

WordPerfect Document Compare Summary

Original document: O:\3327.001\Agreements\GGST.Agmt.Final.doc

Revised document: O:\3327.001\Agreements\PTP.Agrmt.ALL ASSETS.Revised.Draft.09-29-03.doc

Deletions are shown with the following attributes and color:

~~Strikeout~~, **Blue** RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, **Red** RGB(255,0,0).

The document was marked with 494 Deletions, 494 Insertions, 0 Moves.

ASSET PURCHASE AGREEMENT

FOR

THE PURCHASE OF

CERTAIN ASSETS OF ~~AND CERTAIN DESIGNATION RIGHTS RELATING TO THE~~
~~PERSONAL PROPERTY,~~

~~REAL ESTATE~~ AND ~~LEASEHOLD INTERESTS~~ CERTAIN ASSETS OF
PILLOWTEX CORPORATION, ET AL.,
AS DEBTORS AND DEBTORS-IN-POSSESSION

by

~~GGST LLC~~

~~July~~ A JOINT VENTURE FORMED BY PT PARTNERS, LLC
AND THE PETERS COMPANY, INC.

September 29, 2003

Table of Contents

Page

1.	Certain Definitions.....	1
2.	Purchase and Sale of Assets.....	9
2.1	Assets to be Transferred.....	9
2.2	Excluded Assets.....	10
2.3	Assumed Liabilities.....	101
2.4	Excluded Liabilities.....	11
2.5	Subject Capital Leases and Contracts; Assumed Capital Lease Obligations and Assumed Contract Obligations.....	12
2.6	Equipment and Other Assets Election Procedures.....	14
3.	Purchase and Sale of Designation Rights.....	145
3.1	Rights and Properties to be Transferred; Subleases.....	145
3.2	Designation Procedures.....	156
3.3	Exclusion of Real Property and Contracts.....	19
3.4	Access Fees.....	1920
4.	Purchase Price; Allocation of Purchase Price.....	212
4.1	Purchase Price.....	212
4.2	Allocation of Purchase Price.....	22
5.	Closing; Property Closings; Asset Closings.....	223
5.1	The Closing.....	223
5.2	Closing Deliveries by the Sellers.....	234
5.3	Closing Deliveries by GGSTPURCHASER	234
5.4	Subject Closings.....	245
5.5	Subject Closing Deliveries by the Sellers.....	245
5.6	Subject Closing Deliveries by GGSTPURCHASER	256
6.	Representations and Warranties of the Sellers.....	256
6.1	Due Incorporation and Authority.....	256
6.2	Subsidiaries.....	267
6.3	No Violation.....	267
6.4	Organizational Documents.....	278
6.5	Financial Statements.....	278
6.6	No Material Adverse Change.....	278
6.7	Tax Matters.....	289
6.8	Compliance with Laws.....	289
6.9	Permits.....	289
6.10	Environmental Laws.....	289
6.11	Contracts.....	301
6.12	Property.....	312
6.13	Real Property.....	312
6.14	Intellectual Property.....	334
6.15	Litigation.....	345
6.16	Brokers.....	345
6.17	Insurance.....	346
6.18	Assumed Capital Lease Obligations.....	356
7.	Representations and Warranties of GGSTPURCHASER	356
7.1	Due Incorporation and Authority.....	356
7.2	No Violation.....	356
7.3	Brokers.....	367
7.4	Financing.....	367
7.5	Litigation.....	367

8.	Covenants and Agreements.....	367
8.1	Conduct of Business.....	367
8.2	Transfer of Equipment.....	389
8.3	Carrying Costs	389
8.4	Confidentiality	389
8.5	Expenses	389
8.6	Public Announcements.....	3840
8.7	Access to Information	3840
8.8	Regulatory and Other Authorizations; Consents	3940
8.9	Further Action; Additional Assignments.....	401
8.10	Bankruptcy Court Approvals	401
8.11	Subsidiary Compliance.....	423
8.12	Books and Records.....	423
8.13	Tax Matters	434
8.14	Cure Costs.....	434
8.15	Notification of Certain Matters.....	434
8.16	Title Insurance	445
8.17	Use of Intellectual Property	445
8.18	Environmental Site Assessments	445
8.19	Administration/Office Space	445
8.20	Shrinkwrap Licenses	456
8.21	Insurance.....	456
8.22	Wind-Down Budget Review.....	456
9.	Conditions Precedent to the Obligation of GGSTPURCHASER	46
9.1	Representations and Warranties; Covenants	46
9.2	No Order	467
9.3	HSR Act Filing	467
9.4	Bankruptcy Filing.....	467
9.5	Intellectual Property	467
9.6	Sale Approval Order.....	467
9.7	Wind-Down Budget	467
9.8	Consents.....	47
9.9	Closing Documents	47
9.10	Phenix City	478
10.	Conditions Precedent to the Obligation of the Sellers.....	478
10.1	Representations and Warranties; Covenants	478
10.2	No Order	478
10.3	HSR Act Filing	478
10.4	Sale Approval Order.....	478
10.5	Closing Documents	478
11.	Termination of Agreement.....	48
11.1	Termination Prior to Closing; Break-Up Fee	48
11.2	Termination Payments.....	48 Error! Bookmark not defined.
11.3	Survival after Termination.....	49
11.4	Waiver	49
12.	Indemnification.....	4950
12.1	Indemnification by the Sellers	4950
12.2	Seller Limitations	4950
12.3	Indemnification by GGSTPURCHASER	50

12.4	GGST's <u>PURCHASER's</u> Limitations.....	<u>501</u>
12.5	Notice and Procedure	<u>501</u>
12.6	Remedies	<u>53</u>
12.7	Survival of Representations; Indemnity Periods.....	<u>534</u>
13.	Miscellaneous	<u>54</u>
13.1	Consent to Jurisdiction; Service of Process; Waiver of Jury Trial	<u>54</u>
13.2	Notices	<u>545</u>
13.3	Entire Agreement	<u>556</u>
13.4	Waivers and Amendments	<u>556</u>
13.5	Governing Law	<u>56</u>
13.6	Binding Effect; Assignment	<u>567</u>
13.7	Usage	<u>567</u>
13.8	Articles and Sections	<u>567</u>
13.9	Interpretation.....	<u>567</u>
13.10	Severability of Provisions.....	<u>567</u>
13.11	Counterparts.....	<u>57</u>
13.12	No Third-Party Beneficiaries.....	<u>57</u>

EXHIBITS

- Exhibit A Form of Bidding Procedures Order
- Exhibit B Form of Sale Approval Order
- Exhibit C Forms of Assignment for Patents, Trademarks and Copyrights

SCHEDULES

Schedule 1.1(a)	Certain Excluded Contracts
Schedule 1.1(b)	Certain Excluded Equipment
Schedule 3.1(b)	Certain Excluded Real Property
Schedule 4.1(a)	Group A Properties
Schedule 4.1(b)	Group B Properties
Schedule 4.1(c)	Group C Properties
Schedule 6.2	Subsidiaries
Schedule 6.3(b)	Seller Consents and Notices
Schedule 6.5	Financial Statements
Schedule 6.6	Material Adverse Change
Schedule 6.7	Taxes
Schedule 6.8	Compliance with Laws
Schedule 6.9	Permits
Schedule 6.10	Environmental Matters
Schedule 6.11(a)	Material Contracts
Schedule 6.11(b)	Material Contracts Performance Exceptions
Schedule 6.11(c)	Assigned License or Distribution Rights
Schedule 6.12(a)	Liens
Schedule 6.12(b)	Equipment
Schedule 6.12(c)	Equipment Subject to a Capital Lease
Schedule 6.13	Liens
Section 6.13(a)	Real Property
Section 6.13(b)	Real Property Leases
Section 6.13(c)	Certain Real Property

Schedule 6.13(d)	Space Leases
Schedule 6.13(e)	Improvements
Schedule 6.13(f)	Certificates of Occupancy
Schedule 6.13(g)	Assessments
Schedule 6.14(a)	Intellectual Property
Schedule 6.14(b)	IP Contracts Requiring Consent
Schedule 6.15	Litigation
Schedule 6.16	Brokers
Schedule 6.17	Insurance
Schedule 8.1(b)	Conduct of Business

ASSET PURCHASE AGREEMENT, dated as of ~~July 29~~September 29, 2003 (the "Agreement"), by and among Pillowtex Corporation, a Delaware corporation (the "Seller"), each of the Subsidiaries (as defined below) (together with the Seller, the "Sellers") and GGSTa joint venture formed by PT Partners, LLC, a Delaware limited liability company ("GGST""Purchaser") and Petters Company, Inc., a Minnesota corporation (collectively, the "Purchaser").

W I T N E S S E T H:

WHEREAS, the Sellers, among other things, engage in the business of manufacturing, marketing, distributing and selling home textiles and accessories and related goods;

WHEREAS, GGSTPURCHASER (or its designee(s)) desires to purchase certain Assets, including certain Designation Rights (each as defined below), of the Sellers and to assume certain liabilities of the Sellers, and the Sellers desire to sell such Assets and Designation Rights to GGSTPURCHASER (or its designee(s)) and to assign such liabilities to GGSTPURCHASER (or its designee(s)), all on the terms and conditions set forth in this Agreement and in accordance with Sections 105, 363 and 365 of Title 11 of the United States Code (as in effect for cases filed on the Petition Date (as hereinafter defined), the "Bankruptcy Code") and other applicable provisions of the Bankruptcy Code (the "Acquisition");

WHEREAS, promptly following the execution and delivery of this Agreement, the Sellers will file voluntary bankruptcy petitions (the "Bankruptcy Cases") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"; the date of the filing of such petitions and the commencement of such proceedings, the "Petition Date");

WHEREAS, it is contemplated that the Assets and Designation Rights will be sold pursuant to an order of the Bankruptcy Court approving such sale under Sections 105, 363 and 365 of the Bankruptcy Code and the terms and conditions of this Agreement; and

WHEREAS, the Sellers desire to sell the Assets and Designation Rights to further their reorganization efforts and to enable them to consummate plans of reorganization in the Bankruptcy Cases;

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

1. Certain Definitions.

(a) As used in this Agreement, the following terms have the following meanings:

"Accounts Receivable" means all accounts receivable, notes receivable and trade receivables arising primarily in connection with the operation or conduct of the Sellers' businesses.

“**Affected Parties**” means (a) with respect to a Real Property Lease, the lessor of such Lease, any sublessee and any other party having a contractual interest in the Real Property Lease or (b) with respect to Owned Real Property, any party to an REA affecting the Owned Real Property.

“**Affiliate**” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such specified Person.

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which banks located in New York, New York are authorized or obligated to close.

“**Carrying Costs**” means all obligations that are specifically attributable to the period following the Closing Date and specifically attributable to the Real Properties (other than the Excluded Real Properties) and the Equipment contained thereon and which sellers are required to pay, which obligations, or the pro rata portion thereof, shall consist of rent, maintenance, utilities, property taxes, insurance, security and other actual out-of-pocket costs which are incurred for each of the Real Properties and attributable to the period following the Closing Date. Notwithstanding anything herein or otherwise to the contrary, Carrying Costs shall not include debt service or payment of any indebtedness secured by any of the Real Properties, payment in respect of any environmental liability, any tax obligations incurred prior to the Closing or payment in respect of any other Liability of a type not described herein (regardless of when the bill for payment may be received for such taxes or other indebtedness).

“**Claim**” means a suit, claim, action, proceeding, inquiry, investigation, litigation, demand, charge, complaint, grievance, arbitration, indictment, information or grand jury subpoena.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Contract**” means any written or oral agreement, arrangement, license, sublicense, understanding, lease or instrument or other contractual or similar arrangement or commitment to which any one or more of the Sellers is a party, including, without limitation, any and all IP Contracts, but excluding any and all Real Property Leases and the contracts set forth on Schedule 1.1(a).

“**Cure Costs**” means the cure, compensation and restatement costs and expenses of or relating to the assumption and assignment of the Assumed Contracts and Real Property Leases included in the assets assumed and assigned to GGSTPURCHASER (or its designee(s)) hereunder pursuant to Section 365 of the Bankruptcy Code or otherwise designated by GGSTPURCHASER pursuant to Sections 2.5, 2.6 or 3 of this Agreement.

“**DIP Lenders**” means any person or persons that provides debtor-in-possession financing to any of the Sellers following the Petition Date.

“**Discount Rate**” means the discount rate as reported in The Wall Street Journal, New York Edition on the Closing Date.

“**Encumbrances**” means all Liens, encumbrances, mortgages, pledges, security interests, surface leases, ground leases or other leases of any kind, easements, rights-of-way, servitudes,

permits, licenses, conditional sales agreements, charges, covenants, conditions, restrictions, easements, title defects, causes of action, rights of first refusal or first offer, judgments or options.

“**Equipment**” means any and all equipment owned or leased by one or more of the Sellers (or that any one or more of the Sellers has an interest in) in all its forms, including, but not limited to, all machinery, all data processing, computers and computer hardware and software (whether owned or licensed (but excluding shrinkwrap, pop-up or click-through licenses to mass-marketed software having a retail price of less than \$2,000 per copy to the extent that such licenses cannot be transferred pursuant to Section 8.19)), tools, furniture, fixtures, plant, supplies, testing equipment, motor vehicles, office equipment, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located, whether now owned or hereafter acquired or arising.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**Excluded Contracts**” means solely any and all Contracts (a) that **GGSTPURCHASER**, in its sole and absolute discretion, elects to exclude from the Assets pursuant to Sections 2.5, 2.6 or 3 of this Agreement or (b) specifically set forth on Schedule 1.1(a).

“**Excluded Equipment**” means solely any and all Equipment (a) that **GGSTPURCHASER**, in its sole and absolute discretion, elects to exclude from the Assets pursuant to Sections 2.5 or 2.6 of this Agreement or (b) specifically set forth on Schedule 1.1(b).

“**Excluded Other Assets**” means solely any and all Other Assets that **GGSTPURCHASER**, in its sole and absolute discretion, elects to exclude from the Assets pursuant to Section 2.6 of this Agreement.

“**Excluded Real Property**” means solely any and all Real Property specifically set forth on Schedule 3.1(b).

“**Fee Designation Period**” means the period commencing on the date hereof and ending on the Fee Designation Expiration Date.

“**Final Order**” means an order of the Bankruptcy Court or other court of competent jurisdiction: (a) as to which no appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the subject order in all material respects without the possibility for further appeal or rehearing thereon; (b) as to which the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (c) as to which no stay is in effect; provided, however, that the filing or pendency of a motion under Federal Rule of Bankruptcy Procedure 9024 shall not cause an order not to be deemed a “Final Order” unless such motion shall be filed within ten (10) days of the entry of the order at issue.

“**Financing Lease**” means a Subject Capital Lease that would not be treated as a true lease under the Bankruptcy Code and would be subject to recharacterization as a secured loan or financing transaction.

“GGST’s PURCHASER’s Indemnified Persons” means **GGSTPURCHASER** and the **GGST’sPURCHASER’s** stockholders, members, Affiliates, successors and assigns, and their respective stockholders, partners, Affiliates, directors, trustees, officers, employees, agents and Representatives.

“Governmental Body” means a domestic or foreign national, federal, state, provincial or local governmental, regulatory or administrative authority, department, agency, commission, court, tribunal, arbitral body or self-regulated entity.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Indemnified Party” means any Person entitled to indemnification under Article 12.

“Indemnifying Party” means any Person obligated to indemnify another Person under Article 12.

“Intellectual Property” means any and all of the following items owned by any one or more of the Sellers or in which any one or more of the Sellers has an interest: (a) inventions, discoveries, processes, designs, techniques, developments and related improvements, whether or not patentable; (b) United States patents, patent applications, divisionals, continuations, reissues, renewals, registrations, confirmations, re-examinations, extensions and any provisional applications, of any such patents or patent applications, and any foreign or international equivalent of any of the foregoing; (c) United States registered or pending trademark, trade dress, service mark, service name, trade name, brand name, logo, domain name, or business symbol and any foreign or international equivalent of any of the foregoing and all goodwill associated therewith; (d) work specifications, software (including object and source code listing) and artwork; (e) technical, scientific and other know-how and information, trade secrets, methods, processes, practices, formulas, designs, assembly procedures, specifications owned or used by the Sellers; (f) customer lists; (g) copyrights; and (h) work for hire.

“Inventory” means all inventory of the Sellers, wherever located, including raw materials, supplies, packaging, spare parts, finished goods and work-in-process, and additions thereto and all other materials and supplies to be used or intended for use or consumed by the Sellers in the production of products.

“IP Contracts” means all written or oral agreements, arrangements, licenses, sublicenses, understandings, leases or instruments or other contractual or similar arrangements or commitments by which any Seller is a licensee of or otherwise has the right to use any Intellectual Property.

“IP Rejection Order” means an order, in form and substance acceptable to **GGSTPURCHASER**, providing for the rejection pursuant to Section 365 of the Bankruptcy Code or otherwise of any licenses, sublicenses or any other Contract relating to or in any way affecting any Intellectual Property which license, sublicense or other contract **GGSTPURCHASER**, in its sole and absolute discretion, notifies the Seller should be rejected.

“IRS” means the United States Internal Revenue Service.

“Liabilities” means any direct or indirect, primary or secondary, liability, indebtedness, obligation, penalty, cost or expense (including costs of investigation, collection and defense), claim, deficiency, guaranty or endorsement of or by any Person of any type or nature, whether accrued, absolute or contingent, liquidated or unliquidated, choate or inchoate, matured or unmatured or otherwise. Without limiting the foregoing in any manner, the term “Liabilities” includes and refers to all liabilities and obligations for or with respect to Taxes, including, without limitation, liabilities for Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise.

“Lien” means any security interest, mortgage, pledge, lien, hypothecation, encumbrance or charge of any kind or nature whatsoever.

“Losses” means any and all damages, costs, losses, Liabilities, expenses or obligations (including all Taxes, interest, penalties, court costs, costs of preparation and investigation, and reasonable attorneys’, accountants’ and other professional advisors’ fees and expenses).

“Material Adverse Effect” means any change or effect that is materially adverse to the financial condition of the Sellers or the Assets, other than (a) changes or effects resulting from the transactions contemplated by this Agreement or the announcement thereof, (b) changes in U.S. general economic or securities market conditions, (c) changes or conditions generally affecting the home textiles industry, (d) changes resulting from acts of terrorism or acts of war or escalation of hostilities, whether occurring within or outside the United States, or any effect of any such acts or hostilities on general economic or other conditions, except to the extent such acts disproportionately affect (in a manner that is material and adverse) the Seller or (e) changes or effects resulting from or relating to the Bankruptcy Cases.

“Non-Fee Designation Period” means the period commencing on the date hereof and ending on the Non-Fee Designation Expiration Date.

“Other Assets” means all personal property and assets of any one or more of the Sellers or in which any one or more of the Sellers has an interest, moveable and immovable, tangible or intangible, of every kind and description and wheresoever situated, including the full benefit of all representations, warranties, guarantees, indemnities, undertakings, certificates, covenants, agreements and all security therefor received by the Sellers on the purchase or other acquisition of any part of such personal property and assets, other than the Equipment, Contracts and the Intellectual Property.

“Owned Intellectual Property” means all Intellectual Property that is owned by any Seller.

“PBGC” means the Pension Benefit Guaranty Corporation, or any successor entity thereto.

“Permitted Encumbrance” means (a) Liens for Taxes and assessments not yet due and payable, (b) Liens for Taxes, assessments and charges and other claims, the validity of which are being contested in good faith set forth on Schedule 6.13, with respect to which adequate reserves are being maintained in accordance with GAAP, (c) inchoate mechanics’ Liens for work in progress set forth on Schedule 6.13, (d) Liens and other encumbrances set forth on Schedule

6.13, (e) materialmen's, mechanics', carriers', workmen's and repairmen's Liens arising in the ordinary course and not past due and payable or the payment of which is being contested in good faith by appropriate proceedings set forth on Schedule 6.13, (f) Liens that will be released at Closing and/or Subject Closings and (g) (i) easements, rights-of-way, servitudes, permits, licenses, surface leases, ground leases to utilities, municipal agreements, railway siding agreements and other rights, all as reflected in the official records of the jurisdictions where the Real Property is located, (ii) conditions, covenants or other restrictions reflected in the official records of the jurisdictions where the Real Property is located, (iii) easements for streets, alleys, highways, telephone lines, gas pipelines, power lines, railways and other easements and rights-of-way on, over or in respect of any Real Property, all as reflected in the official records of the jurisdictions where the Real Property is located and (iv) rights of tenants as tenants only, and that, with respect to clauses (a) – (g) above, individually or in the aggregate, do not or would not reasonably be expected to materially and adversely affect the current use or value of the Real Property subject thereto or the operations of the Seller as it is currently conducted.

“**Person**” means any individual, corporation, partnership, limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Body or other entity.

“**REA**” means a reciprocal easement agreement or similar agreement.

“**Representative**” means, with respect to a particular Person, any director, officer, manager, partner, member, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

“**Seller's Indemnified Persons**” means the Seller and the Seller's stockholders, members, Affiliates, successors and assigns, and their respective stockholders, partners, Affiliates, directors, trustees, officers, employees, agents and Representatives.

“**Seller's Knowledge**” means the actual knowledge of the Chairman, Chief Executive Officer, President, Chief Financial Officer or Vice President-General Counsel/Secretary of any of the Sellers, or the constructive knowledge of any of the foregoing, after due inquiry.

“**Subject Capital Lease**” means a capital lease identified on Schedule 6.12(c).

“**Subject Closing Order**” means an order or orders of the Bankruptcy Court which may be entered from time to time (at ~~GGST's~~PURCHASER's request) approving the sale of any of the Assets or Owned Real Property, or the assumption and assignment of any Real Property Lease or Contract to ~~GGST's~~PURCHASER's designee(s).

“**Tax**” or “**Taxes**” means all taxes, charges, fees, imposts, levies or other assessments, including all net income, franchise, profits, gross receipts, capital, sales, use, ad valorem, value-added, transfer, transfer gains, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, real or personal property, and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever, together with any interest and any penalties, fines, additions to tax or additional amounts thereon, imposed by any taxing authority (federal, state, local or foreign) and shall include any transferee liability in respect of Taxes.

“**Tax Returns**” means all returns, declarations, reports, forms, estimates, information returns and statements required to be filed in respect of any Taxes or to be supplied to a taxing authority in connection with any Taxes.

“**True Lease**” means a Subject Capital Lease that would be treated as a true lease under the Bankruptcy Code and would not be subject to recharacterization as a secured loan or a financing transaction.

“**Wind Down Budget**” means a budget prepared by the Sellers and their financial advisors (in reasonable detail, broken down by category of expense) setting forth all of the expenses reasonably projected by the Sellers and their financial advisors (i) to be necessary to wind down and/or administer their businesses and the Bankruptcy Cases during the Fee Designation Period and (ii) to be incurred by the Sellers to fulfill their obligations under this Agreement.

(b) The following capitalized terms are defined in the following Sections of this Agreement:

<u>Term</u>	<u>Section</u>
Access Fee	3.4(a)
Acquisition.....	Recitals
Agreement.....	Preamble
Assets.....	2.1
Assumed Capital Lease Obligations	2.5(c)
Assumed Contract Obligations	2.5(d)
Assumed Contracts.....	2.5(d)
Assumed Liabilities.....	2.3
Bankruptcy Cases.....	Recitals
Bankruptcy Code.....	Recitals
Bankruptcy Court.....	Recitals
Bidding Procedures	8.10(a)
Bidding Procedures Order	8.10(a)
Break-Up Fee	11.2
Certificates of Occupancy	6.13(f)
Claim Notice	12.5(a)(i)
Closing.....	5.1(a)
Closing Cash Payment.....	4.1
Closing Date	5.1(a)
Closing Date Assets	5.1(a)
Closing Date Properties.....	5.1(a)
Competing Transaction	11.1(c)
Confidentiality Agreement	8.4
Deeds	5.5(a)
Designated Avoidance Actions	2.2(i)
Designated Officer	3.4(d)
Designation Rights	3.2(a)
Disputed Amount	3.4(c)

<u>Term</u>	<u>Section</u>
Environmental Law	6.10(a)
Environmental Permits	6.10(d)
Excluded Assets	2.2
Excluded Liabilities.....	2.4
Excluded Taxes	2.4(b)
Exclusion Notice	3.3(a)
Expense Reimbursement	11.2
Fee Designation Expiration Date	3.2(a)
Fee Designation Rights.....	3.2(a)
Financing Lease Obligations	2.5(c)
GAAP	6.5
GGSTPURCHASER	Preamble
GGSTPURCHASER Recovery Threshold.....	12.2(b)
Group A Amount	4.1
Group B Amount.....	4.1
Group C Amount.....	4.1
Hazardous Material	6.10(b)
Indemnity Notice.....	12.5(b)
Insurance Policies.....	6.17
Leased Real Property.....	6.13(b)
Legal Requirements.....	6.13(f)
Material Contracts.....	6.11(a)
Names	8.17
Non-Fee Designation Expiration Date	3.2(a)
Non-Fee Designation Rights.....	3.2(a)
Notice	3.2(b)(i)
Notice Period	12.5(a)(i)
Owned Real Property	6.13(a)
Permits	6.9
Petition Date	Recitals
Purchase Price	4.1
Purchase Price Adjustment Amount	4.1
Real Property	6.13(c)
Real Property Leases	6.13(b)
Remediation	6.10(c)
Requirement of Law.....	6.8
Sale Approval Order.....	8.10(b)
Schedules	6
Seller.....	Preamble
Seller Consents and Notices	6.3(b)
Seller Financial Statements.....	6.5
Seller Recovery Threshold	12.4(b)
Sellers	Preamble
Space Leases	6.13(d)
Subject Closing	5.4
Subject Closing Conditions	5.4

<u>Term</u>	<u>Section</u>
Subject Closing Date	5.4
Subsidiaries	6.2(a)
Subsidiary	6.2(a)
Survival Period.....	12.7
Third-Party Claim	12.5(a)(i)
True Lease Obligations.....	2.5(b)
Tunica Adjustment	4.1
WARN Act	2.4(c)

2. Purchase and Sale of Assets

2.1 Assets to be Transferred. On the terms and subject to the conditions set forth in this Agreement and the Sale Approval Order, at the Closing (or, as the case may be, on the Subject Closing Dates as may be determined by GGSTPURCHASER, in its sole and absolute discretion, pursuant to Sections 2.5, 2.6 or 3 of this Agreement), the Sellers shall sell, assign, transfer, convey and deliver (or cause to be sold, assigned, transferred, conveyed and delivered) to GGSTPURCHASER or its designee(s), and GGSTPURCHASER or its designee(s) shall purchase and assume from the Sellers, free and clear of any and all Liens and Encumbrances, all of the Sellers' right, title and interest in and to all of the following assets and rights of the Sellers (such rights, title and interests in and to all such assets and rights being collectively referred to herein as the "Assets"), in accordance with, and with all of the protections afforded by, Sections 363 and 365 of the Bankruptcy Code:

- (a) all Owned Intellectual Property;
- (b) all Equipment (including Equipment that is subject to a Subject Capital Lease) other than Equipment specifically designated by GGSTPURCHASER, in its sole and absolute discretion, to be excluded from the Assets pursuant to Section 2.5 or 2.6 hereof;
- (c) all Other Assets other than Other Assets specifically designated by GGSTPURCHASER, in its sole and absolute discretion, to be excluded from the Assets pursuant to Section 2.6 hereof;
- (d) all Contracts other than Contracts specifically designated by GGSTPURCHASER, in its sole and absolute discretion, to be excluded from the Assets pursuant to Section 2.5 and/or Section 3 hereof; provided that the Assets shall not include any IP Contracts with respect to which, as of the Closing Date or Subject Closing Date (as applicable), the Sellers have not obtained any consent or approval required to effect the assignment of such IP Contract to GGSTPURCHASER or its designee(s);
- (e) all Designation Rights, as more fully described in Section 3 hereof; and
- (f) all Designated Avoidance Actions.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, the following assets, properties and rights (collectively, the "Excluded Assets") shall

not be included in the Assets, and title to such assets, properties and rights shall be retained by the Sellers, subject in the case of Real Property to the Designation Rights:

- (a) any cash, bank deposits and cash equivalents;
- (b) all Inventory;
- (c) all Accounts Receivable and all causes of action relating solely to such Accounts Receivable, including all letters of credit supporting Accounts Receivable, guarantees of obligations of account debtors and deposits from customers;
- (d) all Excluded Equipment;
- (e) all Excluded Contracts;
- (f) all Excluded Other Assets;
- (g) all Real Property;
- (h) all refunds in respect of any Taxes that are Excluded Taxes;
- (i) all of the rights and claims of the Sellers for avoidance actions available to the Seller under the Bankruptcy Code, of whatever kind or nature, as set forth in Sections 544 through 551 and any other applicable provisions of the Bankruptcy Code, and any related claims and actions arising under such sections by operation of law or otherwise, including any and all proceeds of the foregoing (other than rights, claims and actions of any Seller under Sections 544 through 551 and any other applicable provision of the Bankruptcy Code that any Seller may have against any party to an Assumed Contract and/or Subject Capital Lease for Equipment that constitutes an Asset (such rights, claims and actions shall be referred to herein as “Designated Avoidance Actions”)); and
- (j) all books and records relating to the Excluded Assets;

provided, that any asset that constitutes an Excluded Asset that is contained in any Equipment shall be removed by the Seller from such Equipment at the Seller’s own expense or the Seller shall be deemed, upon conveyance of such Equipment, to have abandoned such asset.

2.3 Assumed Liabilities. GGSTPURCHASER shall assume no liability or obligation of the Sellers except with respect to the Liabilities expressly set forth in this Section 2.3 (the “Assumed Liabilities”), which GGSTPURCHASER (or its designee(s)) shall pay, perform and discharge in accordance with the Bankruptcy Code and/or any Final Order of the Bankruptcy Court relating thereto, subject to any defenses, offsets or counterclaims asserted in good faith against the obligee to whom such liabilities or obligations are owed. GGSTPURCHASER (or its designee(s)) hereby agrees to assume and satisfy:

- (a) the Assumed Capital Lease Obligations, if any; and
- (b) the Assumed Contract Obligations, if any.

Each Seller hereby acknowledges and agrees that GGSTPURCHASER shall not assume or otherwise be responsible for, directly or indirectly, any Liabilities of the Sellers other than the Assumed Liabilities.

2.4 Excluded Liabilities. Notwithstanding anything to the contrary contained in this Agreement, but without prejudice to any provision of this Agreement providing for GGSTPURCHASER to bear or to reimburse the Sellers in respect of specified costs and obligations of the Sellers, the parties expressly acknowledge and agree that GGSTPURCHASER shall not assume or in any manner whatsoever be liable or responsible for any Liability of any one or more of the Sellers, or any predecessors or Affiliates of the Sellers, or any of their Representatives or any Claim against any and all of the foregoing, whether matured or unmatured, known or unknown, contingent or absolute, direct or indirect, whensoever incurred, other than Assumed Liabilities. Without limiting the generality of the foregoing, but without prejudice to any provision of this Agreement providing for GGSTPURCHASER to bear or to reimburse the Sellers in respect of specified costs and obligations of the Sellers, the parties expressly acknowledge and agree that GGSTPURCHASER does not assume and shall have no liability with respect to any of the following:

(a) the True Leases and Financing Leases associated with the Equipment that GGSTPURCHASER elects to exclude from the Assets pursuant to Section 2.5(a), with respect to which True Leases and Financing Leases the Sellers shall retain all Liabilities (and may, in their discretion, reject such True Leases and, in the case of Financing Leases, abandon the Equipment to the applicable secured lender(s)).

(b) any Liability (i) of or required to be paid by the Sellers for any Taxes of any kind for any period and (ii) for any Taxes relating to the Assets or the Assumed Liabilities, including any Property Taxes and any Transfer Taxes, for or applicable to any tax period prior to the Closing (any liability set forth in this Section 2.4(b), "Excluded Taxes");

(c) any Liability of any of the Sellers relating to any of Sellers' employees, including, without limitation, (a) Worker Adjustment Retraining Notification Act ("WARN Act") claims and other termination type Liabilities, or any other amounts required to be paid by statute or law and (b) any Liability of any of the Sellers under any collective bargaining or employment agreement or any successor liability;

(d) any broker's, finder's or attorneys' fees, or any other similar Liability of any of the Sellers relating to this Agreement or the transactions contemplated hereby;

(e) any Liability of any of the Sellers (including any fines, penalties and special, punitive and consequential damages) relating to personal injury or property damage, damage to the environment by or on behalf of any Seller, infringement or violations by or on behalf of any Seller of rights relating to any intellectual property, defective products sold by or on behalf of any Seller, or any claims in respect of the foregoing;

(f) any Liability of any of the Sellers arising under or in connection with or relating to any bank debt (including, without limitation, any existing mortgage, indenture, public financing instrument, industrial development revenue financing, or similar financing vehicle encumbering any Owned Real Property or Leased Real Property), institutional loan, or loan or advance from any division or subsidiary of any Seller;

- (g) any Liability in respect of Remediation relating to the Real Properties.

All Liabilities other than Assumed Liabilities are collectively referred to as the “Excluded Liabilities.”

2.5 Subject Capital Leases and Contracts; Assumed Capital Lease Obligations and Assumed Contract Obligations.

(a) At least ten (10) days prior to the Closing, GGSTPURCHASER and the Sellers shall jointly determine which of the Subject Capital Leases, if any, is a True Lease and which of the Subject Capital Leases, if any, is a Financing Lease. Within ten (10) days of receipt by the Seller and the Seller’s counsel of a written direction by GGSTPURCHASER directing the Seller to commence one or more adversary proceedings in the Bankruptcy Cases against any party to a Subject Capital Lease, the Seller shall commence such proceeding to determine (i) whether such Lease is a True Lease or a Financing Lease and (ii) in the case of a Financing Lease, the liquidation value, if any, of the applicable collateral and whether the Financing Lease is secured by a valid, binding, enforceable and perfected Lien. The Sellers agree to use all commercially reasonable efforts to prosecute such adversary proceedings in an expeditious manner. GGSTPURCHASER agrees to reimburse the Sellers for any reasonable attorneys’ fees and expenses incurred by the Sellers directly as a result of any such adversary proceedings initiated at the direction of GGSTPURCHASER; provided that GGSTPURCHASER shall be entitled to make all decisions regarding such adversary proceedings, including, without limitation, the settlement thereof. GGSTPURCHASER may, in its sole and absolute discretion, at any time (and from time to time) during the Fee Designation Period (or in the case of any Equipment located on any Leased Real Property following the Non-Fee Designation Expiration Date, the Non-Fee Designation Period), by written notice to the Seller, elect to include in or exclude from the Assets any or all of the Equipment subject to the Subject Capital Leases and any or all of the Contracts (other than any such Equipment that has previously been transferred or assigned to GGSTPURCHASER or its designee(s)). GGSTPURCHASER shall additionally have the right subsequently to exclude from the Assets any Equipment or Contract previously included (other than any such Equipment or Contract that has previously been transferred or assigned to GGSTPURCHASER or its designee(s)). In the event that GGSTPURCHASER shall have made no election with respect to any Equipment subject to a Subject Capital Lease or any Contracts by the Fee Designation Expiration Date (or in the case of any Equipment located on any Leased Real Property following the Non-Fee Designation Expiration Date, the Non-Fee Designation Period), then GGSTPURCHASER shall be conclusively deemed to have elected to exclude such Subject Capital Lease or such Contracts from the Assets. The Purchase Price shall not be increased, reduced or otherwise amended on account of any election under this Section 2.5(a). After any Equipment subject to a Subject Capital Lease or Contract has been excluded from the Assets as provided herein, GGSTPURCHASER shall have no further interest therein or rights thereto, and all rights to market, sell, abandon in accordance with Section 554 of the Bankruptcy Code, assume, assign or reject such Equipment or Contract (and all obligations relating thereto) shall revert to and vest in the Seller. After any Equipment subject to a Subject Capital Lease or Contract has been excluded, the Sellers shall be entitled to retain all proceeds received from the disposition thereof.

(b) The Liabilities of the Sellers pursuant to any True Lease (including, without limitation, the obligation to make regular lease payments to the lessor under such True Lease in accordance

with the Bankruptcy Code) that relates to Equipment that GGSTPURCHASER has elected to include in the Assets pursuant to Section 2.5(a) and arising on or after the date that the Bankruptcy Court shall enter an order providing for the assumption of such True Lease by the applicable Seller and the assignment thereof to GGSTPURCHASER (or its designee(s)) shall be referred to herein as the “True Lease Obligations.” GGSTPURCHASER shall reimburse the Sellers for the actual amount of any lease payments relating to any True Lease that are (i) required by the Bankruptcy Code or by order of the Bankruptcy Court to be paid to the lessor, (ii) actually paid by the Sellers and (iii) attributable to the period from and after the Petition Date until the earlier of the date that the Bankruptcy Court shall enter an order providing for the assumption of such True Lease by the applicable Seller and the assignment thereof to GGSTPURCHASER (or its designee(s)) and the date that GGSTPURCHASER shall exercise its right to exclude from the Assets the Equipment subject to such True Lease pursuant to Section 2.5(a).

(c) The Liabilities of the Sellers pursuant to any Financing Lease (including, without limitation, the obligation to repay amounts owing pursuant to such Financing Lease) that relates to Equipment that GGSTPURCHASER has elected to include in the Assets pursuant to Section 2.5(a) and arising on or after the date that the Bankruptcy Court shall enter an order providing for the assumption of such Financing Lease by the applicable Seller and the assignment thereof to GGSTPURCHASER shall be referred to herein as the “Financing Lease Obligations,” provided that the Financing Lease Obligations shall (i) only include Liabilities with respect to Financing Leases that are subject to a valid, binding, enforceable and perfected Liens on the Equipment that is the subject of such Financing Leases and (ii) not be in an amount in excess of the liquidation value of the applicable Equipment (it being understood and agreed that any deficiency claim of a secured lender arising out of any Financing Lease shall not be assumed by GGSTPURCHASER and shall constitute an unsecured claim against the applicable Seller’s estate). The True Lease Obligations together with the Financing Lease Obligations shall be referred to herein as the “Assumed Capital Lease Obligations.” GGSTPURCHASER shall reimburse the Sellers for the actual amount of any lease payments relating to any Financing Lease that are (i) required by order of the Bankruptcy Court to be paid to the secured party in connection with such Financing Lease, (ii) actually paid by the Sellers and (iii) attributable to the period from and after the Petition Date until the earlier of the date that the Bankruptcy Court shall enter an order providing for the assumption of such Financing Lease by the applicable Seller and the assignment thereof to GGSTPURCHASER (or its designee(s)) and the date that GGSTPURCHASER shall exercise its right to exclude from the Assets the Equipment subject to such Financing Lease pursuant to Section 2.5(a).

(d) The Contracts that GGSTPURCHASER shall elect to include in the Assets pursuant to Section 2.5(a) (or shall exercise Designation Rights with respect to pursuant to Section 3) shall be referred to herein as the “Assumed Contracts.” The Liabilities of the Sellers pursuant to any Assumed Contract attributable to the period following the date that the Bankruptcy Court shall enter an order providing for the assumption of any Assumed Contract by the applicable Seller and the assignment thereof to GGSTPURCHASER (or its designee(s)) shall be referred to herein as the “Assumed Contract Obligations.” The Liabilities of the Sellers pursuant to any Contract attributable to the period prior to the Closing Date shall be the exclusive responsibility of the Sellers, and GGSTPURCHASER shall have no obligations in respect thereof; provided (i) that GGSTPURCHASER shall reimburse the Sellers for 50% of the Liabilities (A) required by the Bankruptcy Code or by order of the Bankruptcy Court to be paid to any counterparty in

connection with any Contract that GGSTPURCHASER ultimately elects to include in the Assets pursuant to Section 2.5(a), (B) actually paid by the Sellers and (C) attributable to the period from and after the Petition Date until the Closing Date and (ii) that GGSTPURCHASER shall reimburse the Sellers for 100% of the Liabilities (A) required by the Bankruptcy Code or by order of the Bankruptcy Court to be paid to any counterparty in connection with any Contract that GGSTPURCHASER ultimately elects to include in the Assets pursuant to Section 2.5(a), (B) actually paid by the Sellers and (C) attributable to the period from and after the Closing Date. GGSTPURCHASER agrees that, upon written notice from Sellers that Sellers are required by the Bankruptcy Code or by order of the Bankruptcy Court to make a payment in respect of a Contract and intend to make such payment, promptly either elect to include such contract in the Assets pursuant to Section 2.5(a) or else to forgo any further rights hereunder with respect to such Contract (including any right to include such Contract in the Assets or to exercise any Designation Rights with respect thereto).

2.6 Equipment and Other Assets Election Procedures. GGSTPURCHASER may, in its sole and absolute discretion, at any time (and from time to time) during the Fee Designation Period (or in the case of any Equipment located on any Leased Real Property following the Non-Fee Designation Expiration Date, the Non-Fee Designation Period), by written notice to the Sellers, elect to include in or exclude from the Assets (a) any or all of the Equipment of the Sellers other than the Equipment listed on Schedule 1.1(b) and (b) any or all of the Other Assets. GGSTPURCHASER shall additionally have the right subsequently to exclude from the Assets any Equipment or Other Assets previously included (other than any such Equipment or Other Assets that have previously been transferred or assigned to GGSTPURCHASER or its designee). In the event that GGSTPURCHASER shall have made no election with respect to any Equipment or any Other Assets by the Fee Designation Expiration Date, then GGSTPURCHASER shall be conclusively deemed to have elected to exclude such Equipment or Other Assets from the Assets. The Purchase Price shall not be increased, reduced or otherwise amended on account of any election under this Section 2.6. After any Equipment or Other Asset has been excluded from the Assets as provided herein, GGSTPURCHASER shall have no further interest therein or rights thereto, and all rights to market, sell, abandon in accordance with Section 554 of the Bankruptcy Code, assume, assign or reject such Equipment or Other Asset (and all obligations relating thereto) shall revert to and vest in the Seller. After any Equipment or Other Asset has been excluded and the Sellers have disposed (or contracted to dispose) of such Equipment or Other Asset, the Sellers shall be entitled to retain all proceeds received from the disposition thereof.

3. Purchase and Sale of Designation Rights.

3.1 Rights and Properties to be Transferred; Subleases.

(a) On the terms and subject to the conditions contained in this Agreement and the Sale Approval Order, at the Closing, the Sellers shall sell, assign, transfer, convey and deliver to GGSTPURCHASER, and GGSTPURCHASER shall purchase and assume from the Sellers, pursuant to Sections 105, 363, 365 and 1146(c) of the Bankruptcy Code, the Designation Rights for all of the Real Property and all of the Contracts (other than the Excluded Contracts) free and clear of all Liens and Encumbrances of any kind whatsoever to the fullest extent permissible pursuant to the Bankruptcy Code.

(b) During the Fee Designation Period, and on the terms and subject to the conditions contained in this Agreement and the Sale Approval Order, on each Subject Closing Date (or upon an order of the Bankruptcy Court, as applicable), the applicable Seller shall sell, assume, convey, assign, transfer and/or deliver (as applicable) to GGST'sPURCHASER's designee, free and clear of all Liens and Encumbrances (other than encumbrances of the type specified in clauses (g)(i), (g)(ii), and (g)(iii) of the definition of Permitted Encumbrance herein and subject to the rights of tenants under section 365(h) of the Bankruptcy Code), all of such Seller's right, title and interest in, to and under each (i) Owned Real Property, whether held by Seller directly or through a nominee and (ii) Contract other than the Excluded Contracts, in each case that has been designated for sale by GGSTPURCHASER pursuant to Section 3.2, and in the case of clause (ii) such designee shall assume all obligations under such Contract that are attributable to the period after the date of such assignment and assumption. During the Non-Fee Designation Period, upon the direction of GGSTPURCHASER, the Sellers shall assume and assign to GGST'sPURCHASER's designee(s), free and clear of all Liens and Encumbrances (other than encumbrances of the type specified in clauses (g)(i), (g)(ii), and (g)(iii) of the definition of Permitted Encumbrance herein and subject to the rights of tenants under section 365(h) of the Bankruptcy Code), all of the Sellers' rights under each Real Property Lease, including any ground leases (and conveying all improvements located on the Real Properties which are ground leased) that has been designated for assumption and assignment by GGSTPURCHASER pursuant to Section 3.2, and such designee shall assume all obligations under such Real Property Lease that are attributable to the period after the date of such assignment and assumption.

(c) The Sellers shall promptly reject any subleases upon written notice from GGSTPURCHASER, in its sole discretion, directing the rejection of any such Sublease, provided that such notice shall be given in connection with the sale or assignment of the Sellers' interest in the Real Property relating to such sublease.

3.2 Designation Procedures.

(a) During the Non-Fee Designation Period, GGSTPURCHASER shall have the sole, exclusive, and continuing right to select, identify and designate (on one or more occasions): (i) which Real Property Leases shall be assumed and assigned, and to whom (including, without limitation, to a landlord of a Real Property Lease which may involve terminating a Real Property Lease in lieu of assigning a Real Property Lease to a landlord or to GGSTPURCHASER or an Affiliate of GGSTPURCHASER) and (ii) which Real Property Leases shall be excluded from the Acquisition, and shall have the sole, exclusive and continuing right to receive compensation from any third party in respect of such assumption and assignment (all of which rights are referred to herein as the “Non-Fee Designation Rights”). During the Fee Designation Period, GGSTPURCHASER shall have the sole, exclusive and continuing right to select, identify and designate (on one or more occasions): (w) which Owned Real Property shall be conveyed and to whom, (x) which Owned Real Property shall be excluded from the Acquisition, (y) which Contracts shall be assumed and assigned, and to whom and (z) which Contracts shall be excluded from the Assets and shall have the sole, exclusive and continuing right to receive compensation from any third party in respect of such conveyance or assumption and assignment, as the case may be (all of which rights are referred to herein as the “Fee Designation Rights” and, together with the Non-Fee Designation Rights, the “Designation Rights”). GGST’sPURCHASER’s Non-Fee Designation Rights shall expire on the date (the “Non-Fee Designation Expiration Date”) that is one year from the date of this Agreement; provided, that, at the option of GGSTPURCHASER, the Non-Fee Designation Expiration Date may be extended from time to time to a date that is no later than the Fee Designation Expiration Date, or, with respect to any particular Real Property Lease, any earlier date upon which such Lease expires; provided, further, that such option to extend is conditional upon the Bankruptcy Court entering an order extending the period during which the Sellers may assume or reject the Real Property Leases to a date that is at least as late as the extension proposed. GGST’sPURCHASER’s Fee Designation Rights shall expire on the date (the “Fee Designation Expiration Date”) that is eighteen (18) months from the date of this Agreement, provided such period may be extended from time to time, in GGST’sPURCHASER’s sole and absolute discretion, for an aggregate period not to exceed six months thereafter if, and only if, GGSTPURCHASER agrees to pay to the Seller an amount not to exceed \$100,000 per month for each month that the Fee Designation Expiration Date is so extended to reimburse the Sellers for actual, administrative expenses incurred and paid by the Sellers during such period (and arising as a result of such extension) and GGSTPURCHASER gives the Seller at least forty-five (45) days’ notice of any such extension. The Designation Rights shall include, among other things, the exclusive power to designate to a designee (and to have the Seller convey or assign to such designee) all rights, titles, interests, options, contract rights and appurtenances of the Seller in and to the Real Properties and the Contracts, excluding rent refunds, tax credits and other amounts due to the Seller for periods prior to the entry of the Sale Approval Order, and including, without limitation, the Real Property known as “Plant Number Four,” located at South Main Street, Kannapolis, North Carolina, and any Contract for the sale thereof, which contract shall be assumed or rejected by the Seller at the direction of GGSTPURCHASER and the proceeds of which, if any, shall be paid to GGSTPURCHASER. Each Seller hereby acknowledges and agrees that from and after the date of this Agreement GGSTPURCHASER and its Representatives shall be entitled to commence marketing the Assets and the Real Property for re-sale and that any and all of GGST’sPURCHASER’s and its Representatives’ reasonable costs and expenses in connection therewith shall constitute costs and expenses for computing the Expense Reimbursement. Anything in this Agreement to the contrary notwithstanding, GGSTPURCHASER, its affiliates and its designee(s) shall have no operational authority or

control over any of the properties or assets underlying the Designation Rights (including, but not limited to, the disposal or storage of hazardous wastes at the Real Properties) unless and until GGSTPURCHASER (or its affiliate or designee, as the case may be) has taken title to such property or asset, and prior to such time the applicable Seller(s) shall retain full decision-making authority with respect to the use and operation of such properties and assets.

(b) The Sale Approval Order shall provide for procedures with respect to GGST'sPURCHASER's exercise of its Designation Rights substantially as set forth below:

(i) Within five (5) days (which must include at least three (3) business days) of receipt by the Seller, the Seller's counsel and counsel for the Committee of a written notice (containing information and documents required under clauses (A) through (C) below) from GGSTPURCHASER as to a proposed assumption and assignment of a Real Property Lease or Contract to GGST'sPURCHASER's designee(s), the Seller shall deliver a written notice (the "Notice") containing (A) the identity of the proposed designee, (B) documentation from the designee relating to "adequate assurance of future performance" and (C) a list of all Affected Parties that GGSTPURCHASER determines should receive notice of the proposed assignment (which list shall include counsel for the Committee, counsel for the DIP Lenders and the United States Trustee), to all such Affected Parties identified by GGSTPURCHASER. The Sale Approval Order shall provide, with respect to any Real Property Lease or Contract not assumed and assigned pursuant to the Sale Approval Order, that the counterparty, and, if applicable, any other Affected Party with an interest in the Real Property Lease or Contract shall have sixteen (16) days from receipt of the Notice to file an objection in writing to the proposed assignment of the Real Property Lease or Contract to GGST'sPURCHASER's designee.

(ii) An objection to any assumption and assignment of any Real Property Lease or Contract that is not approved pursuant to the Sale Approval Order shall be served on counsel for GGSTPURCHASER, the Seller, counsel for the Seller, counsel for the Committee, counsel for the DIP Lenders and the United States Trustee. If a timely written objection is made to the assumption and assignment of any Real Property Lease or Contract, the Bankruptcy Court will hold a hearing on the next scheduled omnibus hearing date and rule on the objection. The Seller and GGSTPURCHASER shall use commercially reasonable efforts to have such objection overruled; provided, however, that each party hereto shall bear their own respective legal fees, costs and expenses of responding to any objection and any appeal thereof and any litigation relating thereto. If overruled or withdrawn, the assumption and assignment at issue shall occur immediately upon such action (without further court order unless GGSTPURCHASER requests a Subject Closing Order be obtained and/or auction be held for a particular Real Property Lease or Contract in accordance with the terms of this Agreement), and the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections (other than cure amounts). If the objection is upheld by the Bankruptcy Court, GGSTPURCHASER shall, at its option, retain the Designation Rights to such Real Property Lease or Contract or shall exclude the Real Property Lease or Contract at issue pursuant to Section 3.3(a) and seek an adjustment to the Purchase Price to the extent permitted under Section 3.3(a). The Sale Approval Order shall further provide that if no objection to the assumption and assignment is timely made, or such objection involves a "cure issue" which pursuant to the Sale Approval Order will not

affect the assignment of the Real Property Lease or Contract, the Seller shall promptly file and serve on counsel for GGSTPURCHASER, counsel for the Committee, counsel for the DIP Lenders and the United States Trustee a certificate of “no objection,” and the assumption and assignment shall be deemed effective and binding (without further court order unless GGSTPURCHASER requests an additional Subject Closing Order be obtained and/or auction be held for a particular Real Property Lease or Contract in accordance with the terms of this Agreement) and the Affected Parties shall be deemed to have consented to the assumption and assignment and to have waived all objections (other than cure amounts).

(iii) Within five (5) days (which must include at least three (3) business days) of receipt of written notice (containing applicable information and documents required under clauses (A) through (C) of Section 3.2(b)(i)) from GGSTPURCHASER to the Seller, Seller’s counsel and counsel for the Committee as to a proposed conveyance of any parcel of Owned Real Property to GGST’sPURCHASER’s designee, the Seller shall deliver a Notice to all Affected Parties, if any, relating to such Owned Real Property along with any documentation provided by GGSTPURCHASER, and such Affected Parties shall have sixteen (16) days to object to the sale by filing an objection and serving such objection on counsel for GGSTPURCHASER, the Seller, counsel for the Seller, counsel for the Committee, counsel for the DIP Lenders and the United States Trustee. The Sellers shall use best efforts to obtain approval from the Court that (A) the objections by any REA parties shall be limited to alleged violations of their REA and (B) to have the Notice constitute a “motion” for purposes of the Court. If a timely objection is made, the matter will be heard by the Court at the next omnibus hearing date. If the objection is upheld by the Bankruptcy Court, GGSTPURCHASER shall, at its option, retain the Designation Rights to such Owned Real Property or shall exclude the Owned Real Property at issue pursuant to Section 3.3(a) and seek an adjustment to the Purchase Price to the extent permitted under Section 3.3(a). If no objection to the sale is timely made, the Sellers shall promptly file and serve on counsel for GGSTPURCHASER, counsel for the Committee, counsel for the DIP Lenders and the United States Trustee a certificate of “no objection,” and all Affected Parties shall be deemed to have consented to the sale effective as of the expiration of the objection deadline, and the Sellers shall hold a closing to provide for the conveyance of title and related rights to GGST’sPURCHASER’s designee. If there are no Affected Parties for a particular Owned Real Property, the Seller shall, at GGST’sPURCHASER’s request, file and serve on counsel for the Committee, counsel for the DIP Lenders and the United States Trustee a “notice of designation-no affected parties” and proceed to a Subject Closing with respect to GGST’sPURCHASER’s designation as promptly as commercially reasonable.

(c) Each of the Sellers, GGSTPURCHASER and the applicable designee shall use commercially reasonable efforts to comply and shall fully cooperate with each other in the resolution of any objections to the proposed sale or the proposed assumption and assignment.

(d) To the extent any of GGST’sPURCHASER’s designees fail to close on any Real Property or Contract, GGSTPURCHASER shall have the right to direct the Seller to convey such Real Property or Contract to an alternate designee, and GGSTPURCHASER shall retain all of its respective Designation Rights under this Agreement.

(e) Subject to the payment of the Access Fees referred to in Section 3.4, during the Fee Designation Period, each of GGSTPURCHASER and any prospective designee shall be afforded access to each of the Owned Real Properties and Leased Real Properties for the purposes of effectuating the disposal of the Equipment thereon and the transfer of such Real Properties pursuant to the Designation Rights. The Sellers shall cooperate with any tests, inspections or other investigations which GGSTPURCHASER or a prospective designee may choose to perform in respect of such properties (provided that GGSTPURCHASER or the prospective designee, as the case may be, shall reimburse the Sellers for the cost to repair any damage that may occur on account of such investigations).

3.3 Exclusion of Real Property and Contracts.

(a) GGSTPURCHASER shall have the right, in its sole and absolute discretion, by provision to the Seller of one or more notices (each an “Exclusion Notice”) to exclude any Real Property or Contract from the transaction contemplated in this Section 3 at any time and from time to time (including the right to exclude a Real Property or Contract previously designated by GGSTPURCHASER to be assigned or sold, as the case may be, to a designee in the event a Subject Closing Condition does not occur). Except as set forth in Section 4, the Purchase Price shall not be reduced by such exclusion of any of the Real Properties or Contracts unless such exclusion was solely a result of the applicable Seller’s failure to satisfy a Subject Closing Condition that was in Seller’s control for any of the Real Properties or Contracts, in which case the Purchase Price shall be reduced by an amount equal to the amount that would have been received by GGSTPURCHASER but for such failure. With respect to any Exclusion Notice delivered after the Closing Date in respect of any Real Property, on the 45th day following delivery of such Exclusion Notice, GGST’sPURCHASER’s obligation to pay the Access Fee relating to such excluded Real Property shall cease in accordance with the procedure set forth under Section 3.4. In the event that GGSTPURCHASER elects to exclude any Real Property pursuant to this Section 3.3(a), but still desires to have access to such Real Property solely to dispose of any and all remaining Equipment located at such Real Property, the Sellers hereby acknowledge and agree that GGSTPURCHASER shall be entitled to unfettered access to such Real Property for such limited purpose, it being understood and agreed that GGST’sPURCHASER’s access shall be conditioned upon GGSTPURCHASER continuing to pay the Access Fee related to such Real Property until the 45th day following delivery of a notice to the Seller to the effect that GGSTPURCHASER no longer requires such access, and that GGST’sPURCHASER’s access shall not extend past the relevant Designation Expiration Date in respect of such property.

(b) After a Real Property or Contract has been excluded as provided herein, GGSTPURCHASER shall have no further interest therein or rights thereto, and all rights to market, sell, abandon in accordance with Section 554 of the Bankruptcy Code, assume, assign or reject such Real Property or Contract (and all obligations relating thereto) shall revert to and vest in the Seller. After a Real Property or Contract has been excluded, the Sellers shall be entitled to retain all proceeds received from the disposition thereof .

(c) Upon the reasonable request of GGSTPURCHASER, the Sellers shall assist GGSTPURCHASER in subdividing or otherwise partitioning any Real Property to the extent commercially practicable and permitted under applicable law. GGSTPURCHASER shall

reimburse the Sellers for reasonable attorneys' fees and expenses incurred by the Sellers directly as a result of such request.

3.4 Access Fees.

(a) As consideration for the use of the Real Properties to store the Equipment and Other Assets included in the Assets, GGSTPURCHASER shall be responsible for and shall reimburse the Seller as an access fee (the "Access Fee") with respect to each Real Property an amount equal to the Carrying Costs actually incurred and paid by the Sellers with respect to such Property and the Equipment contained thereon. GGST'sPURCHASER's obligation to pay the Access Fee with respect to any Real Property shall commence on the Closing Date and shall cease to accrue on the earliest to occur of (i) the expiration of the Fee Designation Period or Non-Fee Designation Period, as applicable (or any extension thereof); (ii) forty-five days after the delivery by GGSTPURCHASER to the Seller of an Exclusion Notice with respect to such Real Property (unless GGSTPURCHASER desires to continue to have access to such Real Property pursuant to the last sentence of Section 3.3(a)); (iii) in the case of any Real Property with respect to which GGSTPURCHASER desires to continue to have access after an Exclusion Notice has been delivered, forty-five days after the delivery by GGSTPURCHASER to the Seller of a notice that GGSTPURCHASER no longer desires to have such access; and (iv) the occurrence of the closing relating to the transfer of such Real Property to GGST'sPURCHASER's designee; provided that, as to subsection (iv), such designee shall be responsible for all Carrying Costs from and after such closing.

(b) Each of the Sellers agrees to act in good faith with the Designated Officer to implement such actions reasonably requested by GGSTPURCHASER to reduce or minimize Carrying Costs, including, without limitation, reducing real estate taxes by obtaining reassessments and obtaining reductions in insurance costs.

(c) On each Wednesday, commencing on the first Wednesday following the Closing and ending on the first Wednesday following the date on which all Access Fees have ceased to accrue, the Seller shall advise GGSTPURCHASER in writing of the aggregate amount of the Carrying Costs (broken down by category and in reasonable detail) that were paid in respect of the Real Properties during the previous calendar week (Sunday through Saturday). Within two (2) business days of receipt of such notification, GGSTPURCHASER shall pay to the Seller, with respect to each of the Real Properties, the amount of the Carrying Costs specified in such notice other than any such amount that GGSTPURCHASER may in good faith dispute (a "Disputed Amount"). Within seven (7) days following the last day of each calendar month (commencing with the calendar month in which the Closing shall occur and ending with the last calendar month in which any Access Fees shall accrue), the Seller shall provide to GGSTPURCHASER a cumulative Carrying Cost/Access Fee expense and payment reconciliation for such calendar month. Within seven (7) days following the date that the Seller provides such reconciliation, and provided GGSTPURCHASER shall agree that such reconciliation is accurate, the parties shall reimburse one another in accordance with such reconciliation. Notwithstanding anything to the contrary in this Section 3.4(c), GGSTPURCHASER may object to the Carrying Costs with respect to any Real Property or Equipment (and the associated Access Fee) within fifteen (15) days after receipt of the notification described in the first sentence of this Section 3.4(c), in which case GGSTPURCHASER will have the right not to pay the amount so in dispute (or, if already paid,

to offset such amount against future obligations in respect of Access Fees) until the dispute is resolved. If GGSTPURCHASER makes a timely objection, the parties shall first attempt to resolve the dispute consensually and, absent resolution, such dispute shall be submitted to the Bankruptcy Court. Any resolution in favor of GGSTPURCHASER of a Disputed Amount which has previously been paid by GGSTPURCHASER shall be recovered by GGSTPURCHASER by offset against future Access Fees to the extent possible or otherwise constitute an administrative claim against each of the Sellers having superpriority status pursuant to Section 364(c) of the Bankruptcy Code; provided, however, in the event that as of the date of the resolution of the Disputed Amount as between Sellers and PURCHASER, (x) PURCHASER cannot be repaid any Access Fee overpayment by offset against future Access Fees, and (y) PURCHASER cannot be repaid any Access Fee overpayment by virtue of the grant of the subject superpriority administrative claim, the DIP Lenders shall pay to PURCHASER the amount of any resolved Disputed Amount within five (5) business days of the DIP Lenders' receipt of a joint written notice to the DIP Lenders of such resolution.

(d) Commencing no later than the Closing Date and extending, with respect to any particular Real Property, for no less than the duration of the period during which GGSTPURCHASER shall pay the Access Fee with respect to such Real Property pursuant to subsection (a) above, the Sellers shall designate one of its executives or officers (the "Designated Officer") reasonably satisfactory to GGSTPURCHASER to manage the Real Properties (other than the Excluded Real Properties) for the benefit of the Sellers and to ensure all necessary Carrying Costs are made by the Sellers with respect thereto. GGSTPURCHASER acknowledges and agrees that (i) the Sellers shall, subject to the terms and provisions of this Agreement, at all times prior to the conveyance or assignment of any Real Property pursuant to this Section 3 retain all decision-making authority with respect to the maintenance, preservation and protection of the Real Property, (ii) GGSTPURCHASER has no authority with respect to management of operations at any Real Property and (iii) the Designated Officer shall have no personal liability to GGSTPURCHASER in any respect, other than for fraud and other tortious conduct-

(e) —GGST; provided, however, from and after the Closing Date Sellers agree not to commit to expend any amount in excess of \$50,000 per occurrence at any Real Property (in each case, an "Extraordinary Expense") to the extent such expense would constitute a Carry Cost(s) without first providing PURCHASER with not less than ten (10) days' prior written notice thereof (an "Extraordinary Expense Notice"); provided, further, in the event (x) Sellers determine it to be necessary to expend an amount that constitutes an Extraordinary Expense at any Real Property and (y) such Extraordinary Expense would constitute a Carry Cost(s) hereunder, then notwithstanding any contrary provision hereunder PURCHASER may exercise its rights to exclude such Real Property from the Designation Rights by providing Sellers with notice of such election, which notice, to be effective, must be sent by PURCHASER not later than five (5) business days after PURCHASER's receipt of the subject Extraordinary Expense Notice; provided further, that PURCHASER's obligation to pay Access Fees with respect to any such excluded Real Property excluded pursuant to this provision shall cease on the later of (i) the date designated by PURCHASER in the subject exclusion notice or (ii) fifteen (15) days after PURCHASER's delivery of the subject exclusion notice.

(e) PURCHASER shall be entitled to receive and retain all unencumbered sublease rentals and all other income generated from any of the Real Properties until such Real Properties are sold, assigned or excluded from the transaction contemplated hereby.

4. Purchase Price; Allocation of Purchase Price.

4.1 Purchase Price. Subject to the terms and conditions hereof, in reliance upon the representations and warranties of each of the Sellers and the covenants of each of the Sellers herein set forth, and as consideration for the sale and purchase of the Assets and the Designation Rights, at the Closing, GGSTPURCHASER shall (a) subject to Section 8.21, tender an amount (the "Closing Cash Payment") equal to ~~\$56~~\$61,000,000 less the Purchase Price Adjustment Amount, if any, and (b) reaffirm its obligations under Section 2.3 hereof with respect to the Assumed Liabilities (the Closing Cash Payment, taken together with GGST'sPURCHASER's obligations in respect of the Assumed Liabilities shall be referred to herein collectively as the "Purchase Price"). The "Purchase Price Adjustment Amount" shall mean the sum of (y) the lesser of (i) \$7,000,000 and (ii) the sum of the Group A Amount, the Group B Amount and the Group C Amount, and (z) the Tunica Adjustment. The "Group A Amount" shall mean (i) zero multiplied by (ii) the number of Real Properties listed on Schedule 4.1(a) in respect of which Exclusion Notices are delivered by GGSTPURCHASER prior to the Closing Date. The "Group B Amount" shall mean (i) \$1 million multiplied by (ii) the number of Real Properties listed on Schedule 4.1(b) in respect of which Exclusion Notices are delivered by GGSTPURCHASER prior to the Closing Date. The "Group C Amount" shall mean (i) \$3 million multiplied by (ii) the number of Real Properties listed on Schedule 4.1(c) in respect of which Exclusion Notices are delivered by GGSTPURCHASER prior to the Closing Date. The Tunica Adjustment shall be equal to \$2 million in the event that the Sellers would be unable to provide to GGSTPURCHASER, on the Closing Date, good and marketable title to the Real Property located in Tunica, Mississippi, free and clear of all Liens and Encumbrances (other than encumbrances of the type specified in clauses (g)(i), (g)(ii), and (g)(iii) of the definition of Permitted Encumbrance herein and subject to the rights of tenants under section 365(h) of the Bankruptcy Code) if such property were to be designated by GGSTPURCHASER as a Closing Date Property, and zero otherwise. GGSTPURCHASER and the Sellers acknowledge and agree that in the event that the Tunica Adjustment is equal to \$2 million and the Closing Cash Payment is adjusted accordingly, that (a) subject to the option rights described in subsection (b), GGSTPURCHASER shall forfeit the Designation Rights with respect to the Real Property at Tunica, Mississippi, provided that such forfeiture shall be without prejudice to the rights of GGSTPURCHASER with respect to the Assets located thereon and with respect to reasonable access thereto for the purpose of exercising GGST'sPURCHASER's right with respect to such Assets, and (b) GGSTPURCHASER shall have the option to purchase the Designation Rights with respect to such Real Property (and Sellers shall not otherwise transfer, convey, lease, or assign any rights with respect to such Real Property) at any time within six (6) months following the Closing in exchange for a payment of \$2 million, provided that GGSTPURCHASER will pay the Access Fee with respect to such Real Property until 45 days after the earlier of the date that GGSTPURCHASER shall provide notice to Sellers of its intent not to exercise such option and the end of such six month period (or any such later time as may be provided in Section 3.4(a)).

4.2 Allocation of Purchase Price. GGSTPURCHASER shall prepare an allocation of the Purchase Price (and all other capitalized costs) among the Assets and the Designation Rights in accordance with Code §1060 and the Treasury regulations thereunder (and any similar provision of state, local or foreign law, as appropriate), which allocation shall require the reasonable consent of the Seller. GGSTPURCHASER shall deliver such allocation to the Seller no later than June 30, 2004. GGSTPURCHASER and the Seller and their respective Affiliates shall report, act and file Tax Returns (including, but not limited to, Internal Revenue Service Form

8594) in all respects and for all purposes consistent with such allocation prepared by GGSTPURCHASER and consented to by the Seller. The Seller shall timely and properly prepare, execute, file and deliver all such documents, forms and other information as GGSTPURCHASER may reasonably request to prepare such allocation. Neither GGSTPURCHASER nor the Seller shall take any position (whether in audits, tax returns or otherwise) which is inconsistent with such allocation except pursuant to Requirements of Law.

5. Closing; Property Closings; Asset Closings.

5.1 The Closing.

(a) Subject to the terms and conditions of this Agreement and the Sale Approval Order, the sale, purchase, assumption and/or assignment (as applicable) of the Assets described in subsection (b) below (the “Closing Date Assets”) and the Real Properties described in subsection (c) below (the “Closing Date Properties”) shall take place at a closing (the “Closing”) to be held at the offices of Wachtell, Lipton, Rosen & Katz Traub, Bonacquist & Fox LLP, 655 Third Avenue, 21st Floor, New York, New York 10017 at 10:00 A.M., New York time, within five Business Days following the satisfaction or waiver of all conditions to the obligations of the parties set forth in Sections 9 and 10 (other than those conditions which by their nature can only be satisfied at the Closing), or at such other place or at such other time or on such other date as the Seller and GGSTPURCHASER may mutually agree upon in writing (the day on which the Closing takes place being the “Closing Date”).

(b) The following Assets shall constitute the Closing Date Assets:

- (i) all Owned Intellectual Property;
- (ii) all Designation Rights;
- (iii) all Equipment and Other Assets that GGSTPURCHASER shall have elected to include in the Assets prior to the Closing Date pursuant to Sections 2.5 or 2.6 and the right to include in the Assets, and take title to, other Equipment and Other Assets subsequently;
- (iv) all Contracts that GGSTPURCHASER shall have elected to include in the Assets and/or designate prior to the Closing Date pursuant to Sections 2.5 or 3; and
- (v) all Designated Avoidance Actions in respect of any of the foregoing;

provided, that no Asset that is subject to the rights of a third party (including, without limitation, Equipment subject to a Subject Capital Lease and Contracts) shall be included in the Closing Date Assets unless the Sale Approval Order shall provide for the conveyance, assumption and/or assignment of such Asset, as applicable.

(c) The Closing Date Properties shall consist of the Real Properties as to which GGSTPURCHASER shall have exercised its Designation Rights prior to the Closing Date pursuant to the requirements for designation specified in Section 3.

5.2 Closing Deliveries by the Sellers. At the Closing (or at such later date as to which GGSTPURCHASER may consent), unless otherwise waived in writing by GGSTPURCHASER, the Sellers shall deliver or cause to be delivered to GGSTPURCHASER (or GGSTPURCHASER's designee(s), as GGSTPURCHASER shall instruct the Sellers):

- (a) a certified copy of the Sale Approval Order;
- (b) duly executed bills of sale, special warranty deeds (or local equivalents), endorsements, consents, assignments and other good and sufficient instruments of conveyance and assignment as GGSTPURCHASER and its counsel shall deem reasonably necessary or appropriate to vest, in GGSTPURCHASER (or the designee(s), as the case may be), all right, title and interest in, to and under the Assets being acquired by GGSTPURCHASER (or its designee(s));
- (c) with respect to each of the Real Property Leases and Contracts included in the Closing Date Assets and Closing Date Properties, an assumption and assignment agreement, any applicable local or state transfer tax forms, and such customary affidavits as may be required by the title company providing title insurance;
- (d) duly executed assignments of intangible property substantially in the form of Exhibit C to transfer the Assets which are intangible property (including, without limitation, the Intellectual Property) to GGSTPURCHASER (or its designee(s)) or evidence of such transfer on the public records; provided that, if applicable, the Sellers may provide other evidence satisfactory to GGSTPURCHASER that any foreign registrations and/or applications for registration with respect to any of the Owned Intellectual Property have been, or shall be upon the Closing, transferred to GGSTPURCHASER;
- (e) a receipt for the Closing Cash Payment;
- (f) the certificates and other documents required to be delivered by the Seller pursuant to Section 9.

5.3 Closing Deliveries by GGSTPURCHASER. At the Closing, unless otherwise waived in writing by the Seller, GGSTPURCHASER shall deliver or cause to be delivered to the Seller:

- (a) an amount equal to the Closing Cash Payment, by wire transfer of immediately available funds to an account (or accounts) designated by the Seller at least two (2) Business Days prior to the Closing Date;
- (b) executed counterparts of the instruments referred to in Section 5.2 that are to be executed by GGSTPURCHASER or its designee(s); and
- (c) the certificates and other documents required to be delivered by the Seller pursuant to Section 10.

5.4 Subject Closings. The consummation of the sale, assumption and/or assignment (as applicable) of all Assets other than the Closing Date Assets and all Real Properties other than Closing Date Properties (each a "Subject Closing") shall be subject to the election or designation of such sale, assumption and/or assignment by GGSTPURCHASER pursuant to Section 2.5, 2.6

or 3 above and the completion of the deliveries of the Sellers and GGSTPURCHASER called for in Sections 5.5 and 5.6 (such conditions collectively, the “Subject Closing Conditions”). Each Subject Closing shall occur on the date (the “Subject Closing Date”) that is two (2) Business Days following the fulfillment of the Subject Closing Conditions at the office of GGST’sPURCHASER’s counsel, or at such other time and such other location as the Seller and GGSTPURCHASER shall agree.

5.5 Subject Closing Deliveries by the Sellers. At each Subject Closing, the Seller shall deliver to GGSTPURCHASER or its designee(s) the following:

(a) with respect to Owned Real Property, a Subject Closing Order (if required by GGSTPURCHASER) approving the sale of such property, deeds equivalent to such deeds customarily given by debtors in bankruptcy (“Deeds”), bill of sale, assignment of leases affecting the Owned Real Property, assignment of rents and security deposits, FIRPTA affidavit, applicable local and state transfer tax forms, assignment of operation contracts, assignment of any intangible property used in connection with the operation of the Owned Real Property, such customary affidavits as may be required by the title company providing title insurance and, to the extent in the Seller’s possession, original counterparts or copies of all the leases affecting the Owned Real Property, bills and fuel reading if required for apportionments, all written guarantees and warranties in force which the Seller has in its possession, together with an assignment of such guaranties and warranties;

(b) with respect to Real Property Leases and Contracts, a Subject Closing Order (if required by GGSTPURCHASER), an assumption and assignment agreement for each of the Real Property Leases and Contracts, any applicable local or state transfer tax forms, and such customary affidavits as may be required by the title company providing title insurance;

(c) with respect to Equipment and Other Assets, a duly executed Bill of Sale to transfer such assets which are tangible property to GGSTPURCHASER (or its designee(s)) or evidence of such transfer on the public records and a Subject Closing Order (if required by GGSTPURCHASER);

(d) the termination of any leases or subleases between the Seller and third parties affecting Owned Real Property if requested by GGSTPURCHASER; and

(e) all other documents (including assignments of operating agreements affecting the Owned Real Property and closing statements), affidavits, instruments and writings reasonably required to be executed by the applicable Seller at or prior to the Subject Closing Date pursuant to this Agreement or otherwise required by law, or reasonably requested by GGSTPURCHASER or the title insurer in connection herewith, each in form and substance reasonably satisfactory to GGSTPURCHASER and the Sellers.

provided, that if a Subject Closing shall, by agreement of the parties, take place without delivery of any such document, then the obligation to deliver such document shall survive the Subject Closing unless otherwise waived.

5.6 Subject Closing Deliveries by GGSTPURCHASER. At each Subject Closing, GGSTPURCHASER or its designee(s) shall deliver:

(a) executed counterparts of the instruments referred to in Section 5.5 which are to be executed by GGSTPURCHASER or its designee(s); and

(b) all other documents (including assumptions of the operating agreements affecting the Owned Real Property and closing statements), instruments and writings reasonably required to be delivered by GGSTPURCHASER or its designee(s) at or prior to the Subject Closing pursuant to this Agreement (including a detailed statement of Carrying Costs) or otherwise required, or reasonably requested by the Seller, in connection herewith, each in form and substance reasonably satisfactory to each of GGSTPURCHASER and the Seller;

provided, that if a Subject Closing shall, by agreement of the parties, take place without delivery of any such document, then the obligation to deliver such document shall survive the Subject Closing unless otherwise waived.

6. Representations and Warranties of the Sellers. Except as expressly set forth in the schedules to this Agreement (the “Schedules”) delivered by the Seller on the date hereof, each of which shall be deemed to qualify the section of this Agreement specified in such Schedule and any other section of this Agreement to which the disclosure set forth therein reasonably relates, the Sellers represent and warrant to GGSTPURCHASER that:

6.1 Due Incorporation and Authority. The Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. The Seller is licensed, registered, qualified or admitted to do business in each jurisdiction in which the ownership, use or leasing of any of the Seller’s assets or properties or the conduct or nature of its business makes such licensing, qualification, or admission necessary, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. The Seller has all requisite corporate power and authority to own, lease and operate its assets and properties and to carry on its business as now being conducted, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. Subject to the entry of the Sale Approval Order, (a) the Seller has all requisite corporate power and authority to enter into this Agreement, carry out its obligations hereunder and consummate the transactions contemplated hereby and (b) the execution and delivery by the Sellers of this Agreement, the performance by the Sellers of their respective obligations hereunder and the consummation by the Sellers of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of the Seller and no other corporate proceedings on the part of the Seller are necessary to authorize the execution and delivery of this Agreement or to consummate the other transactions contemplated hereby. This Agreement has been duly executed and delivered by the Sellers, and, upon entry of the Sale Approval Order (assuming the due authorization, execution and delivery of this Agreement by GGSTPURCHASER), this Agreement constitutes the legal, valid and binding obligation of the Seller enforceable against each of the Sellers in accordance with its terms, except to the extent enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors’ rights generally or by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

6.2 Subsidiaries.

(a) Schedule 6.2 sets forth the name and jurisdiction of organization of each corporation, limited liability company or other entity (each, a “Subsidiary,” and collectively, the

“Subsidiaries”) in which the Seller directly or indirectly owns or has the power to vote shares of any capital stock or other ownership interests having voting power to elect a majority of the directors of such corporation or other Persons performing similar functions for such entity, as the case may be. Except as set forth on Schedule 6.2, the Seller does not directly or indirectly own any interest in any other Person.

(b) Each of the Subsidiaries is duly organized, validly existing and (to the extent the concept of good standing is applicable to such Subsidiary) in good standing under the laws of its jurisdiction of organization. Each of the Subsidiaries has all requisite corporate or other power and authority to own, lease and operate its properties and to carry on its business as now being conducted, except where the failure to have such power and authority would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(c) Each Subsidiary is duly qualified or licensed to do business in all other jurisdictions where such Subsidiary currently conducts business that requires such qualification or licensing, except where the failure to so qualify or be licensed would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.3 No Violation. Subject only to the entry of the Sale Approval Order, the execution and delivery by the Sellers of this Agreement, the consummation of the transactions contemplated hereby and the performance by the Sellers of this Agreement in accordance with its terms will not:

(a) violate the certificate of incorporation or by-laws (or comparable instruments) of any of the Sellers;

(b) require the Sellers to obtain any consents, approvals, authorizations or actions of, or make any filings with or give any notices to, any Governmental Bodies or any other Person, except for (i) the notification requirements of the HSR Act (and any foreign counterparts thereof) as set forth on Schedule 6.3(b) (the “Seller Consents and Notices”), (ii) any consents, licenses, waivers or other approvals required in connection with the assignment to **GGSTPURCHASER** or its designee(s) of any IP Contract or (iii) consents, approvals, or authorizations of, or declarations or filings with, the Bankruptcy Court;

(c) if the Seller Consents and Notices are obtained or made, violate or result in the breach of any of the terms and conditions of, cause the termination of or give any other contracting party the right to terminate, or constitute (or with notice or lapse of time, or both, constitute) a default under, any Material Contract, or result in the creation of any Encumbrance upon any of the properties of the Seller or any of the Subsidiaries pursuant to the terms of any Material Contract; or

(d) violate any Requirement of Law to which the Sellers or any of their respective assets or properties are subject;

provided, however, that the Seller makes no representations or warranties in this Section 6.3 with respect to Environmental Laws, which are specifically and exclusively addressed in Section 6.10; and provided, further, that each of the cases set forth in clauses (b), (c), and (d) above is subject to exceptions that would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.4 Organizational Documents. The Seller has previously made available to **GGSTPURCHASER** true, accurate, and complete copies of the certificate of incorporation and by-laws, or comparable instruments, of each of the Subsidiaries as in effect on the date hereof. None of the Subsidiaries is in violation of its certificate of incorporation, by-laws or other similar organizational document.

6.5 Financial Statements. The audited balance sheet of the Seller and its consolidated subsidiaries, as of December 29, 2002, the audited statements of income and cash flows of the Seller and its consolidated subsidiaries for the fiscal year ended December 29, 2002, the unaudited balance sheet of the Seller and its consolidated subsidiaries as of May 31, 2003, and the unaudited statements of income and cash flows of the Seller and its consolidated subsidiaries for the five months ended May 31, 2003 (in each case, including the notes thereto, the "Seller Financial Statements"), copies of which have been delivered to **GGSTPURCHASER**, are true, complete and accurate in all material respects and fairly present in all material respects the financial position and results of operations of the Seller and its consolidated subsidiaries as of their respective dates, and the income and cash flows of the Seller and its consolidated subsidiaries, including the Seller and the Subsidiaries, for the periods covered thereby (except in the case of the unaudited interim financial statements, for normal, year-end audit adjustments). Except as set forth on Schedule 6.5, the Seller Financial Statements have been prepared in accordance with United States generally accepted accounting principles ("GAAP") consistently applied during the periods covered, except as indicated in any notes thereto. Except as disclosed in the Seller Financial Statements, neither the Seller nor its consolidated subsidiaries has any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise that would be required by GAAP to be reflected in the Seller Financial Statements, other than (a) liabilities and obligations incurred since May 31, 2003, in the ordinary course of business consistent with past practices and (b) expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement.

6.6. No Material Adverse Change. Except (a) as contemplated by this Agreement, the filing and prosecution of the Bankruptcy Cases and the operation of the Seller's business in bankruptcy pursuant to the Bankruptcy Cases, (b) as disclosed in the Financial Statements and (c) as set forth on Schedule 6.6, since May 31, 2003, there has not been: (i) any damage, destruction or loss, whether or not covered by insurance, that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; or (ii) any change, occurrence or circumstance in the properties or assets of the Seller or any of the Subsidiaries that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.7 Tax Matters. Except as otherwise set forth on Schedule 6.7:

(a) all material Tax Returns required to be filed with respect to each of the Seller and the Subsidiaries have been filed in a timely manner (within any applicable extensions of time) through the date of this Agreement, and all Taxes shown on such Tax Returns have been timely paid, except for Taxes that are being contested in good faith and for payment of which adequate reserves will have been set up as of the Closing Date;

(b) there are no waivers or arrangements extending the statutory period of limitations applicable to any Claim for Taxes due from or with respect to the Seller or any of the Subsidiaries for any taxable period;

(c) to the Seller's Knowledge, (i) the Tax Returns of the Seller and the Subsidiaries are not currently under audit or examination by the IRS and (ii) no audit or other proceeding by any court, governmental or regulatory authority or similar authority is pending, and neither the Seller nor any of the Subsidiaries has received any written notification that such an audit or proceeding may be commenced, with respect to any Taxes due from the Seller or any of the Subsidiaries.

6.8 Compliance with Laws. Except as set forth on Schedule 6.8, none of the Sellers is in violation of any domestic, foreign, federal, state or local statute, law, rule, regulation, order, writ, ordinance, judgment, governmental directive, injunction, decree or other requirement of any Governmental Body ("Requirement of Law"), which violation would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.9 Permits. Except as set forth on Schedule 6.9, as of the date hereof, each of the Sellers has all licenses, franchises, permits, variances, exemptions, orders, approvals, and authorizations of such Governmental Bodies as are necessary for the lawful conduct of its business (collectively, "Permits"). Except as set forth on Schedule 6.9 as of the date hereof, the Sellers are each in compliance with the terms of the Permits held by it and such Permits are valid and in full force and effect and will not be terminated in whole or in part as a result of the transactions contemplated by this Agreement, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.10 Environmental Laws.

(a) The term "Environmental Law" means all applicable Requirements of Law relating to: (i) the protection, investigation or restoration of the environment or natural resources; (ii) the handling, use, presence, disposal, release or threatened release of any Hazardous Material; or (iii) noise, odor, wetlands, pollution or contamination.

(b) The term "Hazardous Material" means any material or substance: (i) the presence of which requires Remediation or, solely on account of its presence, investigation under any Environmental Law; (ii) the generation, storage, treatment, release, emission, transportation, disposal, Remediation, removal, handling or management of which is regulated by any Environmental Law; (iii) that is defined as a "solid waste," "pollutant or contaminant," "hazardous waste" or "hazardous substance" under any Environmental Law; (iv) that contains gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyl (PCBs) or asbestos; or (v) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic or mutagenic or otherwise hazardous and is regulated by any Governmental Body having or asserting jurisdiction over the Seller or its business.

(c) The term "Remediation" means any investigation, monitoring, clean-up, containment, remediation, mitigation, removal, disposal or treatment of Hazardous Materials, including, without limitation, the preparation and implementation of any work plans and the obtaining of authorizations, approvals and permits from Governmental Bodies with respect thereto.

(d) Except as set forth on Schedule 6.10, to the Seller's Knowledge, the Sellers have obtained all approvals, authorizations, certificates, consents, licenses, orders and permits or other similar authorizations of all Governmental Bodies, or from any other Person, that are required under any Environmental Law in respect of the Real Property ("Environmental Permits").

(e) Except as set forth on Schedule 6.10, to the Seller's Knowledge, the Sellers are and have been since January 1, 2003 in compliance in all material respects with all terms and conditions of all Environmental Permits that are used in the Seller's business or that relate to the Seller or the Assets (other than the Excluded Assets), and all other limitations, restrictions, conditions, standards, requirements, schedules and timetables required or imposed under all Environmental Laws.

(f) Except as set forth on Schedule 6.10, to the Seller's Knowledge there have been and are no events, conditions, circumstances, incidents, actions or omissions relating to or in any way affecting the Sellers, the Subsidiaries, the Assets or the Real Property that violate any Environmental Law, or that have given rise to any Liability under any Environmental Law (including, without limitation, any Hazardous Materials which have been released, disposed of, emitted, treated, stored, generated, placed, deposited, discharged or spilled at, upon or under any facility ever owned, operated or leased by the Seller or the Subsidiaries, or any facility to which the Seller or the Subsidiaries have sent any Hazardous Material), or otherwise form the basis of any claim, action, demand, suit, proceeding, hearing, study or investigation (i) under any Environmental Law or (ii) based on or related to the manufacture, processing, distribution, use, treatment, storage (including, without limitation, underground storage tanks), disposal, transport or handling, or the emission, discharge, release or threatened release of any Hazardous Material.

(g) Except as set forth on Schedule 6.10, the Seller and the Subsidiaries have not received (other than with respect to Excluded Real Property) any written notice, claim, subpoena, or summons, or been threatened in writing with any notice, claim, subpoena, or summons, from any Person, including, without limitation, any Governmental Body, alleging (i) any Liability of the Seller or the Subsidiaries under any Environmental Law or (ii) any violation by the Seller or the Subsidiaries of any Environmental Law.

6.11 Contracts.

(a) Schedule 6.11(a) hereto sets forth a complete and accurate list of the material Contracts as of the date hereof to which each of the Sellers is a party or by which any of their properties is bound other than Contracts primarily related to Excluded Assets (collectively, "Material Contracts"), including, without limitation:

(i) manufacturing Contracts and Contracts for the purchase or lease of personal property with any supplier or for the furnishing of services to the Seller or any of the Subsidiaries that in each case involve payments in excess of \$100,000, other than short-term purchase orders entered into in the ordinary course of business consistent with past practice;

(ii) leases and subleases of Real Property;

(iii) Contracts pursuant to which the Seller or any of the Subsidiaries has granted any exclusive marketing, manufacturing, license, sales representative, distribution or other right to any third party;

(iv) Contracts of the Seller or any Subsidiary pursuant to which the Seller or any Subsidiary received (or was entitled to receive) or paid (or was obligated to pay) more than \$100,000 in the twelve (12) month period ended March 31, 2003 (provided such Contract remains in effect as of the date hereof);

(v) Contracts in effect on the date of this Agreement under which the Seller or any Subsidiary is entitled to receive hereafter more than \$100,000;

(vi) each partnership, joint venture, joint marketing or other similar Contract or arrangement to which the Seller or any Subsidiary is a party or by which it is otherwise bound;

(vii) Contracts granting to the Seller or any Subsidiary any material right whatsoever under or with respect to any Intellectual Property (other than shrinkwrap, pop-up or click-through licenses to mass marketed software having a retail price of less than \$2,000 per copy);

(viii) Contracts under which the Seller or any Subsidiary grants any material right under or with respect to any Intellectual Property to another Person;

(ix) each Contract that is otherwise material to the value of the Assets and the Real Properties, taken as a whole.

(b) Copies of all Material Contracts have been previously delivered to or made available by the Seller for inspection by GGSTPURCHASER, and such copies are true, complete, and correct. Subject to (i) the Bankruptcy Case (including any breaches or defaults relating to the commencement thereof and any payables that would have been paid but for the commencement thereof) and (ii) the payment of any Cure Costs, and except as disclosed on Schedule 6.11(b) hereof: (A) each Material Contract is a valid and binding obligation of the Seller or the Subsidiaries and, to the Seller's Knowledge, the other parties thereto and, to the Seller's Knowledge, is in full force and effect; (B) the Seller or the Subsidiaries have performed all obligations required to be performed by it to date under each Material Contract and is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder; and (C) to the Seller's Knowledge, each of the other parties to such Material Contracts has performed all obligations required to be performed by it as of the date hereof under such Material Contracts and is not (with or without the lapse of time or the giving of notice, or both) in breach or default thereunder.

(c) Except as set forth on Schedule 6.11(c), the Seller has not assigned any license or distribution rights or obligations under any Contract to any other Party.

6.12 Property. (a) The Seller has good title, free and clear of all Liens and Encumbrances, to all of the Assets (other than Excluded Assets) except for: (i) Liens incurred in the ordinary course of business; (ii) Permitted Encumbrances; (iii) Liens that shall be released at or prior to the Closing; and (iv) Liens set forth on Schedule 6.12(a) hereto. With respect to

leased properties and assets, including the Subject Capital Leases, the Seller and the Subsidiaries have valid leasehold interests in such properties and assets. All tangible assets which are leased by the Seller or any of the Subsidiaries, including all assets subject to the Subject Capital Leases, have been maintained in accordance with the standards and specifications required by each such lease such that at each such termination of the lease such assets can be returned to their owner without any further material obligation on the part of the Seller or any of the Subsidiaries with respect thereto.

Schedule 6.12(b) is a true and complete list of all Equipment owned by any of the Sellers.

Schedule 6.12(c) is a true and complete list of all Equipment held by any of the Sellers pursuant to a Capital Lease, the lessor under such Lease, the monthly (or other regular interval) payments required under such Lease, and the date of expiration of such Lease.

6.13 Real Property.

(a) Ownership of the Real Property. The Seller or one of the Subsidiaries is the owner of good and insurable fee title to the land described on Schedule 6.13(a), including all easements, rights-of-way, strips, zones, privileges, licenses, hereditaments, tenements and appurtenances belonging thereto, and any right or interest in any open or proposed highways, streets, roads, avenues, alleys and rights-of-way in, across, in front of, contiguous to, abutting or adjoining the land, and other rights and benefits running with the land and/or the owner of the land and to all of the buildings, structures and other improvements located thereon, including, without limitation, electrical distribution systems, HVAC systems, walkways, driveways, parking lots, plumbing, lighting and mechanical equipment, and fixtures installed thereon, and all rights, benefits and privileges appurtenant thereto, and all renewal options, purchase options, rights of first refusal and expansion rights relating thereto, excluding, in each case, the Excluded Real Property (such property collectively, excluding the Excluded Real Property, the “Owned Real Property”) free and clear of all Encumbrances, except for (i) the matters listed on Schedule 6.13(a) and (ii) Permitted Encumbrances. The Owned Real Property constitutes all of the real property owned by the Seller and the Subsidiaries, other than the Excluded Real Property.

(b) Leased Properties. Schedule 6.13(b) is a true and complete list of all leases, subleases, licenses and other agreements (collectively, the “Real Property Leases”) under which either the Seller or any of the Subsidiaries uses or occupies or has the right to use or occupy, now or in the future, any real property that is not Owned Real Property or Excluded Real Property (the land, buildings and other improvements covered by such Real Property Leases, together with all of Sellers’ rights under the Real Property Leases being herein called the “Leased Real Property”). Subject to (x) the Bankruptcy Case (including any breaches or defaults relating to the commencement thereof and any payables that would have been paid but for the commencement thereof), and (y) payment of the Cure Costs, (i) all of the Real Property Leases set forth on Schedule 6.13(b) are valid, existing, in full force and effect and binding upon the Seller or the Subsidiaries, as the case may be, and, to Seller’s Knowledge, the other parties thereto in accordance with their terms, (ii) each of the Seller and the Subsidiaries is in compliance with all material terms and requirements of each such Real Property Lease, and all rent and other sums and charges payable by the Seller or any of the Subsidiaries as tenants thereunder are current and (iii) either the Seller or any of the Subsidiaries, whichever is applicable, holds the leasehold estate and interest in each such Real Property Lease free and clear of all Encumbrances, other

than Permitted Encumbrances and other than Liens that shall be released at or prior to the Closing.

(c) Entire Property. Except as set forth in Schedule 6.13(c), all of the land, buildings, structures and other improvements used by the Seller or any of the Subsidiaries in the conduct of their respective businesses are included in the Owned Real Property, the Leased Real Property or the Excluded Real Property. The Leased Real Property and the Owned Real Property are hereinafter collectively referred to as the “Real Property.”

(d) Space Leases. Schedule 6.13(d) is a true and complete schedule of all leases, subleases, licenses and other agreements (collectively, the “Space Leases”) granting to any Person or entity other than the Seller or any of the Subsidiaries any right to the possession, use, occupancy or enjoyment of the Real Property or any portion thereof. Except as contemplated by the Space Leases, the Seller or one of its Subsidiaries is in exclusive possession of each parcel of Real Property.

(e) Improvements. Except as set forth on Schedule 6.13(e), all utilities and the plumbing, electrical, mechanical, heating, ventilating and air-conditioning and other systems required for the present use of the Real Property are installed and functional. To the Seller’s Knowledge, all such utilities enter the Real Property through adjoining public streets or through valid easements across adjoining private lands. To the Seller’s Knowledge, all buildings, structures, improvements and fixtures on, under or over or within each parcel of the Real Property, and all other aspects of the Real Property, (i) are as of the date hereof in good operating condition and repair and are structurally sound and free of any material defects, (ii) are suitable in all material respects for their current uses, and (iii) consist of sufficient land, parking areas, sidewalks, driveways and other improvements to permit the continued use of such facilities in the manner and for the purposes to which they are presently devoted.

(f) Certificates of Occupancy. Schedule 6.13(f) is a true and complete list of all certificates of occupancy located at the Seller’s headquarters affecting the improvements located on the Real Property (the “Certificates of Occupancy”). To the Seller’s Knowledge, no certificate of occupancy (whether or not a Certificate of Occupancy) has been denied to any of the Sellers or rescinded. True, complete and correct copies of the Certificates of Occupancy have been delivered to GGSTPURCHASER, and all certificates of occupancy are (whether or not a Certificate of Occupancy) in full force and effect. As of the date hereof, to the Seller’s Knowledge and except if already issued or amended, no alteration, improvement or change in use of any building or other improvement has been completed or commenced that would require the issuance of a new certificate of occupancy or the amendment of an existing certificate of occupancy (whether or not a Certificate of Occupancy). As of the date hereof, the Real Property complies in all material respects with all laws, statutes, ordinances, codes, rules, regulations and requirements of all governments, departments, commissions, boards, agencies, officials or other governmental authorities having jurisdiction over the Real Property (“Legal Requirements”), including (without limitation) all building, fire, health, zoning, setback and subdivision Legal Requirements; except as otherwise disclosed to Buyer on Schedule 6.13 (f) hereto, no notes or notices of violation of any Legal Requirements have been issued by any governmental authority with respect to the Real Property.

(g) Assessments. No proceedings seeking a reduction in real estate taxes imposed upon the Owned Real Property or the assessed valuation of the Owned Real Property or any portion thereof have been settled during the three (3) year period preceding the date of this Agreement or are currently pending other than as set forth on Schedule 6.13(g).

(h) Land Use. None of the Seller or any of the Subsidiaries has received notice of, and, to the Seller's Knowledge, there is not any pending, threatened or contemplated action to change the zoning status of the Real Property or eminent domain proceedings which would reasonably be expected to have, individually and in the aggregate, a Material Adverse Effect on the use or operation of any portion of the Real Property.

6.14 Intellectual Property.

(a) Schedule 6.14(a) sets forth a complete and accurate list of as of the date hereof of all registrations and applications for registration in the name of the Seller or the Subsidiaries for any Intellectual Property. Except as set forth on Schedule 6.14(a), (i) the Seller owns, free and clear of all Encumbrances, all the Owned Intellectual Property, (ii) to the Seller's Knowledge, as of the date hereof none of the Intellectual Property is invalid and unenforceable and (iii) the Seller has taken all commercially reasonable actions to maintain and protect each item of such Owned Intellectual Property and all of its rights in and to the IP Contracts. Subject to (x) the Bankruptcy Case (including any breaches or defaults relating to the commencement thereof and any payables that would have been paid but for the commencement thereof) and (y) payment of any Cure Costs, the Seller and the Subsidiaries are in compliance with the material terms of any license to or license of Intellectual Property. Except as otherwise set forth on Schedule 6.14(a), neither the Seller nor any of the Subsidiaries has received any notice that, and to the Seller's Knowledge, none of, the Owned Intellectual Property or any products or services owned, developed, provided, sold or licensed by the Seller or any of the Subsidiaries in the operations of the Seller's business by the Seller or any of the Subsidiaries currently infringes upon or otherwise violates any intellectual property rights of others. Except as set forth on Schedule 6.14(a), to the Seller's Knowledge, no Person is infringing upon or otherwise violating any rights associated with the Owned Intellectual Property. Except as otherwise set forth on Schedule 6.14(a), no Claim is pending against the Seller or the Subsidiaries or, to the Seller's Knowledge, is threatened, (i) contesting the right of the Seller or the Subsidiaries to make, use, sell, import, export, license, or make available to any Person any of the products or services of the Seller or any of the Subsidiaries currently sold, offered, licensed or made available to any Person or used by the Seller in connection with the Seller's business or (ii) opposing or attempting to cancel any of the rights associated with the Intellectual Property. Except as otherwise set forth on Schedule 6.14(a), the Owned Intellectual Property is not subject to any material outstanding decree, order, judgment, settlement, agreement or stipulation that restricts in any manner the Seller's or any of the Subsidiaries' use, transfer or licensing thereof. To the Seller's Knowledge, neither the Seller nor any of the Subsidiaries has knowingly misrepresented or failed to disclose any facts or circumstances in any application for Owned Intellectual Property that would constitute fraud or misrepresentation with respect to such application or that would otherwise affect the validity or enforceability of the Owned Intellectual Property. The Intellectual Property identified in Schedule 6.14(a) constitutes all Owned Intellectual Property material to the operation or conduct of the Seller's business at such time as the Seller was operating its business in the ordinary course.

(b) Schedule 6.14(b) sets forth a complete and accurate list of all IP Contracts in respect of which any consent, license, waiver or other approval from any third party is required in connection with the assignment of such IP Contract to GGSTPURCHASER or its designee(s).

6.15 Litigation. Except (a) as set forth on Schedule 6.15 hereto, (b) for claims classified as pre-petition claims under prior Bankruptcy cases of the Sellers and (c) for the Bankruptcy Case and any and all actions, adversary proceedings and litigation arising therefrom or related thereto, (y) there are no Claims, including products liability Claims, pending or, to the Seller's Knowledge, threatened against the Sellers with respect to the Seller, any of the Subsidiaries or the Real Property before any Governmental Body that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or prevent or materially delay the consummation by the Seller of the transactions contemplated by this Agreement and (z) neither the Seller nor any of the Subsidiaries is subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the Seller's Knowledge, continuing investigation by, any Governmental Body, or any order, writ, judgment, injunction, decree, determination or award of any Governmental Body.

6.16 Brokers. Except as set forth on Schedule 6.16, none of the Seller or any of the Subsidiaries has paid or agreed to pay, or received any Claim with respect to, any brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated hereby.

6.17 Insurance. Schedule 6.17 sets forth a true and complete list of all insurance policies, binders of insurance or programs of self-insurance held by the Seller and the Subsidiaries relating to the Seller's business (collectively, the "Insurance Policies"). True and complete copies of all Insurance Policies have been provided or made available to GGSTPURCHASER. Except as set forth on Schedule 6.17, no insurer under any Insurance Policy has canceled or generally disclaimed liability under any such policy or, to the Seller's Knowledge, indicated any intent to do so or not to renew any Insurance Policy except as required by state insurance law or as replaced by comparable policies. Except as set forth on Schedule 6.17, the Seller and the Subsidiaries maintain, with responsible insurance carriers, property, auto liability, workers' compensation and general liability insurance. The Insurance Policies are in full force and effect and, except as otherwise set forth on Schedule 6.17, such Insurance Policies have been in full force and effect, without gaps, continuously for at least the past three (3) years. Except as set forth on Schedule 6.17, neither the Seller nor any Subsidiary is in default under any of the Insurance Policies, and none has failed to give any notice or to present any claim under any such Insurance Policy in a due and timely fashion.

6.18 Assumed Capital Lease Obligations. The aggregate principal amount of the obligations of the Sellers remaining under the Subject Capital Leases as of the date hereof does not exceed \$19,000,000.

7. Representations and Warranties of GGSTPURCHASER. GGSTPURCHASER represents and warrants to the Seller as follows:

7.1 Due Incorporation and Authority. GGSTPURCHASER is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. GGSTPURCHASER has all requisite corporate power and authority to enter into this Agreement, carry out its obligations hereunder and consummate the transactions contemplated hereby. The execution and delivery by GGSTPURCHASER of this Agreement, the performance by GGSTPURCHASER of its obligations hereunder and the consummation by GGSTPURCHASER of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of GGSTPURCHASER, and no other corporate proceedings on the part of GGSTPURCHASER are necessary to authorize the execution and delivery of this Agreement or to consummate the other transactions contemplated hereby. This Agreement has been duly executed and delivered by GGSTPURCHASER, and, assuming the due authorization, execution and delivery hereof by the Seller, this Agreement will constitute the legal, valid and binding obligation of GGSTPURCHASER, enforceable against GGSTPURCHASER in accordance with its terms, except to the extent enforceability may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

7.2 No Violation. The execution and delivery by GGSTPURCHASER of this Agreement, the consummation of the transactions contemplated hereby and the performance by GGSTPURCHASER of this Agreement in accordance with its terms will not:

- (a) violate the certificate of incorporation or by-laws of GGSTPURCHASER;
- (b) require GGSTPURCHASER to obtain any material consents, approvals, authorizations or actions of, or make any filings with or give any notices to, any Governmental Bodies or any other Person, except for (i) the notification requirements of the HSR Act (and any foreign counterpart thereof) or (ii) consents, approvals or authorizations of, or declarations or filings with, the Bankruptcy Court;
- (c) violate or result in the breach of any of the terms and conditions of, cause the termination of or give any other contracting party the right to terminate, or constitute (or with notice or lapse of time, or both, constitute) a material default under, any Material Contract to which GGSTPURCHASER is a party or by or to which each of GGSTPURCHASER or any of its properties is or may be bound or subject; or
- (d) violate any Requirement of Law to which GGSTPURCHASER is subject;

provided, however, that each of the cases set forth in clauses (b) through (d) above is subject to exceptions that would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on GGSTPURCHASER.

7.3 Brokers. No Person retained by or on behalf of GGSTPURCHASER or any of its respective Affiliates is entitled to any brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated hereby.

7.4 Financing. GGSTPURCHASER has, and at the Closing will have, sufficient available funds to consummate the transactions contemplated by this Agreement.

7.5 Litigation. There are no Claims pending or, to the knowledge of GGSTPURCHASER, threatened against GGSTPURCHASER before any Governmental Body that would prevent or materially delay the consummation by GGSTPURCHASER of the transactions contemplated by this Agreement.

8. Covenants and Agreements.

8.1 Conduct of Business. From the date of this Agreement until the Closing, the Seller agrees that:

(a) except (i) as expressly permitted or required by this Agreement or (ii) as otherwise agreed to in writing by GGSTPURCHASER (which agrees to respond in a commercially reasonable time frame to any request for such agreement), the Seller shall use, and shall cause the Subsidiaries to use, commercially reasonable efforts to maintain, preserve and protect the Assets in the ordinary course of business consistent with past practice;

(b) except (i) as expressly permitted or required by this Agreement or as set forth on Schedule 8.1(b), or (ii) as otherwise agreed to in writing by GGSTPURCHASER, none of the Seller and the Subsidiaries shall:

(i) sell, mortgage, lease, subject to Lien or otherwise encumber or convey any of its assets or properties (or assign or encumber the right to receive income, dividends distributions and the like), other than the Excluded Assets, or agree to do any of the foregoing;

(ii) cancel, terminate or materially amend any Contract that is not an Excluded Contract, without the prior written approval of GGSTPURCHASER;

(iii) acquire or agree to acquire by merging or consolidating with, or by purchasing any equity interest in or a portion of the assets of, or by any other manner, any business or any Person or division thereof, or otherwise acquire or agree to acquire any assets which are material, individually or in the aggregate, to the business of the Seller;

(iv) enter into any joint ventures, strategic partnerships or alliances that are material to any of its divisions or business units;

(v) enter into any Contract the effect of which would be to grant to a third party any license, sublicense or right to use any Intellectual Property;

(vi) adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or reorganization, other than a plan of reorganization in the Bankruptcy Case;

(vii) (A) acquire, sell, lease, license or dispose of any assets or properties in any single transaction or series of related transactions, other than sales of Excluded Assets; (B) enter into any exclusive license, distribution, marketing, sales or other agreement; (C) acquire, sell, lease, license, transfer, encumber or otherwise dispose of any Intellectual Property; or (D) knowingly, willfully or wantonly misappropriate or otherwise violate the rights of any third-party intellectual property;

(viii) (A) enter into any Contract other than in the ordinary course of business consistent with past practices that would be material to the Seller and the Subsidiaries, taken as a whole; (B) cancel, terminate, amend, modify or waive any right under any Material Contract; or (C) modify any standard warranty terms for any of its products or services or amend or modify any product or service warranties in effect as of the date hereof in any material manner that is adverse to it;

(ix) prepare or fail to file any Tax Return in a manner inconsistent with past practices in preparing or filing similar Tax Returns in prior periods or, on any such Tax Return, take any position, make any election or adopt any method that is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax Returns in prior periods, in each case, except to the extent required by applicable law, or fail to pay any Taxes when due;

(x) allow any Insurance Policy relating to the Assets and/or the Real Properties to be amended or terminated without replacing such policy with a policy providing, in the aggregate, substantially equivalent coverage, insuring comparable risks and issued by an insurance company financially comparable to the prior insurance company; provided, upon notice to GGSTPURCHASER, that any Insurance Policy may be amended or replaced in order to reduce the coverage provided thereunder to an amount corresponding to the fair market value of the insured property;

(xi) make or rescind any express or deemed election relating to Taxes; settle or compromise any Tax liability; enter into any closing or other agreement with any Tax authority; or file or cause to be filed any amended Tax Return; or

(xii) agree in writing or otherwise to take any of the actions described in (i) through (xi) above.

Until the Closing Date, except with the prior written consent of GGSTPURCHASER, the Sellers shall take any action or not take any action if such action or failure to act, as the case may be, is necessary to prevent (1) any of the representations and warranties made by the Seller in this Agreement becoming untrue in any material respect, or (2) any of the conditions to the Closing set forth in Section 9 not being satisfied.

8.2 Transfer of Equipment. Prior to the Closing Date, the Sellers shall, at their sole cost and expense, transfer as soon as commercially practical all Equipment located at an Excluded Real Property (other than the Equipment described on Schedule 1.1(a)) to a Real Property other than an Excluded Real Property. The Sellers hereby acknowledge and agree (a) that GGSTPURCHASER shall have at least 120 days from and after the Closing Date to sell or otherwise dispose of Equipment from the Sellers' Real Property located in Columbus, Georgia, and (b) GGSTPURCHASER shall have no obligation to pay Access Fees with respect to such Real Property.

8.3 Carrying Costs. During the Fee Designation Period, the Sellers shall timely pay (a) all Carrying Costs and (b) all other expenses arising in connection with the Real Properties consistent with the Wind Down Budget, in each case to the extent required to enable GGSTPURCHASER to dispose of the Assets and exercise its Designation Rights in accordance with this Agreement.

8.4 Confidentiality. Each party hereto hereby reaffirms the confidentiality letter agreement, dated May 15, 2003 (the “Confidentiality Agreement”), between the Seller and GGSTPURCHASER, and agrees to fulfill its obligations thereunder. To the extent that a party hereto is not a party to the Confidentiality Agreement, such party hereby agrees to be bound by the confidentiality provisions contained therein. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement shall nonetheless continue in full force and effect. Notwithstanding anything to the contrary, any party to this Agreement (and each of its Representatives) 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, and all materials of any kind (including opinions or other tax analyses) related to such tax treatment and tax structure.

8.5 Expenses. Other than all HSR Act filing fees, which shall be shared equally by GGSTPURCHASER and the Seller, and except as otherwise specifically provided herein, GGSTPURCHASER and the Seller shall bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, including all fees and expenses of their Representatives.

8.6 Public Announcements. The Sellers and GGSTPURCHASER agree that they will consult with each other before issuing any press release or otherwise making any public statements with respect to the transactions contemplated by this Agreement and agree not issue any such press release or make any such public statement prior to such consultation, except as may be required by a Requirement of Law or by the rules of any stock exchange with which such party is required to comply, as the case may be. In the course of such consultation, the parties agree to cooperate with each other in good faith regarding the timing and contents of any press release or public statement, subject in all cases to all applicable Requirements of Law and stock exchange rules.

8.7 Access to Information.

(a) From the date hereof until the Closing, upon reasonable notice, the Sellers shall, and shall cause each of its respective officers, directors, employees, auditors and agents to, (i) afford the officers, employees and Representatives of GGSTPURCHASER reasonable access, during normal business hours, to the offices, plants, warehouses, properties, books and records of the Sellers and (ii) furnish to the officers, employees and Representatives of GGSTPURCHASER such additional financial and operating data and other information regarding the operations of the Sellers and the Assets as GGSTPURCHASER may from time to time reasonably request; provided, however, that such investigation shall not unreasonably interfere with the operations of the Seller, the Subsidiaries or any of their Affiliates; and provided, further, however, that the auditors of the Sellers shall not be obliged to make any work papers available to any Person. The Confidentiality Agreement shall remain in full force and effect notwithstanding anything therein to the contrary and all information received by GGSTPURCHASER under this Agreement, including, without limitation, this Section 8.7, shall be subject thereto.

(b) From the date hereof until the Closing, the Sellers shall furnish to GGSTPURCHASER, as soon as reasonably practicable after the end of each fiscal month or quarter, as the case may be, such monthly or quarterly financial reports, statements and other information as the Sellers

customarily prepare at the end of such fiscal periods. Such information shall be prepared in accordance with the books and records of the Sellers and shall fairly present the Sellers' financial condition and results of operations as of the last day of the period covering such report.

8.8 Regulatory and Other Authorizations; Consents.

(a) Each of the parties hereto shall use its commercially reasonable efforts to (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things necessary, proper or advisable under any Requirement of Law or otherwise to consummate and make effective the transactions contemplated by this Agreement; (ii) obtain any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, including the Seller Consents and Notices and any consents, approvals or waivers in respect of IP Contracts; and (iii) make all filings and give any notice, and thereafter make any other submissions either required or reasonably deemed appropriate by each of the parties, with respect to this Agreement and the transactions contemplated hereby required under any Requirement of Law, including applicable securities and antitrust Requirements of Law, and the rules and regulations of any stock exchange on which the securities of any of the parties are listed or traded. Commercially reasonable efforts shall not obligate the Seller or GGSTPURCHASER to make or offer to make any payments to obtain any consents, licenses, permits, waivers, approvals, authorizations or orders.

(b) The parties hereto shall work closely and cooperatively and consult with each other in connection with the making of all such filings and notices, including by providing copies of all such documents to the non-filing party and its advisors a reasonable period of time prior to filing or the giving of notice. No party to this Agreement shall consent to any voluntary extension of any statutory deadline or waiting period or to any voluntary delay of the consummation and the transactions contemplated in this Agreement at the behest of any Governmental Body without the consent and agreement of the other parties to this Agreement, which consent shall not be unreasonably withheld or delayed. Each party shall promptly inform the others of any material communication from any Governmental Body regarding any of the transactions contemplated by this Agreement.

8.9 Further Action; Additional Assignments.

(a) Each of the parties hereto shall execute such documents and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and give effect to the transactions contemplated hereby. From time to time after the Closing and the Subject Closings, the Sellers shall prepare all documents and take all actions reasonably necessary to further the sale and assignment of the Assets (including, without limitation, the Intellectual Property) to GGSTPURCHASER hereunder. Such assignments shall be in recordable form based on the local law requirements, if applicable. Without limiting the foregoing, the Sellers shall, at their own cost, take all necessary actions to effectuate the transfer of the Assets held by any Canadian subsidiary of the Sellers, including, without limitation, all actions as may be required under Canadian law, and including, without limitation, the Companies' Creditors Arrangement Act.

(b) As soon as practicable, but subject to any confidentiality restrictions binding upon the Sellers, the Sellers shall provide to GGSTPURCHASER copies of all written bids, inquiries, offers, letters of intent (whether binding or not binding) and other expressions of interest concerning the purchase of any of the Equipment, Other Assets and Real Properties of the Sellers that were received by the Sellers in the six months prior to the date hereof.

8.10 Bankruptcy Court Approvals. No later than ~~three (3) Business Days after the execution of this Agreement, the Sellers will file a motion or motions with the Bankruptcy Court seeking entry of (a) an order of the Bankruptcy Court regarding the Acquisition establishing notice and service requirements to creditors and parties in interest with respect to the Acquisition, approving the Break-Up Fee and the Expense Reimbursement, and approving the bidding procedures (the “Bidding Procedures”) set forth on Exhibit A hereto (the “Bidding Procedures Order”) and (b) an~~October 15, 2003 the Sellers shall obtainan order of the Bankruptcy Court approving the sale of the Assets to GGSTPURCHASER free and clear of all Liens and Encumbrances pursuant to the terms of this Agreement (the “Sale Approval Order”) and approving all of the other terms and provisions of this Agreement:

~~(a) — The Bidding Procedures Order. The Bidding Procedures Order shall be substantially in the form (with such changes thereto as GGST shall approve (such approval not to be unreasonably withheld, conditioned or delayed)) of Exhibit A hereto, and shall, among other matters:~~

~~(i) — approve the Break-Up Fee and the Expense Reimbursement and provide that, if the obligation of the Seller to pay GGST the Break-Up Fee and the Expense Reimbursement arises, such obligation shall constitute a super-priority administrative expense pursuant to 364(e) of the Bankruptcy Code and a first priority secured claim against any deposit paid by a Competing Bidder in compliance with the Bidding Procedures and retained by the Sellers and shall be further payable out of the proceeds to the Seller from any transaction with any such Competing Bidder and in accordance with the provisions of this Agreement without further order of the Bankruptcy Court;~~

~~(ii) — approve the Bidding Procedures; and~~

~~(iii) — schedule a hearing to consider entry of the Sale Approval Order and provide that notice of such hearing be given to all of the Seller’s creditors, interest holders of record and potential other purchasers identified by the Seller and otherwise in accordance with Bankruptcy Rule 2002.~~

~~(b) The Sale Approval Order. The Sale Approval Order shall be substantially in the form (with such changes thereto as GGSTPURCHASER shall approve (such approval not to be unreasonably withheld, conditioned or delayed)) of Exhibit B hereto, and shall, among other matters:~~

(i) approve this Agreement and the Acquisition contemplated hereby in all respects;

(ii) find that, as of the Closing Date, the transactions contemplated by this Agreement effect a legal, valid, enforceable and effective sale and transfer of the Assets required to be sold on the Closing Date to GGSTPURCHASER and shall vest GGSTPURCHASER with title to such Assets free and clear of all Liens and Encumbrances, except with respect to the Assumed Capital Lease Obligations;

(iii) find that the consideration provided by GGSTPURCHASER pursuant to this Agreement constitutes reasonably equivalent value and fair consideration for the Assets, including the Designation Rights;

(iv) find that GGSTPURCHASER is a good-faith purchaser of the Assets pursuant to Section 363(m) of the Bankruptcy Code;

(v) extend the time period under Section 365 of the Bankruptcy Code by which the Sellers must assume (or assume and assign) or reject any of the Contracts and/or Real Property Leases to the applicable periods required under this Agreement;

(vi) approve any other agreement to the extent provided by this Agreement;

(vii) find that the Seller gave due and proper notice of the Acquisition to each party entitled thereto;

(viii) authorize and direct the Sellers to pay all Cure Costs under the Assumed Contracts out of the proceeds of the Acquisition;

(ix) provide that, pursuant to this Agreement, unless and until GGSTPURCHASER should take title to property in its own name, GGSTPURCHASER shall have no authority to direct or control operations at the Real Properties, including, but not limited to, the disposal or storage of hazardous wastes at the Real Properties;

(x) enjoin and forever bar the non-debtor party or parties to each Assumed Contract from asserting against GGSTPURCHASER or any of the Assets: (A) any default existing as of the Closing Date and (B) any objection to the assumption and assignment of such non-debtor party's Assumed Contract;

(xi) order that, notwithstanding the provisions of Federal Rules of Bankruptcy Procedure 6004(g) and 6006(d), the Sale Approval Order is not stayed and is effective immediately upon entry;

(xii) authorize the assumption and assignment pursuant to GGST'sPURCHASER's designation of any Real Property Lease or Contract as to which the relevant Affected Parties have received notice consistent (in form, substance and timing) with Section 3.2(b) hereof and as to which no objection has been made on or prior to the date that the Sale Approval Order is entered or as to which any objection has been overruled;

(xiii) authorize and direct, if and as designated by GGSTPURCHASER in advance of the hearing on the Sale Approval Order and provided that the counterparty

thereto received notice consistent with Section 3.2(b) hereof, the assumption or rejection of any Contract for the sale of the Real Property known as “Plant Number Four,” located at South Main Street, Kannapolis, North Carolina, and, in the case of an assumption, the payment of the proceeds from such Contract to GGSTPURCHASER; and

(xiv) require that separate and segregated accounts shall be maintained by the Seller (and funded to the extent necessary for the purposes described in this paragraph) for moneys to fund (A) the Wind Down Budget (plus a cushion of \$3 million), and (B) any Liabilities in respect of personal property taxes in respect of the Assets (other than the Excluded Assets) attributable to the period prior to the Closing Date, and shall further provide that the only uses for the funds in such accounts shall be to fund the Wind Down Budget and pay such Liabilities, respectively, subject to further order of the Bankruptcy Court.

8.11 Subsidiary Compliance. The Seller shall cause the Subsidiaries which are not a party hereto, if any, to comply with all of the Subsidiaries’ obligations under or relating to this Agreement.

8.12 Books and Records.

(a) GGSTPURCHASER agrees that it shall preserve and keep all books and records in respect of the operations of the Seller’s business in GGST’sPURCHASER’s possession for a period of at least two (2) years from the Closing Date (or, if earlier, the termination of the Bankruptcy Cases). After such two-year period, if at any time GGSTPURCHASER shall desire to dispose of any of such books and records, then GGSTPURCHASER shall provide written notice to the Seller at least thirty days prior to such intended disposition and shall provide the Seller with an opportunity, at its cost and expense, to remove and retain all or any part of such books and records as the Seller may select. At any time prior to such disposition, Representatives of the Seller shall, upon reasonable notice, have access thereto during normal business hours to examine, inspect and copy such books and records.

(b) If, in order to properly prepare documents required to be filed with Governmental Bodies or its financial statements, it is necessary that either party hereto or any successors thereto be furnished with additional information relating to the Seller, the Assets or the Assumed Liabilities, and such information is in the possession of the other party hereto or any successor thereto or any of their respective Affiliates, such party agrees to use commercially reasonable efforts to furnish or cause to be furnished such information to such other party, at the reasonable cost and expense of the party being furnished such information.

8.13 Tax Matters.

(a) Sales, Use and Other Transfer Taxes. GGSTPURCHASER shall provide the Seller with resale exemption certificates as is appropriate. GGSTPURCHASER shall be responsible for all of the excise, sales, value added, use, registration, stamp and franchise taxes levies, charges and fees incurred in connection with the transactions contemplated by this Agreement. The Seller shall be responsible for (i) all income, profit and similar taxes incurred or imposed with respect to the sale of the Assets by the Seller and which are not otherwise exempt pursuant to the applicable sections of the Bankruptcy Code and (ii) (subject to the other provisions of this Section 8.13(a)) all Excluded Taxes, including, without limitation, all taxes on personal property. Each of GGSTPURCHASER and the Seller will be responsible for 50% of any property transfer fees and taxes (including all real estate transfer taxes) incurred or imposed with respect to the sale of the Assets by the Seller that are not exempt pursuant to the applicable sections of the Bankruptcy Code. The parties hereto agree to cooperate in the filing of all necessary documentation and all Tax Returns with respect to all such Taxes, including any available pre-sale filing procedure. After the Closing, the Seller shall provide (A) copies of its, and the Subsidiaries' Tax Returns for the fiscal years 2002 and 2003 prior to filing the same, (B) GGSTPURCHASER with an opportunity to review such Tax Returns to ensure that they have been prepared in a manner that is consistent with the terms of this Agreement and (C) copies of the Tax Returns after they have been filed with the respective Tax authorities.

(b) Cooperation. The parties hereto shall cooperate with each other and with each other's respective Representatives, including accounting firms and legal counsel, in connection with the preparation or audit of any Tax Return(s) and any Tax claim or litigation in respect of the Assets and Assumed Liabilities that include whole or partial taxable periods, activities, operations or events on or prior to the Closing Date, which cooperation shall include, but not be limited to, making available employees, if any, for the purpose of providing testimony and advice, or original documents, or either of them.

8.14 Cure Costs. The Sellers shall be exclusively responsible for payment of all Cure Costs and all other costs and Liabilities associated with Contracts and Real Property Leases assumed pursuant to Sections 2.5, 2.6 and 3 hereof and attributable to the period (x) in the case of any Contract other than Subject Capital Leases, prior to the Closing Date, provided, that GGSTPURCHASER shall reimburse the Sellers for 50% of the Liabilities (i) required by the Bankruptcy Code or by order of the Bankruptcy Court to be paid to any counterparty in connection with any such Contract, (ii) actually paid by the Sellers, and (iii) attributable to the period from and after the Petition Date until the Closing Date, (y) in the case of Subject Capital Leases regarding Equipment that GGSTPURCHASER shall elect to include in the Assets, prior to the Petition Date and (z) in the case of Real Property Leases, prior to the Closing Date.

8.15 Notification of Certain Matters. Each party shall promptly provide the other written notice of (a) the occurrence or non-occurrence of any event the occurrence or non-occurrence of which has caused or would be likely to cause any representation or warranty contained in this Agreement to become untrue or inaccurate such that the conditions set forth in Sections 9 and 10, as applicable, would not be satisfied and (b) any failure of the Sellers or GGSTPURCHASER, as the case may be, to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it hereunder such that the conditions set forth in Sections 9 and 10, as applicable, would not be satisfied; provided, however, that the delivery of any notice pursuant to this Section 8.15 shall not cure such breach or non-compliance or limit or otherwise affect the remedies available hereunder to the party receiving such notice; provided,

further, however, that if such notified party consummates the transactions herein, such consummation will be deemed to cure such breach or non-compliance and such notified party shall be deemed to waive any remedies hereunder to the extent of such notification.

8.16 Title Insurance. The Seller shall use commercially reasonable efforts to obtain, at GGST's PURCHASER's request, an ALTA Owner's Policy of Title Insurance (with no exclusion for creditors' rights) issued by an insurer reasonably satisfactory to GGSTPURCHASER for each parcel of Owned Real Property, with liability in the amount of that portion of the Purchase Price allocated to such parcel of Owned Real Property, insuring fee title in the Owned Real Property as vested in GGST's PURCHASER's designee(s) subject only to those matters as may have been specifically approved by GGSTPURCHASER; provided, that GGSTPURCHASER shall reimburse the Seller for 50% of the cost of such title insurance, so requested.

8.17 Use of Intellectual Property. The Sellers shall promptly, following the Closing Date, take such actions as may be necessary so that they cease to use all of the corporate names, trade names and trademarks included in the Intellectual Property, together with all related designs that were owned by the Seller or its Subsidiaries prior to the Closing (collectively, the "Names"); provided that the Sellers may use the Names for the purpose of, and solely to the extent necessary to, sell any Inventory in the possession of the Sellers on the Closing Date and to collect any Accounts Receivable.

8.18 Environmental Site Assessments. Prior to and, if necessary, subsequent to the Closing, Sellers and the Designated Officer shall cooperate with GGSTPURCHASER and shall make reasonable efforts to aid GGSTPURCHASER in performing environmental site assessments for each of the Real Properties.

8.19 Administration/Office Space. Nothing in this Agreement shall be construed to preclude the Sellers from having access to the Real Properties prior to the date on which the rights of occupancy with respect to each such property are transferred to GGSTPURCHASER (or its designee(s)) in accordance with the Designation Rights. Notwithstanding the foregoing, the Seller hereby agrees not to hinder or unreasonably interfere with the exercise by GGSTPURCHASER of its rights with respect to the Real Properties and the Assets located thereon. GGSTPURCHASER agrees that (x) it shall not close a transaction pursuant to its Designation Rights with respect to the Real Property at One Lake Circle Drive, Kannapolis, North Carolina prior to the date that is twenty-one (21) weeks after the Petition Date, and (y) the Seller shall either (a) have access to, or (b) in the event that the hereafter described Real Property is conveyed and/or assigned pursuant to the Designation Rights, be provided (at the expense of GGSTPURCHASER) access to a suitable replacement for, the Real Property at 4111 Mint Way, Dallas, Texas until the earlier of two months following notice from GGSTPURCHASER to the Seller of its completion of the disposition pursuant to this Agreement of all the Assets and Real Properties and two months following the Fee Designation Expiration Date, including the right to continue to occupy and to use the office space and the information technology Assets located at such Real Property.

8.20 Shrinkwrap Licenses. The Sellers shall endeavor to provide GGSTPURCHASER with material information (including, without limitation, licensor, recurring fees and term) regarding each shrinkwrap, pop-up or click-through license to mass-marketed software with a retail value of less than \$2,000 per copy that is held by the Sellers and part of the Intellectual Property. The

Sellers shall make commercially reasonable efforts (and GGSTPURCHASER shall cooperate) to effectuate the transfer to GGSTPURCHASER (or its designee(s)) of all shrinkwrap, pop-up or click-through licenses to mass-marketed software having a retail price of less than \$2,000 per copy to the extent that such licenses are used by the Sellers in conjunction with Equipment that constitutes part of the Assets; to the extent the Seller is unable to effectuate such transfer, the Seller shall deliver all Equipment to GGSTPURCHASER (or its designee(s)) without such software and shall be responsible for the costs of removing such software from the Equipment and for all damage to the Equipment caused by such removal.

8.21 Insurance. The Sellers shall maintain the Insurance Policies relating to the Assets and Real Properties (other than Excluded Real Properties), until the Fee Designation Expiration Date, in such amounts as it currently has in effect or in such other amounts as provided for in Section 8.1(x), and shall cause GGSTPURCHASER to be named as an additional named insured and loss payee (as its interest may appear) with respect to all such policies concerning or relating to the Assets and the Real Properties (other than Excluded Real Properties). The Sellers shall deliver to GGSTPURCHASER certificates evidencing such insurance setting forth the duration thereof and naming GGSTPURCHASER or its designee(s) as an additional named insured and loss payee, in form reasonably satisfactory to GGSTPURCHASER. All such policies shall require at least 30 days' prior notice to GGSTPURCHASER of cancellation, nonrenewal or material change during the Fee Designation Period. In the event of a claim under any such policy GGSTPURCHASER shall be responsible for the payment of all deductibles, retentions or self-insured amounts thereunder. The Sellers and GGSTPURCHASER hereby acknowledge and agree that, in the event of a loss to any of the Assets or Real Properties (other than Excluded Real Properties) occurring on or after the date hereof and up to the Closing Date, the Closing Cash Payment shall be reduced by an amount equal to the proceeds of such insurance attributable to such Assets or Real Properties but that such proceeds shall not be paid to GGSTPURCHASER. The Sellers and GGSTPURCHASER hereby acknowledge and agree that, in the event of a loss to any of the Assets or Real Properties (other than Excluded Real Properties) occurring on or after the Closing Date, through and including the Fee Designation Expiration Date, the proceeds of such insurance attributable to such Assets or Real Properties shall be paid to GGSTPURCHASER.

8.22 Wind-Down Budget Review. GGSTPURCHASER and the Seller acknowledge and agree that they will review the Wind Down Budget, the actual expenses of the Seller and the appropriateness of the cushion to the Wind Down Budget referred to in Section 8.10(xiv) on or about the date that is eighteen (18) months after the date hereof.

9. Conditions Precedent to the Obligation of GGSTPURCHASER. The obligation of GGSTPURCHASER to consummate the transactions contemplated by this Agreement is subject to the fulfillment on or prior to the Closing Date of each of the following conditions, any one or more of which (to the extent permitted by law) may be waived by GGSTPURCHASER:

9.1 Representations and Warranties; Covenants. The representations and warranties of the Seller contained in this Agreement that are qualified as to materiality or Material Adverse Effect shall be true and correct in all respects, and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case as of the date hereof and as of the Closing, other than such representations and warranties that are made as of another date, which shall be true and correct as of such date. The covenants and agreements contained in this Agreement to be complied with by the Seller at or before the Closing shall have been complied with in all material respects. GGSTPURCHASER shall have received a certificate of the Seller to such effect signed by a duly authorized officer thereof.

9.2 No Order. No Governmental Body shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order (whether temporary, preliminary or permanent) which is in effect and has the effect of (a) making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting consummation of such transactions and which are not satisfied or resolved or preempted by the Sale Approval Order or (b) reducing the Fee Designation Period or the Non-Fee Designation Period to a period that is less than the maximum period, including any potential extensions, permitted under this agreement.

9.3 HSR Act Filing. Each party to this Agreement required to file a notification and report form in compliance with the HSR Act (and foreign counterparts thereof) shall have filed such form and the applicable waiting period with respect to each such form (including any extensions thereof) shall have expired or been terminated.

9.4 Bankruptcy Filing. The Bankruptcy Case shall not have been dismissed or converted to Chapter 7 of the Bankruptcy Code, and no trustee shall have been appointed. The Bankruptcy Court shall have entered the Sale Approval Order, and it shall have become a Final Order.

9.5 Intellectual Property. The Bankruptcy Court shall have entered the IP Rejection Order and it shall have become a Final Order or the Sale Approval Order shall incorporate the terms of the IP Rejection Order.

9.6 Sale Approval Order. The Bankruptcy Court shall have entered the Sale Approval Order and it shall have become a Final Order.

9.7 Wind-Down Budget. The Seller shall have delivered to GGSTPURCHASER the Wind-Down Budget, which shall be in form and substance reasonably acceptable to GGSTPURCHASER, and shall furnish GGSTPURCHASER evidence, reasonably satisfactory to GGSTPURCHASER, of its ability to fund the expenses set forth therein and to fund all Liabilities in respect of personal property taxes in respect of the Assets (other than the Excluded Assets) attributable to the period prior to the Petition Date.

9.8 Consents. All consents and notices required to be obtained or made to enable the Seller and the Subsidiaries to assign and GGST'sPURCHASER's designee(s) to assume the Assumed Contracts shall have been obtained or made by the Seller or the Subsidiaries.

9.9 Closing Documents. The Seller shall have delivered to GGSTPURCHASER on the Closing Date the documents required to be delivered pursuant to Section 5.2.

9.10 Phenix City. The Seller shall have taken all action necessary, as reasonably determined by GGSTPURCHASER, to (a) acquire good and marketable title to the Real Property located in Phenix City, Alabama, and (b) be able to promptly convey title to such Real Property, free and clear of all Liens and Encumbrances (other than encumbrances of the type specified in clauses (g)(i), (g)(ii), and (g)(iii) of the definition of Permitted Encumbrance herein and subject to the rights of tenants under section 365(h) of the Bankruptcy Code), to GGSTPURCHASER or its designee upon exercise by GGSTPURCHASER of its Designation Rights under this Agreement.

10. Conditions Precedent to the Obligation of the Sellers. The obligation of the Seller to consummate the transactions contemplated by this Agreement is subject to the fulfillment on or prior to the Closing Date of each of the following conditions, any one or more of which (to the extent permitted by law) may be waived by the Seller:

10.1 Representations and Warranties; Covenants. The representations and warranties of GGSTPURCHASER contained in this Agreement that are qualified as to materiality or material adverse effect shall be true and correct in all respects, and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case as of the date hereof and as of the Closing, other than such representations and warranties that are made as of another date, which shall be true and correct as of such date. The covenants and agreements contained in this Agreement to be complied with by GGSTPURCHASER at or before the Closing shall have been complied with in all material respects. The Seller shall have received a certificate of GGSTPURCHASER to such effect signed by a duly authorized officer thereof.

10.2 No Order. No Governmental Body shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order (whether temporary, preliminary or permanent) which is in effect and has the effect of making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting consummation of such transactions and which are not satisfied or resolved or preempted by the Sale Approval Order.

10.3 HSR Act Filing. Each party to this Agreement required to file a notification and report form in compliance with the HSR Act (and foreign counterparts thereof) shall have filed such form and the applicable waiting period with respect to each such form (including any extensions thereof) shall have expired or been terminated.

10.4 Sale Approval Order. The Bankruptcy Court shall have entered the Sale Approval Order, and the Sale Approval Order shall have become a Final Order.

10.5 Closing Documents. GGSTPURCHASER shall have delivered to the Seller on the Closing Date the documents and payments required to be delivered by it pursuant to Section 5.3.

11. Termination of Agreement.

11.1 Termination Prior to Closing; Break-Up Fee. Notwithstanding anything herein to the contrary, this Agreement may be terminated, and the transactions contemplated by this Agreement abandoned, upon notice by the terminating party to the other party:

(a) at any time before the Closing, by the mutual written consent of the Sellers and GGSTPURCHASER;

(b) at any time before the Closing, by GGSTPURCHASER, on the one hand, or the Sellers, on the other hand, in the event of a material breach of this Agreement by the non-terminating party or if the satisfaction of any condition to such party's obligations under this Agreement becomes impossible with the use of commercially reasonable efforts and the failure of such condition to be satisfied is not caused by a breach by the terminating party;

(c) ~~by either the Seller or GGST after consummation of the Auction, if the Sellers select a Person (or group of Persons) other than GGST to sell, transfer or otherwise dispose of all or substantially all of the assets of the Seller or all or a substantial part of any of the Assets (a "Competing Transaction");~~

(d) ~~by GGST~~ INTENTIONALLY OMITTED;

(d) by PURCHASER (provided that GGSTPURCHASER is not then in material breach of any provision of this Agreement), if any of the following shall occur:

(i) at any time before the Closing by PURCHASER, on the one hand, or the Sellers, on the other hand, in the event the Bankruptcy Case is dismissed or converted to chapter 7 of the Bankruptcy Code or a trustee is appointed for the Seller;

(ii) ~~the Bidding Procedures Order shall not have been entered on or before the thirtieth (30th) day after the date hereof; provided, however, that GGST shall not be entitled to exercise its rights under this clause (ii) later than five (5) Business Days after such twenty-day period has expired or if the Bidding Procedures Order has been entered by the Bankruptcy Court prior to GGST exercising such rights~~ INTENTIONALLY OMITTED;

(iii) if the Sale Approval Order has not been entered by the Bankruptcy Court ~~within seventy (70) days after the date hereof~~ on or before October 15, 2003; provided, however, that GGSTPURCHASER shall not be entitled to exercise its rights under this clause (iii) later than five (5) Business Days after such ~~seventy-day period has expired~~ date or if the Sale Approval Order has been entered by the Bankruptcy Court prior to GGSTPURCHASER exercising such rights.

11.2 ~~Termination Payments. The Seller shall be obligated to pay GGST, in cash, an aggregate amount not to exceed \$500,000 on account of GGST's expenses (the "Expense Reimbursement") in the event that the Agreement is terminated pursuant to Section 11.1 (provided that GGST is not in material breach of any provision of this Agreement). In addition to the Expense Reimbursement pursuant to this Section 11.2, the Seller shall be obligated to pay to GGST, in cash, the sum of \$1,750,000 (the "Break-up Fee") in the event this Agreement is terminated pursuant to Section 11.1(e) of this Agreement (provided that GGST is not in material breach of any provision of this Agreement). Payment of the Expense Reimbursement shall be made no later than five (5) Business Days following receipt by the Company of written notice from GGST describing GGST Expenses that are due in reasonable detail; provided, however, that if the Expense Reimbursement is payable as a result of a termination of this Agreement by GGST pursuant to Section 11.1(e), the Expense Reimbursement shall be payable upon the closing of the Competing Transaction out of the proceeds thereof or, if such Competing Transaction does not close by the date required thereby, on the next succeeding Business Day out of the deposit received in respect of such Competing Transaction. The Break-up Fee shall be~~

~~payable upon the closing of the Competing Transaction out of the proceeds thereof or, if such Competing Transaction does not close by the date required thereby, on the next succeeding Business Day out of the deposit received in respect of such Competing Transaction.~~INTENTIONALLY OMITTED

11.3 Survival after Termination. If this Agreement is terminated pursuant to Section 11.1 and the transactions contemplated hereby are not consummated, this Agreement shall become null and void and have no further force or effect, except that any such termination shall be without prejudice to the rights of any party on account of the nonsatisfaction of the conditions set forth in Articles 8 and 9 resulting from the intentional or willful breach or violation of the representations, warranties, covenants or agreements of another party under this Agreement. Notwithstanding anything in this Agreement to the contrary, the provisions of Sections 8.4 (Confidentiality), 8.5 (Expenses), 11.2 (Termination Payments), this Section 11.3, Section 12 and Section 13 shall survive any termination of this Agreement.

11.4 Waiver. Each party hereto may (a) extend the time for the performance of any of the obligations or other acts of the other party hereto, (b) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered pursuant hereto, (c) waive compliance with any of the agreements of the other party contained herein or (d) waive satisfaction of any condition to its obligations hereunder. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party to be bound thereby.

12. Indemnification.

12.1 Indemnification by the Sellers. Subject to and to the extent provided in this Article 12, from and after the Closing Date, the Seller shall indemnify, defend and hold harmless the ~~GGST's~~PURCHASER's Indemnified Persons, and each of them, from and against any Losses incurred or suffered by the ~~GGST's~~PURCHASER's Indemnified Persons as a result of or arising from:

- (a) any breach of any representation or warranty of the Sellers;
- (b) the breach of any covenant, agreement or other obligation of the Sellers set forth in this Agreement;
- (c) the Excluded Liabilities;
- (d) the Excluded Assets; and
- (e) the conduct of the Sellers' business at any time prior to the Closing Date.

12.2 Seller Limitations. Notwithstanding anything in this Agreement to the contrary, in no event shall any of the ~~GGST's~~PURCHASER's Indemnified Persons recover, or seek to recover, by claim for indemnification or otherwise, any Losses until:

- (a) notice thereof shall have been given by or on behalf of any of the ~~GGST's~~PURCHASER's Indemnified Persons to the Seller in the manner provided in Section 12.5; and

(b) the aggregate of all Losses recoverable by GGST'sPURCHASER's Indemnified Persons exceeds \$100,000 (the "GGST'PURCHASER Recovery Threshold"), in which event the full amount of all Losses shall be recoverable by GGST'sPURCHASER's Indemnified Persons in accordance with the terms of this Agreement, provided no Losses exceeding in the aggregate \$2,000,000 shall be recoverable, and provided further that such cap shall not apply to the rights of GGSTPURCHASER to seek recompense by way of setoff.

12.3 Indemnification by GGSTPURCHASER. Subject to and to the extent provided herein, from and after the Closing Date, GGSTPURCHASER shall indemnify, defend and hold harmless the Seller's Indemnified Persons, and each of them, from and against any Losses incurred or suffered by the Seller's Indemnified Persons as a result of or arising from:

- (a) any breach in any representation or warranty of GGSTPURCHASER (excluding any qualifications as to materiality);
- (b) the breach of any covenant, agreement or other obligation of GGSTPURCHASER set forth in this Agreement; and
- (c) the Assumed Liabilities.

12.4 GGPURCHASER's Limitations. Notwithstanding anything in this Agreement to the contrary, in no event shall any of the Seller's Indemnified Persons recover, or seek to recover, by claim for indemnification or otherwise, any Losses until:

- (a) notice thereof shall have been given by or on behalf of any of the Seller's Indemnified Persons to GGSTPURCHASER in the manner provided in Section 12.5;
- (b) the aggregate of all Losses recoverable by the Seller's Indemnified Persons exceeds \$100,000 (the "Seller Recovery Threshold"), in which event the full amount of all Losses shall be recoverable by the Sellers' Indemnified Persons in accordance with the terms of this Agreement; provided that no Losses exceeding in the aggregate \$2,000,000 shall be recoverable other than with respect to Losses arising from GGST'sPURCHASER's failure to pay any Access Fees or make any payments required under Sections 2.5(b) – (d).

12.5 Notice and Procedure. All claims for indemnification by any Indemnified Party against an Indemnifying Party under this Article 12 shall be asserted and resolved as follows:

- (a) (i) If any claim or demand for which an Indemnifying Party would be liable for Losses to an Indemnified Party is alleged or asserted by a Person other than any of GGST'sPURCHASER's Indemnified Persons or any of the Seller's Indemnified Persons (a "Third-Party Claim"), the Indemnified Party shall deliver written notice (a "Claim Notice") promptly to the Indemnifying Party, together with a copy of all papers served, if any, and specifying the nature of and alleged basis for the Third-Party Claim and, to the extent then feasible, the alleged amount or the estimated amount of the Third-Party Claim. If the Indemnified Party fails to deliver the Claim Notice to the Indemnifying Party within twenty (20) days after the Indemnified Party receives notice of such Third-Party Claim, the Indemnifying Party will not be obligated to indemnify the Indemnified Party with respect to such Third-Party Claim if, and only to the extent that, the Indemnifying Party's ability to defend the Third-Party Claim has been irreparably

prejudiced by such failure. The Indemnifying Party will notify the Indemnified Party within thirty (30) days after receipt of the Claim Notice (the “Notice Period”) whether the Indemnifying Party intends, at the sole cost and expense of the Indemnifying Party, to defend the Indemnified Party against the Third-Party Claim. Should the Indemnifying Party elect to assume the defense of a Third-Party Claim, the Indemnifying Party shall not be liable to the Indemnified Party for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof, except as provided by Section 12.5(a)(ii).

If the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party intends to defend the Indemnified Party against the Third-Party Claim, then the Indemnifying Party will have the right to defend, at its sole cost and expense, the Third-Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party (with the consent of the Indemnified Party, which shall not be unreasonably withheld or delayed). The Indemnifying Party will have full control of such defense and proceedings; provided, however, that the Indemnified Party may file during the Notice Period, at the sole cost and expense of the Indemnified Party, any motion, answer or other pleading that the Indemnified Party may deem necessary or appropriate to protect its interests and not prejudicial to the Indemnifying Party (it being understood and agreed that if an Indemnified Party takes any such action that is prejudicial or conclusively causes a final adjudication that is materially adverse to the Indemnifying Party (including, but not limited to, any admission of any liability with respect to, or settlement, compromise or discharge of, such Third-Party Claim without the Indemnifying Party’s prior written consent), the Indemnifying Party will be relieved of its obligations hereunder with respect to that portion of the Third-Party Claim prejudiced by the Indemnified Party’s action); provided, further, however, that, if requested by the Indemnifying Party, the Indemnified Party shall cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnifying Party and its counsel in contesting any Third-Party Claim that the Indemnifying Party elects to contest or, if appropriate in the judgment of the Indemnified Party, in making any counterclaim or cross-claim against any Person (other than the Indemnified Party). Such cooperation shall include the retention and (upon the Indemnifying Party’s request) the provision to the Indemnifying Party of records and information that are reasonably relevant to such Third-Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided thereunder. The Indemnified Party may participate in, but not control, any defense or settlement of any Third-Party Claim assumed by the Indemnifying Party pursuant to this Section 12.5(a)(ii) and, except as provided in this Section 12.5(a)(ii), the Indemnified Party will bear its own costs and expenses with respect to such participation. Notwithstanding the foregoing, the Indemnifying Party may not assume the defense of the Third-Party Claim if (1) the Persons against whom the claim is made, or any impleaded Persons, include both the Indemnifying Party and any Indemnified Party and (2) representation of both such Persons by the same counsel would be inappropriate due to conflicting interests between them, in which case any Indemnified Party shall have the right to defend the Third-Party Claim and to employ counsel at the expense of the Indemnifying Party.

(i) If the Indemnifying Party fails to notify the Indemnified Party within the Notice Period that the Indemnifying Party intends to defend the Indemnified Party against the Third-Party Claim, or if the Indemnifying Party gives such notice but fails to diligently prosecute or settle the Third-Party Claim, or if the Indemnifying Party

fails to give any notice whatsoever within the Notice Period, then the Indemnified Party will have the right (but not the obligation) to defend, at the sole cost and expense of the Indemnifying Party, the Third-Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnified Party to a final conclusion or settled at the discretion of the Indemnified Party. The Indemnified Party will have full control of such defense and proceedings, including any compromise or settlement thereof; provided, however, that, if requested by the Indemnified Party, the Indemnifying Party shall cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnified Party and its counsel in contesting the Third-Party Claim which the Indemnified Party is contesting, or, if appropriate and related to the Third-Party Claim in question, in making any counterclaim or cross claim against any Person (other than the Indemnifying Party).

(ii) If the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party against the Third-Party Claim, and if such dispute is resolved in favor of the Indemnifying Party, the Indemnifying Party will not be required to bear the costs and expenses of the Indemnified Party's defense pursuant to Section 12.5(a) or of the Indemnifying Party's participation therein at the Indemnified Party's request, and the Indemnified Party will reimburse the Indemnifying Party for all reasonably incurred costs and expenses.

(b) In the event any Indemnified Party should have a claim against any Indemnifying Party that is not a Third-Party Claim, the Indemnified Party shall deliver a written notice (an "Indemnity Notice") with reasonable promptness to the Indemnifying Party specifying the nature of and specific basis for the claim and, to the extent then feasible, the amount or the estimated amount of the claim. The failure by any Indemnified Party to give timely notice referred to in the preceding sentence shall not impair such Person's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days following its receipt of the Indemnity Notice that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party hereunder, the claim will be conclusively deemed a liability of the Indemnifying Party hereunder.

(c) If the Indemnifying Party timely disputes its liability with respect to a claim described in a Claim Notice or an Indemnity Notice, the Indemnifying Party and the Indemnified Party shall proceed promptly and in good faith to negotiate a resolution of such dispute within sixty (60) days following receipt of the Claim Notice or Indemnity Notice.

(d) Except where liability is disputed pursuant to Section 12.5(c), the Indemnifying Party shall pay the amount of any liability to the Indemnified Party within thirty (30) days following the final resolution of any Third-Party Claim or any such other Claim by the Indemnified Party. In the event the Indemnified Party is not paid in full for its claim in a timely manner after the Indemnifying Party's obligation to indemnify and the amount thereof has been determined, the amount due shall bear interest from the date that the Indemnifying Party received the Claim Notice or the Indemnity Notice until paid at the Discount Rate provided, and in addition to any other rights it may have against the Indemnifying Party, the Indemnified Party shall have the

right to set off the unpaid amount of such Claim against any amounts owed by it to the Indemnifying Party.

(e) Any estimated amount of a Claim submitted in a Claim Notice or an Indemnity Notice shall not be conclusive of the final amount of such Claim, and the giving of a Claim Notice when an Indemnity Notice is properly due, or the giving of an Indemnity Notice when a Claim Notice is properly due, shall not impair such Indemnified Party's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been prejudiced thereby.

12.6 Remedies. The indemnification provisions of this Article 12 shall be the sole and exclusive remedy of the parties following the Closing, including for any Claims for the recovery of Losses, whether directly or by way of contribution, for any and all breaches or alleged breaches of any representation, warranties, covenants or agreements of the parties or other provision of this Agreement or the transactions contemplated hereby other than for claims of, or causes of action arising from, fraud. Under no circumstances shall any Indemnified Party be entitled to be indemnified for punitive or other similar damages. GGSTPURCHASER agrees that the Sellers shall only be required to pay any claim asserted under this Section 12 (other than a claim in respect of the Seller's failure to make payments provided for in the Wind Down Budget) out of funds other than the segregated funds necessary to fund the Wind Down Budget. GGSTPURCHASER further agrees that it shall not oppose, for any reason or in any fashion, whether through a filing with the Bankruptcy Court or otherwise, the distribution of all or any part of the Closing Cash Payment to the creditors of the Seller; provided that GGSTPURCHASER reserves all rights to seek payment under this Section 12 (i) from all assets of the Sellers not explicitly excluded herein and (ii) by way of setoff against any of its obligations to the Sellers hereunder, which right of setoff Sellers hereby acknowledge. The parties agree that notwithstanding anything to the contrary, all payments made under this Article 12 shall be treated as an adjustment to the Purchase Price for Tax purposes unless otherwise required by law.

12.7 Survival of Representations; Indemnity Periods. Notwithstanding any right of GGSTPURCHASER (whether or not exercised) to investigate the business of the Seller or any right of any party (whether or not exercised) to investigate the accuracy of the representations and warranties of the other party contained in this Agreement, the Sellers have, on the one hand, and GGSTPURCHASER has, on the other hand, the right to rely fully upon the representations, warranties, covenants and agreements of the other contained in this Agreement. The representations and warranties in this Agreement made by the Sellers and GGSTPURCHASER respectively will survive the Closing until the two-year anniversary of the Closing Date (the "Survival Period"); provided, that:

(a) any representation, warranty, covenant or agreement that would otherwise terminate in accordance with the Survival Period shall survive if a Claim Notice or an Indemnity Notice, in either case specifying in reasonable detail the nature of the Claim, shall have been given on or prior to the expiration of such Survival Period, until the related Claim for indemnification has been satisfied or otherwise resolved as provided in this Section 12; provided, however, that all Claims for indemnification specified in the Claim Notice or Indemnity Notice must be asserted prior to the expiration of the Survival Period and if any such Claim is not made before the expiration of the Survival Period, the Indemnified Party shall not be entitled to indemnification; and

(b) covenants and agreements to be performed after the Closing Date will survive the Closing for the term specified therein, or, if no term is specified, indefinitely.

13. Miscellaneous.

13.1 Consent to Jurisdiction; Service of Process; Waiver of Jury Trial.

(a) **GGSTPURCHASER** and the Seller irrevocably and unconditionally consent to submit to the jurisdiction of the Bankruptcy Court for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby (and agree not to commence any litigation relating hereto except in the Bankruptcy Court).

(b) Any and all service of process and any other notice in any such Claim shall be effective against any party if given personally or by registered or certified mail, return receipt requested, or by any other means of mail that requires a signed receipt, postage prepaid, mailed to such party as herein provided. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by law or to commence legal proceedings or otherwise proceed against any other party in any other jurisdiction.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY.

(d) EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE WAIVER IN SECTION 13.1(c), (ii) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (iii) SUCH PARTY MAKES SUCH WAIVER VOLUNTARILY AND (iv) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS, AGREEMENTS AND CERTIFICATIONS IN SECTION 13.1(c) AND THIS SECTION 13.1(d).

13.2 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) on the day of delivery if delivered in person, or if delivered by facsimile upon confirmation of receipt, (b) on the first (1st) Business Day following the date of dispatch if delivered by a nationally recognized express courier service or (c) on the tenth (10th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid. All notices hereunder shall be delivered as set forth below, or pursuant to such other instructions as may be designated by notice given in accordance with this Section 13.2 by the party to receive such notice:

(a) if to **GGSTPURCHASER**, to:

~~GGST LLC c/o SB Capital Group, LLC 1010 Northern Boulevard Great Neck, NY 11021 Attention: Scott Bernstein Facsimile: (516) 829-2404~~

PT Partners, LLC
c/o Atkins Machinery, Inc.

P.O. Box 3487
Spartanburg, SC 29304
Attention: Mr. Robert D. Atkins, Chairman/CEO
Facsimile: (864) 574-1466

Petters Company, Inc.
c/o Petters Group Worldwide
4400 Baker Road
Minnetonka, MN 55344
Attention: Gregory D. Lerman
Facsimile: (952) 932-3370

with a copy to:

~~Wachtell, Lipton, Rosen~~Traub, Bonacquist & KatzFox LLP
~~51 West 52nd Street~~655 Third Avenue
New York, NY 10019
Attention: ~~Scott Charles~~Paul Traub, Esq.
Facsimile: (212) ~~403-2202~~476-4787

(b) if to the Sellers, to:

Pillowtex Corporation
4111 Mint Way
Dallas, Texas 75237
Attention: Mr. John F. Sterling
Facsimile: (214) 467-0823

with a copy to:

Debevoise & Plimpton
919 Third Avenue
New York, N.Y. 10022
Attention: Mr. Richard Hahn
Facsimile: (212) 521-7236

13.3 Entire Agreement. This Agreement, together with the Confidentiality Agreement and any other collateral agreements executed in connection with the consummation of the transactions contemplated hereby, contain the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements, written or oral, with respect thereto.

13.4 Waivers and Amendments. This Agreement may be amended, superseded, canceled, renewed or extended, and the terms hereof may be waived, only by a written instrument signed

by GGSTPURCHASER and the Seller or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege. All remedies, rights, undertakings, obligations, and agreements contained herein shall be cumulative and not mutually exclusive.

13.5 Governing Law. This Agreement and all Claims with respect thereto shall be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and, where state law is implicated, the laws of the State of New York without regard to any conflict of laws rules thereof that might indicate the application of the laws of any other jurisdiction.

13.6 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. This Agreement is not assignable by any party without the prior written consent of the other party; provided, that GGSTPURCHASER, in its sole discretion, may assign this Agreement to a wholly owned subsidiary of GGSTPURCHASER; and provided, further, that GGSTPURCHASER shall not be relieved of any of its obligations under this Agreement as a result of such assignment.

13.7 Usage. All pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the context may require. All terms defined in this Agreement in their singular or plural forms have correlative meanings when used herein in their plural or singular forms, respectively. Unless otherwise expressly provided, the words “include,” “includes” and “including” do not limit the preceding words or terms and shall be deemed to be followed by the words “without limitation.”

13.8 Articles and Sections. All references herein to Articles and Sections shall be deemed references to such parts of this Agreement, unless the context shall otherwise require. The Article and Section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

13.9 Interpretation. The parties acknowledge and agree that (a) each party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to its revision, (b) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties, regardless of which party was generally responsible for the preparation of this Agreement.

13.10 Severability of Provisions. If any provision or any portion of any provision of this Agreement shall be held invalid or unenforceable, the remaining portion of such provision and the remaining provisions of this Agreement shall not be affected thereby. If the application of any provision or any portion of any provision of this Agreement to any Person or circumstance shall be held invalid or unenforceable, the application of such provision or portion of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby.

13.11 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such

counterparts together shall constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all, of the parties hereto.

13.12 No Third-Party Beneficiaries. Except as expressly set forth herein, no provision of this Agreement is intended to, or shall, confer any third-party beneficiary or other rights or remedies upon any Person other than the parties hereto. Except as expressly set forth herein, no provision of this Agreement shall create any third-party beneficiary rights in any employee or former employee of the Seller or any of the Subsidiaries (including any beneficiary or dependent thereof) in respect of continued employment by the Seller or any of the Subsidiaries or otherwise.

[Remainder of Page Intentionally Left Blank]

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

GGST A JOINT VENTURE FORMED BY PT PARTNERS, LLC AND PETERS COMPANY, INC.

PT PARTNERS, LLC

By: _____
Name:
Title:

PETERS COMPANY, INC.

By: _____
Name: _____
Its: _____

PILLOWTEX CORPORATION

By: _____
Name:
Title:

PTEX, INC.

By: _____
Name:
Title:

PILLOWTEX CANADA INC.

By: _____
Name:
Title:

PTEX HOLDING COMPANY

By: _____
Name:
Title:

FIELDCREST CANNON INC.

By: _____
Name:
Title:

THE LESHNER CORPORATION

By: _____
Name:
Title:

FC ONLINE INC.

By: _____
Name:
Title:

TENNESSEE WOOLEN MILLS INC.

By: _____
Name:
Title:

BEACON MANUFACTURING COMPANY

By: _____
Name:
Title:

OPELIKA INDUSTRIES INC.

By: _____
Name:
Title:

ENCEE INC.

By: _____
Name:
Title:

FCC CANADA INC.

By: _____
Name:
Title:

FIELDCREST CANNON FINANCING INC.

By: _____
Name:
Title:

FCI CORPORATE LLC

By: _____
Name:
Title:

FIELDCREST CANNON TRANSPORTATION
INC.

By: _____
Name:
Title:

FCI OPERATIONS LLC

By: _____
Name:
Title:

FIELDCREST CANNON LICENSING INC.

By: _____
Name:
Title: