[Execution Copy]

PURCHASE AGREEMENT

Dated as of April 30, 2004

By and Among

MAGNEQUENCH, INC.,

MAGNEQUENCH UG, INC.,

MAGNEQUENCH GMBH,

MAGNEQUENCH TX, LLC,

MAGNEQUENCH DE MEXICO SA DE CV

and

KANE MAGNETICS ACQUISITION, LLC

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PURCHASE AGREEMENT

This PURCHASE AGREEMENT, dated as of April 30, 2004, is entered into by and among Magnequench, Inc., a Delaware corporation (the "Stock Seller"), Magnequench UG, Inc., a Delaware corporation ("MUG" or the "Asset Seller"), Magnequench GmbH, a German limited liability company ("GmbH"), Magnequench TX, LLC, an Idaho limited liability company ("MTX"), Magnequench de Mexico SA de CV, a Mexican limited liability company ("MMSA" and, together with GmbH and MTX, the "Acquired Companies"), and Kane Magnetics Acquisition, LLC, a Delaware limited liability company (the "Buyer"). The Asset Seller and the Acquired Companies are sometimes collectively referred to herein as the "Subject Companies". The Subject Companies and the Stock Seller are sometimes collectively referred to herein as the "Companies". Each of the Companies and the Buyer are sometimes collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, (i) the Acquired Companies are in the business of manufacturing, selling, and distributing sintered and bonded neodymium-iron-boron (NdFeB or Neo) rare earth magnets ("Neo Magnets"), copper-nickel-iron (CuNiFe) rare earth magnets ("CuNiFe Magnets"), bonded and sintered ferrite magnets ("Ferrite Magnets") and AlNiCo magnets in any such case used in industrial, automotive, and commodity applications in North America and Europe (the "Acquired Companies' Business"), and (ii) the Asset Seller is, *inter alia*, engaged in the Valparaiso Operations (as defined below and, together with the Acquired Companies' Business, the "Business");

WHEREAS, Magnequench International, Inc. ("MQI") is a wholly owned subsidiary of the Stock Seller and the sponsor of various employee benefit plans that provide benefits to employees of MUG, MTX, and MQI:

WHEREAS, the Stock Seller owns 100% of the issued and outstanding equity interests of MTX and 100% of the issued and outstanding shares of the capital stock of GmbH;

WHEREAS, the Stock Seller owns 98% of the issued and outstanding shares of the capital stock of MMSA;

WHEREAS, MTX owns 2% of the issued and outstanding shares of the capital stock of MMSA;

WHEREAS, the Buyer desires to engage in the Business by acquiring (i) all of the Stock Seller's equity ownership interests in each of GmbH, MTX and MMSA and (ii) all of the assets of the Asset Seller related to the Valparaiso Operations, all as more fully described in this Agreement and in each case pursuant to and in accordance with the terms and conditions of this Agreement;

WHEREAS, the Stock Seller desires to sell all of its equity ownership interests in each of GmbH, MTX and MMSA to the Buyer pursuant to and in accordance with the terms and conditions of this Agreement;

WHEREAS, MUG wishes to sell all of its assets related to the Valparaiso Operations to the Buyer pursuant to and in accordance with the terms and conditions of this Agreement; and

WHEREAS, the Stock Seller is a party to that certain [redacted]

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings specified therefor below (such meanings to be equally applicable to both the singular and the plural forms of the terms defined).

"Acquired Companies" shall have the meaning set forth in the preamble to this Agreement.

"Acquired Equity Interests" shall have the meaning set forth in Section 3.1(d)(i).

"Affiliate" means, with respect to any Person, another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise; *provided*, that (x) any investment account advised or managed by such Person or one of its Subsidiaries or Affiliates on behalf of third parties, or (y) any partnership, limited liability company, or other similar investment vehicle or entity engaged in the business of making investments of which such Person acts as the general partner, managing member, manager, investment advisor, principal underwriter or the equivalent shall not be deemed an Affiliate of such Person.

"Agreement" and "this Agreement" shall mean this Agreement, as amended, modified or supplemented from time to time.

"Asset Seller" shall have the meaning set forth in the preamble to this Agreement.

"Assets" shall have the meaning set forth in Section 2.2.

"Assumed Liabilities" shall have the meaning set forth in Section 2.3.

"Benefit Plans" shall have the meaning set forth in Section 3.1(r)(i)(B).

"Business" shall have the meaning set forth in the recitals of this Agreement, but in no event shall such term include any business or operations of MUG other than the Valparaiso Operations.

"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banks located in New York, New York shall be authorized or required by law to close.

"Buyer" shall have the meaning set forth in the preamble to this Agreement.

"Buyer Indemnification Cap" shall have the meaning set forth in Section 8.5(d).

"Buyer Restricted Companies" shall have the meaning set forth in Section 6.4(a).

"Closing" shall have the meaning set forth in Section 5.1.

"Closing Adjustment Statement" shall have the meaning set forth in Section 7.2(b).

"Closing Date" shall have the meaning set forth in Section 5.1.

"Closing Excess Restructuring Reserve" shall have the meaning set forth in Section 7.2(a).

"Closing Payment" shall have the meaning set forth in Section 2.5(d).

"Closing Restructuring Reserve Deficiency" shall have the meaning set forth in Section 7.2(a).

"Closing Working Capital" shall have the meaning set forth in Section 7.2(a).

"Closing Working Capital Basket" shall have the meaning set forth in Section 7.2(c)(i).

"Closing Working Capital Cap" shall have the meaning set forth in Section 7.2(c)(i).

"COBRA Beneficiary" shall have the meaning set forth in Section 6.8.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder.

"Companies" shall have the meaning set forth in the preamble to this Agreement.

"Consent" shall mean any consent, approval, authorization, permission or waiver.

"CuNiFe Magnets" shall have the meaning set forth in the Recitals to this Agreement.

"Damages" shall have the meaning set forth in Section 8.1.

"Encumbrances" shall mean any charge, claim, community or other marital property interest, condition, equitable interest, Lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, license, lease, servitude, right of first refusal, right of first option, indenture, deed of trust, restriction on the use of real or personal property, or any other encumbrance, restriction or limitation on the use or transfer of any asset or property or any other attribute of ownership.

"Environment" shall mean ambient air, land, surface soil, subsurface soil, sediment, surface water, groundwater, wetlands and all flora and fauna therein or thereon.

"Environmental Authority" shall mean any Governmental Entity having judicial, regulatory or administrative authority under Environmental Laws.

"Environmental Conditions" shall mean any environmental contamination or pollution of, or the Release or threatened Release of Hazardous Materials into, the Environment.

"Environmental Laws" shall mean all applicable international treaties, conventions and compacts and all federal, regional, state, county or local laws, statutes, ordinances, decisional law, rules, regulations, codes, orders, decrees, directives, judgments and common law relating to public health or safety, pollution, damage to or protection of the Environment, Environmental Conditions, Releases or threatened Releases of Hazardous Materials into the Environment or the use, manufacture, processing, distribution, treatment, storage, generation, disposal, transport or handling of Hazardous Materials, whether existing in the past or present. Environmental Laws shall include, but are not limited to, the following laws, and the regulations promulgated thereunder, as the same have been amended from time to time: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.) ("CERCLA"); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) ("RCRA"); the Clean Air Act (42 U.S.C. 7401 et seq.); and the Clean Water Act (33 U.S.C. 1251 et seq.); any analogous or similar state laws; and the following applicable federal, local and municipal Mexican legislation: General Law of Ecological Balance and Environmental Protection; General Law for the Prevention and Management of Wastes; Ecological Law of the State of Chihuahua; National Waters Law; and with respect to each, their Official Norms (NOM).

"Environmental Permits" shall mean all permits, authorizations, registrations, certificates, licenses, approvals or Consents required under or issued pursuant to Environmental Laws.

"ERISA" shall have the meaning set fonh in Section 3.1(r)(i)(A).

"ERISA Affiliate" shall have the meaning set forth in Section 3.1(r)(i)(A).

"ERISA Plans" shall have the meaning set forth in Section 3.1(r)(i)(A).

"Escrow Agent" shall have the meaning set forth in Section 2.7(a).

"Escrow Amounts" shall have the meaning set forth in Section 2.7(b).

"Estimated Excess Restructuring Reserve" shall have the meaning set forth in Section 7.1.

"Estimated Working Capital" shall have the meaning set forth in Section 7.1.

"Exchange Rate" shall mean the average of the U.S. dollar to euro exchange rates published on Bloomberg's internet web site (*www.bloomberg.com*) at 10:00 a.m. (New York time) for each of the thirty (30) calendar days immediately preceding the date of the Pro Forma Adjustment Statement.

"Excluded Assets" shall have the meaning set forth in Section 2.2.

"Ferrite Magnets" shall have the meaning set forth in the Recitals to this Agreement.

"First Escrow Agreement" shall have the meaning set forth in Section 2.7(a).

"First Escrow Amount" shall have the meaning set forth in Section 2.7(a).

"Foreign Plans" shall have the meaning set forth in Section 3.1(r)(i)(B).

"Former Facility" shall mean any plants, offices, land, manufacturing, warehousing or other facilities formerly owned, operated, leased. managed, used, controlled or occupied by any of the Subject Companies in connection with the operation of the Business or any of the Assets or by any current of former subsidiary of any of the Subject Companies or any predecessor-in-interest of any of the Subject Companies.

"GAAP" shall mean generally accepted accounting principles in the United States.

"German GAAP" shall mean generally accepted accounting principles in Germany.

"GmbH" shall have the meaning set forth in the preamble to this Agreement.

"GmbH Financial Statements" shall have the meaning set forth in Section 3.1(e)(ii).

"GmbH Shares" shall have the meaning set forth in Section 3.1(d)(i).

"Governmental Entity" shall mean any: (i) nation, state, county, city, town, borough, village, district or other jurisdiction; (ii) federal, state, local, municipal, foreign or other government; (iii) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission. court, tribunal, mediator, arbitrator or other entity or person exercising governmental or quasi-governmental powers); (iv) multinational organization or body; (v) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or (vi) official of any of the foregoing.

"Hazardous Materials" shall mean any substance, material or waste or any pollutant or contaminant that is infectious, toxic, hazardous, explosive, corrosive, flammable or radioactive, or that is regulated under any Environmental Laws, including MTBE, petroleum or petroleum derived substances or wastes, polychlorinated biphenyls, asbestos and asbestos containing materials, and urea formaldehyde.

"Health Claims" shall have the meaning set forth in Section 6.8.

"Historical Balance Sheets" shall have the meaning set forth in Section 3.1(e)(iii).

"Historical Financial Statements" shall have the meaning set forth in Section 3.1(e).

"Indebtedness" shall mean, as to any Person, without duplication, (i) all indebtedness (including principal, interest, fees and charges) of such Person for borrowed money or for the deferred purchase price of property or services other than trade payables and accrued expenses arising in the ordinary course of the Business, (ii) the maximum amount available to be drawn under all letters of credit issued for the account of such Person and all unpaid drawings in respect of such letters of credit, (iii) all Indebtedness of the types described in clause (i), (ii), (iv), (v) and (vi) of this definition secured by any Encumbrance on any property owned by such Person, whether or not such Indebtedness has been assumed by such Person, (iv) all capitalized lease obligations of such Person, (v) all Contingent Obligations of such Person, (vii) all obligations under any interest rate protection agreements, currency protection agreements, interest rate swaps, control disbursement accounts, repurchase agreements, reverse repurchase agreements, caps, collars, derivatives, currency hedge agreements or other similar types of agreements and (vi) the greater of (x) any premiums and other amounts payable to any third party pursuant to any mandatory prepayment obligations under the terms of any Indebtedness as a result of the consummation of the transactions contemplated hereby and (y) any premiums and other amounts payable to any third party pursuant to any voluntary prepayment provision under the terms of any Indebtedness.

"Indemnified Party" shall have the meaning set forth in Section 8.3.

"Indemnifying Parties" shall have the meaning set forth in Section 8.3.

"Intellectual Property" shall mean the corporate and business names and trade names applicable to the Business, trade dress, trademarks and service marks (including, without limitation, the trademarks [redacted]) and registrations and applications therefor, brand names, patents, patent applications, know how, formulae and recipes, trade rights, copyrights (both registered and unregistered), proprietary and technical information and data, methods, designs, processes, procedures, improvements thereon, refinements thereof owned by any Subject Company or used by any Subject Company in the Business and all agreements relating to intellectual property used by any Subject Company in the Business.

"Law" shall mean any federal, state, local, foreign or other law, statute, ordinance, regulation, rule, regulatory or administrative guidance, Order, constitution, treaty, principle of common law or other restriction of any Governmental Entity.

"Leased Real Property" shall have the meaning set forth in Section 3.1(n)(ii).

"Liability" shall mean any liability, obligation or commitment of any kind or nature, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due.

"Lien" shall mean any mortgage, deed of trust, security interest, assignment, pledge, lien or other charge or encumbrance of any nature whatsoever except: (i) liens for Taxes, assessments, or governmental charges or levies not yet due and delinquent; (ii) liens disclosed in the Financial Statements; and (iii) liens consisting of zoning or planning restrictions, easements, permits, any other restrictions or limitations on the use of real property or irregularities in title thereto which do not materially detract from the value of, or materially impair the use of, such property by the related Company, or any of them.

"Material Adverse Effect" shall mean: (i) with respect to any Person, a material adverse effect on the businesses, properties, assets, liabilities, operations, financial condition or results of operations of such Person; (ii) with respect to the Acquired Companies, a material adverse effect on the businesses, properties, assets, liabilities, operations, financial condition or results of operations of the Acquired Companies taken as a whole; and (iii) with respect to the Subject Companies, a material adverse effect on the businesses, properties, assets, liabilities, operations, financial condition or results of operations of the Subject Companies taken as a whole.

"MMSA" shall have the meaning set forth in the preamble to this Agreement.

"MMSA Shares" shall have the meaning set forth in Section 3.1(d)(i).

"MQI" shall have the meaning set forth in Section 6.8.

"MTX" shall have the meaning set forth in the preamble to this Agreement.

"MTX Employees" shall have the meaning set forth in Section 6.8.

"MTX Interests" shall have the meaning set forth in Section 3.1(d)(i).

"MUG" shall have the meaning set forth in the preamble to this Agreement.

"MUG Shares" shall have the meaning set forth in Section 3.1(d)(i).

"Neo Magnets" shall have the meaning set forth in the Recitals to this Agreement.

"Neo Powder" shall mean the rare earth neodymium magnetic powders and related technologies produced by the Stock Seller and its Affiliates.

"Order" shall mean any order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any Governmental Entity or arbitrator.

"Owned Real Property" shall have the meaning set forth in Section 3.1(n)(i).

"Parties" shall have the meaning set forth in the preamble to this Agreement.

"Permit" shall mean any permit, authorization, registration, certificate, license, approval, franchise or Consent issued by any Governmental Entity or pursuant to any Law (other than an Environmental Permit).

"Permitted Assignment" shall have the meaning set forth in Section 6.11(a).

"Permitted Contract Manufacturing" shall have the meaning set forth in Section 6.11(a).

"Permitted Encumbrances" shall mean any of the following: (a) the provisions of all applicable zoning Laws, statutory liens of landlords, carriers, warehousemen, mechanics, materialmen and other similar Persons; (b) liens for Taxes and other governmental assessments, charges or claims not yet due and payable or which are being contested in good faith (and for which adequate reserves will be established on the Closing Adjustment Statement); (c) in the case of leased property the provisions of the applicable lease; and (d) the Encumbrances set forth on Schedule A.

"Person" shall mean and include any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association or organization or joint venture, or any other entity or a Governmental Entity.

"Pro Forma Adjustment Statement" shall have the meaning set forth in Section 7.1.

"Proceeding" shall mean any proceeding, charge, complaint, claim, demand, notice, action, suit, litigation, hearing, audit, investigation, arbitration or mediation (in each case, whether civil, criminal, administrative, investigative or informal) commenced, conducted, heard or pending by or before any Governmental Entity, arbitrator or mediator.

"Proprietary Rights" shall have the meaning set forth in Section 3.1(v)(i).

"Purchase Price" shall have the meaning set forth in Section 2.5(a).

"Real Property" shall have the meaning set forth in Section 3.1(n)(iii).

"Release" shall mean any intentional or unintentional release, discharge, spill, leaking, pumping, pouring, emitting, emptying, injection, disposal or dumping into the Environment.

"Restricted Contract" shall have the meaning set forth in Section 2.6.

"Restructuring Reserve" shall mean the Restructuring Reserve of GmbH reflected on the Closing Adjustment Statement, as determined in accordance with German GAAP, consistently applied, representing the anticipated costs of GmbH as of the Closing for (i) those specific expenses (and not related but unspecified expenses) set forth on Schedule B and (ii) to the extent the employment of any employee in the Hanau sales office is not transferred to Magnequench AG at or prior to the Closing, the severance costs related to the termination of such employee(s) by GmbH effective as of the Closing.

"RPTL" shall have the meaning set forth in Section 3.1(x)(viii).

"Second Escrow Agreement" shall have the meaning set forth in Section 2.7(b).

"Second Escrow Amount" shall have the meaning set forth in Section 2.7(b).

"Securities Act" shall have the meaning set forth in Section 3.2(d).

"Seller Restricted Companies" shall have the meaning set forth in Section 6.3(a).

"Share Transfer Deed" shall mean the German notarial deed, in the form of Exhibit O to this Agreement, by which the GmbH Shares are transferred from the Stock Seller to the Buyer.

"Specifications" shall have the meaning set forth in Section 3.1(y).

"Stock Seller" shall have the meaning set forth in the preamble to this Agreement.

"Stock Seller's MMSA Shares" shall have the meaning set forth in Section 3.1(d)(i).

"Subject Companies" shall have the meaning set forth in the preamble to this Agreement.

"Subsidiary" shall mean, with respect to any Person, another Person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its Board of Directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which) is owned directly or indirectly by such first Person; *provided, however*, that (i) any investment account advised or managed by such Person or one of its subsidiaries or Affiliates on behalf of third parties, and (ii) any partnership, limited liability company, or other similar investment vehicle or entity engaged in the business of making investments of which such Person acts as the general partner, managing member, manager, investment advisor, principal underwriter or the equivalent, shall not be deemed a subsidiary of such Person.

"Tax" shall have the meaning set forth in Section 3.1(i)(i)(A).

"Taxable" shall have the meaning set forth in Section 3.1(i)(i)(A).

"Taxes" shall have the meaning set forth in Section 3.1(i)(i)(A).

"Taxing" shall have the meaning set forth in Section 3.1(i)(i)(A).

"Tax Return" shall have the meaning set forth in Section 3.1(i)(i)(B).

"Third Party Claim" shall have the meaning set forth in Section 8.3.

"Transfer Agreement" shall have the meaning set forth in Section 2.4.

"Transferred Employees" shall have the meaning set forth in Section 6.8.

"Treasury Regulations" shall mean the United States Treasury Regulations promulgated by the Internal Revenue Service.

"U.S. Benefit Plans" shall have the meaning set forth in Section 3.1(r)(i)(A).

"Valparaiso Operations" shall mean: (i) the Asset Seller's CuNiFe Magnet operations in Valparaiso, Indiana; and (ii) the Asset Seller's North American Neo Magnet trade business, in each case, as operated by the Asset Seller immediately prior to the Closing.

Section 1.2 Construction and Interpretation.

(a) The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

(b) Each definition in this Agreement includes the singular and the plural, and references to any gender include the other genders where appropriate.

(c) Any reference to any federal, state, local or foreign statute or law shall be deemed to also refer to all rules and regulations promulgated under such statute or law, unless the context requires otherwise. References to any statute or regulation mean such statute or regulation as amended at the time and include any successor legislation or regulation.

(d) The word "including" means "including without limitation". The word "or" is not exclusive. The headings to the Articles and Sections are for convenience of reference and shall not affect the meaning or interpretation of this Agreement.

(e) References to Articles, Sections, Exhibits and Schedules mean the Articles, Sections, Exhibits and Schedules of this Agreement (unless otherwise indicated). The Exhibits and Schedules are incorporated by reference into and shall be deemed a part of this Agreement.

(f) The captions appearing herein are for the convenience of the Parties only and shall not be construed to affect the meaning of the provisions of this Agreement.

(g) Any and all accounting terms utilized in this Agreement shall, unless the context otherwise requires, be construed in accordance with GAAP.

(h) All references to "$", "dollars" and "Dollars" in this Agreement shall be references to United States dollars. All references to "€", "euros" and "Euros" in this Agreement shall be references to the euro, the single currency established for certain members of the European Union upon the commencement of the third stage of European Monetary Union on January 1, 1999. All references to "MXP" in this Agreement shall be references to Mexican pesos.

(i) In computing any time period provided for in this Agreement, the first day of the time period shall not be counted but the last day of the time period shall be counted. Any action required to be taken on a particular day must be taken before 5:00 pm, Eastern Time, on that day. For example, if an action were required to be taken within ten (10) days after the Closing Date, and the Closing Date were June 30, 2004, the first day to be counted would be July 1, 2004 and the action would be required to be taken before 5:00 pm, Eastern Daylight Time, on July 10, 2004.

(j) The phrase "best efforts" means "commercially reasonable best efforts" under the applicable circumstances.

(k) The term "Knowledge of the Companies" shall mean the actual knowledge of the executive officers of each of the Companies, consisting of [redacted] after conducting a reasonably comprehensive investigation regarding the accuracy of the applicable representation or warranty contained in this Agreement.

ARTICLE II

PURCHASE AND SALE OF ASSETS AND STOCK

Section 2.1 Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, and on the basis of the representations, warranties and covenants herein contained, effective at the Closing:

(a) the Asset Seller hereby agrees to sell, assign and convey the Assets (as defined in Section 2.2 below) to the Buyer, free and clear of any Encumbrances (other than Permitted Encumbrances) and the Buyer hereby agrees to purchase, acquire and accept the Assets from the Asset Seller, free and clear of any Encumbrances (other than Permitted Encumbrances); and

(b) the Asset Seller hereby agrees to assign the Assumed Liabilities (as defined in Section 2.3 below) to the Buyer, and the Buyer hereby agrees to accept and assume the Assumed Liabilities from the Asset Seller and to timely pay or perform, as applicable, all of the Assumed Liabilities.

Section 2.2 Definition of Assets. As used herein, "Assets" shall mean only the specific assets, properties, business and goodwill of the Asset Seller identified on Schedule 2.2(a), and shall specifically exclude all other assets and properties of the Asset Seller, including those assets and properties identified on Schedule 2.2(b) (the "Excluded Assets").

Section 2.3 Definition of Assumed Liabilities. As used herein, "Assumed Liabilities" shall mean only: (i) those accounts payable of the Asset Seller as of February 29, 2004 disclosed on Schedule 2.3 and all other accounts payable of the Asset Seller incurred in the ordinary course of the Valparaiso Operations between February 29, 2004 to and including the Closing Date, in each case which shall be undischarged at the date of the Closing and to the extent included in the calculation of Closing Working Capital; (ii) the contractual obligations of the Asset Seller under the contracts to be transferred to the Buyer (including payment and performance), all of which are listed on Schedule 3.1(p); (iii) any liability or obligations of the Asset Seller to provide products or services on or after the Closing Date to customers in the ordinary course of the Valparaiso Operations (and to the extent reflected in the Asset Seller's files and records); and (iv) any liability to customers of the Valparaiso Operations for product returns, adjustments and product liability claims and with respect to any other disputes concerning products or services manufactured or sold by the Asset Seller in the ordinary course of the Valparaiso Operations prior to the Closing Date; *provided, however*, that the term "Assumed Liabilities" shall specifically exclude: (u) any Liability of the Asset Seller for Taxes; (v) any Liability of the Asset Seller for income, transfer, sales, use, and other Taxes arising in connection with the consummation of the transactions contemplated hereby (including any income Taxes arising because the Asset Seller is transferring the Assets) (other than Transfer Taxes for which the Buyer is liable pursuant to the terms and conditions of this Agreement); (w) any Liability of the Asset Seller for the unpaid Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or foreign law), as a transferee or successor, by contract or otherwise; (x) any expenses incurred and accrued in connection with the transactions contemplated by this Agreement; (y) any liability or obligation owed to any Affiliate of the Asset Seller (other than trade accounts payable to Affiliates of the Asset Seller arising in the ordinary course of business and disclosed on Schedule 2.3 or incurred in the ordinary course of the Valparaiso Operations from February 29, 2004 to an including the Closing Date); and (z) any and all Liability arising from or relating to environmental matters of any kind or nature whatsoever respecting the Asset Seller, the Valparaiso Operations, the Assets or any of the Owned Real Property, Leased Real Property or any of the Former Facilities used, operated or occupied by the Asset Seller in connection with the operation of any of the Assets or the conduct of the Valparaiso Operations occurring or existing on or before the Closing Date, including: (1) Environmental Conditions on, at, under or emanating from any such Owned Real Property, Leased Real Property or Former Facilities occurring or existing on or before the Closing Date; (2) failure by the Asset Seller or any agents, servants, employees or contractors of the Asset Seller to comply with Environmental Laws applicable to the Asset Seller, the Valparaiso Operations, the Owned Real Property, the Leased Real Property, the Former Facilities or any of the Assets on or before the Closing Date; (3) treatment, storage, disposal or Release at any location of Hazardous Materials used, generated, handled, stored, manufactured, originating at or transported from the Owned Real Property, the Leased Real Property or any of the Former Facilities in connection with the Valparaiso Operations or the Asset Seller's operation of any of the Assets on or before the Closing Date; and (4) claims of third parties alleging damages arising from personal injury or death, property damage or damage to natural resources arising from or related in any way to Environmental Conditions on, at, under or emanating from any of the Owned Real Property, the Leased Real Property or the Former Facilities used, operated or occupied by the Asset Seller or the conduct of the Valparaiso Operations or the Asset Seller's operation of any of the Assets on or before the Closing Date.

Section 2.4 Purchase and Sale of Stock. Subject to the terms and conditions of this Agreement and on the basis of the representations, warranties and covenants herein contained, effective at the Closing, the Stock Seller shall sell, assign, convey, transfer and deliver to the Buyer at the Closing, and the Buyer shall purchase from the Stock Seller at the Closing, the Acquired Equity Interests (as defined in Section 3.1(d)(i) below) free and clear of any Encumbrances. The certificates representing the Stock Seller's MMSA Shares shall be duly endorsed by the Stock Seller in favor of the Buyer. The MTX Interests shall be transferred from the Stock Seller to the Buyer by way of a Transfer Agreement substantially in the form of Exhibit J between the Stock Seller and the Buyer (the "Transfer Agreement"). The GmbH Shares shall be transferred from the Stock Seller to the Buyer by way of the Share Transfer Deed. Notwithstanding anything contained in this Agreement to the contrary, any transfer, recording, or similar Taxes, fees, and charges imposed in connection with the consummation of the transactions contemplated by this Agreement in each relevant Tax jurisdiction (collectively, "Transfer Taxes") shall be borne by the party to this Agreement responsible for such Transfer Taxes under the relevant Tax statutes, regulations, and procedures of the relevant Tax jurisdiction in each case (the "Transfer Tax Obligor"). The relevant Transfer Tax Obligor shall be responsible for obtaining all necessary transfer Tax and other revenue stamps, and any and all sales, use, Transfer, stamp, documentary, gains, and other similar Taxes. The Parties agree to use their best efforts to minimize the Transfer Taxes. The Parties agree that the notarial fees in connection with the execution of the Share Transfer Deed shall be borne by the Buyer.

Section 2.5 Purchase Price.

(a) The purchase price (the "Purchase Price") for the Assets, the Acquired Equity Interests and the non-competition provisions of Section 6.3 shall be equal to [redacted] as adjusted pursuant to Section 7.2 of this Agreement. At Closing, the Buyer shall assume the Assumed Liabilities in accordance with the terms of this Agreement.

(b) The Purchase Price and the Assumed Liabilities shall be allocated among the Assets (which, for purposes of this Section 2.5(b), shall be deemed to include assets that, for Tax purposes, are deemed to be purchased as a result of the acquisition of all equity interests in any U.S. disregarded entity), the Acquired Stock and the non-competition provisions of Section 6 3 as set forth on Schedule 2.5, to the extent set forth therein. Each of the Parties hereto agrees to report an allocation of the aggregate of the Purchase Price and the Assumed Liabilities among the Assets, the Acquired Stock and the non-competition provisions of Section 6.3 in a manner entirely consistent with this Section 2.5, and agrees to not take any position inconsistent therewith in the preparation of financial statements, the filing of any Tax Returns or in the course of any audit by any Tax authority, Tax review or Tax proceeding relating to any such Tax Returns. The Buyer and MUG shall file IRS Form 8594 (and/or other appropriate Tax Returns) with the applicable Taxing authority reflecting the foregoing allocation, shall file any amendments as may be required pursuant to Section 7.3, and shall not file any amendments or take any action inconsistent with the foregoing in any audit, refund claim, Tax Return or any other administrative or judicial proceeding, pursuant to Section 1060 of the Code and the Treasury Regulations promulgated thereunder.

(c) The Buyer acknowledges and agrees that, subject to the conversion of MTX into a single member limited liability company prior to the Closing, MTX will be treated as flow-through and disregarded entity by the Stock Seller for all purposes under the Code and the Stock Seller and the Buyer shall report the purchase by the Buyer of the MTX Interests consistent with such Tax treatment and no Party shall take any position contrary thereto in any Tax Return, in any proceeding before any Taxing authority or otherwise.

(d) At the Closing, in payment for the Assets, the Acquired Equity Interests and the non-competition provisions of Section 6.3, the Buyer shall deliver to the Stock Seller (acting on its own behalf and as agent for each Subject Company), by wire transfer, to such account as shall have been designated in writing by the Stock Seller, of immediately available funds in the amount (the "Closing Payment") of [redacted] as adjusted (i) downward by the amount of the Estimated Excess Restructuring Reserve, if any, or (ii) upward by the amount of the Estimated Restructuring Reserve Deficiency, if any.

Section 2.6 Restricted Contracts. With respect to the Asset Seller, the Parties understand and agree that, without limiting any representation, warranty, condition or indemnification contained in this Agreement, if, as of the Closing, the Asset Seller shall not have effectively obtained any or all consents of any third party(ies) to the assignment of any contract, obligation, agreement and/or other arrangement (each, a "Restricted Contract") included in the Assets or otherwise to be assigned pursuant to this Agreement in respect of which such third party's consent to assign is required in order to preserve the value of such Restricted Contract for the Buyer or otherwise, then, the assignment by the Asset Seller and the assumption by the Buyer of such Restricted Contract shall, notwithstanding any other provision contained in this Agreement, not become effective at Closing or thereafter until the Asset Seller shall have obtained the requisite consent (which the Asset Seller shall use its best efforts promptly to obtain, together with the cooperation of the Buyer), and such assignment and assumption shall become effective as aforesaid subsequent to Closing pursuant to such documentation as shall reasonably be acceptable to the Buyer and the Asset Seller; and the Asset Seller shall not take nor permit any action which would impair the full force and effect of such Restricted Contract, or otherwise cause or permit the modification, amendment or termination of such Restricted Contract (except insofar as consented to by the Buyer) until the effective assignment thereof as aforesaid. The Asset Seller and the Buyer understand and agree that the Asset Seller, subsequent to the Closing, shall not be entitled to any of the rights and privileges under any Restricted Contract all of which shall accrue to the benefit of the Buyer, and the Asset Seller shall be deemed to hold such Restricted Contract in trust for the Buyer.

Section 2.7 Escrow.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the Stock Seller and the Asset Seller. The Stock Seller and the Asset Seller, jointly and severally, hereby represent and warrant to the Buyer as follows (items listed on any Schedule pursuant to this Section 3.1 shall be broken down by reference to the applicable Company):

(a) Organization and Existence. Each of the Companies is a corporation or other legal entity duly organized, validly existing, and in good standing (with respect to jurisdictions which recognize such concept) under the laws of the jurisdiction in which it is organized. The Stock Seller has all corporate or other power and authority to perform all of its obligations under this Agreement. Each of the Subject Companies has the requisite corporate or other power, as the case may be, and authority to carry on its business as now conducted, to own and lease the assets owned or used by it, to perform all obligations under the agreements to which it is a party (including, without limitation, this Agreement), and to own the real property owned by it. Each Subject Company is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the nature of its business or the ownership, leasing or operation of its properties makes such qualification or licensing necessary, except for those jurisdictions where the failure to be so qualified, or licensed or in good standing would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on such Subject

Company. Except as set forth in Schedule 3.1(a), none of the Subject Companies have any subsidiaries, or own any capital stock or other proprietary interest, directly or indirectly, in any other Person, and none of the Subject Companies has any agreement to acquire any such capital stock or other proprietary interest. Each Company has delivered to the Buyer complete and correct copies of its certificate of incorporation and by-laws or other organizational documents, as amended to date.

(b) Authorization. With respect to each Company: (i) the execution, delivery, and performance by such Company of this Agreement and any other instruments or agreements to be executed by such Company pursuant to this Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate or other action on the part of such Company, and no other corporate or other action on the part of such Company is necessary to authorize the execution, delivery and performance by such Company of this Agreement and any other instruments or agreements to be executed by such Company pursuant to this Agreement and the consummation of the transactions contemplated hereby and thereby; and (ii) this Agreement and such other instruments and agreements have been duly executed and delivered by such Company and constitute legal, valid and binding obligations of such Company, enforceable against such Company in accordance with their terms, except to the extent that the enforceability thereof may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditor's rights and to general equitable principles.

(c) No Violations. With respect to each Company, the execution, delivery and performance of this Agreement and any other instruments or agreements to be executed by such Company pursuant to this Agreement and the consummation by such Company of the transactions contemplated hereby and thereby will not, with or without the giving of notice or the lapse of time or both: (i) violate, conflict with, or result in a breach or default under any provision of the certificate of incorporation or by-laws, or other organizational documents, of such Company; (ii) violate any statute, ordinance, rule, regulation, order, judgment or decree of any court or any Governmental Entity applicable to such Company or by which any of its properties or assets may be bound; (iii) require any filing by such Company, or require such Company to obtain any permit, consent or approval of, or require such Company to give any notice to, any Governmental Entity or any other Person, which has not been made or received, as applicable; or (iv) constitute a violation or breach by such Company of, conflict with, constitute (with or without due notice or lapse of time or both) a default by such Company (or give rise to any right of termination, cancellation, payment or acceleration) under, or result in the creation of any Encumbrance upon any of the properties or assets of such Company under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, franchise, permit, agreement, lease, franchise agreement or other instrument or obligation to which such Company is party, or by which such Company or its properties or assets may be bound. No action or proceeding has been instituted or, to the Knowledge of the Companies, threatened against any Company before any court or other Governmental Entity by any person or public authority seeking to restrain, prohibit, alter or delay the execution and delivery of this Agreement or the transactions contemplated hereby.

(d) Capitalization.

(i) All of the outstanding shares of the capital stock of MUG are owned, beneficially and of record, by the Stock Seller. The authorized equity interests (the "MTX Interests") are owned, beneficially and of record, by the Stock Seller free and clear of any Encumbrances (other than Permitted Encumbrances) and free of any other restrictions (including any restriction on the right to vote, sell or otherwise dispose of such MTX Shares) that would prevent the operation by the Buyer of MTX's business as currently conducted. There are no other classes or series of equity interests of MTX authorized or issued or outstanding, and no units issued or outstanding other than the MTX Interests. The authorized capital stock of GmbH consists of [redacted] (the "GmbH Shares") of common stock, par value [redacted] per share, all of which are owned, beneficially and of record, by the Stock Seller, free and clear of any Encumbrances (other than the Permitted Encumbrances) and free of any other restrictions (including any restriction on the right to vote, sell or dispose of such GmbH Shares) that would prevent the operation of GmbH's business as currently conducted. There are no other classes or series of capital stock of GmbH authorized or issued or outstanding, and no shares issued or outstanding other than the GmbH Shares. The authorized capital stock of MMSA consists of [redacted] of common stock, par value [redacted] per share, of which [redacted] shares (the "MMSA Shares") are issued and outstanding. [redacted] MMSA Shares (the "Stock Seller's MMSA Shares" and, together with the MTX Interests and the GmbH Shares, the "Acquired Equity Interests") are owned, beneficially and of record, by the Stock Seller and [redacted] is owned, beneficially and of record, by MTX, in each case free and clear of any Encumbrances and free of any other restrictions (including any restriction on the right to vote, sell or otherwise dispose of such MMSA Shares) that would prevent the operation by the Buyer of MMSA's business as currently conducted. There are no other classes or series of capital stock of MMSA authorized or issued or outstanding, and no shares issued or outstanding other than the MMSA Shares.

(ii) All of the shares and units comprising the Acquired Equity Interests are duly authorized and have been validly issued and are fully-paid and non-assessable and have been issued without violation of any preemptive rights of any person; except as set forth on Schedule 3.1(d), there are no subscriptions, warrants, options, calls, commitments by or agreements to which any Acquired Company is bound relating to the issuance of any shares of its capital stock (or any other equity interests in such Acquired Company); and, except for the letter of intent dated September 3, 2003 between the Buyer and the Stock Seller, as amended, none of Companies is a party to any agreement, whether written or oral, relating to the sale, transfer, voting or control of any shares of the capital stock or any units, as applicable, of the Acquired Companies, or obligating the Asset Seller, directly or indirectly, to sell any of the Assets.

(e) Financial Statements. The Stock Seller has delivered to the Buyer the following financial statements, including in each case the related schedules and notes to the extent same exist (collectively, the "Historical Financial Statements"):

(i) The internally prepared balance sheets of each of the Acquired Companies (other than GmbH) as of December 31, 2003, and related statements of income, retained earnings and changes in financial position for the twelve-month period then ended;

(ii) The balance sheet of GmbH as of December 31, 2003, and related statements of income, retained earnings and changes in financial position for the twelve-month period then ended (the "GmbH Financial Statements"); and

(iii) The internally prepared balance sheet of the Asset Seller's Valparaiso Operations as of December 31, 2003 (together with the balance sheets referred to in clauses (i) and (ii) immediately preceding, the "Historical Balance Sheets"), and related internally prepared statement of income for the twelve-month period then ended (the "Asset Seller's Financial Statements").

The Historical Financial Statements are true, correct and complete in all material respects and (other than the Asset Seller's Financial Statements) have been prepared in conformity with GAAP (except that the GmbH Financial Statements were prepared in conformity with German GAAP) consistently applied throughout the periods to which such financial statements relate. The Historical Financial Statements fully and fairly present, in all material respects, the financial position and results of operations of the Subject Companies (limited, in the case of the Asset Seller, to the Valparaiso Operations), and income, at the dates shown and for the periods therein specified. The Historical Balance Sheets constituting a part of the Historical Financial Statements fully and fairly present, in all material respects, all liabilities of the Subject Companies (limited, in the case of the Asset Seller, to the Valparaiso Operations) of the types which are required to be set forth therein in conformity with GAAP or German GAAP, as applicable, as at the date thereof.

(f) No Undisclosed Liabilities. Except to the extent set forth in or provided for in the Historical Financial Statements, this Agreement, or the Schedules hereto (including Schedule 3.1(f)), and except for liabilities and obligations of the Acquired Companies incurred subsequent to December 31, 2003 in the ordinary course of business (including liabilities and obligations of continued performance under all contracts, agreements, commitments, proposals, work orders, specifications and other undertakings in respect of all work to be performed by the Acquired Companies) and liabilities and obligations for legal and accounting fees arising out of the transactions contemplated hereby, none of the Acquired Companies has any liabilities, whether accrued, absolute, contingent, or otherwise, whether due or to become due and whether the amount thereof is readily ascertainable or not, which, individually or in the aggregate, would have a

Material Adverse Effect on the Subject Companies (in the case of the Asset Seller, including only the Valparaiso Operations).

(g) Books and Records. The books of account, minute books, stock record books, and other records of each Acquired Company, all of which have been made available to the Buyer, are complete and correct in all material respects and have been maintained in accordance with reasonably sound business practices. The minute books of each Acquired Company (other than GmbH which does not maintain minute books) contain accurate and complete records in all material respects of all meetings held by, and corporate or similar action taken by, such Acquired Company's stockholders or members, as applicable, boards of directors or managers, as applicable, and committees of the boards of directors or managers, as applicable, and no meeting of any such stockholders, members, boards of directors, managers or committee has been held for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of the Acquired Companies or will be delivered to the Buyer.

(h) Absence of Certain Changes. Subsequent to December 31, 2003, except for the execution and delivery of this Agreement and except as identified in Schedule 3.1(h), none of the Subject Companies (in the case of the Asset Seller, other than for subsection (i) below, solely with respect to the Valparaiso Operations) has:

(i) declared, set aside or made any dividend or other payment or distribution upon any of its capital stock, or directly or indirectly purchased, redeemed, or otherwise acquired or disposed of its capital stock;

(ii) incurred any material liability or obligation under agreements or otherwise, except (x) current liabilities entered into or incurred in the ordinary course of business consistent with past practice, (y) liabilities and obligations under all contracts, agreements, commitments, proposals, work orders, specifications and other undertakings in the ordinary course of its business, and (z) liabilities and obligations for legal and accounting fees arising out of the transactions contemplated hereby; issued any notes or other corporate debt securities or paid or discharged any outstanding Indebtedness, except in the ordinary course of business consistent with past practice; or waived any of its material rights;

(iii) mortgaged, pledged or subjected to any Encumbrance any of its assets or properties; entered into any lease of real property or buildings; or, except in the ordinary course of business consistent with past practice, entered into any lease of machinery or equipment or sold or transferred any material tangible or intangible asset or property;

(iv) effected any increase in salary, wages, or other compensation of any kind, whether current or deferred, to any of its officers, employees, agents or representatives, other than routine increases in the ordinary course of business consistent with past practice or as was required from time to time by governmental legislation affecting wages (*provided, however*, that in no event was any such increase in compensation made with respect to any such officers, employees, agents or representatives earning in excess of $50,000 per annum); made any bonus, pension, option, deferred compensation, or retirement payment, severance, profit sharing, or like payment, except as required or permitted by the terms of plans or arrangements existing prior to such date (*provided, however*, that in no event was any such payment made with respect to any of the officers or employees of such Subject Company earning in excess of $50,000 per annum); entered into any salary, wage, severance, or other compensation agreement with a term of one year or longer with any employee or made any contribution to any trust or plan for the benefit of employees, except as required or permitted by the terms of plans or arrangements existing prior to such date;

(v) entered into any transaction other than in the ordinary course of business consistent with past practice, except in connection with the execution and performance of this Agreement and the transactions contemplated hereby, or terminated, discontinued, closed or disposed of any plant, facility or operation;

(vi) suffered any material damage, destruction, or loss to any of its assets or properties (whether or not covered by insurance);

(vii) suffered any event or occurrence which, individually or in the aggregate, would have a Material Adverse Effect on the Subject Companies (in the case of the Asset Seller including only the Valparaiso Operations); or

(viii) disposed of or permitted to lapse any rights to use any material patent, trademark or other Intellectual Property.

(i) Tax Matters.

(i) For purposes of this Agreement:

(A) "Tax" (or "Taxes" or "Taxable" or "Taxing" where the context requires) means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code Section 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not, and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other Person.

(B) "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

(ii) Each Subject Company has filed all material Tax Returns that it was required to file under applicable laws and regulations. All such material Tax Returns were correct and complete in all material respects and have been prepared in substantial compliance with all applicable laws and regulations. All Taxes due and owing by any Subject Company (whether or not shown on any Tax Return) have been paid. No Subject Company currently is the beneficiary of any extension of time within which to file any Tax Return. With respect to each Subject Company, no claim has ever been made by an authority in a jurisdiction where such Subject Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction. There are no Liens for Taxes (other than Taxes not yet due and payable or which are being contested in good faith) upon any of the assets or properties of any of the Subject Companies.

(iii) Each Subject Company has withheld and paid all Taxes required to have been withheld and paid by such Subject Company in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party.

(iv) No foreign, federal, state, or local Tax audits or administrative or judicial Tax proceedings are pending or being conducted with respect to any of the Subject Companies. No Subject Company has received from any foreign, federal, state, or local Taxing authority (including jurisdictions where such Subject Company has not filed Tax Returns) any (i) notice indicating an intent to open an audit or other review, (ii) request for information related to Tax matters, or (iii) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted, or assessed by any Taxing authority against such Subject Company or any of its Affiliates With respect to each Subject Company, Schedule 3.1(i) lists all federal, state, local and foreign income Tax Returns filed by or with respect to such Subject Company for Taxable periods ended on or after December 31, 2000, indicates those Tax Returns that have been audited, and indicates those Tax Returns that currently are the subject of an audit. Each Subject Company has delivered to the Buyer correct and complete copies of all federal income Tax Returns, examination reports, and statements of material deficiencies assessed against or agreed to by such Subject Company filed or received since December 31, 2000.

(v) No Subject Company has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency for any year which is still open for audit or assessment.

(vi) No Acquired Company has filed a consent under Code Section 341(f) concerning collapsible corporations. No Acquired Company is a party to any agreement, contract, arrangement or plan that has resulted or would result, separately or in the aggregate, in the payment of (A) any "excess parachute payment" within the meaning of Code Section 280G (or any corresponding provision of state, local or foreign Tax law) or (B) any amount that will not be fully deductible as a result of Code Section 162(m) (or any corresponding provision of state, local or foreign Tax law). No Acquired Company has been a United States real property holding corporation within the meaning of Code Section 897(c)(2) during the applicable period specified in Code Section 897(c)(1)(A)(ii). Each Acquired Company has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Code Section 6662. Neither MMSA nor GmbH is a party to or bound by any Tax allocation or sharing agreement. Neither MUG nor MTX is a party to or bound by any Tax allocation or sharing agreement except by virtue of the agreement to file a consolidated return as provided in the next following subclause (A). No Subject Company (A) has been a member of an affiliated group (within the meaning Code Section 1504(a) or any similar provision of state, local or foreign law) filing a consolidated federal and/or state income Tax Return (other than a group the common parent of which was the Stock Seller) or (B) has any liability for the Taxes of any person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract, or otherwise except by virtue of the agreement to file a consolidated return as provided in the immediately preceding subclause (A).

(vii) No Acquired Company will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (A) change in method of accounting for a taxable period ending on or prior to the Closing Date; (B) "closing agreement" as described in Code Section 7121 (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date; (C) intercompany transactions or any excess loss account described in Treasury Regulations promulgated under Code Section 1502 (or any corresponding or similar provision of state, local or foreign income Tax law); (D) installment sale or open transaction disposition made on or prior to the Closing Date; or (E) prepaid amount received on or prior to the Closing Date.

(viii) No Acquired Company has distributed stock of another person, or has had its stock distributed by another person, in a transaction that was purported or intended to be governed in whole or in part by Code Section 355 or Code Section 361.

(j) Legal Compliance. Except as set forth on Schedule 3.1(j), each Acquired Company and, solely with respect to the Valparaiso Operations, the Asset Seller is, and since January 1. 2000 has been, in compliance in all material respects with all applicable Laws and Required Permits (as defined below). Except as set forth on Schedule 3.1(j), no Proceeding is pending, nor since January 1, 2000, has been filed or commenced, against any Acquired Company or, solely with respect to the Valparaiso Operations, the Asset Seller alleging any failure to comply with any applicable Law or Required Permit. No event has occurred or circumstance exists that (with or without notice or lapse of time) may constitute or result in a violation by any Acquired Company or, solely with respect to the Valparaiso Operations, the Asset Seller of any Law or Required Permit. No Acquired Company or, solely with respect to the Valparaiso Operations, the Asset Seller has received any notice or other communication from any Person regarding any actual, alleged or potential violation by such Acquired Company or the Asset Seller, as applicable, of any Law or Permit or any cancellation, termination or failure to renew any Required Permit held by such Acquired Company or the Asset Seller, as applicable. With respect to each Acquired Company, Schedule 3.1(j) contains a complete and accurate list of each Permit held by such Acquired Company and states whether each such Permit is transferable. With respect to the Asset Seller, Schedule 3.1(j) contains a complete and accurate list of each Permit held by the Asset Seller related to the Valparaiso Operations and states whether each such Permit is transferable. Each Permit listed or required to be listed on Schedule 3.1(j) is valid and in full force and effect, there has been no default or breach thereunder, and there is no pending or threatened Proceeding under which any may be revoked, terminated or suspended. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby, will not adversely affect or otherwise impair the ability of the Subject Companies, and each of them, fully to enjoy the benefits of any of such Permits. Each Permit listed or required to be listed on Schedule 3.1(j) is renewable and, to the Knowledge of the Companies, there is no reason why each such Permit will not be renewed. The Permits listed on Schedule 3.1(j) (collectively, the "Required Permits") constitute all of the Permits necessary to allow: (i) each Acquired Company to lawfully conduct and operate its business as currently conducted and operated and to own and use its assets and properties as currently owned and used; and (ii) the Asset Seller to lawfully conduct and operate the Valparaiso Operations as currently conducted and operated and to own and use the assets and properties included in the Assets as currently owned and used. To the Knowledge of the Companies, the employees and agents of each Acquired Company and, solely with respect to the Valparaiso Operations, the Asset Seller have all Permits required of them in carrying out their duties on behalf of each such Acquired Company, each of which Permits are listed on Schedule 3.1(j).

(k) Title.

(i) Except as set forth on Schedule 3.1(n)(ii), each of the Subject Companies (in the case of the Asset Seller, solely with respect to the assets and properties included in the Assets) has good and marketable title to all of its assets and properties, in each case free and clear of any Encumbrances (other than Permitted Encumbrances). Except as set forth on Schedule 3.1(k)(i), each of the Acquired Companies leases or owns all properties and assets necessary for the operation of its businesses as currently conducted, and such assets and properties include all of the assets and properties, of every kind and nature, whether tangible or intangible, and wherever located, which are utilized by such Acquired Company in the conduct of its businesses. The Asset Seller leases or owns all properties and assets included in the Assets, and the Assets include all of the assets and properties, of every kind and nature, whether tangible or intangible, and wherever located, which are utilized by the Asset Seller in the conduct of the

Valparaiso Operations. Except as set forth on Schedule 3.1(k)(i), none of the Subject Companies (in the case of the Asset Seller, solely with respect to the assets and properties included in the Assets) has received notice of any violation of, or default under, any Law or governmental or contractual requirement relating to its owned or leased properties which remains uncured or has not been dismissed. All leases and licenses pursuant to which any of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) leases or licenses real, personal or intangible property from others are in good standing, valid and effective in accordance with their respective terms, and there is not, with respect to any of the Subject Companies, with respect to any other party, under any of such leases or licenses, any existing material default or event of default (or event which with notice or lapse of time, or both, would constitute a default, or would constitute a basis for a claim of force majeure or other claim of excusable delay or non-performance).

(ii) The Stock Seller owns the Acquired Equity Interests free and clear of any Encumbrances (other than Permitted Encumbrances) and has the right to sell and transfer the Acquired Equity Interests to the Buyer hereunder. The transfer of such Acquired Equity Interests to the Buyer hereunder in accordance with the terms hereof will pass good and marketable title to such Acquired Equity Interests to the Buyer, free and clear of any Encumbrances (other than Permitted Encumbrances), including any agreements concerning any shares of the Acquired Equity Interests among any of the current or prior holders of any of the shares comprising the Acquired Equity Interests.

(l) Condition of Assets and Properties. All of the assets and properties owned or leased by each Acquired Company or included in the Assets are structurally sound, free from material defects, in good operating condition and repair and adequate for the uses to which they are being put. None of such assets or properties is in need of maintenance or repairs, except for ordinary, routine maintenance and repairs that are not material in nature or cost, individually or in the aggregate, to such assets or properties. Except as set forth on Schedule 3.1(l), all of such assets and properties are located on the Real Property.

(m) Inventory. Except as set forth on Schedule 3.1(m), with respect to the inventory of each of the Subject Companies (in the case of the Asset Seller, solely with respect to any inventory included in the Assets):

(i) the inventory of such Subject Company consists of a quality and quantity usable for its intended purpose and salable in the ordinary course of such Subject Company's business consistent with past practices, except for slow-moving and obsolete items and items of below-standard quality, all of which have been written off or written down to net realizable value on the accounting records of such Subject Company (or related reserves have been established), and all of such write-offs, write-downs or reserves for inventory existing as of December 31, 2003 are reflected in the Historical Financial Statements;

(ii) all inventory of such Subject Company not written off has been valued at the lower of cost or market value (or related reserves have been established);

(iii) the quantities of each type of inventory are reasonable in the present circumstances of such Subject Company and are not materially more or less than normal inventory levels necessary to conduct such Subject Company's business in the ordinary course consistent with past practices;

(iv) all of such Subject Company's inventory is located on the Real Property or is in warehouses used by such Subject Company; and

(v) such Subject Company is not in possession of any material inventory not owned by such Subject Company, including goods already sold.

(n) Real Property.

(i) With respect to each Acquired Company, Schedule 3.1(n)(i) lists all of the real property and interests therein owned by such Acquired Company (collectively, the "Owned Real Property"). Except as set forth on Schedule 3.1(n)(i), for each parcel of Owned Real Property the applicable Acquired Company has good and marketable fee simple title to such Owned Real Property, free and clear of any Encumbrances (other than Permitted Encumbrances). No Subject Company is a lessor of any parcel of Owned Real Property or any portion thereof or interest therein.

(ii) With respect to each Subject Company (in the case of the Asset Seller, solely with respect to the Valparaiso Operations), Schedule 3.1(n)(ii) lists all of the real property and interests therein leased, subleased or otherwise occupied or used (other than any such property set forth on Schedule 3.1(n)(i)) by such Subject Company (with all easements and other rights appurtenant to such property, the "Leased Real Property"). For each item of Leased Real Property, Schedule 3.1(n)(ii) also lists the lessor, the lease term, the lease rate, and the lease, sublease, or other agreement pursuant to which the applicable Subject Company holds a possessory interest in the Leased Real Property and all amendments, renewals or extensions thereto (each, a "Lease"). Except as set forth on Schedule 3.1(n)(ii), the leasehold interest of the applicable Subject Company with respect to each item of Leased Real Property is free and clear of any Encumbrances (other than Permitted Encumbrances). No Subject Company is a sublessor of, or has assigned any lease covering, any item of Leased Real Property. Leasing commissions or other brokerage fees due from or payable by any Subject Company with respect to any Lease have been paid in full.

(iii) The Owned Real Property and the Leased Real Property (collectively, the "Real Property") constitute all interests in real property currently used in connection with the Business. The Real Property is not subject to any rights of way, building use restrictions, title exceptions, variances, reservations or limitations of any kind or nature, except: (x) those that in the aggregate do not impair the current use, occupancy, value or marketability of title to the Real Property; (y) as set forth in Schedule 3.1(n)(iii); and (z) with respect to each item of Leased Real Property, as set forth in the Lease relating to such item. Except as set forth in Schedule 3.1(n)(iii), all buildings, plants, structures and other improvements owned or used by any Subject Company lie wholly within the boundaries of the Real Property and do not encroach upon the property, or otherwise conflict with the property rights, of any other Person. Except as set forth in Schedule 3.1(n)(iii), the Real Property complies in all material respects with all applicable laws, ordinances (including zoning requirements), rules, regulations, orders, judgments or decrees of any court or any Governmental Entity, and no Subject Company has received any notifications from any Governmental Entity or insurance company recommending material improvements to the Real Property or any other material actions relative to the Real Property. The Acquired Companies have delivered to the Buyer a copy of each deed and other instrument (as recorded) by which any Acquired Company acquired any Owned Real Property and a copy of each title insurance policy, opinion, abstract, survey and appraisal relating to any Owned Real Property. No Subject Company (in the case of the Asset Seller, solely with respect to the Assets) is a party to or bound by any contract or other agreement (including any option) for the purchase or sale of any real estate interest or any contract or other agreement for the lease to or from such Subject Company of any real estate interest not currently in possession of such Subject Company.

(o) Accounts Receivable. All accounts receivable of each of the Acquired Companies shown on the Financial Statements represent (and the accounts receivable of the Asset Seller included in the Assets represent), as of the respective dates thereof, valid obligations arising from sales actually made or services actually performed in the ordinary course of business. The accounts receivable of the Acquired Companies, and the accounts receivable of the Asset Seller included in the Assets, created since December 31, 2003 have been created in the ordinary course of business consistent with past practice. Schedule 3.1(o) sets forth a complete and accurate list of all accounts receivable of the Acquired Companies (and of the Asset Seller to the extent included in the Assets) as of February 29, 2004 (or such later date identified in such list), which list sets forth the aging of such accounts receivable.

(p) Contractual and Other Obligations. With respect to each Subject Company (limited, in the case of the Asset Seller, to items related to the Valparaiso Operations), set forth on Schedule 3.1(p) are:

(i) a list of all written contracts, agreements, licenses, leases (other than those disclosed on Schedule 3.1(n)(ii)), mortgages and other documents to which such Subject Company is a party or by which such Subject Company or any of its assets or properties are or may be bound and with respect to which the obligation of any party thereto is in excess of [redacted] in any twelve (12) month period (other than customer orders received in the ordinary course of business and purchase orders for the purchase of supplies in the ordinary course of business);

(ii) a listing of obligations and liabilities of such Subject Company as of February 28, 2004 in excess of [redacted] pursuant to uncompleted orders for the purchase by such Subject Company of materials, supplies, equipment and services for the requirements of its business;

(iii) any and all warranty or service obligations and liabilities of such Subject Company, and all other contingent obligations and liabilities required to be disclosed in accordance with generally accepted accounting principles, in each case if in excess of [redacted]

(iv) all locations, and the proprietors thereof, other than the principal place of business of such Subject Company, at which any of the assets or properties of such Subject Company are located;

(v) all contracts, agreements, written arrangements and other documents regulating or controlling or otherwise affecting the voting or disposition of the capital stock of such Subject Company or affecting the management of such Subject Company, other than its certificate of incorporation or by-laws (or other organizational documents, if applicable);

(vi) all contracts, agreements, written arrangements, licenses and leases that were not entered into in the ordinary course of business;

(vii) all contracts, agreements, licenses, leases (other than those disclosed on <u>Schedule 3.1(n)(ii)</u>, mortgages and other documents that in any way purport to restrict such Subject Company's business, condition, assets or properties or limit such Subject Company's freedom to engage in any line of business or to compete with any person; and

(viii) all powers of attorney that are currently effective and outstanding.

With respect to each Subject Company (in the case of the Asset Seller, solely with respect to contracts, licenses, leases, mortgages, agreements, arrangements and other items to be assigned to the Buyer pursuant to the provisions of this Agreement), no event has occurred, or is alleged to have occurred, which constitutes or, with lapse of time or giving of notice or both, would constitute a default by such Subject Company or a basis for a claim of <u>force majeure</u> or other claim of excusable delay or non-performance by such Subject Company under any of the foregoing (including those disclosed on <u>Schedule 3.1(n)(ii)</u>). Except as disclosed on <u>Schedule 3.1(p)(ix)</u>, no party with whom any Subject Company has a contract, agreement, license, lease or other arrangement disclosed on <u>Schedule 3.1(n)(ii)</u> or <u>Schedule 3.1(p)</u> is, to the Knowledge of the Companies, in default in the performance of any covenant or condition thereunder or has failed in performance thereunder by reason of a claim of <u>force majeure</u> or other claim of excusable delay or non-performance thereunder.

(q) Compensation. With respect to each Acquired Company, except as set forth on Schedule 3.1(q), such Acquired Company is not a party to or bound by any agreements with any employees of such Acquired Company, or any other Company, with regard to compensation except (x) oral agreements terminable by any such Acquired Company on not more than 30 days notice without penalty, (y) for agreements identified on Schedule 3.1(p) with the unions recognized by such Acquired Company, and (z) for any Benefit Plan identified on Schedule 3.1(r)(i). With respect to each Acquired Company, Schedule 3.1(q) sets forth a list of:

(i) all employees of such Acquired Company and their respective positions, job descriptions, salaries, vacation accrued, and service credited for purposes of vesting and eligibility to participate under any of such Acquired Company's pension, retirement, profit-sharing, deferred compensation, stock bonus, stock option, cash bonus, employee stock ownership (including investment credit or payroll stock ownership), severance pay, insurance, medical, welfare, or vacation plan, or any other employee benefit plan;

(ii) all sales agents, sales representatives, dealers and distributors retained or utilized by such Acquired Company and the basis on which each is compensated; and

(iii) all unions or other collective bargaining units which have been certified or recognized by such Acquired Company as representing any of its employees.

(r) Employee Benefit Plans.

(i) (A) Schedule 3.1(r)(i)(A) contains a true and complete list of each bonus, deferred compensation, incentive compensation, stock purchase, stock option, severance or termination pay, hospitalization or other medical, life or other insurance, supplemental unemployment benefits, profit-sharing, 401(k) pension, or retirement plan, program, agreement or arrangement, and each other employee benefit plan, program, agreement or arrangement, sponsored, maintained or contributed to or required to be contributed to by any of the Companies or by any trade or business, whether or not incorporated (an "ERISA Affiliate"), that together with the Companies would be deemed a "single employer" within the meaning of Section 4001(b) (l) of the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder ("ERISA"), for the benefit of any employee or former employee of the Subject Companies employed in the United States, whether formal or informal and whether legally binding or not (the "U.S. Benefit Plans"). Schedule 3.1(r)(i) identifies each of the U.S. Benefit Plans that is an "employee welfare benefit plan," or "employee pension benefit plan" as such terms are defined in Sections 3(1) and 3(2) of ERISA (such plans being hereinafter referred to collectively as the "ERISA Plans").

(B) Schedule 3.1(r)(i)(B) contains a true and complete list of all employee benefit plans, policies, arrangements, or programs described in Section 3.1(r)(i)(A) above, including, but not limited to, tax free compensation for capital accumulation purposes (vermögenswirksame Leistungen) maintained or sponsored by, or contributed to, for the benefit of any current or former employee or officer of any Subject Company employed in a foreign jurisdiction (collectively, the "Foreign Plans" and together with the U.S. Benefit Plans, referred to as the "Benefit Plans").

(ii) Except as set forth on Schedule 3.1(r)(ii), with respect to each of the Benefit Plans, the Subject Companies have made available to the Buyer true, current and complete copies of each of the following documents:

(A) a copy of each Benefit Plan (including all amendments, trust agreements, insurance and annuity contracts, funding media, and all other documents relating thereto) or, in the case of unwritten Benefit Plans, descriptions thereof; and

(B) copies of the most recent reports that are required to be submitted to a Governmental Entity of a foreign jurisdiction on behalf of or in connection with any Foreign Plan, and copies of any certification made to, or received from, any Governmental Entity under applicable foreign law related to any Foreign Plan.

(iii) Except as set forth on Schedule 3.1(r)(iii), none of the Subject Companies, any of the ERISA Plans, any trust created thereunder nor any trustee or administrator thereof has engaged in a transaction or has taken or failed to take action in connection with which any Subject Company, any of the ERISA Plans, any such trust, any trustee or administrator thereof, or any party dealing with the ERISA Plans or any such trust, may be subject to either a civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a tax imposed pursuant to Section 4975, or 4980B of the Code

(iv) Each of the Benefit Plans has been and is operated and administered in all material respects in accordance with its terms and in material compliance with applicable requirements of the Code, ERISA, all other applicable federal law, and all applicable foreign laws and treaties.

(v) Each ERISA Plan intended to qualify under Section 401(a) of the Code has received a favorable determination letter as to its qualification under the Code, and to the Knowledge of the Companies, no such determination letter has been revoked and nothing has occurred, whether action or failure to act, which would cause the loss of such qualification or which would result in any material costs to any of the Companies under the Internal Revenue Service's Employee Plans Compliance Resolution System. All ERISA Plans intended to qualify under Section 401(a) of the Code have been amended to comply with the recent tax legislation commonly known as "GUST" and "EGTRRA" within the applicable remedial amendment period and each ERISA Plan has filed or will file for a favorable determination letter with the IRS covering the changes required by GUST within the applicable remedial amendment period.

(vi) None of the Subject Companies contributes or is obligated to contribute or has ever been obligated to contribute to a "multiemployer plan" within the meaning of Section 3(37) of ERISA.

(vii) Each Subject Company and each ERISA Plan which is a "group health plan" (as such term is defined in Code § 5000(b)(1) and ERISA § 607(1)) comply and have complied with the applicable requirements of Code § 4980B, ERISA §§ 601-609 and the applicable provisions of the Social Security Act. Except as set forth on Schedule 3.1(r)(vii), none of the Subject Companies maintains, contributes to or has any liability or obligation with respect to an employee welfare benefit plan that provides health or life insurance or other benefits for current or future retired or terminated employees or directors (or any spouse or dependents thereof).

(viii) Except as set forth on Schedule 3.1(r)(viii), no plans, agreements, understandings or arrangements exist that will result in the payment to any employee of any Subject Company of any money or other property rights or accelerate or provide any other rights or benefits to any such employee as a result of (A) the transactions contemplated by this Agreement (whether or not such payment, acceleration, or provision would constitute a "parachute payment" (within the meaning of Section 280G of the Code) or whether or not some other subsequent action or event would be required to cause such payment, acceleration or provision to be triggered) or (B) the severance, termination or resignation of any such employee.

(ix) No U.S. Benefit Plan sponsored by or contributed to by a Subject Company is a "defined benefit plan" (within the meaning of Section 3(35) of ERISA);

(x) Each Foreign Plan has been maintained in all material respects in compliance with the requirements of applicable law;

(xi) All Foreign Plans which are defined benefit pension plans comply with all funding and shortfall requirements of applicable foreign laws and there has been no change in the actuarial method or assumptions of any Foreign Plan which is a defined benefit pension plan which such change has caused or contributed to any substantial deterioration in the level of funding for such plan since the date of such plan's most recent actuarial valuation;

(xii) Except as related to contributions that have accrued or that are to be computed on the basis of compensation or service and that have not been contributed to as of the Closing, there are no contributions which are, or hereafter will be, required to have been made to trusts in connection with "defined contribution plans" (within the meaning of section 3(34) of ERISA) or to any Foreign Plan or trust established thereunder with respect to services rendered by employees of any of the Subject Companies prior to the date hereof; and

(xiii) Other than claims in the ordinary course for benefits with respect to the Benefit Plans, there are no actions, suits, or claims pending with respect to any Benefit Plan or any investigations or audits by a Governmental Entity, or, to the Knowledge of the Companies, any circumstances which might give rise to any material liability of the Subject Companies, or any of them, under any such action, suit, or claims.

(s) Labor Relations.

(i) Except as set forth on Schedule 3.1(s), none of the Subject Companies is a party to any collective bargaining agreement with any labor organization, group or association. There are no controversies pending or threatened between any Subject Company and any of the employees of such Subject Company and there are no organizational efforts currently being made or threatened involving any of such employees.

(ii) Each Subject Company has complied in all material respects with all laws relating to the employment of labor, including any provisions thereof relating to wages, hours, collective bargaining and the payment of social security and similar taxes, and is not liable for any arrearage of wages or any taxes or penalties for failure to comply with any of the foregoing.

(iii) None of the Subject Companies has or is engaged in any unfair labor practice with respect to its employees.

(iv) No unfair labor practice complaint against any Subject Company is pending before the National Labor Relations Board or any foreign agency with similar jurisdiction.

(v) There is no labor strike, dispute, slowdown or stoppage actually pending or, to the Knowledge of the Companies, threatened against or involving any Subject Company.

(vi) No Subject Company has been notified of any material grievance.

(vii) No arbitration proceeding arising out of or under any collective bargaining agreement is pending against any Subject Company.

(viii) No collective bargaining agreement is currently being negotiated by any Subject Company.

(ix) No Subject Company has experienced any material labor difficulty since December 31, 2000.

(x) Each Subject Company is in compliance in all material respects with all applicable laws, ordinances, rules, regulations and other legal requirements of any Governmental Entity respecting employment (including immigration laws) and employment practices, terms and conditions of employment and wages and hours.

(xi) Except as disclosed in Schedule 3.1(s), there exist no written or oral employment, consulting, severance, or indemnification agreements or any agreement that would give any Person the right to receive any payment from any Subject Company as a result of this Agreement.

(xii) Each Subject Company has complied in all material respects with the requirements of the Workers' Adjustment and Retraining Notification Act ("WARN") and any state law equivalent and has no liabilities pursuant to WARN or any state law equivalent.

(t) Interests of Affiliates.

(i) None of the officers, directors, stockholders, members or managers of any of the Companies have any interest in any property, real or personal, tangible or intangible, used in or pertaining to the business of any of the Acquired Companies or included in the Assets, except for rights under existing employee benefit plans described in Section 3.1(r) hereof.

(ii) Except as set forth on Schedule 3.1(t), to the Knowledge of the Companies, none of the officers, directors, stockholders, members or managers of any of the Companies own, directly or indirectly, any interest in, or is a director, officer, stockholder, member or manager of, any business which is a competitor or a significant supplier of any Acquired Company or, solely with respect to the Valparaiso Operations, the Asset Seller.

(u) Insurance. As of the date of this Agreement, the Subject Companies, and each of them, maintain insurance policies, and bonding arrangements, covering all of their respective material assets and properties (limited, in the case of the Asset Seller, to the Assets) and the various occurrences which may arise in connection with the operation of their respective businesses (limited, in the case of the Asset Seller, to the Valparaiso Operations). Schedule 3.1(u) completely and accurately lists all such insurance policies and bonding arrangements. Such policies and bonding arrangements are in full force and effect, all premiums due thereon have been paid, and each of the Subject Companies has complied in all material respects with the provisions of such policies and bonding arrangements. With respect to each such insurance policy, (i) the coverage limits of such insurance policy have not been exhausted, (ii) to the Knowledge of the Companies, each insurer with respect thereto is solvent, and (iii) no further premiums or payments will be due after the Closing with respect to any period prior to the Closing. Such insurance policies and bonding arrangements are, to the Knowledge of the Companies, of comparable amounts and coverage as that which companies engaged in similar businesses would maintain in accordance with good business practice. With respect to each Subject Company, (i) such Subject Company has at all times since its inception maintained insurance policies and bonding arrangements of reasonably comparable amounts and coverage as that which companies engaged in similar businesses would maintain in accordance with good business practice and (ii) there have been no historic gaps in such insurance coverage. None of the Subject Companies has received any notices of any pending or threatened terminations or premium increases with respect to any such policies or bonding arrangements, and such policies and bonding arrangements will not be modified as a result of or terminate or lapse by reason of the transactions contemplated by this Agreement.

(v) Intellectual Property.

(i) Set forth in Schedule 3.1(v) is a list of all of the Proprietary Rights (as hereinafter defined) owned by each of the Subject Companies (in the case of the Asset Seller, solely to the extent used in the Valparaiso Operations) or used by any of the Subject Companies in the operation of its business (limited, in the case of the Asset Seller, to the Valparaiso Operations). Each Subject Company owns all right, title and interest in and to all such Proprietary Rights owned or licensed by it, free and clear of any Encumbrances. The Proprietary Rights listed in Schedule 3.1(v) are all such rights used, useful or useable in connection with the operation and conduct of the business of each Subject Company (limited, in the case of the Asset Seller, to the Valparaiso Operations) as currently operated and conducted; no adverse claims have been made, and no dispute has arisen, with respect to any of the said Proprietary Rights; and the operations of each Subject Company (limited, in the case of the Asset Seller, to the Valparaiso Operations) and the use by it of its Proprietary Rights do not, to the Knowledge of the Companies, involve infringement of any patent, trademark, service mark, trade name, copyright, license or similar right. None of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) has caused or allowed any of its trade secrets, know-how or other intellectual or intangible property rights to enter into the public domain. For purposes hereof, "Proprietary Rights" shall mean: (i) all patents and patent applications (including all provisional, divisions, continuations, continuations in part and reissues), patentable inventions, and business methods; (ii) all registered fictional business names, trade names, trademarks, service marks and applications and registered domain names; (iii) registered copyrights in both published works and unpublished works and copyrightable subject matter, including, but not limited to, software; and (iv) all know-how, trade secrets, customer lists, confidential information, software, technical information, data, process technology, plans, drawings and blueprints.

(ii) No other Persons have received from any of the Subject Companies the right to use, nor are there any Persons using, any trademark set forth on Schedule 3.1(v), or any variant thereof, singly or in combination with any other term, and no Persons otherwise using any such trademark, or any variant thereof, singly or in combination with any other term, have ever attempted to restrain any of the Subject Companies from using such trademark or any variant thereof, singly or in combination with any other term.

(w) Disputes and Litigation. Except as described in Schedule 3.1(w), there is no action, suit, proceeding or claim, pending or, to the Knowledge of the Companies, threatened, and no investigation by any court or other Governmental Entity is pending or, to the Knowledge of the Companies, threatened against any of the Subject Companies or any of their respective assets and properties, nor is there any outstanding order, writ, judgment, stipulation, injunction, decree, determination, award or other order of any Governmental Entity against any of the Subject Companies or any of their respective assets and properties.

(x) Environmental Matters.

(i) Environmental Permits. Each Subject Company (limited, in the case of the Asset Seller, to the Valparaiso Operations) possesses all Environmental Permits which are necessary in order to conduct the Business as it is now being conducted. A true and complete copy of each Environmental Permit issued to each Subject Company has been made available for review by the Buyer. To the Knowledge of the Companies, each such Environmental Permit issued to the Subject Companies is in full force and effect. Each Subject Company is in compliance with all material requirements, terms and provisions of such Environmental Permits issued to such Subject Company and has filed on a timely basis (and updated as required) all reports, notices, applications or other documents required to be filed pursuant to the Environmental Permits, except where such failure to file would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on the Subject Companies. Schedule 3.1(x)(i) lists all of the Environmental Permits issued to or held by MUG that are required for the operation of the Assets or for the Valparaiso Operations. MUG shall use its best efforts to assist the Buyer in making all filings and taking all actions necessary to have such Environmental Permits transferred or reissued as permitted by Environmental Law to Buyer so as to allow Buyer to operate the Assets and conduct the Valparaiso Operations without interruption from and after the Closing Date. The Acquired Companies shall utilize their best efforts to have any Environmental Permits that will expire or otherwise become ineffective on or before the Closing Date to be renewed or reissued prior to the Closing Date so as to allow the Buyer to continue the Business without interruption after the Closing Date.

(ii) Compliance With Environmental Laws. Each Subject Company is, and at all times has been, in compliance with all Environmental Laws applicable to the Business, the Assets, the Owned Real Property, the Leased Real Property and, to the Knowledge of the Companies, any Former Facility except where such failure to be in compliance would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect on the Subject Companies.

(iii) Reports, Disclosures and Notifications. Since December 31, 2000, each Subject Company has filed on a timely basis (and updated as required) all reports, disclosures, notifications, applications, pollution prevention, stormwater prevention or discharge prevention or response plans or other emergency or contingency plans required to be filed under Environmental Laws, including without limitation, Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11001 et seq., except where such failure to do so would not, individually or in the aggregate, result in, or reasonably be expected to result in, a Material Adverse Effect on the Subject Companies. All such reports, disclosures, notifications, applications and plans filed by each Subject Company under Environmental Laws are true, accurate and complete in all material respects.

(iv) Notices. None of the Companies has received any written notice from any Governmental Entity that any of the Subject Companies, the Business, any of the Assets, any of the Owned Real Property, the Leased Real Property or the Former Facilities: (A) is in violation of the requirements of any Environmental Permit or Environmental Laws; (B) is the subject of any suit, claim, proceeding, demand, order, investigation or request or demand for information arising under any Environmental Permit or Environmental Laws; or (C) has actual or potential liability under any Environmental Laws, including CERCLA, RCRA or any comparable state or local Environmental Laws.

(v) No Reporting or Remediation Obligations. Except as set forth on Schedule 3.1(x)(v), there are no Environmental Conditions arising out of or relating to any of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations), the Business, the operation of the Assets, or the use, operation or occupancy by any of the Subject Companies of any of the Owned Real Property, the Leased Real Property or the Former Facilities that result or reasonably could be expected to result in: (A) any obligation of any Subject Company to file any report or notice, to conduct any investigation, sampling or monitoring or to effect any environmental cleanup or remediation, whether on-site or offsite; or (B) liability, either to Governmental Entities, including Environmental Authorities, or third parties, for damages (whether to person, property or natural resources), cleanup costs or remedial costs of any kind or nature whatsoever

(vi) Encumbrances. None of the Subject Companies has received any written notice from any Governmental Entity that a federal, state, local or municipal governmental agency or authority, including any Environmental Authority, has obtained or asserted an Encumbrance upon any of the Assets, the Owned Real Property, the Leased Real Property or the Former Facilities as a result of any Release, use or cleanup of any Hazardous Material for which any Subject Company is legally responsible, nor has any such Release, use or cleanup of any Hazardous Material occurred which, to the Knowledge of the Companies, would be likely to result in the assertion or creation of such an Encumbrance.

(vii) Storage, Transport or Disposal of Hazardous Materials.

(A) Except as set forth on Schedule 3.1(x)(vii)(A), there is not now located on any of the Owned Real Property, the Leased Real Property or, to the Knowledge of the Companies, any of the Former Facilities, any areas or vessels used or intended for the treatment, storage or disposal of Hazardous Materials, including drum storage areas, surface impoundments, incinerators, landfills, tanks, lagoons, ponds, waste piles or deep well injection systems.

(B) With respect to each Subject Company, Schedule 3.1(x)(vii)(B) sets forth a list of all arrangements by such Subject Company since December 31, 2000 of transport for storage, treatment or disposal, by contract, agreement or otherwise, of any Hazardous Material at or to any location including, without limitation, any location used for the treatment, storage or disposal of Hazardous Materials. To the Knowledge of the Companies, none of the locations identified on Schedule 3.1(x)(vii) is listed on the National Priorities List or the Comprehensive Environmental Response Compensation and Liability Information System list or any equivalent or analogous international, federal or state list of contaminated properties.

(viii) Responsible Property Transfer Law. Buyer's acquisition of the Assets of the Asset Seller relating to the Valparaiso Operations shall not constitute a "transfer of property" as such term is defined under the Responsible Property Transfer Law, I.C. §13-25-3-1 et seq. (the "RPTL"), or otherwise trigger any obligation to satisfy any of the disclosure requirements of the RPTL, including without limitation any requirement to complete and submit to the Buyer and the Indiana Department of Environmental Management an Environmental Disclosure Document for Transfer of Real Property.

(y) Product Defects. To the Knowledge of the Companies, there are no defects in the design, construction or manufacture of the products currently designed, manufactured or sold by any of the Subject Companies (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it) which would adversely affect the performance and quality of such products. With respect to each Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it):

(i) the designs, specifications, drawings and blueprints (the "Specifications") describing the products marketed and sold by such Subject Company (other than those with respect to CuNiFe Magnets) fully and accurately describe all such products in the form and substance necessary and sufficient to permit their manufacture, and quality control and assurance by such Subject Company;

(ii) all products marketed and sold by such Subject Company are described by the Specifications and there has been no recall with respect to any such products since December 31, 2000; and

(iii) the Specifications and their usage by such Subject Company or the Buyer do not infringe upon the rights of any third party, entity or firm.

(z) Product and Service Warranties. Each product manufactured, sold, leased or delivered and each service provided by each Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it) has been in conformity with all applicable contractual commitments and all express and implied warranties. No Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it) has had any Liability (and to the Knowledge of the Companies there is no basis for any present or future Proceeding against any Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it) that could give rise to any Liability) for replacement or repair of any such product or service or other damages in connection therewith, subject only to any reserve for warranty claims set forth on the face of the applicable Historical Balance Sheet, as adjusted for the passage of time in accordance with the past custom and practice of such Subject Company. Except as set forth on Schedule 3.1(z), no product manufactured, sold, leased or delivered or any service provided by any Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it) is subject to any guaranty, warranty or indemnity beyond the applicable standard terms and conditions of sale or lease. Attached to Schedule 3.1(z) are copies of the standard terms and conditions of sale for each Subject Company (containing applicable guaranty, warranty and indemnity provisions). No Subject Company has had any Liability (and to the Knowledge of the Companies there is no basis for any present or future Proceeding against it that could give rise to any Liability) arising out of any injury to any individual or property as a result of the ownership, possession or use of any product manufactured, sold, leased or delivered or any service provided by any Subject Company (in the case of the Asset Seller, solely with respect to CuNiFe Magnets manufactured by it).

(aa) Supplies and Equipment. None of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) has any material problem in obtaining, in a timely manner and at market prices, any and all materials, supplies, equipment, and services used in its business, and none of the Subject Companies has any Knowledge to the effect that its business may have problems with respect to the availability of such materials, supplies, equipment, and services. Except as set forth on Schedule 3.1(aa), no material supplier of any Subject Company (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) has, within the previous twelve months, cancelled or threatened to cancel its relationship with any of the Subject Companies.

(bb) Returns. No Subject Company (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) has any obligation outside of the ordinary course of its business (or to retain a customer relationship) to accept any returns from, or make allowances to, any customers with respect to such Subject Company's business or any of its assets or properties.

(cc) Bank Accounts. With respect to each Acquired Company, set forth in Schedule 3.1(cc) is a list of all bank and/or brokerage accounts maintained in the name of such Acquired Company and a brief description of persons having a power to sign on behalf of such Acquired Company with respect to each such account.

(dd) Largest Customers and Suppliers. With respect to each of the two fiscal years most recently completed prior to the date hereof, Schedule 3.1(dd) lists (i) the ten largest (by dollar volume) customers of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) during each such period (showing the volume in dollars for each such period) and (ii) the ten largest (by dollar volume) suppliers of the Subject Companies (in the case of the Asset Seller, solely with respect to the Valparaiso Operations) during each such period (showing the volume in dollars for each such period). Since December 31, 2003, no customer or supplier listed on Schedule 3.1(dd) has notified any Subject Company in writing of a material decrease in the volume of purchases from or sales to any Subject Company, or a material decrease in the price that any such customer is willing to pay for products or services of any Subject Company, or a material increase in the price that any such supplier will charge for products or services sold to any Subject Company, or of the bankruptcy or liquidation of any such customer or supplier.

(ee) Unencumbered Conveyance. The assignments, bills of sale and other instruments of transfer of ownership delivered by the Asset Seller shall be sufficient to convey to the Buyer all right, title and interest in and to the Assets to be acquired from the Asset Seller, free and clear of any Encumbrances (including any encumbrances resulting from bulk sales, successor liability or similar laws) except for Permitted Encumbrances.

(ff) No Brokers' Fees. No Acquired Company has any Liability for any fee, commission or payment to any broker, finder or agent with respect to the entering into of, or any of the transactions contemplated by, this Agreement.

(gg) Certain Payments. To the Knowledge of the Companies, no director, officer, member, manager, agent, representative or employee of any Acquired Company, or any other person associated with or acting for or on behalf of any Acquired Company, has directly or indirectly: (i) made in violation of an applicable Law or regulation of a Governmental Entity having jurisdiction any contribution, gift, bribe, rebate, payoff, influence payment, kickback, or other payment to any Person, private or public, regardless of form, whether in money, property or services: (A) to obtain favorable treatment in securing business, (B) to pay for favorable treatment for business secured, or (C) to obtain special concession, or for special concessions already obtained, for or in respect of any Acquired Company; or (ii) established or maintained any fund or asset on behalf of any Acquired Company that has not been recorded in the books and records of such Acquired Company.

(hh) Disclosure. No representation or warranty made under any provisions of this Agreement and none of the material information furnished by any of the Companies set forth herein, in the Exhibits or Schedules hereto or in any document delivered by the Companies, or any of them, to the Buyer, or any authorized representative of the Buyer, pursuant to this Agreement, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

(ii) No Material Adverse Change. Since December 31, 2003, there has not been any material adverse change in the business, properties, assets, liabilities, operations, condition (financial or otherwise) or results of operations of any Subject Company or the Subject Companies taken as a whole (other than as a result of general economic conditions and as set forth on Schedule 3.1(ii)); and no event has occurred or circumstance exists that might reasonably be expected to result in such a material adverse change.

(jj) Representations and Warranties.

(i) Except as otherwise indicated therein, the representations and warranties contained in Section 3.1 of this Agreement are made as of the date of this Agreement.

(ii) Notwithstanding any other provision of this Agreement or otherwise, the Companies shall not be deemed to have made any representation or warranty other than those expressly made in this Section 3.1. Without limiting the generality of the forgoing, and not withstanding any other express representation or warranty of the Companies in this Section 3.1, the Companies make no representation or warranty to the Buyer with respect to:

(A) any oral or written projections, estimates, budgets or statements heretofore delivered to or made available to the Buyer of future revenues, expenses or expenditures, results of operations, profitability, cash flows, budgets, prospects, financial condition, market conditions or new developments; or

(B) any other oral or written information or documents of any kind made available to the Buyer or its counsel, accountants or advisors with respect to the Companies, except as expressly covered by a representation or warranty contained in this Section 3.1.

Section 3.2 Representations and Warranties of the Buyer. The Buyer represents and warrants to each of the Companies as follows:

(a) Organization and Existence. The Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and it has the requisite limited liability company power to enter into and perform this Agreement and any other instruments or agreements to be executed by the

Buyer pursuant to this Agreement and to consummate the transactions contemplated hereby and thereby.

(b) Authorization. The execution, delivery, and performance by the Buyer of this Agreement and any other instruments or agreements to be executed by the Buyer pursuant to this Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by the board of managers of the Buyer, and no other limited liability company action on the part of the Buyer is necessary to authorize the execution, delivery and performance by the Buyer of this Agreement and any other instruments or agreements to be executed by the Buyer pursuant to this Agreement and the consummation of the transactions contemplated hereby and thereby. This Agreement and such other instruments and agreements have been duly executed and delivered by the Buyer and constitute legal, valid and binding obligations of the Buyer, enforceable against the Buyer in accordance with their terms, except to the extent that the enforceability thereof may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditor's rights and to general equitable principles.

(c) No Violations. The execution, delivery and performance of this Agreement and any other instruments or agreements to be executed by the Buyer pursuant to this Agreement and the consummation by the Buyer of the transactions contemplated hereby and thereby will not, with or without the giving of notice or the lapse of time or both: (i) violate, conflict with, or result in a breach or default under any provision of the certificate of formation or operating agreement of the Buyer; (ii) violate any statute, ordinance, rule, regulation, order, judgment or decree of any court or any Governmental Entity applicable to the Buyer or by which any of its properties or assets may be bound; (iii) require any filing by the Buyer, or require the Buyer to obtain any permit, consent or approval of, or require the Buyer to give any notice to, any Governmental Entity or any other Person; or (iv) constitute a violation or breach by the Buyer of, conflict with, constitute (with or without due notice or lapse of time or both) a default by the Buyer (or give rise to any right of termination, cancellation, payment or acceleration) under, or result in the creation of any Encumbrance upon any of the properties or assets of the Buyer under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, franchise, permit, agreement, lease, franchise agreement or other instrument or obligation to which the Buyer is party, or by which the Buyer or its properties or assets may be bound.

(d) Investment Intent; Information. The Buyer is acquiring the Acquired Equity Interests for its own account for the purpose of investment and not with a view to, or for sale in connection with, any distribution thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act"). The Buyer will not sell or otherwise dispose of the Acquired Equity Interests in a manner which would require registration under the Securities Act or any applicable blue sky law unless such registrations are effected. The Buyer has had an opportunity to ask questions of, and receive answers from, the Companies concerning the Acquired Equity Interests, and the operations, financial condition and prospects of the Acquired Companies.

(e) No Actions. No action or proceeding has been instituted or, to the Knowledge of the Buyer, threatened against the Buyer before any court or other Governmental Entity by any person or public authority seeking to restrain, prohibit, alter or delay the execution and delivery of this Agreement or the transactions contemplated hereby.

(f) U.S. Person. The Buyer represents and warrants that it is a "U.S. person" as that term is defined in 22 CFR 120.15. The Buyer represents and warrants that each of its directors, officers and owners/members is a "U.S. person" as that term is defined in 22 CFR 120.15.

ARTICLE IV

PUBLICITY

Section 4.1 Publicity. Each of the Companies covenants and agrees that it will not take or omit to take any action, either before or after the Closing, which could directly or indirectly impair the goodwill, business reputation or good name of any Company or the Business. Any and all publicity (whether written or oral) and notices to third parties (other than to Governmental Entities) concerning the sale of the Assets and the Acquired Stock and any other transactions contemplated by this Agreement shall be mutually agreed upon by the Stock Seller and the Buyer. Notwithstanding the foregoing, it shall not be a violation of this Article IV for either the Stock Seller or the Buyer to disclose to suppliers, vendors and customers of the Subject Companies that the Business and the Acquired Companies are no longer under the ownership or control of and are no longer Affiliates of the Stock Seller.

ARTICLE V

CLOSING

Section 5.1 Time and Place of Closing. The closing (the "Closing") of the purchase and sale of the Assets and the Acquired Equity Interests as set forth herein shall be held at the offices of McCarter & English, LLP, Four Gateway Center, 100 Mulberry Street, Newark, New Jersey 07102 at 10:00 a.m., local time, on April 30, 2004, concurrently with the execution and delivery of this Agreement, or such other time and date as may be agreed upon by the Parties (the "Closing Date"). The parties agree that the Closing shall be deemed effective as of 12:01 a.m. on May 1, 2004.

Section 5.2 Delivery of Assets. Delivery of the Assets shall be made by the Asset Seller to the Buyer at the Closing by delivering such deeds, bills of sale, assignments and other instruments of conveyance and transfer, and such powers of attorney, in form and substance reasonably acceptable to the Buyer, as shall be effective to vest in the Buyer all title to or other interest in, and the right to full custody and control of, the Assets in accordance with the provisions of this Agreement, free and clear of any Encumbrances (other than Permitted Encumbrances).

Section 5.3 Assumption of Liabilities. At the Closing, the Buyer shall deliver to the Asset Seller such instruments as shall be sufficient to effect the assumption by the Buyer of the Assumed Liabilities, in form and substance reasonably acceptable to the Asset Seller.

Section 5.4 Delivery of Acquired Equity Interests. At the Closing, the Stock Seller shall deliver to the Buyer the certificates representing the Acquired Equity Interests. The MTX Interests shall be transferred from the Stock Seller to the Buyer by way of the Transfer Agreement. The certificates representing the Seller's MMSA Shares shall be duly endorsed by the Stock Seller in favor of the Buyer. The GmbH Shares shall be transferred from the Stock Seller to the Buyer by way of the Share Transfer Deed.

Section 5.5 Delivery of Closing Payment and Escrow Amounts.

(a) Delivery of the Closing Payment shall be made at the Closing by the Buyer by delivery of immediately available funds to the Stock Seller, as set forth in Section 2.5(d) hereof.

(b) Delivery of the Escrow Amounts shall be made at the Closing by the Buyer by delivery of immediately available funds to the Escrow Agent, as set forth in Section 2.7 hereof.

Section 5.6 Additional Closing Deliveries by the Parties. At the Closing, the Parties shall deliver (or cause to be delivered) to each of the other Parties originals, or copies if specified, of the following agreements, documents and other items:

(a) duly executed counterparts of the First Escrow Agreement;

(b) duly executed counterparts of the Second Escrow Agreement;

(c) copies of all notices to, declarations, filings and registrations with, and consents, acknowledgements, approvals, permits and orders and waivers with respect to, the transactions contemplated by this Agreement, and otherwise necessary to ensure that, subsequent to the Closing, the Buyer shall realize the benefits of the Assets and the Business and copies of any and all licenses, permits, authorizations and approvals necessary for the Buyer to conduct the Business from and after Closing;

(d) duly executed counterparts of the Powder Supply Agreement between the Buyer and the Stock Seller in the form of Exhibit F;

(e) duly executed counterparts of the Liquid Coated Powder Toll Processing Agreement between the Buyer and the Stock Seller in the form of Exhibit G;

(f) duly executed counterparts of the Block Supply Agreement between the Buyer and the Stock Seller in the form of Exhibit H;

(g) duly executed counterparts of the Share Transfer Deed to be signed notarized on the Closing Date immediately following the Closing and in accordance with the mechanics provided for in the Share Transfer Deed and its annexes;

(h) duly executed counterparts of the Transition Services Agreement in the form of Exhibit E; and

(i) duly executed counterparts of the Transfer Agreement.

Section 5.7 Additional Deliveries by the Companies. At the Closing, the Companies shall deliver (or cause to be delivered) to the Buyer originals, or copies if specified, of the following agreements, documents and other items:

(a) an opinion of Ice Miller, counsel for the Stock Seller and MTX, dated the Closing Date, substantially in the form of Exhibit C;

(b) a certificate of the Secretary of the Stock Seller, in form and substance reasonably satisfactory to the Buyer, with respect to:

(i) the authorization by each Company's board of directors (or equivalent) and, in the case of the Asset Seller, its sole shareholder of this Agreement and all certificates, agreements, documents, schedules, exhibits or instruments executed by any of them in connection herewith or therewith and the consummation of the transactions contemplated hereby or thereby; and

(ii) the authorization of the Sole Administrator with respect to the sale of the Seller's MMSA Shares;

(c) Each Company shall deliver to the Buyer:

(i) a copy of its certificate of incorporation (or similar organizational document), including all amendments thereto, certified by the Secretary of State (or similar authority) of its jurisdiction of incorporation or organization;

(ii) a copy of its by-laws (or similar organizational document), certified by the Secretary of the Stock Seller as being true and correct and in effect on the Closing Date; and

(iii) a certificate from the Secretary of State (or similar authority) of its jurisdiction of incorporation or organization to the effect that such Company is in good standing (with respect to jurisdictions which recognize such concept);

(d) the Pro Forma Adjustment Statement;

(e) an amendment to the [redacted] substantially in the form of Exhibit N duly executed by the Stock Seller and [redacted]

(f) a Magnet Supply Agreement substantially in the form of Exhibit I duly executed by Magnequench NJ, Inc. and Magnequench TX, LLC;

(g) a non-foreign affidavit (FIRPTA Affidavit) of each of the Asset Seller and the Stock Seller, dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under the Treasury Regulations issued pursuant to Code Section 1445, stating that such Company is not a "Foreign Person" as defined in Code Section 1445;

(h) such additional certificates, instruments and other documents, in form and substance satisfactory to the Buyer and counsel for the Buyer, as the Buyer shall have reasonably requested in connection with the transactions contemplated hereunder;

(i) evidence reasonably satisfactory to the Buyer that the European sintered Neo trading business of Magnequench AG shall have been transferred to GmbH;

(j) evidence reasonably satisfactory to the Buyer that the [redacted] Assets have been transferred from MTX and/or GmbH to an Affiliate of the Seller (other than an Acquired Company).

(k) evidence reasonably satisfactory to the Buyer that the employment o[redacted] by GmbH shall have been terminated and all obligations relating to such employees shall have been transferred to the Stock Seller (or an Affiliate of the Stock Seller other than any Subject Company);

(l) evidence reasonably satisfactory to the Buyer that all Encumbrances (other than Permitted Encumbrances) on or affecting any of the assets or properties of any of the Subject Companies, including the Assets, shall have been released or terminated;

(m) evidence reasonably satisfactory to the Buyer that all Indebtedness of the Acquired Companies for borrowed money has been paid in full, terminated and fully discharged; and

(n) evidence reasonably satisfactory to the Buyer that the Buyer has been named as an additional insured under the Stock Seller's Commercial General Liability and Umbrella/Excess Liability insurance policies.

Section 5.8 Additional Deliveries by the Buyer. At the Closing, the Buyer shall deliver (or cause to be delivered) to the Stock Seller, originals or copies if specified, of the following agreements, documents and other items:

(a) an opinion of McCarter & English, LLP, counsel for the Purchaser, dated the Closing Date, substantially in the form of Exhibit D and otherwise in form and substance reasonably satisfactory to the Stock Seller and its counsel; *provided*, the opinion referred to in this Section 5.8(a) may, if in the opinion of counsel for the Buyer it is reasonable to rely thereon, be given in reliance upon opinions of additional counsel reasonably satisfactory to the Stock Seller and its counsel;

(b) a duly executed copy of the lease between the Buyer and the landlord with respect to the property located at 405 Elm Street, Valparaiso, Indiana 46383-3620, substantially in the form of Exhibit K hereto and otherwise on terms reasonably acceptable to the Asset Seller and the Buyer;

(c) a Collective Bargaining Agreement covering Valparaiso union employees substantially in the form of Exhibit L hereto and otherwise on terms reasonably acceptable to the Asset Seller and the Buyer;

(d) a duly executed copy of the [redacted] between [redacted] and the Buyer's designee substantially in the form of Exhibit M hereto and otherwise on terms reasonably acceptable to the Buyer;

(e) a certificate of the Secretary of the Buyer, in form and substance satisfactory to the Companies, with respect to the authorization by the Buyer's board of managers of this Agreement and all certificates, agreements, documents, schedules, exhibits or instruments executed by it in connection herewith or therewith and the consummation of the transactions contemplated hereby or thereby;

(f) such additional certificates, instruments and other documents, in form and substance reasonably satisfactory to the Companies and counsel for the Companies, as the Companies shall have reasonably requested in connection with the transactions contemplated hereby; and

(g) evidence reasonably satisfactory to the Stock Seller that the Stock Seller and the Asset Seller have been named as additional insureds under the Buyer's Commercial General Liability insurance policy.

Section 5.9 Additional Transactions. Each Company, as applicable, shall take all steps reasonably required by the Buyer to put the Buyer in actual possession and operating control of the Business, the Assets and the Acquired Equity Interests at the Closing. Furthermore, and without limiting the generality of the foregoing provisions of this Article V, each Company from time to time after the Closing, at the request of the Buyer and without further consideration, shall execute and deliver further instruments of transfer and assignment and take such further action as the Buyer may reasonably require more effectively to transfer and assign to, and vest in, the Buyer the Assets and the Acquired Equity Interests sold hereunder and custody thereof.

ARTICLE VI

OTHER AGREEMENTS AND POST-CLOSING COVENANTS

Section 6.1 Accounts Receivable. Subsequent to the Closing, the Asset Seller and the Stock Seller shall, on a regular basis (no less frequently than weekly), deliver to the Buyer, any funds and any checks, notes, drafts and other instruments for the payment of money, duly endorsed to the Buyer, received by the Asset Seller or the Stock Seller from any customer of the Asset Seller comprising payment of any of the accounts receivable of the Asset Seller constituting a part of the Assets.

Section 6.2 Product Liability Insurance.

(a) After the Closing, the Buyer shall have the right under the Stock Seller's Commercial General Liability policy and Umbrella/Excess Liability policy to tender to the insurers thereunder claims for all pre-Closing occurrences (regardless of when the claim is brought) pertaining to product liability claims related to products and the component parts thereof sold or manufactured by any Subject Company (excluding, with respect to the Stock Seller's Commercial General Liability policy, GmbH, which is covered under its own Commercial General Liability policy, and, in the case of MUG, solely related to the Valparaiso Operations). At or prior to the Closing, and at its cost and expense, the Stock Seller shall provide for the Buyer to be named as an additional insured on such policies.

(b) After the Closing, the Stock Seller shall have the right under the Buyer's Commercial General Liability policy to tender to the insurers thereunder claims for all post-Closing occurrences pertaining to product liability claims related to products and the components parts thereof sold or manufactured by any Acquired Company (excluding GmbH which is covered under its own Commercial General Liability policy) and in the case of claims against MUG, solely related to the Valparaiso Operations. At or prior to the Closing, and at its cost and expense, the Buyer shall provide for the Stock Seller and the Asset Seller to be named as an additional insureds on such policy or policies.

Section 6.3 Non-Competition by the Companies.

(a) Neither the Asset Seller nor the Stock Seller, nor any direct or indirect subsidiaries controlled by either of them, so long as it remains controlled by either of them (collectively, the "Seller Restricted Companies"), shall, for the period expiring [redacted] and without any additional consideration, directly or indirectly, whether as principal, agent, distributor, representative, stockholder or otherwise invest in, own, manage, operate, control or participate in the ownership, management, operation or control of, any business or trade which [redacted]; *provided, however*, notwithstanding the foregoing: (i) each of the Seller Restricted Companies and their Affiliates shall retain the right to manufacture, distribute or sell any and all magnets and magnetic products which are not described above [redacted]; (ii) nothing in this Section 6.3 shall prohibit the Seller Restricted Companies or their Affiliates from selling or licensing any type of rare earth magnetic powders (or related technologies) to any other business or company which is or may be engaged in any activities competitive with the Business; (iii) the Restricted Parties and their Affiliates shall be permitted to continue to manufacture, distribute or sell (or offer to manufacture, distribute or sell or make quotes or proposals to manufacture, distribute or sell) [redacted] in substantially the same manner as such activities are undertaken by any of them as of the Closing Date; (iv) nothing in this Section 6.3 shall forbid or limit liquid coating by the Seller Restricted Companies or their Affiliates; and (v) nothing in this Section 6.3 shall forbid or limit the Seller Restricted Companies or their Affiliates from owning less than 5% of the outstanding equity interests of any publicly-traded company.

(b) None of the Seller Restricted Companies shall, for the period expiring [redacted] and without any additional consideration, employ, solicit or otherwise seek to employ or engage as an employee, associate, independent contractor, consultant, agent, sub-agent, distributor, representative or otherwise, whether full or part-time, any person who is or was, as of the Closing Date, an employee of the Buyer (or any Affiliate of the Buyer) or of the Acquired Companies or is or was a Transferred Employee, or seek or attempt to terminate such Person's employment with the Buyer or any Acquired Company (or any of their Affiliates); *provided, however*, general solicitations for employment not targeted to the above referenced employees will not be prohibited by this Section 6.3(b).

(c) None of the Seller Restricted Companies shall, for the period [redacted] and without any additional consideration, directly or indirectly, [redacted]

(d) The Parties intend that the covenants contained in Sections 6.3(a), (b) and (c) immediately preceding shall be construed as a series of separate covenants, one for each state of the United States and for each other jurisdiction, worldwide, covered thereby. Except for geographical coverage, each such separate covenant shall be deemed identical in terms and binding to the fullest extent permitted under existing applicable law.

Section 6.4 Non-Competition by the Buyer.

(a) Neither the Buyer, nor any controlled direct or indirect subsidiary thereof, so long as it remains controlled by the Buyer (collectively, the "Buyer Restricted Companies"), shall, for the period expiring [redacted] and without any additional consideration, directly or indirectly, whether as principal, agent, distributor, representative, stockholder or otherwise invest in, own, manage, operate, control or participate in the ownership, management, operation or control of, any business, trade or occupation which [redacted]; *provided, however*, that notwithstanding the foregoing: (i) the Buyer Restricted Companies shall have the right, for so long as the Powder Supply Agreement is in full force and effect, to manufacture, distribute and sell compounds produced from Neo Powder purchased from the Stock Seller or its Affiliates (so long as such activity is undertaken in full compliance with the terms and conditions of the Powder Supply

Agreement); (ii) the Buyer Restricted Companies shall have the right, for so long as the Liquid Coated Powder Toll Processing Agreement is in full force and effect, to produce and use liquid coating for Neo Powder (so long as such activity is undertaken in full compliance with the terms and conditions of the Liquid Coated Powder Toll Processing Agreement); and (iii) nothing in this Section 6.4 shall forbid or limit the Buyer Restricted Companies or their Affiliates from owning less than 5% of the outstanding equity interests of any publicly-traded company.

(b) None of the Buyer Restricted Companies shall, for the period expiring [redacted] and without any additional consideration, employ, solicit or otherwise seek to employ or engage as an employee, associate, independent contractor, consultant, agent, sub-agent, distributor, representative or otherwise, whether full or part-time, any person who is or was, as of the Closing Date, any [redacted] *provided, however*, general solicitations for employment not targeted to the above referenced employees will not be prohibited by this Section 6.4(b).

(c) None of the Buyer Restricted Companies shall, for the period expiring [redacted] and without any additional consideration, directly or indirectly, [redacted] *provided, however*, that for purposes of this Section 6.4(c), the term "Buyer Restricted Companies" shall not include any Person acquired by the Buyer after the date hereof that is engaged in the business of manufacturing, distributing or selling Samarium-Cobalt magnets or magnetic products.

(d) The Parties intend that the covenants contained in Sections 6.4(a) and (b) immediately preceding shall be construed as a series of separate covenants, one for each state of the United States and for each other jurisdiction, worldwide, covered thereby. Except for geographical coverage, each such separate covenant shall be deemed identical in terms and binding to the fullest extent permitted under existing applicable law.

Section 6.5 Confidentiality and Non-Use by the Companies. From and after the Closing Date, and without in any manner limiting the Buyer's sole right, title and interest in and to the Assets acquired hereunder, each of the Asset Seller and the Company shall maintain in confidence, and each shall cause their respective directors, officers, employees, advisors, attorneys, accountants, lenders, agents or others associated with them or their Affiliates or Subsidiaries, respectively, to maintain in confidence and not to divulge to any third party, and take all precautions to protect, and not make any use whatsoever at any time, nor copy or reverse engineer, any written, oral or other information (including computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas and inventions (whether patentable or not), schematics and other technical, business, financial, customer, and product development plans, forecasts, strategies and information) constituting, obtained or used in connection with the Assets or any assets and properties of the Acquired Companies; *provided, however,* that nothing in this Section 6.5 shall prohibit the Stock Seller or any of its Affiliates from providing customary information related to the manufacture, distribution or sale of Neo Magnets, CuNiFe Magnets or other rare earth magnets to customers or potential customers who purchase or intend to purchase such magnets or other magnetic powders from the Stock Seller or any of its Affiliates.

Section 6.6 Confidentiality and Non-Use by the Buyer. From and after the Closing Date, the Buyer shall maintain in confidence, and shall cause its respective directors, officers, employees, advisors, attorneys, accountants, lenders, agents or others associated with them or their Affiliates or Subsidiaries, respectively, to maintain in confidence and not to divulge to any third party, and take all precautions to protect, and not make any use whatsoever at any time, nor copy or reverse engineer, any written, oral or other information (including computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas and inventions (whether patentable or not), schematics and other technical, business, financial, customer, and product development plans, forecasts, strategies and information) constituting, obtained or used in connection with the assets, properties, operations or businesses of the Asset Seller or any other Company (or any of their Affiliates) which will not be owned and operated by the Acquired Companies or the Buyer immediately following consummation of the transactions provided for in this Agreement.

Section 6.7 Taxes. The following provisions shall govern the obligations and responsibilities of the Companies and the Buyer with respect to certain Tax matters.

(a) Tax Indemnification.

(i) Stock Seller shall indemnify the Acquired Companies, Buyer and each Buyer Affiliate and hold them harmless from and against any loss, claim, Liability, expense, or other damage attributable to: (A) all Taxes (or the non-payment thereof) of the Acquired Companies for all Taxable periods ending on or before the Closing Date ("Pre-Closing Tax Period"); (B) with respect to the Acquired Companies, in the case of any Taxable period that includes (but does not end on) the Closing Date (a "Straddle Period"), the amount of any Taxes imposed upon such Acquired Company for that portion of the Straddle Period ending on or before the Closing Date (and the amount of any Taxes based on or measured by income or receipts of such Acquired Company for the Straddle Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date (and for such purpose, the Taxable period of any partnership or other pass-through entity in which such Acquired Company holds a beneficial interest shall be deemed to terminate at such time) and the amount of all other Taxes assessed on an annual basis of such Acquired Company for a Straddle Period which relate to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire Taxable period multiplied by a fraction the numerator of which is the number of days in the Taxable period ending on the Closing Date and the denominator of which is the number of days in such Straddle Period); (C) all Taxes of any member of an affiliated, consolidated, combined or unitary group (other than the Acquired Companies) of which any Acquired Company (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation Section 1.1502-6 or any analogous or similar state, local or foreign law or regulation; and (D) any and all Taxes of any person imposed on the Acquired Companies as a transferee or successor, by contract or pursuant to any law, rule or regulation, which Taxes relate to an event or transaction occurring before the Closing; *provided, however*, that in the case of clauses (A), (B) (C) and (D) above, the Stock Seller shall be liable only to the extent that such Taxes exceed the amount, if any, reserved for such Taxes (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income and excluding any Tax reserves of MUG otherwise includable) on the face of the Closing Adjustment Statement and the Purchase Price shall be adjusted accordingly.

(ii) The Buyer shall indemnify, defend and hold the Stock Seller harmless from and against any and all liabilities, damages, claims or losses asserted against, resulting to, imposed upon or suffered by the Stock Seller, directly or indirectly, by reason of or resulting from any and all Taxes imposed upon (A) the Buyer with respect to Buyer's operations, regardless of the period to which they relate and (B) each of the Acquired Companies for any Tax period beginning after the Closing Date.

(b) Responsibility for Filing Tax Returns. The Stock Seller has prepared and filed or caused to be prepared and filed or shall prepare and file or cause to be prepared and filed all Tax Returns for each Acquired Company which relate to all Taxable periods ending on or before the Closing Date. The Buyer shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for each Acquired Company which are required to be filed for all Straddle Periods and for all Tax periods beginning after the Closing Date. With respect to Straddle Periods, the Buyer shall permit the Stock Seller to review and comment on Tax Returns prepared by (or caused to be prepared by) the Buyer for each Acquired Company. After the Closing Date, the Buyer shall not amend any of the Tax Returns of any of the Acquired Companies prepared by the Stock Seller, except with the prior written consent of the Stock Seller. The Parties acknowledge the Tax Returns required to be filed after the Closing Date shall include the following:

(i) With respect to GmbH:

(A) the Stock Seller shall prepare and file, to the extent required, the U.S. Federal Tax Returns and the state Tax Returns for all Tax periods ending on or before the Closing Date (including the filing of Tax Returns for the partial Tax year ending on the Closing Date) and with respect to Tax Returns to be filed in Germany, the Stock Seller shall cause GmbH to prepare and file the Tax Returns required to be filed by it prior to the Closing Date; and

(B) the Buyer shall prepare and file, to the extent required, the U.S. Federal Tax Returns and the state Tax Returns for all Tax periods beginning after the Closing Date (including the filing of Tax Returns for the partial Tax year beginning on the day after the Closing Date) and with respect to Tax Returns to be filed in Germany, the Buyer shall cause GmbH to prepare and file the Tax Returns required to be filed by it on or after the Closing Date.

(ii) With respect to MMSA:

(A) the Stock Seller shall prepare and file, to the extent required, the U.S. Federal Tax Returns and state Tax Returns for all Tax periods ending on or before the Closing Date (including the filing of Tax Returns for the partial Tax year ending on the Closing Date); and, with respect to Tax Returns to be filed in Mexico, the Stock Seller (i) shall cause MMSA to prepare and file the Tax Returns required to be filed by it prior to the Closing Date and (ii) shall file all required notices and Mexican Tax reports with the relevant Mexican Tax authorities and pay the relevant Mexican Tax in connection with the sale of the MMSA Shares by Stock Seller and shall deliver copies to MMSA and the Buyer of such filed notices and Mexican Tax reports along with evidence of payment of the relevant Mexican Tax; and

(B) the Buyer shall prepare and file, to the extent required, the U.S. Federal Tax Returns and state Tax Returns for all Tax periods beginning after the Closing Date (including the filing of Tax Returns for the partial Tax year beginning on the day after the Closing Date) and with respect to Tax Returns to be filed in Mexico, the Buyer shall cause MMSA to prepare and file the Tax Returns required to be filed by it on or after the Closing Date.

(iii) With respect to MTX:

(A) the Stock Seller shall prepare and file, to the extent required, the U.S. Federal Tax Returns and state Tax Returns for all Tax periods on or before the Closing Date (including the filing of Tax Returns for the partial Tax year ending on the Closing Date); and

(B) the Buyer shall, to the extent required, prepare and file the U.S. Federal Tax Returns and state Tax Returns for all Tax periods after the Closing Date (including the filing of Tax Returns for the partial Tax year beginning on the day after the Closing Date).

(c) Cooperation on Tax Matters.

(i) The Parties shall cooperate fully, as and to the extent reasonably requested by any Party, in connection with the filing of Tax Returns pursuant to

Section 6.7(b) above and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the requesting Party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Each of the Companies agrees (A) to retain all books and records with respect to Tax matters pertinent to such Company relating to any Taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent validly granted to the applicable Company and for which notice was given to the Buyer, any extensions thereof) of the respective Taxable periods, and to abide by all record retention agreements entered into with any Taxing authority, or (B) to give the Buyer reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the Buyer so requests, such Company shall allow the Buyer to take possession of such books and records.

(ii) The Buyer and the Companies further agree, upon request, to use their best efforts to obtain any certificate or other document from any Governmental Entity or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

(iii) The Buyer and each of the Companies further agree, upon request, to provide the other Party with all information that such other Party may be required to report pursuant to Code Section 6043 and all Treasury Regulations promulgated thereunder.

(iv) The Buyer covenants and agrees that all Tax Returns filed by the Buyer that relate to any Straddle Period for an Acquired Company shall be prepared in a manner consistent with the Tax Returns filed by the Stock Seller or the Acquired Company, as applicable, for the most recent pre-Closing Tax period. In connection with the filing by the Buyer of any Tax Return that relates to any Straddle Period, the Stock Seller shall have the right to review and comment on any such Tax Return and no Tax Return filed by the Buyer which relates to a Straddle Period shall be filed without the Stock Seller's prior written consent, which consent shall not be unreasonably withheld.

(v) The Buyer, in its sole discretion, may make a Code Section 338(g) election with respect to GmbH within the time periods (including any extensions) prescribed by the Code and the Stock Seller shall cooperate fully with the Buyer, as and to the extent reasonably requested by the Buyer, in connection with filing with the IRS the relevant IRS forms and schedules required to make any such Code Section 338(g) election.

(d) Tax Sharing Agreements. All Tax sharing agreements or similar agreements with respect to or involving the Acquired Companies shall be terminated as of the Closing Date and, after the Closing Date, the Acquired Companies shall not be bound thereby or have any liability thereunder.

(e) Certain Taxes and Fees. All Transfer Taxes shall be paid by the relevant Transfer Tax Obligor when due, and the relevant Transfer Tax Obligor will, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Taxes, fees and charges, and, if required by applicable law, the parties hereto that are not the Transfer Tax Obligor will, and will cause its Affiliates to, join in the execution of any such Tax Returns and other documentation.

(f) Survival of Obligations. Notwithstanding any other provision in this Agreement to the contrary, the obligations of the Parties set forth in this Section 6.7 shall be without limitation as to dollar amount and shall survive until ninety (90) calendar days following the expiration of any applicable statutes of limitation (including any and all valid extensions thereof); *provided*, that a claim made for indemnification with the applicable survival period with respect to any such representation, warranty, covenant or agreement may continue to be asserted beyond such period until final resolution thereof.

Section 6.8 Transferred Employees.

(a) The Asset Seller shall terminate, effective at the Closing, the employees of Asset Seller listed on Schedule 6.8 and identified as employees of the Asset Seller and the Stock Seller shall cause MQI to terminate, effective as of the Closing, the employees of MQI listed on Schedule 6.8 and identified as employees of MQI (collectively, the "Transferred Employees"). On or before the Closing Date, the Buyer will offer employment to each Transferred Employees, effective as of the Closing. In the case of the Transferred Employees covered by a collective bargaining agreement, their terms and conditions of employment shall be governed by such agreement. At the Closing, the employees of MTX listed on Schedule 6.8 (the "MTX Employees") will cease to be covered under all MQI employee benefit plans applicable to MTX Employees. Notwithstanding the foregoing, the Buyer may terminate with or without cause, at any time after the Closing Date, the employment of any Transferred Employee or MTX Employee who accepts such offer of employment. None of the Companies, nor any Affiliate of any of the Companies, shall take any action that would impede, hinder, interfere, or otherwise compete with the Buyer's efforts to employ any of the Transferred Employees.

(b) The parties agree that the transactions contemplated hereby shall not, except as required by applicable Law, constitute a severance of employment of any Transferred Employees and that such employees will have continuous and uninterrupted employment before and after the Closing. Buyer shall have no liability to any employee of MQI or MTX for any severance benefits arising out of or related to the transactions contemplated by this Agreement. To the extent that a Transferred Employee (and/or the Transferred Employee's dependents) or a MTX Employee (and/or the MTX Employee's dependents) elects to continue group health plan coverage under COBRA (each such individual being considered a "COBRA Beneficiary") under MQI's health plan as of or immediately following the Closing Date (or in the case of dependents of the Transferred

Employee or the MTX Employee at any time during the Transferred Employee's or MTX Employee's COBRA coverage period), the Buyer shall reimburse MQI for MQI's cash out-of-pocket costs (after taking into account any amounts received or otherwise due from any stop loss insurance) that are directly related to the payment of health claims incurred under MQI's health plan on behalf of such COBRA Beneficiary after the effective date of such COBRA election (collectively, "Health Claims") for the duration of such COBRA continuation of coverage. MQI's right to reimbursement of such Health Claims pursuant to the preceding sentence shall be conditioned upon the presentment to the Buyer, in writing, of sufficient documentation evidencing the payment of any such Health Claims.

Section 6.9 Change of Name. The Buyer shall, within three (3) months following the Closing Date, cease the use of any advertising materials containing the name "Magnequench". In addition, the Buyer shall, within three (3) months from the Closing Date, change any and all corporate names and trade names used by any of the Acquired Companies or used in connection with the operation of the Business containing "Magnequench" to a name not containing "Magnequench" (nor to any name which is similar to any trademark, service mark or trade name owned or used by the Stock Seller or its Affiliates which is not included in the Intellectual Property included in the Assets or owned by the Acquired Companies). Notwithstanding the foregoing, the Buyer shall not be limited in any manner from exhausting all supplies (as of the Closing Date) of stationery, brochures, catalogues or other similar items with the name "Magnequench" (or derivations thereof) printed thereon, *provided*, that after three (3) months from the Closing Date, the Buyer shall ensure that the name "Magnequench" found on such stationery, brochures, catalogues or other similar items is covered with an opaque self-adhesive label in order to conceal the name "Magnequench". The Parties acknowledge and agree that the Buyer may, upon written notice to the Stock Seller, request a three (3) month extension to any of the time periods contained in this Section 6.9, and upon presentation of reasonable evidence that such extension is necessary, Magnequench shall not unreasonably withhold its consent to any such extension.

Section 6.10 Inter-Company Debt; External Debt; Guarantees. Prior to the Closing Date, the Stock Seller has caused all inter-company debt, obligations and financial commitments (other than current inter-company trade payables of any Acquired Company for inventory, supplies and other goods purchased by an Acquired Company from the Stock Seller or an Affiliate of the Stock Seller in the ordinary course of business, all of which shall remain the valid and binding obligations of the Acquired Companies) between the Stock Seller and its Affiliates (other than the Acquired Companies), on the one hand, and any Acquired Company, on the other hand, to be paid in full, terminated and fully discharged, and none of the Acquired Companies shall have any obligations or liabilities with respect thereto after the Closing (except as provided for in this Agreement or the other agreements entered into in connection with this Agreement). Prior to the Closing Date, the Stock Seller has caused all Indebtedness for borrowed money (including all inter-company Indebtedness for borrowed money) of the Acquired Companies to be paid in full, terminated and fully discharged. Schedule 6.10 hereto sets forth a list of the Indebtedness of the Acquired Companies owed to third parties and other obligations and liabilities of the Acquired Companies which are guaranteed or otherwise collateralized by the Stock Seller or any of its Affiliates other than the Acquired Companies (the "Guarantees"). The

Buyer shall use its best efforts to, no later than thirty (30) days after the Closing Date (other than the GmbH Bank Guarantee described on Schedule 6.10 which must be satisfied at the Closing): (a) cause the third party to release the Stock Seller (and its Affiliates) from the Guarantee; and/or (b) be substituted or to cause one or more of its Affiliates to be substituted in all respects for the Stock Seller. In the event that the Buyer is unable to fulfill the obligations set forth in the immediately preceding sentence, the Buyer shall fully indemnify, defend and hold harmless the Stock Seller for any claims made against the Stock Seller (or any Affiliate of Stock Seller) under such Guarantees in accordance with the provisions of Article VIII hereof.

Section 6.11

Agreement).

Section 6.12 D&O and Employment Practices Insurance. The Stock Seller shall maintain directors' and officers' insurance coverage for three years after the Closing (substantially similar in amount and coverage as the current directors' and officers' insurance policy) for events, acts or omissions occurring on or prior to the Closing Date for all persons who were directors or officers of any Acquired Company (or any Subsidiary of any Acquired Company) on or prior to the Closing Date.

ARTICLE VII

ADJUSTMENT STATEMENTS

Section 7.1 Pro Forma Adjustment Statement. No earlier than five (5) business days prior to Closing, the Stock Seller has prepared, based upon its good faith estimates and assumptions and in accordance with GAAP (German GAAP in the case of GmbH) consistently applied and using the same practices, principles and methodologies used in preparing the Historical Financial Statements, a statement showing thereon: (i) calculation of the amount (the "Estimated Working Capital") projected immediately prior to the Closing for the Subject Companies (limited with respect to the Asset Seller to the Valparaiso Operations) obtained by subtracting (A) the amount estimate of the combined current liabilities of the Subject Companies (limited, in the case of the Asset Seller, to the liabilities related to the Valparaiso Operations which are included in the Assumed Liabilities and excluding any amount for the Restructuring Reserve) after giving full effect to any discharge or payment of any Indebtedness to occur at or prior to Closing from (B) the amount of the combined current assets of the Subject Companies (limited, in the case of the Asset Seller, to current assets included in the Assets) after giving full effect to any sweep or distribution of cash to occur at or prior to the Closing (it being understood that no amounts due and owing to Affiliates, except as permitted by Section 6.10 to remain obligations of the Acquired Companies or included in the Assumed Liabilities shall in any manner enter into the foregoing calculation); and (ii) the amount, if any, by which the Stock Seller's good faith estimate of the Restructuring Reserve as of the Closing either (A) exceeds €600,000 (any such excess amount, the "Estimated Excess Restructuring Reserve") or (B) is less than €600,000 (any such deficiency, the "Estimated Restructuring Reserve Deficiency"). The foregoing statement shall, consistent with this Agreement, be reasonably acceptable to the Buyer and is referred to herein as the "Pro Forma Adjustment Statement". The Parties agree that the Pro Forma Adjustment Statement shall be calculated in United States dollars and that any conversion of euro amounts to United States dollars shall be made at the Exchange Rate. The

Stock Seller shall afford the Buyer the opportunity to receive and review any information and any calculation relating to the preparation of the Pro Forma Adjustment Statement.

Section 7.2 Closing Adjustment Statement; Purchase Price Adjustment.

[redacted]

(b) Within thirty (30) days after its receipt of such statement, the Buyer shall examine such statement, and any determinations, computations, and decisions made in the preparation thereof. In the event the Buyer shall disagree with any of the determinations, computations or decisions relating to the preparation of such statement, the Buyer shall, within ten days after delivery of such statement, serve notice of such disputed item or items upon the Stock Seller, and the Stock Seller and the Buyer shall thereupon endeavor to reach agreement with respect thereto. Any failure by the Buyer to deliver such notice within such period with respect to any item or items shall be deemed conclusive acceptance by the Buyer of such item or items. If such agreement with respect to any item identified in a notice as aforesaid shall not be reached within ten days of the date of such notice of disagreement, such disputed item or items shall be submitted for determination to a firm of nationally-recognized independent public accountants reasonably acceptable to both the Stock Seller and the Buyer (which shall not be the Accountant or any accounting firm retained on a regular basis by the Buyer, or any Affiliate of the Buyer, or the Stock Seller, or any Affiliate of the Stock Seller), the fees and expenses of which shall be paid by the Party whose determination or position the reviewing accounting firm shall not accept (or shall decide against); *provided, however*, that if the determination represents a compromise between the determination of the Buyer and the Stock Seller, then each Party shall pay fifty-percent (50%) of such fees and expenses. The determination of such independent public accountants with respect to any item or items shall be conclusive and binding upon the Parties. The foregoing statement, completed as aforesaid, is referred to herein as the "Closing Adjustment Statement". The Parties agree that the Closing Adjustment Statement shall be calculated in United States dollars and that any conversion of euro amounts to United States dollars shall be made at the Exchange Rate.

(c) Based on the Closing Adjustment Statement, the Purchase Price shall be adjusted as follows:

(i) in the event the Closing Working Capital is greater than the amount (the "Closing Working Capital Cap") obtained by adding (A) the Estimated Working Capital plus (B) [redacted], the Purchase Price shall be increased by the amount by which the Closing Working Capital exceeds the Closing Working Capital Cap; and in the event the Closing Working Capital is less than the amount (the "Closing Working Capital Basket") obtained by subtracting (A) [redacted] from (B) the Estimated Working Capital, the Purchase Price shall be decreased by the amount by which the Closing Working Capital Basket exceeds the Closing Working Capital; and

(ii) the Purchase Price shall be: (A) decreased by the amount of the Closing Excess Restructuring Reserve, if any; or (B) increased by the amount of the Closing Restructuring Reserve Deficiency, if any.

Section 7.3 Purchase Price Payment Adjustment. Within ten (10) days after the determination under Section 7.2 hereof of all disputed items contained in the Closing Adjustment Statement, the Parties shall recalculate the Purchase Price and effectuate such payments as shall be required appropriately to adjust any payment theretofore made under Section 2.5(d) so that: (i) if the sum of the Closing Payment and the Escrow Amounts exceeds the Purchase Price, the amount of such excess shall be repaid to the Buyer by the Stock Seller in accordance with the provisions of the First Escrow Agreement within ten days of such recalculation; or (ii) if the sum of the Closing Payment and the Escrow Amounts is less than the Purchase Price, the amount of such deficiency shall be paid to the Stock Seller by the Buyer within ten days of such recalculation; *provided, however*, that to the extent that the parties determine that there are undisputed items contained in the Closing Adjustment Statement that will require a payment in accordance with this Section 7.3, such payment shall be made within ten (10) days of such determination.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Basis of Indemnification by the Stock Seller and the Asset Seller. Subject to the applicable provisions of this Article VIII, the Stock Seller and the Asset Seller shall jointly and severally indemnify and hold harmless the Buyer and its Affiliates, and their respective directors, officers, members, managers, agents, representatives, successors and assigns from and against all damages (including damages on account of personal injury or death, property damage or damage to natural resources), costs (including environmental sampling, remediation or monitoring costs, consulting and engineering fees and disbursements, costs of defense and interest), expenses, losses, claims, demands, Liabilities and/or obligations, including reasonable fees and disbursements of counsel but specifically excluding lost profits, indirect or consequential damages or punitive damages ("Damages"), arising from, relating to, or in any way sustained, or incurred by reason of:

(a) the breach of any of the representations or warranties made by the Stock Seller or the Asset Seller in this Agreement or any other agreement executed by either of them in connection with the transactions contemplated by this Agreement.

(b) the failure of the Stock Seller or the Asset Seller to fulfill or comply with its obligations, covenants and agreements pursuant to this Agreement or any other agreement executed by either of them in connection with the transactions contemplated by this Agreement;

(c) any Liability of the Asset Seller that is not an Assumed Liability;

(d) to the extent not included in the Assumed Liabilities, the failure of Asset Seller to comply with all successor liability or "bulk sales" laws of each and every jurisdiction in any way governing the Asset Seller and the transactions contemplated hereby with respect thereto and timely to pay and discharge all obligations and liabilities arising under such laws as a result of this Agreement and such transactions;

(e) any and all warranty or service claims and obligations in respect of activities undertaken by the Asset Seller prior to the Closing if and to the extent such claims and obligations exceed the warranty or similar reserve of the Asset Seller on the Closing Adjustment Statement;

(f) claims made with respect to defects in products, if and to the extent such claims relate to products or component parts thereof sold or manufactured by the Asset Seller prior to the Closing;

(g) any and all litigation identified on Schedule 3.1(w);

(h) any and all claims made by third parties which relate to patent or trademark infringement prior to the Closing by any of the Acquired Companies or the Asset Seller (in the case of Asset Seller, solely with respect to the Valparaiso Operations);

(i) Liabilities arising prior to the Closing for environmental matters affecting any of the Acquired Companies which (A) to the Knowledge of the Companies, exist as of the Closing Date and prior to the Closing under Laws in effect on the Closing Date and (B) have not been disclosed the Buyer at or prior to the Closing, including without limitation: (i) Environmental Conditions on, at, under or emanating from any of the Owned Real Property, the Leased Real Property or the Former Facilities occurring or existing on or before the Closing Date; (ii) failure by any of the Acquired Companies or any agents, servants, employees or contractors of any of the Acquired Companies to comply with Environmental Laws applicable to the Acquired Companies' Business or any of the Owned Real Property, the Leased Real Property or the Former Facilities on or before the Closing Date; (iii) treatment, storage, disposal or Release at any location of Hazardous Materials used, generated, handled, stored, manufactured, originating at or transported from any of the Owned Real Property, the Leased Real Property or the Former Facilities of an Acquired Company or in connection with the Acquired Companies' Business on or before the Closing Date; and (iv) claims of third parties alleging damages arising from personal injury or death, property damage or damage to natural resources arising from or related in any way to Environmental Conditions on, at, under or emanating from any of the Owned Real Property, the Leased Real Property or the Former Facilities or the conduct by any of the Acquired Companies of the Acquired Companies' Business on or before the Closing Date; and

(j) any third party claims related to the provision by Buyer (or any Affiliate of Buyer) of any services pursuant to Section 6.11(b).

Section 8.2 Basis for Indemnification by the Buyer. Subject to the applicable provisions of this Article VIII, the Buyer shall indemnify and hold harmless the Stock Seller and the Asset Seller and their respective Affiliates, and their respective directors, officers, members, managers, agents, representatives, successors and assigns from and against all Damages arising from, relating to, or in any way sustained or incurred by reason of:

(a) the material breach of any of the representations or warranties or material non-fulfillment of any obligations, covenants or agreements made by the Buyer in this Agreement or in any certificate, agreement, document, schedule, exhibit or instrument executed by Buyer in connection herewith or therewith;

(b) the timely payment or performance, as applicable, of the Assumed Liabilities and all of the obligations and liabilities of the Acquired Companies, and each of them; and

(c) any and all proceedings, demands, assessments, audits or judgments arising out of any of the foregoing.

Section 8.3 Indemnification Procedures. A Party seeking indemnification (the "Indemnified Party") shall promptly notify the Party which the Indemnified Party believes has an obligation to indemnify (the "Indemnifying Party") of any claim, demand, action or proceeding for which indemnification may be sought under Section 8.1 or 8.2 hereof, as applicable. Any omission so to notify any Indemnifying Party as aforesaid shall not relieve any Indemnifying Party from any liability they may have to any Indemnified Party unless the Indemnifying Party is materially adversely affected as a result of such failure. If such claim, demand, action or proceeding by or on behalf of any person or entity other than a Party to this Agreement or its successors and assigns would result in Damages that a Party is obligated to indemnify hereunder (a "Third Party Claim"), the Indemnifying Party(ies) shall have the right to defend, contest, settle, or compromise such action or suit in the exercise of its or their exclusive discretion; *provided, however*, that (a) the Indemnifying Party shall not thereby consent to the imposition of any injunction against the Indemnified Party without the written consent of the Indemnified

Party and shall not otherwise agree to a settlement that would have a Material Adverse Effect on the Indemnified Party and (b) the Indemnifying Party shall permit the Indemnified Party to participate in such conduct or settlement through legal counsel chosen by the Indemnified Party, but the fees and expenses of such legal counsel shall be borne solely by the Indemnified Party. In connection with any such Third Party Claim, the Indemnifying Party(ies) and the Indemnified Party shall cooperate with each other and provide each other with reasonable access to relevant books and records in their possession.

Section 8.4 Payment. In the event that any Indemnified Party shall incur any Damages in respect of which indemnity may be sought pursuant to this Article VIII, the Indemnifying Party(ies) shall be given written notice thereof promptly by the Indemnified Party, which notice shall specify the amount and nature of such Damages and include the request of the Indemnified Party for the indemnification of such amount. The Indemnifying Party(ies) shall within ten (10) days pay to the Indemnified Party the amount of the Damages so specified with respect to a valid indemnity claim. Notwithstanding the foregoing, any claim of indemnification of the Buyer against the Stock Seller or the Asset Seller under Section 8.1 hereof will first be paid by way of set-off against the First Escrow Amount, in accordance with the provisions of the First Escrow Agreement. Nothing contained in this Section 8.4 or in the First Escrow Agreement shall be construed to signify that the Buyer's recourse to the First Escrow Amount shall constitute the Buyer's sole remedy against the Stock Seller or the Asset Seller in the event of any liability under Section 8.1 hereof.

Section 8.5 Limitation of Claims. Notwithstanding anything to the contrary contained in any other provision of this Agreement:

(a) The respective representations and warranties of the Parties contained in this Agreement and in any and all certificates, agreements, documents, schedules, exhibits or instruments executed in connection herewith or therewith delivered at Closing pursuant hereto, shall survive for a period of [redacted] from the Closing except for: (x) any representation or warranty under Section 3.1(i) (Tax Matters), Section 3.1(r) (Employee Benefit Plans) and Section 3.1 (x) (Environmental Matters) (which shall survive for the period of the statute of limitations applicable to the underlying matter plus ninety (90) days); and (y) the representations and warranties contained in Section 3.1(k) (Title) (which shall survive without limitation as to time).

(b) No Indemnified Party shall have any right to indemnification by any Indemnifying Party with respect to any Damages suffered or incurred by such Indemnified Party arising out of any breach of any representation or warranty contained in this Agreement or in any certificate, agreement, document, schedule, exhibit or instrument executed in connection herewith or therewith unless notice of such claim shall have been given within the applicable period of survival for such representation and warranty specified in paragraph (a) of this Section 8.5; *provided, however*, that the foregoing shall not limit or impair in any manner any related right or claim for indemnification as to which the Indemnified Party shall have delivered written notice to the Indemnifying Party within such survival period, which written notice shall have set forth in reasonable detail the nature and basis of such right or claim.

(c) Any payment made by any Indemnifying Party pursuant to this Article VIII in respect of any claim for Damages: (i) shall be net of any insurance proceeds realized by and paid to the Indemnified Party in respect of such claim; and (ii) shall be reduced by an amount equal to any Tax benefits attributable to such claim, but only to the extent that such Tax benefits are actually realized by the Indemnified Party. The Indemnified Party shall use its best efforts to make any and all insurance claims relating to any claim for which it is seeking indemnification pursuant to this Article VIII, including, without limitation, any claim it is entitled to make under any insurance policy maintained by the Indemnifying Party or under which the Indemnified Party is named as an additional insured.. In the event that an indemnification payment is made to an Indemnified Party and such Indemnified Party thereafter receives an insurance payment, the Indemnified Party shall pay over to the Indemnifying Party the amounts so collected, less any litigation and other costs related to the collection of such amounts.

(d) The maximum aggregate liability of the Stock Seller and the Asset Seller to indemnify the Buyer for all Damages under Section 8.1 shall be limited to [redacted] (the "Buyer Indemnification Cap"); *provided, however,* that the Buyer Indemnification Cap shall not apply to limit any Damages arising from, related to or in connection with any breach of any of the representations and warranties contained in Section 3.1(i) and shall not limit any obligations of the Stock Seller or Asset Seller (as applicable) with respect to the payment of Taxes in accordance with the applicable provisions of this Agreement (including Section 6.7). The Buyer (and the other indemnified Persons under Section 8.1) shall be entitled to seek indemnification for Damages under Section 8.1 only after such time as the sum of all such Damages of the Buyer (and the other indemnified Persons under Section 8.1) exceeds [redacted] (the "Basket"), at which time the Stock Seller and the Asset Seller shall thereafter be liable to the Buyer for all of such Damages in excess of the Basket up to the Buyer Indemnification Cap, except as provided above.

Section 8.6 Sole Remedy. The indemnification provisions of this Article VIII shall be the exclusive remedy of the Buyer (and the Acquired Companies) for a breach of this Agreement (or any certificate, agreement, document, schedule, exhibit or instrument executed in connection with this Agreement or therewith) by the Stock Seller, the Asset Seller or any other Company or for any related cause of action or claim under any applicable Law, except for: (i) a cause of action or claim based upon the actual fraud of the Stock Seller or the Asset Seller; (ii) the right to injunctive relief in certain circumstances as provided in Section 10.8; or (iii) the rights to indemnification under Section 6.7.

ARTICLE IX

BROKERS AND FINDERS

Section 9.1 Companies' Obligations. The Buyer shall not have any obligation to pay any brokerage, finders or similar fee or other compensation to any person, firm or other corporation dealt with by any Company; the Companies, jointly and severally, hereby agree to indemnify and save the Buyer harmless from any liability, damages, costs or expenses arising from any breach of this Article IX by any Company.

Section 9.2 Buyer's Obligations. No Company shall have any obligation to pay any brokerage, finders or similar fee or other compensation to any person, firm or corporation dealt with by the Buyer; the Buyer hereby agrees to indemnify and save the Companies harmless from any liability, damage, cost or expense arising from any breach of this Article IX by the Buyer.

ARTICLE X

MISCELLANEOUS

Section 10.1 Notices. All notices, requests or instruction hereunder shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, as follows:

(1) if to any Company or Companies:

Magnequench, Inc.
9775 Crosspoint Boulevard
Suite 100
Indianapolis, IN 46256
Attn: Chief Executive Officer
Fax: (317) 572-1536

with a copy to:

Ice Miller
One American Square, Box 82001
Indianapolis, Indiana 46282-0002
Attn: John R. Thornburgh, Esq.
Fax: (317) 236-2219

(2) if to the Buyer:

Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154
Attn: Michael S. Venie
Fax: (734) 525-4771

with copies to:

MidMark Equity Partners II, L.P.
177 Madison Avenue
Morristown, New Jersey 07945
Attn: Matthew Finlay
Fax: (973) 971-9963

and

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Attn: David F. Broderick, Esq.
Fax: (973) 624-7070

Any of the above addresses may be changed at any time by notice given as provided above; *provided, however*, that any such notice of change of address shall be effective only upon receipt.

Section 10.2 Successors and Assigns. This Agreement and the terms hereof shall inure to the benefit of the Parties hereto and their respective successors and assigns. Each Indemnified Party shall further be a third party beneficiary of the provisions of Article VIII hereof, subject to all of the terms, conditions, limitations and restrictions thereof.

Section 10.3 Entire Agreement. This Agreement and the documents referred to herein contain the entire agreement between the Parties hereto with respect to the transactions contemplated hereby, and no modification hereof shall be effective unless in writing and signed by the Party against which it is sought to be enforced.

Section 10.4 Further Action. Each of the Parties hereto shall use such Party's best efforts to take such actions as may be necessary or reasonably requested by the other Parties hereto to carry out and consummate the transactions contemplated by this Agreement.

Section 10.5 Expenses. Each of the Parties hereto shall bear and pay such Party's own costs and expenses incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated hereby. The notarial fees in connection with the execution of the Share Transfer Deed shall be borne by the Buyer.

Section 10.6 Partial Invalidity. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement, or any such terms in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

Section 10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable in the case of agreements made and to be performed entirely within such State; *provided, however*, that the Share Transfer Deed shall be subject to German law.

Section 10.8 Specific Performance. The Parties recognize that any breach of the provisions of Sections 6.3, 6.4, 6.5, 6.6 and 6.9 of this Agreement may give rise to irreparable harm for which money damages would not be an adequate remedy, and accordingly agree that, in addition to other remedies, any non-breaching Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce the terms and provisions of this Agreement by a decree of specific performance in any action instituted in any court of the United States or any state thereof, or any other jurisdiction, having jurisdiction without the necessity of proving the inadequacy as a remedy of money damages.

Section 10.9 Consent to Jurisdiction. Without in any manner limiting the provisions of the First Escrow Agreement or the Second Escrow Agreement, each of the Parties hereto agrees that any legal action or proceeding arising out of or relating to this Agreement may be instituted in the United States District Court for the District of New Jersey or the New Jersey Superior Court (Morris County), the courts of the State of Indiana situated in Marion County, Indiana or the United States District Court for the Southern District of Indiana. By the execution and delivery of this Agreement, each of the Parties to this Agreement irrevocably consents to and submits to the jurisdiction of such courts for all purposes in connection with any controversy, claim, action or proceeding arising out of or relating to this Agreement or any modification or extension hereof. The foregoing shall not limit the rights of any Party to bring any legal action or proceeding or to obtain execution of judgment in any appropriate jurisdiction. Each of the Parties hereto further agrees that final judgment against it in any such action or proceeding shall be conclusive and may be enforced to any other jurisdiction within or outside the United States of America by suit on the judgment, a certified or exemplified copy of which shall be conclusive evidence thereof.

Section 10.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day, month and year first above written.

MAGNEQUENCH, INC.

[redacted]

By:[redacted]

Name: [redacted]

Title: Chief Financial Officer; Senior Vice President; and Treasurer

MAGNEQUENCH UG, INC.

[redacted]

By:[redacted]

Name: [redacted]

Title: Chief Financial Officer; Senior Vice President; and Treasurer

MAGNEQUENCH GMBH

[redacted]

By:[redacted]

Name: [redacted]

Title: Authorized Representative

MAGNEQUENCH TX, LLC

[redacted]

By:[redacted]

Name: [redacted]

Title: Chief Financial Officer; Senior Vice President; and Treasurer

MAGNEQUENCH DE MEXICO SA DE CV

[redacted]

By: [redacted]
Name: [redacted]
Title: Authorized Representative

KANE MAGNETICS ACQUISITION, LLC

By:__________________________
Name: __________________________
Title: __________________________

MAGNEQUENCH DE MEXICO SA DE CV

By:________________________________

Name: Todd B. Boney

Title: Authorized Representative

KANE MAGNETICS ACQUISITION, LLC

By: [redacted]

Name: [redacted]

Title: Secretary

Exhibit A

Form of First Escrow Agreement

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is made and entered into as of April 30, 2004, by and among Kane Magnetics Acquisition, LLC, a Delaware corporation (the "Buyer"), Magnequench, Inc., a Delaware corporation ("MAG"), Magnequench UG, Inc., a Delaware corporation ("MUG"), Magnequench GmbH, a German limited liability company ("GmbH"), Magnequench TX, LLC, an Idaho limited liability company ("MTX"), Magnequench de Mexico SA de CV, a Mexican limited liability company ("MMSA" and, together with MAG, MUG, GmbH and MTX, the "Sellers") and Commerce Bank, NA, a national banking association duly organized and existing under the laws of the United States of America(the "Escrow Agent"). Key Corporate Capital Inc., a Michigan corporation ("***KCCI***"), as administrative agent under that certain Third Amended and Restated Credit Agreement, dated as of December 13, 1999, as amended through the date hereof, by and among MAG, MUG, GmbH, MTX, the other borrowers signatory thereto, KCCI and the other lenders signatory thereto (collectively with KCCI, the "***Lenders***") (the "***Credit Agreement***") is a third party beneficiary under this Agreement for the purposes of enforcing its rights under <u>Section 27</u> of this Agreement.

RECITALS

A. Pursuant to a Purchase Agreement dated as of April 30, 2004, a true and complete copy of which is attached hereto as <u>Exhibit A</u> (the "Purchase Agreement") by and among the Buyer and the Sellers, the Buyer is acquiring (i) all of MAG's equity ownership interests in each of GmbH, MTX and MMSA and (ii) all of the assets of MUG related to the Valparaiso Operations, all as more fully described in the Purchase Agreement. Unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Purchase Agreement. This is the Escrow Agreement referred to in the Purchase Agreement.

B. The Purchase Agreement provides that on the Closing Date, the Buyer, the Sellers and the Escrow Agent shall execute and deliver this Agreement.

Section 1. **<u>Establishment of Escrow Account</u>**. Concurrently with the execution hereof and pursuant to the Purchase Agreement, the Buyer will deliver to the Escrow Agent [redacted] in cash (the "Escrowed Funds") by wire transfer of immediately available funds to an account which is hereby established in the corporate trust department of the Escrow Agent (the "Escrow Account"). The Escrowed Funds and any interest, dividends, income, or other proceeds earned thereon from and after the Closing Date (all such earnings on the Escrowed Funds are hereinafter collectively referred to as the "Interest") shall be held, administered and disposed of by the Escrow Agent in accordance with the terms and conditions hereinafter set forth.

Section 2. **<u>Investment of Escrowed Funds; Proceeds of Escrowed Funds</u>**.

(a) The Escrow Agent shall from time to time invest and reinvest the Escrowed Funds, if any, in accordance with signed, joint written instructions of the Buyer and MAG, in any money market fund customarily used in the Escrow Agent's Corporate Trust department, including but without limitation the Commerce Capital Treasury Obligations Money

Market Fund (The "Fund"), an open-end management investment company registered under the Investment Company Act of 1940, or other money market mutual funds customarily utilized by the Escrow Agent's Corporate Trust department in the ordinary course of its corporate trust and escrow agent duties. The Fund is sponsored by Commerce Capital Markets, Inc., an affiliate of the Escrow Agent (the "Permitted Investments"). The Fund is not endorsed or guaranteed by, and does not constitute obligations of the Escrow Agent, and is not considered an insured deposit by the FDIC. The Fund is advised by Commerce Capital Markets, Inc., a wholly owned non-banking subsidiary of the Escrow Agent (the "Advisor"). The Advisor reimburses the Escrow Agent for its administrative services rendered to the Fund at a maximum annual rate of 0.50 of 1% of the Escrow Agent's aggregate average daily net assets in the Fund.

(b) Any Interest shall be set aside and distributed as provided in Section 2(d).

(c) The Escrow Agent shall act upon investment instructions one (1) business day after such instructions are received, provided the requests are communicated within a sufficient amount of time to allow the Escrow Agent to make the specified investment. Instructions received after an applicable investment cutoff deadline will be treated as being received by the Escrow Agent on the next business day, and the Escrow Agent shall not be liable for any loss arising directly or indirectly, in whole or in part, from the inability to invest Escrowed Funds on the day the instructions are received. The Escrow Agent shall not be liable for any loss or liability arising in respect of any directed investment under Section 2(a) except to the extent that such loss or liability arose from the Escrow Agent's gross negligence or willful misconduct. As and when the Escrowed Funds or any Interest or any portion thereof is to be released under this Agreement, the Escrow Agent shall promptly cause the Permitted Investments to be converted into cash, and the Escrow Agent shall not be liable for any loss of principal or income in connection therewith. None of the parties hereto shall be liable for any loss of principal or income due to the choice of Permitted Investments in which the Escrowed Funds is invested or the choice of Permitted Investments that are converted into cash pursuant to this Section 2(c).

(d) If not previously paid or payable to the Buyer pursuant to Sections 5 and 6, all Interest shall be distributed to MAG in accordance with Section 7. Notwithstanding anything to the contrary contained herein, any provision of this Agreement requiring the disbursement of Interest by the Escrow Agent shall be construed to refer only to Interest which has accrued and been paid to the Escrow Agent. Any Interest which has accrued and, except for the fact that it has not been paid to the Escrow Agent, would otherwise be required to be disbursed, shall be disbursed within five (5) business days of being paid.

(e) It is understood that all checks received by the Escrow Agent hereunder are subject to clearance time and the funds represented thereby cannot be drawn upon or disbursed until such time as the same constitute good and collected funds. If any checks are returned to the Escrow Agent as uncollectible, the Escrow Agent shall notify the Buyer or MAG, as the case may be, and redeposit such check for collection upon the verbal instructions of the Buyer or MAG, as the case may be. Notwithstanding the foregoing, if for any reason any check or instrument entered for collection by the Escrow Agent hereunder is uncollectible after payment of the funds represented thereby has been made pursuant to the terms hereof, the Buyer or MAG, as the case may be, shall immediately reimburse the Escrow Agent and the Escrow Agent shall deliver the returned check or instrument to the Buyer or MAG, as the case may be.

Section 3. <u>**Claims Against the Escrowed Funds.**</u> From and after the Closing, but subject to the conditions and limitations set forth in this Agreement and the Purchase Agreement, the Buyer shall be entitled to reimbursement out of the Escrowed Funds and applicable Interest for any claims pursuant to and as provided in, and after compliance with all applicable procedures contained in, Article VII (Adjustment Statements) and Article VIII (Indemnification) of the Purchase Agreement (collectively, the "Claims").

Section 4. <u>**Notice of Claim**</u>.

(a) The Buyer shall notify MAG and the Escrow Agent in writing, in the form attached hereto as <u>Exhibit B,</u> of any sums that the Buyer alleges are subject, in the good faith judgment of the Buyer, to indemnification as a proper Claim hereunder ("Claims Notice"). Failure of the Buyer to provide a Claims Notice with respect to a Claim shall not amount to a waiver of such Claim unless the resulting delay materially and adversely prejudices MAG thereby. Such notice shall consist of a detailed description of the factual and legal basis for the Claim (with a copy of all documents or instruments regarding same, if any, attached thereto) and shall specify the amount (which may be reasonably estimated) of the Claim in United States dollars. The date of receipt by MAG and the Escrow Agent of a Claims Notice pursuant to this Section 4(a) shall be referred to as the "Notice Date". The Escrow Agent shall be entitled to presume conclusively that the date upon which it receives a Claims Notice is the date upon which MAG receives that Claims Notice. The Escrow Agent shall have no duty to ascertain whether or not any Claims Notice satisfies the requirements of this Section 4(a), including, without limitation, requirements as to the sufficiency of the factual and legal basis given in support of the claim. To the extent the Buyer and MAG are not in dispute as to the distribution of Escrowed Funds segregated pursuant to a Claims Notice, the Buyer and MAG shall promptly prepare an Escrow Distribution Notice (as defined in Section 6(a)) directing the Escrow Agent to so distribute such Escrowed Funds.

(b) Notwithstanding anything herein to the contrary, upon receipt of any Claims Notice by MAG, MAG may either: (i) contest or dispute the Claim (or any portion thereof) specified in any Claims Notice from the Buyer in the manner provided in paragraph 4(d) or (ii) if any action, suit or proceeding is brought or threatened against the Buyer, which is specified in any Claim Notice from the Buyer, MAG, at its sole cost and expense, may assume the defense of said Claim (or any portion thereof), in accordance with Section 8.3 of the Purchase Agreement.

(c) Written notice of MAG's election to either contest and/or assume the right to defend any Claim (or any portion thereof) shall be given to the Buyer and the Escrow Agent by MAG on or before 5:00 p.m. (New York City time) on the thirtieth (30^{th}) day after the Notice Date. If the thirtieth (30^{th}) day after the Notice Date is not a business day for the Escrow Agent, such written notice shall be given on or before 5:00 p.m. (New York City time) on the next following business day.

(d) If MAG elects to contest the Claim (or any portion thereof) specified in any Claims Notice, MAG shall, within thirty (30) days after the Notice Date, deliver to the Buyer and the Escrow Agent a written objection to all or any part of the Buyer's Claims Notice setting forth, in reasonable detail, the specific basis for such objection (each, an "Objection"). If MAG delivers a timely Objection with respect to all or any part of the Buyer's Claims Notice, the Buyer and MAG shall have thirty (30) days from the date of delivery of the Objection to the Buyer and the Escrow Agent to resolve their differences with respect to such Claims Notice. If resolution of such differences is reached, the Buyer and MAG shall promptly, but in any case within five (5) days of the date of such resolution, deliver to the Escrow Agent an Escrow Disposition Notice (as defined in Section 6(a)). If the Buyer and MAG are unable to resolve their differences with respect to such disputed Claims Notice, the dispute shall be submitted (in accordance with Section 20) to a court of competent jurisdiction for judgment.

Section 5. Segregation of the Funds.

(a) To the extent the Buyer and MAG are in dispute as to the distribution or retention of Escrowed Funds, the Escrow Agent shall segregate from the Escrow Account and transfer into a separate account (the "Pending Claims Account") maintained by the Escrow Agent for the benefit of the Buyer and MAG the portion of the Escrowed Funds and any Interest that may be necessary to satisfy in full all Pending Claims (as defined below), and shall hold such portion in accordance with this Section 5. "Pending Claims" shall mean unresolved or disputed Claims (pursuant to any timely election of MAG to contest or defend the same under Section 4(b) above) that are the subject of Claims Notices delivered under Section 4(a) of this Agreement. Such segregated Escrowed Funds and Interest will be invested and otherwise subject to the provisions of Section 2.

(b) Any portion of the Escrowed Funds and Interest segregated under Section 5(a) of this Agreement shall continue to be segregated by the Escrow Agent until the Escrow Agent is directed to release such Escrowed Funds by (i) an Escrow Disposition Notice (as defined below) signed by the Buyer and MAG (counterpart signatures shall be acceptable) instructing the Escrow Agent how to pay all or any portion of such segregated Escrowed Funds and Interest or (ii) a copy of a Final Determination (as defined in Section 6) establishing the Buyer's right to reimbursement hereunder.

Section 6. Release of the Escrowed Funds to the Buyer. The Escrow Agent shall disburse to the Buyer such portion of the Escrowed Funds and Interest as instructed pursuant to this Section 6 for which the Buyer is entitled to reimbursement from MAG based upon a proper and timely Claim. Payment with respect to any Claim (or any uncontested portion thereof) shall be made by the Escrow Agent to the Buyer not more than three (3) business days after:

(a) The delivery to the Escrow Agent of joint written instructions in the form of Exhibit C hereto (each, an "Escrow Disposition Notice") signed by the Buyer and MAG specifying the amount to be paid to the Buyer;

(b) The day following the thirtieth (30^{th}) day after receipt by MAG and the Escrow Agent of a Claims Notice pursuant to Section 4(a), if the Escrow Agent has not then received written notice from MAG under Section 4(c) that MAG intends to contest the Claim (or any portion thereof) pursuant to Section 4(b)(i) (provided that any uncontested portion of any Claim shall be payable by said day) or assume the defense of the Claim (or any portion thereof) pursuant to Section 4(b)(ii) and has not then received an Objection from MAG pursuant to Section 4(d); or

(c) The delivery to the Escrow Agent and MAG of a copy of a Final Determination (as defined below) establishing the Buyer's right to reimbursement under this Agreement with respect to such Claim. A "Final Determination" shall mean a final, non-appealable judgment of a court of competent jurisdiction and shall be accompanied by an opinion of counsel for the presenting party addressed to and reasonably satisfactory to the Escrow Agent to the effect that such judgment is a final, non-appealable judgment of a court of competent jurisdiction and establishes the Buyer's right to reimbursement for a Claim (or any portion thereof) under this Agreement and Article VII or Article VIII of the Purchase Agreement.

(d) Notwithstanding Section 6(a) or any other provision of this Agreement, should the amounts specified by MAG and the Buyer differ, payment shall be made by the Escrow Agent to the Buyer in accordance with the terms of this Agreement in the amount specified by MAG and the disputed amount shall be treated as an "Objection".

Section 7. __Required Distributions of Escrowed Funds to MAG.__

(a) In accordance with Section 7.3 of the Purchase Agreement, to the extent the sum of the Closing Payment and the Escrow Amount exceeds the Purchase Price by more than $375,000 upon the recalculation of the Purchase Price pursuant to Sections 7.2 and 7.3 of the Purchase Agreement, the Escrow Agent, upon receipt of an Escrow Disposition Notice from MAG and the Buyer, shall distribute to the Buyer the amount of such excess identified in such Escrow Disposition Notice.

(b) Upon the recalculation of the Purchase Price pursuant to Sections 7.2 and 7.3 of the Purchase Agreement, the Escrow Agent, upon receipt of an Escrow Disposition Notice from MAG and the Buyer, shall distribute to MAG the amount identified in such Escrow Disposition Notice. Such amount shall be equal to fifty percent (50%) of the Escrowed Funds ($500,000) *minus* (i) any amounts distributed to the Buyer pursuant to Section 7(a) hereof, and (ii) the excess, if any, above $500,000 of the sum of (x) the aggregate amount of unpaid Claims that have been filed but as to which the notice periods set forth in Section 4(c) and Section 4(d) have not expired and (y) the aggregate amount of Escrowed Funds (plus Interest) that is then being segregated with respect to Pending Claims under Section 5(a).

(c) On April 30, 2005 (the "Final Release Date"), the Escrow Agent shall distribute to MAG the Escrowed Funds (plus Interest) *minus* an amount equal to the sum of (i) the aggregate amount of unpaid Claims that have been filed but as to which the notice periods set forth in Section 4(c) and Section 4(d) have not expired and (ii) the aggregate amount of Escrowed Funds (plus Interest) that is then being segregated with respect to Pending Claims under Section 5(a) pursuant to the joint written instructions of the Buyer and MAG in the form of __Exhibit D__ hereto (the "Final Release Date Disposition Notice"). Any amounts segregated with respect to Pending Claims shall be released (x) to the Buyer as provided in Section 6(b) or 6(c), (y) to MAG within three (3) business days of delivery of a Final Determination in favor of MAG, or (z) to the Buyer or MAG, as applicable, within three (3) business days of delivery of an Escrow Disposition Notice. Notwithstanding anything to the contrary contained herein, any provision hereof requiring the disbursement of Interest by the Escrow Agent shall be construed to refer only to Interest which has accrued and been paid to the Escrow Agent. Any Interest which has accrued and, except for the fact that it has not been paid to the Escrow Agent, would be required to be disbursed, shall be disbursed within five (5) business days of being paid.

(d) Notwithstanding anything herein to the contrary, so long as there are any outstanding obligations owing to the Lenders under the Credit Agreement, any Escrowed Funds and Interest that are payable to MAG hereunder shall be paid directly by the Escrow Agent to KCCI and any Escrow Disposition Notice issued by the Buyer and MAG for Escrowed Funds and Interest to which MAG is entitled shall direct the Escrow Agent to disburse the specified Escrowed Funds and Interest to KCCI.

Section 8. **Taxpayer Identification Numbers**. The parties acknowledge that each has supplied the Escrow Agent with its Internal Revenue Service taxpayer identification number.

Section 9. **Expiration of Claims**. All Claims Notices must be received by MAG and the Escrow Agent prior to 5:00 p.m. (New York City time) on the Final Release Date.

Section 10. **Compensation; Expenses**. In consideration for its services as Escrow Agent, the Escrow Agent shall be entitled to receive the compensation set forth in Exhibit E hereto, as well as the reimbursement of all reasonable and documented out-of-pocket costs and expenses actually incurred by the Escrow Agent in the performance of its duties hereunder. All such fees and expenses of the Escrow Agent hereunder shall be paid by the Buyer on one hand and MAG on the other hand, on a 50%/50% basis. The Escrow Agent shall have, and is hereby granted, a prior lien upon any property, cash, or assets of the Escrow Account, with respect to its unpaid fees, nonreimbursed expenses and unsatisfied indemnification amounts, superior to the interests of any other persons or entities. The Escrow Agent shall be entitled to and is hereby granted the right to set off and deduct any unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights from amounts on deposit in the Escrow Account, including without limitation, any fees and expenses that have not been paid by the Buyer or MAG pursuant to this Section 10. To the extent any unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights are set off or deducted from the Escrow Account by the Escrow Agent, each of the Buyer and MAG agree to reimburse the Escrow Account for their portion of the unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights fees and expenses of the Escrow Agent that such party did not pay directly to the Escrow Agent.

Section 11. **Exculpation and Indemnification**.

(a) The obligations and duties of the Escrow Agent are confined to those specifically set forth in this Agreement. In the event that any of the terms and provisions of any other agreement between any of the parties hereto conflict or are inconsistent with any of the terms and provisions of this Agreement, the terms and provisions of this Agreement shall govern and control in all respects.

(b) The Escrow Agent shall not be personally liable for any act that it may do or omit to do hereunder in good faith and in the exercise of its own best judgment. Any act done or omitted to be done by the Escrow Agent pursuant to the good faith advice of its attorneys shall be deemed conclusively to have been performed or omitted in good faith by the Escrow Agent. If the Escrow Agent becomes involved in litigation on account of this Agreement, it shall have the right to retain counsel and shall have a first lien on the property deposited hereunder for any and all costs, reasonable attorneys' fees, charges, disbursements, and expenses in connection with such litigation; and shall be entitled to reimburse itself therefor out of the property deposited hereunder, and if it shall be unable to reimburse itself from the property deposited hereunder, the parties hereto jointly and severally agree to pay to the Escrow Agent on demand its reasonable charges, counsel and attorneys' fees, disbursements, and expenses in connection with such litigation.

(c) In the event the Escrow Agent is notified of any dispute, disagreement or legal action between the Buyer, MAG and any third party relating to or arising in connection with the escrow, the Escrow Amount, or the performance of the Escrow Agent's duties under this Agreement, the Escrow Agent will not be required to determine the controversy or to take any action regarding it. The Escrow Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings, arbitration, or other means as, in the Escrow Agent's discretion, it may require. In such event, the Escrow Agent will not be liable for interest or damage. Furthermore, the Escrow Agent may, at its option, file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves. The Escrow Agent is authorized, at its option, to deposit with the Clerk of the Court or the Arbitrator, as applicable, all documents and funds held in escrow, except all costs, expenses, charges, and reasonable attorneys' fees incurred by the Escrow Agent due to the interpleader action and which the Buyer or MAG agree to pay. Upon initiating such action, the Escrow Agent shall be fully released and discharged of and from all obligations and liability imposed by the terms of this Agreement.

(d) The Buyer and MAG hereby agree, jointly and severally, to indemnify and hold the Escrow Agent, and its directors, officers, employees, and agents, harmless from and against all reasonable costs, damages, judgments, attorneys' fees (whether such attorneys shall be regularly retained or specifically employed), expenses, obligations and liabilities of every kind and nature which the Escrow Agent, and its directors, officers, employees, and agents, may incur, sustain, or be required to pay in connection with or arising out of this Agreement, unless the aforementioned results from the Escrow Agent's gross negligence or willful misconduct, and to pay the Escrow Agent on demand the amount of all such reasonable costs, damages, judgments, attorneys' fees, expenses, obligations, and liabilities. The reasonable costs and expenses of enforcing this right of indemnification also shall be paid equally by the Buyer and MAG. The foregoing indemnities in this paragraph 9(d) shall survive the resignation or substitution of the Escrow Agent or the termination of this Agreement.

(e) The Escrow Agent shall have no responsibility to inquire into or determine the genuineness, authenticity, or sufficiency of any securities, checks, or other documents or instruments submitted to it in connection with its duties hereunder, unless the Escrow Agent has actual knowledge that the genuineness, authenticity, or sufficiency are in doubt.

(f) The Escrow Agent shall be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of the parties hereto, and shall be entitled to rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind, unless the Escrow Agent has actual knowledge otherwise.

(g) MAG and the Buyer, jointly and severally, hereby indemnify and hold the Escrow Agent harmless from any possible violations of any Environmental Laws including any local, state or federal law, rule or regulation pertaining to environmental matters, as now or hereafter enacted or amended, including without limitation, the Federal Comprehensive Environmental Response; Compensation and Liability Act of 1980; the Federal Resource Conservation and Recovery Act; the Federal Superfund Amendments and Reauthorization Act of 1986; the Federal Toxic Substance Control Act; the Federal Hazardous Material Transportation Act; the Federal Clean Air Act; the Federal Water Pollution Control Act; the Industrial Site Recovery Act; the New Jersey Spill Act; the Underground Storage Tank Act; together with any other federal, state or local superlien, or other statutes, rules or regulations, as now or hereafter amended in any way pertaining to clean-up, disclosure, water pollution control, air pollution control, regulation of solid waste, hazardous waste management, storage tanks, regulation of environmentally sensitive areas, use of ground water, surface waters and wetlands, hazardous and toxic substance reporting and any other laws including case law, which might be deemed or referred to as environmental common law.

(h) The duties and obligations of the Escrow Agent shall be limited to and determined solely by the express provisions of this Escrow Agreement and no implied duties or obligations shall be read into this Escrow Agreement against the Escrow Agent. The Escrow Agent is not bound by and is under no duty to inquire into the terms or validity of any other agreements or documents, including any agreements or documents which may be related to, referred to in or deposited with the Escrow Agent in connection with this Escrow Agreement.

Section 12. Resignation; Replacement. The Escrow Agent may resign at any time upon giving at least thirty (30) days prior written notice to the other parties hereto and, similarly, the Escrow Agent may be removed and replaced following the giving of thirty (30) days prior written notice to the Escrow Agent jointly by the other parties hereto; provided, however, that no such resignation or removal shall become effective until the appointment of a successor escrow agent which shall be accomplished as follows: The Buyer and MAG shall use best efforts to select a successor escrow agent within thirty (30) days after the date of the notice of resignation or removal. If the other parties hereto have failed to appoint a successor prior to the expiration of thirty (30) days following receipt of the notice of resignation or removal, the Escrow Agent may appoint a successor or petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon all of the parties hereto. The successor escrow agent shall execute and deliver an instrument accepting such appointment and it shall, without further acts, be vested with all the estates, properties, rights, powers, and duties of the predecessor escrow agent as if originally named as escrow agent. Upon delivery of such instrument, the Escrow Agent shall be discharged from any further duties and liability under this Agreement. The Escrow Agent shall be paid any outstanding fees and expenses prior to transferring assets to a successor escrow agent.

Section 13. Notices. All notices, requests, consents, waivers, and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if: (a) transmitted by facsimile, upon acknowledgment of actual receipt thereof in writing by facsimile or otherwise; (b) personally delivered, upon actual delivery or refusal of delivery; (c) mailed by registered or certified United States mail, return receipt requested, postage prepaid, upon actual delivery; or (d) sent by a nationally recognized overnight delivery service, upon actual delivery. All notices, consents, waivers, or other communications required or permitted to be given hereunder shall be addressed to the respective party to whom such notice, consent, waiver, or other communication relates at the following addresses:

If to MAG:

Magnequench, Inc.
9775 Crosspoint Boulevard
Suite 100
Indianapolis, IN 46256
Attn: Chief Executive Officer
Fax: (317) 572-1536

with a copy to:

Ice Miller
One American Square, Box 82001
Indianapolis, Indiana 46282-0002
Attn: John R. Thornburgh, Esq.
Fax: (317) 236-2219

If to the Buyer:

Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154
Attn: Michael S. Venie
Fax: (734) 525-4771

with copies to:

MidMark Equity Partners II, L.P.
177 Madison Avenue
Morristown, New Jersey 07945
Attn: Matthew Finlay
Fax: (973) 971-9963

and

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102

Attn: David F. Broderick, Esq.
Fax: (973) 624-7070

If to the Escrow Agent:

Commerce Bank, NA
1701 Route 70 East
Cherry Hill, New Jersey 08034
Attn: Arlene Murphy
Fax: (856) 470-6186

Any party by written notice to the other parties pursuant to this Section 13 may change the address or the persons to whom notices or copies thereof shall be directed.

Section 14. **Waivers; Amendments**. Any waiver by any party hereto of any breach of or failure to comply with any provision of this Agreement by any other party hereto shall be in writing and shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement. This Agreement may only be modified by a writing signed by the Sellers and the Buyer and consented to by the Escrow Agent; provided, that any amendment, modification or waiver of the provisions of Sections 6, 7 or 27 shall require the prior written consent of KCCI.

Section 15. **Construction**. The headings in this Agreement are solely for convenience of reference and shall not be given any effect in the construction or interpretation of this Agreement. Unless otherwise stated, references to Sections are references to Sections of this Agreement.

Section 16. **Business Day**. As used in this Agreement, "business day" means a day other than a Saturday, Sunday or other day when banking institutions in New York, New York are authorized or required by law or executive order to be closed. Unless specifically referred to as a "business day" or as "business days", any reference to a "day" or to "days" contained in this Agreement refers to a calendar day or to calendar days, as the case may be.

Section 17. **Binding Effect; Assignment**. This Escrow Agreement shall be binding upon, and inure to the benefit of, the heirs, administrators, executors, successors and assigns of the parties hereto. Except as specifically provided herein, neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by any of the parties hereto, whether by operation of law or otherwise, without the prior written consent of the other parties hereto and consented to by the Escrow Agent. Notwithstanding the foregoing, the Buyer may collaterally assign its rights hereunder to any financial institution providing it with the financing necessary to consummate the transactions contemplated by the Purchase Agreement. In addition, any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its Escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

Section 18. **Termination.** This Agreement shall terminate at the time of the final distribution by the Escrow Agent of all Escrowed Funds in accordance with the provisions of this Agreement.

Section 19. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument.

Section 20. **Governing Law; Choice of Forum**. This Agreement shall be governed by the laws of the State of New York (regardless of the laws that might otherwise govern under applicable New York principles of conflicts of law) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. Each party to this Agreement hereby consents to jurisdiction in the United States District Court for the District of New Jersey or the New Jersey Superior Court (Morris County). Each party hereby agrees that service of process in any such suit, action or proceeding brought in the aforementioned courts shall be made by delivering copies thereof by Federal Express or a similar reputable international delivery service, prepaid, to the address set forth or referred to in Section 13. Such service will become effective three business days after the delivery of the suit, action or proceeding to the address indicated, as recorded by the delivery service.

Section 21. **Severability**. The invalidity, legality or enforceability of any provisions of this Agreement shall in no way affect the validity, legality or enforceability of any other provision; and if any provision is held to be unenforceable as a matter of law, the other provisions shall not be affected, impaired or invalidated thereby and shall remain in full force and effect.

Section 22. **Facsimile Signatures**. The parties agree that the execution and transmittal of this Escrow Agreement by facsimile shall be of the same binding effect as the handwritten execution upon an original copy of the Escrow Agreement. The parties agree that they will promptly forward to the others an executed original of the Escrow Agreement and any other document or notice to be delivered hereunder transmitted by facsimile, but that the failure of a party to do so or the absence of arrival of any such executed Escrow Agreement, document or notice shall have no effect on the binding nature of such items transmitted by facsimile.

Section 23. **Joint Direction**. Notwithstanding anything stated herein to the contrary, the affected parties hereto may jointly direct the Escrow Agent, in writing, to perform any action contemplated herein and upon receipt of such joint written direction, the Escrow Agent shall act in compliance therewith and be protected thereby.

Section 24. **Waiver of Offset Rights**. The Escrow Agent hereby waives any and all rights to offset that it may have against the Escrowed Funds including, without limitation, claims arising as a result of any claims, amounts, liabilities, costs, expenses, indemnified costs, or other losses (collectively "Escrow Agent Claims") that the Escrow Agent may be otherwise entitled to collect from any party to this Agreement, other than Escrow Agent Claims arising under this Agreement.

Section 25. **Limited Damages**. IN NO EVENT SHALL THE ESCROW AGENT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION, UNLESS SUCH LOSSES OR DAMAGES AROSE FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE ESCROW AGENT.

Section 26. **No Joint Venture**. Neither this Escrow Agreement nor any other agreement between the Buyer, Sellers and the Escrow Agent shall be deemed to create a joint venture between the Escrow Agent and the Buyer and the Sellers. Nor shall the Escrow Agent be considered the alter ego of the Buyer or the Sellers by virtue of this Agreement, or any other such agreement.

Section 27. **Third Party Beneficiary**. KCCI is an intended third-party beneficiary of, and entitled to enforce the rights granted to it pursuant to this Section 27. The Sellers hereby assign and transfer to KCCI, for the benefit of the Lenders (and grant a security interest to KCCI for the benefit of the Lenders) as additional security for the repayment in full of the obligations to the Lenders under the Credit Agreement, all of the Sellers' respective rights and remedies under this Agreement. This assignment shall continue in effect until all of the obligations to the Lenders under the Credit Agreement have been paid in full and the Credit Agreement has been terminated in accordance with the terms thereof, at which time KCCI shall release the rights and remedies assigned to the Lenders hereby. To the extent that the Escrowed Funds and Interest are deemed to be the property of the Sellers, the parties hereto acknowledge that KCCI, for the benefit of the Lenders, has a security interest therein.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or caused this Agreement to be executed by their duly authorized officers, as of the date first written above.

SELLERS:

MAGNEQUENCH, INC.

By: ____________________________
Name:
Title:

MAGNEQUENCH UG, INC.

By: ____________________________
Name:
Title:

MAGNEQUENCH GMBH

By: ____________________________
Name:
Title:

MAGNEQUENCH TX, LLC

By: ____________________________
Name:
Title:

MAGNEQUENCH DE MEXICO SA DE CV

By: ______________________
Name:
Title:

BUYER:

KANE MAGNETICS ACQUISITION, LLC

By: ______________________
Name:
Title:

ESCROW AGENT:

COMMERCE BANK, NA

By: ______________________
Name: Arlene Murphy
Title: Assistant Vice President

Exhibit B

Form of Second Escrow Agreement

SECOND ESCROW AGREEMENT

THIS SECOND ESCROW AGREEMENT (this "*Agreement*") is made and entered into as of April 30, 2004, by and among Kane Magnetics Acquisition, LLC, a Delaware corporation (the "*Buyer*"), Magnequench, Inc., a Delaware corporation ("*MAG*"), Magnequench UG, Inc., a Delaware corporation ("*MUG*"), Magnequench GmbH, a German limited liability company ("*GmbH*"), Magnequench TX, LLC, an Idaho limited liability company ("*MTX*"), Magnequench de Mexico SA de CV, a Mexican limited liability company ("*MMSA*" and, together with MAG, MUG, GmbH and MTX, the "*Sellers*") and Commerce Bank, NA, a national banking association duly organized and existing under the laws of the United States of America (the "*Escrow Agent*"). Key Corporate Capital Inc., a Michigan corporation ("*KCCI*"), as administrative agent under that certain Third Amended and Restated Credit Agreement, dated as of December 13, 1999, as amended through the date hereof, by and among MAG, MUG, GmbH, MTX, the other borrowers signatory thereto, KCCI and the other lenders signatory thereto (collectively with KCCI, the "*Lenders*") (the "*Credit Agreement*") is a third party beneficiary under this Agreement for the purposes of enforcing its rights under Section 22 of this Agreement.

RECITALS

A. Pursuant to a Purchase Agreement dated as of April 30, 2004, a true and complete copy of which is attached hereto as Exhibit A (the "*Purchase Agreement*") by and among the Buyer and the Sellers, the Buyer is acquiring (i) all of MAG's equity ownership interests in each of GmbH, MTX and MMSA and (ii) all of the assets of MUG related to the Valparaiso Operations, all as more fully described in the Purchase Agreement. Unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Purchase Agreement. This is the Second Escrow Agreement referred to in Section 2.7(b) of the Purchase Agreement.

B. Pursuant to the Purchase Agreement, the Buyer and [redacted] The [redacted] provides for the granting of certain exclusive rights in favor of the Buyer during the term of the [redacted] The Sellers and [redacted] have disclosed to the Buyer the existence of a contract between [redacted] and [redacted] that provides for certain rights which were previously granted to [redacted] which will conflict with the grant of rights to the Buyer under [redacted] some future date.

C. The Purchase Agreement provides that on the Closing Date, the Buyer, the Sellers and the Escrow Agent shall execute and deliver this Agreement.

Section 1. Establishment of Escrow Account. Concurrently with the execution hereof and pursuant to the Purchase Agreement, the Buyer will deliver to the Escrow Agent [redacted] in cash (the "*Escrowed Funds*") by wire transfer of immediately available funds to an account which is hereby established in the corporate trust department of the Escrow Agent (the "***Escrow Account***"). The Escrowed Funds and any interest, dividends, income, or other proceeds earned thereon from and after the Closing Date (all such earnings on the Escrowed Funds are hereinafter collectively referred to as the "***Interest***") shall be held, administered and disposed of by the Escrow Agent in accordance with the terms and conditions hereinafter set forth.

Section 2. **Investment of Escrowed Funds; Proceeds of Escrowed Funds.**

(a) The Escrow Agent shall from time to time invest and reinvest the Escrowed Funds, if any, in accordance with signed, joint written instructions of the Buyer and MAG, in any money market fund customarily used in the Escrow Agent's Corporate Trust department, including but without limitation the Commerce Capital Treasury Obligations Money Market Fund (the "***Fund***"), an open-end management investment company registered under the Investment Company Act of 1940, or other money market mutual funds customarily utilized by the Escrow Agent's Corporate Trust department in the ordinary course of its corporate trust and escrow agent duties. The Fund is sponsored by Commerce Capital Markets, Inc., an affiliate of the Escrow Agent (the "***Permitted Investments***"). The Fund is not endorsed or guaranteed by, and does not constitute obligations of the Escrow Agent, and is not considered an insured deposit by the FDIC. The Fund is advised by Commerce Capital Markets, Inc., a wholly owned non-banking subsidiary of the Escrow Agent (the "***Advisor***"). The Advisor reimburses the Escrow Agent for its administrative services rendered to the Fund at a maximum annual rate of 0.50 of 1% of the Escrow Agent's aggregate average daily net assets in the Fund.

(b) Any Interest shall be set aside and distributed as provided in Section 2(d).

(c) The Escrow Agent shall act upon investment instructions one (1) business day after such instructions are received, provided the requests are communicated within a sufficient amount of time to allow the Escrow Agent to make the specified investment. Instructions received after an applicable investment cutoff deadline will be treated as being received by the Escrow Agent on the next business day, and the Escrow Agent shall not be liable for any loss arising directly or indirectly, in whole or in part, from the inability to invest Escrowed Funds on the day the instructions are received. The Escrow Agent shall not be liable for any loss or liability arising in respect of any directed investment under Section 2(a) except to the extent that such loss or liability arose from the Escrow Agent's gross negligence or willful misconduct. As and when the Escrowed Funds or any Interest or any portion thereof is to be released under this Agreement, the Escrow Agent shall promptly cause the Permitted Investments to be converted into cash, and the Escrow Agent shall not be liable for any loss of principal or income in connection therewith. None of the parties hereto shall be liable for any loss of principal or income due to the choice of Permitted Investments in which the Escrowed Funds is invested or the choice of Permitted Investments that are converted into cash pursuant to this Section 2(c).

(d) If not previously paid or payable to MAG pursuant to Section 3(a), all Interest shall be distributed to the Buyer in accordance with Section 3(b). Notwithstanding anything to the contrary contained herein, any provision of this Agreement requiring the disbursement of Interest by the Escrow Agent shall be construed to refer only to Interest which has accrued and been paid to the Escrow Agent. Any Interest which has accrued and, except for the fact that it has not been paid to the Escrow Agent, would otherwise be required to be disbursed, shall be disbursed within five (5) business days of being paid.

(e) It is understood that all checks received by the Escrow Agent hereunder are subject to clearance time and the funds represented thereby cannot be drawn upon or disbursed until such time as the same constitute good and collected funds. If any checks are returned to the Escrow Agent as uncollectible, the Escrow Agent shall notify the Buyer or MAG, as the case may be, and redeposit such check for collection upon the verbal instructions of the Buyer or MAG, as the case may be. Notwithstanding the foregoing, if for any reason any check or instrument entered for collection by the Escrow Agent hereunder is uncollectible after payment of the funds represented thereby has been made pursuant to the terms hereof, the Buyer or MAG, as the case may be, shall immediately reimburse the Escrow Agent and the Escrow Agent shall deliver the returned check or instrument to the Buyer or MAG, as the case may be.

Section 3. **Release of Escrowed Funds and Interest.**

(b) If on October 30, 2004, the Escrow Agent shall not have received an Escrow Disposition Notice and a copy of the [redacted] from MAG and the Buyer, the Escrow Agent shall disburse to the Buyer the Escrowed Funds plus Interest upon the receipt by the Escrow Agent of an Escrow Disposition Notice in the form attached hereto as Exhibit E (the "***Buyer Escrow Disposition Notice***") executed by each MAG and the Buyer and this Escrow Agreement shall terminate. Payment shall be made by the Escrow Agent to the Buyer not more than three (3) business days after receipt of the Buyer Escrow Disposition Notice.

(c) The Escrow Agent shall only release Escrowed Funds and/or Interest upon (i) receipt of the MAG Escrow Disposition Notice signed by each of MAG and the Buyer, (ii) receipt of the Buyer Escrow Disposition Notice signed by each of MAG and the Buyer, or (iii) receipt by the Escrow Agent of a copy of a Final Determination (as defined below) establishing either MAG's or the Buyer's right to the Escrowed Funds and Interest under this Agreement. A "***Final Determination***" shall mean a final, non-appealable judgment of a court of competent jurisdiction and shall be accompanied by an opinion of counsel for the presenting party addressed to and reasonably satisfactory to the Escrow Agent to the effect that such judgment is a final, non-appealable judgment of a court of competent jurisdiction and establishes either MAG's or the Buyer's right to the Escrowed Funds and Interest under this Agreement.

(d) Notwithstanding anything to the contrary contained herein, any provision hereof requiring the disbursement of Interest by the Escrow Agent shall be construed to refer only to Interest which has accrued and been paid to the Escrow Agent. Any Interest which has accrued and, except for the fact that it has not been paid to the Escrow Agent, would be required to be disbursed, shall be disbursed within five (5) business days of being paid.

Section 4. Taxpayer Identification Numbers. The parties acknowledge that each has supplied the Escrow Agent with its Internal Revenue Service taxpayer identification number.

Section 5. Compensation; Expenses. In consideration for its services as Escrow Agent, the Escrow Agent shall be entitled to receive the compensation set forth in Exhibit F hereto, as well as the reimbursement of all reasonable and documented out-of-pocket costs and expenses actually incurred by the Escrow Agent in the performance of its duties hereunder. All such fees and expenses of the Escrow Agent hereunder shall be paid by the Buyer on one hand and MAG on the other hand, on a 50%/50% basis. The Escrow Agent shall have, and is hereby granted, a prior lien upon any property, cash, or assets of the Escrow Account, with respect to its unpaid fees, nonreimbursed expenses and unsatisfied indemnification amounts, superior to the interests of any other persons or entities. The Escrow Agent shall be entitled to and is hereby granted the right to set off and deduct any unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights from amounts on deposit in the Escrow Account, including without limitation, any fees and expenses that have not been paid by the Buyer or MAG pursuant to this Section 5. To the extent any unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights are set off or deducted from the Escrow Account by the Escrow Agent, each of the Buyer and MAG agree to reimburse the Escrow Account for their portion of the unpaid fees, nonreimbursed expenses and unsatisfied indemnification rights fees and expenses of the Escrow Agent that such party did not pay directly to the Escrow Agent.

Section 6. Exculpation and Indemnification.

(a) The obligations and duties of the Escrow Agent are confined to those specifically set forth in this Agreement. In the event that any of the terms and provisions of any other agreement between any of the parties hereto conflict or are inconsistent with any of the terms and provisions of this Agreement, the terms and provisions of this Agreement shall govern and control in all respects.

(b) The Escrow Agent shall not be personally liable for any act that it may do or omit to do hereunder in good faith and in the exercise of its own best judgment. Any act done or omitted to be done by the Escrow Agent pursuant to the good faith advice of its attorneys shall be deemed conclusively to have been performed or omitted in good faith by the Escrow Agent. If the Escrow Agent becomes involved in litigation on account of this Agreement, it shall have the right to retain counsel and shall have a first lien on the property deposited hereunder for any and all costs, reasonable attorneys' fees, charges, disbursements, and expenses in connection with such litigation; and shall be entitled to reimburse itself therefor out of the property deposited hereunder, and if it shall be unable to reimburse itself from the property deposited hereunder, the parties hereto jointly and severally agree to pay to the Escrow Agent on demand its reasonable charges, counsel and attorneys' fees, disbursements, and expenses in connection with such litigation.

(c) In the event the Escrow Agent is notified of any dispute, disagreement or legal action between the Buyer, MAG and any third party relating to or arising in connection with the escrow, the Escrow Amount, or the performance of the Escrow Agent's duties under this Agreement, the Escrow Agent will not be required to determine the controversy or to take any action regarding it. The Escrow Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings, arbitration, or other means as, in the Escrow Agent's discretion, it may require. In such event, the Escrow Agent will not be liable for interest or damage. Furthermore, the Escrow Agent may, at its option, file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves. The Escrow Agent is authorized, at its option, to deposit with the Clerk of the Court or the Arbitrator, as applicable, all documents and funds held in escrow, except all costs, expenses, charges, and reasonable attorneys' fees incurred by the Escrow Agent due to the interpleader action and which the Buyer or MAG agree to pay. Upon initiating such action, the Escrow Agent shall be fully released and discharged of and from all obligations and liability imposed by the terms of this Agreement.

(d) The Buyer and MAG hereby agree, jointly and severally, to indemnify and hold the Escrow Agent, and its directors, officers, employees, and agents, harmless from and against all reasonable costs, damages, judgments, attorneys' fees (whether such attorneys shall be regularly retained or specifically employed), expenses, obligations and liabilities of every kind and nature which the Escrow Agent, and its directors, officers, employees, and agents, may incur, sustain, or be required to pay in connection with or arising out of this Agreement, unless the aforementioned results from the Escrow Agent's gross negligence or willful misconduct, and to pay the Escrow Agent on demand the amount of all such reasonable costs, damages, judgments, attorneys' fees, expenses, obligations, and liabilities. The reasonable costs and expenses of enforcing this right of indemnification also shall be paid equally by the Buyer and MAG. The foregoing indemnities in this Section 6(d) shall survive the resignation or substitution of the Escrow Agent or the termination of this Agreement.

(e) The Escrow Agent shall have no responsibility to inquire into or determine the genuineness, authenticity, or sufficiency of any securities, checks, or other documents or instruments submitted to it in connection with its duties hereunder, unless the Escrow Agent has actual knowledge that the genuineness, authenticity, or sufficiency are in doubt.

(f) The Escrow Agent shall be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of the parties hereto, and shall be entitled to rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind, unless the Escrow Agent has actual knowledge otherwise.

(g) MAG and the Buyer, jointly and severally, hereby indemnify and hold the Escrow Agent harmless from any possible violations of any Environmental Laws including any local, state or federal law, rule or regulation pertaining to environmental matters, as now or hereafter enacted or amended, including without limitation, the Federal Comprehensive Environmental Response; Compensation and Liability Act of 1980; the Federal Resource Conservation and Recovery Act; the Federal Superfund Amendments and Reauthorization Act of 1986; the Federal Toxic Substance Control Act; the Federal Hazardous Material Transportation Act; the Federal Clean Air Act; the Federal Water Pollution Control Act; the Industrial Site Recovery Act; the New Jersey Spill Act; the Underground Storage Tank Act; together with any other federal, state or local superlien, or other statutes, rules or regulations, as now or hereafter amended in any way pertaining to clean-up, disclosure, water pollution control, air pollution control, regulation of solid waste, hazardous waste management, storage tanks, regulation of environmentally sensitive areas, use of ground water, surface waters and wetlands, hazardous and toxic substance reporting and any other laws including case law, which might be deemed or referred to as environmental common law.

(h) The duties and obligations of the Escrow Agent shall be limited to and determined solely by the express provisions of this Escrow Agreement and no implied duties or obligations shall be read into this Escrow Agreement against the Escrow Agent. The Escrow Agent is not bound by and is under no duty to inquire into the terms or validity of any other agreements or documents, including any agreements or documents which may be related to, referred to in or deposited with the Escrow Agent in connection with this Escrow Agreement.

Section 7. Resignation; Replacement. The Escrow Agent may resign at any time upon giving at least thirty (30) days prior written notice to the other parties hereto and, similarly, the Escrow Agent may be removed and replaced following the giving of thirty (30) days prior written notice to the Escrow Agent jointly by the other parties hereto; provided, however, that no such resignation or removal shall become effective until the appointment of a successor escrow agent which shall be accomplished as follows: The Buyer and MAG shall use best efforts to select a successor escrow agent within thirty (30) days after the date of the notice of resignation or removal. If the other parties hereto have failed to appoint a successor prior to the expiration of thirty (30) days following receipt of the notice of resignation or removal, the Escrow Agent may appoint a successor or petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon all of the parties hereto. The successor escrow agent shall execute and deliver an instrument accepting such appointment and it shall, without further acts, be vested with all the estates, properties, rights, powers, and duties of the predecessor escrow agent as if originally named as escrow agent. Upon delivery of such instrument, the Escrow Agent shall be discharged from any further duties and liability under this Agreement. The Escrow Agent shall be paid any outstanding fees and expenses prior to transferring assets to a successor escrow agent.

Section 8. Notices. All notices, requests, consents, waivers, and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if: (a) transmitted by facsimile, upon acknowledgment of actual receipt thereof in writing by facsimile or otherwise; (b) personally delivered, upon actual delivery or refusal of delivery; (c) mailed by registered or certified United States mail, return receipt requested, postage prepaid, upon actual delivery; or (d) sent by a nationally recognized overnight delivery service, upon actual delivery. All notices, consents, waivers, or other communications required or permitted to be given hereunder shall be addressed to the respective party to whom such notice, consent, waiver, or other communication relates at the following addresses:

If to MAG:

Magnequench, Inc.
9775 Crosspoint Boulevard
Suite 100
Indianapolis, IN 46256
Attn: Chief Executive Officer
Fax: (317) 572-1536

with a copy to:

Ice Miller
One American Square, Box 82001
Indianapolis, Indiana 46282-0002
Attn: John R. Thornburgh, Esq.
Fax: (317) 236-2219

If to the Buyer:

Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154
Attn: Michael S. Venie
Fax: (734) 525-4771

with copies to:

MidMark Equity Partners II, L.P.
177 Madison Avenue
Morristown, New Jersey 07945
Attn: Matthew Finlay
Fax: (973) 971-9963

and

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Attn: David F. Broderick, Esq.
Fax: (973) 624-7070

If to the Escrow Agent:

Commerce Bank, NA
1701 Route 70 East
Cherry Hill, New Jersey 08034
Attn: Arlene Murphy
Fax: (856) 470-6186

Any party by written notice to the other parties pursuant to this Section 8 may change the address or the persons to whom notices or copies thereof shall be directed.

Section 9. Waivers; Amendments. Any waiver by any party hereto of any breach of or failure to comply with any provision of this Agreement by any other party hereto shall be in writing and shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement. This Agreement may only be modified by a writing signed by the Sellers and the Buyer and consented to by the Escrow Agent; provided, that any amendment, modification or waiver of the provisions of Sections 3 or 22 shall require the prior written consent of KCCI.

Section 10. Construction. The headings in this Agreement are solely for convenience of reference and shall not be given any effect in the construction or interpretation of this Agreement. Unless otherwise stated, references to Sections are references to Sections of this Agreement.

Section 11. Business Day. As used in this Agreement, "business day" means a day other than a Saturday, Sunday or other day when banking institutions in New York, New York are authorized or required by law or executive order to be closed. Unless specifically referred to as a "business day" or as "business days", any reference to a "day" or to "days" contained in this Agreement refers to a calendar day or to calendar days, as the case may be.

Section 12. Binding Effect; Assignment. This Escrow Agreement shall be binding upon, and inure to the benefit of, the heirs, administrators, executors, successors and assigns of the parties hereto. Except as specifically provided herein, neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by any of the parties hereto, whether by operation of law or otherwise, without the prior written consent of the other parties hereto and consented to by the Escrow Agent. Notwithstanding the foregoing, the Buyer may collaterally assign its rights hereunder to any financial institution providing it with the financing necessary to consummate the transactions contemplated by the Purchase Agreement. In addition, any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its Escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

Section 13. Termination. This Agreement shall terminate at the time of the final distribution by the Escrow Agent of all Escrowed Funds in accordance with the provisions of this Agreement.

Section 14. **Counterparts**. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument.

Section 15. **Governing Law; Choice of Forum**. This Agreement shall be governed by the laws of the State of New York (regardless of the laws that might otherwise govern under applicable New York principles of conflicts of law) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. Each party to this Agreement hereby consents to jurisdiction in the United States District Court for the District of New Jersey or the New Jersey Superior Court (Morris County). Each party hereby agrees that service of process in any such suit, action or proceeding brought in the aforementioned courts shall be made by delivering copies thereof by Federal Express or a similar reputable international delivery service, prepaid, to the address set forth or referred to in Section 8. Such service will become effective three business days after the delivery of the suit, action or proceeding to the address indicated, as recorded by the delivery service.

Section 16. **Severability**. The invalidity, legality or enforceability of any provisions of this Agreement shall in no way affect the validity, legality or enforceability of any other provision; and if any provision is held to be unenforceable as a matter of law, the other provisions shall not be affected, impaired or invalidated thereby and shall remain in full force and effect.

Section 17. **Facsimile Signatures**. The parties agree that the execution and transmittal of this Escrow Agreement by facsimile shall be of the same binding effect as the handwritten execution upon an original copy of the Escrow Agreement. The parties agree that they will promptly forward to the others an executed original of the Escrow Agreement and any other document or notice to be delivered hereunder transmitted by facsimile, but that the failure of a party to do so or the absence of arrival of any such executed Escrow Agreement, document or notice shall have no effect on the binding nature of such items transmitted by facsimile.

Section 18. **Joint Direction**. Notwithstanding anything stated herein to the contrary, the affected parties hereto may jointly direct the Escrow Agent, in writing, to perform any action contemplated herein and upon receipt of such joint written direction, the Escrow Agent shall act in compliance therewith and be protected thereby.

Section 19. **Waiver of Offset Rights**. The Escrow Agent hereby waives any and all rights to offset that it may have against the Escrowed Funds including, without limitation, claims arising as a result of any claims, amounts, liabilities, costs, expenses, indemnified costs, or other losses (collectively "*Escrow Agent Claims*") that the Escrow Agent may be otherwise entitled to collect from any party to this Agreement, other than Escrow Agent Claims arising under this Agreement.

Section 20. **Limited Damages**. IN NO EVENT SHALL THE ESCROW AGENT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS

OF THE FORM OF ACTION, UNLESS SUCH LOSSES OR DAMAGES AROSE FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE ESCROW AGENT.

Section 21. No Joint Venture. Neither this Escrow Agreement n or any other agreement between the Buyer, the Sellers and the Escrow Agent shall be deemed to create a joint venture between the Escrow Agent and the Buyer and the Sellers. Nor shall the Escrow Agent be considered the alter ego of the Buyer or the Sellers by virtue of this Agreement, or any other such agreement.

Section 22. Third-Party Beneficiary. KCCI is an intended third-party beneficiary of, and entitled to enforce the rights granted to it pursuant to this Section 22. The Sellers hereby assign and transfer to KCCI, for the benefit of the Lenders (and grant a security interest to KCCI for the benefit of the Lenders) as additional security for the repayment in full of the obligations to the Lenders under the Credit Agreement, all of the Sellers' respective rights and remedies under this Agreement. This assignment shall continue in effect until all of the obligations to the Lenders under the Credit Agreement have been paid in full and the Credit Agreement has been terminated in accordance with the terms thereof, at which time KCCI shall release the rights and remedies assigned to the Lenders hereby. To the extent that the Escrowed Funds and Interest are deemed to be the property of the Sellers, the parties hereto acknowledge that KCCI, for the benefit of the Lenders, has a security interest therein.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or caused this Agreement to be executed by their duly authorized officers, as of the date first written above.

SELLERS:

MAGNEQUENCH, INC.

By: ________________________
Todd B. Boney, CFO and Treasurer

MAGNEQUENCH UG, INC.

By: ________________________
Todd B. Boney, CFO and Treasurer

MAGNEQUENCH GMBH

By: ________________________
Todd B. Boney, Authorized Representative

MAGNEQUENCH TX, LLC

By: ________________________
Todd B. Boney, CFO and Treasurer

MAGNEQUENCH DE MEXICO SA DE CV

By: ________________________
Todd B. Boney, Authorized Representative

BUYER:

KANE MAGNETICS ACQUISITION, LLC

By: ______________________________
Name:
Title:

ESCROW AGENT:

COMMERCE BANK, NA

By: ______________________________
Name: Arlene Murphy
Title: Assistant Vice President

Exhibit C

Form of Opinion of Ice Miller

Exhibit D

Form of Opinion of McCarter & English, LLP

Exhibit E

Form of Transition Services Agreement

TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT ("Agreement") is made as of April 30, 2004 (the "Closing Date") by and between MAGNEQUENCH, INC., a Delaware corporation ("Seller"), and KANE MAGNETICS ACQUISITION, LLC, a Delaware limited liability company ("Buyer").

WITNESSETH:

WHEREAS, contemporaneously with the execution of this Agreement, Buyer and Seller are entering into a Purchase Agreement, of even date herewith, by and among Buyer, Magnequench UG, Inc., Magnequench GmbH, Magnequench TX, Inc., Magnequench de Mexico SA de CV, and Seller (the "Purchase Agreement");

WHEREAS, Buyer will require Seller's assistance with respect to certain Services (as hereinafter defined) during the periods specified herein; and

WHEREAS, Seller has agreed to provide, and Buyer desires to contract for the use of, the Services;

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

Section 1. Services to be Performed; Term; Performance and Cooperation.

(a) In accordance with the terms and provisions of this Agreement, Seller agrees to perform (or to cause its affiliates to perform) for Buyer the services described on Exhibit A hereto (collectively, the "Services") for the time period and to the extent specified on Exhibit A with respect to each such Service.

(b) This Agreement shall become effective as of the date hereof and shall terminate with respect to each Service on the date specified for such Service in accordance with Exhibit A; *provided, however*, that Buyer may terminate any Service prior to the date specified for such Service on Exhibit A as set forth in such Exhibit A or, if none is set forth, by five (5) days prior written notice to Seller. Any extension or renewal of the term of any Service after the date specified for such Service on Exhibit A shall be by mutual written consent of the parties hereto at their sole discretion.

(c) Notwithstanding anything to the contrary contained herein, this Agreement may be terminated, in whole or in part, at any time:

(i) by the mutual consent of Buyer and Seller;

(ii) by Buyer in the event of any material breach or default by Seller of any of Seller's obligations under this Agreement and the failure of Seller to cure, or to take substantial steps towards the curing of, such breach or default within thirty (30) days after Buyer gives Seller written notice requesting such breach or default to be cured; or

(iii) by Seller in the event of any material breach or default by Buyer of any of Buyer's obligations under this Agreement and the failure of Buyer to cure, or to take substantial steps towards the curing of, such breach or default within thirty (30) days after Seller gives Buyer written notice requesting such breach or default to be cured.

(d) Seller shall provide Services consistent with its past practices and at substantially the same level and quality as provided by it prior to the Closing Date. Seller shall provide Services in a time frame consistent with its past practices. All Services provided by Seller hereunder shall be performed in accordance with applicable industry standards. As needed from time to time during the period during which Services are provided, and upon termination of the provision of any Services, Seller will provide Buyer all records (in any format, electronic or otherwise) related to the provision of Services under this Agreement, including, but not limited to, billing and other business records related to Services provided. At its option, Seller may cause any Service it is required to provide hereunder to be provided by one of its affiliates or by any other Person that is providing, or may from time to time provide, the same or similar services for Seller; *provided, however,* that Seller shall remain responsible, in accordance with the terms of this Agreement, for performance of any Service it causes to be so provided.

(e) The parties shall use reasonable commercial efforts to cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation shall include exchanging information, providing electronic access to data systems used in connection with Services, performing true-ups and adjustments, and obtaining all consents, licenses, sublicenses, or approvals necessary or desirable to permit each party to perform its obligations hereunder. The costs of obtaining such consents, licenses, sublicenses, or approvals shall be borne by Buyer (except for the cost allocable to the time and effort of employees of Seller or its affiliates).

(f) If Seller reasonably believes it is unable to provide any Service (or, in the case of data systems, to support the function to which the data system relates) because of a failure to obtain necessary consents, licenses, sublicenses, or approvals or because of impracticability, the parties shall cooperate to determine the best alternative approach. Until such alternative approach is found or the problem is otherwise resolved to the satisfaction of the parties, Seller shall: (i) use reasonable commercial efforts to continue providing the Service; or (ii) in the case of data systems, support the function to which the data system relates or permit Buyer to have access to the data system so that Buyer can support the function itself. To the extent an agreed upon alternative approach requires payment above and beyond that which is included in Seller's charge for the Service in question, Buyer shall be responsible for such payment in an amount corresponding to Seller's direct costs.

(g) The parties will consult with each other in good faith, as required, with respect to the furnishing of and payment for special or additional services and extraordinary items; *provided, however,* that nothing contained herein shall be deemed to require Seller to provide any such special or additional services and extraordinary items.

Section 2. Payment.

In consideration for the Services to be provided by Seller hereunder, Buyer shall pay to Seller such fees and costs as are set forth on Exhibit A. The fees for the Services shall be payable monthly in arrears. Seller shall forward to Buyer separate invoices for the Services, listing the Services provided hereunder and listing the fees for such Services. Invoices shall be payable within forty-five (45) days after receipt by Buyer. Buyer shall additionally be responsible for the payment of any sales or other taxes relating to the provision of goods or services received with respect to Services provided by Seller hereunder, but not any taxes attributable to Seller's net income.

Section 3. Relationship of Parties.

(a) All employees and representatives of Seller or its affiliates providing Services to Buyer under this Agreement shall be deemed for purposes of all compensation and employee benefits to be employees or representatives solely of Seller or its affiliates and not to be employees or representatives of Buyer or its affiliates. In performing their respective duties hereunder, all such employees and representatives of Seller or its affiliates shall be under the direction, control, and supervision of Seller or its affiliates (and not of Buyer or its affiliates), as the case may be. Seller shall have the sole right to exercise all authority with respect to the employment (including termination of employment), assignment, and compensation of such employees and representatives.

(b) The parties hereto are independent contractors. No officers, employees, agents, or representatives of one party will be deemed to be officers, employees, agents, or representatives of the other for any purpose or under any circumstances. No partnership, joint venture, alliance, fiduciary or any relationship other than that of independent contractors is created hereby, expressly or by implication.

Section 4. Use of Information; Confidentiality.

(a) Each of the parties shall, and shall cause each of its affiliates and each of their respective officers, directors, members, managers, employees, representatives, and agents to, hold all information and documents relating to the business of the other party disclosed to it by reason of this Agreement confidential and will not disclose any of such information or documents to any person or entity without the prior written consent of the disclosing party unless legally compelled to disclose such information or documents; *provided, however*, that to the extent that any party may become so legally compelled they may only disclose such information or documents if they shall first have used reasonable efforts to, and, if practicable, shall have afforded the other party the opportunity to, obtain an appropriate protective order or other satisfactory assurance of confidential treatment for the information required to be so disclosed. The foregoing obligation of confidentiality shall not apply to information that (i) is in or hereafter enters the public domain through no fault of the receiving party, (ii) is obtained by the receiving party without obligations of confidentiality from a third-party having the legal right to use and disclose the same, or (iii) is independently developed by the receiving party after the date hereof without use of confidential information, as evidenced by a written record proving such independent development.

(b) It is understood that prior to, during, or after performance of this Agreement, each party's personnel may unavoidably receive or have access to private or confidential information of the other party (including other operations) which is not specifically covered by the foregoing. Each party agrees: (i) that all such information will be subject to the provisions of this Section 4 and to any other applicable confidentiality provisions of any other relevant agreements to which each of the parties hereto are parties; and (ii) that its personnel will comply with all reasonable requirements of the other party (including identification badges and sign-in procedures) in connection therewith.

Section 5. Compliance with Laws.

Each party will, with respect to its obligations and performance hereunder, comply with all applicable requirements of federal, state, local, and foreign laws, rules, and regulations, including without limitation import and export control, environmental, and occupational safety requirements.

Section 6. Miscellaneous.

(a) Governing Law. This agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York without regard to its principles of conflicts of law.

(b) Force Majeure. Neither party will have any liability for its failure to perform (or delay in performing) any of its obligations under this Agreement if such failure or delay is due to fire, explosion, lightning, pest damage, power failure or surges, strikes or labor disputes, water or flood, acts of God, the elements, war, acts of terrorism, civil disturbances, acts of civil or military authorities or the public enemy, acts or omissions of communications or other carriers, or any other cause beyond a party's reasonable control, whether or not similar to the foregoing.

(c) Further Action. Each of the parties hereto shall use such party's best efforts to take such actions as may be necessary or reasonably requested by the other party to carry out and consummate the transactions contemplated by this Agreement.

(d) Assignment. This Agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as otherwise specifically provided herein, neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assignable or transferable by either party without the prior written consent of the other party hereto; provided, however, that Buyer may, without any prior notice to or consent of Seller, assign or delegate, in whole or in part, its rights and duties under this Agreement to any Affiliate or to any Person who shall acquire all or substantially all of the assets or more than fifty percent (50%) of the then outstanding voting securities of Buyer whether by purchase, merger, consolidation or otherwise. Buyer acknowledges that Seller may delegate the performance of certain Services to one or more of its affiliates that normally perform such Services; *provided, however*, that Seller shall remain fully responsible for compliance with the terms of this Agreement as if such delegation had not taken place. Any unauthorized assignment or transfer (or attempted assignment or transfer) will be void.

(e) Entire Agreement; Modification; Waivers. This Agreement (including Exhibit A attached hereto) constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiation, commitments and writings with respect to Services. This Agreement (including Exhibit A attached hereto) may not be altered, modified, or amended except by a written instrument signed by all affected parties. The failure of any party to require the performance or satisfaction of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

(f) Partial Invalidity. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement, or any such terms in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

(g) Specific Performance. The parties hereto recognize that any breach of the terms of this Agreement may give rise to irreparable harm for which money damages would not be an adequate remedy, and accordingly agree that, in addition to other remedies, any non-breaching Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce the terms and provisions of this Agreement by a decree of specific performance in any action instituted in any court of the United States or any state thereof, or any other jurisdiction, having jurisdiction without the necessity of proving the inadequacy as a remedy of money damages.

(h) Notices. All required or permitted notices, demands, consents, or other communications shall be in writing and shall be addressed as set forth below and delivered by hand or sent (with all delivery and postage charges prepaid): (1) by facsimile or electronic transmission with delivery confirmed; (2) by a nationally recognized express mail delivery service (next available day delivery against receipt); or (3) United States Certified Mail, Return Receipt Requested. Notices shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, or upon personal delivery, each in accordance with this Section 6(h).

(i) If to Seller, to:

Magnequench, Inc.
9775 Crosspoint Boulevard, Suite 100
Indianapolis, Indiana, 46256 U.S.A.
Attn: Chief Executive Officer [Address]

Fax: (317) 572-1536

with a copy to:

Ice Miller
One American Square, Box 82001
Indianapolis, Indiana 46282-0002
Attn:
Fax:

(ii) if to Buyer, to:

Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154
Attn: Michael S. Venie
Fax: (734) 525-4771

with copies to:

MidMark Equity Partners II, L.P.
177 Madison Avenue
Morristown, New Jersey 07945
Attn: Matthew Finlay
Fax: (973) 971-9963

and

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
Attn: David F. Broderick, Esq.
Fax: (973) 624-7070

Any of the above addresses may be changed at any time by notice given as provided above; *provided*, *however*, that any such notice of change of address shall be effective only upon receipt.

(i) Survival of Obligations. The obligations of the parties under Sections 2 and 4 shall survive the expiration of this Agreement.

(j) Title and Headings. Titles and headings to sections herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(k) Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each of Seller and Buyer has caused this Agreement to be duly executed on its behalf by its duly authorized officer as of the date first written above.

MAGNEQUENCH, INC.

By:________________________
Name:
Title:

KANE MAGNETICS ACQUISITION, LLC

By:________________________
Name:
Title:

Exhibit F

Form of Powder Supply Agreement

Exhibit G

Form of Liquid Coated Powder Toll Processing Agreement

LIQUID COATED POWDER
TOLL PROCESSING AGREEMENT

This **LIQUID COATED POWDER TOLL PROCESSSING AGREEMENT** ("***Agreement***") is made effective this 30th day of April, 2004 (the "***Effective Date***") by and between Kane Magnetics Acquisition, LLC, a Delaware limited liability company, located at 14137 Farmington Road, Livonia, Michigan 48154, U.S.A. ("***Toll Processor***") and Magnequench, Inc., a Delaware corporation, located at 9775 Crosspoint Boulevard, Suite 100, Indianapolis, Indiana 46256, U.S.A. ("***MI***").

RECITALS

WHEREAS, Toll Processor and MI are parties to that certain Purchase Agreement, dated of even date herewith (the "***Purchase Agreement***"), whereby Toll Processor is purchasing from MI: (i) 100% of the issued and outstanding capital stock of Magnequench GmbH, a company organized under the laws of Germany; (ii) 100% of MI's equity ownership interests of Magnequench de Mexico SA de CV, a company organized under the laws of Mexico ("***MMSA***"); (iii) 100% of MI's equity ownership interests of Magnequench TX, LLC, an Idaho limited liability company; and (iv) certain assets of Magnequench UG, Inc., a Delaware corporation;

WHEREAS, MI desires that Toll Processor process certain grades of neodymium iron boron magnetic powder ("***Raw Powder***") produced by MI (or an Affiliate of MI) by (i) milling the Raw Powder to a specified particle size, (ii) mixing the milled Raw Powder with appropriate binders and lubricants, and (iii) blending the Raw Powder (collectively, the "***Toll Processing Services***"), each as required by the Product Specifications for the applicable Finished Powder and in accordance with the Liquid Coated Process Flow Diagram attached hereto as Exhibit A, pursuant to the terms and conditions of this Agreement;

WHEREAS, Toll Processor shall provide the Toll Processing Services (or shall cause MMSA to provide the Toll Processing Services) to process the Raw Powder into Finished Powder pursuant to the terms and conditions of this Agreement; and

WHEREAS, capitalized terms used herein are defined in Section 25 of this Agreement;

NOW, THEREFORE, in consideration of the premises, the undertakings of the parties pursuant to this Agreement and other good and valuable consideration, it is agreed as follows:

1. **Supply of Raw Powder and Manufacture of Finished Powder.**

1.1 Supply of Raw Powder. MI (or an Affiliate of MI) shall, at its cost, deliver Raw Powder to MI's (or an Affiliate of MI's) leased warehouse space located at 11444 Rojaz, #C-6, El Paso, Texas 79936 or such other location in North America as is determined by MI (the "***Warehouse***"). The inventory of Raw Powder at the Warehouse shall be maintained in such amounts as are sufficient for Toll Processor to satisfy all of the Purchase Orders issued by MI (or any Affiliate of MI) pursuant to Section 7.3.

1.2 Production of Finished Powder. Toll Processor shall timely perform (or shall cause MMSA to timely perform) the Toll Processing Services requested by MI (or an Affiliate of MI) by the issuance of Purchase Orders in accordance with Section 7.3 hereof to produce the ordered Finished Powder. All of the Toll Processing Services shall be performed at Toll Processor's (or MMSA's) manufacturing site at Salvarcar Industrial Center #6, Ciudad Juarez, Chihuahua, Mexico (the "*Facility*"). The Finished Powder will be toll processed by Toll Processor (or MMSA) using the Raw Powder supplied by MI (or an Affiliate of MI). Toll Processor shall supply, at no additional cost or liability to MI, all other raw materials, equipment, tooling and supplies needed for the Toll Processing Services, including but not limited to all required resins, hardeners, accelerators, binders and lubricants. Toll Processor shall convert the Raw Powder into Finished Powder at a conversion rate of no less than [redacted] of Finished Powder per [redacted] of Raw Powder.

1.3 Security Interest. To protect MI's (or MI's Affiliates') right title and interest in the Raw Powder and the Finished Powder, Toll Processor hereby agrees to execute and deliver to MI, upon MI's request, such instruments and assurances as MI deems necessary or desirable to establish, confirm and maintain perfection of MI's and its Affiliates' rights and interests in and to the Raw Powder and the Finished Powder under this Agreement. Toll Processor hereby authorizes MI to sign on behalf of Toll Processor and file documents as MI deems necessary or desirable to protect its right, title and interest in the Raw Powder and Finished Powder.

2. **Term**. The initial term of this Agreement shall commence on the Effective Date and shall end on the [redacted] of the Effective Date (the "***Initial Term***"). The Initial Term shall automatically be extended for additional terms of [redacted] (each a "***Renewal Term***"), unless MI or Toll Processor provides the other party with a written notice of termination not less than sixty (60) days before the expiration of the Initial Term or a Renewal Term, as applicable. As used herein, the "***Term***" shall mean the Initial Term and any Renewal Terms.

3. **Quantity**. Toll Processor agrees to perform all Toll Processing Services required by MI (or Affiliates of MI); provided, however, nothing herein shall require MI (or any Affiliate of MI) to require any specified minimum amount of Toll Processing Services, except for amounts covered under Purchase Orders actually issued by MI (or an Affiliate of MI) pursuant to Section 7.3.

4. **Standards**. The types of Finished Powder to be produced by Toll Processor are set forth on Exhibit B hereto, as the same may be amended from time to time by the mutual written agreement of the parties hereto. Toll Processor agrees that each specified Finished Powder shall conform to the written specifications for such specified Finished Powder as are provided by MI (or Affiliates of MI) to Toll Processor from time to time ("***Product Specifications***").

5. **Inspection and Liability Limitation.**

5.1 Promptly after receiving each shipment of Finished Powder, MI (or an Affiliate of MI) shall examine the Finished Powder for any damage, defect, non-conformance or shortage. Except for claims for breach of the warranties made in Sections 11.4 and 11.5 of this Agreement, all claims relating to the Finished Powder (whether in contract or in tort and under any theory, including, without limitation, negligence, strict liability, contract, warranty or otherwise) shall be deemed waived unless written notice of any such claim or claims is given by MI (or an Affiliate of MI) to Toll Processor within thirty (30) days after MI's (or MI's Affiliate's) receipt of the Finished Powder in respect to which such claim is made, provided that as to any such cause not reasonably discoverable within such thirty (30) days (including that discoverable only in processing, further manufacture, other use or resale), the claim shall be made in writing and given by MI (or the applicable Affiliate of MI) to Toll Processor within one hundred eighty (180) days after MI's (or MI's Affiliate's) receipt of the Finished Powder in respect to which such claim is made, or within ninety (90) days after MI (or an Affiliate of MI) first learns of the facts giving rise to such claims, whichever such shall first occur. Failure of MI (or an Affiliate of MI) to give written notice of any claim to Toll Processor within the applicable time period shall constitute an absolute and unconditional waiver by MI (or MI's Affiliates) of such claim, irrespective of whether the facts giving rise to such claim shall have then been discovered, or whether or not processing, further manufacture, other use or resale of the Finished Powder shall have taken place.

5.2 In the event MI (or an Affiliate of MI) rejects any Finished Powder, MI (or the applicable Affiliate of MI) shall be entitled to the following: (i) to the extent the Raw Powder cannot be recycled pursuant to the Product Specifications, the actual costs of Raw Powder consumed in the manufacture of the rejected Finished Powder; plus (ii) transportation and handling charges paid or incurred by MI (or the applicable Affiliate of MI); plus (iii) a refund of the price paid by MI (or the applicable Affiliate of MI) to Toll Processor; plus (iv) reasonable costs incurred to dispose of or rework the rejected Finished Powder. In no event shall Toll Processor be liable for incidental, consequential or punitive damages resulting directly or indirectly from any such cause.

5.3 If either party furnishes technical or other advice to the other party, whether or not at the request of the party receiving the technical or other advice, with respect to processing, further manufacture or other use of the Finished Powder, the party supplying the advice shall not be liable for, and the party receiving the advice assumes all risk of, such advice and the results which flow from it.

6. Price and Payment.

6.1 Price. As full compensation for the Toll Processing Services, MI (or the applicable Affiliate of MI) shall pay to Toll Processor [redacted] of Finished Powder received and accepted by it, which shall include the costs of disposal of Waste resulting from the performance of the Toll Processing Services.

6.2 Taxes. The price set forth above does not include national, federal, state or local value added, sales, use, property, excise, service, duties or similar taxes ("*Tax(es)*") now or hereafter levied, all of which shall be for MI's account and promptly paid or reimbursed by MI; provided, however, in no event shall the term Tax(es) include any tax imposed upon Toll Processor's income or privilege of doing business. With respect to value added or sales taxes, prior to delivery of the Finished Powder by Toll Processor, MI shall provide to Toll Processor: (i) a valid direct pay authorization; or (ii) a valid tax-exempt certificate. If MI does not provide a valid direct pay authorization or a valid tax-exempt certificate, Toll Processor may determine the appropriate Taxes which are due, pay such Taxes to the appropriate tax authorities, and invoice MI for such Taxes (and MI shall promptly reimburse Toll Processor for the full amount of such Taxes).

7. **Forecasts and Purchase Orders.**

7.1 Within ten (10) days following execution of this Agreement, MI shall provide Toll Processor with a forecast ("***Forecast***") of its purchases under this Agreement for the first twelve (12) months of the Term, said Forecast to be broken down into quarterly projections. Thereafter, for each quarter during the Term MI shall provide to Toll Processor a three (3) month Forecast, each such forecast to be delivered to Toll Processor not less than thirty (30) days prior to the start of the applicable quarter.

7.2 The parties acknowledge and agree that the forecasts and projections specified in Section 7.1 are non-binding and are intended exclusively for the purpose of facilitating the parties' planning.

7.3 MI (or an Affiliate of MI) shall, from time to time, place written orders to Toll Processor for Finished Powder (specifying the applicable type of Finished Powder) in the form attached hereto as Exhibit C detailing MI's and its Affiliates' actual production requirements for the Finished Powder (each, a "***Purchase Order***") not less than thirty (30) days before the required delivery date.

7.4 Toll Processor shall reserve at all times sufficient capacity at its Facility to timely perform its obligations under this Agreement.

8. **Deliveries; Shipping Costs.**

8.1 MI (or an Affiliate of MI) shall provide for transportation of the Raw Powder to the Warehouse, at MI's (or an Affiliate of MI's) sole cost and expense. MI (or an Affiliate of MI) shall provide for transportation of the Finished Powder from the Warehouse, at MI's (or an Affiliate of MI's) sole cost and expense. All Raw Powder and Finished Powder shall be shipped in accordance with the shipping standards set forth in the Product Specifications.

8.2. Toll Processor shall provide for transportation of the Raw Powder from the Warehouse to the Facility, at Toll Processor's sole cost and expense; provided, however, that if MI elects to relocate the Warehouse, MI (or an Affiliate of MI) will pay the increase in the freight charges incurred by Toll Processor in transporting the Raw Powder to the Facility from the relocated warehouse, compared to such freight charges from the Warehouse; however, Toll Processor shall continue to bear the risk of loss (as set forth in Section upon loading at MI's relocated warehouse.

8.3 Toll Processor shall properly package and deliver the Finished Powder in appropriate containers in accordance with the Product Specifications. Toll Processor's weights shall govern for all purposes unless MI can demonstrate manifest error with reliable independent evidence within thirty (30) days of receipt of each shipment.

8.4 Provided that MI's actual requirements of Finished Powder do not differ materially from MI's Forecast for the applicable time period, Toll Processor shall use its commercially reasonable efforts to make all Finished Powder deliveries within thirty (30) days following receipt of the Purchase Order.

8.5 The Raw Powder shall be transported, at Toll Processor's expense, from the Warehouse to the Facility and the Finished Powder shall be transported at Toll Processor's expense from the Facility to the Warehouse. Toll Processor shall also be responsible for all freight charges to return non-conforming Finished Powder to the Facility. If MI elects to relocate the Warehouse from El Paso, Texas, MI will pay the increase in the freight charges incurred by Toll Processor in transporting the Raw Powder from the Warehouse to the Facility and the Finished Powder from the Facility to the relocated Warehouse, as applicable, compared to such freight charges from the Facility to the Warehouse in El Paso, Texas or the Warehouse in El Paso, Texas, to the Facility, as applicable.

8.6 Title to all Raw Powder shall remain with MI (or an Affiliate of MI) at all times. Risk of loss for the Raw Powder shall pass to Toll Processor upon Toll Processor's removal of the Raw Powder from MI's inventory at the Warehouse for transport to the Facility for processing, and thereafter, Toll Processor shall bear all risk of loss of Raw Powder. In the event of loss or damage to Raw Powder by Toll Processor, Toll Processor shall compensate MI for the reasonable value of all Raw Powders so lost or damaged plus transportation and handling charges paid or incurred by MI (or any affiliate of MI). In the event of loss or damage to Finished Powder by Toll Processor, Toll Processor shall compensate MI for the reasonable value of all Raw Powders, a refund of the price paid by MI (or any Affiliate of MI) for producing such Finished Powder, and transportation and handling charges paid or incurred by MI (or any Affiliate of MI). As used herein, the term "reasonable value" shall mean the cost of production plus reasonable overhead and profit, determined in accordance with MI's standard accounting practices.

9. <u>Invoices</u>. Upon each shipment of the Finished Powder, Toll Processor shall invoice MI (or the applicable Affiliate of MI) for the applicable toll processing fees for the Finished Powder ordered by MI (or the applicable Affiliate of MI).

10. <u>Terms of Payment</u>. Payment terms shall be net [redacted] Any invoice not paid within [redacted] shall accrue interest at the lower of [redacted] per month or the highest legal rate under applicable law. All payments received by Toll Processor will be applied to MI's (and MI's Affiliates') oldest existing monetary obligations to Toll Processor for purchases made hereunder.

11. <u>Warranties</u>.

11.1 Toll Processor represents and warrants that the Finished Powder shall meet the Product Specifications.

11.2 Toll Processor represents and warrants that it will store Raw Powder and Finished Powder in a safe, secure and separate area on its premises clearly marked as Raw Powder and/or Finished Powder, each in accordance with the Product Specifications.

11.3 Toll Processor shall not impose or permit to be imposed any liens or encumbrances created by or through Toll Processor or any of its Affiliates whatsoever upon any Raw Powder or Finished Powder.

11.4 Toll Processor represents and warrants that it will comply with all laws, ordinances, orders, rules, regulations, applicable treaties, and actions of the United States of America and Mexico and of any state, county, township or municipal subdivision or other governmental agency which may now or hereafter be applicable to this Agreement, including but not limited to those pertaining to employee safety and health and Environmental Laws, and that it has obtained and will maintain in effect all permits, licenses and other documentation required now or hereafter in order to comply with such governmental laws, ordinances, orders, rules, regulations and actions, and this Agreement, and that it shall furnish copies of the same to MI upon its request.

11.5 Toll Processor will dispose of all Waste, at its cost, in accordance with all applicable Environmental Laws.

11.6 Subject to this Section 11 and except as otherwise expressly provided herein, TOLL PROCESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE FINISHED POWDER, WHETHER THE FINISHED POWDER IS USED ALONE OR IN COMBINATION WITH ANY OTHER MATERIAL, AND INCLUDING ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

12. Force Majeure.

12.1 The failure or inability of either party to timely perform any of its obligations under this Agreement (other than the payment of money), shall not constitute a default or give rise to liability to the other party if the failure or inability is caused by a "force majeure".

12.2 As used in this Agreement, the term "force majeure" means and includes any act of God, nature or the public enemy, accident, explosion, operational malfunction or interruption, fire, storm, earthquake, flood, drought, perils of the sea, strikes, lockouts or labor disputes, riots, sabotage, terrorism, embargo, war (whether or not declared and whether or not the United States is a participant), the imposition of any legal restriction or limitation, failure or delay of transportation, shortage of, or inability to obtain, Raw

Powders, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance beyond the reasonable control of the affected party. Neither party shall be required to resolve labor disputes, or disputes with third parties such as suppliers, except in accordance with its business judgment as to its best interest.

12.3 Force majeure shall only apply if: (i) the party claiming force majeure promptly notifies the other party of the existence of the force majeure event or condition, its expected duration, and the estimated effect upon its ability to perform its obligations under this Agreement; and (ii) the party claiming force majeure proceeds promptly and in a commercially reasonable manner to overcome the force majeure. The party claiming force majeure shall promptly notify the other party once the force majeure has ceased to affect its ability to perform. During a force majeure period, Toll Processor shall allocate its production of Finished Powder among its various internal and external requirements in a reasonable manner as determined by Toll Processor. During the time that Toll Processor is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Finished Powder from any alternate producer or supplier.

13. **<u>MI's Rights of Inspection</u>**. Upon reasonable advance notice, at any reasonable time, MI and its Affiliates (and their respective employees, representatives and professional advisors), shall have the right to enter the Facility: (i) to inspect and review the performance of the Toll Manufacturing Services; and (ii) to monitor Toll Processor's compliance with the provisions contained in this Agreement.

14. **<u>Termination</u>**.

14.1 Toll Processor shall have the right to terminate this Agreement effective immediately upon written notice to MI if MI (or an Affiliate of MI) fails to make any payment under <u>Section 10</u> when due and such failure shall continue unremedied for a period of ten (10) days after the date on which written notice of such failure shall have been received by MI (or the applicable Affiliate of MI).

14.2 Either party shall have the right to terminate this Agreement following written notice to the other party (*"Defaulting Party"*) (and expiration of any applicable cure periods) if the Defaulting Party fails to materially comply with any term or requirement of this Agreement (other than the payment failure by MI or any of its Affiliates covered by <u>Section 14.1</u> above) and such failure to comply is not cured within thirty (30) days after the non-Defaulting Party gives the Defaulting Party written notice thereof; <u>provided</u>, <u>however</u>, that if a failure to comply cannot be cured within thirty (30) days, this Agreement shall not terminate under this provision if the Defaulting Party commences a cure within the thirty (30) day period, and thereafter diligently pursues such cure.

14.3 This Agreement shall automatically terminate if MI or Toll Processor, as applicable: (i) files a voluntary petition in bankruptcy; (ii) files a voluntary petition or answer seeking reorganization, rearrangement or readjustment of its debts or for any other relief under the bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing; (iii) files for appointment of a receiver or trustee for all or a substantial portion of its properties (where the receiver or trustee does not assume the applicable parties' liabilities and obligations under this Agreement); (iv) makes a general assignment for the benefit of creditors; (v) suffers issuance of a warrant of attachment or execution of similar process against a substantial part of its property which is not stayed or discharged within sixty (60) calendar days; or (vi) is unable to obtain discharge of a bankruptcy petition or proceeding filed against it within sixty (60) calendar days of such filing.

14.4 Upon termination of this Agreement, for any reason whatsoever, Toll Processor shall deliver to MI all Finished Powder and unused Raw Powder in the possession or control of Toll Processor or MMSA.

14.5 The expiration or termination of this Agreement shall not affect the rights and liabilities of either party arising during the Term or release either from the obligation to pay any amount arising under this Agreement during the Term.

15. Entire Agreement; Modification.

15.1 This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and there are no other agreements or understandings, written or oral, between the parties with respect to the subject matter of this Agreement.

15.2 The parties contemplate that, from time to time during the Term of this Agreement, either or both of the parties will utilize various documents in order to conveniently facilitate the purchase and delivery of the Raw Powders and Finished Powder, and that these documents (including, but not limited to, Purchase Orders, delivery orders and negotiable and non-negotiable instruments of title) may include terms and conditions different from those of this Agreement. The parties agree (i) that these documents shall not modify the terms and conditions of this Agreement, (ii) that in the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of these documents, the terms and conditions of this Agreement shall prevail, and (iii) that terms and conditions contained in such documents which purport to modify this Agreement shall have no force or effect. The parties also contemplate that there will be routine dealings between their employees. Each party acknowledges that the employees of the other party have no authority to waive, modify or interpret this Agreement. Each party agrees that statements, representations, warranties and promises of the other party's employees supplemental to, or varying from, the terms and conditions of this Agreement shall not be binding and each party shall conduct its business without reliance upon, or regard to, such statements, representations, warranties and promises.

15.3 This Agreement may be modified only by a written document signed by both of the parties and this subsection 15.3 cannot be orally waived or modified.

16. Waiver. No waiver, acquiescence or forbearance by either party hereto of any breach or default of this Agreement, and no course of conduct or dealings between the parties which varies from the terms and conditions of this Agreement, shall: (i) be deemed a waiver as to any subsequent and/or similar breach or default by either party; or, (ii) constitute, or be deemed, a modification of this Agreement; or, (iii) affect the rights or obligations of the parties under this Agreement in any way.

17. **Assignability.**

17.1 MI shall not assign any of its rights or obligations arising from this Agreement without the prior written consent of Toll Processor and any attempt to effect such an assignment without such consent shall be of no force or effect; provided, however, that MI may assign or delegate, in whole but not in part, its rights and obligations under this Agreement to: (i) any Affiliate of MI; (ii) any Person who shall acquire all or substantially all of the assets of MI; or (iii) any Person who shall acquire more than fifty percent (50%) of the then outstanding voting securities of MI whether by purchase, merger, consolidation or otherwise. The Parties acknowledge and agree that any permitted assignment hereunder shall constitute a novation, effective as of the assignment date, of MI's then future obligations hereunder and upon a permitted assignment, MI shall have no then future obligations to Toll Processor under this Agreement.

17.2 Toll Processor shall not, assign any of its rights or obligations arising from this Agreement without the prior written consent of MI and any attempt to effect such an assignment without such consent shall be of no force or effect; provided, however, that Toll Processor may assign or delegate, in whole or in part, its rights and duties under this Agreement to: (i) any Affiliate of Toll Processor; (ii) any Person who shall acquire all or substantially all of the assets of Toll Processor; or (iii) any Person who shall acquire more than fifty percent (50%) of the then outstanding voting securities of Toll Processor whether by purchase, merger, consolidation or otherwise. The Parties acknowledge and agree that any permitted assignment under clauses (ii) and (iii) above shall constitute a novation, effective as of the assignment date, of the Toll Processor's then future obligations hereunder and upon a permitted assignment, Toll Processor shall have no then future obligations to MI under this Agreement.

18. Notices. All required or permitted notices, demands, consents or other communications shall be in writing and shall be addressed as set forth below and delivered by hand or sent (with all delivery and postage charges prepaid): (i) by facsimile or electronic transmission with delivery confirmed; (ii) by a nationally recognized express mail delivery service (next available day delivery against receipt); or, (iii) United States Certified Mail, Return Receipt Requested. Notices shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, or upon personal delivery, each in accordance with this Section 18.

If to Toll Processor:

Kane Magnetics Acquisition, LLC

14137 Farmington Road
Livonia, Michigan 48154
U.S.A.
Facsimile: (734) 525-4771
Attn: President

If to MI:

Magnequench, Inc.
9775 Crosspoint Boulevard, Suite 100
Indianapolis, Indiana 46256
U.S.A.
Facsimile: (317) 572-1536
Attn: Chief Executive Officer

Either party may change the address for notices set forth above by designating a new address for notice in writing and sending it in the manner provided in this section.

19. __Interpretation__. The headings of the clauses of this Agreement have been inserted for convenience only and they shall not affect its interpretation.

20. __Survival__. Except as specifically set forth elsewhere in this Agreement, all representations and warranties made in this Agreement (or any other certificate or instrument delivered in connection herewith) shall indefinitely survive the execution and delivery of this Agreement. No investigation or review carried out by or on behalf of any party shall impair the rights of that party to rely upon those representations and warranties or to seek to enforce any remedies with respect to any breach or violation thereof.

21. __Choice of Law__. This Agreement shall be governed by and interpreted under the substantive laws of the state of New York, U.S.A., without regard to its choice of law rules.

22. __Severability__. Should any term or provision of this Agreement be found to be unenforceable, then the Agreement shall be construed by giving effect to the enforceable provisions and such unenforceable provision shall be deleted from this Agreement without effecting or impairing any other part of the Agreement.

23. __Status of Parties__. Toll Processor's relationship with MI under this Agreement is that of an independent contractor and Toll Processor shall have sole control over the performance of all the services to be performed by it or all of its employees, agents, and contractors engaged in performing such services.

24. __Counterparts__. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.

25. <u>Definitions.</u>

"***Affiliate***" shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such Person. As used in this definition, "control" (including, its correlative meanings "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of ten percent (10%) or more of outstanding voting securities or partnership or other ownership interests, by Contract or otherwise).

"***Agreement***" means this Liquid Coated Powder Toll Processing Agreement.

"***Defaulting Party***" has the meaning set forth in <u>Section 14.2</u>.

"***Effective Date***" has the meaning set forth in the first paragraph to this Agreement.

"***Environmental Laws***" shall mean all past, present and future laws, rules, regulations, ordinances, policies, guidance documents, approvals, plans, authorizations, licenses and permits issued by any governmental entity of the United States, state or political subdivision thereof, and any foreign governmental body and all judicial, administrative, and regulatory decrees, judgments, and orders relating to human health, pollution, or protection of the environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) laws relating to emissions, discharges, releases, or threatened releases of hazardous materials, (ii) laws relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, recovery, transport or other handling of hazardous materials, (iii) CERCLA; the Toxic Substances Control Act, as amended; the Hazardous Materials Transportation Act, as amended; RCRA; the Clean Water Act, as amended; the Safe Drinking Water Act, as amended; the Clean Air Act, as amended; the Atomic Energy Act of 1954, as amended; and the Occupational Safety and Health Act, as amended; and (iv) similar laws. It is specifically agreed and understood that Toll Processor is the generator of all Waste and bears all responsibilities and liabilities associated with or arising from the disposal, treatment, storage, or handling of Waste.

"***Facility***" has the meaning set forth in <u>Section 1.2</u>.

"***Finished Powder***" shall mean the liquid coated neodymium iron boron magnetic powder specified in the applicable purchase order conforming to the Product Specifications for such product and for which Toll Processor has performed Toll Processing Services using Raw Powder provided by MI or any Affiliate of MI.

"***Forecast***" has the meaning set forth in <u>Section 7.1</u>.

"***Initial Term***" has the meaning set forth in <u>Section 2</u>.

"***MI***" has the meaning set forth in the first paragraph to this Agreement.

"***Person***" shall mean any individual, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, or unincorporated organization, or any governmental agency, officer, department, commission, board, bureau, or instrumentality thereof.

"***Product Specifications***" has the meaning set forth in Section 4.

"***Purchase Agreement***" has the meaning set forth in the recitals to this Agreement.

"***Purchase Order***" has the meaning set forth in Section 7.3.

"***Raw Powder***" shall mean neodymium iron boron magnetic powder provided to Toll Processor by MI or any Affiliate of MI.

"***Renewal Term***" has the meaning set forth in Section 2.

"***Taxes***" has the meaning set forth in Section 6.2.

"***Term***" has the meaning set forth in Section 2.

"***Toll Processing Services***" has the meaning set forth in the recitals to this Agreement.

"***Toll Processor***" has the meaning set forth in the first paragraph to this Agreement.

"***Warehouse***" has the meaning set forth in Section 1.1.

"***Waste***" shall mean all waste resulting from the manufacture of the Finished Powder including, but not limited to, all non-reworkable product that does not meet the Product Specifications for such Finished Powder, and any other waste products or byproducts generated by Toll Processor in manufacturing Finished Powder.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first set forth above.

"TOLL PROCESSOR"

KANE MAGNETICS ACQUISITION, LLC

By: ______________________________

Printed: ___________________________

Its: ______________________________

"MI"

MAGNEQUENCH, INC.

By: ______________________________

Printed: ___________________________

Its: ______________________________

Signature Page to Liquid Coated Powder
Toll Processing Agreement
1328640

Exhibit H

Form of Block Supply Agreement

BLOCK SUPPLY AGREEMENT

THIS BLOCK SUPPLY AGREEMENT ("*Agreement*") is made effective this 30th day of April, 2004 (the "*Effective Date*") by and between Kane Magnetics Acquisition, LLC, a Delaware limited liability company located at 14137 Farmington Road, Livonia, Michigan 48154, U.S.A ("*Seller*") and Magnequench NJ, Inc., a Delaware corporation, located at 6 Highpoint Drive, Wayne, New Jersey 07470, U.S.A. ("*Buyer*").

RECITALS

WHEREAS, Seller and Magnequench, Inc., a Delaware corporation and an affiliate of Buyer ("*MI*"), are parties to that certain Purchase Agreement, dated of even date herewith (the "*Purchase Agreement*"), whereby Kane is purchasing from MI: (i) 100% of the issued and outstanding capital stock of Magnequench GmbH, a company organized under the laws of Germany; (ii) 100% of the Seller's equity ownership interests in Magnequench de Mexico SA de CV, a company organized under the laws of Mexico; (iii) 100% of the issued and outstanding capital interests of Magnequench TX, LLC, an Idaho limited liability company; and (iv) certain assets of Magnequench UG, Inc., a Delaware corporation;

WHEREAS, Buyer desires to purchase from Seller the Blocks (as defined in Section 1) pursuant to the terms and conditions of this Agreement;

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

WHEREAS, certain capitalized terms used in this Agreement shall have the meanings ascribed to them in Section 22;

NOW, THEREFORE, in consideration of the premises, the undertakings of the parties pursuant to this Agreement and other good and valuable consideration, it is agreed as follows:

1. Product.

Seller shall supply Buyer with blocks of sintered NdFeB magnetic material (the "*Blocks*") pursuant to the terms and conditions of this Agreement.

2. Term.

The term of this Agreement (the "*Term*") shall commence on the Effective Date and shall end on the third anniversary of the Effective Date, unless this Agreement is earlier terminated in accordance with Section 11, in which case the Term shall end on the effective date of such termination.

3. **Quality.**

The Blocks shall conform to such specifications as are mutually agreed between the parties from time to time (the "***Product Specifications***").

4. **Inspection and Liability Limitation.**

4.1. Promptly after receiving each shipment of Blocks, Buyer shall examine the Blocks for any damage, defect, non-conformance or shortage. All claims relating to the Blocks (whether in contract or in tort and under any theory, including, without limitation, negligence, strict liability, contract, warranty or otherwise) shall be deemed waived unless written notice of any such claim or claims is given by Buyer to Seller within thirty (30) days after Buyer's receipt of the Blocks in respect to which such claim is made, provided that as to any such cause not reasonably discoverable within such thirty (30) days (including that discoverable only in processing, further manufacture, other use or resale), the claim shall be made in writing and given by Buyer to Seller within one hundred eighty (180) days after Buyer's receipt of the Blocks in respect to which such claim is made, or within ninety (90) days after Buyer first learns of the facts giving rise to such claims, whichever such shall first occur. Failure of Buyer to give written notice of any claim to Seller within the applicable time period shall constitute an absolute and unconditional waiver by Buyer of such claim, irrespective of whether the facts giving rise to such claim shall have then been discovered, or whether or not processing, further manufacture, other use or resale of the Blocks shall have taken place.

4.2. Buyer's exclusive remedy shall be for damages, and Seller's total liability for any and all losses and damages arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) shall in no event exceed the price paid by Buyer under this Agreement for the quantity of Blocks in respect to which such cause arises, or at Seller's option, the replacement of such Blocks, and in no event shall Seller be liable for incidental, consequential or punitive damages resulting directly or indirectly from any such cause.

4.3. If either party furnishes technical or other advice to the other party, whether or not at the request of the party receiving the technical or other advice, with respect to processing, further manufacture or other use of the Blocks, the party supplying the advice shall not be liable for, and the party receiving the advice assumes all risk of, such advice and the results which flow from it.

5. **Prices.**

5.1. The prices for the Blocks supplied by Seller to Buyer during the Term shall be as set forth in Exhibit A, which shall be amended or updated from time to time by the parties in writing.

5.2. The prices set forth in Exhibit A do not include national, federal, state or local value added, sales, use, property, excise, service, duties or similar taxes ("***Tax(es)***") now or hereafter levied, all of which shall be for Buyer's account and promptly paid or reimbursed by Buyer; provided, however, in no event shall the term Tax(es) include, any tax imposed upon Seller's income or privilege of doing business. With respect to value added or sales taxes, prior to delivery of the Blocks by Seller, Buyer shall provide to Seller: (i) a valid direct pay authorization; or (ii) a valid tax-exempt certificate. If Buyer does not provide a valid direct pay authorization or a valid tax-exempt certificate, Seller may determine the appropriate Taxes which are due, pay such Taxes to the appropriate tax authorities, and invoice Buyer for such Taxes (and Buyer shall promptly reimburse Seller for the full amount of such Taxes).

6. Purchase Orders.

Buyer shall, from time to time, place written orders with Seller detailing Buyer's requirements for Blocks (each a "***Purchase Order***") not less than thirty (30) days before the required delivery date.

7. Deliveries.

Blocks shall be shipped F.O.B. shipping point. Seller shall ship Blocks according to instructions provided by Buyer. Seller shall ship Blocks in appropriate containers with all reasonable and appropriate packaging. Buyer shall be responsible for all freight charges and Buyer shall bear all risk of loss for all shipments of Blocks.

8. Invoices; Payment Terms.

Upon each shipment of Blocks, Seller shall invoice Buyer for the applicable purchase price for the Blocks purchased by Buyer and for the corresponding freight charges incurred by Buyer in connection with the shipment of the Blocks in accordance with Section 7. Payment terms shall be net forty-five (45) days. Any invoice not paid within forty-five (45) days shall accrue interest at the lower of one and one-half percent (1.5%) per month or the highest legal rate under applicable law. All payments received by Seller will be applied to Buyer's oldest existing monetary obligations to Seller for purchases made hereunder.

9. Warranty.

Seller warrants that it has good and marketable title to the Blocks and that the Blocks shall conform to the Product Specifications. Subject to the preceding sentence, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE BLOCKS, WHETHER THE BLOCKS ARE USED ALONE OR IN COMBINATION WITH ANY OTHER MATERIAL, AND

INCLUDING ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

10. **Force Majeure.**

10.1. The failure or inability of Seller to timely perform any of its obligations under this Agreement (other than the payment of money) shall not constitute a default or give rise to liability to the other party if the failure or inability is caused by a "force majeure".

10.2. As used in this Agreement, the term "force majeure" means and includes any act of God, nature or the public enemy, accident, explosion, operational malfunction or interruption, fire, storm, earthquake, flood, drought, perils of the sea, strikes, lockouts or labor disputes, riots, sabotage, terrorism, embargo, war (whether or not declared and whether or not the United States is a participant), the imposition of any legal restriction or limitation, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance beyond the reasonable control of the affected party. Neither party shall be required to resolve labor disputes, or disputes with third parties such as suppliers, except in accordance with its business judgment as to its best interest.

10.3. Force majeure shall only apply if: (i) Seller promptly notifies Buyer of the existence of the force majeure event or condition, its expected duration, and the estimated effect upon its ability to perform its obligations under this Agreement; and (ii) Seller proceeds promptly and in a commercially reasonable manner to overcome the force majeure. Seller shall promptly notify Buyer when the force majeure has ceased to affect its ability to perform. During a force majeure period Seller shall allocate its total production of the Blocks among its various internal and external requirements in a reasonable manner as determined by Seller. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Blocks from any alternate producer or supplier.

11. **Termination.**

11.1. Seller shall have the right to terminate this Agreement effective immediately upon written notice to Buyer if Buyer fails to make any payment under Section 8 when due and such failure shall continue unremedied for a period of ten (10) days after the date on which written notice of such failure shall have been given to Buyer.

11.2. This Agreement shall automatically terminate if Buyer or Seller, as applicable: (i) files a voluntary petition in bankruptcy; (ii) files a voluntary petition or answer seeking reorganization, rearrangement or readjustment of its debts or for any other relief under the bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing; (iii) files for appointment of a receiver or trustee for all or a substantial portion of its properties (where the receiver or trustee does not assume the applicable parties' liabilities and obligations under this Agreement); (iv) makes a general assignment for the benefit of creditors; (v) suffers issuance of a warrant of attachment or execution of similar process against a substantial part of its property which is not stayed or discharged within sixty (60) calendar days; or (vi) is unable to obtain discharge of a bankruptcy petition or proceeding filed against it within sixty (60) calendar days of such filing.

11.3. The expiration or termination of this Agreement shall not affect the rights and liabilities of either party arising during the period for which it is effective or release either from the obligation to pay arising under this Agreement during the Term.

12. Entire Agreement, Modification.

12.1. This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and there are no other agreements or understandings, written or oral, between the parties with respect to the subject matter of this Agreement.

12.2. The parties contemplate that, from time to time during the Term of this Agreement, either or both of the parties will utilize various documents in order to conveniently facilitate the purchase and delivery of the Blocks, and that these documents (including, but not limited to, Purchase Orders, delivery orders and negotiable and non-negotiable instruments of title) may include terms and conditions different from those of this Agreement. The parties agree (i) that these documents shall not modify the terms and conditions of this Agreement, (ii) that in the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of these documents, the terms and conditions of this Agreement shall prevail, and (iii) that terms and conditions contained in such documents which purport to modify this Agreement shall have no force or effect. The parties also contemplate that there will be routine dealings between their employees. Each party acknowledges that the employees of the other party have no authority to waive, modify or interpret this Agreement. Each party agrees that statements, representations, warranties and promises of the other party's employees supplemental to, or varying from, the terms and conditions of this Agreement shall not be binding and each party shall conduct its business without reliance upon, or regard to, such statements, representations, warranties and promises.

12.3. This Agreement may be modified only by a written document signed by both of the parties and this subsection 12.3 cannot be orally waived or modified.

13. Waiver.

No waiver, acquiescence or forbearance by either party hereto of any breach or default of this Agreement, and no course of conduct or dealings between the parties which varies from the terms and conditions of this Agreement, shall: (i) be deemed a waiver as to any subsequent and/or similar breach or default by either party; or, (ii) constitute, or be deemed, a modification of this Agreement; or, (iii) affect the rights or obligations of the parties under this Agreement in any way.

14. Buyer Indemnity.

Buyer shall defend, indemnify and hold Seller and its Affiliates, and their respective officers, directors, employees, successors or assigns, harmless from and against, any and all suits, claims, losses, liabilities, demands, judgments, costs, fines, penalties or expenses (including, without limitation, reasonable attorneys' fees) with respect to bodily injury, personal injury, property damage or economic injury sustained by any Person and resulting or arising, or allegedly resulting or arising, directly or indirectly, from the transportation, possession, processing, treatment, storage, disposal, further manufacture, use or other reuse of the Blocks delivered to Buyer by Seller or any other product incorporating the Blocks; excluding, however, any of the foregoing with respect to magnets or other products incorporating or produced from Blocks (or portions thereof) which are sold to Magnequench TX, LLC pursuant to the Magnet Supply Agreement, dated of even date herewith, by and between Buyer and Magnequench TX, LLC, or otherwise. The indemnity obligations of Buyer under this Section 14 shall indefinitely survive the termination or expiration of this Agreement.

15. Assignability.

Neither party shall assign any of its rights or obligations arising from this Agreement without the prior written consent of the other party and any attempt to effect such an assignment without such consent shall be of no force or effect; provided, however, that either party may assign or delegate, in whole but not in part, its rights and obligations under this Agreement to: (i) any Person who shall acquire all or substantially all of the assets of such party; or (ii) any Person who shall acquire more than fifty percent (50%) of the then outstanding voting securities of such party (whether by purchase, merger, consolidation or otherwise). The parties acknowledge and agree that any permitted assignment hereunder shall constitute a novation, effective as of the assignment date, of the assigning party's then future obligations hereunder and upon a permitted assignment, the assigning party shall have no then future obligations to the other party under this Agreement.

16. Notices.

16.1. All required or permitted notices, demands, consents or other communications shall be in writing and shall be addressed as set forth below and delivered by hand or sent (with all delivery and postage charges prepaid): (i) by facsimile or electronic transmission with delivery confirmed; (ii) by a nationally recognized express mail delivery service (next available day delivery against receipt); or, (iii) United States Certified Mail, Return Receipt Requested. Notices shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, or upon personal delivery, each in accordance with this Section 16.1.

If to Buyer:

Magnequench NJ, Inc.
c/o Magnequench, Inc.
9775 Crosspoint Boulevard, Suite 100
Indianapolis, Indiana, 46256 U.S.A.
Facsimile: (317) 572-1536
Attn: Chief Executive Officer

If to Seller:

Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154 U.S.A
Facsimile: (734) 525-4771
Attn: President

16.2. Either party may change the address for notices set forth above by designating a new address for notice in writing and sending it in the manner provided in this section.

17. Interpretation.

The headings of the clauses of this Agreement have been inserted for convenience only and they shall not affect its interpretation.

18. Survival.

Except as specifically set forth elsewhere in this Agreement, all representations and warranties made in this Agreement (or any other certificate or instrument delivered in connection herewith) shall indefinitely survive the execution and delivery of this Agreement. No investigation or review carried out by or on behalf of any party shall impair the rights of that party to rely upon those representations and warranties or to seek to enforce any remedies with respect to any breach or violation thereof.

19. Choice of Law.

This Agreement shall be governed by and interpreted under the substantive laws of the state of New York, U.S.A., without regard to its choice of law rules.

20. Severability.

Should any term or provision of this Agreement be found to be unenforceable, then the Agreement shall be construed by giving effect to the enforceable provisions and such unenforceable provision shall be deleted from this Agreement without effecting or impairing any other part of the Agreement.

21. Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.

22. Definitions.

"***Affiliate***" shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such subject Person. As used in this definition, "control" (including, its correlative meanings "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of fifty percent (50%) or more of outstanding voting securities or partnership or other ownership interests, by Contract or otherwise).

"***Blocks***" has the meaning in Section 1.

"***Buyer***" has the meaning in the first paragraph to this Agreement.

"***Effective Date***" has the meaning in the first paragraph to this Agreement.

"***Person***" shall mean any individual, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, or unincorporated organization, or any governmental agency, officer, department, commission, board, bureau, or instrumentality thereof.

"***Product Specifications***" has the meaning in Section 3.

"***Purchase Agreement***" has the meaning in the recitals to this Agreement.

"***Purchase Order***" has the meaning in Section 6.

"***Seller***" has the meaning in the first paragraph to this Agreement.

"***Taxes***" has the meaning in Section 5.

"***Term***" has the meaning in Section 2.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first set forth above.

"BUYER"

MAGNEQUENCH NJ, INC.

By: ______________________________

Printed: ______________________________

Its: ______________________________

"SELLER"

KANE MAGNETICS ACQUISITION, LLC

By: ______________________________

Printed: ______________________________

Its: ______________________________

Signature Page to Block Supply Agreement
1349155

Exhibit I

Form of Magnet Supply Agreement

MAGNET SUPPLY AGREEMENT

THIS MAGNET SUPPLY AGREEMENT ("***Agreement***") is made effective this 30th day of April, 2004 (the "***Effective Date***") by and between Magnequench NJ, Inc., a Delaware corporation, located at 6 Highpoint Drive, Wayne, New Jersey 07470, U.S.A. ("***Seller***") and Magnequench TX, LLC, an Idaho limited liability company, located at 14137 Farmington Road, Livonia, Michigan 48154, U.S.A. ("***Buyer***").

RECITALS

WHEREAS, Buyer and Magnequench, Inc., a Delaware corporation and an affiliate of Seller ("***MI***"), are parties to that certain Purchase Agreement, dated of even date herewith (the "***Purchase Agreement***"), whereby Kane Magnetics Acquisition, LLC is purchasing from MI: (i) 100% of the issued and outstanding capital stock of Magnequench GmbH, a company organized under the laws of Germany; (ii) 100% of the Seller's equity ownership interests in Magnequench de Mexico SA de CV, a company organized under the laws of Mexico; (iii) 100% of the issued and outstanding capital interests of Buyer; and (iv) certain assets of Magnequench UG, Inc., a Delaware corporation;

WHEREAS, Buyer desires to purchase from Seller the Magnets (as defined in Section 1) pursuant to the terms and conditions of this Agreement;

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

WHEREAS, certain capitalized terms used in this Agreement shall have the meanings ascribed to them in Section 22;

NOW, THEREFORE, in consideration of the premises, the undertakings of the parties pursuant to this Agreement and other good and valuable consideration, it is agreed as follows:

1. Product.

Seller shall supply Buyer with sintered NdFeB magnets (the "***Magnets***") pursuant to the terms and conditions of this Agreement.

2. Term.

The term of this Agreement (the "***Term***") shall commence on the Effective Date and shall end on the third anniversary of the Effective Date, unless this Agreement is earlier terminated in accordance with Section 11, in which case the Term shall end on the effective date of such termination.

3. **Quality.**

The Magnets shall conform to such specifications as are mutually agreed between the parties from time to time (the "***Product Specifications***").

4. **Inspection and Liability Limitation.**

4.1. Promptly after receiving each shipment of Magnets, Buyer shall examine the Magnets for any damage, defect, non-conformance or shortage. All claims relating to the Magnets (whether in contract or in tort and under any theory, including, without limitation, negligence, strict liability, contract, warranty or otherwise) shall be deemed waived unless written notice of any such claim or claims is given by Buyer to Seller within thirty (30) days after Buyer's receipt of the Magnets in respect to which such claim is made, provided that as to any such cause not reasonably discoverable within such thirty (30) days (including that discoverable only in processing, further manufacture, other use or resale), the claim shall be made in writing and given by Buyer to Seller within one hundred eighty (180) days after Buyer's receipt of the Magnets in respect to which such claim is made, or within ninety (90) days after Buyer first learns of the facts giving rise to such claims, whichever such shall first occur. Failure of Buyer to give written notice of any claim to Seller within the applicable time period shall constitute an absolute and unconditional waiver by Buyer of such claim, irrespective of whether the facts giving rise to such claim shall have then been discovered, or whether or not processing, further manufacture, other use or resale of the Magnets shall have taken place.

4.2. Buyer's exclusive remedy shall be for damages, and Seller's total liability for any and all losses and damages arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) shall in no event exceed the price paid by Buyer under this Agreement for the quantity of Magnets in respect to which such cause arises, or at Seller's option, the replacement of such Magnets, and in no event shall Seller be liable for incidental, consequential or punitive damages resulting directly or indirectly from any such cause.

4.3. If either party furnishes technical or other advice to the other party, whether or not at the request of the party receiving the technical or other advice, with respect to processing, further manufacture or other use of the Magnets, the party supplying the advice shall not be liable for, and the party receiving the advice assumes all risk of, such advice and the results which flow from it.

5. **Prices.**

5.1. The prices for the Magnets supplied by Seller to Buyer during the Term shall be as set forth in Exhibit A, which shall be amended or updated from time to time by the parties in writing.

5.2. The prices set forth in Exhibit A do not include national, federal, state or local value added, sales, use, property, excise, service, duties or similar taxes (*"Tax(es)"*) now or hereafter levied, all of which shall be for Buyer's account and promptly paid or reimbursed by Buyer; provided, however, in no event shall the term Tax(es) include, any tax imposed upon Seller's income or privilege of doing business. With respect to value added or sales taxes, prior to delivery of the Magnets by Seller, Buyer shall provide to Seller: (i) a valid direct pay authorization; or (ii) a valid tax-exempt certificate. If Buyer does not provide a valid direct pay authorization or a valid tax-exempt certificate, Seller may determine the appropriate Taxes which are due, pay such Taxes to the appropriate tax authorities, and invoice Buyer for such Taxes (and Buyer shall promptly reimburse Seller for the full amount of such Taxes).

6. Purchase Orders.

Buyer shall, from time to time, place written orders with Seller detailing Buyer's requirements for Magnets (each a *"Purchase Order"*) not less than thirty (30) days before the required delivery date.

7. Deliveries.

Magnets shall be shipped F.O.B. Seller's facility in Wayne, New Jersey, U.S.A. Seller shall ship Magnets according to instructions provided by Buyer. Seller shall ship Magnets in approporiate containers with all reasonable and appropriate packaging. Buyer shall be responsible for all freight charges and Buyer shall bear all risk of loss for all shipments of Magnets.

8. Invoices; Payment Terms.

Upon each shipment of Magnets, Seller shall invoice Buyer for the applicable purchase price for the Magnets purchased by Buyer and for the corresponding freight charges incurred by Buyer in connection with the shipment of the Magnets in accordance with Section 7. Payment terms shall be net forty-five (45) days. Any invoice not paid within forty-five (45) days shall accrue interest at the lower of one and one-half percent (1.5%) per month or the highest legal rate under applicable law. All payments received by Seller will be applied to Buyer's oldest existing monetary obligations to Seller for purchases made hereunder.

9. Warranty.

Seller warrants that it has good and marketable title to the Magnets and that the Magnets shall conform to the Product Specifications. Subject to the preceding sentence, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE MAGNETS, WHETHER THE MAGNETS ARE USED ALONE OR IN COMBINATION WITH ANY OTHER MATERIAL, AND

INCLUDING ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

10. Force Majeure.

10.1. The failure or inability of Seller to timely perform any of its obligations under this Agreement (other than the payment of money) shall not constitute a default or give rise to liability to the other party if the failure or inability is caused by a "force majeure".

10.2. As used in this Agreement, the term "force majeure" means and includes any act of God, nature or the public enemy, accident, explosion, operational malfunction or interruption, fire, storm, earthquake, flood, drought, perils of the sea, strikes, lockouts or labor disputes, riots, sabotage, terrorism, embargo, war (whether or not declared and whether or not the United States is a participant), the imposition of any legal restriction or limitation, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance beyond the reasonable control of the affected party. Neither party shall be required to resolve labor disputes, or disputes with third parties such as suppliers, except in accordance with its business judgment as to its best interest.

10.3. Force majeure shall only apply if: (i) Seller promptly notifies Buyer of the existence of the force majeure event or condition, its expected duration, and the estimated effect upon its ability to perform its obligations under this Agreement; and (ii) Seller proceeds promptly and in a commercially reasonable manner to overcome the force majeure. Seller shall promptly notify Buyer when the force majeure has ceased to affect its ability to perform. During a force majeure period Seller shall allocate its total production of the Magnets among its various internal and external requirements in a reasonable manner as determined by Seller. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use its best efforts to procure, any quantity of Magnets from any alternate producer or supplier.

11. Termination.

11.1. Seller shall have the right to terminate this Agreement effective immediately upon written notice to Buyer if (i) Buyer fails to make any payment under Section 8 when due and such failure shall continue unremedied for a period of ten (10) days after the date on which written notice of such failure shall have been given to Buyer; or (ii) that certain Block Supply Agreement, dated as of even date herewith, by and between Seller and Kane Magnetics Acquisition, LLC shall be terminated or expire for any reason whatsoever.

11.2. This Agreement shall automatically terminate if Buyer or Seller, as applicable: (i) files a voluntary petition in bankruptcy; (ii) files a voluntary petition or answer seeking reorganization, rearrangement or readjustment of its debts or for any other relief under the bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing; (iii) files for appointment of a receiver or trustee for all or a substantial portion of its properties (where the receiver or trustee does not assume the applicable parties' liabilities and obligations under this Agreement); (iv) makes a general assignment for the benefit of creditors; (v) suffers issuance of a warrant of attachment or execution of similar process against a substantial part of its property which is not stayed or discharged within sixty (60) calendar days; or (vi) is unable to obtain discharge of a bankruptcy petition or proceeding filed against it within sixty (60) calendar days of such filing.

11.3. The expiration or termination of this Agreement shall not affect the rights and liabilities of either party arising during the period for which it is effective or release either from the obligation to pay arising under this Agreement during the Term.

12. Entire Agreement, Modification.

12.1. This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and there are no other agreements or understandings, written or oral, between the parties with respect to the subject matter of this Agreement.

12.2. The parties contemplate that, from time to time during the Term of this Agreement, either or both of the parties will utilize various documents in order to conveniently facilitate the purchase and delivery of the Magnets, and that these documents (including, but not limited to, Purchase Orders, delivery orders and negotiable and non-negotiable instruments of title) may include terms and conditions different from those of this Agreement. The parties agree (i) that these documents shall not modify the terms and conditions of this Agreement, (ii) that in the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of these documents, the terms and conditions of this Agreement shall prevail, and (iii) that terms and conditions contained in such documents which purport to modify this Agreement shall have no force or effect. The parties also contemplate that there will be routine dealings between their employees. Each party acknowledges that the employees of the other party have no authority to waive, modify or interpret this Agreement. Each party agrees that statements, representations, warranties and promises of the other party's employees supplemental to, or varying from, the terms and conditions of this Agreement shall not be binding and each party shall conduct its business without reliance upon, or regard to, such statements, representations, warranties and promises.

12.3. This Agreement may be modified only by a written document signed by both of the parties and this subsection 12.3 cannot be orally waived or modified.

13. Waiver.

No waiver, acquiescence or forbearance by either party hereto of any breach or default of this Agreement, and no course of conduct or dealings between the parties which varies from the terms and conditions of this Agreement, shall: (i) be deemed a waiver as to any subsequent and/or similar breach or default by either party; or, (ii) constitute, or be deemed, a modification of this Agreement; or, (iii) affect the rights or obligations of the parties under this Agreement in any way.

14. Buyer Indemnity.

Buyer shall defend, indemnify and hold Seller and its Affiliates, and their respective officers, directors, employees, successors or assigns, harmless from and against, any and all suits, claims, losses, liabilities, demands, judgments, costs, fines, penalties or expenses (including, without limitation, reasonable attorneys' fees) with respect to bodily injury, personal injury, property damage or economic injury sustained by any Person and resulting or arising, or allegedly resulting or arising, directly or indirectly, from the transportation, possession, processing, treatment, storage, disposal, further manufacture, use or other reuse of the Magnets delivered to Buyer by Seller or any other product incorporating the Magnets. The indemnity obligations of Buyer under this Section 14 shall indefinitely survive the termination or expiration of this Agreement.

15. Assignability.

Neither party shall assign any of its rights or obligations arising from this Agreement without the prior written consent of the other party and any attempt to effect such an assignment without such consent shall be of no force or effect; provided, however, that either party may assign or delegate, in whole but not in part, its rights and obligations under this Agreement to: (i) any Person who shall acquire all or substantially all of the assets of such party; or (ii) any Person who shall acquire more than fifty percent (50%) of the then outstanding voting securities of such party (whether by purchase, merger, consolidation or otherwise). The parties acknowledge and agree that any permitted assignment hereunder shall constitute a novation, effective as of the assignment date, of the assigning party's then future obligations hereunder and upon a permitted assignment, the assigning party shall have no then future obligations to the other party under this Agreement.

16. Notices.

16.1. All required or permitted notices, demands, consents or other communications shall be in writing and shall be addressed as set forth below and delivered by hand or sent (with all delivery and postage charges prepaid): (i) by facsimile or electronic transmission with delivery confirmed; (ii) by a nationally recognized express mail delivery service (next available day delivery against receipt); or, (iii) United States Certified Mail, Return Receipt Requested. Notices shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, or upon personal delivery, each in accordance with this Section 16.1.

If to Buyer:

Magnequench TX, LLC
c/o Kane Magnetics Acquisition, LLC
14137 Farmington Road
Livonia, Michigan 48154 U.S.A
Facsimile: (734) 525-4771
Attn: President

If to Seller:

Magnequench NJ, Inc.
c/o Magnequench, Inc.
9775 Crosspoint Boulevard, Suite 100
Indianapolis, Indiana, 46256 U.S.A.
Facsimile: (317) 572-1536
Attn: Chief Executive Officer

16.2. Either party may change the address for notices set forth above by designating a new address for notice in writing and sending it in the manner provided in this section.

17. Interpretation.

The headings of the clauses of this Agreement have been inserted for convenience only and they shall not affect its interpretation.

18. Survival.

Except as specifically set forth elsewhere in this Agreement, all representations and warranties made in this Agreement (or any other certificate or instrument delivered in connection herewith) shall indefinitely survive the execution and delivery of this Agreement. No investigation or review carried out by or on behalf of any party shall impair the rights of that party to rely upon those representations and warranties or to seek to enforce any remedies with respect to any breach or violation thereof.

19. Choice of Law.

This Agreement shall be governed by and interpreted under the substantive laws of the state of New York, U.S.A., without regard to its choice of law rules.

20. Severability.

Should any term or provision of this Agreement be found to be unenforceable, then the Agreement shall be construed by giving effect to the enforceable provisions and such unenforceable provision shall be deleted from this Agreement without effecting or impairing any other part of the Agreement.

21. <u>Counterparts.</u>

This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.

22. <u>Definitions.</u>

"***Affiliate***" shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or is under common control with such subject Person. As used in this definition, "control" (including, its correlative meanings "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of fifty percent (50%) or more of outstanding voting securities or partnership or other ownership interests, by Contract or otherwise).

"***Buyer***" has the meaning in the first paragraph to this Agreement.

"***Effective Date***" has the meaning in the first paragraph to this Agreement.

"***Magnets***" has the meaning in <u>Section 1</u>.

"***Person***" shall mean any individual, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, or unincorporated organization, or any governmental agency, officer, department, commission, board, bureau, or instrumentality thereof.

"***Product Specifications***" has the meaning in <u>Section 3</u>.

"***Purchase Agreement***" has the meaning in the recitals to this Agreement.

"***Purchase Order***" has the meaning in <u>Section 6</u>.

"***Seller***" has the meaning in the first paragraph to this Agreement.

"***Taxes***" has the meaning in <u>Section 5</u>.

"***Term***" has the meaning in <u>Section 2</u>.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first set forth above.

"BUYER"

MAGNEQUENCH TX, LLC

By: ______________________________
Todd B. Boney, CFO

"SELLER"

MAGNEQUENCH NJ, INC.

By: ______________________________
Todd B. Boney, CFO

Exhibit J

Form of Transfer Agreement

MAGNEQUENCH TX, LLC TRANSFER AGREEMENT

This Transfer Agreement ("***Agreement***") is made effective April 30, 2004 (the "***Effective Date***"), by and between Magnequench, Inc., a Delaware corporation ("***Transferor***") and Kane Magnetics Acquisition, LLC, a Delaware limited liability company ("***Transferee***") with reference to the following facts and circumstances:

A. GA Powders, Inc., an Idaho corporation, was formed on March 20, 1998.

B. Effective February 16, 2001, Transferor became the sole shareholder of GA Powders, Inc.

C. The name of GA Powders, Inc. was changed to Magnequench TX, Inc., on October 17, 2001.

D. Magnequench TX One, LLC, an Idaho limited liability company, was formed on April 6, 2004. A copy of the Articles of Organization as filed with the Secretary of State of Idaho is attached hereto as Exhibit A.

E. Magnequench TX, Inc. merged with and into Magnequench TX One, LLC, effective as of April 14, 2004. A copy of the Agreement and Plan of Merger as filed with the Secretary of State of Idaho is attached hereto as Exhibit B. The name of the surviving entity is Magnequench TX, LLC ("***MTX***").

F. On April 14, 2004, Transferor executed that certain Operating Agreement for MTX (the "***Operating Agreement***"), a copy of which is attached hereto as Exhibit C.

G. As of the Effective Date, Transferor desires to transfer and assign to Transferee, in accordance with the terms and conditions of that certain Purchase Agreement, by and among Transferor, Transferee, MTX and the other parties signatory thereto, dated of even date herewith (the "***Purchase Agreement***"), one hundred percent (100%) of the authorized equity interests of MTX, and Transferee is willing to accept such transfer and assignment, all on the terms and conditions set forth herein.

Now, therefore, Transferor and Transferee hereby agree as follows:

1. Assignment. Transferor hereby sells, conveys, transfers, assigns, and delivers to Transferee, and its successors and assigns, all of Transferor's right, title, and interest in and to one hundred percent (100%) of its Membership Interests (as defined in the Operating Agreement) in MTX, free and clear of all Encumbrances (other than Permitted Encumbrances), to have and to hold forever, effective as of the Effective Date, and Transferee hereby agrees to accept such transfer and assignment of one hundred percent (100%) of Transferor's Membership Interests.

2. Agreement to be Bound. Transferee hereby agrees to be bound by all of the terms and conditions of the Operating Agreement on and after the Effective Date, and as if it were a party thereto in place of Transferor. All references to Magnequench, Inc. as the "Initial Member" shall be amended to hereby read as references to Kane Magnetics Acquisition, LLC.

3. Representations of Transferor. The terms of the Purchase Agreement, including but not limited to the Transferor's representations, warranties, covenants, agreements, and indemnities relating to MTX and the MTX Interests (as defined in the Purchase Agreement), are incorporated herein by reference. Transferor acknowledges and agrees that the representations, warranties, covenants, agreements, and indemnities of Transferor contained in the Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein.

4. Representations of Transferee. Transferee is acquiring the Membership Interests for its own account for the purpose of investment and not with a view to, or for sale in connection with, any distribution thereof within the meaning of the Securities Act of 1933, as amended (the "***Securities Act***"). Transferee will not sell or otherwise dispose of the Membership Interests in a manner which would require registration under the Securities Act or any applicable blue sky law unless such registrations are effected. Transferee has had an opportunity to ask questions of, and receive answers from, MTX concerning the Membership Interests, and the operations, financial condition and prospects of MTX.

5. Deliveries. Concurrently with the execution and delivery of this Agreement, Transferor shall deliver to Transferee the corporate records of MTX (including all records of GA Powders, Inc. and Magnequench TX, Inc.), including the transfer registers, the records of minutes of the meetings of the Board of Directors (or equivalents) and the records of minutes of the meetings of the shareholders (and equivalents).

6. Miscellaneous. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms of this Agreement, the terms of the Purchase Agreement shall govern. All capitalized terms used but not defined herein shall have the meanings assigned to them in the Purchase Agreement.

7. Cooperation. Transferor and Transferee hereby agree to cooperate with one another and agree to provide such other documents and instruments as may be necessary and appropriate to effect the transfer described in this Agreement.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this MAGNEQUENCH TX, LLC TRANSFER AGREEMENT, as of the date first above written.

"TRANSFEROR"	"TRANSFEREE"
MAGNEQUENCH, INC.	**KANE MAGNETICS ACQUISITION, LLC**
By: ____________________	By: ____________________
Printed: ____________________	Printed: ____________________
Its: ____________________	Its: ____________________

Exhibit K

Form of Valparaiso Lease

INDUSTRIAL BUILDINGS LEASE
Lessor:

UGIMAG, INC.

Lessee:

KANE MAGNETICS ACQUISITION, LLC.

Property Address:

405 Elm Street
Valparaiso, Indiana

Draft Carbone Lorraine / 4-15-04

LEASE AGREEMENT

This lease made this _____ day of April, 2004 by and between UGIMAG, INC., a New Jersey corporation (hereinafter referred to as "Lessor") and Kane Magnetics Acquisition, LLC, an Delaware limited liability company (hereinafter referred to as "Lessee"),

WITNESSETH:

1. **Lease and Description of Premises.** Lessor hereby leases to Lessee and Lessee leases from Lessor, on the terms and subject to the conditions hereinafter specified, a portion (as depicted on Exhibit A-1) of those certain premises (the "Premises") commonly known as the "West Plant" located at 405 ELM STREET, VALPARAISO, INDIANA and legally described in Exhibit A attached hereto, including the buildings comprising a part of the Premises as shown on Exhibit A-1 (the "Buildings"). The Lessee acknowledges that it has inspected the Premises and the Buildings and is aware of the condition and age of the Buildings; in particular, Lessee acknowledges that it takes possession of the Buildings hereunder on an "as is" basis and that Lessor makes no representations nor warranties hereunder with respect to the condition of such Buildings except as may be otherwise set forth herein.

2. **Term.** The term of this lease shall commence on April ___, 2004 ("Commencement Date") and shall end on the day before [redacted]. Commencement Date, unless earlier terminated by Lessee at any time after the date of execution hereof upon six (6) months' prior written notice to Lessor.

3. **Basic Rent.**

A. **Definitions.** As used herein, the term "Lease Year" shall mean a period of twelve (12) consecutive calendar months, commencing on the first day of the calendar month following the month in which the Commencement Date occurs, and terminating on the last day of the twelfth (12th) calendar month after the month in which the Commencement Date occurs and succeeding twelve (12) consecutive calendar month periods thereafter.

The term "Affiliate" shall mean 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 the specified Person.

B. **Basic Rent.** Commencing on the Commencement Date, Lessee agrees to pay, in equal monthly installments on or before the first (1st) day of each month for which due, as Rent for the Premises ("Monthly Basic Rent"), the sum of [redacted] and for the calendar month (or portion thereof) in which the Commencement Date occurs, Lessee shall pay Lessor on the Commencement Date an amount which bears the same ratio to the monthly rate herein specified for the first (1st) Lease Year as the number of days then remaining in such month bears to the total number of days in such month.

4. **Additions and Alterations.**

A. **Applicable Requirements.** Except as provided in Paragraph 4.B. below, Lessee shall not, without the prior written consent of Lessor (such consent not to be unreasonably withheld, conditioned or delayed), make any material alterations, improvements or additions to the Premises or undertake any material alteration of the Premises, including but not limited to any excavation, alteration or expansion of foundations or footings, or intrude in any manner to the subsurface of the Premises. If Lessor consents to any material alterations, improvements or additions, it may impose such reasonable conditions with respect thereto as Lessor deems appropriate, including, without limitation, insurance against liabilities which may arise out of such work, plans and specifications plus permits necessary for such work and "as-built" drawings or an accurately marked record set of drawings showing the actual location of said alterations, improvements and additions. The work necessary to make any alterations, improvements or additions to the Premises, where applicable, shall be done at Lessee's expense by employees of, or contractors hired by, Lessee, but subject to Lessor's approval, which shall not be unreasonably withheld, conditioned or delayed. Upon completion of such work Lessee shall deliver to Lessor, if payment is made directly to contractors, evidence of payment, contractors' affidavits and full and final waivers of all liens for labor, services or materials all in form reasonably satisfactory to Lessor except to the extent Lessee is in good faith contesting any such payment. Lessee shall defend and hold Lessor harmless from all costs, damages, liens and expenses related to such work; provided, however, that this indemnity shall not extend to any costs, damages, or expenses related to Hazardous Materials introduced or existing on or under the Premises prior to the Commencement Date, the indemnification for which is addressed in Paragraph 19 below. All work done by Lessee or its contractors pursuant to this Paragraph 4 shall be done in a workmanlike manner using only reasonable grades of materials and shall comply with all standard insurance requirements applicable to the Buildings, provided Lessee is informed thereof prior to commencing such work and all applicable laws and ordinances and rules and regulations of governmental departments or agencies.

B. **Covenant Against Liens.** Lessee has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Lessee, operation of law or otherwise, to attach to or be placed upon Lessor's title or interest in the Premises or the Buildings, and any and all liens and encumbrances created by Lessee shall attach to Lessee's interest only. Lessee covenants and agrees not to suffer or permit any lien of mechanics or materialmen or others to be placed against the Premises or Buildings with respect to work or services claimed to have been performed for or materials claimed to have been furnished to Lessee or the Premises on behalf of Lessee, and, in case of any such lien attaching, or claim thereof being asserted, Lessee covenants and agrees to cause it to be released and removed of record or bonded over (or insured over by a reputable title insurance company) within thirty (30) days after Lessee receives notice thereof, provided, however, in the event that such lien is not released and removed or insured over, as aforesaid, within the thirty (30) day period after Lessee receives notice thereof, Lessor at its sole option, may take all action necessary to insure over such lien (without any duty to investigate the validity thereof) and Lessee shall promptly upon notice reimburse Lessor for all sums, costs and expenses (including without limitation reasonable attorney's fees) incurred by Lessor in connection with such lien.

C. **Ownership of Improvements to Premises.** All alterations, improvements and additions to the Premises (other than Lessee's trade fixtures and equipment), whether temporary or permanent in character, made or paid for by Lessor or Lessee, shall without compensation to Lessee become Lessor's property at the termination of this Lease by lapse of time or otherwise and shall, be relinquished to Lessor in as good condition as they were in upon completion of their construction or installation in accordance herewith, ordinary wear and tear excepted, at the end of the term, as extended or accelerated in accordance herewith.

5. **Use of Premises.**

A. **Permitted Use.** Lessee shall use and occupy the Premises for the purpose of the manufacture and sale of CuNiFe permanent magnets, and for no other purpose, provided, however, upon Lessor giving its prior written approval (not to be unreasonably withheld, conditioned or delayed), Lessee shall have the right to use a portion of the Premises (not to exceed ten percent (10%) of the total area thereof), for any other lawful purposes which are incidental to the primary business of Lessee.

B. **Compliance with Laws.** Lessee shall not use or permit the use of any part of the Premises for any purpose prohibited by law. Lessee shall, at its sole expense, comply with and conform to all of the requirements of all governmental authorities having jurisdiction over the Premises and Buildings which relate in any way to the condition, or Tenant's use and occupancy of the Premises throughout the entire Term of this Lease. This Paragraph 5 shall not apply to Lessee's compliance with Environmental Laws or with respect to Hazardous Materials, both of which are addressed in Paragraph 19, below.

6. **Taxes.** Lessee shall pay prior to delinquency all taxes and assessments, including water and sewer assessments, if any, which may be levied or assessed upon the Premises and which are due and payable for the period during the Term of this Lease, provided that with respect to any general or special assessment which may be paid over a period of years, Lessee shall be responsible for paying only those installments which accrue and become payable during the term of this lease. Taxes and assessments for the years prior to or in which Lessee's obligation to pay rent commences and in which this lease terminates shall be prorated between Lessor and Lessee, Lessee being obligated only for those taxes which accrue during the period Lessee is obligated to pay rent as herein specified. Upon the termination of this lease, by lapse of time or otherwise, Lessee shall satisfy any remaining obligation to pay taxes and assessments as herein provided and if the amount of such taxes and assessments which Lessee is obligated to pay hereunder has not then been determined, the amount thereof shall be estimated, based on the

most recent ascertainable bill, which amount shall then be final as between the parties. Lessee will exhibit receipts for said real estate tax payments to Lessor promptly upon payment thereof. Lessor agrees to promptly forward to Lessee any notice it receives of any changes in the assessed valuation of the Premises or of any other matter pertaining to the taxation of the Premises, and Lessee may at its expense contest all such taxes and assessments, in the name of Lessor, if necessary, but in which event Lessee shall indemnify Lessor against any costs, penalties or attorneys fees incurred by or asserted against Lessor by reason thereof. During the pendency of any such proceedings (including any appeals to any court, if Lessee so elects) Lessee shall not be required to pay such tax or assessment being so contested until a final determination of the matter, provided that such payments may lawfully be withheld pending a resolution of the matter without a forfeiture of the Premises resulting therefrom.

7. **Utilities.** During the term of this lease, Lessee shall pay for all water, gas, electricity and all other utilities serving the Premises.

8. **Access.** Lessee shall permit Lessor and its agents to enter into and upon the Premises and the Buildings at reasonable times upon reasonable prior notice to Lessee (and with a representative of Lessee present) for the purpose of inspecting the same. For a period of ninety (90) days prior to the termination of this lease, Lessor may enter upon the Premises during normal business hours to show the Premises to prospective lessees provided that such entry and showing does not interfere with the conduct and operations of Lessee's business.

9. **Insurance.**

A. **Waiver of Subrogation.** Lessor and Lessee each hereby waive any and every claim for recovery from the other for any and all loss of or damage to the Buildings or Premises or to the contents thereof, which loss or damage is covered by valid and collectible physical damage insurance policies, to the extent that such loss or damage is recoverable under said insurance policies. Inasmuch as this mutual waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), Lessor and Lessee each agree to give to each insurance company which has issued, or in the future may issue, to it policies of physical damage insurance, written notice of the terms of this mutual waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver.

B. **Coverages.** Lessee shall purchase and maintain insurance during the entire Term for the benefit of Lessee and Lessor (as their interests may appear) with reputable insurance companies reasonably satisfactory to Lessor, and with such increases in limits as may be reasonably necessary from time to time due to any alterations, additions or improvements to the

Buildings or Premises, but initially Lessee shall maintain the following coverages in the following amounts:

(i) Commercial General Liability Insurance naming Lessee as the named insured, and Lessor, as additional insured thereunder covering any liability for bodily injury, personal injury and property damage arising out of Lessee's operations, assumed liabilities or use of the Premises, for limits of liability not less than [redacted] per occurrence for property damage, bodily injury and business interruption, with an annual aggregate limit of [redacted]

(ii) Physical Damage Insurance covering all equipment, trade fixtures, merchandise and all other items of Lessee's property on the Premises, and improvements thereon. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the full replacement cost value of the covered items and in amounts that meet any coinsurance clause of the policies of insurance.

Lessee shall, prior to the commencement of the Term, furnish to Lessor certificates evidencing such coverage (Accord Form 27), which certificates shall state that such insurance coverage may not be changed or canceled without at least ten (10) days prior written notice to Lessor and Lessee.

10. **Fire or Casualty.** Paragraph 9 hereof notwithstanding, if the Premises or the Buildings (including machinery or equipment used in its operation) shall be damaged by fire or other casualty and if the Lease is not terminated as a result thereof pursuant to any of the other provisions of this Paragraph 10, then (i) Lessor shall repair and restore the same to the condition hereinafter specified with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Lessor's reasonable control, but in the case of major damage or destruction as described in the next sentence Lessor shall not be obligated to expend therefor an amount in excess of the proceeds of insurance recovered with respect thereto plus the amount of any deductible assumed by Lessor and (ii) Lessee may, with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused beyond Lessee's reasonable control, restore the Premises improvements to substantially the same condition they were immediately prior to such casualty. If any such damage renders all or over fifty percent (50%) of the Buildings untenantable (regardless of whether the Premises are likewise rendered untenantable) and Lessor, in good faith elects not to restore the Buildings, Lessor shall have the right to terminate this Lease as of the date of such damage (with appropriate prorations of Basic Rent being made for Lessee's possession subsequent to the date of such damage of those tenantable portions of the Premises) upon giving written notice to the Lessee at any time within sixty (60) days after the date of such damage. If Lessor does not exercise such termination right, or such right does not exist under the circumstances, Lessor will give Lessee a written notice within such sixty (60) day period containing an independent architect's or general contractor's good faith estimate of the number of days required to

substantially complete repairs and restorations. If such number of days exceeds two hundred seventy (270) from the date of such notice, then Lessee shall have the right to terminate this Lease by giving Lessor a written notice of termination within ten (10) days after Lessee's receipt of such estimate. If neither party so elects to terminate this Lease, Lessor shall proceed to perform such repairs and restorations with due diligence. Lessor shall have no liability to Lessee, and Lessee shall not be entitled to terminate this Lease, by reason of any delays in completion of such repairs and restoration except that Lessee may elect to so terminate this lease if such repairs and restoration are not (i) commenced within sixty (60) days after the first time Lessee waives or no longer has the right to terminate this Lease, as aforesaid, for any reason other than causes beyond Lessor's reasonable control, or (ii) substantially completed within sixty (60) days after the initial estimated completion date as set forth in the architect's or contractor's estimate for any reason other than causes beyond Lessor's reasonable control and one hundred twenty (120) days after such initial estimated completion date if completion is delayed by causes beyond Lessor's control. Basic Rent, however, shall abate on those portions of the Premises as are, from time to time, untenantable as a result of such damage until such time as Lessor shall have repaired or restored the Premises to the extent required under this Paragraph 10 provided that if more than 75% of the Premises are untenantable Lessee shall receive a total abatement. Lessor shall repair or restore the Premises to the condition they were in on the Commencement Date. Lessor shall have no further obligation pursuant to this Lease to repair or restore any alterations, additions or improvements in the Premises or the decorations thereto. Lessee's restoration work, any other additions or alterations if Lessor consents thereto, shall be done at Lessee's sole cost and expense subject to all of the provisions of Paragraphs 9 and 10 hereof.

11. **Waiver of Claims; Indemnification.**

A. **Indemnification of Lessor.** Except for the negligence or willful misconduct of Lessor, its agents and contractors, to the extent not prohibited by law, Lessor and Lessor's partners, and their respective affiliates, officers, agents, servants and employees (collectively, "Lessor Parties") shall not be liable for any damage either to person, property or business or resulting from the loss of use thereof sustained by Lessee or by other persons due to the Buildings or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening or any accident or event in or about the Buildings, including the Premises, or due to any act or neglect of any Lessee or occupant of the Buildings or of any other person. This provision shall apply particularly, but not exclusively, to damage caused by gas, electricity, snow, ice, frost, steam, sewage, sewer gas or odors, fire, water or by the bursting or leaking of pipes, faucets, sprinklers, plumbing fixtures and windows, and shall apply without distinction as to the person whose act or neglect was responsible for the damage (except for the negligence or willful misconduct of Lessor and Lessor Parties) and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. Lessee further agrees that all personal property upon the Premises, or upon loading docks receiving and holding areas shall be at the risk of Lessee only, and that Lessor shall not be liable for any loss or damage thereto or theft thereof. Without limitation of any other provisions thereof except for the negligence or willful misconduct of Lessor, or Lessor Parties, Lessee agrees to defend, protect, indemnify and save harmless Lessor and Lessor's partners and their respective affiliates, officers, agents, servants and employees from and against all liability to third parties arising out of the use of the Premises or acts of Lessee or its servants, agents, employees, contractors, suppliers, workers or invitees. This Paragraph 11 shall not apply to Lessee's compliance with Environmental Laws or with respect to Hazardous Materials, both of which are addressed in Paragraph 19, below.

B. **Lessor's Waiver.** Lessee and Lessee's employees, agents, officers, shareholders and members shall not be liable for any damage either to person, property or business or resulting from the loss of use thereof sustained by Lessor due to any negligent act of Lessor or its servants, agents, employees, or the failure of Lessor to comply with any of Lessor's obligations under this Lease. Except for the negligence or willful misconduct of Lessee or its agents and contractors, Lessor agrees to defend, protect, indemnify and save harmless Lessee and its respective affiliates, officers, agents servants and employees from and against all liability to third parties arising out of the use of the Buildings which are not part of the Premises.

12. **Condemnation.** If the Buildings or the Premises or any portion thereof shall be taken or condemned by any competent authority for any public or quasi-public use or purpose (a "Taking"), or if the configuration of any street or alley adjacent to the Buildings or the Premises is changed by any competent authority and such Taking or change in configuration makes it necessary or desirable to remodel or reconstruct the Buildings, Lessor or Lessee shall have the right to cancel this Lease upon not less than ninety (90) days' notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable for the right of cancellation and Lessee shall have no right to share in the condemnation award or in any judgment for damages caused by such Taking or change in configuration provided, however, that Lessee shall have the right to make a separate claim of damages against the Taking authority for the recovery of moving expenses, personal property and any other related expenses.

13. **Maintenance and Repairs.** Except for those repairs performed in accordance with Paragraph 10 above, Lessee, at its expense, will at all times during the term or any extended term hereof provide all normal and customary maintenance and all repairs for the Premises, improvements and appurtenances, fixtures, installations and equipment attached and related thereto, any major component part of any structural, plumbing, electrical, heating, cooling and ventilating system serving the Buildings which are a part of the Premises, and the foundation or exterior walls of the Buildings, and on termination of this lease will surrender the same in substantially the same condition they were in as of the Commencement Date, reasonable wear and use excepted, and loss or damage which results in termination of this lease pursuant to Paragraph 10 hereof excepted.

14. **Assignment and Subletting.**

A. Except as provided in Paragraph 14 (B), Lessee shall not, without the prior written consent of Lessor (which consent may not be unreasonably withheld, conditioned or delayed), (i) assign, convey or mortgage this Lease or any interest hereunder; (ii) permit to occur or permit to exist any assignment of this Lease, or any lien upon Lessee's interest, voluntarily or by operation of law; (iii) sublet the Premises or any part thereof; or (iv) permit the use of the Premises by any parties other than Lessee, any Affiliate of Lessee, and their respective employees. Any such action on the part of Lessee shall be void and of no effect. There shall be no partial assignment of Lessee's interest in this Lease. The term "sublease" and all words derived therefrom, as used in this Paragraph 14, shall include any subsequent sublease or assignment of such sublease and any other interest arising under such sublease. Lessor's consent to any assignment, subletting or transfer or Lessor's election to accept any assignee, sublessee or transferee as the Lessee hereunder and to collect rent from such assignee, sublessee or transferee shall not release Lessee or any subsequent Lessee from any covenant or obligation under this Lease, except that Lessee shall not, following an assignment consented to by Lessor, to an entity which is not an Affiliate of Lessee, be liable to any extent greater than herein specified with respect to any expansion of the obligations of Lessee hereunder resulting from any modification of this Lease made without Lessee's consent. Lessor's consent to any assignment, subletting or transfer shall not constitute a waiver of Lessor's right to withhold its consent to any future assignment, subletting, or transfer. Lessor may condition its consent upon execution by the sublessee or assignee of an instrument confirming such restrictions on further subleasing or assignment and joining in the waivers and indemnities made by Lessee hereunder. Notwithstanding anything contained herein to the contrary, Lessor hereby consents to the collateral assignment of this Lease, and any other security interest granted in connection with a loan to Lessee to be made by General Electric Capital Corporation Loan.

B. **Permitted Assignment and Sublet.** Lessee shall not assign this Lease or sublease the Premises or any part thereof without the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed.

15. **Obligations to Mortgagee.**

A. **Subordination.** Subject to the delivery of a Subordination, Non-Disturbance and Attornment Agreement ("SNDA Agreement") reasonably satisfactory to Lessee, this Lease is subject and subordinate to all present and future liens of any mortgages or trust deeds now and hereafter in force against the Buildings and to all renewals, extensions, modifications, consolidation and replacements thereof, and to all advances made or hereafter to be made upon the security thereof. Lessee shall at Lessor's request execute such further instruments or assurances as Lessor may deem reasonably necessary to evidence, confirm or effectuate such subordination of this Lease thereto or, if requested, to make Lessee's interest in this Lease superior thereto. If any mortgage shall be foreclosed or property encumbered thereby is transferred in lieu of foreclosure, (i) the liability of the mortgagee or trustee hereunder or purchaser at such foreclosure sale or the liability of a subsequent owner designated as Lessor under this Lease shall exist only so long as such trustee, mortgagee, purchaser or owner is the owner of the Buildings and such liability shall not continue or survive after further transfer of ownership; and (ii) upon the request of the mortgagee or trustee, Lessee will attorn, as Lessee under this Lease, to the purchaser at any foreclosure sale under any mortgage or the ground lessor, by executing such reasonable instruments as may be required by the mortgagee, trustee or ground lessor. Lessor agrees to deliver a SNDA Agreement in the form attached hereto as Exhibit B duly executed and acknowledged by mortgagee within ten (10) days from the date hereof.

B. **Notice to Lessor and Mortgagee.** In the event of any act or omission by Lessor which would give Lessee the right to damages from Lessor or the right to terminate this Lease, Lessee will not sue for such damages or exercise any such right to terminate until (i) it shall have given written notice of the act or omission to Lessor and to the holder(s) of the indebtedness or other obligations secured by any mortgage or deed of trust affecting the Premises, if the name and address of such holder(s) have been furnished in writing to Lessee, and (ii) a reasonable period of time (but not to exceed sixty (60) days), in light both of the time required to effect a remedy and of the impact of the act or omission on Lessee's business operations on the Premises, for remedying the act or omission has elapsed following the giving of the notice, during which time Lessor and such holder(s), or either of them, their agents or employees, will be entitled to enter upon the Premises if such entry is required to effectuate such cure, and do therein whatever may be necessary to remedy the act or omission, provided that any such entry shall have the minimum disruption possible on the Lessee's operations.

16. **Liens.** If any act or omission of Lessee or claim against Lessee results in a lien or claim of lien against Lessor's title, except for any environmental lien which is placed upon Lessor's title related to the condition of the Premises prior to the Commencement Date or the presence of Hazardous Materials introduced on or under the Premises prior to the Commencement Date, Lessee, upon notice thereof, shall promptly cause the same to be released, provided, however, Lessee may contest any such lien or claim therefor by first furnishing Lessor with a surety bond or title insurance insuring over such lien and thereafter taking such actions as are sufficient to prevent the enforcement of such lien or the forfeiture of the Premises.

17. **Waivers.** No waiver by either party hereto of any provision or default hereunder, whether in a single instance or repeatedly, shall be deemed a future waiver of such provision or default.

18. **Quiet Enjoyment and Impairment of Use.** Lessor covenants that Lessee (or its sublessee), on payment of the rent herein provided and performance of its undertakings herein specified, shall and may peacefully and quietly have, hold and enjoy the Premises for the term aforesaid or any extension thereof, and with all the rights, privileges and for the uses therein provided.

19. **Hazardous Substances and Environmental Laws.**

A. **Defined Terms.**

(i) "Claim" shall mean and include any demand, notice, order, directive, complaint, cause of action, proceeding, or suit by any Person or Governmental Authority (a) for damages (actual or punitive), losses, injuries to person or property, damages to natural resources, fines, penalties, interest, contribution or settlement or (b) for the costs of site investigations, feasibility studies, health or risk assessments, or Response Actions.

(ii) "Environmental Law" shall mean and include all federal, state and local statutes, ordinances, regulations, and rules relating to environmental quality, health, safety, contamination and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and state superlien and environmental clean-up statutes, with implementing regulations. Environmental Laws shall also include all state, regional, county, municipal, and other local laws, regulations, and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

(iii) "Governmental Authority" means any foreign, domestic, federal, territorial, state or local governmental authority, quasi-governmental authority, instrumentality, court, government, or self-regulatory organization , commission, tribunal, or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of the foregoing.

(iv) "Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product, or constituent regulated under CERCLA; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos-containing materials, PCBs, and other substances regulated under the TSCA; source material, special nuclear material, byproduct material, and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. §1910.1200 et seq.; and industrial process and pollution control wastes whether or not hazardous within the meaning of RCRA.

(v) "Manage" or "Management" means to generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of, or abandon Hazardous Materials.

(vi) "Person" means an individual, a corporation, a general partnership, a limited partnership, a limited liability company, a limited liability partnership, an association, a trust or any other entity or organization, including a Governmental Authority.

(vii) "Release" or "Released" shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the environment, as "environment" is defined in CERCLA.

(viii) "Response", "Response Action" or "Respond" shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess, or abate the Release of a Hazardous Material.

B. **Lessee's Obligations with Respect to Environmental Matters.** During the term of this Lease, Lessee warrants that

(i) Lessee shall at its own cost comply with all Environmental Laws which relate in any way to the operation carried out by Lessee at the Premises, including but not limited to compliance with respect to any Hazardous Materials introduced into the Premises by Lessee or its agents or contractors;

(ii) Lessee shall not conduct or authorize the Management of any Hazardous Materials on the Premises, other than the use of Hazardous Materials for the operations as described in the attached Exhibit C, and other than normal cleaning and office supplies, without prior written disclosure to and approval by the Lessor not to be unreasonably withheld, conditioned or delayed;

(iii) Lessee shall not take any action that would subject the Premises to permit requirements under RCRA for storage, treatment, or disposal of Hazardous Materials other than those requirements listed in the attached Exhibit D;

(iv) Lessee shall not dispose of, or cause the Release of any Hazardous Materials at, on, to or from the Premises except as permitted by applicable law;

(v) Lessee shall not discharge or cause the Release of Hazardous Materials into Buildings' drains or sewers or the Premises, except as permitted by applicable Environmental Laws;

(vi) Lessee shall at its own cost arrange for the transportation and off-site disposal of all Hazardous Materials that it generates, in accordance with all applicable Environmental Laws.

During the term of this Lease, Lessee and Lessor shall promptly provide the other with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response Actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, the Indiana Department of Environmental Protection, or other federal, state, or local agency or Governmental Authority, or any other entity or individual, received by Lessee or Lessor, as the case may be, concerning (i) any Release of a Hazardous Material on, to, under or from the Premises, or any portion thereof; (ii) the imposition of any lien on the Premises; or (iii) any alleged violation of or responsibility under Environmental Laws related to the Premises or related to the operations of the business at the Premises.

Lessor and Lessor's employees shall have the right upon prior reasonable notice and with a minimum of interference to Lessee's business to enter the Premises and/or conduct appropriate inspections or tests in order to determine Lessee's compliance with Environmental Laws provided Lessor has first presented to Lessee reasonable grounds to believe that Lessee has violated such laws. Upon written request by Lessee, Lessor shall provide copies of all completed reports and tests to Lessee. Upon written request by Lessor, Lessee shall provide Lessor with the results of all reports and tests, with transportation and disposal contracts for Hazardous Materials, with any permits issued under Environmental Laws, and with any other applicable documents to demonstrate that Lessee complies with all Environmental Laws relating to the Premises.

If Lessee's Management or Release of Hazardous Materials at the Premises or unauthorized alteration of the Premises (i) gives rise to a liability, obligation or Claim under any applicable Environmental Law, (ii) causes a significant public health threat, or (iii) creates a nuisance, Lessee shall promptly take all applicable Response Action, at its own cost and expense, to the satisfaction of Lessor and the appropriate Governmental Authorities, in full compliance with Environmental Laws.

C. **Environmental Indemnification by Lessee.** Lessee shall indemnify, defend, and hold harmless Lessor, its beneficiaries, its lenders, any managing agents and leasing agents of the Premises, and their respective agents, partners, officers, directors, and employees from all Claims (i) arising from or attributable to any breach by Lessee of any of its warranties, representations, or obligations contained in this Section, (ii) arising from a violation by Lessee of any Environmental Law; or (iii) arising from any obligation or liability of Lessee related to Environmental Law or required Response Action. Lessee's obligations hereunder shall survive the termination or expiration of this Lease. Notwithstanding any other provision of this Lease to the contrary, Lessee shall in no event be liable for any Claim arising from or attributable to (a) any violation of any Environmental Law relating to conditions at the Premises which existed prior to the Commencement Date, or (b) the presence of any Hazardous Materials introduced on or which existed under any portion of the Premises prior to the Commencement Date.

D. **Lessor's Warranties With Respect to Environmental Matters.** With regard to the Premises, Lessor represents and warrants to Lessee that:

(1) the Lessor has not been named as a party in any violation of any Environmental Law with regard to the Premises; and

(2) the Premises are not currently the subject of an investigation for alleged violations of any Environmental Law, or any health, safety, fire or building code violation.

E. **Environmental Indemnification by Lessor.** Lessor shall indemnify, defend, and hold harmless Lessee, its beneficiaries, and lenders, and their respective agents, partners, officers, directors and employees from all Claims arising from any obligation or liability related to (i) any violations of Environmental Law related to conditions at the Premises which existed prior to the Commencement Date or (ii) the presence of any Hazardous Materials introduced onto or which existed on or under the Premises, or any portion thereof, prior to the Commencement Date. Lessor shall have no indemnity obligations to Lessee and shall not be liable for (i) violations of Environmental Law by Lessee or (ii) claims relating to the Management or Release of any Hazardous Materials by Lessee occurring on or after the Commencement Date. Lessor's obligations hereunder shall survive the termination or expiration of this Lease.

20. **Americans with Disabilities Act.** Lessee shall be responsible for compliance with respect to The Americans with Disabilities Act of 1990 with respect to the entire Premises, the Buildings which are a part of the Premises and the interior thereof.

21. **Lessor's Right to Perform and Expenditures.** If Lessee shall default in the performance of any covenant on its part to be performed hereunder and shall fail to remedy such

default with reasonable dispatch after Lessor shall have notified Lessee of such default, Lessor, without being obligated to do so and without thereby waiving such default, may take such action as is reasonable and appropriate to cure such default. Lessor's expenditures and costs in connection therewith shall be at such Lessee's expense and shall be payable within fifteen (15) days after demand therefor is made by the Lessor.

22. **Defaults and Remedies.** If Lessee defaults in performing any of the covenants herein specified to be performed by Lessee, Lessor shall notify Lessee of such default. Lessee shall have the right to cure any default in making a payment of rent or any other payment required to be made hereunder by tendering such payment to the party entitled thereto within five (5) days after such notice, and shall have the right to cure any other default by doing so within thirty (30) days after such notice, provided, however, that if any such other default cannot reasonably be cured within twenty (20) days, Lessee may cure it if Lessee commences such cure within twenty (20) days after such notice and thereafter diligently prosecutes such cure to completion. If Lessee fails to cure in a timely manner any default of which it was given notice, Lessor may by giving written notice to the Lessee at any time thereafter during the continuance of such default either (i) terminate this lease, or (ii) re-enter the Premises by summary proceedings or otherwise, expelling Lessee and removing all property therefrom and relet the Premises at the best possible rent obtainable, making reasonable efforts therefor, and receive the rent therefrom; but Lessee shall remain liable for the equivalent of the amount of all rent payable hereunder less the avails, if any, of reletting, after deducting therefrom the reasonable cost of obtaining possession of the Premises and of reletting the Premises, including, without limitation, brokerage commissions, reasonable attorneys' fees, and any repairs and alterations necessary to prepare the Premises for reletting. Any and all monthly deficiencies so payable by Lessee shall be paid monthly on the date herein provided for the payment of rent.

23. **Attornment.** If the holder of any mortgage or trust deed encumbering the Premises shall succeed to the rights of Lessor under this Lease, whether through possession or foreclosure action or otherwise, then at the request of such party so succeeding to Lessor's rights (herein sometimes called "Successor-lessor") and upon delivery to Lessee of evidence reasonably sufficient to verify such succession and such Successor-lessor's written agreement to accept Lessee's attornment, Lessee shall attorn to and recognize such Successor-lessor as Lessee's lessor under this lease, and shall promptly execute and deliver any instrument that such Successor-lessor may reasonably request to evidence such attornment. Upon such attornment, this lease shall continue in full force and effect as, or as if it were, a direct lease between such Successor-lessor and Lessee upon all of the terms, conditions, and covenants as are set forth in this lease and the same shall be applicable after such attornment.

24. **Notices.** All notices to be given to the Lessor or Lessee shall be in writing and delivered personally or by certified mail sent to the Lessee at its principal office, as shown at the conclusion hereof, or as otherwise specified by Lessee in a notice to Lessor in accordance herewith.

25. **Successors and Assigns.** The covenants and conditions hereof shall be binding upon and for the benefit of the heirs, executors, administrators, successors, sublessees and assigns of the parties hereto.

26. **Meaning of Words.** The words "Lessor" and "Lessee" shall mean, respectively, all parties comprising Lessor or Lessee, regardless of number, and the word "it" shall be synonymous with "she", "he" and "they", and the word "its" shall be synonymous with "her, "his" and "their".

27. **No Brokers.** Lessor shall not be liable for the payment of brokers or finders fees, if any, pertaining to this lease transaction.

28. **Remedies Cumulative.** All remedies of the parties hereto are cumulative.

29. **Captions.** The captions of this lease are for convenience only and shall not be construed as defining or modifying any of the provisions hereof.

30. **Surrender of Possession.** Upon the expiration of the Term or upon the termination of Lessee's right of possession, whether by lapse of time, Lessee's right of termination or at the option of Lessor all as herein provided, Lessee shall forthwith surrender the Premises to Lessor in as good order, repair and condition as on the Commencement Date, ordinary wear and tear excepted, except as may specifically be provided or permitted otherwise in this Lease. Prior to the termination of the Term or of Lessee's right of possession Lessee shall remove its trade fixtures, equipment and all other items of Lessee's movable property on the Premises. Lessee shall repair or pay to Lessor upon demand the actual out of pocket cost of repairing any damage to the Premises and to the Buildings caused by any removal. If Lessee shall fail or refuse to remove any property which it is required to remove from the Premises within ten (10) Business Days after the end of the term, Lessee shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Lessor without any cost either by set-off, credit, allowance or otherwise, and Lessor may at its option accept the title to such property or at Lessee's expense may (i) remove the same or any part in any manner that Lessor shall choose, repairing any damage to the Premises caused by such removal, and (ii) store, destroy or otherwise dispose of the same without incurring liability to Lessee or any other person.

31. **Holding Over.** Lessee shall pay to Lessor an amount as Rent equal to 150% of the Monthly Basic Rent payable by Lessee during the previous Calendar Year herein provided during each month or portion thereof for which Lessee shall retain possession of the Premises or any part thereof after the expiration or termination of the Term or of Lessee's right of possession, whether by lapse of time or otherwise. If Lessee remains in possession of the Premises or any part thereof after expiration or termination of this Lease, it shall be deemed to be occupying the

Premises as a tenant from month to month and shall pay Rent in an amount equal to 150 % of the Basic Rent for each consecutive month of such month to month tenancy. Notwithstanding the foregoing, if such holding over or month to month tenancy exceeds sixty (60) days, Lessor shall have the right to evict the Lessee from the Premises and Buildings and to collect from Lessee all costs and expenses incurred in connection with such eviction, including those costs set forth in paragraph 33 below. The provisions of this paragraph 31 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Lessor provided herein or at law or in equity.

32. **Lessee Certificate.** Lessee agrees that, from time to time upon not less than ten (10) days' prior request by Lessor, Lessee or Lessee's duly authorized representative having knowledge of the following facts, will deliver to Lessor a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, a description of such modifications and that the Lease as modified is in full force and effect); (ii) the dates to which Rent and other charges have been paid; (iii) that to the best of Lessee's knowledge, the Lessor is not in default under any provision of this Lease, or, if in default, the nature thereof in detail; and (iv) such further matters as may be reasonably requested by Lessor, it being intended that any such statement may be relied upon by any prospective purchaser of the Buildings, any mortgagees or prospective mortgagees thereof, or any other prospective assignee of any mortgagee thereof, or any other transferee of all or a part of Lessor's interest in the Premises. Failure to deliver such statement within ten (10) days after demand therefor shall be deemed conclusive that this Lease is in full force and effect and unmodified, and there are no uncured defaults in Lessor's performance hereunder.

33. **Legal Expenses.** Anything herein to the contrary notwithstanding, with regard to any controversy between Lessor and Lessee respecting this lease or acts or omissions done or suffered to be done pursuant thereto, or any claims or action arising thereunder, the prevailing party shall be entitled to recover, in addition to all damages and costs which would otherwise be recoverable, all reasonable expenses, including fees of counsel, incurred by such prevailing party in connection with such controversy, claim or action, irrespective of whether such claim is liquidated, or whether such controversy, claim or action is prosecuted to a final judgment.

34. **Certain Rights Reserved by Lessor.** Lessor shall have the following rights, each of which Lessor may exercise upon reasonable notice to Lessee and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Lessee's use or possession of the Buildings or Premises and shall not give rise to any claim for set-off or abatement of rent or any other claim; provided that Lessor shall use commercially reasonable efforts to avoid any interference with the operations of Lessee:

A. To change the name or street address of the Premises and the Buildings.

B. To make repairs, alterations additions, or improvements, whether structural or otherwise, or take any other action, including but not limited to a Response action arising under Environmental Law (as defined herein), in and about the Premises and the Buildings, or any part thereof, and upon reasonable prior notice to Lessee with a representative of Lessee present (except in circumstances deemed by Lessor in good faith to constitute an emergency threatening imminent damage to person or property, in which case no such prior notice and no presence of a Lessee representative shall be required) for such purposes to enter upon the Premises, and during the continuance of any of said work, to temporarily close doors, entryways, public space and corridors in the Buildings and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Lessee's obligations hereunder, so long as the Premises are reasonably accessible and usable and Lessor uses its reasonable efforts to minimize any disruption of Lessee's business.

C. Lessee shall not install or operate machinery or any mechanical devices of a nature not directly related to Lessee's permitted use of the Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Movements of Lessee's property into or out of the Buildings or Premises and within the Buildings are entirely at the risk and responsibility of Lessee, and Lessor reserves the right to require permits before allowing any property to be moved into or out of the Buildings or Premises, if required by applicable law.

D. To enter the Premises at any reasonable time upon prior reasonable notice and with a representative of Lessee present to inspect the Premises.

35. **Entire Agreement.** This document, including the exhibits and attachments hereinafter referred to, constitutes the entire agreement between the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this agreement supercedes all previous communications, representations or agreements, whether verbal or written, between the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

LESSEE

KANE MAGNETICS ACQUISITIONS LLC
A Delaware limited liability company

By:____________________________
Its:____________________________

Address of Lessee:

LESSOR

UGIMAG INC.,
a New Jersey corporation

By:____________________________
Its:____________________________

Address of Lessor:

Exhibit L

Form of Collective Bargaining Agreement

Exhibit M

Form of Virtual Manufacturing and Distribution Agreement

Exhibit N

Form of Amendment to Cooperation Agreement

Exhibit O

Form of German Share Transfer Deed

Exhibit O: German Share Transfer Deed

Number [.] of the Roll of Deeds for 2004

Done
at Frankfut am Main
on [April 30, 2004]

[before me, the undersigned notary (Notar)

Klaus Hala]

[before me, the undersigned attorney at law (Rechtsanwalt)

Pedro Pina-Heimann

as officially appointed representative of notary (Notar)

Klaus Hala]

having his official residence in Frankfurt am Main at

[redacted]

appeared today :

1. [Dr. Esther Schmidt-Naumann, attorney at law (Rechtsanwaeltin)], having her business address at

[redacted]

acting not in her own name and on her own behalf but in her capacity as proxyholder exempted from the restrictions of section 181 German Civil Code (BGB) for

Magnequench, Inc, a Delaware corporation (the "Seller")

presenting the original of a notarially certified and apostilled Power of Attorney dated March 4, 2004, a copy of which is attached to this Deed as Annex 1; and

2. [Uwe Koeberich, attorney at law (Rechtsanwalt)], having his business address at

[redacted]

acting not in his own name and on his own behalf but in his capacity as proxyholder exempted from the restrictions of section 181 German Civil Code (BGB) for

Kane Magnetics Acquisition, LLC, a Delaware limited liability company, (the "**Purchaser**")

presenting the original of a notarially certified Power of Attorney dated [.] a copy of which is attached to this Deed as Annex 2 and a Certificate of Good Standing dated [.] a copy of which is attached to this Deed as Annex 5.

[The persons appearing are personally known to the notary / have proven their identity by presenting their national ID cards / passports.]

The persons appearing stated that they have command of the English language and requested to have their statements recorded in English. The notary, who has also command of the English language, informed the persons appearing of their right to request and receive a written translation hereof which the persons appearing waived.

The notary asked the persons appearing whether he or any member of his firm had acted in the matter which is the subject of this instrument, except in a notarial capacity. The persons appearing replied in the negative.

The persons appearing requested that I record the following :

SHARE TRANSFER DEED (the "**Deed**")

Whereas pursuant to the statements of the parties:

(A) The Seller is the sole shareholder of Magnequench GmbH, a German limited liability company, which is registered at the Commercial Register of the Local Court Essen under number HRB 14734 and has its registered seat in Essen (the "**Company**").

(B) The Company has a share capital of EUR 25,000, (in words: twenty five thousand Euros) consisting of two shares of EUR 12,500 (in words: twelve thousand five hundred Euros) each (the "**Shares**").

(C) The share capital is fully paid up.

(D) The Company does not own any real property.

(E) The Shares are free and clear of any Liens and Encumbrances as defined in the Purchase Agreement mentioned under (F) below subject to the unconditional delivery and receipt of a pay off letter from Key Corporate Capital Inc. containing a release of the existing lien on the Shares under the share pledge.

(F) The Seller and the Purchaser and other parties have executed a Purchase Agreement relating, amongst others, to the Company under which the Shares in the Company are sold by the Seller to the Purchaser. The Purchase Agreement is dated of [the date hereof] and was made in [Newark, NJ, USA] at [10 a.m.] local time. It is governed by New York law and was not recorded in the form of a notarial deed.

(G) The parties expressly waive to have the Purchase Agreement mentioned under (F) above attached to this Deed for the purpose of evidence.

(H) The transfer of the Shares under this Deed does not conflict with any statutory provisions of the Company.

It is agreed as follows :

1. ASSIGNMENT AND TRANSFER OF THE SHARES

(1) The Seller hereby assigns and transfers the Shares to the Purchaser subject to Clause 2 (CONDITIONS PRECEDENT) below.

(2) The Purchaser accepts such assignment and transfer subject to Clause 2 (CONDITIONS PRECEDENT) below.

2. CONDITIONS PRECEDENT

The assignment and transfer of the Shares agreed in Clause 1 above shall become effective only

(1) upon unconditional payment and receipt of the Purchase Price to / by the Seller as set forth in the Purchase Agreement mentioned under (F) above ;

(2) upon unconditional delivery and receipt of the payoff letter from Key Corporate Capital Inc with respect to the release of the share pledge over the Shares to / by the Purchaser as set forth in the Purchase Agreement mentioned under (F) above; and

(3) upon confirmation in writing by each party in the agreed form attached to this Deed as <u>Annexes 3 and 4</u> stating expressly that each of the conditions precedent and closing deliveries as set forth in the Purchase Agreement mentioned under (F) above has been met and/or has been waived by the party or the parties benefiting from it.

(4) The recording notary is hereby commissioned and authorized to accept service of such confirmations which shall become effective only upon their receipt with the recording notary. The recording notary shall not, prior to receipt of such confirmations, issue any certified or official copies of this Deed.

(5) The recording notary is instructed to immediately notify the respective party of the receipt of such confirmation and to communicate to each of the parties an executed copy of this Deed which has notarially certified copies of the confirmations as aforesaid attached to and sealed onto it.

3. MISCELLANEOUS

(1) The costs of this Deed as between the parties shall be borne by the Purchaser. For this purpose the parties declare that the value of this transaction is [USD 7,500,000 (in words: seven millions five

hundred thousand US Dollars)].

(2) This deed shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. All disputes arising out of or in connection with this Deed which cannot be resolved amicably between the parties shall be subject to the exclusive jurisdiction of the competent courts in Frankfurt am Main.

(3) The recording notary is requested to inform the Company according to section 16 German Limited Liability Companies Act (GmbH) of the assignment and transfer of the Shares immediately upon receipt of the written confirmation by both parties as set out in Clause 2 (CONDITIONS PRECEDENT) above by way of forwarding a certified copy of this Deed with the confirmation as aforesaid attached to and sealed onto it.

This Deed was read aloud by the [Notary / Notary Representative] to the persons appearing and together with Annexes 1 to 4 was open to them for inspection. This Deed together with its Annexes 1 to 4 was approved by the persons appearing, personally signed by them and the [Notary / Notary Representative] at [6 p.m.] local time as follows:

For and on behalf of the Seller ______________________________ [signature]

For and on behalf of the Purchaser ___________________________ [signature]

[Notary / Notary Representative] ___________________________ [signature]

[seal]

Annex [1/2]

[Letterhead of Seller / Purchaser]

POWER OF ATTORNEY

I, [Chairman of the Board / President / Managing Director] with sole power of representation of the [Seller / Purchaser] with our seat in [.] registered in the Commercial Register of [.] under number [.] hereby authorise

[names of attorneys]

all having their business address at

[address]

each one of them acting singly, to sign (as a notarised deed or otherwise) in our name and on our behalf any documentation relating to or in connection with the transfer of all shares in Magnequench GmbH having its seat in Essen from Magnequench, Inc., a Delaware corporation to Kane Magnetics Acquisition, LLC, a Delaware limited liability company.

Each authorized person may take all actions and may make and accept all declarations which he deems necessary or desirable in connection with the foregoing.

Each authorized person is released from the restrictions of section 181 of the German Civil Code (BGB).

Each authorized person is entitled to grant sub-power of attorney.

Signed in [place] on [date]

by: [Seller / Purchaser]

[Notarial certification]

[Administrative apostille]

Annex [3/4]

[Letterhead of Seller / Purchaser]

[Place, Date]

To: [Notary]

Dear Mr. [Notary],

We herewith confirm in accordance in Clause 2 (CONDITIONS PRECEDENT) of the Share Transfer Deed between Magnequench, Inc. and Kane Magnetics Acquisition, LLC relating to Magnequench GmbH dated [.] that each of the conditions precedent and closing deliveries as set forth in the Purchase Agreement between Magnequench, Inc. and Kane Magnetics Acquisitions, LLC and other parties relating, amongst others, to Magnequench GmbH dated [.] has been met and/or has been waived by the party or by the parties benefiting from it.

Yours sincerely,

[Signature]

Annex [5]

[Certificate of Good Standing
of the Secretary of the State of Delaware
for Kane Magnetics Acquisition, LLC]

DISCLOSURE SCHEDULES TO
PURCHASE AGREEMENT

Dated as of April 30, 2004

by and among

MAGNEQUENCH, INC.,
MAGNEQUENCH UG, INC.,
MAGNEQUENCH GMBH,
MAGNEQUENCH TX, LLC,
MAGNEQUENCH DE MEXICO SA DE CV
and
KANE MAGNETICS ACQUISITION, LLC

This document is delivered pursuant to that certain Purchase Agreement, dated as of April 30, 2004 (the "*Purchase Agreement*"), by and among MAGNEQUENCH, INC., MAGNEQUENCH UG, INC., MAGNEQUENCH GMBH, MAGNEQUENCH TX, LLC, MAGNEQUENCH DE MEXICO SA DE CV and KANE MAGNETICS ACQUISITION, LLC. Notwithstanding the fact that any item of information is disclosed on any particular Schedule, such information shall be deemed to have been disclosed with respect to each applicable section of the Agreement to the extent such additional application is expressly noted in the context of such disclosure. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement.

Schedule A
Permitted Encumbrances

Magnequench GmbH

- Certain agreements with suppliers of GmbH provide the supplier thereunder with standard title retention rights.

- GmbH's use of the premises leased from Widia will be subject to the terms of the Inheritance Building Right Agreement by and between Widia and Thyssen Krupp AG, dated as of December 30, 1982, as amended to date, and the Rental Agreement for Office Space by and between Widia and Thyssen Krupp AG, dated as of December 5, 1997, as amended to date.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

The equipment and some of the inventory of MTX which are on the premises of MMSA were imported into Mexico through [redacted] (an affiliate of [redacted]) pursuant to the terms and conditions of the Shelter Agreement. Due to an investigation by the Mexican tax authorities into the activities of the importer, the import/export activities of the importer were "locked-down" for a period of time prior to the Closing and MTX's ability to export the imported equipment and the finished product produced from the inventory in question was restricted during such time period. As of the Closing Date, the restrictions imposed by the Mexican tax authorities have been lifted and MTX may export the imported equipment and the finished product produced from the inventory in question through [redacted]

Magnequench UG, Inc.

- Lease Number [redacted] between [redacted] and MUG, dated January 29, 2002

Schedule B
GmbH Restructuring Reserve

	12/31/2003	2/29/2004	3/31/2004	4/16/2004
Severance	[redacted]	[redacted]	[redacted]	[redacted]
Cancellation Payments	[redacted]	[redacted]	[redacted]	[redacted]
Dismantling Equipment	[redacted]	[redacted]	[redacted]	[redacted]
2003 Social Cost Carryover	[redacted]	[redacted]	[redacted]	[redacted]
Other	[redacted]	[redacted]	-	-
Per Balance Sheet	[redacted]	[redacted]	[redacted]	[redacted]

(thousands of $US)

	12/31/2003	2/29/2004	3/31/2004	4/16/2004
Severance	[redacted]	$ [redacted]	$ [redacted]	$ [redacted]
Cancellation Payments	[redacted]	[redacted]	[redacted]	[redacted]
Dismantling Equipment	[redacted]	[redacted]	[redacted]	[redacted]
2003 Social Cost Carryover	[redacted]	[redacted]	[redacted]	[redacted]
Other	[redacted]	[redacted]	-	-
Per Balance Sheet	[redacted]	[redacted]	$ [redacted]	$ [redacted]
FOREX	[redacted]	[redacted]	[redacted]	[redacted]

Schedule 2.2(a)
Assets

- The following Equipment and Machinery owned by the Asset Seller and used in the operation of the CuNiFe operations and the North American sintered Neo trade business of the Asset Seller:

  See attached list of CuNiFe Equipment
  Vector Fields Opera Version 9.014 Finite Element Analysis software with the hardware Security key number 862 for two dimensional access.
  One (1) Vector Fields Opera License
  Dell Latitude C610 notebook PC [redacted]
  Microsoft Windows 2000 Professional operating software Product Key:
  [redacted]
  HP Deskjet 895Cxi printer [redacted]
  Compaq V75 monitor Serial [redacted]
  Sharp F0-4500 fax machine Serial [redacted]
  Compaq Armada M700, Mode # [redacted]
  Microsoft Windows 2000 Version 5.002195
  Gary Soyland's Office (Contents as is)
  Gary Soyland's Shipping Office (Contents as is)

- The Inventory of the Valparaiso Operations as of the Closing Date as set forth on the Closing Adjustment Statement.

- The accounts receivable of the Valparaiso Operations as of the Closing Date as set forth on the Closing Adjustment Statement (and only including amounts due and payable from any Affiliate of MUG to MUG for trade payables of such Affiliate to MUG incurred in the ordinary course of business).

- All rights in, to and under any contract (and all outstanding offers or solicitation made by or to the Asset Seller to enter into any contract) related to the Valparaiso Operations: (a) under which the Asset Seller has or may acquire any rights or benefits; (b) which is necessary to conduct the Valparaiso Operations; and (c) by which the Asset Seller or any of the Assets is or may become bound, and which shall include without limitation all of the following contracts:

  - Lease Number [redacted] between [redacted] and MUG, dated January 29, 2002;

  - The following sales contracts and orders:

Company	Product	Written Contract
[redacted]	CuNiFe	No
[redacted]	CuNiFe	No

Company	Product	Written Contract
	CuNiFe	Yes
	CuNiFe	Yes
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	CuNiFe	No
	NdFeB	Yes
	NdFeB	Yes
	NdFeB	Yes
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	No
	NdFeB	Yes
	NdFeB	No

- The know how, formulae, proprietary and technical information and data, methods, designs, processes, procedures, improvements thereon, and refinements thereof used in the Valparaiso Operations.

- The files, records and other information of the Asset Seller relating to the Valparaiso Operations, whether in hard copy or magnetic or other format including customer lists and records, referral sources, equipment maintenance records, equipment warranty information, specifications and drawings, manuals, production reports and records, operating guides and copies of records relating to the Transferred Employees.

Schedule 2.2(b)
Excluded Assets

- All cash of the Asset Seller on hand or on deposit.
- All securities issued by any Person and owned by the Asset Seller, including the shares of capital stock of Magnequench Singapore Pte, Ltd. and the shares of capital stock of Magnequench Tuas, Pte Ltd.
- All accounts receivable not specifically included in the Assets, including but not limited to: (i) all sums due and payable to the Companies from [redacted] and [redacted] (and its affiliates), under that certain [redacted] by and between [redacted]; (ii) all sums due and payable to MUG for Samarium Cobalt magnet and magnetic assembly sales made prior to the Closing Date; (iii) all sums due and payable to MUG from Magneuqench NJ, Inc. for equipment sales made prior to the Closing Date; and (iv) intercompany accounts receivable from Magnequench Singapore Pte Ltd. and Magnequench Tuas Pte Ltd. for expenses allocated for technical support under [redacted].
- All financial statements, Tax Returns and other Tax records and related information of the Asset Seller.
- All insurance policies owned or maintained by the Asset Seller and all rights thereunder.
- The stock records, minute books and corporate seal (if any) of the Asset Seller.
- The shares of capital stock of the Asset Seller held in treasury.
- All personnel records and other records that the Asset Seller is required by Law to retain in its possession.
- All claims for refund of Taxes and other governmental charges of whatever nature.
- All equipment and inventory not used in the Valparaiso Operations.
- All office equipment, furniture, computers and other office supplies of whatever nature which are not included in the Assets.
- The Workers' Compensation deposit made by MUG with its Workers' Compensation carrier.
- The claims or potential claims of MUG against its benefit plan third party administrator.

Schedule 2.3
Neo Trade/CuNiFe Accounts Payable of the Asset Seller as of February 29, 2004

Magnequench UG
Accounts Payable
29-Feb-04

[redacted]

Vendor	Vendor #	Total	Current	31-60	61-90	90+
[redacted]						
Total						

Schedule 2.5
Purchase Price Allocation

GmbH Shares	[redacted]
MTX Interests	[redacted]
MMSA Shares	[redacted]
Assets.	[redacted]
Aggregate Purchase Price	[redacted]

Schedule 3.1(a)
Organization and Existence

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

MTX owns two percent (2%) of the issued and outstanding equity interests of MMSA.

Magnequench UG, Inc.

MUG owns:

- 100% of the issued and outstanding shares of capital stock of Magnequench Singapore Pte, Ltd.; and
- 100% of the issued and outstanding shares of capital stock of Magnequench Tuas Pte Ltd.

Schedule 3.1(d)
Capitalization

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

There are no preemptive rights, rights of first refusal, registration rights, co-sale rights or similar rights exist other than those in the Bylaws of MMSA.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(f)
Undisclosed Liabilities

Magnequench GmbH

As of the Closing Date, GmbH may have liabilities to consignment inventory suppliers for which consignment inventory has been pulled from consignment stock but for which the reporting obligation has not yet arisen.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

As of the Closing Date, MTX may have liabilities to consignment inventory suppliers for which consignment inventory has been pulled from consignment stock but for which the reporting obligation has not yet arisen.

Magnequench UG, Inc.

None.

Schedule 3.1(h)
Absence of Certain Changes

Magnequench GmbH

Immediately prior to the Closing, all cash on hand of GmbH will be used to satisfy Indebtedness of GmbH for borrowed money, and to the extent any excess cash remains, it will be paid to the Stock Seller as a dividend.

Magnequench de Mexico SA de CV

Immediately prior to the Closing, all cash on hand of MMSA will be used to satisfy Indebtedness of MMSA for borrowed money, and to the extent any excess cash remains, it will be paid to the Stock Seller and MTX as a dividend.

Magnequench TX, LLC

Immediately prior to the Closing, all cash on hand of MTX will be used to satisfy Indebtedness of MTX for borrowed money, and to the extent any excess cash remains, it will be paid to the Stock Seller as a dividend.

Magnequench UG, Inc.

None.

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Magnequench GmbH

- Effective as of the Closing Date, GmbH transferred its [redacted] (including accounts receivable, assets and inventory) and its [redacted] (including accounts payable) to Magnequench AG.

- Effective at or prior to the Closing, GmbH either (i) transferred three (3) employees to Magnequench AG, or (ii) transferred two (2) employees to Magnequench AG and terminated the employment of one (1) employee, all of which are related to the Hanau sales office activities formerly undertaken by GmbH on behalf of Magnequench AG.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

The equipment and some of the inventory of MTX which are on the premises of MMSA were imported into Mexico through [redacted] pursuant to the terms and conditions of the Shelter Agreement. Due to an investigation by the Mexican tax authorities into the activities of the importer, the import/export activities of the importer were "locked-down" for a period of time prior to the Closing and MTX's ability to export the imported equipment and the finished product produced from the inventory in question was restricted during such time period. As of the Closing Date, the restrictions imposed by the Mexican tax authorities have been lifted and MTX may export the imported equipment and the finished product produced from the inventory in question through [redacted]

Magnequench UG, Inc.

- The Asset Seller sold certain slicing equipment to an Affiliate, Magnequench NJ, Inc.

- The Asset Seller sold and transferred certain equipment and machinery pursuant to the terms and conditions of [redacted]

- The Asset Seller has sold or will sell immediately after the Closing, certain equipment, machinery and assets not related to the Business and not included in the Assets pursuant to an auction or other liquidation sale.

Magnequench GmbH

- On or before March 31, 2004, [redacted] received a bonus for fiscal year 2003 in the amount of [redacted]

- On or before March 31, 2004, [redacted] received a bonus for fiscal year 2003 in the amount of [redacted].

- Effective March 31, 2004, GmbH effected an across the board wage increase of 2.2%.

<u>Magnequench de Mexico SA de CV</u>

On or about January 1, 2004, [redacted] raised the wages (pesos per hour) of its employees employed for the benefit of MMSA; however, due to changes in the peso to U.S. Dollar exchange rate, the hourly figure in U.S. Dollars charged to MTX as provided in the Shelter Agreement (and as listed on <u>Schedule 3.1(q)</u>) was not increased.

<u>Magnequench TX, LLC</u>

[illegible] Dollars (USD [illegible]) ([illegible] of total pay).

<u>Magnequench UG, Inc.</u>

None.

<u>Magnequench GmbH</u>

- The remaining hot-pressed magnet operations (other than the [redacted] of GmbH are in the process of being transferred to an Affiliate of GmbH (other than an Acquired Company).

<u>Magnequench de Mexico SA de CV</u>

- Prior to the Closing Date, MMSA "checked the box" to be treated as a disregarded entity for U.S. Income Tax purposes.

Magnequench TX, LLC

- Effective as of the Closing Date, MTX transferred its [redacted] (including accounts receivable, assets and inventory) and its [redacted] (including accounts payable) to Magnequench AG.

- Prior to the Closing Date, MTX was converted from an Idaho corporation (Magnequench TX, Inc.) to an Idaho limited liability company (Magnequench TX, LLC).

Magnequench UG, Inc.

- The Valparaiso facility is in the process of being shut down, except for the Valparaiso Operations being transferred to the Buyer pursuant to the terms and conditions of the Purchase Agreement.

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Magnequench GmbH

- The hot-pressed magnet operations of GmbH (other than the MQ2/Delphi business) are in the process of being transferred to an Affiliate of GmbH (other than an Acquired Company).

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

- Certain equipment of MUG unrelated to the Business which was sold to an [redacted] was damaged in transit [redacted] Pursuant to the terms and conditions of the Cooperation Agreement, title to the equipment passed at the ship's rail at the port of exportation and as such, the damage to the equipment is the responsibility of [redacted]

- The Valparaiso facility is in the process of being shut down, except for the Valparaiso Operations being transferred to the Buyer pursuant to the terms and conditions of the Purchase Agreement.

Magnequench GmbH

GmbH no longer actively uses the marks [redacted] or [redacted] for any marketing purposes.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

MTX was a party to certain licensing agreements related to the production of Neo Powder that have expired or otherwise have been allowed to lapse.

Magnequench UG, Inc.

None.

Schedule 3.1(i)
Tax Matters

Magnequench GmbH

- Umsatzsteuereklärung for Kalenderjahr 2000
- Bescheid auf fur 2000 uber
- Umsatzsteuereklärung for Kalenderjahr 2001
- Bescheid fur 2001 uber
- Umsatzsteuereklärung for Kalenderjahr 2002

GmbH's federal income tax filing has been consolidated as part of the Magnequench, Inc. U.S. Federal and Indiana State Income Tax returns. Due to its check-the-box federal filing status, it is included in Magnequench International, Inc.'s Federal, Michigan and North Carolina Tax returns.

Magnequench de Mexico SA de CV

Tax Year 2001

Annual Mexican Federal income tax return

Tax Year 2002

Annual Mexican Federal income tax return
Monthly estimated tax payment returns

Tax Year 2003

Annual Mexican Federal income tax return
Monthly estimated tax payment returns
Request for refund of excess IVA payments
Request for refund of overpaid federal income taxes and IVA.

MMSA is included in the U.S. Federal Income Tax Return only with respect to From 5471, Information Return of Foreign Corporations.

Magnequench TX, LLC

MTX's federal income tax filing has been consolidated as part of the Magnequench, Inc. Federal and Indiana Income Tax returns.

Period	Report	Jurisdiction
2003	Property Taxes (with MQI)	El Paso Central Appraisal District
2002	Property Taxes (with MQI)	El Paso Central Appraisal District
2004	Form 05-102 Texas Public Information Report	State of Texas

2003	Form 05-102 Texas Public Information Report	State of Texas
2003	Form 05-141 Texas Franchise No Tax Due Information Report	State of Texas
10/15/01 – 12/31/02	Form 05-141 Texas Franchise No Tax Due Information Report	State of Texas
Start-up	Nexus Questionnaire	State of Texas
Start-up	Request for Certificate of Authority	State of Texas

Magnequench UG, Inc.

The Asset Seller's federal income tax filing has been consolidated as part of the Magnequench, Inc. Federal and Indiana State Income Tax return.

2002 Massachusetts Business and Manufacturing Corporation Excise Tax Return – Form 335.

2001 Massachusetts Business and Manufacturing Corporation Excise Tax Return – Form 335.

2000 Massachusetts Business and Manufacturing Corporation Excise Tax Return – Form 335 for the period November 1, 2000 to December 31, 2000.

The Asset Seller files Indiana Sales and Use Tax Returns monthly.

The Asset Seller files Porter County Personal Property Tax Returns annually.

The Asset Seller pays Porter County Real Estate Taxes annually.

<u>Schedule 3.1(j)</u>
Legal Compliance

<u>Magnequench GmbH</u>

Permits:

- Permit to Purchase Tax Released Electricity, dated March 7, 2003, issued by the Chief Customs Office (*Hauptzollamt*) Duisburg.

- The Stock Seller's subsidiary, Magnequench NJ, Inc. ("***MQNJ***"), is registered with the U.S. Department of Treasury's Bureau of Alcohol, Tobacco and Firearms ("***ATF***") which allows MQNJ to apply for and obtain import permits for Munitions Import List items. An ATF import permit application made by MQNJ related to importation of items on the Munitions Import List pursuant to a purchase order issued by Globe Motors to GmbH was granted on March 29, 2004. In the event that in the future the Buyer were to desire to manufacture (or cause GmbH to manufacture) additional Munitions Import List items for current or future customers of GmbH, the Buyer (or an Affiliate of the Buyer) would need to (i) arrange for a third party to import items on the Munitions Import List on their behalf or (ii) be registered with ATF and obtain appropriate import permits to import the Globe Motors part and/or other items on the Munitions Import List.

Compliance with Laws:

[redacted]

Magnequench de Mexico SA de CV

Permits:

- MMSA operates pursuant to a number of permits held by [redacted] (and certain of its affiliates) pursuant to the terms and conditions of the Shelter Agreement.

- Official communique no. 720/8.1/3959/1999 dated 6/30/1999 authorizing American Excelsior SA de CV to act as maquiladora company under registry number [redacted]

- Taxpayers ID Certificate - Magnequench de Mexico.

- Letter to electricity company from ProLogis Mexico Trust regarding notice of cession to Magnequench of rights over 400 KVA hired and that Magnequench hiring 290 KVA.

- Secretary of Economy's permit dated 6/17/2003 regarding exporting of magnets and Memo #200304390 dated 6/11/2003 requesting to Secretary of Economy the amplification of Maquila Registry.

- Certificate and inspection report from the Commission of Health and Safety for the premises of MMSA dated 1/24/2003.

- Letter sent to office of Regulation and Sanitary Development of Juarez dated 1/1/2003 to notify them of the name change from American to MMSA as it related to the operations permit number [redacted] dated 8/22/2002 with a copy of such operations permit attached.

- Permit from Department of Health of Chihuahua for establishment of cafeteria on the premises of American dated as of 1/11/2002.

- Certificate from City of Juarez for MMSA, number 38958 dated 11/14/2003 re: its license for commercial and industrial operations.

- Letter from Department of Health of the State of Chihuahua dated 4/1/2003 (document number [redacted] file number [redacted] certifying that MMSA had successfully complied with all Department's requirements and attached were background reports and letters of such requirements.

- Letter from Secretary of Labor (file number [redacted]) re: an inspection on 4/3/03 of American's premises for general conditions of the location's health and safety requirements.

- Document number [redacted] regarding the Maquiladora zoning of the premises of MMSA.

- Cover letter from Department of Ecology and Civil Protection dated 1/10/02 document number [redacted] archive number [redacted] re: review and approval of American's Contingency Plan in event of an emergency with a copy of such plan attached.

- Final decree (Number [redacted])) from Secretary of Labor dated 1/24/03 stating that American had complied with all requirements regarding an inspection of the safety and health conditions of the steam/vapor installations.

- MMSA is currently in the process of making the proper applications for qualifications as a maquilladora.

- *See* the Environmental Permits listed on <u>Schedule 3.1(x)(i)</u>.

- [redacted] and [redacted] have work permits issued by a Mexican Governmental Entity which allow them to work on the premises of MMSA in Mexico.

Compliance with Laws:

[redacted]

[redacted]

<u>Magnequench TX, LLC</u>

Permits:

None.

Compliance with Laws:

[redacted]

<u>Magnequench UG, Inc.</u>

Permits:

- *See* the Environmental Permits listed on Schedule 3.1(x)(i).

Compliance with Laws:

[redacted]

Schedule 3.1(k)(i)
Title

Magnequench GmbH

- Agreement Concerning Assignment of Claims, dated August 10, 2001 [to be released by KeyBank at the Closing]

- Agreement Providing for Fiduciary Transfer of Title, dated August 10, 2001 [to be released by KeyBank at the Closing]

- Agreement Concerning Pledge of Accounts, dated August 10, 2001 [the accounts at ABN Amro Bank AG and Commerzbank to be released by KeyBank at the Closing]

- Deed Registering the Share Pledge Agreement filed with the German Registry of Deeds for 2000 (No. 631) dated October 31, 2000 [to be released by KeyBank at the Closing]

- Guaranty Agreement by GmbH in favor of Key Corporate Capital, Inc., dated August 10, 2001 [to be released by KeyBank at the Closing]

- Seven Revolving Credit Notes dated August 10, 2001 issued by GmbH in favor of Key Corporate Capital, Inc. [to be released by KeyBank at the Closing]

- *See* Schedule 3.1(m) regarding consigned inventory of third parties on the premises of GmbH.

- *See* information regarding cash collateralized ABN Amro account of GmbH held for the benefit of the German customs authority and the auto leasing company set forth on Schedule 6.10.

Magnequench de Mexico SA de CV

- Pledge Agreement Over Inventory by and among the Stock Seller, MTX, MMSA (Depositor), and Key Corporate Capital Inc. [to be released by KeyBank at the Closing]

- Stock Pledge Agreement by and between the Stock Seller and Key Corporate Capital, Inc., dated August ___, 2002 relating to the pledge of the stock of MMSA [to be released by KeyBank at the Closing]

- Pledge Agreement among the Stock Seller, MTX, MMSA and Key Corporate Capital, Inc., dated August ___, 2002, including the filings with the Public Registry of Property in Ciudad Juarez, Chihuahua, Mexico (number 51, page 61, Volume 7 of the Second Book of Commerce Section) [to be released by KeyBank at the Closing]

- *See* Schedule 3.1(m) regarding consigned inventory of third parties on the premises of MMSA.

Magnequench TX, LLC

- Security Agreement by and between MTX and Key Corporate Capital, Inc., dated April 10, 2001 [to be released by KeyBank at the Closing].

- The following security filings have been filed against the assets of MTX [to be released by KeyBank at the Closing]:

Location of Filing	Filing Number	Type	Filing Date	Secured Party
Idaho Secretary of State	[redacted]	UCC-1	04/16/01	Key Corporate Capital, Inc.
Idaho Secretary of State	[redacted]	Amend.	12/27/01	Key Corporate Capital, Inc.
Idaho Secretary of State	[redacted]	UCC-1	12/27/01	Key Corporate Capital, Inc.
Idaho Secretary of State	[redacted]	Amend.	1/10/02	Key Corporate Capital, Inc.

Magnequench UG, Inc.

- Security Agreement by and among Magnequench Valparaiso, Inc., MUG, Magnequench NJ, Inc. and Key Corporate Capital, Inc., in all of the assets and properties of MUG [to be partially released with respect to the Assets by KeyBank at the Closing]

- The following security filings have been filed against the Assets [to be partially released with respect to the Assets by KeyBank at the Closing]:

Location of Filing	Filing Number	Type	Filing Date	Secured Party
Delaware Secretary of State	[redacted]	UCC-1	11/3/00	Key Corporate Capital, Inc.
Indiana Secretary of State	[redacted]	UCC-1	11/3/00	Key Corporate Capital, Inc.
Porter Co., IN Recorder	[redacted]	UCC-1	11/6/2000	Key Corporate Capital, Inc.
Porter Co., IN Recorder	[redacted]	UCC-2	11/6/2000	Key Corporate Capital, Inc.

Schedule 3.1(l)
Condition of Assets and Properties

Magnequench GmbH

- GmbH is in possession of certain hard-ferrite production equipment which is no longer useful in the Business. This equipment is in the process of being dismantled and the costs for such dismantling are included in the Restructuring Reserve. GmbH is currently seeking a purchaser for the scrapped equipment.

- *See* Schedule 3.1(m) regarding consigned inventory of GmbH on the premises of third parties.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

- A Demag injection molding machine owned by MTX is currently housed at an outside processor, [redacted] located at [redacted] which [redacted] uses to produce a part for GE Tech Group in Mexico. MTX is in the process of qualifying the MMSA facility in Juarez, Mexico to produce the part for GE Tech Group, and once the qualification therefor is received, MTX plans to move the Demag injection molding machine from [redacted] to its Juarez, Mexico facility.

- *See* Schedule 3.1(m) regarding consigned inventory of MTX on the premises of third parties.

Schedule 3.1(m)
Inventory

Magnequench GmbH

(iv) The following are the names and addresses of all persons or entities other than GmbH or an Acquired Company that have possession of inventory which is the property of GmbH:

Consigned Inventory Locations:

[redacted]
Germany

[redacted]
Germany

[redacted]
Germany

GE Grasslin GmbH
[redacted]
Germany

[redacted]
U.S.A.

[redacted]
U.S.A.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Outside Processors:

[redacted]

(v) GmbH is currently in possession of [redacted] owned by Magnequench AG, which is to be further processed by GmbH pursuant to the terms and conditions of the Purchase Agreement.

GmbH is currently in possession of consigned inventory owned by the following parties:

DIC Europe, Duesseldorf	-	Ferrite Powder OP71
GFE, Numburg	-	Cobalt-Aluminum Alloy
GFE, Numburg	-	Cobalt-Aluminum-Titanium Alloy

Magnequench de Mexico SA de CV

(v) MMSA is currently in possession of [redacted] inventory owned by Magnequench AG, which is to be further processed by MMSA pursuant to the terms and conditions of the Purchase Agreement.

MMSA is currently in possession of inventory owned by MTX.

MMSA is currently in possession of inventory which is consigned by MTX (which inventory is held at no charge and for which MMSA does not take title) from the following suppliers:

- [redacted]
- [redacted]

Magnequench TX, LLC

(iv) The following are the names and addresses of all persons or entities other than MTX or an Acquired Company that have possession of inventory which is the property of MTX:

Consigned Inventory Locations:

[redacted]

[redacted]

[redacted]

Outside Processor Locations:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

(v) MTX is currently in possession of [redacted] inventory owned by Magnequench AG, which is to be further processed by MMSA pursuant to the terms and conditions of the Purchase Agreement.

MTX ships inventory for further processing to GmbH, and MTX retains title to the inventory while in transit until it is received by GmbH.

Magnequench UG, Inc.

None.

Schedule 3.1(n)(i)
Owned Real Property

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(n)(ii)
Leased Real Property

Magnequench GmbH

- GmbH leases portions of the following real property from Widia GmbH ("*Widia*"):

  Munchener Strasse 90
  Munchener Strasse 125-127
  Essen, Germany
  Lease Agreement: Lease and Co-Usage Agreement between Widia GmbH and Magnequench GmbH, dated as of August 22, 2000.
  Lessor: Widia
  [redacted]

- GmbH leases premises on the following real property from Thyssen Krupp AG

  Münchener Strasse 100/Harkortstrasse/Bunsenstrasse
  Essen, Germany
  Leased premises: office space in the building D, second and third floor and space in the basement, amounting to 337 m² and 7 parking lots

  Lease Agreement between Thyssen Krupp AG and Magnequench GmbH dated November 28, 2001
  Lessor: Thyssen Krupp
  [redacted]

- GmbH leases office space from Götz Kühn

  Donaustrasse 7,
  Hanau, Germany

Lease Agreement: Between Götz Kühn and Magnequench GmbH dated as of January 25, 2002
Lessor: Götz Kühn
[redacted]

Magnequench de Mexico SA de CV

Pursuant to that certain Lease Agreement between MMSA and Bancomer, S.A., Institucion de Banca Multiple Grupo Finaciero, dated November 2001, MMSA leases approximately 40,640 square feet of factory and office space located at Salvarcar Industrial Cetner #6, Ciudad Juarez, Chihuahua, Mexico, from Bancomer, S.A., Institucion de Banca Multiple Grupo Finaciero. The term of the lease is for [redacted] years and the monthly base rent (including operating expense charge) is [redacted] The obligations of MMSA under this lease are guaranteed by the Stock Seller.

Magnequench TX, LLC

Pursuant to an unwritten warehousing, transportation, logistics and inventory management arrangement between MTX and [redacted] MTX leases warehousing space located at 11444 Rojaz #C-6, El Paso, TX 79936. MTX is billed the monthly amount of [redacted] for all of the services, including the rental fee for the warehouse facility. The parties are operating on a month-to-month agreement with respect to this agreement.

Magnequench UG, Inc.

- MUG subleases the following property from Magnequench Valparaiso, Inc. ("*MVI*")

  405 Elm Street
  Valparaiso, Indiana
  Lessor: Ugimag, Inc.
  [redacted]

MVI provided written notice to Ugimag, Inc. on November 1, 2003 of its intent to terminate the lease effective as of May 1, 2004.

Schedule 3.1(n)(iii)
Real Property

Magnequench GmbH

Certain defects exist in the deeds establishing the permanent hereditary building rights pursuant to which Widia used the land which is leased by GmbH.

Certain use restrictions for the Real Property are set forth in the lease agreements referenced in Schedule 3.1(n)(ii).

Magnequench de Mexico SA de CV

Certain use restrictions for the Real Property are set forth in the lease agreements referenced in Schedule 3.1(n)(ii).

Magnequench TX, LLC

None.

Magnequench UG, Inc.

Certain use restrictions for the Real Property are set forth in the lease agreements referenced in Schedule 3.1(n)(ii).

Schedule 3.1(o)
Accounts Receivable

Magnequench GmbH

See attached listing [redacted]

See attached listing: [redacted]

Magnequench de Mexico SA de CV

As of February 28, 2004, MMSA's only account receivable is from [redacted] in the aggregate amount o[redacted]

Magnequench TX, LLC

See attached listing:

- Intercompany Accounts Receivable as of 02/29/04
- All Customers A/R Aged Trial Balance by Due Date, dated 03/01/04

Magnequench UG, Inc.

Magnequench UG
Accounts Receivable - Neo Trade/CuNiFe
29-Feb-04

Cust #	Customer	Total	to 30	31-45	46-60	61-90	90+
[redacted]							

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have been

intentionally

omitted

Schedule 3.1(r)(i)(A)
Employee Benefit Plans

Magnequench TX, LLC

MTX is a participating employer to the following employee benefit plans:

- Maqnequench International Inc. Welfare Benefit Plan (Health Insurance) – Salaried
    - Plan Supervisor Agreement - TPA – Unified Group Services
    - Stop Loss - Re-insurer – Companion Life Insurance Company
- Maqnequench International, Inc. Section 125 Plan – Salaried Employee (Flexible Spending; Premium Conversion)
- Maqnequench International Inc Dental Insurance –Salaried - fully insured dental through Guardian
- Maqnequench International Inc Vision Insurance – Salaried – fully insured vision through VisionCare
- Maqnequench International Inc Long Term Disability Insurance Policy - Salaried only - Jefferson Pilot
- Maqnequench International Inc Basic Life, Accidental Death and Dismemberment, and Optional Life Insurance Policy, Dependent Life- Salaried - Met Life
- Maqnequench International Inc. Short Term Disability Policy – Salaried - (In house policy run through Payroll)
- Maqnequench International Inc. Educational Assistance Policy
- Magnequench International Savings & Investment Plan – Salaried Employees - No. 001
    - Trust – Bankers Trust Company
- Maqnequench International Inc. Workers Compensation – Wausau Insurance Company
  [redacted]
- IMG – International Travel Policy
- Magnequench International Severance Policy for Salaried Employees

Magnequench UG, Inc.
MUG maintains sponsors or is a participating employer to the following employee benefit plans:

- Magnequench UG, Inc. Welfare Benefit Plan (Health Insurance) – Hourly and Salaried

- Plan Supervisor Agreement - TPA – Unified Group Services
- Stop Loss - Re-insurer – Companion Life Insurance Company

- Magnequench UG, Inc. Section 125 Plan-Non-Union - Salaried (Flexible Spending; Premium Conversion)
- Magnequench UG, Inc. Section 125 Plan-Union (Premium Conversion only)
- Magnequench UG, Inc. Dental Insurance –Hourly and Salaried - fully insured dental through Guardian
- Magnequench UG, Inc. Long Term Disability Insurance Policy - Salaried only - Jefferson Pilot
- Magnequench UG, Inc. Basic Life, Accidental Death and Dismemberment, and Optional Life Insurance Policy Hourly and Salaried - Met Life
- Magnequench UG, Inc. Executive Life Insurance Policies (Rozendaal; LaBreck; Marcenac)
- Magnequench UG, Inc. AIG Life Insurance Company – Group Travel Accident Policy – (Some Salaried Employees)
- Magnequench UG, Inc. Short Term Disability Policy – Salaried - (In house policy run through Payroll)
- Magnequench UG, Inc. Educational Loan Assistance Policy
- Magnequench UG, Inc. Savings & Investment Plan – Salaried Employees - No. 002
  - Trust – Putnam Fiduciary Trust Company
- Magnequench UG, Inc. Savings & Investment Plan – Union Employees No. 001
  - Trust - Putnam Fiduciary Trust Company
- Workers Compensation – Wausau Insurance Company Policy[redacted]
- IMG – International Travel Policy
- Magnequench UG, Inc. Severance Policy for Salaried Employees revised 1/1/04

<u>Magnequench GmbH ("GmbH")</u>

The following plans, policies or arrangements for the provision of employee benefits for employees of GmbH are "***Foreign Plans***" as defined in the Purchase Agreement:

p) 2004 Bonus Plan for Suitbert Kessler
q) Pension Plan for [redacted], dated June 10, 2003
r) 2004 Bonus Plan for [redacted]
s) Pension Plan for [redacted] dated June 10, 2003
t) Pension Plan Contracts for Management Team (*Anpassung Versorgungswerk Magnequench GmbH*)
u) Pension Plan for workers who changed from Deutsche Carbone Lorraine to Magnequench GmbH (to be transferred to Magnequench AG on or prior to the Closing)
v) Pension Plan for all other workers (*Richtlinien fur Leistungen an Mitarbeiter im Ruhestand*)
w) Luggage Insurance for All Employees (*Reisegepackversicherung*)
x) Insurance against Traffic Legal Issues (*Verkehrs-Rechtsschutzversicherung*)
y) Insurance against Traffic Incidents (*Gruppenunfallversicherung*)
z) Insurance against Transport Damages (*Sondervereinbarung*)
aa) Special Liability Insurance (*Marsh-Spezial-Haftpflichtversicherung*)
bb) Health Insurance
cc) Direkt-Verischerung for Employees who elect such direct insurance
dd) Social Redundancy Plan as of September 19, 2003

Magnequench de Mexico SA de CV

All Mexican nationals working for MMSA are employees of TECMA, LLC (or its Mexican Affiliates), pursuant to the terms and conditions of the Shelter Agreement. TECMA, LLC (or its Mexican Affiliates) is responsible for providing all employee benefits to their employees.

Schedule 3.1(r)(ii)
Employee Benefit Plans

Magnequench TX, LLC

(A) Copies of all documentation has been provided.

(B) None.

Magnequench UG, Inc.

(A) Copies of all documentation has been provided.

(B) None.

Magnequench GmbH

(A) Copies of all documentation has been provided.

(B) None.

Magnequench de Mexico SA de CV

(A) MMSA maintains no Benefit Plans.

(B) MMSA maintains no Benefit Plans.

Schedule 3.1(r)(iii)
Employee Benefit Plans

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(r)(vii)
Employee Benefit Plans

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(r)(viii)
Employee Benefit Plans

Magnequench GmbH

- Change in Control Letter Agreement between [redacted] and Magnequench, Inc., dated as of October 7, 2002.
- Change in Control Letter Agreement between [redacted] and Magnequench, Inc., dated as of October 7, 2002.

Magnequench de Mexico SA de CV

MMSA has no employees.

Magnequench TX, LLC

- Magnequench International, Inc. Severance Policy for Salaried Employees

Magnequench UG, Inc.

- Magnequench UG, Inc. Severance Policy for Salaried Employees
- Shutdown Agreement between MUG and the United Steelworkers of America, Local Union No. 1191-12, dated July 13, 2003, as amended through the date hereof.

Schedule 3.1(s)
Labor Relations

Magnequench GmbH

- Collective Bargaining Agreement for GmbH, dated September 19, 2003, with IG Metall, Nordheim-Westfallen.
- Membership in the EUV (employers' association).
- Social Redundancy Plan, dated September 19, 2003, and the contract balance of interest.

Magnequench de Mexico SA de CV

All Mexican nationals working for MMSA are employees of [redacted] (or its Mexican Affiliates), pursuant to the terms and conditions of the Shelter Agreement and [redacted] (or its Mexican Affiliates) are responsible for managing and administering all labor matters applicable to their employees.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

- Labor Agreement between MUG and the United Steelworkers of America, Local Union No. 1191-12 dated November 20, 2000. The agreement expired on November 19, 2003 but was continued by the Shutdown Agreement described below.
- Shutdown Agreement between MUG and the United Steelworkers of America, Local Union No. 1191-12, dated July 13, 2003, as amended through the date hereof.
- MUG has negotiated a one-year renewal, to be effective beginning on the Closing Date, of the Labor Agreement between MUG and the United Steelworkers of America, Local Union No. 1191-12 dated November 20, 2000, whereby the Buyer would be replaced in all respects as the employer under such Labor Agreement.

Schedule 3.1(t)
Interests of Affiliates

Magnequench GmbH

[redacted]

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

[redacted]

Magnequench UG, Inc.

[redacted]

Schedule 3.1(u)
Insurance

Magnequench GmbH

	Versicherungsnummer	Versicherer	Maker
Feuerversicherung, Einbruchdiebstahlversicherung Risiko: Essen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Feuer-Betriebsunterbrechung Risiko: Essen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Industrie-BU-All Risks Risiko: Essen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Industrie-All Risks-Vers. Risiko: Essen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Transportversicherung	[redacted]	Alte Leipziger (Gaede & Glauerdt)	Marsh GmbH
Feruerversicherung Risiko: Tubingen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Industrie-All Risks-Vers. Risiko: Tubingen	[redacted]	Gothaer Versicherungsbank VVG	Marsh GmbH
Betriebshaftpflichtvers	[redacted]	Basler Versicherungs-Gesellschaft	Marsh GmbH
Rechtsschutzversicherung	[redacted]	Hiscox managerline AG	Marsh GmbH
Vermogensschaden H. Versicherung	[redacted]	Hiscox managerline AG	Marsh GmbH
Straf-Rechtschutz Versicherung	[redacted]	Hiscox managerline AG	Marsh GmbH
Transportversicherung	[redacted]	Alte Leipziger Versicherung	Marsh GmbH

- *See* the insurance policies listed in Schedule 3.1(r)(i).

Magnequench de Mexico SA de CV; Magnequench TX, LLC

MMSA and MTX are covered under the following insurance policies of Magnequench, Inc.:

Line of Coverage	Carrier	Policy No.	Policy Period	Limit	

Line of Coverage	Carrier	Policy No.	Policy Period	Limit	
General Liability	Lexington (AIG)	[redacted]	3/1/04-3/1/05	[redacted]	General Aggregate
				[redacted]	Products/Comp. Ops.
				[redacted]	P&A Injury
				[redacted]	Each Occurrence
				[redacted]	Fire Damage
				[redacted]	Medical
Workers' Compensation	Wausau	[redacted]	[redacted]/1/04-1/105	[redacted]	Statutory
				[redacted]	Each Accident
				[redacted]	Policy Limit
				[redacted]	Each Employee
Automobile	Wausua	[redacted]	2/1/04-3/1/05	[redacted]	CSL
Aircraft Products	Illinois National (AIG)	[redacted]	1/1/04-1/1/05	[redacted]	Each Occurrence
				[redacted]	Each Grounding
				[redacted]	Aggregate
Property	CNA		1/1/04-5/1/04	[redacted]	AOS Mexico
Directors & Officers	Chubb	[redacted]	1/1/04-6/1/05	[redacted]	Aggregate
Employment Practices	Chubb	[redacted]	1/1/04-6/1/05	[redacted]	Aggregate
Cargo	Federal Insurance Company	[redacted]	1/1/02 – until cancelled	[redacted]	Any loss except On deck Barge
Crime	Chubb	[redacted]	1/1/04-6/1/04	[redacted]	Per Loss except Money Orders & Counterfeit
Fiduciary	Chubb	[redacted]	1/1/04-6/1/05	[redacted]	Aggregate–Each Year
Special Risk	Chubb	[redacted]	1/1/04-6/1/05	[redacted]	Per Loss
Umbrella Liability	Chubb	[redacted]	3/1/04-3/1/05	[redacted]	Aggregate
Excess Umbrella Liability	St. Paul	[redacted]	3/1/04-3/1/05	[redacted]	Xs $25,000,000
Difference In Conditions	ACE	[redacted]	3/1/04-3/1/05	[redacted]	General Liability Automobile Employers Liability

Schedule 3.1(v)
Intellectual Property

Magnequench GmbH

GmbH Patent	Application Number	Country
Composite material consisting of soft magnetic particles embedded in a thermoplastic matrix	[redacted]	GERMANY

GmbH Trademark	Registration Number	Country
HYPERM	[redacted]	INTERNATIONAL
KOERDYM	[redacted]	GERMANY
KOERFLEX	[redacted]	INTERNATIONAL
KOERMAX	[redacted]	GERMANY
KOEROX	[redacted]	GERMANY
KOEROX	[redacted]	DENMARK
KOEROX	[redacted]	GREAT BRITAIN
KOEROX	[redacted]	NORWAY
KOEROX	[redacted]	SWEDEN
KOEROX	[redacted]	INTERNATIONAL
KOEROX	[redacted]	CANADA
KOERZIT	[redacted]	GERMANY
KOERZIT	[redacted]	DENMARK
KOERZIT	[redacted]	GREAT BRITAIN
KOERZIT	[redacted]	NORWAY
KOERZIT	[redacted]	SWEDEN
KOERZIT	[redacted]	INTERNATIONAL
KOERZIT	[redacted]	CANADA
THERMOPERM	[redacted]	INTERNATIONAL

*International Registrations cover AG, BX, EG, ES, FR, HU, IT, PT, DE, RO, CH, CZ, TN and YU.

- [redacted]" is used by Magnequench GmbH as name for the compounds which the company has started to sell. At the moment the name is not protected by law. It is intended to initiate steps in the next months to file the registration of NEOCOMP as legal trademark in German and such other jurisdictions as GmbH deems appropriate.

- "NEOMAG" is a trademark registered in the United States and owned by the Stock Seller. At or prior to the Closing, the Stock Seller will execute, deliver and file a trademark assignment transferring all of its rights in "NEOMAG" to GmbH.

- GmbH has trade secrets with respect to injection molding processes and in the designing and construction of tools.
- The information about GmbH's customers are kept in strict confidence.
- GmbH has in its possession certain technical data and technical prints constituting intellectual property rights owned by its customers.
- As a purchaser of the Stock Seller's Neo Powder, GmbH benefits from a non-transferable, royalty-free license from the Stock Seller to produce certain magnets.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

As a purchaser of the Stock Seller's Neo Powder, MTX benefits from a non-transferable, royalty-free license from the Stock Seller to produce certain magnets.

Magnequench UG, Inc.

None.

Schedule 3.1(w)
Disputes and Litigation

Magnequench GmbH

- In connection with the reduction of headcount during calendar year 2003, a number of workers filed claims against GmbH regarding re-employment. All claims were successfully challenged by GmbH and full acceptance for cancellation was received before the court.

Magnequench de Mexico SA de CV

- MMSA has been named as a defendant in a lawsuit by a former [redacted] employee. Complaint filed by [redacted] th Mexican equivalent of NLRB on 9/20/2002 against [redacted] and/or [redacted]

Magnequench TX, LLC

None.

Magnequench UG, Inc.

- [redacted]

- [redacted]

- The Asset Seller currently has outstanding workers' compensation claims b[redacted]nd [redacted] neither of whom are Transferred Employees).

- [redacted]torney has stated [redacted]ntention to file a third party claim against (i) the manufacturer of the equipment causing her injury and/or (ii) the Asset Seller, to the extent the Asset Seller modified the equipment or manufactured the tooling used on the equipment.

- Magnequench UG, Inc. v. GTI Technologies, Inc. and Takatori Corporation, U. S. District Court Southern District Of Indiana, Indianapolis Division, Case No. 1:03-CV-0518-JDT-WTL. The Asset Seller purchased wire saws from GTI, a distributor of Takatori, assets which are unrelated to the Business and which are not included in the Asset to be tranferred to the Buyer. The acceptance criteria are included in the contract documents between the parties and were mutually agreed to by the parties. GTI and Takatori represented and warranted to the Asset Seller that the wire saws would meet the acceptance criteria. Takatori represented that it would work with GTI to develop the wire saws to meet the acceptance criteria. The wire saws, however, have never been able to satisfy the acceptance criteria. The Company worked with GTI and Takatori for several months to modify and/or repair the wire saws so that they could meet the acceptance criteria, but no corrective measures worked. In February 2003, GTI informed the Company that the wire saws will never be able to perform to the acceptance criteria. Accordingly, the Asset Seller filed suit against GTI and Takatori on April 10, 2003. On June 11, 2003, GTI filed its answer to the Company's complaint and asserted its own counterclaim against the Company, alleging that the Company breached its contract with GTI by failing to purchase four wire saws. As of the Closing Date, the parties have negotiated a settlement agreement which the parties intend to execute and deliver as soon as reasonably practicable.

Schedule 3.1(x)(i)
Environmental Matters

Magnequench GmbH

None.

Magnequench de Mexico SA de CV

- Sole Environmental License Number [redacted] whereby the environmental license granted to American [redacted] ("American") on 12/12/2002 (Number LAU-CJ-196-02/2003) is transferred to MMSA, request for such transfer was made as of 6/13/2003 and granted on 6/25/2003, transferring all of American's obligations and responsibilities to MMSA. License Numbe[redacted]llowed American to manufacture its magnetic devices for [redacted] [redacted] motors and automobiles.

- Letter from Municipal Assembly for Water Drainage dated 9/24/2002 document number [redacted] to American re: compliance with some conditions for the issuance of Environmental License Number LAU/CJ-196-02.

- Document Numbe[redacted]rom office of the Municipal President of Juarez, Chihuahua regarding American's Environmental License [redacted]approving American's request to conduct its operations related to manufacture of magnetic devices for small capacity electric motors and automobiles.

- Letter from Magnequench to office of Civil Protection and Ecology dated 11/1/02 re: name change from American to MMSA in relation to the Environmental License Number [redacted]

- Document Number[redacted]file numb[redacted]from the Juarez Regional Office of Secretary of Urban Development and Ecology dated 11/19/2002 states that it has determined that the proposed activities by MMSA do not require an Environmental Impact Study (valid for a 5-yr. period).

- Document Number[redacted]providing inspection rights of American to verify the proper dis[redacted] non-hazardous solid waste.

- Certificate from City of Juarez certifying Victor M. Rodriguez attended the course regarding contamination prevention on behalf of MMSA.

- Cover letter from Municipal Assembly for Water Drainage dated 5/20/2003 (document numbe[redacted]) re: an inspection of MMSA's hydraulic equipment on its premises and listing various requirements that MMSA needs to fulfill with the application from MMSA for such inspection to be performed attached.

- Requisition to SEMARNAT (Natural Resources and Environmental Secretary) of Environmental Registry, dated 11/1/2002.
- Letter from MMSA dated 6/26/2003 to the appropriate governmental agency requesting the transfer of the Environmental License Number [redacted]
- Letter from MMSA dated 6/13/2003 to the Secretary of the Environment and Natural Resources requesting the name change for the Environmental License Number [redacted] o MMSA.
- Letter from MMSA dated 6/12/2003 to the appropriate governmental agency requesting the name change for the Environmental License Number [redacted] 2 from American to MMSA.
- Cover Letter to the Secretary of the Environment and Natural Resources dated 11/1/2002 from MMSA regarding the environmental registration for MMSA and a copy of the same.
- Cover Letter to the Secretary of the Environment and Natural Resources dated 4/28/2003 from MMSA regarding the registration of a corporation that generates hazardous materials of MMSA with a copy of the Manifesto of a Corporation that generates hazardous materials.
- Cover letter to the Secretary of the Environment and Natural Resources dated 5/27/2002 from American regarding the registration of a corporation that generates hazardous materials of American with a copy of the Manifesto attached.
- Cover letter to the Secretary of the Environment and Natural Resources dated 4/30/2003 from MMSA regarding MMSA's measurement of its emissions into the atmosphere with a copy of these records attached.
- Cover letter to the Secretary of the Environment and Natural Resources dated 7/17/2003 from Magnequench regarding the application for the annual operations permission of Magnequench with a copy of such application attached.
- Cover letter to the Secretary of the Environment and Natural Resources dated 7/1/2003 from MMSA regarding its biannual report of dangerous residue sent for treatment, recycling and/or disposal with a copy of report attached.
- Application for water permit from American to the Municipal Assembly for Water Drainage received by the Assembly on 7/15/2002.

<u>Magnequench TX, LLC</u>

None.

Magnequench UG, Inc.

- City of Valparaiso, Indiana, Authorization to Discharge under the Industrial Pretreatment Program, issued to Magnequench UG, Inc., West Plant, 405 Elm Street, Valparaiso, Indiana, 46383, effective from June 25, 2002 to June 25, 2005.
- NPDES General Permit [redacted] Storm Water Permit; Storm Water annual report - 2004, reporting two visual observations made during a significant rainfall event.
- The Asset Seller had an air discharge permit which was discontinued after the Asset Seller shut down its coating operations.

Schedule 3.1(x)(v)
Environmental Matters

Magnequench GmbH

- [redacted]

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

[redacted]

Schedule 3.1(x)(vii)(A)
Environmental Matters

Magnequench GmbH

At the GmbH facility located at Munchener Strasse 90, Munchener Strasse 125-127, Essen, Germany, GmbH has storage areas for Hazardous Materials as follows:

- Building No. 5, Ground Floor, has storage areas for (i) 6.5t powder in small steel drums, (ii) two (2) 200 liter drums for chemicals and (iii) 20 (twenty) 200 liter drums for hydraulic oil, lubricant and grease.
- Building No. 5, 1st Floor, has storage area for sixty (60) 50 kg paper bags for tempering salts.
- Building No. 6, Ground Floor, has storage area for 800 liters of acetone in safety containers.

Magnequench de Mexico SA de CV

At the MMSA facility located at Magnequench de Mexico S.A. de C.V., Salvarcar Industrial Cetner #6, Ciudad Juarez, Chihuahua, Mexico, MMSA has a 20' x 20' storage area with a locked gate outside of the building. The floor is an epoxy coated concrete floor designed for Hazardous Material storage, and has a pit that any leakage will drain into so that it may then be pumped out. At this location, MMSA has permits to store the following chemicals in the following amounts:

- Hydraulic Oil 300 gallons
- Acetone 110 gallons
- MEK 110 gallons
- Chromic Acid 60 gallons
- Alcohol 165 gallons

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(x)(vii)(B)
Environmental Matters

Magnequench GmbH

GmbH and Kennametal/Widia GmbH share the same waste remover and waste removal facilities, for which GmbH is allocated a proportional amount of the cost.

Magnequench de Mexico SA de CV

MMSA contracts with Servicios Ambientales Intergrales S.A. de C.V. for hazardous material disposal.

Magnequench TX, LLC

None.

Magnequench UG, Inc.

None.

Schedule 3.1(z)
Product and Service Warranties

Magnequench GmbH

None.

See attached standard terms and conditions of sale.

Magnequench de Mexico SA de CV

None.

Magnequench TX, LLC

None.

See attached standard terms and conditions of sale.

Magnequench UG, Inc.

The Asset Seller provides a limited warranty to the original purchasers of its products that the product shall be free from defects in material and workmanship for a thirty (30) day period running from the date of receipt of shipment. The Asset Seller's obligation under the warranty is limited to replacement or repair of product which is shown to be in a defective condition attributable to the Asset Seller. In the event that the defect cannot be reasonably cured by repair or replacement, the Asset Seller may elect to refund the purchase price to the purchaser thereof. A copy of the Limited Warranty is attached hereto.

See attached standard terms and conditions of sale.

VERKAUFS- UND LIEFERBEDINGUNGEN
MAGNEQUENCH GmbH

A. Allgemeine Bestimmungen

I. Vertragsabschluß

II. Preise

III. Zahlungsbedingungen

IV. Sicherheiten

V. Erfüllungsort, Gerichtsstand und anzuwendendes Recht

B. Ausführung der Lieferung

I. Höhere Gewalt und sonstige Lieferbedingungen

II. Lieferfristen, Liefertermine

III. Versand, Gefahrenübergang, Teillieferung, fortlaufende Auslieferung

IV. Mängelrüge Gewährleistung

C. Sonstiges

I. Allgemeine Haftungsbegrenzung

II. Teilunwirksamkeit

III. Datenschutz

[illegible]

LIMITED WARRANTY

MAGNEQUENCH warrants to the original purchaser of its product that the product shall be free from defects in materials and workmanship for a thirty (30) day period running from the date of receipt of shipment.

MAGNEQUENCH obligation under this warranty is specifically limited to replacing or repairing the product which is shown by our examination to be in a defective condition attributable to us.

Product delivered by us shall not be considered as defective or not in compliance with the purchaser's order, even though not in exact accordance with specifications, if it satisfactorily fulfills purchaser's performance requirements and/or is in accordance with approved samples.

To qualify for this limited warranty, you must reasonably inspect the product upon receipt and notify us of any apparent defect discovered within fifteen (15) days of receipt of shipment. You must then return the product to us within a reasonable time after notifying us of the apparent defect. We will examine the product. If we determine that there is a defect attributable to us, we will correct the problem within a reasonable time. If the product is covered by this limited warranty, we will assume the expenses of repair and transportation. Transportation charges covering any product returned which prove not to be defective shall be at purchaser's expense.

If any defect attributable to **MAGNEQUENCH** under this limited warranty cannot be reasonably cured by repair or replacement, we may elect to refund to you the purchase price of the product, less reasonable depreciation, in complete discharge of our obligations under this limited warranty. If we make this election, purchaser shall return the product to us free and clear of any liens or encumbrances.

THIS IS A LIMITED WARRANTY. MAGNEQUENCH SPECIFICALLY DISCLAIMS ALL OTHER EXPRESS WARRANTIES, AS WELL AS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PURCHASER OF THE PRODUCT SHALL NOT BE ENTITLED TO RECOVER FROM MAGNEQUENCH ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR INJURY TO PERSON AND/OR PROPERTY RESULTING FROM ANY DEFECTIVE PRODUCT MANUFACTURED BY US. It is agreed and understood that the price stated for the product is in part consideration for limiting **MAGNEQUENCH** warranty and its liability. Some states do not allow the exclusion or the limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

MAGNEQUENCH shall have no obligation under this limited warranty if the product is, or has been, misused or neglected (including failure to provide reasonable maintenance) or if there have been accidents to product or if it has been improperly installed or repaired or altered by someone else.

Magnequench Magnet Division
Terms and Conditions
North American Operations

Conditions:

The price and terms on this quotation are not subject to verbal change or other agreements unless approved in writing by a representative of Magnequench. All quotations and agreements are contingent upon strikes, fires, availability of material and all other causes beyond our control. Prices are based on costs and conditions existing on the date of quotation and are subject to change by Magnequench before final acceptance of an order.

Typographical errors are subject to correction. Purchaser agrees to accept overage or shortage not in excess of ten percent (unless otherwise specified). Purchaser assumes liability for patent and copyright infringement when goods are made to Purchaser's specifications. When quotation specifies material to be supplied by the Purchaser, ample allowances must be made for reasonable spoilage and material must be of suitable quality to facilitate efficient production.

Conditions not specifically stated herein shall be governed by established trade customs. Terms inconsistent with those stated herein which may appear on the Purchaser's order will not be binding on Magnequench.

Payment Terms:

Net 30. FOB shipping point.

<u>Schedule 3.1(aa)</u>
Supplies and Equipment

<u>Magnequench GmbH</u>

None.

<u>Magnequench de Mexico SA de CV</u>

None.

<u>Magnequench TX, LLC</u>

None.

<u>Magnequench UG, Inc.</u>

None.

Schedule 3.1(ii)
No Material Adverse Change

Magnequench GmbH

See items listed on Schedule 3.1(h) (Absence of Certain Changes).

Magnequench de Mexico SA de CV

See items listed on Schedule 3.1(h) (Absence of Certain Changes).

Magnequench TX, LLC

See items listed on Schedule 3.1(h) (Absence of Certain Changes).

Magnequench UG, Inc.

See items listed on Schedule 3.1(h) (Absence of Certain Changes).

Schedule 6.8
Transferred Employees

Transferred Employees:

Employee	Current Employer	Current Benefits Provider
[redacted]	Magnequench International, Inc.	Magnequench International, Inc.
[redacted]	Magnequench International, Inc.	Magnequench International, Inc.
[redacted]	Magneuqench UG, Inc. (Contract Employee)	Magnequench International, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.
[redacted]	Magnequench UG, Inc. Union Employee	Magnequench UG, Inc.

MTX Employees:

Employee	Current Employer	Current Benefits Provider
[redacted]	Magnequench TX, Inc.	Magnequench International, Inc.
[redacted]	Magnequench TX, Inc.	Magnequench International, Inc.

Schedule 6.10
Guarantees and Contingent Liabilities

Magnequench GmbH

- Pursuant to the Asset Purchase Agreement between the Stock Seller (subsequently assigned from the Stock Seller to GmbH) and Widia GmbH, dated as of September 29, 2000, the assignment of the Asset Purchase Agreement from the Stock Seller to GmbH was not a novation and the Stock Seller would continue to be jointly and severally liable for all obligations under the Asset Purchase Agreement, the Lease and Co-Usage Agreement, the On-Site Service Agreement and the Utility Supply Agreement.

- The German customs agency and the company which leases automobiles to GmbH requires GmbH to maintain a bank guarantee (the "GmbH Bank Guarantee") in the collective amount of [redacted] which guaranty GmbH has been cash-collateralized by maintaining a blocked account with ABN Amro in the amount of [redacted] At the Closing and in accordance with Section 2.8 of the Purchase Agreement, the Buyer will pay to the Stock Seller an amount in U.S. dollars equal to [redacted] as reimbursement for the amount GmbH has on deposit with ABN Amro in the blocked account, such conversion into U.S. dollars to be made at the Exchange Rate.

Magnequench de Mexico SA de CV

- Pursuant to the real property lease by and between MMSA and Bancomer, S.A., the Stock Seller has guaranteed the full payment and performance of all obligations of MMSA thereunder. The term is November 2001 to November 2006, with a monthly base rent of [redacted]

- Pursuant to the terms and conditions of the Shelter Agreement, the Stock Seller has guaranteed the full payment of all obligations of MMSA thereunder.

Magnequench TX, LLC

- Pursuant to the terms and conditions of the Shelter Agreement, the Stock Seller has guaranteed the full payment of all obligations of MMSA thereunder.

INDY 1318726v8