals, authorizations, permits, filings or notifications which, in the aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 4.5 Brokers’ Fees and Commissions. Except for ____________, whose fees will be paid by Buyer, neither Buyer nor any of its Subsidiaries, directors, officers, employees or agents has employed any investment banker, broker or finder in connection with the transactions contemplated hereby.

SECTION 4.6 Purchase for Investment. Buyer is acquiring the Shares for its own account for investment purposes and not with a view of the distribution of the Shares. Buyer has such knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in the Shares. Buyer is an “accredited investor” as defined in Rule 501 of the Shares Act of 1933, as amended. Buyer will not, directly or indirectly, dispose of the Shares except in compliance with applicable federal and state securities laws.

SECTION 4.7 Financing. Buyer has sufficient funds available to satisfy, among other things, the obligation to pay (a) the Purchase Price and (b) all expenses incurred by Buyer in connection with the transactions contemplated hereby.

ARTICLE V

COVENANTS

SECTION 5.1 Conduct of Business of the Company Prior to the Closing. Except as contemplated by this Agreement or with the prior written consent of Buyer (which consent shall not be unreasonably withheld), during the period from the date of this Agreement to the Closing, Sellers will cause the Company to conduct its business and operations according to the Company’s ordinary and usual course of business and will use all reasonable efforts consistent therewith to preserve intact the Company’s properties, assets and business organization, to keep available the services of the Company’s officers and employees and to maintain satisfactory relationships with customers, suppliers, distributors and others having commercially beneficial business relationships with the Company, in each case in the ordinary course of business. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, Sellers will cause the Company not to take any of the following actions, prior to the Closing, without the prior written consent of Buyer (which consent shall not be unreasonably withheld):

(a) issue, sell or pledge, or authorize or propose the issuance, sale or pledge of additional shares of capital stock of any class or interests, or securities convertible into any such shares or interests, or any rights, warrants or options to acquire any such shares or interests or other convertible securities;

(b) redeem, purchase or otherwise acquire any outstanding shares of the capital stock of the Company;

(c) propose or adopt any amendment to the Articles of Incorporation or Bylaws of the Company;

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(d) except in the ordinary course of business, (i) sell, transfer or otherwise dispose of any of its material property or assets or (ii) mortgage or encumber any of its material property or assets;

(e) enter into other material agreements, commitments or contracts, except agreements, commitments or contracts made in the ordinary course of business;

(f) declare, set aside or pay any dividend or other distribution in respect of the Company’s capital stock, other than in cash in the ordinary course of business in connection with the Company’s cash management practices;

(g) except in the ordinary course of business or with respect to capital projects approved prior to the date hereof, enter into any agreement or commitment involving an aggregate capital expenditure or commitment exceeding $100,000; or

(h) agree in writing to take any of the foregoing actions.

SECTION 5.2 Access to Information. Between the date of this Agreement and the Closing Date, upon reasonable notice and at reasonable times without significant disruption to the businesses of the Company, Sellers will cause the Company to give Buyer and its authorized representatives reasonable access to all offices and other facilities, and to all books and records of the Company and will permit Buyer to make and will fully cooperate with regard to such inspections as it may reasonably require and will cause its officers to furnish Buyer such financial and operating data and other information with respect to the businesses and properties of the Company as Buyer may from time to time reasonably request.

SECTION 5.3 All Reasonable Efforts. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper and advisable under applicable laws and regulations to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement. If at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, including, without limitation, the execution of additional instruments, the parties to this Agreement shall take all such necessary action.

SECTION 5.4 Consents and Approvals. The parties hereto each will cooperate with one another and use all reasonable efforts to prepare all necessary documentation (including, without limitation, furnishing all information required under the HSR Act), to effect promptly all necessary filings and to obtain all necessary permits, consents, approvals, orders and authorizations of, or any exemptions by, all third parties and Governmental Authorities necessary to consummate the transactions contemplated by this Agreement. Each party will keep the other parties apprised of the status of any inquiries made of such party by the DOJ or any other Governmental Authority or members of their respective staffs with respect to this Agreement or the transactions contemplated hereby.

SECTION 5.5 Public Announcements. Buyer and Sellers will consult with each other and will mutually agree (the agreement of each party not to be unreasonably withheld) upon the content and timing of any press release or other public statements with respect to the
transactions contemplated by this Agreement and shall not issue any such press release or make any such public statement prior to such consultation and agreement, except as may be required by applicable law or by obligations pursuant to any listing agreement with any securities exchange or any stock exchange regulations; provided, however, that Buyer and Sellers will give prior notice to the other party of the content and timing of any such press release or other public statement required by applicable law or by obligations pursuant to any listing agreement with any securities exchange or any stock exchange regulations.

SECTION 5.6 Disclosure Supplements. From time to time prior to the Closing, Sellers will supplement or amend the Disclosure Schedules delivered in connection herewith with respect to any matter which, if existing or occurring at or prior to the date of this Agreement, would have been required to be set forth or described in such Disclosure Schedule or which is necessary to correct any information in such Disclosure Schedules which has been rendered inaccurate by an event occurring after the date hereof. If the Closing occurs, Buyer waives any right or claim it may otherwise have or have had on account of any matter so disclosed in such supplement or amendment.

SECTION 5.7 No Implied Representations or Warranties. Buyer hereby acknowledges and agrees that Sellers are not making any representation or warranty whatsoever, express or implied, except those representations and warranties of Sellers explicitly set forth in this Agreement or in the Disclosure Schedule or in any certificate contemplated hereby and delivered by Sellers in connection herewith. Subject to the foregoing, the assets and business of the Company being acquired by Buyer at the Closing as a result of this Agreement and the transactions contemplated hereby shall be acquired by Buyer on an “as is, where is” basis and in their then present condition, and Buyer shall rely solely upon its own examination thereof. In any event, except as explicitly set forth herein, none of Sellers, the Company or any of their respective officers, directors, partners, employees, affiliates or representatives, as the case may be, has made or is making any representation, express or implied, as to the value of any asset or business being so acquired, or any warranty of merchantability, suitability or fitness for a particular purpose or quality, with respect to any of the tangible assets being so acquired, or as to the condition or workmanship thereof, or as to the absence of any defects therein, whether latent or patent.

SECTION 5.8 Employee Benefit Matters.

(a) Benefit Arrangements. Buyer agrees that on and after the Closing Date it will cause the Company to promptly and in good faith honor all written employment, severance, retention, termination, consulting and retirement agreements to which the Company is presently a party.

(b) Indemnification and Insurance. Buyer agrees that all rights to indemnification or exculpation now existing in favor of the employees, agents, directors or officers of the Company (the “Company Indemnified Parties”) as provided in the Articles of Incorporation or Bylaws of the Company or other comparable governing documents (the “Governing Instruments”), or as provided in any agreements between a Company Indemnified Party and the Company (the “Indemnification Agreements”) shall continue in full force and effect for a period of not less than seven years from the Closing Date; provided, however, that, in the
event any claim or claims are asserted or made within such seven-year period, all rights to indemnification in respect of any such claim or claims shall continue until disposition of any and all such claims. Any determination required to be made with respect to whether a Company Indemnified Party’s conduct complies with the standards set forth in the Governing Instruments or the Indemnification Agreements shall be made by independent counsel selected by the Company Indemnified Party reasonably satisfactory to Buyer (whose fees and expenses shall be paid by the Company). Buyer agrees to cause the Company to fully perform all obligations to be performed by the Company under the Governing Instruments and the Indemnification Agreements. Buyer further agrees that, for seven years after the Closing, the Company shall maintain officers’ and directors’ liability insurance policies indemnifying and holding harmless the Company Indemnified Parties with respect to any actions or omissions occurring prior to the Closing, providing at least $5,000,000 insurance coverage on terms no less advantageous to the Company Indemnified Parties than the Company’s existing policy; provided that in the event any claim is asserted or made within such seven-year period, coverage under such insurance shall be continued in respect thereof until final disposition of such claim. In the event the foregoing indemnities or insurance policies become unavailable or unenforceable for any reason, Buyer agrees to cause the Company to indemnify and hold harmless the Company Indemnified Parties to the same extent as if such indemnities and insurance were available and in full force and effect.

(c) Binding on Successors. In the event the Company or any of its successors or assigns (i) consolidates with or merges into any other person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers all or substantially all of its properties, assets or stock to any person, then and in each such case, proper provision shall be made so that the successors and assigns of the Company (or their successors and assigns) shall assume the obligations set forth in this Section 5.8.

SECTION 5.9 Solvency After the Closing. After the Closing, Buyer agrees that it shall not, and that it shall cause the Company not to, take or cause to be taken or omit to take any action which could result in a determination pursuant to state or federal law that, after giving effect to the transactions contemplated hereby (or after giving effect to such transactions and to such other subsequent actions or omissions), the Company (a) was insolvent at the time of the Closing, (b) became insolvent as a result of the transactions contemplated hereby, (c) was left with unreasonably small capital with which to engage in its business or (d) incurred debts beyond its ability to pay such debts as they mature, such that the payment of the Purchase Price may be deemed a “fraudulent conveyance” or impermissible dividend or distribution under applicable law or otherwise subject to claims of certain creditors of the Company or its trustees in a bankruptcy proceeding.

SECTION 5.10 Confidentiality. Prior to the Closing, Buyer shall, except to the extent required by any Governmental Authority, keep confidential, and shall use its best efforts to cause to be kept confidential by its affiliates and representatives, all information concerning the Company or Sellers disclosed prior to the date of this Agreement or hereafter to any such persons in connection with this Agreement and the consummation of the transactions contemplated hereby, and none of such information shall be used in any manner other than in connection with this Agreement and the other agreements contemplated hereby. In the event of the termination of this Agreement, Buyer shall return to Sellers (or destroy and certify such destruction to the
Company and Sellers in writing) all documents and materials (and reproductions thereof) furnished to Buyer or its affiliates or representatives in connection with this Agreement for the transactions contemplated hereby.

SECTION 5.11 Resignation of Directors. Prior to or at the Closing, Sellers will cause each of the directors of the Company to resign as a director of the Company effective as of the Closing.

ARTICLE VI

CLOSING CONDITIONS

SECTION 6.1 Conditions to Each Party’s Obligations Under this Agreement. The respective obligations of each party under this Agreement shall be subject to the fulfillment at or prior to the Closing of the following conditions:

(a) Any waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated; and

(b) No injunction, restraining order or other ruling or order issued by any court of competent jurisdiction or Governmental Authority or other legal restraint or prohibition preventing the consummation of the transactions contemplated hereby shall be in effect.

SECTION 6.2 Conditions to the Obligations of Buyer Under this Agreement. The obligations of Buyer under this Agreement shall be further subject to the satisfaction, at or prior to the Closing, of the following conditions:

(a) Each of the obligations of Sellers required to be performed by them at or prior to the Closing pursuant to this Agreement shall have been duly performed and complied with in all material respects, and the representations and warranties of Sellers contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except as to any representation or warranty which specifically relates to an earlier date), and Buyer shall have received a certificate to that effect signed by Sellers;

(b) Any and all permits, consents, waivers, clearances, approvals and authorizations of all third parties and Governmental Authorities which are necessary in connection with the consummation of the transactions contemplated hereby shall have been obtained, other than items which, if not obtained, would not have a Material Adverse Effect;

(c) Sellers shall have executed and delivered a Non-Competition Agreement substantially in the form of Exhibit A hereto (the “Non-Competition Agreement”); and

(d) Buyer shall have received an opinion substantially in the form of Exhibit B hereto from counsel to Sellers.
SECTION 6.3 Conditions to the Obligations of Sellers Under this Agreement. The obligations of Sellers under this Agreement shall be further subject to the satisfaction, at or prior to the Closing, of the following conditions:

(a) Each of the obligations of Buyer required to be performed by it at or prior to the Closing pursuant to the terms of this Agreement shall have been duly performed and complied with in all material respects, and the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made at and as of the Closing Date (except as to any representation or warranty which specifically relates to an earlier date), and Sellers shall have received a certificate to that effect signed by an officer of Buyer;

(b) Any and all permits, consents, waivers, clearances, approvals and authorizations of all Governmental Authorities which are necessary in connection with the consummation of the transactions contemplated hereby shall have been obtained, other than items which, if not obtained, would not have a Material Adverse Effect; and

(c) Sellers shall have received an opinion substantially in the form of Exhibit C hereto from counsel to Buyer.

ARTICLE VII

CLOSING

SECTION 7.1 Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Orrick, Herrington & Sutcliffe LLP, The Old Federal Reserve Bank Building, 400 Sansome Street, San Francisco, California 94111-3143, subject to the satisfaction or waiver of the conditions set forth in Article VI, on the later of ___________ , 2002 or two business days after the receipt of all requisite governmental approvals, or at such other time and place and on such other date as Buyer and Sellers shall agree (the “Closing Date”). At the Closing:

(a) Sellers shall deliver or cause to be delivered to Buyer the following:

(i) the certificate described in Section 6.2(a);

(ii) certificates representing all of the Shares in appropriate form for transfer to Buyer or accompanied by stock powers duly executed in blank;

(iii) all documents, including without limitation, executed UCC-3 termination statements, as are necessary to release all liens on the Company’s assets; and

(iv) all other previously undelivered documents required to be delivered by Sellers to Buyer at or prior to the Closing pursuant to the terms of this Agreement.

(b) Buyer shall deliver or cause to be delivered to Sellers the following:

(i) the certificate described in Section 6.3(a); and

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(ii) all other previously undelivered documents required to be delivered by Buyer to Sellers at or prior to the Closing pursuant to the terms of this Agreement.

(c) Buyer shall pay to Sellers, by wire transfer of immediately available funds, the Purchase Price.

ARTICLE VIII

TERMINATION AND ABANDONMENT

SECTION 8.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing:

(a) by mutual consent of Sellers and Buyer; or

(b) by either Sellers or Buyer:

(i) if a court of competent jurisdiction or Governmental Authority shall have issued an order, decree or ruling or taken any other action (which order, decree or ruling the parties hereto shall use their best efforts to lift), in each case permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable; or

(ii) if the Closing shall not have occurred on or before ________________, 2002;

provided, however, that the right to terminate this Agreement shall not be available to any party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

SECTION 8.2 Procedure and Effect of Termination. In the event of termination and abandonment of the transactions contemplated hereby pursuant to Section 8.1, written notice thereof shall forthwith be given to the other parties to this Agreement and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by any of the parties hereto. If this Agreement is terminated as provided herein, no party hereto shall have any liability or further obligation to any other party to this Agreement resulting from such termination except (a) that the provision of this Section 8.2 and the proviso of Section 8.1(b) shall remain in full force and effect and (b) no party waives any claim or right against a breaching party to the extent that such termination results from the breach by a party hereto of any of its representations, warranties, covenants or agreements set forth in this Agreement.

ARTICLE IX

INDEMNIFICATION

SECTION 9.1 Indemnity. Subject to the overall limitations, the minimum amounts and the time limitations set forth in Section 9.3 hereto, Sellers (“Indemnifying Party”) will
indemnify and hold Buyer ("Indemnified Party") harmless severally, in proportion to their respective ownership of Shares, and not jointly from and with respect to any and all claims, liabilities, losses, damages, costs and expenses, including without limitation the fees and disbursements of counsel (collectively, "Damages") arising out of any inaccuracies in any representation or warranty or breach of any covenant made by Sellers in this Agreement; and Buyer ("Indemnifying Party") will indemnify and hold Sellers ("Indemnified Party") harmless from and with respect to any and all Damages arising out of any inaccuracies in any representation or warranty or breach of any covenant made by Buyer in this Agreement. For purposes of indemnification pursuant to this Article IX, the term "Indemnified Party" shall mean Buyer or Sellers, as the case may be, and its or their permitted successors and assigns, together with its or their respective shareholders, directors, officers, employees, agents and representatives.

SECTION 9.2 Third Party Claims. In the event that Indemnified Party desires to make a claim against Indemnifying Party under Section 9.1 above in connection with any action, suit, proceeding or demand at any time instituted against or made upon Indemnified Party by any third party for which Indemnified Party may seek indemnification hereunder (a "Third Party Claim"), Indemnified Party shall promptly notify Indemnifying Party of such Third Party Claim and of Indemnified Party's claim of indemnification with respect thereto. Indemnifying Party shall have thirty (30) days after receipt of such notice to notify Indemnified Party if it has elected to assume the defense of such Third Party Claim, provided, that Indemnified Party shall in any event be entitled to take such actions as are reasonably necessary to avoid prejudicing Indemnified Party's rights with respect to such Third Party Claim during such 30-day period while it awaits notice from Indemnifying Party. Once Indemnifying Party elects to assume the defense of such Third Party Claim, Indemnifying Party shall be entitled at its own expense to conduct and control the defense and settlement of such Third Party Claim through counsel of its own choosing; provided that Indemnified Party may participate in the defense of such Third Party Claim with its own counsel at its own expense. If Indemnifying Party fails to notify Indemnified Party within thirty (30) days after receipt of Indemnified Party's notice of a Third Party Claim, Indemnified Party shall be entitled to assume the defense of such Third Party Claim at the expense of Indemnifying Party, provided, that Indemnified Party may not settle any Third Party Claim without Indemnifying Party's consent (such consent not to be unreasonably withheld).

SECTION 9.3 Limitations of Liability. (a) Indemnifying Party shall not be required to indemnify Indemnified Party hereunder for any Damages arising under this Article IX, except to the extent that the aggregate amount of Damages for which Indemnified Party is entitled to indemnification pursuant to this Article IX hereto exceeds $500,000 (it being understood and agreed that the $500,000 amount is intended as a deductible, and Indemnifying Party shall not be liable for the first $500,000 of Damages for which Indemnified Party is entitled to indemnification).

(b) The aggregate amounts payable by Indemnifying Party with respect to all claims for indemnification shall not exceed $10,000,000. Without limiting the generality of the foregoing, the aggregate amounts payable by Manager shall not exceed $2,200,00, and the aggregate amounts payable by Widget Industries shall not exceed $7,800,000.

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(c) No action or claim for damages pursuant to this Article IX shall be brought or asserted after the date twelve (12) months from the Closing, except for Damages arising from a breach of the representations and warranties contained in Section 3.13 hereto for which Sellers shall not be liable unless Buyer has asserted a claim for such Damages prior to the expiration of the applicable statute of limitations.

SECTION 9.4 Scope of Sellers' Liability. Buyer acknowledges and agrees that its sole remedy against Sellers for any matter arising out of the transactions contemplated by this Agreement is set forth in Section 9.1 hereto and that, except to the extent Buyer has asserted a claim for indemnification prior to the applicable Liability Termination Date, Buyer shall have no remedy against Sellers for any breach of any provision of this Agreement. In no event shall Sellers have any liability for Damages arising from the conduct of the Company's business after Closing.

ARTICLE X

MISCELLANEOUS PROVISIONS

SECTION 10.1 Amendment and Modification. This Agreement may be amended, modified or supplemented by a written instrument signed by all of the parties hereto.

SECTION 10.2 Waiver of Compliance: Consents. Any failure of Buyer, on the one hand, or of Sellers or the Company, on the other hand, to comply with any obligation, covenant, agreement or condition contained herein may be waived in writing by Sellers or Buyer, respectively, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other failure.

SECTION 10.3 Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

SECTION 10.4 Expenses and Obligations. All costs and expenses incurred in connection with the consummation of the transactions contemplated by this Agreement by Buyer shall be paid by Buyer, and all costs and expenses incurred in connection with the consummation of the transactions contemplated by this Agreement by Sellers shall be paid by Sellers.

SECTION 10.5 Parties in Interest. This Agreement shall be binding upon and, except as provided below, inure solely to the benefit of each party hereto, and nothing in this Agreement, except as set forth below, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

SECTION 10.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon the earlier of delivery thereof if by hand or upon receipt if sent by mail (registered or certified, postage prepaid, return receipt requested) or on the second next business day after deposit if sent by a recognized overnight delivery service or upon transmission if sent by telecopy or facsimile transmission (with request of assurance of receipt in a manner customary for communication of such type) as follows:
(a) If to Buyer, to:

________________________________________
________________________________________
Attention: ______________________________
with a copy to:

________________________________________
________________________________________
Attention: ______________________________

(b) If to Sellers or the Company, to:

Widget Industries International
100 Gold Street
Nirvana, New York 02111
Attention: Tyler T. Tycoon

and to:

Widget Products Group
100 Gold Street
Nirvana, New York 02111
Attention: Max Manager

with a copy to:

Orrick, Herrington & Sutcliffe LLP
The Old Federal Reserve Bank Building
400 Sansome Street
San Francisco, California 94111-3143
Attention: John F. Seegal, Esq.

SECTION 10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts-of-laws rules thereof.

SECTION 10.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

SECTION 10.9 Headings. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

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SECTION 10.10  **Entire Agreement.** This Agreement and the Disclosure Schedule and exhibits attached hereto embody the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein or therein. There are no agreements, representations, warranties or covenants other than those expressly set forth herein or therein. This Agreement and the Disclosure Schedule and exhibits attached hereto supersede all prior agreements and understandings between the parties with respect to such subject matter.

SECTION 10.11  **Assignment.** This Agreement shall not be assigned by operation of law or otherwise.

SECTION 10.12  **Survival of Representations and Warranties, Etc.**

(a) The representations and warranties made in this Agreement shall survive for a period of twelve (12) months after the Closing Date; provided, however, that the representation and warranty set forth in Section 3.13 of this Agreement shall survive until the expiration of the applicable statute of limitations.

(b) Buyer agrees that on and after the date set forth in Section 10.12(a) hereof (the “Liability Termination Date”) (i) Sellers shall have no liability or responsibility whatsoever to any person, including without limitation Buyer or the Company, for, and (ii) Buyer unconditionally releases Sellers from, any liability or obligation of, or relating to, the Company of whatever kind or nature, whether contingent or absolute, whether arising prior to, on or after, and whether determined or indeterminable on, the Liability Termination Date, and whether or not specifically referred to in this Agreement, including, without limitation, liabilities and obligations (x) relating to this Agreement and the transactions contemplated hereby, (y) arising out of or due to any inaccuracy of any representation or warranty made by Sellers or the breach of any covenant, undertaking or other agreement of Sellers contained in this Agreement and (z) relating to any violation of any present or future environmental law (all of the foregoing liabilities and obligations being collectively referred to herein as the “Liabilities”), except pursuant to Sections 5.5 and 10.4 hereof.

(c) Buyer further agrees that, on and after the Liability Termination Date, Buyer shall defend any and all actions or proceedings arising out of any of the Liabilities and shall be responsible for and indemnify and hold harmless Sellers against any liability, loss, damage, claim, cost or expense (including, without limitation, expenses of investigation and expense fees and disbursement of counsel and other professionals) incurred or suffered by Sellers arising out of any of the Liabilities; provided, however, that (i) in the event that Buyer has not assumed the defense of any action in which any Seller is a party arising out of any of the Liabilities, which assumption of defense must include counsel reasonably acceptable to Sellers, within five (5) days after Buyer has received written notice from Sellers of the commencement thereof, (ii) Sellers reasonably believe there is a conflict of interest between Sellers and Buyer in any action in which either of Sellers is a party arising out of any of the Liabilities or (iii) the remedy sought in any action in which either of Sellers is a party arising out of any of the Liabilities, if obtained, would require Sellers to take any action other than pay money damages (which damages shall be subject to the indemnification set forth above), then Sellers shall have the right to direct the defense of any such action, and in each such case Buyer shall pay the fees and expenses of counsel selected by Sellers.
(d) This Section 10.12 shall not limit any covenant or agreement of the parties hereto which by its terms contemplates performance after the Closing Date, including without limitation the Non-Competition Agreement.

SECTION 10.13 Jurisdiction and Venue. The parties hereto agree that any suit, action or proceeding arising out of or relating to this Agreement shall be instituted only in the United States District Court for the Northern District of California or in a California State Court located in the counties of San Francisco, Alameda or Contra Costa. Each party waives any objection it may have now or hereafter to the laying of the venue of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

SECTION 10.14 Section 338 Election. No election will be made pursuant to Section 338(g) of the Code or Section 338(h)(10) of the Code with respect to the purchase of the Shares.

SECTION 10.15 Memorandum; Disclaimer of Projections. Sellers make no representation or warranty to Buyer except as specifically made in this Agreement. In particular, Sellers make no representation or warranty to Buyer with respect to (a) the information set forth in the Confidential Memorandum distributed by ABC Investment Bank in connection with the transactions contemplated hereby or (b) any financial projection or forecast relating to the Company. With respect to any such projection or forecast delivered by or on behalf of Sellers to Buyer, Buyer acknowledges that (i) there are uncertainties inherent in attempting to make such projections and forecasts, (ii) it is familiar with such uncertainties, (iii) it is taking full responsibility for making its own evaluation of the adequacy and accuracy of all such projections and forecasts so furnished to it and (iv) it shall have no claim against Sellers with respect thereto.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

[Buyer]

By: ________________________________
Name: ______________________________
Title: ________________________________

Widget Industries International

By: ________________________________
Name: ______________________________
Title: ________________________________

Manager

____________________________________

(Max Manager)
DISCLOSURE SCHEDULE

Certain agreements and other matters are listed in this Disclosure Schedule for informational purposes only, notwithstanding the fact that, because they do not rise above applicable materiality thresholds or otherwise, they are not required to be listed herein by the terms of the Stock Purchase Agreement. In no event shall the listing of such agreements or other matters in this Disclosure Schedule be deemed or interpreted to broaden or otherwise amplify the Seller’s representations and warranties, covenants or agreements contained in the Stock Purchase Agreement, and nothing in this Disclosure Schedule shall influence the construction or interpretation of any of the representations and warranties contained in the Stock Purchase Agreement. The headings contained in this Disclosure Schedule are for convenience of reference only and shall not be deemed to modify or influence the interpretation of the information contained in this Disclosure Schedule or the Stock Purchase Agreement. Furthermore, the disclosure of a particular item of information in this Disclosure Schedule shall not be taken as an admission by the Seller that such disclosure is required to be made under the terms of any of such representations and warranties.

All disclosures in this Disclosure Schedule made against representations and warranties in the Stock Purchase Agreement are made generally, and none of such disclosure relates to any particular Section. Accordingly, any numbering or references herein to Sections of the Stock Purchase Agreement are for convenience only and do not in any way limit, and shall not be regarded as limiting, the disclosure concerning such numbered or referred to Sections.

Where any information set forth in this Disclosure Schedule comprises expressions of opinion, no warranty is given as to their accuracy, but unless otherwise stated herein, such opinions are bona fide held by the Seller or, to the best of the Seller’s knowledge, by such other person to whom they are attributed.

Terms defined in the Stock Purchase Agreement and not otherwise defined in this Disclosure Schedule are used herein as defined in the Stock Purchase Agreement.

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[TO COME]
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[TO COME]
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Licenses

[TO COME]

Schedule 3.18

Other Activities

[TO COME]
EXHIBIT A

Form of
Non-Competition Agreement

THIS NON-COMPETITION AGREEMENT (this “Agreement.”) is made as of ________________, 1997 by and between Widget Industries International and Max Manager (“Sellers”), and ________________________________, a ________________ corporation (“Buyer”).

WHEREAS, Buyer and Sellers are parties to a Purchase Agreement dated , 1997 (the “Purchase Agreement”), pursuant to which Buyer is acquiring from Sellers all of the issued and outstanding capital stock of Widget Products Group, a __________ corporation (the “Company”);

WHEREAS, Sellers are entering into this Agreement in connection with and as a condition to the Closing of the Purchase Agreement; and

WHEREAS, in order to induce Buyer to enter into the Purchase Agreement and consummate the transactions contemplated thereunder, Sellers have agreed not to compete with the Company and to maintain certain information as confidential pursuant to the terms set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. Defined Terms. Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Purchase Agreement.

2. Confidentiality. For a period of three years after the Closing Date, none of Sellers shall disclose to any person, or use or otherwise exploit for its own benefit or for the benefit of anyone other than the Company or Buyer, any Confidential Information (as defined below). Sellers shall have no obligation to keep confidential any Confidential Information if and to the extent disclosure thereof is specifically required by law, judicial or governmental order or other legal process; provided, however, that in the event such disclosure is required, Sellers shall, to the extent reasonably practicable, provide the Company and Buyer with reasonably prompt notice of such requirement, prior to mailing any disclosure, so that the Company or Buyer may seek an appropriate protective order or waive compliance with this provision with respect to such disclosure. For purposes of this Agreement, “Confidential Information” shall mean any confidential information with respect to the conduct or details of the business of the Company including, without limitation, methods of operation, customer lists, products (existing and proposed), prices, fees, costs, plans, designs, technology, inventions, trade secrets, know-how, software, marketing methods, policies, personnel, suppliers, competitors, markets or other specialized information or propriety matters of the Company. The term “Confidential Information” does not include, and there shall be no obligation hereunder with respect to, information that (a) is generally available to the public on the date of this Agreement or (b) becomes generally available to the public other than as a result of a disclosure by any Sellers in violation of this Agreement.
3. **Non-Competition.** For a period of two years after the Closing Date, no Seller shall express prior written approval of Buyer, directly or indirectly, own, manage, operate, control, invest or acquire an equity interest in any entity which directly competes with the business currently conducted by the Company (a "Competing Entity"). Nothing herein shall prohibit a Seller from (a) being a beneficial owner of not more than 5% of the outstanding stock of any class of a Competing Entity which is publicly traded or (b) subject to this Agreement, carrying on business with any Competing Entity.

4. **Non-Solicitation.** For a period of two years after the Closing Date, no Seller shall directly or indirectly solicit the employment of the executive officers and key employees of the Company listed on Exhibit A hereto without the prior written consent of Buyer; provided, however, that this Agreement shall not prohibit (a) any advertisement or general solicitation that is not specifically targeted at such officers and employees, (b) soliciting the employment of any such officer or employee who has been terminated by Buyer or (c) soliciting the employment of any such officer or employee who initiates employment discussions with Sellers.

5. **Miscellaneous.**

   (a) **Enforcement.** In the event of any breach of any provisions of this Agreement, Buyer shall have the right (upon proper proof), in addition to any other rights and remedies existing in its favor, to enforce its rights and the obligations of Sellers under this Agreement not only by an action or actions for damages but also by an action or actions for specific performance and/or injunctive or other equitable relief in order to enforce or prevent any violations of the provisions of this Agreement.

   (b) **Amendment and Waiver.** This Agreement may be amended and any provision of this Agreement may be waived, provided that any such amendment or waiver will be binding upon a party only if such amendment or waiver is set forth in a writing executed by Buyer and Sellers.

   (c) **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given upon the earlier of delivery thereof if by hand or upon receipt if sent by mail (registered or certified mail, postage prepaid, return receipt requested or on the second next business clay after deposit if sent by a recognized overnight delivery service or upon transmission if sent by telecopy or facsimile transmission (with request of assurance of receipt in a manner customary for communication of such type) as follows:

   (1) If to Buyer, to:

   

   

   

   

   Attention:

   Facsimile No.: (____) ______________________


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with a copy to:

________________________________________
________________________________________

Attention:  
Facsimile No.: (___) ____________________

(2) If to Sellers, to:

Widget Industries International
100 Gold Street
Nirvana, New York 02111
Attention: Tyler T. Tycoon

and to:

Widget Products Group
100 Gold Street
Nirvana, New York 02111
Attention: Max Manager

with a copy to:
Orrick, Herrington & Sutcliffe LLP
The Old Federal Reserve Bank Building
400 Sansome Street
San Francisco, California 94111-3143
Attention: John F. Seegal, Esq.

(d) **Entire Agreement.** This Agreement and the documents referred to herein contain the entire agreement between the parties and supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.

(e) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

(f) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts-of-laws rules thereof.

(g) **Jurisdiction and Venue.** The parties hereto agree that any suit, action or proceeding arising out of or relating to this Agreement be instituted only in the United States District Court for the Northern District of California or in a California State Court located in the counties of San Francisco, Alameda or Contra Costa. Each party waives any objection it may
have now or hereafter to the venue of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or pending.

(h) **Headings.** The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

(i) **Severability.** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. If any court determines that any provision of Sections 2, 3 or 4 is unenforceable because of the power to reduce the scope or duration of such provision, as the case may be, such provision shall be enforceable in its reduced form.

(j) **Successors and Assigns.** This Agreement and the rights and duties hereunder shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

[Buyer]

By: _
Name: ________________________________
Title: ________________________________

WIDGET INDUSTRIES INTERNATIONAL

By: _
Name: ________________________________
Title: ________________________________

MAX MANAGER
EXHIBIT B

LEGAL OPINION OF COUNSEL FOR SELLERS

(Note: Capitalized words have their respective meanings assigned to them in the Agreement)

1. The Company is a corporation incorporated, existing and in good standing under the laws of its state of incorporation.

2. The Agreement has been duly authorized; executed and delivered by Sellers and is valid and binding on Sellers in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors’ rights or the relief of debtors generally and to the application of general equitable principles by a court of competent jurisdiction.
EXHIBIT C

LEGAL OPINION OF COUNSEL FOR BUYER

1. Buyer is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation.

2. The Agreement has been duly authorized, executed and delivered by Buyer and is a valid and binding agreement of Buyer in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights or the relief of debtors generally and to the application of general equitable principles by a court of competent jurisdiction.
EXHIBIT H

ASSET PURCHASE AGREEMENT

BY AND AMONG

[BUYER]

AND

PANICKY SELLER

Dated ____________, 2002

[BIDDERS ARE INSTRUCTED TO PROVIDE COMMENTS ON A COPY OF THIS AGREEMENT. DO NOT INPUT THIS DOCUMENT ONTO YOUR WORD PROCESSING SYSTEM.]
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ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT (this “Agreement”), dated __________, 2002, by and among [BUYER], a __________________ corporation (“Buyer”), and Panicky Seller, a California corporation (“Seller”).

RECITALS:

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, in accordance with the provisions of this Agreement, substantially all of the assets of Seller;

WHEREAS, the Board of Directors [and shareholders] of Seller has approved the sale of such assets by Seller pursuant to this Agreement; and

WHEREAS, the Board of Directors of Buyer has approved the acquisition of such assets by Buyer pursuant to this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements herein contained, the parties hereto agree as follows:

ARTICLE XI

DEFINITIONS

SECTION 11.1 Definitions. For purposes of this Agreement, the term:

(a) “affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person.

(b) “Assumed Liabilities” has the meaning set forth in Section 2.2.

(c) “Buyer” has the meaning set forth in the introduction.

(d) “Closing” has the meaning set forth in Section 7.1.

(e) “Closing Date” has the meaning set forth in Section 7.1.

(f) “Code” means the Internal Revenue Code of 1986, as amended and in effect at the time of execution of this Agreement, and the rules and regulations promulgated thereunder.

(g) “contract” means any contract, agreement, indenture, note, bond, loan, instrument, lease, conditional sales contract, mortgage, license, franchise, insurance policy, commitment or other arrangement or agreement.

(h) “Damages” has the meaning set forth in Section 9.1.
(i) “DOJ” has the meaning set forth in Section 3.4.

(j) “Employee Benefit Plans” has the meaning set forth in Section 3.10.

(k) “Environmental Law” has the meaning set forth in Section 3.17.

(l) “ERISA” has the meaning set forth in Section 3.8.

(m) “Excluded Assets” has the meaning set forth in Section 2.1.

(n) “Excluded Liabilities” has the meaning set forth in Section 2.2.

(o) “Financial Statements” has the meaning set forth in Section 3.7.

(p) “GAAP” has the meaning set forth in Section 3.5.

(q) “Governmental Authority” means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

(r) “HSR Act” has the meaning set forth in Section 3.4.

(s) “Indemnified Party” has the meaning set forth in Section 9.1.

(t) “Indemnifying Party” has the meaning set forth in Section 9.1.

(u) “Knowledge” of Seller means the actual knowledge of any of the executive officers or facility managers of Seller.

(v) “Liabilities” has the meaning set forth in Section 10.12(b).

(w) “Liability Termination Date” has the meaning set for in Section 10.12(b).

(x) “Licenses” has the meaning set forth in Section 3.16.

(y) “Material Adverse Effect” means a material adverse effect on the business, operations, liabilities, properties, assets or financial condition of Seller and its Subsidiaries taken as a whole, and in the case of Buyer, Buyer and its Subsidiaries taken as a whole.

(z) “Person” means an individual, corporation, partnership, joint venture, association, trust, unincorporated organization or, as applicable, any other entity.

(aa) “Purchased Assets” has the meaning set forth in Section 2.1

(bb) “Purchase Price” has the meaning set forth in Section 2.3.

(cc) “Seller” has the meaning set forth in the introduction.
(dd) "Subsidiary" means any person of which at least a majority of the outstanding shares or other equity interests having ordinary voting power for the election of directors or comparable managers of such person are owned, directly or indirectly, by another person.

(ee) "Third Party Claim" has the meaning set forth in Section 9.2.

ARTICLE XII

PURCHASE AND SALE

SECTION 12.1 Assets to Be Sold. (a) On the terms and subject to the conditions of this Agreement, Seller shall, on the Closing Date, sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase from Seller, on the Closing Date, all of Seller’s right, title and interest in and to the assets, goodwill and business of Seller listed on Schedule 2.1(a) (all such assets, other than the Excluded Assets, being the “Purchased Assets”).

(b) The assets listed on Schedule 2.1(b) (the “Excluded Assets”) are specifically excepted from the Purchased Assets to be transferred to Buyer pursuant to Section 2.1(a).

SECTION 12.2 Assumption of Liabilities. (a) On the terms and subject to the conditions set forth in this Agreement, Buyer shall assume, and agree to pay, perform and discharge when due, all of the debts, liabilities and obligations of the Seller (all such debts, liabilities and obligations, other than the Excluded Liabilities, being the “Assumed Liabilities”).

(b) The liabilities listed on Schedule 2.2(b) (the “Excluded Liabilities”) are specifically excepted from the Assumed Liabilities to be assumed by Buyer pursuant to Section 2.2(a).

SECTION 12.3 Purchase Price. The aggregate purchase price payable by Buyer shall be $___________ (the “Purchase Price”) in cash. On the Closing Date, Buyer will pay the Purchase Price by wire transfer of immediately available funds to such account or accounts as Seller shall have designated in writing at least two days prior to the Closing Date.

SECTION 12.4 Allocation of Purchase Price. The Purchase Price shall be allocated among the Purchased Assets as of the Closing Date in accordance with Schedule 2.4. For all tax purposes, Buyer and Seller agree to report the transactions contemplated by this Agreement in a manner consistent with the terms of this Agreement, including the allocation under Schedule 2.4, and that neither of them will take any position inconsistent therewith in any tax return, in any refund claim, in any litigation or otherwise.
ARTICLE XIII

REPRESENTATIONS AND WARRANTIES OF SELLER

 Seller represents and warrants to Buyer as set forth below.

SECTION 13.1 Organization and Qualification. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of __________, with all requisite corporate power and authority to own, operate and lease its properties and to carry on its business as it is now being conducted.

SECTION 13.2 Authorization. (a) Seller has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Seller, the performance by Seller of its obligations hereunder, and the consummation by Seller of the transactions contemplated hereby, have been duly authorized by the Board of Directors and stockholder of Seller. No other corporate action on the part of Seller is necessary to authorize the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller and constitutes a valid and binding obligation of Seller, enforceable against it in accordance with its terms, except to the extent that such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors’ rights generally, and the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

SECTION 13.3 No Violation. Except as set forth in Schedule 3.3, neither the execution and delivery of this Agreement by Seller, nor the performance by Seller of its obligations hereunder, nor the consummation by Seller of the transactions contemplated hereby will (a) violate, conflict with or result in any breach of any provision of the Certificate of Incorporation or Bylaws of Seller, (b) violate, conflict with or result in a violation or breach of, or constitute a default (with or without due notice or lapse of time or both) under the terms, conditions or provisions of any note, bond, mortgage, indenture or deed of trust, or any material license, lease or agreement to which Seller is a party or (c) violate any order, writ, judgment, injunction, decree, statute, rule or regulation of any court or Governmental Authority applicable to Seller or Seller except such defaults and violations which, in the aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 13.4 Consents and Approvals. Except as set forth in Schedule 3.4, no filing or registration with, no notice to and no permit, authorization, consent or approval of any Governmental Authority is necessary for the consummation by Seller of the transactions contemplated by this Agreement other than (a) consents and approvals of or filings or registrations with the Antitrust Division of the United States Department of Justice (the “DOJ”) pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “HSR Act”), (b) those already obtained and (c) consents, regulations, approvals, authorizations, permits, filings or notifications which, in the aggregate, are not reasonably likely to have a Material Adverse Effect.
SECTION 13.5 Financial Statements. Seller has delivered to Buyer (a) true and complete copies of the balance sheets of Seller as of __________ and __________, together with the related statements of operations and retained earnings and cash flows for the years then ended (the "Financial Statements"). The Financial Statements (i) were prepared in accordance with generally accepted accounting principles applied on a consistent basis ("GAAP") throughout the periods covered thereby, except as otherwise noted thereon or disclosed in Schedule 3.5, and (ii) fairly present in all material respects the financial position and results of operations of Seller as of such dates and for the periods then ended.

SECTION 13.6 Purchased Assets. Except for assets disposed of in the ordinary course of business and Excluded Assets, the Purchased Assets consist of all assets which have been used in the business of Seller since January 1, 1999.

SECTION 13.7 Absence of Certain Changes. Except as set forth in Schedule 3.7, and except for matters relating to the transactions contemplated by this Agreement, since December 31, 1998, there has not been any material adverse change in the financial condition or operations of Seller, or any damage, destruction or loss, whether or not covered by insurance, having a Material Adverse Effect on the business, financial condition or operations of Seller. Since the date of the Financial Statements, Seller has conducted its business only in the ordinary and usual course, and, without limiting the foregoing, no changes have been made in (i) executive compensation levels; (ii) the manner in which other employees of Seller are compensated; or (iii) any supplemental benefits provided to any such executives or other employees; except, in any such case, in the ordinary course of business and, except such changes as, in the aggregate, are not reasonably likely to have a Material Adverse Effect.

SECTION 13.8 Employee Benefit Plans.

Schedule 3.8 sets forth a true and complete list of each “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), each written employment, severance, retention, termination, consulting or retirement contract, and each bonus or other incentive compensation, stock purchase stock option, stock award or other equity-based compensation, or vacation plan or policy (other than any governmental program), and any related trust, as to which Seller has any obligation or liability, contingent or otherwise (collectively, "Employee Benefit Plans"). True, correct and complete copies of the following documents with respect to each of the Employee Benefit Plans have been provided to Buyer by Seller: (i) the Employee Benefit Plan and related trust documents, and amendments thereto, (ii) the most recent Form 5500, (iii) the last Internal Revenue Service determination letter, and (iv) summary plan descriptions and modifications thereto.

SECTION 13.9 Brokers’ Fees and Commissions. Except for ________________, whose fees will be paid by Seller, neither Seller nor any of its directors, officers, employees or agents has employed any investment banker, broker or finder in connection with the transactions contemplated hereby.

SECTION 13.10 Contracts. Schedule 3.10 hereto sets forth a list of all other contracts to which Seller is a party or by which it is bound, except (a) any contract that does not require
payment by any party thereto of more than $200,000, (b) any contract that is terminable by Seller upon ninety (90) days’ notice or less without the payment of any material penalty or material termination fee, (c) any contract entered into, after the date hereof and prior to Closing, with Buyer or with any other Person in connection with any transaction contemplated by this Agreement, (d) any contract entered into in the ordinary course of business after the date hereof and prior to the Closing, (e) purchase orders for goods and services entered into in the ordinary course of business, and (f) any contract specifically listed in any other Schedule to this Agreement. As used in this Section 3.10, the word “contract” means and includes every written agreement of any kind which is legally enforceable by or against Seller. Each of the contracts listed on Schedule 3.10 hereto is in full force and effect and Seller has not committed any breach or default thereunder which would have a Material Adverse Effect. All contracts are in the name of Seller, and except as set forth in Schedule 3.10, all contracts included in the Assumed Liabilities will be effectively transferred to Buyer the time of the Closing.

SECTION 13.11 Other Activities of the Seller. Except as set forth in Schedule 3.11 neither Seller nor any officer or director of Seller owns or has any investment in a corporation or other entity which does business with Seller.

SECTION 13.12 Real Property. Schedule 3.12 includes a complete list of all real property owned by Seller (“Owned Real Property”) and all real property leased by Seller (“Leased Real Property”). Except as set forth on Schedule 3.12, Seller has, or will have at Closing, marketable title to the Owned Real Property, and valid leasehold interests in all Leased Real Property, free and clear of all mortgages, liens claims, charges, easements, covenants, rights of way and other encumbrances or restrictions, except the following encumbrances or restrictions, whether or not disclosed in Schedule 3.12: (i) zoning and other similar restrictions; (ii) easements, covenants, rights of way or other restrictions which do not materially adversely affect the use of the property to which they relate; (iii) mechanics’, carriers’, workmen’s repairmen’s or other like liens arising or incurred in the ordinary course of business; (iv) liens for taxes, assessments and other governmental charges which are not due and payable or which may thereafter be paid without penalty; and (v) other imperfections of title or encumbrances, if any, none of which liens, title imperfections or encumbrances would individually or in the aggregate have a Material Adverse Effect (all such exceptions set forth in clauses (i)-(v) being referred to collectively as, “Permitted Liens”).

SECTION 13.13 Title to Personal Property. Except as described in Schedule 3.13, Seller has good and marketable title to all of the personal property included in the Purchased Assets.

SECTION 13.14 Taxes. Except as set forth in Schedule 3.14, there are no taxes on or measured by income or gross receipts or franchise, real and personal property, employment, excise, sales and use or other taxes of any kind properly attributable to periods up to and including the Closing for which Buyer could be held liable which have not been or will not be paid by Seller.

SECTION 13.15 Litigation. Except as set forth in Schedule 3.15, there is no action, suit, or proceeding pending or, to the knowledge of Seller, threatened against Seller at law or in
equity, or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality.

SECTION 13.16 Licenses. Except as set forth in Schedule 3.16, Seller holds each license, permit or other governmental authorization (hereinafter referred to as “Licenses”) which is required for the operation of its business. No material violations have been recorded in respect of any of such licenses, and no proceeding is pending or to the knowledge of Seller, threatened to revoke or limit any such licenses.

SECTION 13.17 Environmental Matters.

(a) Except as set forth in Schedule 3.17, to the knowledge of Seller, (i) Seller is not in violation of any Environmental Law or has not received notice that any such violation exists; (ii) Seller has not placed, deposited or released any toxic or hazardous substances or wastes, petroleum or petroleum products, asbestos or other pollutants, as defined under applicable Environmental Laws (collectively “Hazardous Substances”) upon or under any real property owned or leased by Seller, except in compliance with Environmental Laws or in such amounts the costs of compliance with or results of which would not have a Material Adverse Effect; and (iii) Seller has not received any notice from any Governmental Authority (other than notices that have been fully complied with or withdrawn) requiring the removal of any alleged Hazardous Substances, or advising of any pending or contemplated search or investigation of any real property owned or leased by Seller, the costs of compliance with which or results of which could have a Material Adverse Effect.

(b) Seller has been issued, and will maintain until the date of Closing, all required federal, state, and local permits, licenses, certificates and approvals with respect to its properties relating to (i) air emissions, (ii) discharges to surface water or groundwater, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of Hazardous Substances, or (vi) other environmental, health or safety matters.

(c) For purposes of this Section, “Environmental Laws” means (i) any law, statute, code, ordinance, rule, regulation or other requirement of any Governmental Authority, (ii) any order, judgment, injunction, award, decree, writ or settlement or consent agreement applicable to the Company or its Subsidiaries, or (iii) a license, certificate of occupancy, permit, order or approval of, or registration with, any Governmental Authority applicable to the Company or its Subsidiaries which relates to pollution or protection of the environment, including, without limitation, any of the foregoing which relate to emissions, discharges, releases or threatened releases of Hazardous Substances in the environment (including, without limitation, ambient air, surface water, groundwater or land), or which otherwise relate to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of.

SECTION 13.18 Compliance with Laws. Except as set forth in Schedule 3.18, each of Seller and its Subsidiaries is in substantial compliance with all, and has received no notice of any violation of any, laws or regulations having a material application to its operations, including, without limitation, the use of premises occupied by it, or with respect to which compliance is a condition of engaging in any aspect of the business of Seller and its Subsidiaries, and each has all
permits, licenses, zoning rights, and other governmental authorizations necessary to conduct its business as presently conducted.

SECTION 13.19 Proprietary Rights. Seller and its Subsidiaries among them possess full ownership of, or adequate and enforceable long-term licenses or other rights to use (without payment), all trade secrets, copyrights, patents, trademarks, service marks, customer lists, and all similar types of intangible property developed, created or owned by or registered in the name of Seller or any of its Subsidiaries or used in the business of Seller or any of its Subsidiaries; neither Seller nor any of its Subsidiaries has received any notice of conflict or infringement which asserts the rights of others with respect thereto; and each of Seller and its Subsidiaries has in all material respects performed all of the obligations required to be performed by it, and is not in default in any material respect, under any agreement relating to intangible property or proprietary right.

SECTION 13.20 Labor Matters. Except as set forth in Schedule 3.20, there are no pending or threatened labor organizing activities, election petitions or proceedings, unfair labor practice complaints, slowdowns, or work stoppages known to Seller or any of its Subsidiaries, between Seller or any of its Subsidiaries and any of its or their employees.

ARTICLE XIV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as set forth below.

SECTION 14.1 Organization and Qualification. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, with all requisite corporate power and authority to own, lease and operate its properties and to carry on its businesses as now being conducted.

SECTION 14.2 Authorization. Buyer has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. No other corporate proceeding on the part of Buyer is necessary to authorize the execution and delivery of this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and constitutes a valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except to the extent that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors’ rights generally, and the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

SECTION 14.3 No Violation. Neither the execution and delivery of this Agreement by Buyer and the performance by Buyer of its obligations hereunder nor the consummation by Buyer of the transactions contemplated hereby will (a) violate, conflict with or result in any breach of any provision of the Certificate or Articles of Incorporation or Bylaws of Buyer, (b)
violate, conflict with or result in a violation or breach of, or constitute a default (with or without
due notice or lapse of time or both) under the terms, conditions or provisions of any note, bond,
mortgage, indenture or deed of trust, or any material license, lease or agreement to which Buyer
or any of Buyer’s Subsidiaries is a party or (c) violate any order, writ, judgment, injunction,
decree, statute, rule or regulation of any court or Governmental Authority applicable to Buyer or
any of Buyer’s Subsidiaries, except such defaults and violations which, in the aggregate, are not
reasonably likely to have a Material Adverse Effect.

SECTION 14.4  Consents and Approvals. No filing or registration with, no notice to
and no permit, authorization, consent or approval of any third party or any Governmental
Authority is necessary for the consummation by Buyer of the transactions contemplated by this
Agreement other than (a) consents and approvals of or filings or registrations with the DOJ
pursuant to the HSR Act, and (b) consents, registrations, approvals, authorizations, permits, filings
or notifications which, in the aggregate, are not reasonably likely to have a Material Adverse
Effect.

SECTION 14.5  Brokers’ Fees and Commissions. Except for ____________, whose
fees will be paid by Buyer, neither Buyer nor any of its Subsidiaries, directors, officers,
employees or agents has employed any investment banker, broker or finder in connection with
the transactions contemplated hereby.

SECTION 14.6  Financing. Buyer has sufficient funds available to satisfy, among
other things, the obligation to pay (a) the Purchase Price, (b) the Assumed Liabilities and (c) all
expenses incurred by Buyer in connection with the transactions contemplated hereby.

ARTICLE XV

COVENANTS

SECTION 15.1  Conduct of Business of Seller Prior to the Closing. Except as
contemplated by this Agreement or with the prior written consent of Buyer (which consent shall
not be unreasonably withheld), during the period from the date of this Agreement to the Closing,
Seller will conduct its business and operations according to Seller’s ordinary and usual course of
business and will use all reasonable efforts consistent therewith to preserve intact Seller’s
properties, assets and business organization, to keep available the services of Seller’s officers
and employees and to maintain satisfactory relationships with customers, suppliers, distributors
and others having commercially beneficial business relationships with Seller, in each case in the
ordinary course of business. Without limiting the generality of the foregoing, and except as
otherwise provided in this Agreement, Seller will not take any of the following actions, prior to
the Closing, without the prior written consent of Buyer (which consent shall not be unreasonably
withheld):

(a) except in the ordinary course of business, (i) sell, transfer or otherwise
dispose of any of its material property or assets or (ii) mortgage or encumber any of its material
property or assets;

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enter into, or terminate, any material agreements, commitments or contracts, except agreements, commitments or contracts made in the ordinary course of business;

e) except in the ordinary course of business or with respect to capital projects approved prior to the date hereof, enter into any agreement or commitment involving an aggregate capital expenditure or commitment exceeding $100,000 or create, incur, or assume any long-term or short-term indebtedness for money borrowed; or

(d) agree in writing to take any of the foregoing actions.

SECTION 15.2 Access to Information. Between the date of this Agreement and the Closing Date, upon reasonable notice and at reasonable times without significant disruption to the businesses of Seller, Seller will give Buyer and its authorized representatives reasonable access to all offices and other facilities, and to all books and records of Seller and will permit Buyer to make and will fully cooperate with regard to such inspections as it may reasonably require and will cause its officers to furnish Buyer such financial and operating data and other information with respect to the businesses and properties of Seller as Buyer may from time to time reasonably request.

SECTION 15.3 All Reasonable Efforts. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper and advisable under applicable laws and regulations to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement. If at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, including, without limitation, the execution of additional instruments, the parties to this Agreement shall take all such necessary action.

SECTION 15.4 Consents and Approvals. The parties hereto each will cooperate with one another and use all reasonable efforts to prepare all necessary documentation (including, without limitation, furnishing all information required under the HSR Act), to effect promptly all necessary filings and to obtain all necessary permits, consents, approvals, orders and authorizations of, or any exemptions by, all third parties and Governmental Authorities necessary to consummate the transactions contemplated by this Agreement. Each party will keep the other parties apprised of the status of any inquiries made of such party by the DOJ or any other Governmental Authority or members of their respective staffs with respect to this Agreement or the transactions contemplated hereby.

SECTION 15.5 Public Announcements. Buyer and Seller will consult with each other and will mutually agree (the agreement of each party not to be unreasonably withheld) upon the content and timing of any press release or other public statements with respect to the transactions contemplated by this Agreement and shall not issue any such press release or make any such public statement prior to such consultation and agreement, except as may be required by applicable law or by obligations pursuant to any listing agreement with any securities exchange or any stock exchange regulations; provided, however, that Buyer and Seller will give prior notice to the other party of the content and timing of any such press release or other public...
statement required by applicable law or by obligations pursuant to any listing agreement with any securities exchange or any stock exchange regulations.

SECTION 15.6 Disclosure Supplements. From time to time prior to the Closing, Seller will supplement or amend the Disclosure Schedules delivered in connection herewith with respect to any matter which, if existing or occurring at or prior to the date of this Agreement, would have been required to be set forth or described in such Disclosure Schedule or which is necessary to correct any information in such Disclosure Schedules which has been rendered inaccurate by an event occurring after the date hereof. No such disclosure made pursuant to this Section shall be considered to constitute or give rise to a waiver by Buyer of any condition set forth herein. If the Closing occurs, Buyer shall be deemed to have waived any right or claim it may otherwise have or have had on account of any matter so disclosed in such supplement or amendment.

SECTION 15.7 No Implied Representations or Warranties. Buyer hereby acknowledges and agrees that Seller is not making any representation or warranty whatsoever, express or implied, except those representations and warranties of Seller explicitly set forth in this Agreement or in the Disclosure Schedules or in any certificate contemplated hereby and delivered by Seller in connection herewith. Subject to the foregoing, the assets and business of Seller being acquired by Buyer at the Closing as a result of this Agreement and the transactions contemplated hereby shall be acquired by Buyer on an “as is, where is” basis and in their then present condition, and Buyer shall rely solely upon its own examination thereof. In any event, except as explicitly set forth herein, none of Seller or any of its officers, directors, employees, affiliates or representatives, as the case may be, has made or is making any representation, express or implied, as to the value of any asset or business being so acquired, or any warranty of merchantability, suitability or fitness for a particular purpose or quality, with respect to any of the tangible assets being so acquired, or as to the condition or workmanship thereof, or as to the absence of any defects therein, whether latent or patent.

SECTION 15.8 Employee Benefit Matters. (a) Buyer shall offer each of the employees identified on Schedule 5.8 (the "Employees") (which schedule shall be updated prior to the Closing Date by deleting those individuals no longer employed by Seller and adding any individuals who have become so employed since the schedule was first prepared or the last revision thereto, as the case may be) a position similar to his or her position on the Closing Date with salary or wages, as the case may be, and with seniority and years of service at least as great as the salary or wages, seniority and years of service such employee had with Seller on the Closing Date. Buyer agrees it will assume and become a party to all collective bargaining agreements (the “Collective Bargaining Agreements”) applicable to any Transferred Employees (as used herein, “Transferred Employees” shall mean Employees who accept employment with Buyer). Seller shall provide a schedule to Buyer prior to the Closing Date setting forth the status and compensation of each Employee. Buyer shall, as of and after the Closing Date, offer employee benefits to Transferred Employees substantially the same as those offered to them by Seller prior to the Closing Date; provided, however, that Buyer shall maintain Seller's vacation policy in effect on the Closing Date with respect to Transferred Employees. Buyer shall be solely responsible for all severance and benefit claims related to the Employees (whether or not the Employees accept employment with Buyer), as well as for any damages or claims relating to cessation of employment with Seller of Employees and individuals who do not accept
employment with Buyer. Buyer shall immediately reimburse Seller for any expenses incurred by Seller which are the responsibility of Buyer pursuant to this Section 5.8.

(b) Nothing herein shall be construed as giving any Transferred Employee any right to continued employment with Buyer following the Closing Date.

(c) Employees who are on disability leave, authorized leave of absence, military service, or lay-off with recall rights under a Collective Bargaining Agreement as of the Closing Date shall be offered employment to at least the same extent, if any, as Seller would be required to offer employment in accordance with applicable Collective Bargaining Agreements and applicable Law.

(d) Buyer shall cooperate with Seller in making any notices required by the Workers Adjustment Retraining Notification Act or other applicable Federal or state laws.

(e) For all Transferred Employees, Buyer shall grant service credit under Buyer's employee benefit plans for eligibility, vesting, and for benefit calculation purposes equal to years of service with Seller for such Transferred Employees.

(f) Transferred Employees and their dependents shall be eligible to participate in Buyer's employee benefit plans as of the Closing Date (to the extent that they have met the eligibility requirements thereof) and, if applicable, Buyer shall (i) cause any preexisting condition restrictions or waiting period under Buyer's plans to be waived to the extent waived under Seller's applicable plans and (ii) honor any deductible and out-of-pocket expenses incurred by Transferred Employees and their dependents under Seller's plans during the portion of the calendar year preceding the Closing Date. Buyer shall cover Transferred Employees under Buyer's severance plan but, for a period of two years following the Closing Date, will provide the same benefit a Transferred Employee would have been entitled to receive under Seller's severance plan as if such employee continued to be covered under that plan.

(g) Seller shall retain and be responsible for all liabilities in connection with claims incurred prior to the Closing Date by Employees and other current and former employees of Seller associated with the Business prior to Closing Date and their eligible dependents under any of Seller's employee welfare benefit plans (as described in Section 3(1) of ERISA), including claims filed following the Closing Date. Buyer shall be responsible for all liabilities in connection with claims incurred on and after the Closing Date by Transferred Employees under any of Buyer's employee welfare benefit plans (as defined in Section 3(1) of ERISA) covering such Transferred Employees. For purposes of this section, a claim shall be incurred on the date treatment or service is first rendered.

(h) Buyer will assume and pay, or make available, to each Transferred Employee, all vacation earned and accrued but not paid prior to the Closing Date.

(i) Nothing in this Agreement is intended to confer on any entity or individual who is not a party to this Agreement (including Employees) any rights whatsoever.

SECTION 15.9 Confidentiality. Prior to the Closing, Buyer shall, except to the extent required by any Governmental Authority, keep confidential, and shall use its best efforts to cause
to be kept confidential by its affiliates and representatives, all information concerning Seller or Seller disclosed prior to the date of this Agreement or hereafter to any such persons in connection with this Agreement and the consummation of the transactions contemplated hereby, and none of such information shall be used in any manner other than in connection with this Agreement and the other agreements contemplated hereby. In the event of the termination of this Agreement, Buyer shall return to Seller (or destroy and certify such destruction to Seller and Seller in writing) all documents and materials (and reproductions thereof) furnished to Buyer or its affiliates or representatives in connection with this Agreement for the transactions contemplated hereby.

SECTION 15.10  No Solicitation. Seller, and those acting on its behalf, will not, and Seller will use its best efforts to cause its directors, officers, employees, agents and representatives not, directly or indirectly, to solicit, encourage, or initiate any discussions with, or negotiate or otherwise deal with, or provide any information to, any Person other than Buyer and its directors, officers, employees and agents, concerning any merger, sale of substantial assets, or similar transaction involving Seller, or any sale of any of the capital stock of Seller. None of the foregoing shall prohibit providing information to others in a manner in keeping with the ordinary conduct of Seller's businesses, or providing information to Governmental Authorities.

ARTICLE XVI

CLOSING CONDITIONS

SECTION 16.1  Conditions to Each Party's Obligations Under this Agreement. The respective obligations of each party under this Agreement shall be subject to the fulfillment at or prior to the Closing of the following conditions:

(a) Any waiting period applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated; and

(b) No injunction, restraining order or other ruling or order issued by any court of competent jurisdiction or Governmental Authority or other legal restraint or prohibition preventing the consummation of the transactions contemplated hereby shall be in effect.

SECTION 16.2  Conditions to the Obligations of Buyer Under this Agreement. The obligations of Buyer under this Agreement shall be further subject to the satisfaction, at or prior to the Closing, of the following conditions:

(a) Each of the obligations of Seller required to be performed by it at or prior to the Closing pursuant to this Agreement shall have been duly performed and complied with in all material respects, and the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except as to any representation or warranty which specifically relates to an earlier date), and Buyer shall have received a certificate to that effect signed by Seller;
(b) Any and all permits, consents, waivers, clearances, approvals and authorizations of all third parties and Governmental Authorities which are necessary in connection with the consummation of the transactions contemplated hereby shall have been obtained, other than items which, if not obtained, would not have a Material Adverse Effect;

(c) Buyer shall have received an opinion substantially in the form of Exhibit A hereto from counsel to Seller.

(d) No material adverse change shall have taken place in the business, financial condition, or operations of Seller since the date of the Financial Statements other than those, if any, that result from the changes permitted by, and transactions contemplated by, this Agreement, and Buyer shall have received a certificate to that effect signed by Seller;

(e) None of Seller’s facilities shall have been condemned (either wholly or in part) or materially damaged by fire or other casualty on and as of the Closing Date.

SECTION 16.3 Conditions to the Obligations of Seller Under this Agreement. The obligations of Seller under this Agreement shall be further subject to the satisfaction, at or prior to the Closing, of the following conditions:

(a) Each of the obligations of Buyer required to be performed by it at or prior to the Closing pursuant to the terms of this Agreement shall have been duly performed and complied with in all material respects, and the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made at and as of the Closing Date (except as to any representation or warranty which specifically relates to an earlier date), and Seller shall have received a certificate to that effect signed by an officer of Buyer;

(b) Any and all permits, consents, waivers, clearances, approvals and authorizations of all Governmental Authorities which are necessary in connection with the consummation of the transactions contemplated hereby shall have been obtained, other than items which, if not obtained, would not have a Material Adverse Effect; and

(c) Seller shall have received an opinion substantially in the form of Exhibit B hereto from counsel to Buyer.

ARTICLE XVII

CLOSING

SECTION 17.1 Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Orrick, Herrington & Sutcliffe LLP, The Old Federal Reserve Bank Building, 400 Sansome Street, San Francisco, California 94111-3143, subject to the satisfaction or waiver of the conditions set forth in Article VI, on the later of __________, 2002 or two business days after the receipt of all requisite governmental approvals, or at such other time and place and on such other date as Buyer and Seller shall agree (the “Closing Date”). At the Closing:
(a) Seller shall deliver or cause to be delivered to Buyer the following:

   (i) the certificate described in Section 6.2(a);

   (ii) properly executed bills of sale, certificates of title or other
        instruments of conveyance of title, in form reasonably acceptable to Buyer, sufficient to
        pass title to all personal property to be conveyed hereunder, free and clear of all liens or
        encumbrances of any type or nature;

   (iii) all documents, including without limitation, executed UCC-3
        termination statements, as are necessary to release all liens on the Purchased Assets; and

   (iv) all other previously undelivered documents required to be delivered
        by Seller to Buyer at or prior to the Closing pursuant to the terms of this Agreement.

(b) Buyer shall deliver or cause to be delivered to Seller the following:

   (i) the certificate described in Section 6.3(a); and

   (ii) all other previously undelivered documents required to be delivered
        by Buyer to Seller at or prior to the Closing pursuant to the terms of this Agreement.

(c) Buyer shall pay to Seller, by wire transfer of immediately available funds, the Purchase Price.

ARTICLE XVIII

TERMINATION AND ABANDONMENT

SECTION 18.1 Termination. This Agreement may be terminated and the transactions
contemplated hereby may be abandoned at any time prior to the Closing:

(a) by mutual consent of Seller and Buyer; or

(b) by either Seller or Buyer:

   (i) if a court of competent jurisdiction or Governmental Authority shall
       have issued an order, decree or ruling or taken any other action (which order, decree or
       ruling the parties hereto shall use their best efforts to lift), in each case permanently
       restraining, enjoining or otherwise prohibiting the transactions contemplated by this
       Agreement, and such order, decree, ruling or other action shall have become final and
       nonappealable; or

   (ii) if the Closing shall not have occurred on or before
        ________________, 2002;

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provided, however, that the right to terminate this Agreement shall not be available to any party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

SECTION 18.2 Procedure and Effect of Termination. In the event of termination and abandonment of the transactions contemplated hereby pursuant to Section 8.1, written notice thereof shall forthwith be given to the other parties to this Agreement and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by any of the parties hereto. If this Agreement is terminated as provided herein, no party hereto shall have any liability or further obligation to any other party to this Agreement resulting from such termination except (a) that the provision of this Section 8.2 and the proviso of Section 8.1(b) shall remain in full force and effect and (b) no party waives any claim or right against a breaching party to the extent that such termination results from the breach by a party hereto of any of its representations, warranties, covenants or agreements set forth in this Agreement.

ARTICLE XIX

INDEMNIFICATION

SECTION 19.1 Indemnity. Subject to the overall limitations, the minimum amounts and the time limitations set forth in Section 9.3 hereto, Seller ("Indemnifying Party") will indemnify and hold Buyer ("Indemnified Party") harmless from and with respect to any and all claims, lawsuits, liabilities, losses, damages, costs and expenses, including without limitation the reasonable fees and disbursements of counsel and all amounts reasonably paid in investigation, defense or settlement of any of the foregoing (collectively, "Damages") arising out of any inaccuracies in any representation or warranty or breach of any covenant made by Seller in this Agreement; and Buyer ("Indemnifying Party") will indemnify and hold Seller ("Indemnified Party") harmless from and with respect to any and all Damages arising out of any inaccuracies in any representation or warranty or breach of any covenant made by Buyer in this Agreement. For purposes of indemnification pursuant to this Article IX, the term "Indemnified Party" shall mean Buyer or Seller, as the case may be, and its or their permitted successors and assigns, together with its or their respective shareholders, directors, officers, employees, agents and representatives.

SECTION 19.2 Third Party Claims. In the event that Indemnified Party desires to make a claim against Indemnifying Party under Section 9.1 above in connection with any action, suit, proceeding or demand at any time instituted against or made upon Indemnified Party by any third party for which Indemnified Party may seek indemnification hereunder (a "Third Party Claim"), Indemnified Party shall promptly notify Indemnifying Party of such Third Party Claim and of Indemnified Party’s claim of indemnification with respect thereto. Indemnifying Party shall have thirty (30) days after receipt of such notice to notify Indemnified Party if it has elected to assume the defense of such Third Party Claim, provided, that Indemnified Party shall in any event be entitled to take such actions as are reasonably necessary to avoid prejudicing Indemnified Party’s rights with respect to such Third Party Claim during such 30-day period while it awaits notice from Indemnifying Party. Once Indemnifying Party elects to assume the defense of such Third Party Claim, Indemnifying Party shall be entitled at its own expense to conduct and control the defense and settlement of such Third Party Claim through counsel of its

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own choosing; provided that Indemnified Party may participate in the defense of such Third Party Claim with its own counsel at its own expense. If Indemnifying Party fails to notify Indemnified Party within thirty (30) days after receipt of Indemnified Party’s notice of a Third Party Claim, Indemnified Party shall be entitled to assume the defense of such Third Party Claim at the expense of Indemnifying Party, provided, that Indemnified Party may not settle any Third Party Claim without Indemnifying Party’s consent (such consent not to be unreasonably withheld). The Indemnified Party shall cooperate in all reasonable respects with the Indemnifying Party and its attorneys in the investigation and defense of such Third Party Claims.

SECTION 19.3 Limitations of Liability. (a) Indemnifying Party shall not be required to indemnify Indemnified Party hereunder for any Damages arising under this Article IX, except to the extent that the aggregate amount of Damages for which Indemnified Party is entitled to indemnification pursuant to this Article IX hereto exceeds 1% of the Purchase Price (it being understood and agreed that the 1% of the Purchase Price amount is intended as a deductible, and Indemnifying Party shall not be liable for the first 1% of the Purchase Price of Damages for which Indemnified Party is entitled to indemnification).

(b) The aggregate amounts payable by Indemnifying Party with respect to all claims for indemnification shall not exceed 25% of the Purchase Price.

(c) No action or claim for damages pursuant to this Article IX shall be brought or asserted after the date twelve (12) months from the Closing, except for Damages arising from a breach of the representations and warranties contained in Section 3.14 hereto for which Seller shall not be liable unless Buyer has asserted a claim for such Damages prior to the expiration of the applicable statute of limitations.

SECTION 19.4 Scope of Seller’s Liability. Buyer acknowledges and agrees that its sole remedy against Seller for any matter arising out of the transactions contemplated by this Agreement is set forth in Section 9.1 hereto and that, except to the extent Buyer has asserted a claim for indemnification prior to the applicable Liability Termination Date, Buyer shall have no remedy against Seller for any breach of any provision of this Agreement. In no event shall Seller have any liability for Damages arising from the conduct of Seller’s business after Closing.

ARTICLE XX

MISCELLANEOUS PROVISIONS

SECTION 20.1 Amendment and Modification. This Agreement may be amended, modified or supplemented by a written instrument signed by all of the parties hereto.

SECTION 20.2 Waiver of Compliance: Consents. Any failure of Buyer, on the one hand, or of Seller or Seller, on the other hand, to comply with any obligation, covenant, agreement or condition contained herein may be waived in writing by Seller or Buyer, respectively, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppeal with respect to, any other failure.
SECTION 20.3  Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

SECTION 20.4  Expenses and Obligations. All costs and expenses incurred in connection with the consummation of the transactions contemplated by this Agreement by Buyer shall be paid by Buyer, and all costs and expenses incurred in connection with the consummation of the transactions contemplated by this Agreement by Seller shall be paid by Seller.

SECTION 20.5  Parties in Interest. This Agreement shall be binding upon and, except as provided below, inure solely to the benefit of each party hereto, and except as set forth in Section 5.8 and Article IX hereof, nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

SECTION 20.6  Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon the earlier of delivery thereof if by hand or upon receipt if sent by mail (registered or certified, postage prepaid, return receipt requested) or on the second next business day after deposit if sent by a recognized overnight delivery service or upon transmission if sent by telecopy or facsimile transmission (with request of assurance of receipt in a manner customary for communication of such type) as follows:

(a)  If to Buyer, to:

________________________________________

________________________________________

Attention: _____________________________

with a copy to:

________________________________________

________________________________________

Attention: _____________________________

(b)  If to Seller, to:

Panicky Seller
1000 Sunrise Street
Blue Skies, California 94115
Attention: Michael A. Reed
with a copy to:

Orrick, Herrington & Sutcliffe LLP
The Old Federal Reserve Bank Building
400 Sansome Street
San Francisco, California 94111-3143
Attention: John F. Seegal, Esq.

SECTION 20.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts-of-laws rules thereof.

SECTION 20.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

SECTION 20.9 Headings. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 20.10 Entire Agreement. This Agreement and the Disclosure Schedules and exhibits attached hereto embody the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein or therein. There are no agreements, representations, warranties or covenants other than those expressly set forth herein or therein. This Agreement and the Disclosure Schedules and exhibits attached hereto supersede all prior agreements and understandings between the parties with respect to such subject matter.

SECTION 20.11 Assignment. This Agreement shall not be assigned by operation of law or otherwise.

SECTION 20.12 Survival of Representations and Warranties, Etc.

(a) The representations and warranties made in this Agreement shall survive for a period of six (6) months after the Closing Date.

(b) Buyer agrees that on and after the date set forth in Section 10.12(a) hereof (the “Liability Termination Date”) (i) Seller shall have no liability or responsibility whatsoever to any person, including without limitation Buyer, for, and (ii) Buyer unconditionally releases Seller from, any liability or obligation of, or relating to, Seller of whatever kind or nature, whether contingent or absolute, whether arising prior to, on or after, and whether determined or indeterminable on, the Liability Termination Date, and whether or not specifically referred to in this Agreement, including, without limitation, liabilities and obligations (x) relating to this Agreement and the transactions contemplated hereby, (y) arising out of or due to any inaccuracy of any representation or warranty made by Seller or the breach of any covenant, undertaking or other agreement of Seller contained in this Agreement and (z) relating to any violation of any present or future environmental law (all of the foregoing liabilities and obligations being
collectively referred to herein as the "Liabilities"), except pursuant to Sections 5.5 and 10.4 hereof.

(c) This Section 10.12 shall not limit any covenant or agreement of the parties hereto which by its terms contemplates performance after the Closing Date, including without limitation the Non-competition Agreement.

SECTION 20.13 Jurisdiction and Venue. The parties hereto agree that any suit, action or proceeding arising out of or relating to this Agreement shall be instituted only in a federal or state court located in Chicago, Illinois. Each party waives any objection it may have now or hereafter to the laying of the venue of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

SECTION 20.14 Memorandum; Disclaimer of Projections. Seller makes no representation or warranty to Buyer except as specifically made in this Agreement. In particular, Seller makes no representation or warranty to Buyer with respect to (a) the information set forth in the Confidential Memorandum distributed in connection with the transactions contemplated hereby or (b) any financial projection or forecast relating to Seller. With respect to any such projection or forecast delivered by or on behalf of Seller to Buyer, Buyer acknowledges that (i) there are uncertainties inherent in attempting to make such projections and forecasts, (ii) it is familiar with such uncertainties, (iii) it is taking full responsibility for making its own evaluation of the adequacy and accuracy of all such projections and forecasts so furnished to it and (iv) it shall have no claim against Seller with respect thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

[Buyer]

By: ________________________________
Name: ______________________________
Title: ______________________________

PANICKY SELLER

By: ________________________________
Name: ______________________________
Title: ______________________________
DISCLOSURE SCHEDULE

Certain agreements and other matters are listed in this Disclosure Schedule for informational purposes only, notwithstanding the fact that, because they do not rise above applicable materiality thresholds or otherwise, they are not required to be listed herein by the terms of the Asset Purchase Agreement. In no event shall the listing of such agreements or other matters in this Disclosure Schedule be deemed or interpreted to broaden or otherwise amplify the Seller’s representations and warranties, covenants or agreements contained in the Asset Purchase Agreement, and nothing in this Disclosure Schedule shall influence the construction or interpretation of any of the representations and warranties contained in the Asset Purchase Agreement. The headings contained in this Disclosure Schedule are for convenience of reference only and shall not be deemed to modify or influence the interpretation of the information contained in this Disclosure Schedule or the Asset Purchase Agreement. Furthermore, the disclosure of a particular item of information in this Disclosure Schedule shall not be taken as an admission by the Seller that such disclosure is required to be made under the terms of any of such representations and warranties.

All disclosures in this Disclosure Schedule made against representations and warranties in the Asset Purchase Agreement are made generally, and none of such disclosure relates to any particular Section. Accordingly, any numbering or references herein to Sections of the Asset Purchase Agreement are for convenience only and do not in any way limit, and shall not be regarded as limiting, the disclosure concerning such numbered or referred to Sections.

Where any information set forth in this Disclosure Schedule comprises expressions of opinion, no warranty is given as to their accuracy, but unless otherwise stated herein, such opinions are bona fide held by the Seller or, to the best of the Seller’s knowledge, by such other person to whom they are attributed.

Terms defined in the Asset Purchase Agreement and not otherwise defined in this Disclosure Schedule are used herein as defined in the Asset Purchase Agreement.
EXHIBIT A
LEGAL OPINION OF COUNSEL FOR SELLER

(Note: Capitalized words have their respective meanings assigned to them in the Agreement)

1. Seller is a corporation incorporated, existing and in good standing under the laws of its state of incorporation.

2. The Agreement has been duly authorized, executed and delivered by Seller and is valid and binding on Seller in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors’ rights or the relief of debtors generally and to the application of general equitable principles by a court of competent jurisdiction.