

November 30, 2009

Clerks Office
824 N. Market Street, 3rd Floor
Wilmington, Delaware 19801

RE: Case No. 09-12074 (KJC)
RESPONSE to Notice of Debtors' Sixth Omnibus (Substantive) Objection of Claims
(Court Docket# 929)
Claim No. 2216 (Case No. 09-12077)

To Whom It May Concern:

The following represents my response to the Notice of Debtors' Sixth Omnibus (Substantive) Objections to Claims pursuant to section 502(b) of the Bankruptcy Code, and Bankruptcy Rules 3003 and 3007 and Local Rule 3007-1 in a manner as described in the notice on page two:

- (a) Case No. 09-12074 (KJC)
(Court Docket# 929) Notice of Debtors' Sixth Omnibus (Substantive) Objections to Claims pursuant to section 502(b) of the Bankruptcy Code, and Bankruptcy Rules 3003 and 3007 and Local Rule 3007-1
- (b) Claim No. 2216; filed: 8/28/2009; Case No. 09-12077; Unsecured: \$64,065.25
Claimant: Pete Yanez on behalf of MWB Building Contractors Inc.
Basis of Claim:
This claim represents the work that MWB Building Contractors Inc. paid SelectBuild Northern California Inc. for routine customer maintenance repairs that were associated with daily customer service calls and NOT related to or certified as a "structural construction defect" as defined in the Asset Purchase Agreement between SelectBuild Northern California Inc (also known as SelectBuild Construction Inc. and KBI Norcal General Partnership) or BMHC. The Partners of MWB Inc. were led to believe (by both local management and certain legal staff of BMHC) that MWB was responsible for the cost of such daily routine maintenance calls and consequently paid SelectBuild approximately \$64,065.25 in January, 2009. According to the Purchase Agreement between MWB and BMHC (SelectBuild Construction Inc. and KBI Norcal General Partnership), MWB (as Sellers) is responsible only for certified construction defects that were caused or asserted against the Sellers for periods prior to closing of sell-purchase of MWB which was January 1, 2006.
- (c) The claim should not be disallowed or modified because (a) the claimant was misled into paying for labor and materials related to routine customer service calls and (b) the liability is the direct result of improperly accepting a payment(s) from the Sellers (MWB) on labor and material cost charges associated with routine maintenance calls that were periodically assessed and invoiced by the SB Northern California Director of Customer Service. It was well known at various levels of local and region management that the charges for labor and materials associated with these customer service calls were NOT associated construction defects as defined in the sell-purchase agreement between MWB and SelectBuild Construction Inc., or in the spirit in which it was intended to apply post consolidation. Costs for labor and materials for daily routine customer service maintenance calls are considered an "assumed Liability" associated with sell-purchase agreement.

Case No. 09-12074 (KJC)

RESPONSE to Notice of Debtors' Sixth Omnibus (Substantive) Objection of Claims
(Court Docket# 929)

Claim No. 2216 (Case No. 09-12077)

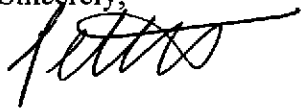
- (d) Documentation attached to this "RESPONSE to Notice of Debtors' Sixth Omnibus (Substantive) Objection of Claims" is as follows:
- i. Exhibit A: Printout copy of Bank Statement for evidence of the \$64,065.25 withdrawal from MWB Inc. to satisfy obligation asserted by SelectBuild Construction Inc. et al related parties.
 - ii. Exhibit B: The Asset Purchase Agreement between MWB Building Contractors Inc. and SelectBuild Construction Inc. and KBI Norcal General Partnership dated January 1, 2006 pages 1 through 47.

On Page 9-10 under in section 3.3(c)(xii) assumed liabilities shall NOT mean (include) "any construction defect liabilities caused by or asserted against Sellers or their Related Parties related to periods prior to the Closing". The definition of construction defects can be found on page 2 and definition of liabilities is on page 6.

[Editorial] A review of this agreement will enlighten a reasonable person to conclude that MWB is only liable for costs and expense associated with a bonifide "structural construction defects" as defined on page 2 of section I in the agreement.

- (e) Replies to this response can be sent to: Pete Yanez on behalf of MWB Inc., 1105 Park Lake Court, Newcastle CA. 95658. Telephone: (916) 624-3300 or (916) 825-2331.
- (f) The ultimate authority to reconcile and handle this matter on the above referenced claim is: Pete Yanez, 1105 Park Lake Court, Newcastle CA. 95658.
Telephone: (916) 624-3300 or (916) 825-2331.

Sincerely,



Pete Yanez
1105 Park Lake Court
Newcastle, CA. 95658

cc: Gibson, Dunn & Crutcher LLP
200 Park Ave
New York, New York 10166
Attn: Michael A. Rosenthal and Matthew K. Kelsey

ArentFox LLP
1050 Connecticut Ave
Washington, DC 20036-5339
Attn: Christopher J. Giaimo and Katie A. Lane

Paul, Hastings, Janofsky & Walker LLP
55 Second Street 24th Floor
San Francisco, CA. 94105
Attn: Kevin Fisher and Seth Mennillo

Richards, Layton & Finger
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Paul N. Heath

United States Trustee for the District of Delaware
844 King Street, Suite 2207
Lockbox #35
Wilmington, Delaware 19801
Attn: Joseph J. McMahon

WELLS FARGO BANK, N.A.
P.O. BOX 6995
PORTLAND, OR 97228-6995

PAGE 1 of 1

Account Number: 629-1867968
Statement End Date: 02/28/09

MWB BUILDING CONTRACTORS INC
4965 DEL RD
LOOMIS CA 95650-9009

IF YOU HAVE ANY QUESTIONS ABOUT THIS STATEMENT OR YOUR ACCOUNTS,
CALL: 800-225-5935 (1-800-CALL-WELLS).

YOUR ACCOUNTS AT A GLANCE

ACCOUNT TYPE	ENDING BALANCE
BUSINESS PREMIUM MARKET RATE 629-1867968	133,954.53

NEWS FROM WELLS FARGO

BUSINESS PREMIUM MARKET RATE 629-1867968

MWB BUILDING CONTRACTORS INC	
JAN 31 BEGINNING BALANCE	197,993.22
TOTAL DEPOSITS/CREDITS	26.56
TOTAL WITHDRAWALS/DEBITS	- 64,065.25 -
FEB 28 ENDING BALANCE	133,954.53

DEPOSITS AND CREDITS -----

POSTED DATE	TRANSACTION DETAIL	AMOUNT
FEB 27	INTEREST PAYMENT	26.56

WITHDRAWALS AND DEBITS -----

POSTED DATE	TRANSACTION DETAIL	AMOUNT
FEB 03	WITHDRAWAL MADE IN A BRANCH/STORE	- 64,065.25

INTEREST SUMMARY -----

ANNUAL PERCENTAGE YIELD EARNED THIS PERIOD	0.25%
INTEREST EARNED FOR THIS PERIOD	26.56
YEAR-TO-DATE INTEREST AND BONUSES PAID	70.08
TOTAL INTEREST PAID IN 2008	185.52

FOR YOUR INTEREST

THANK YOU FOR BANKING WITH WELLS FARGO.

- EXHIBIT A -

ASSET PURCHASE AGREEMENT

by and among

KBI NORCAL GENERAL PARTNERSHIP

SELECTBUILD CONSTRUCTION, INC.

MWB BUILDING CONTRACTORS, INC.

PETE YANEZ

MARK DUNCAN

DANNY JONES

and

MARK BENEDETTI

Effective Date: January 1, 2006

Signing/Closing Date: January 9, 2006

- EXHIBIT B -

INDEX OF CLOSING DOCUMENTS

Key Agreements, Exhibits and Schedules

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ASSET PURCHASE AGREEMENT

among

KBI NORCAL GENERAL PARTNERSHIP

SELECTBUILD CONSTRUCTION, INC.

MWB BUILDING CONTRACTORS, INC.

PETE YANEZ

MARK DUNCAN

DANNY JONES

and

MARK BENEDETTI

Dated as of January 9, 2006

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), dated as of January 9, 2006, to be effective as of the Effective Date (as defined below), is made and entered into by and among **MWB Building Contractors, Inc.**, a California corporation (the "Company"), **Pete Yanez, Mark Duncan, Danny Jones and Mark Benedetti** (each a "Shareholder" and collectively, the "Shareholders", and together with the Company, "Sellers"), **KBI Norcal General Partnership**, a California partnership ("Buyer"), and **SelectBuild Construction, Inc.** ("Parent"), with reference to the following.

RECITALS

A. Buyer has negotiated an agreement with the Company and Shareholders to acquire certain of the assets of the Company related to the Business (as defined below), including certain existing contracts, certain intangible assets, fixed assets and non-cash net working capital;

B. Pursuant to the terms, and subject to the conditions contained herein, at Closing each Shareholder desires that the Company sell certain of the Company's assets to Buyer;

C. Buyer, Parent and Sellers wish to document the terms and conditions of the transaction.

AGREEMENT

NOW, THEREFORE, IT IS AGREED among the parties as follows:

1. DEFINITIONS

All capitalized terms defined in the introductory paragraph, recitals or elsewhere in this Agreement shall have the meanings ascribed thereto. For purposes of this Agreement, the capitalized terms identified in this Section shall have the following meanings:

"Acquisition Proposal" means any bona fide proposal or offer (i) for a merger, share exchange, consolidation or other business combination concerning the Company, (ii) to the Company (or any of its officers, directors or employees) or any Shareholder to acquire in any manner, directly or indirectly, any material part of the assets or 10% or more of the equity securities, as outstanding on the date hereof, of the Company, (iii) with respect to any recapitalization or restructuring concerning the Company or (iv) with respect to any other transaction substantially similar to any of the foregoing; provided, however, that any such proposal or offer relating solely to any Excluded Assets or Excluded Liabilities shall not be deemed an Acquisition Proposal.

"After-Tax Amount" means an amount equal to the aggregate after-tax proceeds received by a Shareholder as payment of the Purchase Price under this Agreement, including all amounts paid, owed or to be paid), after distribution of the Purchase Price from the Company to

Shareholders, calculated assuming a combined, aggregate tax rate for the Company and Shareholders of thirty percent (30%).

"Business" means the business of providing integrated framing services to homebuilders, as presently conducted by the Company.

"Business Day" means any day, not a Saturday or Sunday, on which banks in the State of California are required to be open.

"Buyer Related Party" means any Person who, directly or indirectly, controls or is controlled by, or is under common control with Buyer or Parent.

"Company Financial Statements" means the Financial Statements and the Interim Financial Statements.

"Closing" means the exchange of closing documents, the transfer of the Purchased Assets and the payment of the Purchase Price (less the Reserve) to the Company by Buyer.

"Closing Date" means the date on which the Closing occurs.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended.

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

"Construction Defect" means any of the following: (i) performance of services which are not of workmanlike quality in conformance with the requirements of the underlying Contract documents or of applicable building codes, industry and professional standards, and/or manufacturers' recommendations, (ii) violation of any standards set forth in California Civil Code sections 895 et seq. and 1375 et seq. or Nevada Revised Statutes section 40.615, or (iii) construction which is based on design documents containing errors, omissions, or otherwise falling below the applicable standard of care.

"Construction Defect Liabilities" means Liabilities or obligations relating to or arising out of a Construction Defect with respect to products sold or services performed by the Company on or prior to the Closing Date, including but not limited to liabilities or obligations set forth in California Civil Code Sections 895 et seq. and 1375 et seq. or Nevada Revised Statutes Sections 40.645 et. seq. and 40.668 et. seq..

"Contracts" means each contract, agreement, commitment, purchase order, or other instrument of any kind, whether written or oral, related to the operation of the Business, including those that are listed on *Exhibit 1* attached hereto.

"Debt" means all non-current liabilities plus the current portion of any long-term liabilities of the Company that are required to be reflected on the Company's balance sheet under GAAP which are assumed by Buyer hereunder, including the present value of long-term non-real estate operating leases.

"Effective Date" means 12:01 a.m. Pacific Standard time, January 1, 2006.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*, the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*, the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, the Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. §§ 651 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 *et seq.*, as in effect from time to time, all rules and regulations promulgated pursuant to any of the above statutes, and any other foreign, federal, state or local law, statute, ordinance, rule or regulation governing Environmental Matters, as in effect from time to time, including any common law cause of action providing any right or remedy relating to Environmental Matters.

"Environmental Matter" means any matter or condition arising out of, relating to, or resulting from pollution, contamination, protection of the environment, human health or safety, health or safety of employees, sanitation, and any matters relating to emissions, discharges, disseminations, releases or threatened releases, of Hazardous Substances into the air (indoor and outdoor), surface water, groundwater, soil, land surface or subsurface, buildings, facilities, real property or fixtures, or otherwise arising out of, relating to, or resulting from the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling, release or threatened release of Hazardous Substances.

"Equipment" means all tools, equipment, rolling stock, office furniture, computers and equipment and other pieces of tangible personal property and fixed assets (and interests in any of the foregoing), including spare parts, supplies, office equipment and products used by the Company in the Business. All Equipment used by the Company in the Business is listed or described on *Exhibit 2* attached hereto.

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

"ERISA Affiliate" means any corporation that is a member of a controlled group of corporations with the Company within the meaning of Section 414(b) of the Code, a trade or business (including a sole proprietorship, partnership, trust, estate or corporation) which is under common control with the Company within the meaning of Section 414(c) of the Code, or a member of an affiliated service group with the Company within the meaning of Section 414(m) or (o) of the Code.

"Estimated Effective Date Balance Sheet" means the unaudited estimated balance sheet of the Company as of the Effective Date, delivered by the Company to the Buyer no later than two days prior to the Closing Date prepared in accordance with the Methodologies (as defined in Section 5.1) of the Company in the preparation of the Financial Statements.

"Excluded Assets" means the following assets of Sellers which assets are expressly excluded from the purchase and sale of assets contemplated by this Agreement and as such are not Purchased Assets:

- (i) all cash, cash equivalents, investments and securities,
- (ii) all notes, drafts, intercompany receivables and other accounts and other obligations for the payment of money, including all rights to access or draw upon funds through credit lines or working capital arrangements, if any,
- (iii) all bank and other depository accounts, corporate records and safe deposit boxes,
- (iv) all rights under this Agreement and the Purchase Price,
- (v) all employee benefit plans,
- (vi) all causes of action, claims, demands, set-offs, rights and privileges against third parties that relate to any Excluded Assets or Excluded Liabilities (as defined in Section 3.3(c)),
- (vii) those other contracts or assets of the Company which are listed on *Exhibit 3* attached hereto,
- (viii) any and all real property owned by the Shareholders or their respective Related Parties (whether leased to the Company or otherwise),
- (ix) any and all Tax returns, Tax refunds, Tax loss carryforwards, Tax identification numbers or other identification numbers of the Company assigned by any Governmental Authority, and records related to the foregoing of the Company relating to the Business or the Purchased Assets for any period or portion thereof ending on or prior to the Effective Date (and any such refunds received by Buyer shall be promptly paid over by Buyer to the Company),
- (x) all assets used primarily in connection with the corporate functions of the Company (including but not limited to corporate charters, taxpayer and other identification numbers, records, seals, minute books and stock transfer books),
- (xi) all cash, cash equivalents, letters of credit of the Company held by the Company's insurers as collateral for workers compensation claims; and
- (xii) all Trade Accounts Receivable that are booked by the Company as of the Effective Date but that are more than ninety (90) days past due as of the Effective Date.

"Existing Seller Leases" means those leases of real property pursuant to which the Company leases real property owned by any Shareholder or any Related Party thereof, which are related to the Business. All Existing Seller Leases are listed on *Exhibit 4* attached hereto;

"Expenses" means any and all out-of-pocket expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including, without limitation, court filing fees, court costs, arbitration fees or costs, witness fees and fees and disbursements of legal counsel, investigators, expert witnesses, accountants and other professionals).

"Financial Statements" means the unaudited financial statements of the Company, together with any schedules and notes thereto, which are dated as of December 31, 2003 and December 31, 2004, for the respective 12-month periods then ended, copies of which have been delivered to Buyer.

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

"Governmental Authority" means any foreign, domestic, federal, territorial, state, regional or local governmental authority, quasi-governmental authority, court, commission, board, bureau, agency or instrumentality, or any regulatory, administrative or other department, agency, or any political or other subdivision, department or branch of any of the foregoing.

"Hazardous Substances" means any pollutants, contaminants, toxic or hazardous substances, materials, wastes, constituents, compounds, chemicals, natural or man-made elements or forces that are regulated by, or form the basis of liability under, any Environmental Laws.

"Intangible Personal Property" means each patent and patent application, copyright, copyright application, trademark, trademark application, service mark, service mark application, trade name and trade name registration (in any such case, whether registered or to be registered in the United States of America or elsewhere) applied for, issued to, licensed by or owned by Sellers and used in the Business and all processes, inventions, trade secrets, trade names, customer lists, customer contacts and relationships, computer programs, formulae, know how and other intangible personal property used, licensed or owned by Sellers and used in the Business, and all right, title and interest therein and thereto, including without limitation, the name "MWB Building Contractors" and derivations thereof used in the Business, and any and all internet domain names used in the Business. All Intangible Personal Property is listed on *Exhibit 5* attached hereto.

"Interim Financial Statements" means the unaudited financial statements of the Company together with all schedules and notes thereto, which are dated as of November 30, 2005 and for the 11-month period then-ended, copies of which have been delivered to Buyer.

"Inventory" means any materials owned by the Company and used in the Business as of the Effective Date.

"Key Employee Employment, Confidentiality, Noncompetition, and Nonsolicitation Agreements" means the agreements to be entered into between each Key Employee and Buyer at the Closing, substantially in the form attached hereto as *Exhibit 6*.

"Key Employees" means Pete Yanez, Mark Duncan and Danny Jones.

"Knowledge of Sellers" means, as to a particular matter the actual knowledge of Shareholders and Barbara Kilborn.

"Law" means any law, statute, treaty, rule, regulation, ordinance, order, decree, consent decree or similar instrument or determination or award of an arbitrator or a court or any other Governmental Authority.

"Liabilities" means all indebtedness, obligations, penalties and other liabilities (or contingencies that have not yet become liabilities), whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due, including without limitation, any fines, penalties, judgments, awards or settlements respecting any judicial, administrative, arbitration or other proceedings or any damages, losses, claims or demands with respect to any Law or otherwise.

"Material Adverse Effect" means with reference to the Company, any state of facts, change, circumstance, condition, development, event or occurrence that has, or reasonably could be expected to have, a material adverse effect on the assets, financial condition, prospects or results of operations of the Company.

"Material Contract" means (i) any Contract, agreement, or other commitment obligating Company to make capital expenditures in excess of \$25,000 in the aggregate, (ii) any loan or advance to, or investment in, any Person by Company in excess of \$25,000 (or any agreement, Contract or commitment relating to the making of any such loan, advance or investment), (iii) any guarantee or other contingent liability of Company in respect of any indebtedness or obligation of any Person in excess of \$25,000, (iv) any management service, consulting or any other similar type agreement involving a commitment by Company in excess of \$25,000, (v) any agreement, Contract or commitment limiting the freedom of Company to engage in any line of business or to compete with any Person, (vi) any agreement, Contract or commitment that involves payment by Company of \$25,000 or more and that is not cancelable without penalty within 30 days, or (vii) any other agreement, Contract or commitment, the breach or nonperformance of which by Company would have a Material Adverse Effect.

"Net Assets" means Non-Cash Net Working Capital, exclusive of the current portion of any long term debt, plus the net book value of all property, plant and equipment of the Business.

"Non-Cash Net Working Capital" means an amount equal to (i) the current assets of the Company, consisting of Trade Accounts Receivable, other receivables, Inventory, costs and earnings in excess of billings, determined in accordance with GAAP, and prepaid expenses that are transferable, but excluding cash, less (ii) the current Liabilities of the Company, consisting of Trade Accounts Payable (excluding accrued vacation to the extent not assumed pursuant to Section 3.3(c)(vii), and other accrued expenses), and billing in excess of costs, determined in accordance with GAAP, provided that any and all intercompany accounts shall not be included.

"Non-Competition Agreement" means that Non-Competition Agreement to be executed and delivered at the Closing by Buyer and Mark Benedetti, in substantially the form attached hereto as *Exhibit 8*.

"Permits" means all federal, state and local licenses, permits and other governmental authorizations relating to the Business. All Permits are listed on *Exhibit 9* attached hereto.

"Permitted Encumbrances" means (a) liens for Taxes and other governmental charges and assessments which are not yet due and payable, (b) statutory liens of landlords and statutory liens of carriers, warehousemen, mechanics and materialmen and other like statutory liens arising in the ordinary course of business for sums not yet due and payable, (c) other liens or imperfections on property which are not material in amount or do not materially detract from the value of or materially impair the existing use of the property affected by such lien or imperfections, (d) liens relating to deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security or to secure the performance of leases, trade contracts or other similar agreements, (e) purchase money liens on personal property acquired in the ordinary course of business, (f) liens securing executory obligations under any lease that constitutes a "capital lease" under GAAP, (g) any and all requirements of Law including those affecting the real property assets relating to zoning and land use, (h) any customary utility company rights, easements and franchises which do not materially detract from the value of or materially impair the existing use of the property affected by such lien or imperfections, and (i) the other liens, if any, set forth on Section 8.2 of the Disclosure Schedule.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Personal Property Leases" means those leases of personal property, involving the Business. All Personal Property Leases are listed on *Exhibit 10* attached hereto.

"Purchase Price" means (i) \$26,250,000; minus (ii) Debt, calculated as set forth on *Exhibit 11* attached hereto; plus or minus, as the case may be (iii) any Estimated Net Asset Adjustment (as defined and calculated in Section 5 below), as such figure may be adjusted pursuant to Section 3.4 and Section 6; plus (iv) any Contingent Consideration payable pursuant to Section 6.5, if any, and minus (v) the amount of accrued vacation specifically assumed by Buyer pursuant to Section 11.5.

"Purchased Assets" means the Contracts, Equipment, Existing Seller Leases, as amended, Intangible Personal Property, Non-Cash Net Working Capital, Permits, Personal Property Leases, Records, Real Property Leases, insurance policies (to the extent assignable), the deposits, reserves and assets in the Company's captive insurance programs related to insurance policies transferred to Buyer and its captive insurer, and all other assets owned by the Company and used in the Business, all goodwill of the Business and all rights, claims, credits, causes of action or rights of set-off against third parties relating to the foregoing and the Assumed Liabilities, other than Excluded Assets.

"Real Property Leases" means those leases of real property (other than the Existing Seller Leases), involving the Business. All Real Property Leases are listed on *Exhibit 12* attached hereto.

"Records" means all customer lists, sales brochures, computer software, books, records, accounts, correspondence, production records, employment records and any confidential information relating to the Business.

"Related Party" means any Person who, prior to the Closing, directly or indirectly, controls or is controlled by, or is under common control with the Company or the Shareholder.

"Reserve" means an amount equal to 10% of the Purchase Price payable at the Closing.

"Tax" (and, with correlative meaning, "Taxes") means any federal, state, local or foreign income, gross receipts, property, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add-on minimum, ad valorem, transfer or excise Tax, or any other Tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, imposed by any Governmental Authority.

"Trade Accounts Payable" means the obligations arising out of the Business to make payment to third parties for goods and services furnished to the Company in the ordinary course of the Business incurred prior to the Closing.

"Trade Accounts Receivable" means all obligations arising out of the Business to make payment to the Company, including obligations owed but not yet due, as of the Closing by all third-party purchasers of goods and services from the Company in the ordinary course of the Business prior to the Closing.

2. PURCHASE AND SALE

2.1 Purchase and Sale. At Closing, the Company agrees to sell and convey to Buyer, and Buyer agrees to purchase and accept from the Company, the Purchased Assets (and all of the Company's right, title and interest therein and thereto) for the Purchase Price and Buyer's agreement to assume the Assumed Liabilities, on the covenants, terms and conditions contained herein. Notwithstanding any implications to the contrary contained herein, the Purchased Assets shall not include the Excluded Assets. Prior to Closing, each Shareholder and any of his Related Parties shall convey and assign to Company any right, title or interest in and to any of the Purchased Assets owned by or in the name of such Shareholder or any of his Related Parties, respectively.

3. PURCHASE PRICE; LIABILITIES

3.1 Purchase Price. As consideration for the purchase of the Purchased Assets, Buyer shall pay to the Company, in the aggregate and in the manner set forth in Section 4 hereof, the Purchase Price.

3.2 Allocation of Value. The parties mutually agree that the allocation for tax purposes of the total of Purchase Price and the value of Assumed Liabilities among the Purchased Assets shall be as set forth on *Exhibit 13*, and the parties shall file all Tax returns or other Tax reports in a manner that is consistent with such allocation. If such allocation is challenged by a Governmental Authority and a reallocation is required, each party hereto shall be responsible for its own additional Tax Liabilities arising from such reallocation, if any.

3.3 Assumption of Certain Liabilities.

(a) Upon the terms and subject to the conditions set forth herein, at the Closing Buyer shall assume, and agree to thereafter pay when due and discharge and indemnify and hold harmless each of Sellers with respect to, the Assumed Liabilities (as defined below). All Assumed Liabilities required by GAAP to be reflected on the Estimated Effective Date Balance Sheet shall be included in Estimated Effective Date Balance Sheet for purposes of Section 6.1.

(b) For all purposes of and under this Agreement, the term "Assumed Liabilities" shall mean the following liabilities, but excluding the Excluded Liabilities (as defined below in Section 3.3(c)).

(i) any Trade Accounts Payable of the Company, but only to the extent reflected in the Estimated Effective Date Balance Sheet or specifically set forth on Schedule 3.3;

(ii) any accrued liabilities of the Company as of the Effective Date, but only to the extent reflected in the Estimated Effective Date Balance Sheet or specifically set forth on Schedule 3.3;

(iii) any accrued expenses of the Company, in respect of accrued payroll, compensation, vacation and benefits expenses as of the Effective Date, but only to the extent reflected in the Estimated Effective Date Balance Sheet or specifically set forth on Schedule 3.3;

(iv) any billings in excess of costs of the Company, but only to the extent reflected in the Estimated Effective Date Balance Sheet or specifically set forth on Schedule 3.3;

(v) Liabilities for Sales Tax of Sellers or their Related Parties as set forth in Section 3.4(c); and

(vi) any executory liabilities and obligations of the Company as of the Effective Date under any Contract assumed by Buyer.

(c) Buyer shall not assume, and the term "Assumed Liabilities" shall not mean, refer to or include (and, therefore, the "Excluded Liabilities" shall mean) any Liability not specifically assumed by Buyer pursuant to Section 3.3(b), including without limitation, the following:

(i) Liabilities for Taxes of Sellers or their Related Parties, including, without limitation, those arising as a result of the transactions contemplated by this Agreement, other than the Sales Tax assumed by Buyer pursuant to Section 3.4(c);

(ii) Liabilities of Sellers or their Related Parties in respect of expenses payable by them pursuant to Section 3.4 hereof;

(iii) Liabilities of Sellers or their Related Parties not arising out of or relating to the Business or the Purchased Assets;

(iv) any Liability of Sellers or their Related Parties to any person or entity the existence of which constitutes a breach of any covenant, agreement, representation or warranty of Sellers contained in this Agreement subject to the limitations set forth in Section 13;

(v) intercompany accounts;

(vi) the funded indebtedness and capitalized leases of the Company including the items listed on Schedule 3.3 (the "Indebtedness"), including any principal, interest or other amount owing in respect of any such Indebtedness;

(vii) except as specifically assumed by Buyer pursuant to Section 11.5, any accrued or other liability of the Company for vacation pay earned by the Company employees through the Effective Date, any accrued or other liability of the Company under any employee pension benefit plan, employee welfare benefit plan, multiemployer plan, collective bargaining agreement, or any other plan or agreement with respect to any of the Company's employees, past or present, including any liability under the Worker Adjustment and Retraining Notification Act arising as a consequence of employment losses occurring through the Effective Date, and any liabilities arising under ERISA with respect to any employee benefit plan, as defined in Section 3(3) of ERISA, sponsored by the Company or any ERISA Affiliate, including the obligation to comply with Section 4980B of the Code and Part 6 of Title I of ERISA with respect to any group health plan, within the meaning of Section 5000(b)(1) of the Code, sponsored by the Company as of the Effective Date, but excluding any Liability of the Company under COBRA;

(viii) any Liabilities with respect to or arising out of occurrences on or prior to the Effective Date, or actions by Sellers or their related Parties on or prior to the Effective Date (except for the Liabilities specifically set forth in Section 3.3(b) above);

(ix) Liabilities of Sellers or their Related Parties as set forth in Section 11.2 hereof;

(x) Liabilities of Sellers or their Related Parties arising out of any writ, injunction, lawsuit, claim arbitration, proceeding, citation or notice letter threatened or pending as of the Effective Date, whether or not disclosed to Buyer;

(xi) Liabilities not included in Trade Payables of Sellers or their Related Parties related to insurance;

→ (xii) any Construction Defect Liabilities caused by or asserted against Sellers or their Related Parties relating to periods prior to the Closing; and

(xiii) any Liabilities of Sellers or their Related Parties that are not expressly Assumed Liabilities.

3.4 Certain Expenses.

(a) Buyer shall not pay or be liable for any of the following fees, expenses, Taxes or liabilities incurred by Shareholders, the Company or any of their respective Related Parties, all of which shall be borne and timely paid or caused to be paid by the Company or Shareholders as of or immediately prior to the Closing (except with respect to Taxes described in subsection (iii) below which shall be paid by Sellers when due in accordance with the Code):

(i) the fees and expenses of any person (including without limitation, The JIAN Group) retained by the Company or Shareholder or any of their respective Related Parties for brokerage, financial advisory or investment banking services or services as a finder rendered to the Company or Shareholders or any of their respective Related Parties in connection with the proposed sale of the Purchased Assets, including without limitation, the transactions contemplated by this Agreement;

(ii) the fees and expenses of legal counsel, auditors and accountants retained or employed by the Company or Shareholders or any of their respective Related Parties for services rendered to the Company or Shareholders or any of their respective Related Parties solely in connection with the proposed sale of the Purchased Assets, including without limitation, the transactions contemplated by this Agreement;

(iii) other than as set forth in Section 3.4(c) below, any income, capital gains, or other Tax incurred by the Sellers or any of their Related Parties as a result of the consummation of the transactions contemplated by this Agreement, (all of the foregoing set forth in this Section 3.2(a)(i)-(iii), the "Transaction Expenses").

(b) If Buyer shall pay any fee, expense, Tax or liability described in Section 3.4(a), the sum of all such payments shall be deducted from the Purchase Price. If any such payment is not deducted from the Purchase Price as provided in the preceding sentence, the amount of such payments not so deducted shall be, at Buyer's election, paid from the Reserve or paid promptly by Sellers to Buyer upon demand.

(c) Buyer shall bear one hundred percent (100%) of any documentary stamp or transfer Taxes or other similar charges, Taxes or expenses arising in connection with the sale of the Purchased Assets from the Sellers to the Buyer ("Sales Tax"). To the extent permitted by law, Buyer and Sellers shall cooperate fully in minimizing any such Sales Tax. The Company shall prepare and file any and all documents required to pay the Sales Tax (the "Sales Tax Forms"). The Company shall first provide a copy of such documents to Buyer and Parent for their review and approval (which shall not be unreasonably withheld or delayed) and Buyer shall pay the Sales Tax (the "Buyer Sales Tax Liability") at the time such documentation is to be filed with the appropriate Taxing authorities and the Sales Taxes are to be paid. To the extent a Taxing authority provides notice to a party of an audit of any Sales Tax, such party shall immediately notify the other parties, and Buyer shall assume responsibility for such audit and shall have complete authority to control, settle or defend any proposed adjustment to the Sales Tax, and the Company shall fully cooperate with Buyer in such settlement or defense; provided, however, that if such settlement would cause Sellers to incur any material liability, then the consent of Sellers shall be required for any such settlement, not to be unreasonably withheld.

Any failure by Buyer to pay any Sales Tax for which it is responsible hereunder shall cause Buyer to add such amount to the Purchase Price or be paid promptly by Buyer to the Company upon demand.

(d) All state, county and local ad valorem taxes on real or personal property shall be apportioned between Buyer and Sellers as of the Effective Date, computed on the basis of the fiscal year for which the same are levied and all utility charges, gas charges, electric charges, water charges, water rents and sewer rents, if any, shall be apportioned between Buyer and Sellers as of the Effective Date, computed on the basis of the most recent meter charges or, in the case of annual charges, on the basis of the established fiscal year. All prepaid expenses (including any rent) any Sellers paid prior to the Effective Date in respect of the Business shall be apportioned between Buyer and Sellers as of the Effective Date computed on the basis of the benefit received by Sellers prior to the Effective Date and the benefit to be received by Buyer subsequent to the Effective Date with respect to any contract or other matter to which the prepaid expense relates. All prorations shall be made and the Purchase Price shall be adjusted insofar as feasible on the Closing Date, except to the extent such prorations are reflected in the Closing Date Estimate described in Section 5.1. During the Post-Closing Adjustment Period (as defined in Section 4.2), Sellers shall advise Buyer and Buyer shall advise Sellers of any actual changes to such prorations, and the Purchase Price shall be increased or decreased, as applicable, at the end of the Post-Closing Adjustment Period. In the event Buyer or Sellers shall receive bills after the Effective Date for expenses incurred prior to the Effective Date that were not prorated in accordance with this Section 3.4(d) then Buyer or Sellers, as the case may be, shall promptly notify the other party as to the amount of the expense subject to proration and the responsible party shall promptly pay its portion of such expense (or, in the event such expense has been paid on behalf of the responsible party, reimburse the other party for its portion of such expenses).

4. TERMS OF PAYMENT

4.1 Payment Due at Closing. At Closing, Buyer shall pay to the Company the Purchase Price for the Purchased Assets as set forth in Section 3, less the Reserve described in Section 4.2. Such payment shall consist of immediately available funds delivered by wire transfer in accordance with payment instructions provided by Sellers to Buyer at least two days prior to the Closing.

4.2 Reserve. Sellers agree that Buyer shall withhold the Reserve from the Purchase Price for the Purchased Assets for a period of one hundred and twenty (120) days following Closing ("Post Closing Adjustment Period") as a reserve to be applied to the satisfaction of: (i) any Excluded Liabilities that are paid by Buyer or that Buyer determines it wants to pay directly after the Post Closing Adjustment Period, (ii) any post-Closing adjustment pursuant to Section 6, (iii) subject to the limitations in Section 13 (including the application of the Threshold Amount), any losses incurred as a result of any breach of any of the representations and warranties of the Sellers set forth in Section 8; and (iv) payment of any amounts, not in dispute, owing by Sellers to Buyer at the end of the Post Closing Adjustment Period. Interest shall accrue on the Reserve at the prime rate as announced by Wells Fargo Bank and shall be added to the Reserve. Any interest earned on the Reserve account shall be distributed proportionally to the Company and Buyer based upon the proportion of the Reserve paid to them. After deducting all amounts owed to Buyer by the Company from the Reserve, including all allocable interest

accrued thereon, Buyer shall pay to the Company the net amount of the Reserve within ten (10) days of the end of the Post Closing Adjustment Period, or such later time as any disputed matters related thereto shall have been resolved between the parties. If the Company owes Buyer more than the amount of the Reserve, such additional amount shall be paid by Sellers to Buyer in immediately available funds within ten (10) days of the end of the Post Closing Adjustment Period, or such later time as any disputed matters related thereto shall have been resolved between the parties. Buyer's recovery for (i) through (iv) above shall not be limited to the amount of the Reserve.

5. CLOSING DATE NET ASSET ADJUSTMENT

5.1 Estimated Net Asset Adjustment. The Purchase Price will be subject to adjustment on the Closing Date based on a good faith estimate, using the same accounting methods, policies, practices and procedures, with consistent classifications and estimation methodologies (collectively, "Methodologies") as used by the Company in the preparation of the Financial Statements, of the amount by which the Net Assets of the Company (the "Net Assets Estimate") as of the Effective Date is greater than or less than \$2,591,995 (the "June 30 Net Assets Average"), which shall be derived from the Estimated Effective Date Balance Sheet. This difference will be the "Estimated Net Assets Adjustment" to be applied to the Purchase Price. If the Net Assets Estimate is greater than the June 30 Net Assets Average, then the difference shall be added to the Purchase Price; and, if the Net Assets Estimate is less than the June 30 Net Assets Average, then the difference shall be subtracted from the Purchase Price.

5.2 Net Assets Estimate. For purposes of determining the Net Assets Estimate pursuant to Section 5.1 hereof, Trade Accounts Receivable that are booked by the Company as of the Effective Date but that are more than ninety (90) days past due as of the Effective Date shall be treated as though written off prior to the Effective Date.

5.3 Effective Date Estimate. Sellers and Buyer shall cooperate in good faith to discuss and determine the Estimated Effective Date Balance Sheet and the Net Assets Estimate derived therefrom no later than two days prior to the Closing Date. Sellers shall provide to Buyer any documentation reasonably requested by Buyer that may assist in making or confirming such estimate.

6. POST CLOSING ADJUSTMENT; CONTINGENT CONSIDERATION

6.1 Post Closing Adjustment. Prior to the termination of the Post Closing Adjustment Period, Buyer shall prepare a balance sheet of the Company as of the Effective Date for the purpose of determining the actual Net Assets of the Company as of the Effective Date (the "Actual Effective Date Net Assets"). The Actual Effective Date Net Assets (i) shall be prepared using the same Methodologies as were used in the preparation of the Financial Statements and the Estimated Effective Date Balance Sheet, (ii) will use the same methods to include Transaction Expenses, and (iii) will not include any changes in assets or liabilities as a result of purchase accounting adjustments arising from the transactions contemplated by or resulting from this Agreement or subsequent changes in accounting policy or procedure. Within one hundred five (105) days after the Effective Date, Buyer shall submit to Sellers a statement of the Actual Effective Date Net Assets and all requested adjustments to be made to the Purchase Price. Sellers

shall have thirty (30) days after receipt of such list of requested adjustments to object in writing to any of the adjustments to Buyer. Any requested adjustments that are not objected to during such thirty (30) day period shall be deemed to be agreed to by Sellers. Buyer and Sellers agree to negotiate and attempt to resolve in good faith any requested adjustments to which objections have been raised during the period of thirty (30) days following receipt of objections. Each party shall provide the other party and its representatives with reasonable access (without material disruption to the Company) to books and records and relevant personnel during the preparation of the Actual Effective Date Net Assets balance sheet and the resolution of any disputes that may arise under this Section 6.1. Any requested adjustments to the Purchase Price that the Sellers have objected to and not resolved during the thirty (30) day period following the objection shall be settled in accordance with the CPA Procedure (as defined below in Section 6.4). If the amount of (a) the Actual Effective Date Net Assets as finally determined is greater than (b) the Net Assets Estimate, then the difference shall be deemed added to the Purchase Price and shall be paid within ten (10) Business Days by Buyer to the Company. If the amount of (y) the Actual Effective Date Net Assets as finally determined is less than (z) the Net Assets Estimate, then the difference shall be deemed subtracted from the Purchase Price and shall be subtracted from the Reserve and retained by Buyer, or if the Reserve should be insufficient then the amount by which such difference exceeds the Reserve shall be paid within ten (10) Business Days by Sellers to Buyer or, at Buyer's discretion, subtracted from the Reserve. Any payments shall be made by wire transfer of immediately available funds in accordance with the payment instructions provided by the applicable party. Any uncontested amounts shall be paid promptly.

6.2 Accounts Receivable. For purposes of the calculation of Actual Effective Date Net Assets, all Trade Accounts Receivable that are booked by the Company as of the Effective Date but that are more than ninety (90) days past due as of the ninetieth (90th) day following the Effective Date shall be treated as though written off prior to the Effective Date and shall be irrevocably assigned to the Company as provided in Section 15.1. For all calculations under this Agreement, accounts payable and accrued expenses shall be reviewed and valued in a manner consistent with the preparation of the Financial Statements. Buyer shall provide Sellers with reasonable access (without material disruption to Buyer) to Buyer's books and records for review of such calculations. For purposes of making the calculations contemplated in Section 6.1, no portion of the reserve for doubtful accounts will be deducted from the value of the Trade Accounts Receivable that are booked by the Company as of the Effective Date and that are not more than ninety (90) days past due on the ninetieth (90th) day following the Effective Date.

6.3 Reporting of Post-Closing Adjustments. Buyer and Sellers agree to treat any adjustments pursuant to this Section 6 as adjustments to the Purchase Price for federal and state income tax purposes.

6.4 CPA Procedure. In the event Buyer and Sellers' Representative cannot agree on the adjustments, they shall refer the matter to their respective outside certified public accountants to resolve (each individually a "Party Accountant" and, collectively, the "Party Accountants"). The Party Accountants will only consider those items and amounts set forth on the Actual Effective Date Net Assets balance sheet as to which the parties have disagreed within the time periods and on the terms specified above and must resolve the matter in accordance with the terms and provisions of this Agreement. If the Party Accountants cannot agree on the disputed requested adjustments within thirty (30) Business Days of the submission to them of the disputed

items, the Party Accountant designated by Buyer and the Party Accountant designated by Sellers' Representative shall mutually appoint a third certified public accountant, who shall be employed by an independent (not having provided tax or audit services to any of Sellers, Company, Sellers' Representative, Buyer, Parent or any Buyer Related Party for the twenty four (24) month period prior to the date hereof) accounting firm of national reputation ("CPA") who shall be instructed based solely on the evidence presented by the accountants to determine the appropriate adjustment. The CPA shall within thirty (30) days after such appointment, determine and report to the parties the CPA's determination as to each requested adjustment disputed by Sellers' Representative, and such determination and report shall be final, binding and conclusive on the parties hereto. The CPA's fees and expenses shall be paid as follows: (i) Company shall pay a fractional proportionate share of the fees and expenses of the CPA, the numerator of which shall be the difference between Company's requested adjustment and the CPA's determination of the adjustment, and the denominator of which shall be the difference between Buyer's requested adjustment and Company's requested adjustment, and (ii) Buyer shall pay the remainder of CPA's fees and expenses. Each party hereto shall bear the costs of its respective Party Accountant used in any CPA Procedure initiated under this Agreement. In the event the Party Accountants are unable to mutually agree upon a CPA, the resolution of the disputed requested adjustments shall be resolved as set forth in Section 22.9. The foregoing dispute resolution procedure is referred to as the "CPA Procedure." The CPA Procedure shall not permit the introduction of different Methodologies for purposes of determining the asset and liability balances from those used in the preparation of the Financial Statements. The CPA shall only select as a resolution the position of either Buyer or Sellers' Representative for each item of disagreement or a position between the two, and shall not impose any other resolution.

6.5 Contingent Consideration.

(a) Buyer shall make payments of additional consideration (the "Contingent Consideration") to the Company (or any successor entity consistent with the provisions of Section 6.5(c) below), if the Business achieves the Contingent Consideration Milestones, as set forth and further described on *Exhibit 14* attached hereto, and subject to the conditions set forth on such Exhibit.

(b) The parties acknowledge and agree that the Business' achievement of certain earnings targets are material factors in determining the valuation of the Business by Buyer. The Contingent Consideration payable pursuant to this Section 6.5 does not constitute payment for services, but rather constitutes part of the Purchase Price payable by Buyer in connection with the transactions contemplated by this Agreement and shall be treated as such for all purposes, including Tax purposes.

(c) Sellers may not sell, exchange, transfer or otherwise dispose of their right to receive any portion of the Contingent Consideration, other than by laws of descent and distribution or succession.

(d) Buyer shall deliver a notice to Sellers (a "Contingent Consideration Notice") within 30 days of each anniversary of the Effective Date during the Contingent Consideration Period (as defined in *Exhibit 14*) specifying (i) the gross amount of Contingent Consideration due and payable at such time (including supporting detail) and (ii) if applicable,

any Offset thereto. After the expiration of all periods for objection and dispute resolution set forth in subsection (e) below, Buyer shall pay and distribute to the Company the Contingent Consideration due. Notwithstanding any other provision of this Section 6.5, Buyer shall be entitled to set off and not pay to the Company amounts otherwise payable to the Company pursuant to this Section 6.5, against Liabilities and Expenses for which Buyer is entitled to indemnification under Section 13 (an "Offset").

(e) Sellers shall have twenty (20) Business Days after receipt of a Contingent Consideration Notice to object in writing to Buyer's calculation of the gross amount of Contingent Consideration due and payable (disputes with respect to Offsets shall be settled in accordance with the procedures set forth in Section 13.3). All items and amounts related to any Contingent Consideration that is not specifically objected to during such twenty (20) Business Day period shall be deemed to be agreed to by Sellers. Buyer and Sellers agree to negotiate and attempt to resolve in good faith any dispute with respect to the Contingent Consideration to which objections have been raised during the period of twenty (20) Business Days following receipt of objections. Each party shall provide the other party and its representatives with reasonable access (without material disruption to the Buyer) to books and records and relevant personnel during the preparation of the Contingent Consideration Notice and the underlying financial statements of the Business and the resolution of any disputes that may arise under this Section 6.5. Any adjustments to the gross Contingent Consideration that Sellers have objected to and not resolved during the twenty (20) Business Day period following the objection shall be referred to the Party Accountants of the Company on the one hand and of the Company on the other hand to resolve; provided that such Party Accountants shall only be empowered to resolve amounts in dispute with respect to the calculation of the gross Contingent Consideration payable to the Company, and any dispute with respect to an Offset shall be settled in accordance with the procedures set forth in Section 13.3. If the Party Accountants cannot agree on the calculation of the gross Contingent Consideration within thirty (30) Business Days of the submission to them of the disputed items, then the Party Accountants shall employ the CPA Procedure set forth in Section 6.4 to determine the appropriate calculation of the gross Contingent Consideration. The CPA shall only select as a resolution the position of either Buyer or Sellers for each item of disagreement or a position between the two, and shall not impose any other resolution.

7. CONTRACTS AND LEASES

7.1 Contracts. The Company shall deliver to Buyer, as *Exhibit 1*, a schedule setting forth all Material Contracts.

7.2 Real Property Leases and Personal Property Leases. Buyer shall assume and perform all Real Property Leases and Personal Property Leases as of the Effective Date, to the extent that such Leases can be assigned to Buyer. The Company agrees to make lease payments through the Effective Date. Buyer and Sellers agree to cooperate in obtaining consent to the assignment of the Leases to Buyer. To the extent that any of the Leases cannot be assigned, Buyer agrees to sublease from the Company the real property, equipment or other property covered by such Leases for an amount equal to the Company's total remaining cost under such Leases to the extent permissible.

7.3 Existing Seller Leases. All Existing Seller Leases shall be assumed by Buyer as of the Effective Date. At the Closing and effective on the Effective Date, Buyer and the Company shall execute and deliver the amendments and assignments to the Existing Seller Leases, as required by Buyer, and the relevant Shareholder, or its Related Party (as the case may be), shall consent to such execution and delivery.

8. REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers hereby jointly and severally represent to Buyer and Parent, except as specifically disclosed in the disclosure schedules delivered to Buyer herewith (the "Disclosure Schedule"), as follows, and the representations contained in this Section or elsewhere in this Agreement shall be deemed to be made on the date hereof and as of the Effective Date, and shall survive the Closing for the applicable periods set forth in Section 13:

8.1 Good Standing; Authorization. The Company is duly organized, validly existing and in good standing under the laws of the state of its incorporation, with full corporate power to carry on its business as it is now and has since its organization been conducted and to own, lease or operate the Purchased Assets owned, leased or operated by it, and is qualified to do business in the State of California and in every other jurisdiction in which the conduct of the Business requires it to qualify. Each of the Sellers have all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Sellers, and, assuming the due authorization and execution of this Agreement by Buyer, is the valid, binding obligation of each of the Sellers enforceable against them in accordance with its terms, except that (i) such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights, and (ii) the remedies of specific performance and injunctive and other equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceedings may be brought. This Agreement and the transactions contemplated hereby have been approved by the Shareholders, in their capacity as shareholders of the Company and the Shareholders own, in the aggregate, one hundred percent (100%) of the capital stock of the Company outstanding on the record date for shareholder approval of this Agreement and the transactions contemplated hereby. There is no outstanding subscription, option, warrant, call, right or other agreement or commitment, orally or in writing, obligating the Company to issue, sell, deliver, transfer, redeem, repurchase or otherwise acquire any security or other evidence of any ownership interest in the Company. There are no agreements or understandings in effect with respect to voting of any of the capital stock of the Company.

8.2 Ownership of Purchased Assets. The Company is the lawful owner of each of the Purchased Assets, and the Purchased Assets are free and clear of any liens, mortgages, pledges, security interests, restrictions, prior assignments, encumbrances, options or claims of any kind or nature whatsoever except for Permitted Encumbrances, which Permitted Encumbrances that are within the Knowledge of Sellers are set forth on the Disclosure Schedule (collectively, "Liens"). At the Closing, the Company will transfer to Buyer all of its right, title and interest in the Purchased Assets, free and clear of all Liens. The Purchased Assets include all assets, rights and interests used in the Business as currently conducted other than the Excluded Assets. The Business is an operating business and the transfer of the Purchased Assets to Buyer pursuant to this Agreement will enable Buyer to continue to operate the Business in the manner currently

conducted immediately after the Closing, subject to Buyer's engaging the necessary personnel and continuing the Business in accordance with the Company's historical practices.

8.3 Tax Matters. The Company has timely filed all Tax returns heretofore required to be filed with respect to Taxes imposed on the Business, all such returns were true, complete and correct in all material respects and the Company has paid or will have paid all Taxes shown to be due on such returns. There are no liens for Taxes upon the Purchased Assets, except liens for current Taxes not yet due or delinquent. The Company has made provision, consistent with its past accounting practices, in its Interim Financial Statements for payment of all Taxes, including without limitation, all federal, state and local Taxes, that have been incurred but are not currently due as of the date of the Interim Financial Statements. No extension of a statute of limitations relating to Taxes with respect to the Company is in effect. The Company has not received notice that it is or may be subject to Tax in a jurisdiction in which it has not filed, or does not currently file, Tax returns. The Company has withheld for its employees or the employees of the Business any and all applicable Taxes for all pertinent periods in compliance with the Tax withholding provisions of all applicable Laws. The Company has delivered to Buyer true copies of every Tax return of the Company for the years ended December 31 of 2002, 2003 and 2004.

8.4 Compliance with Laws, Licenses and Permits. The Company and Shareholders are not in violation of (i) any applicable order, judgment, injunction, award or decree, or (ii) to the Knowledge of Sellers, any Law, statute, ordinance, regulation or other requirement of any Governmental Authority, relating to the Business. The Company has received and maintains, as current, all material Permits and licenses required to conduct the Business, and all such Permits are set forth on *Exhibit 9* attached hereto. Each Permit is valid and in full force and effect. None of Sellers have received any notice of any asserted present or past failure by the Company to comply with any such Laws.

8.5 Financial Statements. The Company has delivered to Buyer the Company Financial Statements. The Financial Statements: (i) have been prepared in accordance with the books and records of the Company, (ii) have been prepared in accordance with the Company's normal practices for the Business (which practices are in accordance with GAAP) consistently applied, and (iii) present fairly, in all material respects, the financial position and the results of operations of the Company, at and for the fiscal periods then indicated. The Interim Financial Statements: (i) have been prepared in accordance with the books and records of the Company, (ii) have been prepared in accordance with the Company's normal practices for the financial statements for periods other than at year-end (which practices are in accordance with GAAP, except for the absence of footnotes and statement of cash flows, as required by GAAP) consistently applied, and (iii) present fairly, in all material respects, the financial position and the results of operations of the Company, at and for the fiscal periods indicated therein, subject to normal year-end adjustments. The Estimated Effective Date Balance Sheet, when delivered by the Company to Buyer will (i) have been prepared in accordance with the books and records of the Company, (ii) have been prepared in accordance with the Company's normal practices for the Business (which practices are in accordance with GAAP) consistently applied, and (iii) present fairly, in all material respects, a reasonable estimation of the financial position of the Company as of the Effective Date.

8.6 Absence of Certain Changes. Since the date of the Interim Financial Statements, the Company has conducted the Business in the ordinary course consistent with past practice, and there has not been:

(a) any event, occurrence, state of circumstances or facts or change in respect of the Company or the Business that has had or that may be reasonably expected to have, either alone or together, a Material Adverse Effect on the Company or the Business;

(b) any change in any liabilities of the Company that has had, or that may be reasonably expected to have, a Material Adverse Effect on the Business or the Purchased Assets;

(c) any (i) payments by the Company in satisfaction of any liabilities, other than in the ordinary course of business consistent with past practice or (ii) creation, assumption or sufferance of (whether by action or omission) the existence of any lien on any of the Purchased Assets;

(d) any waiver, amendment, termination or cancellation of any Contract or any relinquishment of any material rights thereunder by the Company, other than, in each such case, actions taken in the ordinary course of business consistent with past practice that are not material with respect to any such Contract;

(e) any change by the Company in its historical accounting policies, except any such change required by a change in GAAP; or

(f) any (i) capital expenditure commitment by the Company individually in excess of \$100,000 or in excess of \$250,000 in the aggregate for additions to property, plant, equipment or intangible capital assets comprising Purchased Assets likely to occur, in whole or in part, after the Effective Date or (ii) sale, assignment, transfer, lease or other disposition of or agreement to sell, assign, transfer, lease or otherwise dispose of any Purchased Asset except in the ordinary course of Business.

8.7 Legal Proceedings. There are no lawsuits, assertion of claims, charges, hearings, or arbitrations pending or, to the Knowledge of Sellers, threatened against or involving the Company, Shareholders or any of their respective Related Parties (as it relates to their role in the Business), or involving the Business or the Purchased Assets, or that seek to prevent or enjoin, alter or delay the transactions contemplated by this Agreement.

8.8 Contracts and Assumed Leases. The Contracts listed at *Exhibit 1* represent each Material Contract to which the Company is a party or by which the Purchased Assets are bound. The Existing Seller Leases, Personal Property Leases and Real Property Leases listed at *Exhibits 4, 10 and 12*, respectively (the "Assumed Leases") represent each Existing Seller Lease, Personal Property Lease and Real Property Lease to which the Company is a party. Each such Material Contract and Assumed Lease is a legal, valid and binding obligation of the Company and, to the Knowledge of Sellers, each other person who is a party thereto, and is in full force and effect. The Company has provided Buyer complete and accurate copies of each of the Material Contracts and Assumed Leases. There are no Material Contracts except as reflected on *Exhibit 1*. To the extent there are any Contracts not listed on *Exhibit 1*, such Contracts do not require the Company to make commitments, expenditures or payments in excess of \$100,000 in

the aggregate. The Assumed Leases are current and no past due amounts are owing. There has not occurred any material default under any Material Contract or Assumed Lease on the part of the Company or, to the Knowledge of Sellers, on the part of the other parties thereto, and no event has occurred which, with the giving of notice or the lapse of time, or both, would constitute any default under any Material Contract or Assumed Lease.

8.9 Agreement Not In Breach of Other Instruments. The execution, delivery and performance of this Agreement by the Sellers and the consummation of the transactions contemplated hereby will not result in a breach of (i) any of the terms and provisions of, or constitute a default under, or conflict with, or give rise to any right of consent, termination, cancellation, modification or acceleration of, or a loss of any benefit under any Contract, Assumed Lease or any other material agreement, indenture or other instrument to which any of the Sellers is a party or by which the Company, the Shareholders, or the Purchased Assets are bound, (ii) the articles of incorporation or bylaws of the Company, or (iii) any judgment, decree, order or award of any Governmental Authority. The execution and delivery by each of the Sellers of this Agreement and each agreement contemplated by this Agreement, and the performance by each of the Sellers of its or his respective obligations hereunder or thereunder, do not and will not require a registration, filing, application, notice, consent, approval, order, qualification or waiver with, to or from any Government Authority.

8.10 Accounts Receivable. All Trade Accounts Receivable shown on the Company Financial Statements and estimated by the Company as of the Effective Date represent bona fide transactions made in the ordinary course of the Business.

8.11 Equipment. A complete and accurate list of the Equipment utilized in the operation of the Business is attached as *Exhibit 2*. The Company has free and clear title to the Equipment. To the Knowledge of Sellers, the Equipment is in good operating condition and repair and is adequate for the uses to which it is put, and none of such Equipment is in need of replacement, maintenance or repair except for routine replacement, maintenance or repair.

8.12 Trade Accounts Payable. All Trade Accounts Payable incurred by the Company prior to the date hereof and prior to the Effective Date were incurred in the ordinary course of business. The amount of the Trade Accounts Payable reflected in the Interim Financial Statements is true and correct as of the date thereof. The amount of the Trade Accounts Payable estimated by the Company as of the Effective Date as part of the Net Assets Estimate represents the Company's best efforts good faith estimate of such figure.

8.13 Labor Matters. There are no material disputes, employee grievances or other disciplinary actions pending or, to the Knowledge of Sellers, threatened involving any of the present or former employees of the Business. There is no labor strike, dispute, slowdown or stoppage pending or, to the Knowledge of Sellers, threatened against or affecting the Business, and the Business has not experienced any work stoppage or labor difficulty within the past twelve (12) months. The Company has no agreement, arrangement or commitment to create any additional plan or arrangement or to modify or amend any existing employee benefit plan of the Business. The Company is not a party to any organized labor contracts nor does the Company have any liability to any organized labor pension plan.

The Company has made available to Buyer true, correct and complete copies of all written employee benefit plans, all contracts related thereto, and the most recently available annual report, summary plan descriptions, IRS Form 5500s (or 5500 Cs or 5500 Rs) and favorable determination letters for such employee benefit plans of the Business. To the Knowledge of Sellers, all employees of the Business are either (i) United States citizens, or (ii) non-United States citizens with valid permanent residency status or a valid right to work in the United States.

8.14 Brokers and Finders. Except for payments to The JIAN Group, for which Sellers or their Related Parties shall be solely responsible, none of the Sellers have agreed to pay, or have taken any action that will result in any third party becoming obligated to pay or be entitled to receive, any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

8.15 Environmental Laws. To the Knowledge of Sellers, the Company has at all times been operated and is in compliance with all Environmental Laws. To the Knowledge of Sellers, the Company is in compliance with all permits required by all Environmental Laws ("Environmental Permits"), and the Business has made all required filings for issuance or renewal of such Environmental Permits. There are no claims, notices, civil, criminal or administrative actions, suits, hearings, proceedings or to the Knowledge of Sellers, investigations or inquiries pending against the Company or, to the Knowledge of Sellers, threatened that are based on or related to any Environmental Matters or the failure of the Company to have any required Environmental Permits. There are no past or present conditions, events, circumstances, facts, activities, practices, incidents, actions, omissions or plans that would: (a) interfere with or prevent continued compliance by the Company with Environmental Laws and the requirements of Environmental Permits or (b) result in a judgment against the Company for the violation of any Environmental Law. The Company has not received (x) any notice or other communication that the Company is or may be a potentially responsible person or otherwise liable in connection with any waste disposal site used by the Business for the disposal of any Hazardous Substances, or (y) notice of any failure of the Business to comply with any Environmental Law or the requirements of any Environmental Permit. The Company has not been at any time requested or required by any Governmental Authority having jurisdiction under any Environmental Laws to perform any investigative or remedial activity or other action in connection with any Environmental Matter in respect of the Business. The Business has not used any waste disposal site, or otherwise disposed of or transported any Hazardous Substances in violation of Environmental Laws. The Company has not arranged for the transportation of any Hazardous Substances to any place or location, in violation of any Environmental Laws. To the Knowledge of Sellers, during the period of ownership, lease or control by the Company, there has been no release of any Hazardous Substances in violation of Environmental Laws at, on, about, under, or within any assets or properties currently or formerly owned, leased, or controlled by the Company (other than pursuant to and in accordance with Environmental Permits held by the Company). The Company has made available to Buyer any and all third party environmental reports that are in the possession of or reasonably available to Sellers regarding Environmental Matters pertaining to the Business.

8.16 No Undisclosed Liabilities. The Business does not have any Liabilities or obligations of a nature required by GAAP to be reflected on or disclosed in the footnotes to a

balance sheet of the Business except for (i) Liabilities disclosed, reflected or reserved against in the Interim Financial Statements, (ii) Liabilities incurred after the date of this Agreement in the ordinary course of business, (iii) Liabilities disclosed in or arising out of matters set forth on the Disclosure Schedule, (iv) Liabilities which are the subject of other representations and warranties set forth herein and (v) Liabilities and obligations incurred in connection with this Agreement and the transactions contemplated hereby.

8.17 Competitive Restrictions. Neither the Company nor the Business is subject to any Contract or is bound in any other way that restricts its ability to conduct its operations in any material respect or engage in any kind of business or sell any kind of product in any market.

8.18 Intangible Personal Property. Each item of Intangible Personal Property is set forth on *Exhibit 6*. The Company owns all Intangible Personal Property free and clear of all encumbrances and has taken commercially reasonable steps to protect its rights therein. The Company has not (i) received written notice of any infringement by it of the rights of any person with respect to such Person's intellectual property, or (ii) infringed, misappropriated or otherwise violated (and the operation of the Business as currently conducted does not infringe, misappropriate or otherwise violate) any intellectual property rights of any person. To the Knowledge of Sellers, no Person has infringed, misappropriated or otherwise violated any of the Company's Intangible Personal Property.

8.19 Insurance. The Company maintains insurance with reputable insurers for its business against all risks normally insured against, and in amounts normally carried by business organizations of similar size engaged in similar lines of business. All such insurance policies are in full force and effect and are valid, outstanding and enforceable, and all premiums due thereon have been paid in full. All insurance policies of the Company which are in force are listed on Schedule 8.19 of the Disclosure Schedule, and copies of all such policies have been delivered to Buyer. The Company has complied in all material respects with the provisions of all such insurance policies covering the Company or any of the Company's assets and properties. No insurer under any insurance policy has canceled or generally disclaimed liability under any such policy or, to the Knowledge of the Company or Sellers, indicated any intent to do so or not to renew any such policy.

8.20. Disclosure. To the Knowledge of Sellers, there is no event or circumstance (excluding the condition of the U.S. and global economy and current or pending U.S., state or local legislation) that Sellers or their Related Parties have failed to disclose to Buyer or Parent that would have a Material Adverse Effect on the value of the Purchased Assets or the Business. To the Knowledge of Sellers, no representation of or warranty by Sellers, or either of them, in this Agreement or any document, Schedule or Exhibit attached hereto or delivered prior to or at the Closing pursuant hereto contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements of facts contained therein not misleading.

9. REPRESENTATIONS AND WARRANTIES OF BUYER AND PARENT

Buyer and Parent hereby jointly and severally represent and warrant to the Company as follows, and the warranties and representations contained in this Section or elsewhere in this

Agreement shall be deemed to be made on the Effective Date and as of the date hereof, and shall survive the Closing for the applicable periods set forth in Section 13:

9.1 Financial Ability. Buyer has, and will have at the Closing, the financial ability to consummate the transactions contemplated by this Agreement.

9.2 Corporate Status. Parent is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and is qualified or licensed to do business in the State of California. Buyer is a general partnership duly organized, validly existing and in good standing under the laws of the state of Delaware and is qualified or licensed to do business in the State of California.

9.3 Authority. Each of Buyer and Parent has full power and authority to execute and perform this Agreement and each other agreement contemplated hereby. Upon execution hereof, this Agreement shall be a valid and legally binding obligation of Buyer and Parent, enforceable against Buyer and Parent in accordance with its terms, except that (i) such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights, and (ii) the remedies of specific performance and injunctive and other equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceedings may be brought. Neither the execution nor the performance of this Agreement or each agreement contemplated hereby will violate the terms or any provision of Buyer's or Parent's Certificate of Incorporation or Bylaws (or equivalent partnership agreement document(s)) or any material note, loan agreement, lease or other material contract or agreement to which Buyer or Parent is a party except that the consent of certain lenders of Buyer, Parent and their affiliates shall be required to consummate the transactions contemplated hereby.

9.4 Brokers and Finders. Neither Buyer nor Parent has agreed to pay, nor has either taken any action that will result in any third party becoming obligated to pay or be entitled to receive, any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

9.5 No Violation of Law. The execution and delivery by Buyer and Parent of this Agreement and each agreement contemplated by this Agreement, and the performance by Buyer and Parent of their obligations hereunder or thereunder, do not and will not (i) violate any provision of applicable Law relating to Buyer or Parent; (ii) violate any provision of any order, arbitration award, judgment or decree to which Buyer or Parent is subject; or (iii) require a registration, filing, application, notice, consent, approval, order, qualification or waiver with, to or from any Government Authority.

9.6 No Litigation or Regulatory Action.

(a) There are no lawsuits, assertion of claims, charges, hearings, arbitrations or proceedings pending or, to the knowledge of Buyer, threatened against Buyer or its affiliates which would reasonably be expected to prevent, hinder or delay the consummation of any of the transactions contemplated by this Agreement or any agreement contemplated by this Agreement; and

(b) There are no lawsuits, assertion of claims, charges, hearings, arbitrations pending or, to the knowledge of Buyer, threatened, that question the legality or propriety of the transactions contemplated by this Agreement or any agreement contemplated by this Agreement.

9.7 Agreement Not In Breach of Other Instruments. The execution and delivery by Buyer and Parent of this Agreement and each agreement contemplated by this Agreement, and the performance by Buyer and Parent of their respective obligations hereunder or thereunder, do not and will not require a registration, filing, application, notice, consent, approval, order, qualification or waiver with, to or from any Government Authority, other than such filings as Parent or its Related Parties shall make with the Securities and Exchange Commission.

9.8 Disclosure. To the best of Buyer's and Parent's knowledge, no representation of or warranty by Buyer or Parent in this Agreement or any document, Schedule or Exhibit attached hereto or delivered prior to or at the Closing pursuant hereto contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements of facts contained therein not misleading.

10. NONCOMPETITION AGREEMENTS

10.1 Company Noncompete. The Company agrees that for a period of five (5) years following the Effective Date, it shall not:

(a) directly or indirectly, as owner, employer, creditor or otherwise, engage in any aspect of the Business in the States of California and Nevada (the "Territory");

(b) directly or indirectly, solicit, divert, take away, or attempt to solicit, divert or take away, any of the customers of Buyer or any Buyer Related Party or the business or patronage of any such customers, either for itself or himself or on behalf of any other person, firm, partnership, limited liability company or corporation within Buyer's market or any Buyer Related Party's market; provided, however, that this Section 10.1(b) shall not prohibit such entity from soliciting such customers with respect to business that is non-competitive with Buyer's or any Buyer Related Party's business; or

(c) directly or indirectly facilitate, encourage, or participate in any way in the solicitation, recruitment or hiring of any employee of Buyer or any Buyer Related Party either for itself or on behalf of any other person, firm, partnership, limited liability company or corporation.

As used in this Section 10, the term "directly or indirectly" includes an investment in any partnership, corporation or other business entity and includes the solicitation of any employee of Buyer on behalf of itself or any other person for employment in a business that is competitive with the Business.

10.2 Reasonableness of Restrictions. Sellers acknowledge that compliance with the provisions of Section 10 is reasonable and necessary to protect the value of the Purchased Assets and Buyer's and its affiliates' legitimate business interests.

10.3 Irreparable Harm and Injunctive Relief. Sellers acknowledge that a breach of the Company's obligations under Section 10 will result in great, irreparable and continuing harm and damage to Buyer and Parent for which there is no adequate remedy at law. Sellers agree that in the event the Company breaches this Agreement, Buyer and Parent shall be entitled to seek, from any court of competent jurisdiction, preliminary and permanent injunctive relief to enforce the terms of this Agreement, in addition to any and all monetary damages allowed by law against the Company.

10.4 Extension of Covenants. In the event the Company violates any one or more of the covenants contained in Section 10, the term of each such covenant so violated shall be automatically extended for a period equal to the period during which the Company is in violation of such covenants.

10.5 Judicial Modification. The non-competition provisions of this Agreement shall be deemed to consist of a series of separate covenants, one for each line of business carried on by Buyer (and the Buyer Related Parties, as applicable) and each county included within the Territory. The parties expressly agree that the character, duration and geographical scope of such provisions are reasonable in light of the circumstances as they exist on the date upon which this Agreement has been executed. The parties have attempted to limit the Company's right to compete only to the extent necessary to protect the value of the Purchased Assets and Buyer's and the Buyer Related Parties' goodwill and business interests related thereto. The parties recognize, however, that reasonable people may differ in making such a determination. Consequently, the parties hereby agree that a court having jurisdiction over the enforcement of this Agreement shall exercise its power and authority to reform the covenants under Section 10 to the extent necessary to cause the limitations contained therein as to time, geographic area and scope of activity to be restrained to be reasonable and to impose a restraint that is not greater than necessary to protect the value of the Purchased Assets and Buyer's and Buyer Related Parties' affiliates goodwill and business interests related thereto.

11. EMPLOYEES

11.1 Definition. The Company has furnished to Buyer a list as of the date hereof of all persons regularly employed on either a part-time or full-time basis by the Company in connection with the Business, including their current wages and salary rates. The term "Employees" shall mean all persons included on such list, including employees on leave of absence, as well as those persons who become regularly employed by the Company between the Effective Date and the Closing Date, other than the Key Employees.

11.2 Termination. On the Closing Date, the Company shall terminate all Employees then employed by the Business. With respect to terminated Employees and any persons who terminated employment, including by notice of termination prior to Closing, the Company shall be solely responsible for payment, when and if due, of all salaries, wages, bonuses, vacation (subject to Section 11.5), COBRA liabilities and other obligations, if any, owed to Employees or past employees of the Business as of the Closing Date.

11.3 Key Employees. Buyer shall offer employment to the Key Employees under the Key Employee Employment, Confidentiality, Noncompetition, and Nonsolicitation Agreements.

11.4 Buyer's Offer of Employment. Buyer shall offer employment to all terminated Employees, excluding Key Employees, effective immediately following the Closing at wages and salary rates of compensation substantially comparable to those presently offered by the Company. All offers of employment shall be "at will." Buyer shall include the Employees who accept offers of employment from Buyer in Buyer's employment benefit plans; including group health plan, in accordance with the terms of such plans following the Closing Date, giving each Employee credit for his/her time of employment with the Company.

11.5 Nonassumption of Certain Obligations Owed Employees. Buyer assumes no responsibility whatsoever for obligations and/or benefits owed before, or with respect to the period before, the Effective Date, by Shareholders, the Company or the Business to its employees pursuant to Section 3.3(c)(vii), Section 11.2 or otherwise. Notwithstanding the foregoing, Buyer agrees, subject to applicable Law and Buyer's receipt of any required consent of employees (such employee consent shall be solicited by Buyer), to assume accrued vacation payable by the Company to its employees through the Effective Date, and the amount of any such accrued vacation payable assumed by Buyer shall be deducted from the Purchase Price.

11.6 Workers' Compensation. The Company assumes all responsibility for liability arising from workers' compensation claims by Employees, both medical and disability, which have been filed on or prior to the Closing Date or which arose out of incidents that occurred on or prior to the Closing Date. Buyer shall be responsible for all claims for Employees which arise out of, or are based upon, incidents which occur subsequent to the Closing Date.

12. FURTHER ASSURANCES

12.1 Further Assurances of Sellers. From time to time after the Closing (as hereinafter defined), each Seller and its Related Parties will execute and deliver to Buyer or any Buyer Related Party such instruments of sale, transfer, conveyance, assignment and delivery, consents, assurances, powers of attorney and other instruments as may be reasonably requested by Buyer or any Buyer Related Party in order to vest in Buyer all right, title and interest of the Company in and to the Purchased Assets and otherwise in order to carry out the purpose and intent of this Agreement.

12.2 Further Assurances of Buyer. From time to time after the Closing (as hereinafter defined), Buyer will execute and deliver to the Company such instruments of sale, transfer, conveyance, assignment and assumption, consents, assurances, novation, releases, powers of attorney and other instruments as may be reasonably requested by the Company in order to vest in Buyer all right, title and interest of Buyer, in and to the Assumed Liabilities and release the Company therefrom, and otherwise in order to carry out the purpose and intent of this Agreement.

13. INDEMNIFICATION

13.1 Indemnification by Sellers.

(a) Subject to the limitations set forth herein, Sellers agree, jointly and severally, to indemnify, defend and hold harmless Buyer, Parent and the Buyer Related Parties (by counsel reasonably satisfactory to Buyer) from and against any and all Liabilities and

Expenses incurred by Buyer, Parent and the Buyer Related Parties in connection with or arising from: (i) any breach of any warranty or the inaccuracy of any representation of Sellers contained in this Agreement or any certificate or other document delivered by or on behalf of Sellers pursuant hereto, (ii) any breach by Sellers of, or failure by Sellers to perform, any of their covenants or obligations contained in this Agreement or any certificate or other document delivered by or on behalf of Sellers pursuant hereto, and (iii) any failure to pay any Excluded Liability; provided, however, that Sellers, except as described in Section 13.1(c), shall be required to indemnify and hold harmless under clause (i) of this Section 13.1(a) with respect to Liabilities and Expenses incurred by Buyer, Parent and the Buyer Related Parties only to the extent that the aggregate amount of such Liabilities and Expenses exceeds \$225,000) (the "Threshold Amount"), provided, that the aggregate amount required to be paid by the Company pursuant to Section 13.1(a) shall not exceed the aggregate After-Tax Amount of the Shareholders and provided that the aggregate amount required to be paid by a Shareholder pursuant to Section 13.1(a) shall not exceed the After-Tax Amount of such Shareholder.

(b) The indemnification provided for in Section 13.1(a)(i) shall terminate thirty six (36) months after the Closing Date (and no claims shall be made by Buyer under Section 13.1(a)(i) thereafter), except that the indemnification by Sellers shall continue as to the representations and warranties of Sellers (i) set forth in Sections 8.3 (Tax Matters), 8.14 (Labor Matters) and 8.16 (Environmental Laws), which shall survive until the expiration of the relevant statutory period of limitations applicable to the underlying claim, giving effect to any waiver, mitigation or extension thereof; (ii) set forth in Section 8.2 (Ownership of Purchased Assets) which shall terminate seven (7) years after the Closing Date; and (iii) set forth in Sections 8.1 (Good Standing; Authorization) and 8.15 (Brokers and Finders) which shall have no termination date. The indemnification provided for in Sections 13.1(a)(ii) and (iii) shall survive indefinitely.

(c) The foregoing notwithstanding, the Threshold Amount and limitation on liability set forth in Section 13.1(a) shall not apply to (i) any breach of the representations and warranties made by Sellers in Section 8.1 (Good Standing; Authorization), Section 8.2 (Ownership of Purchased Assets) and Section 8.14 (Brokers and Finders), or (ii) any fraud or intentional misrepresentation by any of Sellers or any of their respective Related Parties.

13.2 Indemnification by Buyer and Parent.

(a) Subject to the limitations set forth herein, Buyer and Parent agree, jointly and severally, to indemnify, defend and hold harmless the Company and the Shareholders (by counsel reasonably satisfactory to the Company and the Shareholders) from and against any and all Liabilities and Expenses incurred by the Company in connection with or arising from: (i) any breach of any warranty or the inaccuracy of any representation of Buyer or Parent contained in this Agreement or in any certificate delivered by or on behalf of Buyer or Parent pursuant hereto, (ii) any breach by Buyer or Parent of, or failure by Buyer or Parent to perform, any of their covenants and obligations contained in this Agreement or any certificate or other document delivered by or on behalf of Buyer or Parent pursuant hereto, (iii) Buyer's agreement to assume and satisfy the Assumed Liabilities under Section 3.3 of this Agreement, and (iv) Buyer's operation of the Business after the Closing; provided, however, that Buyer and Parent, shall be required to indemnify and hold harmless under clause (i) of this Section 13.2(a) with respect to Liabilities and Expenses incurred by the Company only to the extent that the aggregate amount

of such Liabilities and Expenses exceeds the Threshold Amount, provided, that the aggregate amount required to be paid by Buyer and Parent pursuant to Section 13.2(a) shall not exceed the After-Tax Amount.

(b) The indemnification provided for in Section 13.2(a)(i) shall terminate thirty six (36) months after the Closing Date (and no claims shall be made by any Sellers under Section 13.2(a)(i) thereafter), except that indemnification by Buyer and Parent shall continue as to the representations and warranties of Buyer and Parent set forth in Section 9.2 (Corporate Status), Section 9.3 (Authority) and Section 9.4 (Brokers and Finders) which shall have no termination date. The indemnification provided for in Sections 13.2(a)(ii), (iii) and (iv) shall survive indefinitely.

(c) The foregoing notwithstanding, the Threshold Amount and limitation on liability set forth in Section 13.2(a) shall not apply to (i) any breach of the representations and warranties made by Buyer and Parent in Section 9.2 (Corporate Status), Section 9.3 (Authority) and Section 9.4 (Brokers and Finders), or (ii) any fraud or intentional misrepresentation by Buyer or Parent.

13.3 Indemnification Procedure.

(a) The party seeking indemnification pursuant to this Section 13 (the "Indemnified Party") shall with respect to any claim, demand, action, proceeding or other matter for which such party is entitled to seek indemnification hereunder (a "Claim") shall notify the indemnifying party(ies) (the "Indemnitor") of the existence of the Claim, setting forth in reasonable detail the facts and circumstances pertaining thereto and the basis for the indemnified party's right to indemnification (a "Notice of Claim"), which Notice of Claim shall contain the following information to the extent it is reasonably available to the indemnified party: (i) an estimate of the amount then reasonably ascertainable of the alleged Liabilities and Expenses against which the indemnified party is indemnified; (ii) a description, in reasonable detail, of the circumstances giving rise to the alleged Liabilities and Expenses; and (iii) a statement identifying each party against whom a Claim is asserted.

(b) After the giving of any Notice of Claim pursuant to subsection (a) above, the amount of indemnification to which an Indemnified Party shall be entitled under this Section 13 shall be determined: (i) by written agreement between the Indemnified Party and the Indemnitor; (ii) by a final judgment or decree of any court of competent jurisdiction, or (iii) by any other means to which the Indemnified Party and the Indemnitor shall mutually agree. The judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. The Indemnified Party shall have the burden of proof in establishing the amount of Liabilities and Expenses suffered by it. All amounts due to the Indemnified Party as so finally determined shall be paid by wire transfer within ten (10) calendar days after such final determination.

13.4 Third Party Claims.

(a) If any third party shall notify any Indemnified Party with respect to any matter which may give rise to a Claim for indemnification against the Indemnitor under this Agreement, then the Indemnified Party shall notify the Indemnitor thereof, which notice shall set forth the information required in Section 13.3(a) and be furnished promptly after the Indemnified Party's receipt of notice from the third party; provided, however, that no delay on the part of the Indemnified Party in notifying any Indemnitor shall relieve the Indemnitor from any liability or obligation hereunder unless (and then solely to the extent) the Indemnitor thereby is materially prejudiced by such failure to give notice. If the Indemnitor notifies the Indemnified Party within twenty (20) days of the Indemnified Party's Notice of a Claim that it will assume the defense thereof:

(i) the Indemnitor shall defend the Indemnified Party against the matter with counsel of its choice reasonably satisfactory to the Indemnified Party;

(ii) the Indemnified Party may retain separate counsel at its sole cost and expense (except that the Indemnitor will be responsible for the fees and expenses of the separate counsel to the extent the Indemnified Party reasonably concludes, based upon advice of counsel, that a conflict of interest exists between the Indemnified Party and Indemnitor such that there may be one or more legal defenses available to the Indemnified Party which are not available to the Indemnitor, or available to the Indemnitor, but the assertion of which would be adverse to the interest of the Indemnified Party);

(iii) the Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to the matter without the written consent of the Indemnitor (not to be withheld unreasonably); and

(iv) the Indemnitor will not consent to the entry of any judgment or enter into any settlement which does not include a provision whereby the plaintiff or claimant in the matter releases the Indemnified Party from all liability with respect thereto, without the written consent of the Indemnified Party (not to be withheld unreasonably).

(b) If the Indemnitor does not notify the Indemnified Party within twenty (20) days of the Indemnified Party's delivery of a Notice of Claim that it will assume the defense thereof, then the Indemnified Party may defend against, or enter into any settlement with respect to, the matter in any manner it reasonably may deem appropriate, without prejudice to any of its rights hereunder.

(c) The Indemnified Party shall be entitled to reimbursement for Expenses, included in damages with respect to any Claim (including, without limitation, the cost of defense, preparation and investigation relating to such Claim) as such Expenses are incurred by the Indemnified Party.

13.5 Mitigation. All calculations of Liabilities shall take into account any tax benefit actually realized by the Indemnified Party in connection with an indemnity claim hereunder, and insurance proceeds from insurance policies of the Company in place prior to the Effective Time actually received (less costs of collection and reasonably estimated cost of future demonstrable

premium increases and retro-premium obligations) by the Indemnified Party in connection with an indemnity claim hereunder (but not in the event of the successful enforcement of a subrogation claim against the Indemnified Party). Each of the parties agrees to take all commercially reasonable steps, consistent with prudent business practices, to mitigate their respective Liabilities and expenses upon and after becoming aware of any event or condition which could reasonably be expected to give rise to any Liabilities and expenses that are indemnifiable hereunder, and all costs of such mitigation shall be covered by the indemnity set forth herein.

13.6 Subrogation. Upon making any payment to the Indemnified Party for any indemnification claim pursuant to this Section 13, the Indemnitor shall be subrogated, to the extent of such payment, to any rights which the Indemnified Party may have against any third-parties with respect to the subject matter underlying such indemnification claim and the Indemnified Party shall assign any such rights to the Indemnitor.

13.7 Offset. Buyer shall have the right to offset any amounts that any of the Sellers may be obligated to pay to Buyer under this Agreement against any amounts that Buyer may be obligated to pay to any of the Sellers under this Agreement. Sellers shall have the right to offset any amounts that Buyer may be obligated to pay to Sellers under this Agreement against any amounts that Sellers may be obligated to pay to Buyers under this Agreement. Any amounts offset pursuant to this Section 13.7 shall take into account any insurance proceeds from insurance policies of the Company in place prior to the Effective Time actually received (less costs of collection and reasonably estimated cost of future demonstrable premium increases and retro-premium obligations) by the party claiming such offset.

13.8 Cooperation. The Indemnified Party and the Indemnifying Party shall each use commercially reasonable efforts to cooperate with the other such party in connection with the defense of third-party Claims.

13.9 Sole Remedy. Except for Claims arising from fraud or willful misrepresentation, this Section 13 and Section 4.2 shall be the sole and exclusive remedy for any damages regarding a breach of any representation or warranty or any other covenant or indemnification in this Agreement and any of the documents to be executed in connection therewith.

14. CONDUCT OF OPERATIONS PRIOR TO CLOSING

14.1 Interim Operating Covenants.

(a) Ordinary Course of Operations. From the date hereof until Closing, the Company shall conduct its operation of the Business in the ordinary course and substantially consistent with its prior practices. The Company and Shareholders shall immediately notify Buyer of any material change in the customers of the Business or any known intentions by customers of the Business to materially reduce the volume of their business they have historically done with the Company.

(b) Affirmative Covenants. From the date hereof until Closing, unless otherwise agreed in writing by Buyer (which consent shall not be unreasonably withheld), the Company shall:

(i) maintain and use the Purchased Assets in the ordinary course of business consistent with past practice, reasonable wear and tear, damage by fire and other casualty excepted;

(ii) comply in all material respects with all applicable Laws;

(iii) properly and timely file all Tax returns required to be filed and pay the expenses of preparation therefor, and make timely payment of all applicable Taxes when due;

(iv) take all reasonable actions necessary to be in material compliance with all Contracts and to maintain the effectiveness of all Permits;

(v) notify Buyer of any action, event, condition or circumstance, or group of actions, events, conditions or circumstances, that has resulted in, or could reasonably be expected at the time to result in, a Material Adverse Effect on the Business or the Purchased Assets;

(vi) notify Buyer of the commencement of any proceeding by or against Sellers or any threatened proceeding of which Sellers become aware that relates to the Business, any of the Purchased Assets or the transactions contemplated by this Agreement or the transactions contemplated hereby;

(vii) pay Trade Accounts Payable and pursue collection of Trade Accounts Receivable in the ordinary course of business consistent with past practice;

(viii) use commercially reasonable efforts to maintain the relations and goodwill with the suppliers, customers, distributors, licensors, licensees, landlords, trade creditors, agents, and others having business relationships with Sellers relating to the Business, with the goal of preserving materially unimpaired the goodwill and ongoing business of the Business as of the Closing;

(ix) use commercially reasonable efforts to prevent the occurrence of a Construction Defect occurring with respect to products sold or services performed by the Company; and

(x) maintain Records on a basis consistent with prior practice, except for any change required by a change in GAAP or applicable Law.

(c) Negative Covenants. From the date hereof until Closing, the Company will not, without the prior written consent of Buyer (which consent shall not be unreasonably withheld):

(i) sell, lease, pledge, subject to Liens or otherwise transfer or dispose of any of the Purchased Assets to any third party, other than in the ordinary course of business consistent with past practice;

(ii) enter into any Contract other than in the ordinary course of business consistent with past practice;

(iii) materially amend or modify, other than in the ordinary course of business, or violate the terms of, any of the Contracts to be assumed hereunder;

(iv) propose to conduct the Business in any new markets or conduct any new lines of business;

(v) permit the corporate existence of the Company, or the existence of any Permit to be suspended, lapsed, dissolved, revoked or modified in any material respect;

(vi) except as otherwise contemplated by this Agreement, allow any insurance policy to be amended or terminated without replacing such policy with a policy providing at least equal coverage, insuring comparable risks and issued by an insurance company financially comparable to the prior insurance company;

(vii) except for normal salary adjustments consistent with past practice, increase any salaries or benefits payable to any employee of the Business;

(viii) incur any Indebtedness relating to the Business or any of the Purchased Assets, except Trade Accounts Payable or other Liabilities incurred in the ordinary course of business, and Expenses incurred in connection with the consummation of the transactions contemplated by this Agreement;

(ix) issue or sell or enter into any agreement (written or oral) to issue or sell any equity securities of the Company or any securities convertible into equity securities of the Company; or

(x) take any other action that would reasonably be expected to prevent Sellers from performing or cause Sellers not to perform Sellers' covenants hereunder.

14.2 Access to Information. Between the date hereof and the Closing, Sellers agree to provide to Buyer and Buyer's authorized agents (including attorneys, accountants and auditors) reasonable access to the offices and properties of the Company and the books and records of the Company upon reasonable prior notice, in order to conduct a review of the Purchased Assets, the Assumed Liabilities, the Assumed Leases and the Business. Sellers shall, and shall cause the Company's employees, agents and representatives to, reasonably cooperate with such examination. Each of the parties will hold, and will cause each of such party's consultants and advisers to hold, in confidence all documents and information furnished to such consultants and advisers by or on behalf of another party to this Agreement in connection with the transactions contemplated by this Agreement pursuant to the terms of that certain Nondisclosure Agreement entered into between Building Materials Holding Corporation ("BMHC") and the Company dated as of March 23, 2005 (the "Confidentiality Agreement"), each of which all parties hereto agree shall be binding upon all parties hereto.

14.3 Employee Information and Access. Sellers shall provide to Buyer certain general information concerning the Company's compensation and benefit programs and specific information relating to individual Business employees, subject to any such employee's proper consent, solely for the purpose of Buyer formulating offers to such employees; provided, however, that Seller will not make personnel records available for inspection or copying. Seller

shall provide Buyer with reasonable access to the Business employees during normal working hours following the date hereof on mutually agreeable dates, to deliver offers of employment from Buyer and to provide information to such employees about Buyer.

14.4 Company Contractual Consents.

(a) The Company shall use commercially reasonable efforts to obtain all contractual consents to the assignment of the Contracts and/or Assumed Leases in form and substance that will not impair the rights or increase the liabilities to be assumed by Buyer under the Contracts to which such contractual consents relate.

(b) In the event that any contractual consents or assignments of any of the Contracts or Assumed Leases, or any right or benefit arising thereunder or resulting therefrom, are not obtained prior to the Closing Date, then as of the Closing, this Agreement, to the extent permitted by Law, shall constitute full and equitable assignment by the Company to Buyer of all right, title and interest of the Company in and to, and all obligations and Liabilities of the Company under, such Contracts and Assumed Leases, and Buyer shall be deemed the Company's agent for purpose of completing, fulfilling and discharging all Liabilities of the Company from and after the Closing Date under any such Contract or Assumed Lease.

(c) In the event that Sellers are unable to make the equitable assignment described in Section 14.4(b), or if such attempted assignment would give rise to any right of termination, or would otherwise adversely affect the rights of the Company or Buyer under any such Contract or Assumed Lease, or would not assign all of the rights of the Company thereunder at the Closing, Sellers and Buyer shall continue to cooperate and use all reasonable efforts to provide Buyer with all such rights and to relieve Sellers of all such obligations thereunder. To the extent that any such consents and waivers are not obtained, or until the impediments to such assignment are resolved, Sellers shall use all reasonable commercial efforts to (i) provide to Buyer, at the request of Buyer, the benefits of any such Contract or Assumed Lease to the extent related to the Business and to relieve Sellers of all such obligations thereunder, (ii) cooperate in any lawful arrangement designed to provide such benefits to Buyer and to relieve Sellers of all such obligations thereunder and (iii) enforce, at the request of and for the account of Buyer, any rights of the Company arising from any such Contract or Assumed Lease against any third party (including any Governmental Authority), including the right to elect to terminate in accordance with the terms thereof upon the advice of Buyer. To the extent that Buyer is provided the benefits of any Contract or Assumed Lease referred to herein (whether from Sellers or otherwise), Buyer shall assume the liabilities and obligations of Sellers thereunder or in connection therewith. Buyer agrees to pay, perform, discharge and indemnify Sellers against and hold Sellers harmless from, all liabilities and obligations of Sellers relating to such performance or failure to perform.

(d) Except as otherwise specifically provided in this Agreement, the obligations of the parties under this Section 14.4 shall not include any requirement of Sellers or Buyer to expend money or incur any financial or other obligation (other than normal legal and professional fees, transaction costs or filing fees not otherwise required to be incurred by the other party), commence or participate in any litigation or offer or grant any accommodation (financial or otherwise) to any third party.

14.5 Transition. Between the date hereof and the Closing Date, Sellers shall provide, without cost to Buyer, subject to availability and upon reasonable notice, assistance to Buyer in connection with all reasonably requested transition matters arising under the transactions contemplated by this Agreement, including arrangement of personal introductions to vendors and customers of the Business.

14.6 Obligation to Update Exhibits and Schedules. Sellers shall update all Exhibits and Schedules, where appropriate, to be prepared by Sellers hereunder, prior to the Closing Date; provided, that any such update or supplement shall not cure any breach of any representation or warranty of the Sellers made in this agreement.

14.7 No Solicitation. From and after the date hereof, and until the earlier of the Closing or the termination of this Agreement pursuant to Section 21 hereof (the "Non-Solicitation Period"), except as expressly contemplated by this Agreement, the Company and Shareholders shall not, directly or indirectly, and none of their respective directors, officers, agents or representatives shall, directly or indirectly (a) initiate, solicit, seek, support or encourage any action that constitutes or is reasonably likely to lead to an Acquisition Proposal; (b) provide information with respect to the Business to any person relating to, or otherwise cooperate with, facilitate or encourage any effort or attempt by any person or entity with regard to any Acquisition Proposal; or (c) enter into any agreement with respect to any Acquisition Proposal. Sellers shall notify Buyer promptly, but in any event within two (2) Business Days, if any Acquisition Proposal, or any inquiry or other contact with any person with respect thereto, is made during the Non-Solicitation Period. Any such notice to Buyer shall indicate in reasonable detail the identity of the person making such Acquisition Proposal, inquiry or other contact and the terms and conditions of such Acquisition Proposal, inquiry or other contact. Sellers agree that any such discussions or negotiations in progress with any other person as of the date hereof will be suspended or terminated during the Non-Solicitation Period.

15. CONDUCT OF BUSINESS FOLLOWING CLOSING

15.1 Collection of Trade Accounts Receivable. During the ninety (90) day period following the Effective Date, Buyer shall use commercially reasonable efforts in the ordinary course of business and consistent with the Company's past practices to collect the Trade Accounts Receivable. During such 90-day period, Buyer shall (i) provide the Company with periodic collection reports every thirty (30) days and provide Sellers with reasonable access to all other available records, documents and information relating to Trade Accounts Receivable, and the opportunity to monitor and assist Buyer's efforts to collect the Trade Accounts Receivable and (ii) apply all payments received from customers on and after the Effective Date to the respective customer's oldest accounts first, unless a debtor indicates the specific account it is paying in which event payment shall be applied to that account. Buyer and Sellers agree that they will not willfully influence account specification pursuant to the preceding sentence. Notwithstanding the foregoing, to the extent any of the Trade Accounts Receivable are aged greater than ninety (90) days and remain uncollected ninety (90) days after the Effective Date, such Trade Accounts Receivable, excluding those Trade Accounts Receivable previously written off under Section 6.2, shall be deducted from the calculation of the Company's Actual Closing Date Net Assets, and Buyer shall irrevocably assign such uncollected Trade Accounts Receivable to the Company free and clear of all liens and encumbrances. Thereafter, the

Company may use any means reasonably necessary to collect the uncollected Trade Accounts Receivable and Buyer shall provide the Company with all records relating to such uncollected Trade Accounts Receivable and all other available information. Buyer shall promptly remit to the Company Shareholder any amounts subsequently received by Buyer with respect to the uncollected Trade Accounts Receivable assigned to the Company hereunder, including any amounts received in satisfaction of any accounts receivable that are Excluded Assets.

15.2 Use of the Company Names. Sellers agree that following the Closing they will not utilize any of the trade names, corporate names or, dba names of the Company or other name that is confusingly similar to such names. At the Closing, Sellers shall change the name of the Company to MPM Construction, Inc.

15.3 Insurance Proceeds. Following the Closing, Sellers covenant to use reasonable efforts to diligently pursue the collection of any insurance proceeds under all applicable insurance policies of Sellers with respect to any claim related to a Purchased Asset or Assumed Liability. Sellers shall forward to Buyer, immediately upon payment thereof, any insurance proceeds received by Sellers which relate to a Purchased Asset or an Assumed Liability. Buyer shall forward to the Company, immediately upon payment thereof, any insurance proceeds received by Buyer or its Related Parties which relate to an Excluded Asset or an Excluded Liability.

16. CLOSING

16.1 Closing. Closing shall occur on the second Business Day following the satisfaction or waiver of all conditions precedent set forth below in Sections 17 and 18, in San Francisco, California, or at such other time or place as the parties may agree upon. For purposes herein, the Closing shall be deemed to occur at 12:01 A.M. on the Closing Date, effective as of the Effective Date.

16.2 Time is of the Essence. Time is of the essence for the Closing of this transaction.

17. CONDITIONS PRECEDENT TO BUYER'S DUTY TO CLOSE

Buyer shall have no duty to close unless and until each and every one of the following conditions precedent have been fully and completely satisfied or waived by Buyer and Parent, which waiver shall be deemed to have irrevocably occurred upon the Closing:

17.1 No Misrepresentation or Breach of Covenants and Warranties. The representations and warranties of Sellers made in this Agreement (i) that are qualified by materiality or Material Adverse Effect shall be true and correct as of the date hereof and on and as of the Closing Date, as though made on the Closing Date, (ii) that are not qualified by materiality or Material Adverse Effect shall be true and correct in all material respects as of the date hereof and on and as of the Closing Date, as though made on the Closing Date; except, in each case, for those representations and warranties which refer to facts existing at a specific date.

17.2 Performance of Obligations. The Sellers shall have substantially performed or tendered performance of each and every one of their obligations hereunder which by their terms are capable of being performed before Closing.

17.3 Delivery of Closing Documents. The Sellers shall have tendered delivery to Buyer of all the documents required to be delivered to Buyer by the Sellers prior to or at Closing pursuant to this Agreement.

17.4 Litigation. No lawsuit, administrative proceedings or other legal action shall have been filed which seeks to restrain or enjoin the acquisition of the Purchased Assets or the operation of the Business in any material respect, including any action against Shareholders.

17.5 Material Adverse Effect. There shall have been no Material Adverse Effect on the Business or the Purchased Assets subsequent to the date of this Agreement.

17.6 Consents. All governmental and third party consents and approvals (including without limitation, all regulatory approvals) required to consummate the transactions contemplated hereby shall have been obtained.

17.7 Existing Seller Leases. The relevant Shareholder or Shareholder Related Party (as the case may be) shall have consented to the amendment and assignment of the Existing Seller Leases by the Company to Buyer and the Company shall have executed and delivered such amendments and assignments to Buyer.

17.8 Legal Opinions. Buyer shall have received a legal opinion from Franklin, Cardwell & Jones, P.C., counsel to the Company, as to the matters set forth on *Exhibit 15*.

17.9 Due Diligence. Buyer shall have performed and completed such due diligence on the Company and the Business as it should reasonably deem appropriate, including, without limitation, business, contractual and financial reviews and audit, customer inquiries, review of employee matters, inspections, and environmental assessments to its satisfaction.

17.10 Approval of BMHC Board. The Board of Directors of BMHC shall have approved this Agreement and the transactions contemplated hereby.

17.11 Approval of BMHC Lenders. The secured lenders of BMHC shall have approved this Agreement and the transactions contemplated hereby.

17.12 Non-Compete. Mark Benedetti shall have executed and delivered the Noncompetition Agreement.

17.13 Key Employees. Each of the Key Employees shall have executed and delivered a Key Employee Employment, Confidentiality, Noncompetition, and Nonsolicitation Agreement.

17.14 Insurance. Neither this Agreement nor the transactions contemplated hereby shall have caused or reasonably be expected to cause a cancellation or reduction in the coverage of the Company's insurance policies.

17.15 Certificate. The Sellers shall have delivered a certificate to Buyer and Parent, dated as of the Closing, certifying that the conditions set forth in Sections 17.1, 17.2, 17.4 and 17.5 have been satisfied.

18. CONDITIONS PRECEDENT TO THE COMPANY'S DUTY TO CLOSE

The Company shall have no duty to close this transaction unless and until each and every one of the following conditions precedent have been fully and completely satisfied:

18.1 Payment of Purchase Price and Delivery of Closing Documents. Buyer shall have paid the Purchase Price to the Company (less the Reserve) and Buyer shall have tendered delivery to the Company all the documents required to be delivered to the Company by Buyer and Parent at Closing pursuant to this Agreement.

18.2 Litigation. No lawsuit, administrative proceedings or other legal action shall be pending or threatened against the Company, the Buyer or the Parent which seeks to restrain or enjoin the Company's sale, or Buyer's acquisition of, the Purchased Assets.

18.3 Existing Seller Leases. Buyer shall have executed and delivered the amendments and assignments to the Existing Seller Leases.

18.4 Key Employees. Buyer and each of the Key Employees shall have executed and delivered a Key Employee Employment, Confidentiality, Noncompetition, and Nonsolicitation Agreement.

18.5 No Misrepresentation or Breach of Covenants and Warranties. The representations and warranties of Buyer and Parent made in this Agreement (i) that are qualified by materiality or Material Adverse Effect shall be true and correct on the date hereof and on and as of the Closing Date, as though made on the Closing Date, (ii) that are not qualified by materiality or Material Adverse Effect shall be true and correct in all material respects as of the date hereof and on and as of the Closing Date, as though made on the Closing Date; except, in each case, for those representations and warranties which refer to facts existing at a specific date.

18.6 Performance of Obligations. The Buyer and Parent shall have substantially performed or tendered performance of each and every one of their obligations hereunder which by their terms are capable of being performed before Closing.

18.7 Delivery of Closing Documents. The Buyer and Parent shall have tendered delivery to Sellers of all the documents required to be delivered to Sellers by the Buyer and Parent prior to or at Closing pursuant to this Agreement.

18.8 Consents. All governmental and third party consents and approvals (including without limitation, all regulatory approvals) required to consummate the transactions contemplated hereby shall have been obtained.

18.9 Legal Opinion. Sellers shall have received a legal opinion from the General Counsel of BMHC as to the matters set forth on *Exhibit 16*.

18.10 Certificate. The Buyer and Parent shall have delivered a certificate to Sellers, dated as of the Closing, certifying that the conditions set forth in Sections 18.5 and 18.6 have been satisfied.

19. ITEMS TO BE DELIVERED AT CLOSING BY THE SELLERS

At Closing, the Sellers shall, unless waived by Buyer, deliver the following items to Buyer:

19.1 Bill of Sale. A duly executed warranty bill of sale (in a form reasonably acceptable to Buyer) conveying the Purchased Assets to Buyer;

19.2 Assignment and Assumption Agreements. Agreements (in a form reasonably acceptable to the Company) duly executed by the Company under which the Company assigns, and Buyer assumes and agrees to fully and faithfully perform, the Contracts, the Personal Property Leases, the Existing Seller Leases, as amended, and the Real Property Leases;

19.3 Certified Resolution. Copy of the resolutions of the Board of Directors and one hundred percent (100%) of the shareholders of the Company, authorizing the execution and performance of this Agreement, certified by the secretary of the Company;

19.4 Automobile Titles. Duly executed titles to the vehicles and other rolling stock included in the Equipment;

19.5 UCC Termination Statements. All Uniform Commercial Code termination or release statements necessary to transfer the Purchased Assets free and clear of all Liens;

19.6 Existing Seller Leases. Amendments and assignments to the Existing Seller Leases duly executed by the Company and consented to by Shareholder, or any Shareholder Related Party, as the case may be, under which the Company amends and assigns, and Buyer assumes and agrees to fully and faithfully perform, the Existing Seller Leases;

19.7 Legal Opinions. The legal opinions described in Section 17.8; and

19.8 Employment and Non-Competition Agreements. The Noncompetition Agreement described in Section 17.12 and the employment agreements described in Section 17.13.

20. ITEMS TO BE DELIVERED AT CLOSING BY BUYER

At Closing, Buyer shall, unless waived by Sellers, deliver the following items to Sellers:

20.1 Existing Seller Leases. Amendments and assignments to the Existing Seller Leases from Buyer.

20.2 Assignment and Assumption Agreements. Agreements duly executed by Buyer and the Company, providing, among other things, for the assignment of the Assumed Liabilities to Buyer and the assumption of same by Buyer, executed by a duly authorized officer of Buyer, and all other instruments and certificates of assumption, novation and release as the Company may reasonably request in order to effectively make Buyer responsible for all Assumed Liabilities and release the Company therefrom to the fullest extent permitted under applicable law;

20.3 Purchase Price. The Purchase Price (less the Reserve) to be paid in accordance with Sections 3.1 and 4.1;

20.4 Certified Resolutions. Copy of the resolutions of the Board of Directors of the Buyer and the Parent authorizing the execution and performance of this Agreement, certified by the secretary of the Buyer or the Parent, as applicable;

20.5 Legal Opinion. The legal opinion described in Section 18.9; and

20.6 Employment Agreements. The employment agreements described in Section 17.13.

21. TERMINATION

21.1 Grounds for Termination

(a) by mutual written agreement of all of the parties;

(b) by Buyer or the Company if the Closing has not been effected on or prior to the close of business on March 31, 2006; provided, however, that the right to terminate this Agreement pursuant to this Section 21.1(b) shall not be available to any party whose willful failure to fulfill any of such party's obligations contained in this Agreement has been the cause of, or resulted in, the failure of the Closing to have occurred on or prior to the aforesaid date;

(c) by Buyer at any time upon written notice to the Company of any one or more inaccuracies or misrepresentations in or breaches of the representations or warranties made by the Sellers contained herein that have had, or if not cured prior to the Closing could be reasonably expected to have, a Material Adverse Effect on the Company, considering in the aggregate all such inaccuracies, misrepresentations and breaches which are specified in such notice; provided, however, that a termination pursuant to this Section 21.1(c) shall become effective ten (10) Business Days after such notice is given and only if Sellers have not cured such inaccuracies, misrepresentations and breaches so specified in such notice within such ten (10) Business Day period;

(d) by Buyer at any time upon written notice to the Company of the failure by the Sellers to materially perform and satisfy any of the Sellers' obligations under this Agreement required to be performed and satisfied by the Sellers on or prior to the Closing; provided, however, that a termination pursuant to this Section 21.1(d) shall become effective ten (10) Business Days after such notice is given and only if Sellers have not cured the failures so specified in such notice within such ten (10) Business Day period;

(e) by the Company at any time upon written notice to Buyer and Parent of any one or more inaccuracies or misrepresentations in or breaches of the representations or warranties made by Buyer and Parent herein that have had or, if not cured prior to the Closing could be reasonably expected to have, a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement, considering in the aggregate all such inaccuracies, misrepresentations and breaches which are specified in such notice; provided, however, that a termination pursuant to this Section 21.1(e) shall become effective ten (10)

Business Days after such notice is given and only if Buyer or Parent has not cured such inaccuracies, misrepresentations and breaches so specified in such notice within such ten (10) Business Day period;

(f) by the Company at any time upon written notice to Buyer and Parent of Buyer's or Parent's material failure to perform and satisfy any of Buyer's or Parent's obligations under this Agreement required to be performed and satisfied by Buyer on or prior to the Closing; provided, however, that a termination pursuant to this Section 21.1(f) shall become effective ten (10) Business Days after such notice is given and only if Buyer or Parent has not cured the failures so specified in such notice within such ten (10) Business Day period; and/or

(g) by the Company or Buyer if any applicable law shall be enacted or become applicable that makes the transactions contemplated hereby or the consummation of the Closing illegal or otherwise prohibited, or if any judgment, injunction, order or decree enjoining any party from consummating the transactions contemplated hereby is entered, and such judgment, injunction, order or decree shall become final and nonappealable; provided, however, that the right to terminate this Agreement pursuant to this Section 21.1(g) shall not be available to any party who has failed to fulfill any of such party's obligations contained in Section 14.2 of this Agreement.

21.2 Effect of Termination.

(a) Limit of Liability. If this Agreement is terminated pursuant to Section 21.1(a)-(g), all obligations of the parties hereunder shall terminate without liability of any Party to any other Party, except as provided in this Section 21.2 and Section 22.6. The representations and warranties made herein shall not survive beyond a termination of this Agreement and no party shall have any liability for breach of any representation or warranty upon a termination of this Agreement prior to the Closing, except as provided in this Section 21.2.

(b) Alternative Transaction Payment and Buyer Termination Expenses. If, prior to the Closing, this Agreement is terminated by the mutual written agreement of all of the parties pursuant to Section 21.1(a), by Buyer pursuant to Section 21.1(b), 21.1(c) or 21.1(d) or by the Company pursuant to Section 21.1(b), and, if at the time of such termination any of the Company or Sellers shall have received an Acquisition Proposal, whether or not any of the Company or Sellers shall have been in breach of Section 14.7, and within one year after such termination any of the Company or Sellers shall have consummated or entered into an agreement with respect to any Acquisition Proposal, then the Company and Sellers, jointly and severally, shall be obligated to pay to Buyer (by wire transfer of immediately available funds), concurrently with the consummation of such transaction, a total amount equal to \$1,000,000, plus 100% of the Expenses incurred by Buyer or the Buyer Related Parties in connection with this Agreement and all related agreements and the transactions contemplated hereby and thereby, up to a maximum amount of \$100,000 (the "Alternative Transaction Payment"). If this Agreement is terminated by Buyer pursuant to Sections 21.1(c) or 21.1(d) and the foregoing sentence is not applicable and the Alternative Transaction Payment is not payable, then upon such termination the Company and Sellers, jointly and severally, shall also be obligated to reimburse Parent (by wire transfer of immediately available funds), no later than five Business Days after such termination, for 100%

of the Expenses incurred by Buyer or the Buyer Related Parties in connection with this Agreement and all related agreements and the transactions contemplated thereby, up to a maximum amount of \$100,000 (the "Buyer Termination Expenses").

(c) The Company and Sellers acknowledge that the agreements in Section 21.2(b) are an integral part of the transactions contemplated by this Agreement and that, without these agreements, Buyer would not enter into this Agreement. Accordingly, if the Company or Sellers fail promptly to pay any amount due to Buyer pursuant to Section 21.2(b), the Company and Sellers also shall pay any and all Expenses incurred by Buyer or a Buyer Related Party in connection with a legal action to enforce this Agreement that results in a judgment against any of the Company or Sellers for the Alternative Transaction Payment or the Buyer Termination Expenses. Buyer acknowledges and agrees that, except for (i) any willful breaches of any of the agreements or other provisions of this Agreement prior to the termination hereof, (ii) breaches of obligations of confidentiality under this Agreement, or (iii) fraud by any of the Company or Sellers, the Company and Sellers shall not have any liability or further obligation to Buyer or the Buyer Related Parties except for the Alternative Transaction Payment or Buyer Termination Expenses (as applicable), which payment is liquidated damages to Buyer and the Buyer Related Parties, and such parties shall not be entitled to any monetary damages or injunctive relief (including specific performance) as a result of such termination, or any indemnification under Section 13.

(d) If this Agreement is terminated by the Company pursuant to Sections 21.1(e) or 21.1(f), then upon such termination Buyer shall be obligated to reimburse the Company (by wire transfer of immediately available funds), no later than five Business Days after such termination, for 100% of the Expenses incurred by the Company, Sellers or their Related Parties in connection with this Agreement and all related agreements and the transactions contemplated thereby, up to a maximum amount of \$100,000 (the "Company Termination Expenses"). Buyer acknowledges that the agreements in this Section 21.2(d) are an integral part of the transactions contemplated by this Agreement and that, without these agreements, the Company and Sellers would not enter into this Agreement. Accordingly, if Buyer fails promptly to pay any amount due to the Company pursuant to this Section 21.2(d), Buyer also shall pay any costs and expenses incurred by the Company or Sellers in connection with a legal action to enforce this Agreement that results in a judgment against Buyer for the Company Termination Expenses. The Company and Sellers acknowledge and agree that, except for (i) any willful breaches of any of the agreements or other provisions of this Agreement prior to the termination hereof, (ii) breaches of obligations of confidentiality under this Agreement, or (iii) fraud by Buyer, Buyer shall not have any liability or further obligation to the Company or Sellers or their respective Related Parties except for the Company Termination Expenses, which payment is liquidated damages to the Company, and such parties shall not be entitled to any monetary damages or injunctive relief (including specific performance) as a result of such termination, or any indemnification under Section 13.

22. MISCELLANEOUS

22.1 No Other Agreements. This Agreement and all schedules and Exhibits hereto, the Key Employee Employment, Confidentiality, Noncompetition, and Nonsolicitation Agreements, the Existing Seller Leases, as amended, and the Confidentiality Agreement constitute the entire

agreement between the parties with respect to its subject matter. All prior and contemporaneous negotiations, proposals and agreements between the parties are included in, and superseded by, this Agreement. Any changes to this Agreement must be agreed to in writing signed by an authorized representative of each of Buyer, Parent, the Company and Shareholders.

22.2 Waiver. Either Buyer or Sellers may waive the performance of any obligation owed to it by another party hereunder for the satisfaction of any condition precedent to the waiving party's duty to perform any of its covenants, including its obligations to close. Any such waiver shall be valid only if contained in writing signed by an authorized representative of each of Buyer, Parent, the Company and Shareholders.

22.3 Public Announcements. No public announcements of this Agreement shall be made unless Parent, Buyer and Sellers have mutually agreed on the timing, distribution and contents of such announcements, except as may be required by applicable securities laws or regulations or the requirements of any securities exchange or market.

22.4 Notices. All notices, requests, demands and other communications called for or contemplated hereunder shall be in writing and shall be deemed to have been duly given when delivered to the party to whom addressed or when received by a party if sent by telecopy (or 3 days after mailing if sent by registered or certified mail, return receipt requested, prepaid and addressed) at the following addresses, or at such other addresses as the parties may designate by written notice in the manner aforesaid:

To the Company
or Shareholders:

MWB Building Contractors, Inc.
c/o Mike Brabo
Brabo, Carlsen & Cahill
1111 East Tahquitz Canyon Way
Suite 203
Palm Springs, CA 92262-0112
Facsimile: (760) 822-4626

Copies to:

J. Randolph Ewing
Franklin, Cardwell & Jones, P.C.
1001 McKinney, 18th Floor
Houston, Texas 77002
Facsimile: (713) 227-5657

To Buyer and Parent:

c/o Building Materials Holding Corporation
720 Park Boulevard, Suite 200
Boise, ID 83712-7714
Attn: Paul Street, Senior VP and General Counsel
Facsimile: (415) 627-9119

Copies to:

Gregory T. Davidson
Gibson, Dunn & Crutcher LLP
1881 Page Mill Road
Palo Alto, CA 94304
Facsimile: (650) 849-5333

22.5 Third Party Beneficiary. Nothing contained herein shall create or give rise to any third-party beneficiary rights for any individual as a result of the terms and provisions of this Agreement.

22.6 Confidential Information. The parties agree that all information acquired from the other in connection with the negotiation, execution and consummation of this Agreement is confidential and shall not be disclosed to any other party (other than attorneys, accountants and agents of the party) without the written consent of the other; provided that following the Closing Buyer may disclose information relating to the Business as it may deem necessary or advisable. Notwithstanding anything herein to the contrary, any party to this Agreement (and their employees, representatives, or other agents) may disclose to any and all persons, without limitation of any kind, the Tax treatment and Tax structure of the transactions contemplated by this Agreement (the "Transactions") and all materials of any kind (including opinions or other Tax analyses) that are provided to it relating to such Tax treatment and Tax structure; provided, however, that this sentence shall not permit any disclosure that otherwise is prohibited by this Agreement (i) until the earlier of (x) the date of the public announcement of discussion relating to the Transactions, and (v) the date of the public announcement of the Transactions; or (ii) if such disclosure would result in a violation of federal or state securities laws; or (iii) to the extent not related to the Tax aspects of the transaction. Moreover, nothing in this Agreement shall be construed to limit in any way any party's ability to consult any Tax advisor regarding the Tax treatment or Tax structure of the Transactions.

22.7 Assignment. The parties shall not assign this Agreement without the prior written consent of the other parties. Any attempt to assign this Agreement without prior written consent shall be void *ab initio*.

22.8 Bulk Sales Laws. The parties hereby waive compliance with the bulk sales laws of any state in which the Purchased Assets are located or in which operations relating to the Business are conducted.

22.9 Choice of Law; Jurisdiction. THIS AGREEMENT SHALL BE GOVERNED BY, AND ANY DISPUTES OR CONTROVERSIES RELATED HERETO, SHALL BE INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CONFLICTS OF LAWS PROVISIONS THAT WOULD APPLY THE LAWS OF ANY OTHER JURISDICTION. IN THE EVENT OF ANY LEGAL ACTION TO ENFORCE THE TERMS OF THIS AGREEMENT, THE LEGAL ACTION SHALL BE CONDUCTED ONLY IN SACRAMENTO COUNTY, CALIFORNIA. EACH PARTY HEREBY IRREVOCABLY CONSENTS AND SUBMITS TO THE PERSONAL JURISDICTION OF AND VENUE IN COURTS OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SACRAMENTO, OR, IF IT HAS OR CAN ACQUIRE JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN

DISTRICT OF CALIFORNIA, IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT. IN ANY LEGAL ACTION PURSUANT TO THIS AGREEMENT, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES AND COSTS.

22.10 Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

22.11 Paragraph Headings. The Section and Section paragraph headings contained herein are for convenience only and shall have no substantive bearing on the interpretation of this Agreement.

22.12 Rules of Interpretation. The following rules of interpretation shall apply to this Agreement, the Exhibits hereto, and any certificates, reports or other documents or instruments made or delivered pursuant to or in connection with this Agreement, unless otherwise expressly provided herein or therein, and unless the context hereof or thereof clearly requires otherwise:

(a) A reference to any document or agreement shall include such document or agreement as amended, modified or supplemented from time to time in accordance with its terms, and if a term is said to have the meaning assigned to such term in another document or agreement and the meaning of such terms therein is amended, modified or supplemented, then the meaning of such term herein shall be deemed automatically amended, modified or supplemented in a like manner.

(b) References to the plural include the singular, the singular the plural and the part the whole.

(c) The words "include," "includes," and "including" are not limiting.

(d) A reference to any law includes any amendment or modification to such law which is in effect on the relevant date.

(e) A reference to any person or entity includes its successors, heirs and permitted assigns.

(f) Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for purposes of this Agreement or any Exhibit hereto or certificate, report or other document or instrument made or delivered pursuant to or in connection with this Agreement, such determination or computation shall be done in accordance with GAAP at the time in effect, to the extent applicable, except where such principles are inconsistent with the express requirements hereof or of such exhibit, certificate, report, document or instrument.

(g) The words "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

(h) All Schedules, including the Disclosure Schedule, and Exhibits to this Agreement constitute material terms of this Agreement and are incorporated fully into the terms of this Agreement.

22.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but which shall together constitute but one agreement.

22.14 Attorney's Fees. In any legal action, proceeding or arbitration arising out of this Agreement, regardless of which party hereto initiated such action, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

The parties have executed this Asset Purchase Agreement on the day and year first written above.

THE COMPANY:

MWB BUILDING CONTRACTORS, INC.

By: Mark B Benedetti

Name: Mark Benedetti

Title: President

SHAREHOLDERS:

Mark B Benedetti

Mark Benedetti

Pete Yanez

Pete Yanez

Mark Duncan

Mark Duncan

Danny Jones

Danny Jones

PARENT:

SELECTBUILD CONSTRUCTION, INC.

By: Michael D. Mahre

Name: Michael D. Mahre

Title: CEO

Signature Page to Asset Purchase Agreement

BUYER:

KBI NORCAL GENERAL PARTNERSHIP

By: VAUGHN ROAD, LLC, general partner

By:  _____

Name: John Volkman

Title: President